

reasons to protect POW from insult. (Ex. 2025 (6) at
1 p. 14,834).

2 27 April 1944. Swiss Minister to Foreign Minister -
3 replying to Ex. 2025 (6) above, states that Japanese
4 Government's attitude does not coincide with promise
5 to apply provisions of Convention mutatis mutandis "that
6 is to say in a manner which will not conflict with the
7 text of Japanese law." (Ex. 2025 (7) at p. 14,834).

8 28 April 1944. Japan Foreign Minister to Swiss
9 Minister in replying to protests lodged on behalf of
10 America sets out following statement re Japan and POW
11 Convention 1929:
12

13 "I. The position of Japan in respect of
14 the Convention of 1929 relating to the Treatment of
15 Prisoners of War.

16 As regards the treatment of prisoners of war,
17 Japan has ratified the 1907 Convention relating to
18 the Law and Custom of Land Warfare, and the 1929 Con-
19 vention for the Amelioration of the Condition of the
20 Wounded and Sick of Armies in the Field, but the
21 Japanese Government have not ratified the Convention of
22 1929 relating to the Treatment of Prisoners of War.
23 Consequently Japan is under no obligation to be bound
24 by that Convention. However, the Japanese Government
25 have notified the United States Government of their

1 intention on purely humanitarian grounds to apply
2 mutatis mutandis in the present war the provisions of
3 the 1929 Convention relating to the Treatment of
4 Prisoners of War to American prisoners of war within
5 areas under Japanese administration.

6 As regards the treatment of civilian inter-
7 nees, no international agreement exists, except that
8 an expression of desire is contained in the final pro-
9 tocol to the 1929 Convention relating to the Treatment
10 of Prisoners of War. In the present war, the Japanese
11 Government have notified the United States Government
12 of their intention to apply as far as possible under
13 the condition of reciprocity the provisions of the
14 1929 Convention relating to the Treatment of Prisoners
15 of War (provided that no labor is imposed upon the
16 internees against their will by the country detaining
17 them).

18 By the above-mentioned intention of the
19 Japanese Government to apply mutatis mutandis the
20 provisions of the 1929 Convention relating to the
21 Treatment of Prisoners of War to American prisoners
22 of war, it is meant that the provisions of the Conven-
23 tion will be applied with the modifications necessary
24 in order to conform with the provisions of the existing
25 law and regulations of the country and with the require-

1 ments of the actual situation as it develops. In the
2 same manner the provisions of that Convention are also
3 applied to American civilian internees.

4 In the present war in Greater East Asia the
5 field of operations extends over an expansive area
6 including many remote, undeveloped and pest-ridden
7 regions with innumerable islands scattered over the
8 ocean, involving considerable difficulties in the way
9 of communication and transport. The change introduced
10 by the system of aerial fighting has also made it dif-
11 ficult to distinguish zones of combat from other areas.
12 The Japanese Forces, which have taken under their con-
13 trol an unexpectedly large number of enemy nationals
14 in these areas far distant from Japan, are making the
15 utmost efforts to accord them fair and just treatment.
16 Such a situation was certainly not contemplated at the
17 time when the 1929 Convention relating to the Treatment
18 of Prisoners of War was concluded. That Convention has
19 not been ratified by Japan because there are provisions
20 in it which are not acceptable to this country. The
21 Japanese Government are, however, dealing, from a
22 humanitarian point of view, with matters relating to
23 prisoners of war and civilian internees, on the basis of
24 the 1907 Convention relating to the Law and Custom of
25 Land Warfare and the 1929 Convention for the Amelioration

1 of the Conditions of the Wounded and Sick of Armies
2 in the Field, taking moreover into consideration the
3 provisions of the 1929 Convention relating to the
4 Treatment of Prisoners of War. These intentions of
5 the Japanese Government have already been made known
6 to the United States Government.

7 In these circumstances, the Japanese Govern-
8 ment are unable to understand how the United States
9 Government have seen fit to enumerate certain articles
10 of the Convention and to demand their absolute appli-
11 cation as if the Japanese Government by the above-
12 mentioned expression of intention had admitted an
13 obligation to observe the provisions of the Convention
14 as a party thereto." (Ex. 2024 at p. 14,827).

15 Division 2 - AS REGARDS BRITISH COMMONWEALTH
16 OF NATIONS

17 3 Jan. 1942. Argentine Minister to TOGO advising that
18 British Commonwealth will observe provisions of POW
19 Convention of 1929 in treatment of Japanese POW and
20 requesting that Japanese Government do likewise in
21 treatment of British Commonwealth prisoners. (Ex.
22 1494 at p. 12,879).

23 5 Jan. 1942. Argentine Minister to TOGO advising that
24 British Commonwealth will observe national and racial
25 customs of prisoners as regards food and clothing. (Ex.

1495 at p. 12,830).

1 29 Jan. 1942. TOGO to Argentine Minister advising
2 that Japan (a) although not bound by POW Convention
3 of 1929 would "apply mutatis mutandis the provisions of
4 the said Convention" to British Commonwealth prisoners
5 in its hands, (b) would consider, on conditions of
6 reciprocity, the national and racial customs of
7 prisoners as to food and clothing. (Ex. 1496 at p.
8 12,832 and Ex. 1956 at p. 14,295).

9 Division 3 - GENERAL - WAR MINISTRY DECISIONS

10 13 & 16 Jan. 42. - Foreign Ministry sent to War
11 Ministry inquiries from Britain, America, etc. After
12 several conferences Vice Minister of War sent note
13 saying that as we did not ratify POW Convention '29 we
14 can hardly announce our observance of it, but it would
15 be safe to notify the world that we have no objection
16 to acting in accordance with the Convention in the
17 treatment of POW, and as regards food and clothing we
18 have no objection to giving due consideration to the
19 national or racial habits and customs of prisoners.
20 27 Jan. 42. Vice Minister of Foreign Affairs sent in-
21 quiry re application of POW Convention to internees.
22 War Ministry replied that there was no objection to
23 applying such principles to internees provided however
24 that they be not subjected to labour against their will.
25 (Ex. 1958 at p. 14,299.)

PART VI SUMMARY OF EVIDENCE AS TO INFORMATION RECEIVED
1 BY JAPANESE GOVERNMENT AS TO TREATMENT OF P.O.W.
2 AND INTERNEES

3 DIVISION I - PROTESTS AS TO MISTREATMENT OF P.O.W. AND
4 INTERNEES.

5 SUB-DIVISION I - ON BEHALF OF BRITISH COMMONWEALTH

6 (a) Burma

7 8 July 1942 Swiss Minister to TOGO - forwards
8 photograph contained in "Japan Times and Advertiser"
9 23 June 1942 showing British POW cleaning streets of
10 Rangoon under the amused eyes of public - forward British
11 Govt. protest. (Ex. 2022 (1) at p. 14,754 et seq.) -
12 1 Aug. 1942. Reminder sent (Ex. 2022 (2) at p. 14,755) -
13 No evidence of any reply being received.
14

15 (b) Rangoon Gaol

16 15 Sept. 1942 Swiss to TOJO - re Rangoon Gaol -
17 states "Information from most reliable sources is that
18 POW imprisoned in Rangoon are subjected to the following
19 treatment: (a) rations are confined to bread, salt and
20 water twice daily with occasional issues of vegetables;
21 (b) POW sleep on floor, on sacking or boards only;
22 (c) no cigarettes or tobacco are issued; (d) their
23 boots have been confiscated and they are compelled to do
24 heavy work when barefooted." - forwards Br. Govt. protest
25 (Ex. 2022 (3) at p. 14,754-6) - 9 Dec. 1942 - Reminder

sent to Foreign Minister TANI (Ex. 2022 (4) at p. 14,757) -
1 9 Feb. 1943 - TANI to Swiss Minister - denies occurrence
2 of incidents (Ex. 2022 (5) at p. 14,758).
3 (Note: Prosecution's evidence as to conditions at this
4 gaol is contained in Ex. 1555 at p. 12991).

5 (c) Burma

6 12 Feb. 1943 Swiss to TANI - Rangoon Gaol - ad-
7 ditional complaints - British and Indian Officers beaten
8 into unconsciousness - medical supplies insufficient -
9 sanitary conditions bad - 20 to 30 men have died - in-
10 sufficient water - Europeans compelled to carry out degrad-
11 ing work - POW deprived of food and severely punished for
12 trivial offences and in the case of Indians, for failure
13 to enlist in the National Army - inadequate clothing.
14 Swiss seek permission for representatives or delegates of
15 International Committee of the Red Cross to visit prisons
16 of Rangoon and Prison and Internee Camps in Burma and
17 Malaya. (Ex. 2022 (6) at p. 14,760) - No evidence of any
18 reply being received to this letter.

20 (d) Thailand

21 5 July 1943 Swiss Minister to SHIGEMITSU states
22 "The British Government are receiving fragmentary reports
23 that British prisoners of war in Thailand are being sub-
24 mitted to treatment so callous that many of them are
25 seriously ill. Thus a dependable source recently in

Thailand tells of serious deficiencies in rations issued,
1 lack of suitable clothing and shoes and complete lack of
2 quinine and other medicines. It is also understood that
3 POW have been put to heavy work on road and railway
4 building which aggravates the conditions induced by de-
5 ficiencies of their diet and by their lack of clothing and
6 medicines." (Ex. 2023 (1) at p. 14,791).

7 24 July 1943 SHIGEMITSU to Swiss Minister -
8 replying says "The competent authorities, to whom the con-
9 tents of the said letter were immediately communicated,
10 have informed me that prisoners in camp in Thailand are
11 equitably treated, all the sick have received proper medi-
12 cal treatment at a POW hospital. As regards a visit to the
13 camp permission will not be given for the present." (Ex.
14 2023 (2) at p. 14,792, and Ex. 2017 at p. 14,747).

15 30 Aug. 1943 Swiss Minister to SHIGEMITSU - "Re-
16 ferring to my letter of 5 July, I have the honor to bring
17 to the knowledge of Your Excellency that according to recent
18 information received by the Government of the United King-
19 dom, the condition of British prisoners of war continues
20 to leave much to be desired. "Since their arrival in
21 Thailand, the prisoners have been living in the jungle
22 under conditions of extreme hardship with sanitary condi-
23 tions very reduced. Food has been, for Europeans, insuffi-
24 cient and numerous diseases such as beriberi have been
25

1 caused by under-nourishment. Further, the prisoners have
2 become very weak through lack of meat, and they are suf-
3 fering from dysentery and diarrhoea. Cases of malaria are
4 also very numerous. The state of health of the prisoners
5 is extremely critical and the number of deaths exceeds
6 3,000. Also, prisoners are required to work long hours,
7 without break, and they are short of clothes, especially
8 trousers and boots. Recently, in order to speed up construc-
9 tion of a railway, they have been taken to work at all times
10 and hours. A number of Hindus, Chinese and Malays have been
11 living in proximity to British prisoners and they have been
12 using the same water. Cholera broke out at many places on
13 the line and many deaths occurred among British and Dutch
14 prisoners. The doctors in the camps were very worried by
15 this epidemic which spread rapidly. The prisoners lack in-
16 dispensable medicines, such as physiological saline, bis-
17 muth, kaolin, essential oils, potassium permanganate, to
18 treat this dangerous disease; nurses who attended the sick
19 were without protective coverings or antiseptics. The
20 hospital did not have sufficient equipment. In addition,
21 the prisoners suffered from other diseases and there were
22 no medicines to treat them properly. I consider it to be
23 of great importance that the Swiss Consul at Nangkok be
24 authorized to visit, as soon as he can, POW camps in that
25 country." (Ex. 2023 (3) at p. 14,792).

1 30 Sept. 1943 Swiss Minister to Foreign Affairs
2 reminds no answer to 30 Aug. 1943 - further complains
3 of officers in POW camps in Thailand being compelled to
4 work - renews request for authority to visit camps in
5 Thailand (Ex. 2023 (4) at p. 14,793).

6 1 Oct. 1943 SHIGEMITSU to Swiss Minister replies
7 to 30 Aug. 1943 saying, "Regarding the treatment of British
8 POW in Thailand, I add to communication (of) 24 July
9 last, which given full particulars, that the Imperial
10 Government accords to POW the same treatment as to Japanese
11 soldiers stationed in Thailand." (Ex. 2023 (5) at p.
12 14,793).

13 20 Oct. 1943 Note Verbale - Foreign Affairs to
14 Swiss Minister - replies to 29 Sept. 1943 - denies facts
15 stated. (Ex. 2023 (6) at p. 14,793).
16 (Note (1) Affidavit of WAKAMITSU (Ex. 1989 at p. 14,633 -
17 inspected Burma-Siam area end of July or beginning of
18 Aug., 1943, as results of reports received that work not
19 progressing satisfactorily and that physical condition of
20 POW working on railway was poor and that the death rate was
21 very high - I saw laborers at work on railway and saw many
22 cases of dysentery and beri beri - feeding not satisfactory
23 - quantity and quality below desired standards - orally re-
24 ported results to SUGIYAMA and Vice C/s Lt. Gen. HATA in
25 Tokyo and recommended 2 months extension of deadline date -

(deadline date August, 1943).

1 (Note (2) - 3 Sept. 1943 - Telegram - POW Camp Commandant
2 Thailand to POW Information Bureau - monthly report for
3 August 15,064 out of 40,314 POW sick - 37 died during month,
4 (Ex. 1988 at p. 14,609).

5 (Note (3) Prosecution's evidence Ex. 1565, 1566, 1567 at
6 pp 13060-71; Ex. 1569 at p 13074; Ex. 1574, 1575 at pp
7 13083-7; Coates pp 11411-78 Williams 13003-6.)

8
9 (e) Burma and Thailand

10 28 Feb. 1944 Swiss Minister to Foreign Office -
11 states the condition of POW in Thailand and Burma leaves
12 much to be desired and there are in particular many cases
13 of beri beri and the medical supplies to treat this disease
14 are non-existent. (Ex. 2022 (7) at p. 14,762) - 25 April
15 1944 Reminder (Ex. 2022 (8)) and 10 June 1944 Reminder (Ex,
16 2022 (9) at pp 14,763-4)

17 (Note: Prosecution's evidence as above and Ex. 1561, 1562,
18 1563 at pp 13054-9)

19 (f) Burma

20 4 July 1944 Swiss Minister to Foreign Affairs -
21 "(1) Area of Moulmein. (a) According to post cards
22 printed by the Japanese Authorities about 20,000 British
23 and Allied POW are detained in or near Moulmein. Transfer
24 or POW in this camp has never been notified. (b) Condi-
25 tions under which POW in Moulmein camp are detained are

known to be at least as bad as, even worse than others which exist in Thailand. During October and November of 1942, POW in Moulmein are known to have died at the rate of approximately 10 per day, principal cause of Japanese authorities in or near Moulmein, an even more appalling rate of mortality has occurred amongst POW working on the Burmese railway. These deaths are the direct and inevitable result of conditions in camps and in particular of the wholly inadequate rations provided by the Japanese authorities; the latter's failure to provide medicines or equipment in hospitals; always complete lack of adequate clothing or even footwear and of severity of labor exacted for POW. (c) Inspection of Prisons. In February, 1944, 25 POW paraded through town of Moulmein. They were in emaciated condition and were forced to carry notices in Burmese stating that they had recently been captured at Arakan Front. (This is not the case). They were further held up to ridicule and contempt by a Japanese Officer who accompanied the party.

(2) Burma. In the course of the first two Burma campaigns Japanese troops committed a number of atrocities on POW. The present Burma campaign has been marked by the maximum of ill-treatment of British and Indian POW including wounded soldiers and medical personnel captured near Ngakyoduk on 7 February 1944. Medical personnel were tortured and deprived of food and water for two days. No medical

1 attention given to wounded POW and those who groaned were
2 shot or bayoneted to death. On February 14th, Japanese
3 vacated the area. Before doing so they deliberately
4 massacred the remaining prisoners (at least 20 British and
5 Indians, many of whom were wearing Red Cross Arm letterings)
6 by shooting. Further instances of brutality of Japanese
7 toward troops during the present campaign are: -

8 (a) Execution or beheading of wounded West-African L/Cpl
9 Phoongyi and Ky-Sung at the end of January, 1944;

10 (b) Bayonetting of four Indian soldiers who had attempted
11 to escape from a POW Camp about 5 miles east of Kalawain
12 in January, 1944; (c) Massacre with swords of about 50
13 wounded Britains and Indian POW at Manipur in March, 1944.

14 (d) Torture committed on 26 March 1944 at Khandok when a
15 West African POW tied to a tree, finger nails cut off and
16 his heart cut out by a Japanese medical officer." (Ex.
17 2022 (10) at p. 14,764).

18 Note: Only specific evidence covering allegations in
19 4 July 1944 is that of African POW at Khandok which was
20 wrongly included in Solomons Islands evidence.

21 26 Aug. 1944 Foreign Affairs to Swiss - re 4 July
22 1944 states that POW transferred to Burma had only been
23 provisionally transferred. (Ex. 2022 (12) at p. 14,770).

24 18 Nov. 1944 Swiss Minister to Foreign Affairs -
25 referring to 4 July 1944 requests reply re atrocities also

1 draws attention to massacre sometime in 1943 of six British
2 soldiers in Tavoy and protests against ill treatment of
3 700 British, American and Indian POW at Rangoon Central
4 Gaol. (Ex. 2022 (14) at p. 14,773).

5 23 Jan. 1945 Swiss Minister to Foreign Affairs -
6 19 Mar. 1945 requests reply to 4 July 1944 (Ex.
7 2022 (17) and (18) at pp 14,781-4).

8 15 May 1945 Foreign Affairs to Swiss Minister -
9 replies to 4 July 1944 states that with regards to the
10 treatment of POW in Moulmein camps - and in the outskirts
11 of that city - are such that the concentrated efforts of all
12 sanitary services of the Japanese troops cannot prevent the
13 spreading of diseases of the digestive system, etc., cases
14 of which have increased, caused not only by the very bad
15 conditions due to the climate but also by the frequent in-
16 terruption in the rainy season of communications with these
17 localities. The Japanese troops suffered equally. Denies
18 execution of 25 POW - denies allegations of atrocities.
19 (Ex. 2022 (20) at pp 14,785-7). (Note: Prosecution's evi-
20 dence Ex. 1555, 1556, 1557, 1558 at pp 12991-4 in addition
21 to evidence cited under (e)

22 (g) Transportation

23 4 Dec. 1944 Swiss to SHIGEMITSU complains of
24 conditions of transport of POW from Singapore and Java to
25

1 Burma and Thailand - Australians were sent by sea to Burma,
2 crowded in the ships holds which had been horizontally sub-
3 divided, so that ceilings were no more than 4 ft. high.
4 Prisoners from U.K. were sent by railway to Thailand, so
5 crowded in the steel cattle trucks that they could not even
6 lay down during the journey. They were then marched some
7 80 miles. All were sent to work on the construction of a
8 railway through disease infested jungle in Thailand and
9 Burma. Conditions under which all these men lived and
10 worked were inhuman; such accommodation as usually provided
11 gave little or no protection against tropical rains or
12 blazing sun. Worn out clothing was not replaced and soon
13 many lacked clothing, boots and head covering. The only
14 food provided was a pannikin of rice and a small quantity
15 of watery soup three times a day, but work had to go on
16 without respite, whatever cost in human suffering and death.
17 The inevitable result was a dreadful death rate, last esti-
18 mate being 20 percent. These conditions continued until the
19 railway was finished about October, 1943. When those not
20 needed for maintenance work were moved to camps in Thailand
21 and later to Singapore en route to Japan. Australian POW
22 recovered from Japanese transport Rakuyo Maru said that
23 Japanese picked up Japanese survivors, but left POW to their
24 fate when ship was torpedoed. (Ex. 2022 (15) at p. 14,776).
25

~~23 April 1945~~ Swiss Minister to Foreign Affairs-

1 2 July 1945 requests reply to 4 December 1944
2 (Ex. 2022 (19) and (21) at p. 14,784 and p. 14,787).
3 (Note: Prosecution's evidence WILDE at pp 5445-53; LLOYD
4 at pp 13013-4; COATES at pp 11403-4; WILLIAMS at pp 12999-
5 13000; Ex. 1649 at p 13291)

6 (h) Japan

7 9 Aug. 1944 Swiss to Foreign Office - states that
8 during recent visit of Swiss delegate to POW camps in Japan
9 it was learned that there was still beri beri among POW
10 and requests assurance that steps have been taken to combat
11 this disease. (Ex. 2022 (11) at p. 14,769).

12 3 Oct. 1944 Foreign Office to Swiss - reply to
13 9 Aug. 1944 states that to combat beri beri unpolished rice
14 is given in place of polished rice, also rice bran con-
15 centrated vitamins - less than one per cent in Japan and
16 Thailand and in Burma only 2 per cent suffered from beri
17 beri - same food in quality and quantity being given to
18 POW as that given to Japanese base troops. (Ex. 2022 (13)
19 at p. 14,771).

21 (Note) Prosecution evidence Chisholm at pp. 14271-5;
22 Ex. 1920 at p. 14203; Ex. 1947, 1948 at pp 14252-3

23 (i) 5 Dec. 1944 Swiss Minister to Foreign Affairs
24 - states that in Burma a mimeographed booklet entitled
25 "Notes for the interrogation of POW" and marked "Very

1 "Secret" was put out on 6 Aug. 1943 by the HAYASHI Division
2 and bore the signature of FUJIHARA - advocates use of
3 torture in interrogation. (Ex. 2022 (16) at p. 14,779).

4 (j) Japan

5 16 June 43 Swiss Minister to Foreign Minister
6 suggests that additional food in form of soya products be
7 distributed to POW to augment nutritive value of their food,
8 (Ex. 2026 (I) at p. 14836)

9 23 June 43 Foreign Office to Swiss Minister states
10 that the British had previously made similar requests
11 through International Red Cross and that on 21 May 43 a
12 reply had been sent by Foreign Office that Japanese did not
13 see the necessity of increasing the supply of any parti-
14 cular foodstuff. (Ex. 2026 (2) at p. 14826)

15 (Note): For prosecution evidence - see (h) above.

16 SUBDIVISION II - ON BEHALF OF HOLLAND

17 General

18 (a) 30 Dec. 1943 Swedish Minister to SHIGEMITSU-
19 protests against Netherlands POW and internees being con-
20 fined in camps in close vicinity to military installations
21 in dangerous zones particularly on the coast of Burma and
22 requests their removal. (Ex. 1683 at p. 13,490).

23 5 May 1944 Foreign Minister to Swedish Minister -
24 states that Netherlands POW and internees are not confined
25 in dangerous zones and coast of Burma is not considered ex-

posed to special danger. (Ex. 1684 at p. 13,491).

1 (Note: See prosecution's evidence VAN NOOTEN at p. 13,951).

2 SUB-DIVISION III - ON BEHALF OF UNITED STATES OF AMERICA

3 (a) Philippines, China and Japan

4 23 Dec. 1942 Swiss Minister to Foreign Minister -
5 protests against treatment of (a) civilians at Bridge House
6 Shanghai; Peiping; Tsingtao; Fort Santiago, Manila; Davao
7 and other camps in the Philippines; and of a large number
8 of civilians throughout areas occupied by Japanese; (b)
9 prisoners of war in the Philippines and Shanghai. (Ex.
10 2024 (1) at p. 14,795, and Ex. 1477, at p. 12,797)

11 5 Feb. 1944 Swiss Minister to Foreign Minister -
12 points out that except for a formal communication of 26 May
13 1943 stating that Japan would in due course forward the re-
14 sults of its investigations no reply had been received. Re-
15 quests reply and forwards further protest as to subsequent
16 atrocities. (Ex. 2024 (2) at p. 14,796 and Ex. 1479 at
17 p. 12,803).

18 24 April 1944 Japanese Foreign Minister to Swiss
19 Minister - forwards statement explaining or denying inci-
20 dents alleged in Ex. 2024 (1). (Ex. 2024 (3) at p. 14,796)

21 28 April 1944 Japanese Foreign Minister to Swiss
22 Minister - replies to Ex. 2024 (2) above. Denies all facts
23 or grounds of protest alleged and makes counter protests
24 as to treatment of Japanese internees by Americans. (Ex.
25

2024 (4) at p. 14,827)

1 16 Aug. 1944 SHIGEMITSU to Swiss Minister - for-
2 wards additional information as to conditions in POW and
3 Internment camps at Shanghai, Canton, Hong Kong, Java and
4 Philippines. (Ex. 2024 (5) at p. 14,829).

5 1 March 1945 Swiss Minister to SHIGEMITSU - states
6 that USA rejects Ex. 2024 (3) above as not being founded on
7 fact. (Ex. 2024 (6) at p. 14,831)

8 (Note: Prosecution evidence as to above in Ex. 1890 at p.
9 14,161; Ex. 1893, 1894 and pp. 14,165-6; Ex. 1897 at p.
10 14,172; Ex. 1900, 1901 at pp. 14,178-9; Ex. 1911 at p.
11 14,191; Ex. 1914 at p. 14,194; Powell at pp. 3,270-80).

12 (b) Wake Island

13 20 April 1942 TOGO to Swiss Minister - states that
14 of American POW on Wake Island a number cannot be trans-
15 ferred on account of wounds and illness, others are remain-
16 ing of their own accord to work. (Ex. 2034 at p. 14,932).

17 26 May 1942 Swiss Minister to TOGO - requests
18 information as to names of American nationals (a) removed
19 from Wake Island (b) remaining on Wake Island. (Ex. 2039
20 at p. 15,001).

21 10 Aug. 1942 TOGO to Swiss Minister - replying
22 to 26 May 1942 states that list of names of POW taken at
23 Wake Island have been dispatched through International Red
24 Cross and that Japanese Government is willing to reply to
25

1 every individual inquiry re civil internees. (Ex. 2040 at
2 p. 15,002).

3 21 Sept. 1942 Swiss Minister to TANI - says that
4 the names of only 29 of the POW taken at Wake Island have
5 been sent and requests that names of all American POW and
6 internees be sent. (Ex. 2041 at p. 15,003).

7 6 Oct. 1942 Swiss Minister to Foreign Minister -
8 states that U.S. Government has not received any report on
9 400 American civilians from Wake Island and requests that
10 report be supplied. (Ex. 2042 at p. 15,007)

11 8 April 1943 Swiss Minister to Foreign Minister -
12 states that names of 400 civilians from Wake Island have
13 not yet been received and requests that they be forwarded.
14 (Ex. 2043 at p. 15,008).

15 19 April 1943 Foreign Office to Swiss Minister -
16 requests that names, etc. of 400 civilians allegedly not in
17 cluded in list be supplied so that investigations may be
18 made. (Ex. 2044 at p. 15,008).

19 21 Aug. 1943 Swiss Minister to Foreign Office -
20 forwards list of names of 432 civilians alleged to be on
21 Wake Island at time of Japanese occupation. (Ex. 2045 at
22 p. 15,009)

23 8 Oct. 1943 Swiss Minister to Foreign Office -
24 states that no reply has been received to 21 Aug. 1943
25 forwarding list. (Ex. 2046 at p. 15,010)

1 10 Dec. 1943 Swiss Minister to Foreign Office -
2 states that report has not yet been received of 242 of
3 Americans from Wake Island. (Ex. 2047 at p. 15,011).
4 14 Feb. 1944 Swiss Minister to Foreign Minister
5 requests reply to 10 Dec. 1943 letter. (Ex. 2048 at p.
6 15,012).
7 2 Sept. 1944 Swiss Minister to Foreign Office -
8 request reply to letters of 10 Dec. 1943 and 14 February
9 1944, re fate of 242 Americans at Wake Island. (Ex. 2049
10 at p. 15,012).
11 1 Nov. 1944 Swiss Minister to Foreign Office -
12 sends list of 173 Americans from Wake Island still un-
13 accounted for and requests that reports be sent. (Ex. 2050
14 at p. 15,013).
15 19 March 1945 Swiss Minister to Foreign Office -
16 requests answer to letter of 1 November 1944. (Ex. 2051 at
17 p. 15,013).
18 15 May 1945 Swiss Minister to Foreign Office -
19 requests reply to letters of 1 November 1944 and 19 March
20 1945. (Ex. 2052 at p. 15,014).
21 27 July 1945 Swiss Minister to Foreign Office -
22 requests reply to letters of 1 November 1944, 19 March 1945
23 and 15 May 1945 and states that no information has been re-
24 ceived as to fate of 173 Americans concerned. (Ex. 2053 at
25 p. 15,016).

Note: Prosecution evidence discloses: -

1 (1) that between January 6 and 22, 1942, five POW
2 were executed on Nitta-Maru (Ex. 2038 at pp. 14,992-9);

3 (2) that on 7 October 1943, 96 were executed, and
4 on 13 October the sole survivor was executed. These ex-
5 ecutions took place at Wake Island. (Stewart, pp. 14,911-
6 37, Ex. 2036-A, 2036-B and 2036-C at pp. 14,973-82).

7 (c) Palawan

8 19 May 1945 Secretary of State to American
9 Legation, Switzerland - asks that Swiss Minister be re-
10 quested to transmit to Japanese Government protest against
11 massacre of 150 American POW at Puerto Princesa, Palawan,
12 Philippine Islands on 14 December 1944 and request that
13 culprits be punished. (Ex. 1485 at p. 12,816).

14
15 3 June 1945 Note handed personally by Swiss Mini-
16 ster to TOGO complained of massacre referred to in Ex. 1485
17 and of general treatment of POW at that camp since their
18 capture. (Ex. 2107 and Ex. 2108 at pp. 15,200-2).

19 (Note: Prosecution's evidence of these atrocities is as
20 follows: Bogue at pp. 15,204-79; Ex. 2110, 2111 and 2112
21 at pp. 15,279-80).

22 (d) Japan

23 9 June 1945 Swiss Minister to Foreign Minister -
24 protests that American POW at Shinagawa and in Tokyo Bay
25 are compelled to work on naval docks and other work having

1 a direct connection with the war and that at Tokyo and Osaka
2 they are humiliated and beaten. (Ex. 2025 (8) at p. 14,835).

3 (Note: Re Osaka, prosecution's evidence is contained in
4 Ex. 1935, 1936 at pp. 14,236-8 and Ex. 1955 at p. 14,261).

5 1 Aug. 1945 Japanese Foreign Minister to Swiss
6 Minister - denies facts alleged in Ex. 2025 (8) above.

7 (Ex. 2025 (10) at p. 14,836).

8 (e) Thailand

9 5 July 1945 Swiss Minister to Foreign Minister -
10 protests on behalf of U.S.A. against quartering of POW at
11 Bangkok in close proximity to military objectives and their
12 employment in work having a direct connection with the
13 war. (Ex. 2025 (9) at p. 14,835).

14 DIVISION II - WIRELESS BROADCASTS RECORDED BY JAPANESE
15 FOREIGN OFFICE

16 24 Jan. 1944 1700 hours, through BBC- United
17 States Army and Navy authorities official report on Japan-
18 ese atrocities on American and Filipino prisoners - based
19 on sworn statements of escaped officers - in one camp 2,300
20 Americans died in April and May, 1942; in another, 4,000
21 died by October, 1942, death march.

22 29 Jan. 1944 (a) 700 hours through San Francisco
23 KWID quotes Secretary of State, Cordell Hull - thousands of
24 Americans and Filipino soldiers captured in Philippines
25 wantonly murdered by Japanese - 5,200 American soldiers

1 died mostly of starvation at two prison camps in October,
2 1942. Anthony Eden told British House of Commons thousands
3 of British, Chinese, Burmese and Indian POW and internees
4 have died in Japanese prison camps and British protest have
5 drawn unsatisfactory results.

6 (b) 800 hours through KWID - described Japanese
7 atrocities quoted Cordell Hull as above and his additional
8 statement that repeated protests had been lodged with Tokyo,
9 but to no apparent avail.

10 (c) 1800 hours through KWID - White House Secre-
11 tary Stephen Early said the Japanese Government will not
12 permit the United States Government to send food, material,
13 aid or supplies to U.S. and Filipino soldiers who are now
14 Japan's prisoners of war.

15 23 Oct. 1944 Army News Service - MacArthur's GHQ
16 Oct. 22 - General Mac Arthur addressed a warning to Field
17 Marshal Count TERAUCHI that he will hold enemy leaders im-
18 mediately responsible for failure to accord POW and in-
19 ternees proper treatment - unimpeachable evidence had been
20 received of degradation and brutality to which prisoners
21 have been subjected.

22 Note: Certificate of Japanese official states that trans-
23 cripts of recordings were regularly distributed to all
24 sections of the Foreign Office and also to Board of Infor-
25 mation, Navy Ministry and War Ministry. (Ex. 1488 at

p. 12,821).

1 DIVISION III - SUMMARY OF EVIDENCE OF JAPANESE OFFICIAL
 2 DOCUMENTS AUTHORIZING OR ESTABLISHING THE COMMISSION OF
 3 WAR CRIMES.

4 (a) WORK HAVING A CONNECTION WITH THE OPERATIONS
 5 OF WAR (ART 6 HAGUE CONVENTION)

6 WORK HAVING A DIRECT RELATION WITH WAR OPERA-
 7 TIONS. (ART 31 GENEVA CONVENTION)

8 (i) To Chief of Staff, Taiwan Army from Vice
 9 Minister of War dated 6 May 42 - Summary of the arrangements
 10 for POW. - The Policy-I. "So that they can be used for the
 11 enlargement of our production and as military labor, white
 12 POW's will be confined successively in Korea, Formosa and
 13 Manchuria....." (Ex. 2010 at p. 14716)

14 (ii) Monthly reports of the Secret Service Police
 15 August 1942 - p. 206. "2. A Plan to Use Prisoners of War
 16 as Result of Labor Shortage. Owing to the good results ob-
 17 tained by 150 American prisoners of war at Zentsuji Prisoner
 18 of War Camp who had been sent to Osaka in order to engage in
 19 laboring works as a neutralizing measure for labor shortage
 20 suffered in the military works and harbour equipment, the
 21 enterprising circles who were suffering from the labor short
 22 age at several districts around Tokyo applied to the
 23 military authorities to allow them to use the POW as follows
 24 " (Ex. 1972A at p. 14509)
 25

(iii) I. To Chief of Staff, Kwantung Army from
1 Vice Minister of War dated 22 Aug. 42 - "For the realiza-
2 tion of the urgent organization of the aircraft production,
3 we want to improve the present capacity of the Manchurian
4 Machine Tool Co. according to the plan of utilization en-
5 closed herewith and to allot a large part of its improved
6 capacity to the production of machine tools which are ne-
7 cessary for the urgent organization of the production of
8 air ordinances ammunitions and aircrafts in our country,
9 especially to the production of special machine tools for
10 mass production, which are necessary for the expansion of
11 the factory in the Nissen Motor Car Co. Manufacturing Sec-
12 tion, a main factory of ammunition for aviation automatic
13 gun....."

15 The enclosed plan envisages the employment of
16 1500 POW.

17 2. To Vice Minister of War from Chief of
18 Staff, Kwantung Army dated 9 Sept 42 - requests information
19 as to when the 1500 POW will be transferred.
20

21 3. To Chief of Military Affairs Bureau from
22 Chief of Staff, Kwantung Army dated 29 Sept. 42.
23 states "We are ready to intern about 1500 POW from the
24 South Sea.....we expect you to transfer POW as soon as pos-
25 sible.....we hope you will indicate to us the intention of
the Central Department on the treatment of prisoners....."

(Ex. 1970A at p. 14497)

1 (iv) Foreign Affairs Monthly Report September
2 1942 published by Foreign Section of the Police Bureau of
3 Home Ministry. "THE EMPLOYMENT OF WAR PRISONERS (Page 58)
4 The labor shortage problem in Japan has become quite acute
5 becoming more and more serious recently.....As a result
6 the Cabinet Planning Board entrusted by the Army Adminis-
7 trative Department for War Prisoners held a conference on
8 August 15 regarding the transfer of war prisoners to Japan
9 proper and their employment. At this conference the follow-
10 ing principles were discussed and decided to be carried
11 out.....I. Of the Industries in the National Mobiliza-
12 tion Plan, war prisoners shall be employed for mining steve-
13 doring and engineering and construction work for national
14 defence....." (Ex. 1971A at p. 14505)

16 (v) I. To TOJO Minister of War from Chief of
17 Staff, Eastern District Army dated 2 October 42.
18 "...we request your sanction of the employment of the war
19 prisoners interned in the Tokyo POW Camp for the under-
20 mentioned works.....I. Kinds of laborIndustrial
21 labor for the expansion of productive power.....2. Place
22 of labor (d) 8th working place - Munition factories for
23 expanding production....."

25 2. Draft of War Minister's Instruction to
The Commander of the Eastern District Army dated 2 October

42 - approves above application. NOTE Document bears seal
1 of Military Affairs Section of Military Affairs Bureau.

2 (Ex. 1967 at p. 14484)

3 (vi) Report of Governor of Kanagawa Prefecture to
4 Ministers of Welfare and Home Affairs dated 6 October 42
5 and to Eastern Area Army Commander dated 7 October 42 and
6 forwarded thence to War Ministry on 21 Oct 42

7 This report deals with POW labor by POW's from Kawasaki and
8 Yokohama Camps and contains (inter alia) "...It is general-
9 ly admitted by all the business proprietors alike that the
10 use of P.W. labor has made the systematic operation of trans-
11 portation possible for the first time, and has not only
12 produced a great influence in the business circle but will
13 also contribute greatly to the expansion of production, in-
14 cluding munitions of war. Though the public has not been
15 informed of PW labor, those who have guessed about it from
16 seeing them on their way to and from the place of labor and
17 their camps, seem to realize with gratitude the glory of th
18 Imperial Throne, seeing before their eyes English and
19 American POW at their labor. A considerable influence seem
20 to have been exercised over the people of this prefecture,
21 many of whom had been considerably pro Anglo-American.....

22 (Ex. 1969 at p. 14491)

23 (vii) To TOJO, War Minister from ITAGAKI, Korean
24 Army Commander dated 4 Sept 42 Report of the provisions in
25

regards to the Korean POW Internment Camps.

11Art II. No. One POW must be left to time in idleness.
12 Allow appropriate labor according to their skill, age and
13 physical strength, thereby using them in industrial deve-
14 lopment and military labor" (Ex. 1976 at p. 14529)

15 (b) COMPULSORY LABOR BY OFFICERS. (Art 6 Hague
16 Convention 1907, Art 27 Geneva Convention 1929)

17 (i) Notification from the Director of POW Custody
18 Division to the Ministry of War, to Army Units concerned
19 dated 3 June 42.

10
11 "Subject: Labor Imposed upon POW Officers and Non-Commis-
12 sioned Officers (POW No. 4-2, June 3, 1942)

13 Although the imposition of labor upon POW officers and non-
14 commissioned officers is prohibited under Article I, of the
15 POW Labor Regulations (Army Note No. 139, Sept 10, 1904),
16 it is the policy of the Central Authorities, in view of the
17 present condition of this country which does not allow any-
18 one to lie idle and eat freely, and also with a view to
19 maintaining the health of prisoners of war, to have them
20 volunteer to work in accordance with their respective
21 status, intelligence, physical strength etc. Therefore it
22 is desired that proper direction be given accordingly....."
23 (Ex. 1961 at p. 14425)

24
25 (ii) To Chief of Staff Taiwan Army from Chief, POW
Control Bureau dated 5 June 42,

1 Contains notification in similar terms to (i) immediately
2 above (Ex. 2003 at p. 14708)

3 (iii) To TOJO, Minister of War from ITAGAKI, Korean
4 Army Commander dated 4 Sept. 42.

5 Report of the Provisions in regards to the Korean POW
6 Internment Camps.

7 "...Art. III-All POW including officers shall work. But
8 guide those above warrant officers according to status,
9 ability and physical strength to work voluntarily on the
10 following....." (Ex. 1976 at p. 14529)

11 (c) POW EXPOSED TO PUBLIC CURIOSITY (Art. 2
12 Geneva Convention 1929)

13 (i) Report of Governor of Kanagawa Prefecture to
14 Ministers of Welfare and Home Affairs dated 6 Oct. 42 and
15 to Eastern Area Army Commander dated 7 Oct 42 and forwarded
16 thence to War Ministry on 21 Oct. 42.

17 See (a) (vi) above. (Ex. 1961 at p. 14491)

18 (ii) I.To Vice Minister of War from Chief of Staff
19 Korean Army dated 4 Mar 42

20 "As it would be very effective in stamping out the respect
21 and admiration of the Korean people for Britain and America,
22 and also in establishing in them a strong faith in victory,
23 and as the Government-General and the Army are both strongly
24 desirous of it we wish you would intern 1000 British and
25 1000 American POW in Korea....." Signal goes on to suggest

use of certain buildings for internment.

1 Note: Document marked as having been received by Military
2 Affairs Section on 4 March 42.

3 2. Draft Reply Vice Minister to Chief of Staff,
4 Korean Army dated 5 Mar 42 states that 1000 POW are to be
5 sent and suggests that proposed buildings are too good for
6 POW.

7 3. To TOJO, Minister of War from ITAGAKI, Cin C,
8 Korean Army dated 23 Mar 42 sets out plan for internment
9 of POW-"I. Purpose: It is our purpose by interning American
10 and British POW in Korea to make the Koreans realize posi-
11 tively the true might of our Empire as well as to contri-
12 bute to psychological propaganda work for stamping out any
13 ideas of worship of Europe and America which the greater
14 part of Korea still retains at bottom. (Ex. 1973 at p.
15 14512)
16

17 4. To Vice-Minister of War, KIMURA from Chief of
18 Staff, Korean Army dated 13 October 42. reports parade of
19 998 POW along bystander thronged roads of Fusan, Seoul and
20 Jinsen-".....As a whole it seems that the idea was very
21 successful in driving all admiration for the British and
22 Americans out of their (Koreans) minds and in driving into
23 them an understanding of the situation....." (Ex. 1975 at
24 p. 14520)
25

(d) POW COMPELLED TO SIGN NON-ESCAPE OATH OR AGREEMENT. (Art II Hague Conven. 1907)

(i) I. Detailed Regulations for Treatment of POW (War Ministry Notification No. 29, 21 April 43 as amended by War Ministry Notification No. 58, 1943)

"Article 5 - As soon as POW have been imprisoned, they shall be administered an oath forbidding them from making an escape. POW who refuse to take the oath mentioned in the previous paragraph shall be deemed to have intentions of escaping and shall be placed under strict surveillance.

(p 8 of Ex. 1965) Disciplinary Law for POW (Law No. 41 9 March 43) "Article 10- Those persons who have taken an oath not to escape and who violate this oath shall be subject to either hard labor or imprisonment for a minimum of one year. Those persons who violate any other oaths shall be subject to a maximum of ten years. (p 30 of Ex 1965) (Ex 1965 at p. 14439)

2. Extract from the Imperial Diet Proceedings of Feb 17 1943 concerning the draft of revision of a part of military service law and three other matters.

Contains address made to Diet by KIMURA as a preliminary to passage of LAW No 41 above. (Ex 1966 at p. 14477)

(ii) To Minister from Commander of Taiwan Army dated 1 Sept. 42 Reporting arrival of POW at Taiwan-".....
2. At first Lt-Gen. Percival and others refused to make an

oath, but finally all but three (.....) signed their
1 names. After that they became obedient. (Ex 1968 at p.
2 14488)

3 (iii) To Vice Minister KIMURA from Chief of Staff
4 Korean Army dated 13 Oct 42 ---reports arrival of POW in
5 Korea "....Immediately after arrival, we succeeded in
6 making them all take oath...." (Ex 1975 at p. 14520)

7 Note: Document shows on face that it was received in Mili-
8 tary Affairs Section on 19 Oct 42, but not received at the
9 Information Bureau and War Prisoners Control Department un-
10 til 22nd and 27th October respectively.

11 (e) PUNISHMENTS IMPOSED ON PRISONERS BY COURTS
12 MARTIAL WERE OBVIOUSLY ILLEGAL AS BEING IN EXCESS OF THOSE
13 PERMITTED BY THE CONVENTIONS OR AS BEING IMPOSED FOR WHAT
14 COULD NOT IN FACT BE AN OFFENCE.

15 (i) (Escaped prisoners liable only to disciplinary
16 punishment, Art 8 Hague Conv. and Art. 50 Geneva Conventio
17 Between 2nd June 42 and 3rd March 45, 64 POW were convicted
18 by Courts Martial for violation of non-escape oath and re-
19 ceived sentences ranging from I years imprisonment to death
20 (Ex. 1998 at p. 14682)

21 (ii) (Prisoners of war were convicted for espionage
22 Art. 29 Hague Convention) Between 1 Dec 43 and 25 Nov 44,
23 POW were convicted of espionage and sentenced to death and
24 one was convicted of attempted espionage and sentenced to
25

14 years imprisonment. (Ex 1998 at p. 14682)

1 (iii) To Chief of POW Camps from Commanding Offi-
 2 cer POW Information Bureau dated 27 July 43 shows that re-
 3 turns of Court Martial Punishments and Disciplinary Punish-
 4 ments of POW were made to POW Information Bureau. (Ex. 1999
 5 at p. 14698)

6 (f) PRISONERS OF WAR WERE CRUELLY TREATED. (Art.
 7 4 Hague Convention, Arts. 2,46 Geneva Convention 1929)

8 (i) Censorship Instructions from Chief of Infor-
 9 mation Bureau, War Ministry dated 20 Dec. 43.

10 ".....Any reports which give an impression of cruel treat-
 11 ment, such as prisoners being punished being made to labor
 12 without clothing...." are prohibited because they might
 13 "give the enemy food for evil propaganda and bring harm to
 14 our interned brothers. (Ex 1977 at p. 14539)

15 (ii) Report on Treatment of POW in Prisoners Camps
 16 in Japan proper Pages 14 to 33 and 54 to 70 give details
 17 of 156 offences committed by Japanese against POW between
 18 Feb. 43 and Aug. 45 and of the punishment inflicted on the
 19 offender. It is noticeable that the punishment meted out is
 20 trivial and bears no relation to the hurt he was inflicted
 21 on POW. Thus the common punishment for beating prisoners
 22 is "admonition" or "reproof", for detaining POW in the guard
 23 house in the depth of winter without clothing or bedding,
 24 Capt. Murakami was admonished, (p.64), for beating and
 25

1 bayonetting a POW another Jap was sentenced to "5 days heavy
2 good behaviour" (p.66), whilst another who frequently
3 lynched POW was admonished (p.67). Further, as is to be
4 expected, the punishments were so slight that they had no
5 deterrent effect on the Japanese, with the result that it
6 is quite common to find individuals repeating their offences
7 time and time again. Thus at Hakodate Camp we find one man,
8 Sankai, committing the offence of beating POW on 3 separate
9 occasions and being admonished as a punishment on each oc-
10 casion (p. 54-5). At the same camp a Corporal Asatoshi beat
11 a POW in May 43 and was reprovved (p.54) for a similar of-
12 fence in 1944 he received one days confinement (p.16), while
13 a repetition in 1945 resulted in "5 days attention" (p.17).
14 (Ex. 3128 at p. 27894-Note. The defence did not read into
15 the Record the pages referred to so that pages of the ex-
16 hibit itself are given above)

17 (g) MURDER OF PRISONERS (Art. 4 Hague Convention,
18 Art. 2 Geneva Convention)

19 (i) Journal of Taiwan POW Camp Headquarters dated
20 1 Aug 44. Sets out plan for the final disposition of POW.
21 It provides that unless they revolt or try to escape they
22 should not be executed until superior orders are received.
23 They may be disposed of in any way such as poisoning, bomb-
24 ing, gassing, drowning decapitation, but the aim is not to
25 allow the escape of a single one and not to leave any

1 traces. (Ex. 2015 at p. 14724)

2 (h) CONCEALMENT OF EVIDENCE TO PROTECT GUILTY
3 PERSONS.

4 (i) Certificate dated 5 Aug. 46 that the Adjutant
5 General under the order the War Minister on 14 Aug. 45 is-
6 sued a notification to all Army troops to the effect that
7 "the confidential documents held by every troop should be
8 destroyed by fire immediately" (Ex. 2000 at p. 14699) and
9 Instructions issued by Chief of Military Police HQ dated
10 14 Aug. 45 and thereafter for destruction of documents
11 (Ex. 2001 at p. 14700)

12 (ii) To Chief of Staff, Taiwan Army from Chief
13 POW Camps Tokio dated 20 Aug 45. "Personnel who mistreat
14 POW and internees or who are held in extremely bad senti-
15 ment by them are permitted to take care of it by immediatel
16 transferring or by fleeing without trace. Moreover docu-
17 ments which would be unfavorable for us in the hands of the
18 enemy are to be treated in the same way as secret documents
19 and destroyed when finished with" The addressee of this
20 signal were:-Korean Army, Taiwan Army, Kwantung Army, North
21 China Area Army, Hong Kong. Reference made to Korea, Taiwa
22 Mukden, Borneo, North China Hong Kong, Thailand, Malaya,
23 Java. Each POW Commanding Officer. (Ex. 2011 at p. 14718)
24
25

PART VII - SUMMARY OF EVIDENCE SHOWING PROPORTION OF ALLIED

P. O. W. WHO WERE KILLED OR DIED IN CAPTIVITY TO THE NUMBER

OF ALLIED P. O. W. CAPTURED.

1.	Australian	7412/21726	(Ex. 2028, T. 14,901)
2.	Canadian	273/1691	(Ex. 2029, T. 14,901)
3.	United Kingdom	12433/50016	(Ex. 2030, T. 14,903)
4.	New Zealand	31/121	(Ex. 2032, T. 14,905)
5.	United States	7107/21580	(Ex. 2033, T. 14,907)
6.	Dutch (Europeans)	8500/37000	(Ex. 1677, T. 13,478)

(Note: (a) Evidence not given as to other Allied P.O.W.

(b) Similar comparisons in relation to Allied P.O.W. captured by Germans or Italians in relation to United Kingdom and United States are as follows:-

United Kingdom 7310/142319

United States 2038/93154

W
h
e
l
l
o
n
&
M
O
R
S
O

1 COLONEL MORNANE: Mr. Horwitz will carry
2 on with the liability of individual defendants.

3 THE PRESIDENT: Mr. Horwitz.

4 MR. HORWITZ: THE LIABILITY OF THE DEFENDANTS.

5 K-1. If one unfamiliar with the facts of the
6 case should cursorily read through the official per-
7 sonal records of the individual defendants, he might
8 for an instant conclude that the defendants were an
9 oddly assorted group and that there was no unity among
10 them to justify the conclusion that they had committed
11 a common crime or to justify trying them in a common
12 trial. The defendants seem to fall into several cat-
13 egories, some of which are apparently closely related
14 to each other, while some for the moment seem to have
15 no apparent relation with the others. A few of the
16 defendants were prime ministers of Japan. Most of
17 them at some time or other held cabinet positions.
18 Some held only subordinate cabinet positions and never
19 during the period of the Indictment rose to the level
20 of cabinet rank. Some were army officers in the field.
21 Some were diplomats. Some were propagandists. One
22 held the unusual position of being the personal ad-
23 viser to the Emperor at a most critical period.

24
25 K-2. However, upon a little further study
of the careers of these men, the original off-hand

1 impression is hastily dispelled. In the first place,
2 it becomes apparent that the several categories are
3 not mutually exclusive. Many of the defendants at
4 one time belonged to one category and at a later time
5 belonged to another. More important, a study of the
6 facts of this case discloses that there is one unity
7 that overrides all the differences between the various
8 defendants -- that all were engaged in the task of
9 formulating Japan's aggressive policy and all were
10 therefore responsible for that policy. Each and every
11 defendant is charged with the crimes now being tried
12 solely because of the responsibility he bears for his
13 contribution to the formulation, in whole or in part,
14 of Japan's aggressive policy.

15 K-3. Stating the proposition conversely, no
16 man has been charged with either crimes against peace
17 or conventional war crimes and crimes against humanity
18 unless he is in some way responsible for the aggressive
19 policy followed by Japan, which gave rise to those
20 crimes. No man has been charged in this proceeding
21 because of any act committed or any statement made by
22 him in the course of his official duties pursuant to
23 an already established policy if those matters were
24 his only connection with that aggressive policy. No
25

1 military man in the field has been charged with the
2 crimes pertaining to aggressive war merely because he
3 carried out military operations during the course of
4 an aggressive war being pursued by his government.
5 He has been charged with such crimes only if he par-
6 ticipated in the formulation of the aggressive policy
7 of the government, or if he, in the first instance,
8 induced the aggression which was subsequently made
9 the policy of the government. DOHIHARA and ITAGAKI
10 would not have been charged with the crimes against
11 China if their only actions had been to carry out
12 military operations pursuant to orders from the General
13 Staff. They are charged because of their activities
14 in instigating the matter and in bringing about the
15 adoption of the program of aggression. Likewise no
16 military man or civilian in the dock has been charged
17 with conventional war crimes and crimes against humanity
18 because he personally committed either of these crimes.
19 He is charged because as a member of the government or
20 as a leader in the field he is responsible, either
21 because of orders issued or, because of toleration of
22 a known situation, for what is tantamount to a formula-
23 tion of policy to govern either all the forces of Japan,
24 or, in the case of a military man in the field, the
25 forces under his leadership.

K-4. No diplomat has been charged in any
1 instance because he carried out the instructions of the
2 Foreign Minister. This is not because the prosecution
3 recognizes any claim of diplomatic immunity. Such an
4 immunity does not exist. Any claim to such an immunity
5 rests solely upon the claim that the sovereign, whom
6 the ambassador represents, is immune. However, it has
7 already been shown that the sovereign is not immune
8 from responsibility for a crime against international
9 law. The ambassador's claim to immunity falls with
10 the sovereign's claim. The reason for the non-inclusion
11 of such ambassadors is that the ordinary character of
12 an ambassador as a conduit transmitting messages and
13 information between his own nation and the nation to
14 which he is accredited has been recognized. Despite
15 the importance of his task, Admiral NOMURA, former
16 Ambassador to the United States, has not been charged
17 with crimes of aggressive warfare because, upon con-
18 sidering all the evidence, the prosecution has felt
19 that he was at all times merely carrying out the
20 orders of his government and therefore never stepped
21 beyond the limits of his role as a conduit. However,
22 where a diplomat undertakes to bring about a change
23 in his government's policy in favor of aggression, he
24 becomes responsible for the formulation of the
25

1 aggressive policy if adopted, ceases to be a conduit
2 and loses the protection given to a diplomat who stays
3 within the confines of his task. OSHIMA and SHIRATORI
4 have not been charged for any aggressive acts committed
5 or statements made prior to the time they became formu-
6 lators of national policy. They have been charged
7 solely because they ceased to be conduits and spear-
8 headed the movement to bring Japan into the Axis
9 partnership in crime. Having elected to become archi-
10 tects of national policy they are responsible for that
11 policy and the acts committed by themselves and others
12 pursuant to it.

13 K-5. Although all of the defendants are
14 criminally responsible as formulators of Japan's ag-
15 gressive policies, the liabilities of the individual
16 defendants for any particular act do not all rest on
17 the same basis. With respect to any particular act,
18 for the purposes of ascertaining the nature and scope
19 of their responsibility for that act, the defendants
20 may be divided into three categories: (1) Those
21 defendants who had the ultimate duty or responsibility
22 for policy formulation fixed by the law of Japan;
23 (2) those defendants, who although they do not have
24 the ultimate duty or responsibility, had the duty or
25 responsibility for policy formulation in a subordinate

of intermediate capacity fixed by the law of Japan;
1 and (3) those defendants, who although they had no
2 duty or responsibility fixed by the law of Japan, have
3 by their acts and statements placed themselves on the
4 policy-making level and are therefore chargeable with
5 responsibility in fact.

6
7 K-6. The first category of defendants, those
8 who had ultimate duty or responsibility fixed by the
9 law of Japan, consists of those defendants who were
10 members of a policy-making body or were the policy-
11 making head of some main branch of the Japanese govern-
12 mental structure. In so far as crimes against peace
13 are concerned, it includes the cabinet ministers,
14 including prime ministers, both as members of the
15 Cabinet Council, and as heads of their respective
16 ministries, the members of the Privy Council, the mem-
17 bers of the Supreme Command and the Lord Keeper of the
18 Privy Seal. In so far as conventional war crimes and
19 crimes against humanity are concerned, it includes
20 all those specified and the commanders of a theater or
21 army in the field. In the case of this group of
22 defendants, since they are charged with ultimate duty
23 or responsibility for the formulation of policy within
24 their respective spheres of power, they are liable for
25 the aggressive policy adopted whether or not they did

1 in fact themselves exercise their powers. It is ob-
2 vious that one who has the ultimate power and duty to
3 make a policy decision, either individually as the
4 head of a main branch of the Japanese governmental
5 structure or corporately as a member of a policy-making
6 body, and who personally exercises his power, is respon-
7 sible for that exercise of power. However, he is like-
8 wise equally responsible if he permits someone else
9 to exercise that power. If a member of a policy-making
10 body delegates his power to one or more of the other
11 members of the body either expressly or impliedly,
12 he is liable for the decision of those other members
13 in the same way as if he had personally participated
14 in the decision. Having been given the power and the
15 duty or responsibility by the organic law and the
16 legislation enacted pursuant thereto, he cannot es-
17 cape his responsibility by delegating his power to
18 others who share that power with him. This is par-
19 ticularly true where he subsequently acquiesces in the
20 decision so made or goes even further by taking steps
21 to effectuate it. In fact, such conduct may be deemed
22 a ratification by him of the decision and be, therefore,
23 tantamount to a personal exercise of the power. Unless
24 the person delegating his power to other members of a
25 policy-making body expressly repudiates the decisions

1 made by them, he cannot escape the ultimate responsi-
2 bility for that decision imposed upon him by law. Thus
3 every member of the cabinet who permitted the Four
4 Ministers and Five Ministers Conferences to make decisions
5 of national policy and who did not repudiate those
6 decisions is equally responsible for the decisions so
7 made as though he himself participated in the decision.

8 K-7. If a head of a main branch of a govern-
9 mental structure having ultimate power and ultimate
10 duty or responsibility with respect to the policy of
11 that branch delegates his powers to a subordinate, he
12 is responsible for the decision made by that subordinate.
13 He cannot escape that responsibility unless he repudi-
14 ates or reverses that decision. The law imposes the
15 ultimate responsibility upon him, and unless the decision
16 is reversed by him, he must be deemed to have acquiesced
17 in or to have sanctioned it. Otherwise, he could com-
18 pletely avoid all responsibility by merely delegating
19 his powers and duties among his various subordinates.
20 Likewise, a commander of any army or of a theater of
21 operations has ultimate responsibility for the conduct
22 of his troops. For purposes of administrative effici-
23 ency he may delegate his powers to his subordinate
24 commanders. However, his ultimate responsibility
25 remains. If the subordinate commander misuses these

1 powers or fails to exercise them, the responsibility
2 rests upon the person having ultimate responsibility,
3 unless he has taken the necessary corrective measures.

4 K-8. It may be contended by the defense that
5 the ultimate responsibility imposed by Japanese law
6 on this category of officeholder is solely political
7 responsibility. Assuming for purposes of argument
8 this to be so (but not conceding it, since such persons
9 may well have criminal responsibility for their
10 decisions under the law of Japan) when the political
11 act of a nation is a crime in international law, then
12 the person having ultimate political power, duty and
13 responsibility in the nation for that act is without
14 doubt a person whose services are indispensable for
15 the commission of the crime. Without his affirmative
16 decision or acquiescence the criminal act could not
17 have been committed. Therefore, the person with ul-
18 timate political duty or responsibility nationally has
19 the corresponding criminal responsibility internation-
20 ally.

21 K-9. However, the fact that the person
22 ultimately responsible for the act is guilty of the
23 crime does not mean that others also cannot be responsi-
24 ble and therefore criminally liable for the act.
25 Certain individuals, while they may not have the ultimate

1 duty or responsibility imposed upon them, may by law
2 have imposed upon them power and duty or responsibility
3 of an intermediate or subordinate character. For ex-
4 ample, although the war minister has the ultimate
5 responsibility for the policy decisions of his ministry,
6 it is also true that the chief of the Military Affairs
7 Bureau has by law an intermediate duty or responsibility
8 for "matters concerning the fundamental principles
9 of national defense" and "matters concerning general
10 affairs of national defense policy."^{a.} Likewise,
11 while the navy minister has ultimate responsibility
12 for the policy decisions of his ministry, the chief
13 of the Naval Affairs Bureau has by law an intermediate
14 duty or responsibility for "matters concerning national
15 defense policy" and for "matters concerning the dis-
16 semination of consciousness relating to national
17 defense."^{b.} There is, unfortunately, a tendency in
18 modern political thinking to overlook the importance
19 of this intermediate group in the formulation of
20 government policy and to impose sole liability upon
21 the persons with ultimate responsibility. Yet this
22 group, perhaps more than any other, is responsible
23 for most policy decisions today in all governments. It
24 is these subordinate officials who ordinarily formulate
25

(K-9. a. Ex. 74, Art. 11, 12.

b. Ex. 75, Art. 9.

1 government policy in the first instance. More often
2 than not it is among this group that national policy
3 is really determined. Their decisions often become
4 the decisions formally adopted and acquiesced in by
5 the person with the ultimate duty or responsibility.
6 This is inherent in the very nature of modern govern-
7 ment. A person with ultimate responsibility has multi-
8 farious duties covering a wide field and he must rely
9 upon his subordinates. Otherwise, there would be no
10 need of having them. He relies upon them because he
11 has implicit confidence in them or feels that they
12 are experts in their particular field. These sub-
13 ordinates are actual participants. Even under the
14 most technical view, these persons are instigators
15 and accomplices in the establishment of the policy.
16 The only way a person having intermediate responsi-
17 bility can escape criminal liability for an act which
18 is an international crime is to show that in the par-
19 ticular instance he had nothing to do with the specific
20 act or that the policy adopted was in fact opposed by
21 him and contrary to that which he counselled.

22 K-10. Responsibility for a political act
23 which is a crime in international law does not stop
24 with those bearing responsibility by law, either ulti-
25 mate or subordinate. In addition, there are many

1 people without duty or responsibility fixed by law,
2 who, because of their conduct, are responsible in fact
3 for the act committed. This group includes those govern-
4 mental officials who, although not entrusted with
5 policy-making power and not subject to its concomitant
6 responsibility, use their office and their relations
7 with their policy-making superiors and colleagues to
8 influence the decision and action of those entrusted
9 with the power. By so doing, they bring themselves
10 in fact up to the policy-making level. It also in-
11 cludes many persons not officially connected with the
12 government, such as pressure groups and the trusted
13 confidants of the responsible official, who use their
14 power to influence those with responsibility to make
15 a decision in a certain way. While it can truthfully
16 be said, as it may be contended, that the activities
17 of this group are meaningless unless those with power
18 adopt the policy advocated, this does not mean this
19 group has no responsibility. It must also be remembered
20 that few decisions made by those ultimately in power
21 are made without the pressure of these governmentally
22 non-responsible individuals and groups. These people
23 are more often than not the real initiators of the
24 policy ultimately adopted by those in power, and it
25 is their demands and arguments, and unfortunately

1 sometimes their threats, unlawful inducements and acts
2 of unlawful force which bring about the adoption of a
3 specific policy. In so exercising their power and
4 influence they are participating in the formulation
5 of national policy and share in fact the responsibility
6 for its adoption. If the act they advocate and suc-
7 ceed in having executed is a crime, they are liable
8 for that crime at least as instigators and accomplices.

9 K-11. Although the evidence shows that with
10 respect to all of the defendants their guilt is based
11 for the most part on their responsibility in fact
12 because of their active participation in formulating
13 Japan's aggressive policy, most of the defendants may
14 be held liable alternatively for all of their acts
15 committed while holding office by reason of the legal
16 duty or responsibility, ultimate or intermediate,
17 which flowed from their holding high office in the
18 Japanese political structure. To determine whether
19 any defendant had an ultimate duty or responsibility
20 by imposition of law, it is necessary to consider the
21 Japanese political structure. We should be unwarranted
22 in assuming that the Japanese governmental structure
23 was like that of other nations, particularly the
24 western nations, and it would be unsafe for us to pro-
25 ceed upon that assumption. The evidence shows that

1 while there were many surface points of similarity,
2 there were many variants of gravest importance from
3 the usual basic governmental structure. It is these
4 variants which establish the ultimate responsibility
5 in law of some of the defendants, and which we will
6 now consider.

7 K-12. According to the Constitution of Japan
8 in force during the period covered by this proceeding,
9 all powers of government were vested in the Emperor
10 of Japan.^{a.} However, the defendants themselves, in
11 so far as they have touched upon the problem, have
12 asserted that the Emperor acted only upon the advice
13 of his advisers. Two of the chief defendants, KIDO
14 and TOJO, in discussing the Japanese government, testi-
15 fied that the Emperor was powerless to oppose the
16 decisions or advice of his advisers.^{b.} Whether this
17 testimony can be considered, unless qualified, as an
18 exact statement of Japanese constitutional law, or
19 whether the matter, instead of involving a question of
20 lack of power, merely represented the actual practice
21 followed of accepting the decisions of the advisers
22 is immaterial to this proceeding. The net effect of
23 accepting either view is the same. In any event, the
24 evidence shows that the decisions actually put into
25

(K-12. a. Ex. 68, Arts. 1-16.

b. T. 31329-33; Ex. 2655, T. 36379-83.)

1 effect were the policies propounded, advocated and
2 established by the advisers. Moreover, it is these
3 defendants that have stated this proposition. They
4 were the advisers and they have elected to place ulti-
5 mate responsibility upon themselves. They must there-
6 fore accept the necessary inferences that may be drawn
7 from their election. The officials having ultimate
8 responsibility for the exercise of the powers vested
9 in the Emperor were the cabinet ministers, the members
10 of the Supreme Command, the members of the Privy
11 Council and the Lord Keeper of the Privy Seal.

12 K-13. A member of the cabinet usually bears
13 ultimate responsibility in two capacities: as a min-
14 ister of state, who is a member of the cabinet, and as
15 head of one of the executive branches of the govern-
16 ment. In a few instances a cabinet minister has held
17 the post of minister of state without portfolio and
18 therefore bears ultimate responsibility as a cabinet
19 minister only in his capacity as a minister of state.
20 With reference to the cabinet as a body, although it
21 is the primary policy-making body with respect to
22 state affairs, there is no specific reference of the
23 cabinet in the Constitution. If it is included, it
24 is only by implication through the provision requiring
25 (K-13. a. Lx. 70, Art. 10)

1 the ministers of state to give their advice to the
2 Emperor and to be responsible for it, and requiring
3 all laws, Imperial Ordinances and Rescripts relating
4 to affairs of state to be countersigned by a minister
5 of state. ^{b.} However, regardless of any constitutional
6 provision, the Cabinet existed as a collective body
7 for the purpose of initiating, determining, directing
8 and carrying out the general policy of the government.
9 The Imperial Ordinance of 1885 on the Organization of
10 the Cabinet specifically provided that the cabinet
11 should be composed of the various ministers of state. ^{c.}
12 As a body, the cabinet had wide policy-making powers
13 and responsibility. By law, there had to be submitted
14 for its deliberation all laws, financial estimates,
15 treaties, international questions of importance,
16 Imperial Ordinances relating to the organization of
17 government offices and the enforcement of regulations
18 and laws, expenditures outside the budget, the appoint-
19 ment of officials of Chokunin rank and any important
20 matter connected with the affairs in charge of the
21 various ministries. ^{d.} While certain of these powers
22 were exercised in conjunction with the Diet when that
23 body was in session, these powers were also exercised
24
25 (K-13. b. Ex. 68, Art. 45.
c. Ex. 70, Art. 1.
d. Ex. 70, Art. 5.)

1 by the cabinet either alone or with the Privy Council
2 when the Diet was not in session.^{e.} Since the Diet
3 session did not ordinarily exceed three months,^{f.}
4 the cabinet exercised the legislative power without
5 the concurrence of the Diet for the greater part of the
6 year. Furthermore, with respect to finances, the
7 cabinet had certain powers which protected it against
8 the limitations imposed by the Diet.^{g.} As a body,
9 the cabinet operated on the principle of unanimity.
10 Cabinet decisions required the unanimous vote of all
11 members of the cabinet, and no cabinet decision could
12 be reached if there was a single opposing vote.^{h.}
13 Every minister was, therefore, responsible in entirety
14 for every decision made and every act done wherever
15 cabinet action for such decision or act was required.
16 No cabinet minister can escape his responsibility by
17 establishing his personal feelings of opposition to
18 a cabinet decision. The decision could not have been
19 made without his consent. He always had the alterna-
20 tive of resigning instead of casting his affirmative
21 vote for or expressing his acquiescence in, an aggres-
22 sive measure. If he did not resign despite his
23

24 (K-13. e. Ex. 68, Art. 8.

f. Ex. 68, Art. 42.

g. Ex. 68, Arts. 69, 70, 71.

h. T. 36107.)

1 personal convictions because he felt it more important
2 that he or the cabinet continue in office, he is
3 legally just as responsible and morally more respon-
4 sible than an all-out proponent of the aggressive
5 policy, since he deliberately chose to approve the
6 policy with full cognizance and conviction of its
7 evil.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

K-14. With reference to the responsibility
1 of a cabinet minister as head of a ministry, the Im-
2 perial Ordinance Relating to General Rules Concerning
3 the Organization of the Ministries specifically pro-
4 vided that each minister should "be responsible for the
5 affairs of which the principal competency belongs to
6 him." ^{a.} With respect to matters within his competency
7 he had power to issue ministerial ordinances, ^{b.} issue
8 directions and instructions and to supervise the police
9 and local authorities and to suspend their orders ^{c.}
10 and the power to control and supervise his subordinates. ^{d.}
11 The prime minister, although he might not hold any
12 particular portfolio, by law stood at the head of the
13 ministers of state and coordinated the various branches
14 of administration. ^{e.} He could suspend dispositions
15 and orders of the administration, could issue cabinet
16 ordinances and had the power to direct and supervise
17 the police and local officials and to suspend and
18 repeal their orders. ^{f.} Thus, under the law of Japan,
19 ultimate responsibility for the acts of the various
20 executive branches rested on the prime minister and the
21 ministers in charge of the respective ministries.
22
23

- 24 (K-14. a. Ex. 73, Art. 2
25 b. Ex. 73, Art. 4
c. Ex. 73, Arts. 5,6
d. Ex. 73, Art. 7
e. Ex. 70, Art. 2
f. Ex. 70, Arts. 3,4)

K-15. Although the cabinet was a powerful policy-making body, it was not the only policy-making body in Japan. The Supreme Command of the army and navy played a large role in the formulation of Japanese aggressive policy. This was due to the fact that the chiefs of staff of the army and navy, contrary to the practice in all other countries, were not subordinates of the ministers of war and navy, but were in theory independent of and co-equal to those ministers. In fact, they might well be said to have been the superior of those ministers. This singular situation was the result of the Japanese Constitution dividing the imperial prerogative over military affairs into military administration and the Supreme Command in charge of operations. ^{a.} In accordance with this distinction the chiefs of staff of both services were placed under the direct command of the Emperor to take charge of the formulation of policies of national defense and strategy and the use of armed forces. ^{b.} In the Ordinance of Imperial General Headquarters of 1937 the chiefs of staff were stated to have the duty to take part in important affairs of the High Command, to make plans of operation and to arrange for cooperation

(K-15. a. Ex. 68, Arts. 11,12
b. Ex. 78, Art. 2
Ex. 79, Arts. 2,3)

c.
and united action of the army and navy. Even before
1 this last ordinance was enacted in 1937, the Supreme
2 Command participated in highest momentous affairs. The
3 evidence fully considered heretofore shows clearly
4 that at a. times the Supreme Command exercised the
5 right to participate in formulating policy on matters
6 relating to declarations of war, foreign relations,
7 treaty negotiation and ratification and many external
8 matters because of their relation, actual or supposed,
9 to the subject of national defense. In fact, in the
10 field of foreign relations it had authority to plan
11 an independent role through the military and naval
12 attaches in the various embassies abroad who were
13 under the direct control of the chiefs of staff.^{d.} With
14 the Supreme Command independent of the government in
15 its own sphere and entitled to participate in all im-
16 portant policy decisions along with the government, the
17 Supreme Command became so strong that, as stated by
18 TCJO, who was one of the strongest men in the Japanese
19 Government and who held at one time the post of chief
20 of staff of the army, Japan had no political organ
21 which could restrain the High Command from plunging
22 the nation into hostilities.^{e.} It should be noted
23

24 (K-15. c. Ex. 80, Art. 2
25 d. Ex. 79, Art. 10
e. Ex. 3655, T. 36479)

1 that while there was no organ of control, the government
2 did have power to control expenditures. However, the
3 government never made any effort to withhold the funds
4 demanded by the Supreme Command and no one in the gov-
5 ernment ever proposed to do so. Since the Supreme
6 Command could not have gone forward unless the govern-
7 ment supplied the funds, this fact should be borne in
8 mind in connection with the attempts of these defend-
9 ants to shift all responsibility to certain members of
10 the Supreme Command now deceased. The strength and
11 responsibility of the Supreme Command in no way alters
12 the basic responsibility of the cabinet for the formu-
13 lation of national policy.

14 K-16. Although within its own sphere the
15 Supreme Command could not be interfered with by the
16 cabinet, the Supreme Command, in addition to its par-
17 ticipation in the formulation of national policy, ef-
18 fectively controlled the cabinet. While with respect
19 to matters within its own realm the Supreme Command was
20 independent of the cabinet, the converse of the state-
21 ment is not true. The cabinet was not within its
22 own realm independent of the Supreme Command. This
23 was due to the position of the war and navy ministers.
24 These ministers were at the same time both members of
25 the government and of the Supreme Command. While this

1 last statement may be considered as violating one of
2 the fundamental tenets of Japanese constitutional
3 theory as it has been taught, it, nevertheless, rep-
4 presents the state of fact that actually existed.

5 Throughout the period of the Indictment, both the war
6 and navy ministers were always generals and lieutenant-
7 generals and admirals and vice admirals on active duty.

8 From 1936, it was required by law that only such
9 officers on active duty could hold those offices. ^{a.}

10 Being officers on active duty, these ministers were

11 in the army and navy, were part of them and were sub-
12 ject to the orders of their superiors. Furthermore,

13 TOJO admitted that while he was war minister, a member
14 of the government, he was also a participant in Imperial

15 General Headquarters with the duty of looking after

16 matters of military administration as well as military
17 personnel in connection with operational matters, which

18 he stated was a Supreme Command responsibility. ^{b.} More-

19 over, while a theoretical distinction may be made be-

20 tween military administration and operations, it is

21 futile to try to make a real distinction. It is trying

22 to separate the inseparable. Both are parts of one

23 organic whole and they cannot be separated. They are

24 mutually interdependent, if not inextricably interlocked.
25

(K-16. a. Ex. 93

b. T. 36819-20)

1 The result was that the Supreme Command of each service
2 had within the cabinet a representative whom it could
3 control, and through whom, because of the requirement
4 of unanimity, it could in turn control the cabinet.

5 K-17. The Supreme Command could go further
6 and determine whether a new cabinet would be allowed to
7 be created and whether the existing cabinet would be
8 permitted to continue. The power of naming a war
9 minister or navy minister lay with the Supreme Com-
10 mand. The war minister was chosen by the three chiefs
11 of the army -- the outgoing war minister, the chief of
12 staff and the inspector-general of military education.^{a.}
13 In the navy, the selection was made by a similar group.
14 While the actual appointment was thereafter made by
15 the premier, the real selection was by these groups
16 in the army and navy. There is no instance of any
17 premier failing to appoint the person designated as
18 war or navy minister by the respective branches. He
19 could not select the person he desired. On the contrary,
20 the evidence shows several instances where cabinets
21 fell and one instance where a cabinet could not be
22 formed because of failure of the chiefs of the army
23 to provide a war minister. The defendants contend that
24 the three chiefs never failed to designate a new war
25 (K-17. a. Ex. 3198, T. 28919)

1 minister but that the candidates named refused to
2 serve. It is indeed remarkable that the only time a
3 candidate could not be found to accept the post was
4 the time when the army was dissatisfied with the in-
5 cumbent cabinet or the premier-designate. Subordinate
6 officers could hardly be expected to serve in a cabinet
7 regarded as unsatisfactory by their superiors. The
8 Supreme Command had the power to bring about the fall
9 of an unwanted cabinet and to prevent the formation
10 of a new one undesirable to them. The Supreme Command,
11 both through its participation in the formulation of
12 national policy and through its control over the cab-
13 inet, had ultimate responsibility for the policy decided.

14 K-18. Since both the cabinet and the Supreme
15 Command had overlapping authority with respect to the
16 determination of national policy, to coordinate the
17 functions of the two groups the Liaison Conference and
18 the Imperial Conference were used for that purpose.
19 The Liaison Conference was usually made up of the of-
20 ficials of the cabinet, having the chief responsibility,
21 both ultimate and intermediate, for the formulation of
22 policy, and members of the Supreme Command. The accused
23 maintain that this body had no power to decide anything,
24 but that its decisions had to be implemented by sub-
25 sequent action of the cabinet and the Supreme Command.

1 This is of course an immaterial matter, for there is no
2 evidence that any final decision of either the Liaison
3 Conference or the more formal Imperial Conference was
4 not carried out by either the cabinet or the Supreme
5 Command within their respective spheres. The decisions
6 invariably became the national policy of Japan. This
7 was the sole purpose of the conferences.

8 K-19. The third group upon whom ultimate
9 responsibility for the formulation of policy was re-
10 posed by the law of Japan was the Privy Council. This
11 body, whose functions are recognized in the constitu-
12 tion,^{a.} had the power to deliberate and pass on matters
13 under its jurisdiction according to the constitution,
14 ordinances (specially referred to it, drafts of laws
15 and doubtful points relating to the constitution, laws
16 and Imperial ordinances supplementary thereto, Imperial
17 ordinances under Articles 8 and 70, the conclusion of
18 international treaties, the proclamation of martial
19 law, important Imperial ordinances concerning educa-
20 tion, those concerning the organization of various
21 branches of administration and all other matters spec-
22 ifically referred to the Council.^{b.} It is apparent
23 that all important legislation had to receive the
24 sanction of the Privy Council before it could become
25

(K-19. a. Ex. 68, Art. 46
b. Ex. 63, Art. 6)

1 effective. Likewise, it was the ratifying body for
2 all treaties. Without its consent neither the laws
3 or ordinances which it was required to pass upon nor
4 treaties could become effective. By reason of these
5 facts ultimate responsibility also rested on the mem-
6 bers of the Privy Council for matters within their
7 sphere which led to the formulation of Japan's aggres-
8 sive policy.

9 K-20. To complete the picture of the advisors
10 to the Emperor on whom ultimate duty or responsibility
11 rested, mention should be made of the Lord Keeper of
12 the Privy Seal. That official was charged with the
13 duty of regularly assisting the Emperor.^{a.} His duty
14 was to assist and advise the Emperor at all times,
15 either at the instance of the Emperor or on his own
16 initiative.^{b.} Being entrusted with the power to advise,
17 he would, of course, have the responsibility for the
18 advice that he gave. In his defense, the defendant
19 KIR^o stated that it was the opinion of an authority
20 on the constitution whom he consulted, that from the
21 point of view of the constitution the Lord Keeper was
22 not held responsible to give counsel to the Emperor on
23 state affairs.^{c.} This may well be true, since so far as
24

25 (K-20. a. Ex. 95, Art. 2
b. T. 35798-9; Ex. 3655, T. 36380
c. Ex. 3340, T. 30761)

1 the constitution is concerned neither the office of
2 Lord Keeper nor its function is mentioned. The office
3 of the Lord Keeper stemmed from the Imperial ordinance
4 on the organization of his office. It should be noted
5 that the expert limited the irresponsibility of the
6 Lord Keeper solely from the point of view of the consti-
7 tution. In the absence of any evidence that the Lord
8 Keeper did not have responsibility under the ordinance
9 regulating his office for the advice he gave, the
10 ordinary presumption prevails that responsibility for
11 an act follows the power and the duty to do that act.
12 Moreover, even if the Lord Keeper could be said to be
13 irresponsible under the law of Japan, this would not
14 alter his liability internationally for his advice or
15 for his failure to advise, but would only be a shifting
16 of his responsibility from one imposed by law to
17 responsibility in fact.

18 K-21. From 1940 on, the Lord Keeper of the
19 Privy Seal held the additional duty of recommending
20 to the Emperor the new premier at the time of the forma-
21 tion of a new cabinet. Previous thereto, this recom-
22 mendation had been made by the Genro, but as the last
23 of them was about to die, the power and duty to recom-
24 mend passed to the Lord Keeper.^{a.} The power of the
25 (K-21. a. Ex. 3655, T. 36379-80)

1 Genro and later of the Lord Keeper to perform this
2 function did not emanate from the Constitution or
3 from any written law or ordinance. However, the prac-
4 tice was so long followed that it may be safely con-
5 sidered to have become part of the customary law of
6 Japan. The recommendation made was always followed,
7 and it is at least intimated, if not openly stated by
8 the defendant TOJO, that from the Japanese point of
9 view it had to be followed. ^{b.} In fact, the Lord Keeper
10 had the actual power to name the premier. The respon-
11 sibility for the exercise of that power rested upon
12 him.

13 K-22. Bearing these considerations in mind,
14 we pass to a consideration of the individual liability
15 of the defendants for the charges against them.

16 THE PRESIDENT: We will recess for fifteen
17 minutes.

18 (Whereupon, at 1045, a recess was
19 taken until 1100, after which the proceedings
20 were resumed as follows:)
21
22
23
24

25 (K-21. b. Ex. 3655, T. 36379-80)

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

3 THE PRESIDENT: Mr. Horwitz.

4 MR. HORWITZ: May it please the Tribunal,
5 prior to beginning the individual summations, the
6 prosecution desires to call to the attention of the
7 Tribunal that due to the problems involved in transla-
8 tion and reproduction in preparing the summation for
9 presentation to the Tribunal immediately upon the close
10 of all the evidence, it was impossible to include in
11 the general summation the evidence offered in rebuttal
12 and surrebuttal. However, this evidence has been
13 included and will be considered in the various indi-
14 vidual summations.

15 It is respectfully requested that in connection
16 with the reading of the individual summations the
17 court permit that the introductory paragraphs showing
18 what counts each accused is charged with and the con-
19 cluding paragraphs which point out the evidence
20 attributable to each count, by reference to paragraph
21 numbers, be not read. It is requested that such
22 items be entered in the transcript as though they had
23 been read.
24

25 THE PRESIDENT: That will be done.

MR. HORWITZ: Mr. Brown will continue with

the individual summation of the defendant ARAKI.

1 THE PRESIDENT: Mr. Brown.

2 MR. BROWN: (Reading)

3 ARAKI.

4 AA-1. He is charged under counts 1-17, 18,
5 19, 23, 25, 26, 27-32, 33, 34, 35, 36, 44, 45, 46, 47,
6 51, 52.

7 Introduction.

8 AA-2. It is impossible to say exactly when
9 ARAKI became a party to this conspiracy but, if he
10 was not one already, he entered the conspiracy at least
11 in December 1931 when he became Minister of War. For
12 the five months before this appointment he had been
13 Chief of the General Affairs Department of the
14 Inspectorate General of Military Training and President
15 of the Permanent Examination Committee for Army Officer
16 Students, so that he held both these senior positions
17 at the beginning of the invasion of Manchuria. He
18 must, therefore, have clearly understood what the
19 Japanese forces were doing in Manchuria and, by accept-
20 ing the post of Minister of War whilst the invasion
21 was in progress, accepted at the same time responsibi-
22 lity for the invasion. Moreover not merely did he,
23 by accepting this position, accept responsibility for
24 the military policy which was already being pursued
25

1 but by ordering further acts of aggression showed how
2 fully he participated in the whole conspiracy.

3 I. Activities Before Appointment as War
4 Minister, December 1931.

5 AA-3. ARAKI who was then a lieutenant general,
6 became President of the Army Staff College on 10 Aug-
7 ust 1928; Commander of the 6th Division on 1 August
8 1929; and both Chief of the General Affairs Department
9 of the Inspectorate-General of Military Training and
10 President of the Permanent Examination Committee for
11 Army Officer Students (War Ministry) on 1 August 1931.
12 He became War Minister in the INUKAI Cabinet on
13 13 December 1931.^{a.}

14 AA-4. He was a director of the Kokuhonsha
15 (Foundation of the State) Society, founded in 1920.^{a.}
16 This society was noted for its doctrine of fostering
17 nationalism, and when organized was in close contact
18 with military circles.^{b.} However, ARAKI testified that
19 it was an unimportant organization formed after an
20 attempt on the Emperor's life, to prevent recurrence
21 of such outrages.^{c.} HARADA on the other hand describes
22 him as an idolizer of HIRANUMA and a prominent figure
23 in the Kokuhonsha, which he terms an extreme rightist

24 (AA-3. a. Ex. 103, 102, T. 686.

AA-4. a. Ex. 164, T. 1636.

b. Ex. 164, T. 1636.

c. T. 28,333.

1 organization maneuvering in concert with the army in
2 July 1931, thus making ARAKI an unsuitable person for
3 the post of Chief Aide-de-Camp to the Emperor.^{d.}

4 AA-5. Although ARAKI, in his affidavit,
5 professed ignorance of the outbreak of the Manchurian
6 Incident, except from newspaper reports,^{a.} his position
7 was of sufficient importance for the instigators of the
8 October 1931 plot to intend him to be Premier in their
9 proposed new government.^{b.} This plot aimed at the over-
10 throw of the WAKATSUGI Cabinet and the establishment of
11 a new administration which would support the Manchurian
12 Incident.^{c.} HASHIMOTO revealed this plan to ARAKI who
13 in turn told it to MINAMI, and the latter ordered the
14 military police to arrest the conspirators.^{d.}

15 II. Activities as War Minister in Relation
16 to Manchurian Incident.

17 AA-6. Despite the fact that ARAKI, by this
18 time, must have been aware of the internal agitation for
19 extension of the Manchurian Incident, he consented on
20 13 December 1931 to take over the post of War Minister
21 in the newly-formed INUKAI Cabinet. Circumstances sur-
22 rounding his appointment were different from the usual
23

24 (AA-4. d. Ex. 3754A, T. 37,560; Ex. 3754B, T. 37,567.

25 AA-5. a. Ex. 3161, T. 28,125.

b. Ex. 2424, T. 19,667.

c. T. 2013.

d. Ex. 2424, T. 19,667.)

1 procedure of the three army chiefs selecting the new
2 War Minister and recommending him to the Premier for
3 concurrence and appointment. In ARAKI's case the
4 younger officers were anxious to have him appointed,
5 because of his understanding of their point of view;
6 hence, when he was suggested to INUKAI, the latter
7 agreed as there would be no gulf between him and the
8 younger officers.^{a.} ARAKI himself categorically denied
9 this statement, stating that his appointment was made
10 in the customary manner.^{b.}

11 AA-7. ARAKI, as War Minister, was unable to
12 control the young officers who were the motivating
13 force behind the China Incident but he did attempt to
14 control the incident;^{a.} nevertheless when INUKAI des-
15 patched an emissary to Chiang Kai-shek in December
16 1931, he kept this move secret from ARAKI.^{b.}

17
18 AA-8. INUKAI was opposed to the Manchurian
19 Incident and attempted to halt it. He also adopted
20 the policy of reducing the army budget, which act was
21 violently opposed by ARAKI.^{a.} ARAKI himself stated
22 that, in 1932 and 1933, he conceded a portion of the
23 army budget to the navy to avoid any army-navy friction,

24 (AA-6. a. T. 1551.
b. Ex. 3161, T. 28,127,
25 AA-7. a. T. 1489, 1541.
b. T. 1487, 1547.
AA-8. a. T. 1481.)

1 and that the budgets for these years, excluding the
 2 Manchurian Incident, were virtually no more than the
 3 preceding years. In November 1932 ARAKI told HARADA
 4 that more than doubling the budget was reasonable.

5 AA-9. Towards the end of December 1931, after
 6 receiving information from Harbin that Hsi Hsia would
 7 establish lines east of Harbin and resist, the Kirin
 8 Army attacked towards Harbin. Reinforcements were
 9 asked for and sent to the Harbin area in January, 1932
 10 with the knowledge of the Tokyo authorities. Troops
 11 were also sent to Chinchow at the end of December,
 12 1931, to relieve Japanese nationals. They liberated
 13 the city without bloodshed. The Lytton Report states
 14 that the city was evacuated by the Chinese because of
 15 a concentrated attack by the Japanese who took the town
 16 after encountering little or no resistance and then
 17 proceeded to sweep right up to the Great Wall.

18 MINAMI stated that the occupation of Chinchow took
 19 place while he was absent in Manchuria. On his return
 20 he complained to ARAKI that this act was contrary to
 21 policies decided during his administration, but ARAKI

22 (AA-8. b. Ex. 3161, T. 28,193.
 23 c. Ex. 3767A, T. 37,616.
 24 AA-9. a. T. 18,993.
 25 b. T. 18,993.
 c. Ex. 3161, T. 28,134.
 d. Ex. 57, T. 2257.

took no notice.^{e.}

1 AA-10. ARAKI denies having made a plan for
 2 the occupation of the four provinces and states that
 3 the allegation that he did so is due to the interpreta-
 4 tion of an incompetent interpreter, which was completely
 5 different from the fact.^{a.} Though his language is not
 6 free from ambiguity he appears to admit that exhibit
 7 188-C^{b.} is accurate^{c.} although this includes, in con-
 8 nection with the four provinces, the word "occupy"^{d.}
 9 to which he apparently objects.^{e.} Even if, however,
 10 he did, in fact, use the phrase "restore law and order
 11 in" instead of the word "occupy" it is submitted that
 12 this is a distinction without any real difference, as
 13 it is difficult to see how if, as he appears to admit,
 14 the cabinet ordered the army to restore law and order
 15 in the four provinces, the army could do so without
 16 occupying them.
 17

18 AA-11. On 30 January 1932, ARAKI attended a
 19 Privy Council meeting and answered questions regarding
 20 the army's actions in Manchuria. He stated that the
 21 Kwantung Army commander-in-chief's declaration that
 22 Manchuria was to be a land of bounty was made as a
 23

24 (AA-9. c. T. 19,921-3.

AA-10. a. Ex. 3161, T. 28,131.

b. T. 2219.

c. T. 28,302.

d. T. 2221.

e. T. 22,217.)

1 means of calming the population, and was not a defini-
2 tion of the army's objectives. He blamed General Hsuen
3 Liang for the Manchurian Incident and, in referring
4 to rumors that the army was out of hand, remarked that
5 in order to attain their objectives, and maintain the
6 prestige of the Imperial Forces, they were obliged to
7 take the initiative.^{a.}

8 III. Moves Towards Manchukuoan Independence.

9 AA-12. Around December 1931, the General
10 Staff and War Ministry were against Manchukuo becoming
11 independent, but in January 1932, due to personnel
12 shifts, this opinion changed and the great majority
13 of the army advocated that Manchukuo become a separate
14 state.^{a.}

15 AA-13. In January 1932, ITAGAKI visited Tokyo
16 to confer with the central authorities and to explain
17 HONJO's determination to form an independent Manchuria
18 because Manchuria was said to desire, and to be agi-
19 tating for, it.^{a.} The Lytton Report states "It is clear
20 that the Independence Movement, which has never been
21 heard of in Manchuria before September 1931, was only
22 made possible by the presence of Japanese troops."^{b.}
23

24 (AA-11. a. Ex. 3174, T. 28,579.

AA-12. a. T. 1548.

25 AA-13. a. T. 18,998.

b. Ex. 57, T. 2297.)

1 On his return, ITAGAKI reported that the War Ministry
2 and General Staff understood the situation but that
3 ARAKI and other military authorities did not intend to
4 establish a separate state.^{c.}

5 AA-14. Despite this apparent intention of
6 ARAKI's, he admitted in his interrogation^{a.} that he
7 attended a cabinet meeting in February or March 1932,
8 where the appointment of an administration committee
9 to set up Manchukuo as an independent state was dis-
10 cussed. The Kwantung Army submitted the request
11 to ARAKI, who, although he could have refused, trans-
12 mitted it to the Premier.^{b.} Despite these discussions,
13 Japan on 16 January 1932 issued a statement promising
14 always to maintain the open-door policy in Manchuria
15 and stating she had no territorial ambitions there.^{c.}

16 AA-15. ARAKI stated that he had several inter-
17 views with Premier INUKAI to discuss the Manchurian
18 problems and that there was never any friction of
19 opinions between them. He added that he always dealt
20 with the matters in accordance with the fixed policies
21 of the government and, whenever a new problem arose,
22 fully discussed it with the Premier and followed his
23
24

25 (AA-13. c. T. 19,001.
AA-14. a. Ex. 187, T. 2784.
b. T. 2784.
c. Ex. 931, T. 9368.)

1 decision about it.^{a.} In fact at more than one cabinet
2 meeting ARAKI was attacked for army interference in
3 politics by the then Finance Minister TAKAHASHI, whom
4 ARAKI says he always respected very highly^{b.} and whom
5 he once described as a splendid man.^{c.} At a cabinet
6 meeting on about January 13, 1933 TAKAHASHI told ARAKI
7 that there was no such thing as public opinion in Japan,
8 as the Kempei threatened anyone who criticized the army
9 and when a newspaper criticized the army, sent an air-
10 plane to circle round the newspaper plant and threatened
11 to bomb it. He added that they were shadowing states-
12 men as though they were all spies.^{d.} Again at a cabinet
13 meeting on February 1, 1933, there was criticism that
14 the army had taken over the determination of Japanese
15 foreign policies and that the newspapers were too hasty
16 in advocating withdrawal from the League of Nations.
17 TAKAHASHI attacked the army savagely for allowing the
18 newspapers to say such things when the army could so
19 easily stop them. ARAKI appeared to be at a loss for a
20 reply.^{e.}

22 IV. Establishment of Manchukuo Independence
23 and Subsequent Economic and Military Moves.

24 (AA-15. a. Ex. 3161, T. 28,149.
25 b. T. 28,345.
c. Ex. 3767-A, T. 37,616.
d. Ex. 3769-A, T. 37,632.
e. Ex. 3770-A, T. 37,633.)

1 AA-16. On 18 February 1932 the Independence
2 of Manchuria was declared. On 1 March 1932, ARAKI was
3 a member of the cabinet which discussed foreign rela-
4 tions with Manchukuo. Their main consideration was
5 that control of the customs should be obtained by
6 tactful means, so as to avoid unfavorably affecting
7 Japan's foreign relations.^{a.}

8 AA-17. Less than a fortnight later the cabinet
9 decided that, if the independence of Manchukuo was
10 regarded as a violation of the Nine-Power Pact, then,
11 at least on the surface, recognition should be post-
12 poned for the time being.^{a.} It was further decided
13 that, if Chang Hsueh-Liang acted as an insurgent against
14 it, the Japanese army must repel the attack.^{b.}

24 AA-16. c. Ex. 222, T. 2817.

25 AA-17. a. T. 28356.

b. Ex. 3762, T. 37599.

1 AA-18. ARAKI contended that the Kwantung
 2 Army was to watch the development of Manchuria and not
 3 to interfere with it.^{a.} But when its Commander-in-Chief
 4 suggested to him that the policy for the whole of
 5 Manchuria including Chientan be left mainly to the
 6 Kwantung Army, ARAKI replied agreeing to this in
 7 principle.^{b.}

8 AA-19. Again ARAKI insisted that the govern-
 9 ment policy toward Manchuria was one of live and let
 10 live,^{a.} while even so he was a member of the cabinet,
 11 which, on 11 April 1932, established Japan and Man-
 12 chukuo as a single economic unit and made Japanese
 13 nationals the highest advisers as regards its economic
 14 and general political problems.^{b.} On 15 May 1932
 15 Premier INUKAI was murdered by a group of young offi-
 16 cers after having had considerable disagreement with
 17 the military.^{c.} His government was replaced by the
 18 SAITO Cabinet with ARAKI still holding the position
 19 of War Minister.^{d.} The change in cabinets resulted in
 20 a change to a more positive policy toward Manchuria
 21 which included the cabinet recognition of Manchukuo.^{e.}

23 AA-20. During the early months of the SAITO

24 AA-18. a. Ex. 3161; T. 28147. b. Ex. 226, T. 2834.

25 AA-19. a. Ex. 3161, T. 28146. b. Ex. 223, T. 2825.

c. T. 1481; d. Ex. 103, T. 686; e. T. 19027.

1 Cabinet, the policy of encroachment on Manchurian
2 affairs continued. On 4 June 1932, the Chief of
3 Staff of the Kwantung Army cabled Vice War Minister
4 KOISO that he was taking over the customs houses in
5 Manchuria, including that of Dairen, in order to
6 acquire revenue.^{a.} On 12 August 1932, the Cabinet
7 decided to establish aviation rights in Manchuria,
8 finally coming out into the open with their demands,
9 after having previously conducted a military air
10 service under pretext of military communication.^{b.}

11 AA-21. Gradually, the time grew ripe for
12 Japan's recognition of the new state of Manchukuo,
13 and although ARAKI contended that the question of
14 Manchukuoan recognition was under the charge of the
15 Foreign Office and a diplomatic matter in which the
16 army did not take any steps,^{a.} he instructed the
17 Commander-in-Chief of the Kwantung Army, on 10 June
18 1932, to exercise great caution in his activities in
19 this regard because of growing apprehension at home
20 and abroad.^{b.} Nevertheless, paving the way for this
21 move, ARAKI made a statement in June, 1932, that the
22 resolution of the League of Nations, and Japan's
23 statements regarding Manchuria before Manchukuo was

24 AA-20. a. Ex. 227, T. 2837; b. Ex. 225, T. 2829.
25 AA-21. a. Ex. 3161, T. 28150; b. Ex. 228, T. 2846.

1 set up, were not binding upon Japan. Also, HARADA
2 stated that, in August 1932, ARAKI appeared completely
3 disinterested in a Chinese proposal for direct nego-
4 tiations with Japan about Manchuria and that Prince
5 KONOYE was greatly surprised by this and by ARAKI's
6 being apparently in favor of creating a situation
7 where Japan would be isolated and have to wage war
8 against the world. ^{d.}

9 AA-22. The cabinet held a meeting attended
10 by the Emperor on 13 September 1932 to discuss the
11 recognition of Manchukuo by the Japanese Government, ^{a.}
12 and on the same day ARAKI attended a Privy Council
13 meeting on the subject of the signing of the Protocol
14 between Japan and Manchukuo. At the latter ARAKI
15 stated in answer to a question, that so far no budget
16 had been provided for Manchukuo, but that the Japanese
17 War Ministry had a program according to which Manchukuo
18 would be able to defray a part of its expenses after
19 1933. In five years she would be in a position to
20 defray the necessary expenditures, but now the national
21 defense of Manchukuo was that of Japan. ^{b.} ARAKI in
22 his interrogation admitted his agreement with the
23 Foreign Minister concerning Manchurian independence
24

25 AA-21. ^{c.} Ex. 1104, T. 10084; ^{d.} Ex. 3765A, T. 37610.
AA-22. ^{a.} T. 1891; ^{b.} Ex. 241, T. 2972.

1 and admitted attending a meeting where the decision
2 to recognize Manchukuo was made. ^{c.}

3 AA-23. ARAKI stated that Japan had no inten-
4 tion of violating international law, ^{a.} and that the
5 view of the international lawyers was that, under the
6 circumstances, it would not be illegal for even a
7 party to the Nine Power Pact to grant recognition. ^{b.}
8 Japan on 15 September 1932, recognized the independence
9 of the new state of Manchukuo, ^{c.} and the Protocol of
10 Alliance between Japan and Manchukuo was issued. ^{d.}

11 AA-24. ARAKI maintained that, after the
12 recognition of Manchukuo, the Kwantung Army's duties
13 became that of an adviser, and that they made it a
14 rule to confer with the Manchukuo authorities before
15 they took any action in connection with national
16 defense or the maintenance of peace and order. ^{a.}
17 However, on 3 November 1932, the Chief of Staff of the
18 Kwantung Army, KOISO, sent to Vice War Minister YANA-
19 GAWA an outline for guiding Manchukuo. In this outline
20 he said "The Manchukuoan officials shall outwardly
21 assume charge of the administration as much as possible
22 while Japanese officials must satisfy themselves by
23

24 AA-22: a. Ex. 229, T. 2899.

AA-23. a. Ex. 3161, T. 28151. c. Ex. 934, T. 9387.

b. T. 28357. d. Ex. 440, T. 5033.

25 AA-24. a. Ex. 3161, T. 28151.

1 controlling the substance." He went on to suggest
2 various measures whereby Japan would, by occupying
3 key positions, gain complete control over Manchukuo. b.

4 AA-25. In order to obtain the revenue,
5 which Manchukuo badly needed, the contract of under-
6 writing the subscription of the Manchukuo Government
7 National Founding Bonds was drawn up. a. This demon-
8 strates that the advice of the Chief of Staff to the
9 Vice War Minister of 4 June 1932 was followed. b.

10 AA-26. Japan's hold on Manchukuo steadily
11 increased. Opposition was not tolerated, as can be
12 seen from a report in the Chicago Daily Tribune for
13 23 November 1932, giving details of a Chinese charge
14 that Japan was responsible for the killing of 2,700
15 people in Manchuria. a. ARAKI referred to this as a
16 local skirmish with bandits which had been exaggerated
17 for purposes of propaganda. b.

18 AA-27. The Cabinet, of which ARAKI was a
19 member, on 9 December 1932 decided to make the telegram
20 and telephone system in Manchuria a joint Japanese-
21 Manchukuoan enterprise, with the proviso that the
22 highest military organs in Manchuria must obtain
23 approval of the highest Japanese military organs when
24

25 AA-24. b. Ex. 230, T. 2902.

AA-25. a. Ex. 375, T. 4683; b. Ex. 227, T. 2844.

AA-26. a. Ex. 610A, 611A, T. 6698; b. Ex. 3161, T. 28199.

intending to inspect or to make demands.^{a.}

1 AA-28. ARAKI was War Minister at the time
2 that the "Economic Construction Program of Manchukuo"
3 was agreed on 1 March 1933.^{a.}

4 AA-29. On 8 August 1933, the Cabinet decided
5 that the Japanese Empire's fundamental policy towards
6 Manchuria should be based on the spirit of the
7 Japanese-Manchurian protocol and to develop Manchuria
8 as an independent nation having indivisible relations
9 with Japan. Despite this so-called independence,
10 Manchukuo was to receive positive guidance in all
11 important matters.^{a.} Although ARAKI was a member
12 of this cabinet and a party to this decision, he
13 stated in his affidavit that Japan had no intention
14 of "making Manchukuo her cat's paw."^{b.} In December
15 1933 the army and navy published a threatening state-
16 ment denouncing those who sought to separate the
17 public mind from the military.^{c.} This may be con-
18 trasted with ARAKI's statement that the question of
19 the recognition of Manchukuo was a diplomatic matter
20 in which the army did not take any steps.^{d.}

22 AA-30. The monarchy in Manchukuo was finally
23 established on 1 March 1934,^{e.} yet preparations for
24

AA-28. a. Ex. 442, T. 5038.

AA-29. a. Ex. 233, T. 2927. c. Ex. 3775-B, T. 37652.

b. Ex. 3161, T. 28151. d. Ex. 3161, T. 28150.

AA-30. a. T. 2938.

1 Pu-Yi's appointment had been effected as far back
2 as 22 December 1933, when the Cabinet decided on
3 preparations for enforcing a monarchy in Manchuria. ^{b.}
4 ARAKI maintained that this appointment was in keeping
5 with Pu-Yi's wish, as personally expressed by him, and
6 that there was no intention of Pu-Yi being the tool
7 of the Japanese Government. ^{c.} Pu-Yi in his testimony
8 refuted this argument entirely, stating continuously
9 that his appointment and activities were entirely
10 ruled by Japan. ^{d.} On 22 October 1937, when ARAKI was
11 a cabinet councillor, the Cabinet decided on a program
12 of heavy industry in Manchukuo. This aimed at the
13 extension, advance and development of heavy indus-
14 tries in Manchukuo, in order to contribute to the
15 future development of Japanese and Manchurian economy. ^{e.}

16 AA-31. On 5 November 1937, the treaty be-
17 tween Japan and Manchukuo concerning the abolition of
18 extraterritoriality and the transfer of Administrative
19 Rights over the Southern Railway was signed. ^{a.}

20 AA-30. b. Ex. 234, T. 2933. c. T. 3948-4351.
21 c. Ex. 3161, T. 28153. e. Ex. 239, T. 2960.
22 AA-31. a. Ex. 2476-A, B, C, D., T. 20473.

1 AA-32. Japan continued these preparations
2 and activities despite such declarations as MATSUOKA's
3 statement on 21 November 1932,^{a.} "We want no more
4 territory" and the Japanese Ambassador's statement to
5 Stimson on 5 January 1933 that "Japan had no territorial
6 ambitions south of the Great Wall."^{b.} On this occa-
7 sion Stimson reminded the Ambassador that only a year
8 previously Japan had stated that she had no territorial
9 ambitions in Manchuria.

10 AA-33. ARAKI stated that Premier INUKAI
11 wished self-defense and non-expansion to be the funda-
12 mental policy to cope with the situation in Manchuria^{a.}
13 and that this became one of the basic policies of the
14 INUKAI Cabinet.^{b.} He also stated that the decision of
15 the government was to leave the question of independ-
16 ence alone to the Manchurian people and to make no
17 interference with it.^{c.} Against this may be set Premier
18 OKADA's statement, in September 1934, that the faction
19 of ARAKI, MASAKI and YANAGAWA was always in favor of
20 Manchurian annexation.^{d.}

21 V. Shanghai Incident

22 AA-34. ARAKI testified that the first Shang-
23 hai Incident occurred about the middle of January 1932

24 AA-32. a. Ex. 174, T. 1808 b. Ex. 3161, T. 28131

25 b. Ex. 966, T. 9483 c. Ex. 3161, T. 28146

AA-33 a. Ex. 3161, T. 28130 d. Ex. 3777-A, T. 37666

and said it was due both to an assault on Japanese
 1 priests by Chinese and to a general tendency towards
 2 anti-Japanese activities.^{a.} The Navy authorities asked
 3 that army units should be sent to Shanghai to settle
 4 the affair, and in the interests of protection of Jap-
 5 anese nationals this was done.^{b.} Before the dispatch of
 6 these troops, however, there was no investigation into
 7 the actual cause or extent of the incident. ARAKI,
 8 having sufficient faith in the Navy authorities, stated
 9 he took their word for it, since such matters were in
 10 their charge.^{c.}

AA-35. Although ARAKI denied the existence
 12 of any pre-arranged plan for the occupation of Shanghai,^a
 13 Powell stated that when he arrived in Shanghai at the
 14 beginning of February 1932, many Japanese destroyers
 15 were anchored in the Hwangpu River, Japanese bombers
 16 were attacking Chapei airfield and materials were be-
 17 ing unloaded.^{b.} In a description of the incident in
 18 his interrogation, ARAKI stated that the Army was called
 19 in to assist the Navy who were fighting a losing battle,
 20 and that, after the Cabinet decision had been made,
 21 the necessary troops were dispatched.^{c.}

AA-36. ARAKI described the care the Japanese

24 AA-34. a. Ex. 3161, T. 28135 AA-35. a. T. 28,335
 25 b. Ex. 3161, T. 28,138 b. T. 3250
 c. T. 28,342 c. Ex. 2221, T.15,844

forces took to localise the incident^{a.} and put in evi-
 1 dence speeches by UEDA^{b.} and SHIRAKAWA^{c.} depicting the
 2 reluctance with which Japan was forced to take up
 3 arms to settle the affair. But on 16 December 1932,
 4 he told HARADA that he had sent out a large force
 5 and decisively settled the matter in a short period of
 6 time.^{d.}

8 AA-37. Finally, after an agreement had been
 9 reached between the Chinese and Japanese, the latter
 10 withdrew, despite the fact that, according to ARAKI,
 11 this withdrawal only created contempt amongst the
 12 Chinese.^{a.} ARAKI, on 23 March 1932, explained this
 13 withdrawal to the 61st Diet Session, stating that it
 14 had been made in the interests of peace.^{b.}

15 VI. Occupation of Jehol

16 AA-38. When interrogated, ARAKI stated that
 17 the Cabinet's decision to occupy the four provinces
 18 was made on 17 December 1931, as the result of a plan
 19 drawn up by himself just after his appointment as War
 20 Minister.^{a.} He also gave details of certain Cabinet and
 21 Privy Council meetings where this was decided.

22 AA-39. The first move in this plan of expan-
 23 sion was made in July 1932, when the Japanese invaded

24 AA-36. a. Ex. 3161, T. 28,139-40 AA-37. a. Ex.3161, T.28141
 25 b. Ex. 3163A, T. 28,432 b. Ex. 3167, T.28436
 c. Ex. 3163B, T. 28,434 AA-38. a. Ex. 187A-188A,
 d. Ex. 3768A, T. 37,618 T. 2216, 2217

1 Jehol, declaring that this province formed part of the
 2 territory of Manchukuo.^{a.} This date was denied by
 3 ENDO^{b.} and also by ARAKI,^{c.} who maintained that hostili-
 4 ties did not begin until February 1933.

5 AA-40. Nevertheless, reinforcements were sent
 6 to Jehol before February, 1933, for the purpose of a
 7 grand-scale invasion.^{a.} This was requested by ENDO, who
 8 maintained that it was necessary to reinforce that area
 9 even as far as Mukden - because of the activities of the
 10 bandits.^{b.}

11 AA-41. ARAKI stated that the Japanese cam-
 12 paign in Jehol was in fulfillment of the Japan-Manchukuo
 13 Protocol and that it was nothing but a domestic affair
 14 of Manchukuo's. He further stated that he emphasized
 15 to the General Staff the need for following the govern-
 16 ment's policy, so as not to adversely affect Soviet-
 17 Japanese relations and that they were told not to
 18 spread the war over North Manchuria or depart from the
 19 strict observance of the Japan-Manchukuo Protocol.^{a.}

20 In contrast to this is the fact that, in December 1932,
 21 ARAKI was advocating sending a large force to Jehol and
 22 finishing the matter in the shortest possible time.

23 AA-39. a. Ex. 192A, T. 2268 AA-41. a. T. 28154

24 b. T. 19511

25 c. T. 28406

AA-40. a. Ex. 192A, T. 2268

b. T. 19511

At this time he also said that no matter what Japan did
 1 it would not be spoken well of and that it was no use
 2 for her to try to be considered agreeable. ^{b.}

3 AA-42. The Cabinet decided, on February 13,
 4 1933, that the Jehol issue would be looked upon in all
 5 respects as involving bandits. ^{a.} ENDO, who gave evi-
 6 dence for ARAKI, stated that "bandits" under Tang Yu-lin,
 7 the Inspector General of Jehol Province, were disturb-
 8 ing peace and order in Manchukuo and resorting to meas-
 9 ures inimical to Japan and Manchukuo, which made their
 10 suppression necessary and that it was this which led
 11 to the occupation of Jehol by the Japanese Army. ^{b.} He
 12 admitted, however, that the Japanese described as band-
 13 its most of those who opposed them in Manchukuo or
 14 Jehol, though he denied that they necessarily called
 15 them all bandits. ^{c.} He further admitted that many of
 16 the people he described as bandits who joined Chang
 17 Tso-lin's army in Jehol were former members of this
 18 army who had become detached from it during the fight-
 19 ing in Manchuria and were trying to recapture their
 20 lost territory. ^{d.}

22 AA-43. When all preparations had been made
 23 Japan, on 23 February 1933, sent an ultimatum, in the
 24 name of puppet Manchukuo, stating that Jehol was not

25 AA-41. h. Ex. 3768-A, T. 37619 c. T. 19509

AA-42. a. Ex. 3771-A, T. 37635 d. T. 19516

b. T. 19498

Chinese territory and that Chinese troops must leave
 it within 24 hours.^{a.} The Chinese refused this Japanese
 ultimatum and on 25 February 1933 hostilities began.^{b.}

AA-44. On May 31st, 1933, the Tangku Truce was
 signed between General Ho of the Kuomintang and OKAMURA
 of the Kwantung Army. This established a demilitarized
 zone in the northeastern part of Hopei and, under its
 terms, the Chinese withdrew south and west of this
 zone.^{a.}

VII. Japan's Attitude Towards and Withdrawal
 from the League of Nations.

AA-45. Throughout the Manchurian Incident
 the League of Nations had repeatedly objected to Japa-
 nese activities in Manchuria. For instance, on 24 Febru-
 ary 1933, the League condemned Japanese actions in
 Manchuria.^{a.} On 25 February it defined the principles,
 conditions and considerations applicable to the settle-
 ment of the dispute^{b.} and on the same day Stimson, then
 Secretary of State, endorsed the League's findings,
 stating the U. S. Government's general endorsement of
 the principles recommended, insofar as applicable under
 the treaties to which it was a party.^{c.}

AA-43. a. Ex. 192-A, T. 2269 b. Ex. 59, T. 513
 b. Ex. 192-A, T. 2269 c. Ex. 933, T. 9383

AA-44. a. Ex. 193, T. 2272

AA-45. a. Ex. 59, T. 502

1 AA-46. Again on 4 March 1933 the League
2 called for the cessation of hostilities between Japan
3 and China^{a.} and on 11 March the League of Nations'
4 Assembly passed a resolution calling for the non-recog-
5 nition of conquests in violation of international law.^{b.}
6 During this period the defendant ARAKI was War Minister,
7 and, although these protests and condemnations by the
8 League must have reached him, he stated that he had
9 been told that Japan's action in Manchuria was within
10 the limitation of action for self-defense under the non-
11 aggression pact, and covered by the League's reserva-
12 tion on 10 December 1931 which approved the right of
13 subjugating bandit troops.^{c.}

14 AA-47. ARAKI stated that Japan submitted in
15 the "views of the Japanese Government" a complete ex-
16 planation of her actions in Manchuria, in which it was
17 explained that the independence of Manchukuo had been
18 brought about by an internal split of a nation by her
19 own people.^{a.}

20 AA-48. Thus relations between the League and
21 Japan deteriorated until, on 17 March 1933, a Special
22 Cabinet meeting was held, at which it was finally
23 agreed that Japan should withdraw from the League.

24 AA-46. a. Ex. 55, T. 501, 502 AA-47. a. 3161, T. 28167
25 b. Ex. 55, T. 501, 502
 c. Ex. 3161, T. 28165

1 ARAKI admitted in his interrogation^{a.} that he attended
 2 this meeting and also the Privy Council meeting
 3 following it and in both cases agreed to the withdrawal,^{b.}
 4 although MASAKI contended that ARAKI was opposed to it.
 5 and induced the meeting to the decision that Japan
 6 should not withdraw from the League.^{c.} MASAKI did not
 7 attend this meeting personally, but heard a report of
 8 it from ARAKI. In fact, a month earlier, at a Cabinet
 9 meeting on 15 February 1933, ARAKI and Foreign Minister
 10 UCHIDA had, as soon as the Cabinet met, urged a reso-
 11 lution to withdraw from the League of Nations.^{d.}

12 AA-49. ARAKI claimed that the question of
 13 the official recognition of the state of Manchukuo was
 14 a diplomatic matter, in which the army took no step,
 15 and that, except for questions of national defense and
 16 the maintenance of peace, he (ARAKI) left everything to
 17 the care of the Foreign Minister.^{a.} He also stated
 18 that the Kwantung Army wished the new regime in Man-
 19 chukuo to base its administration on the people's will
 20 and that this army's attitude was that of watching
 21 Manchukuo's development but not interfering with it.^{b.}

22 AA-50. On 27 March 1933, when ARAKI was

23 AA-48. a. Ex. 2222, T. 15845 AA-49. a. Ex. 3161, T. 28150
 24 b. Ex. 3168, T. 28463 b. Ex. 3161, T. 28147
 25 c. T. 28470
 d. Ex. 3772-A, T. 37636

1 War Minister, Japan gave notice to leave the League of
 2 Nations.
 a.

3 AA-51. On 27 November 1937, while ARAKI was
 4 a Cabinet Councillor, the Japanese Government refused
 5 an invitation to attend the Brussels conference of
 6 signatories of the Nine-Power Treaty. This was justi-
 7 fied on the ground that on October 6 the League of
 8 Nations had declared Japan's actions in China to be in
 9 violation of the Nine-Power Treaty, and even gone to the
 10 length of assuring China of its moral support. Thus,
 11 Japan considered, full and frank discussion would be
 12 impossible.
 a.

13 AA-52. In keeping with this policy of non-
 14 cooperation with the League, Japan, on 22 September
 15 1938, refused the League's invitation to attend a
 16 session.
 a. At this time ARAKI was Education Minister.
 17 In this capacity he attended the Privy Council Meeting,
 18 on 2 November 1938, at which it was finally decided to
 19 terminate relations between the Japanese Empire and th
 20 League of Nations.
 b.

22 VIII. ARAKI's Participation in the Opium
 23 Monopoly.

24 AA-50. a. Ex. 65, T. 503 b. Ex. 272, T. 3640
 25 AA-51. a. Ex. 954-B, T. 9446
AA-52. a. Ex. 9720, T. 9511

1 AA-53. On 11 April 1933 the Cabinet, in which
 2 ARANI held the position of War Minister, decided that
 3 the raw opium in the custody of the Government of
 4 Korea was to be temporarily transferred to the Govern-
 5 ment of Manchukuo. ^{a.}

6 AA-54. The creation of the Manchurian Opium
 7 Monopoly Administration was said to be for the purpose
 8 of controlling and gradually diminishing the number of
 9 opium addicts. For instance, registration of all
 10 addicts was inaugurated and a system of selling only
 11 to those so registered was evolved, growth of poppies was
 12 controlled and illicit sales forbidden. ^{a.} However, the
 13 real object of the administration was the establishment
 14 of a central agency for narcotic growth and distribu-
 15 tion, the revenue from which was immediately acquired
 16 by the government. ^{b.} In effect it provided no real
 17 restrictions against opium smoking ^{c.} but merely aided
 18 in the control and use of narcotics. By an order of
 19 the Manchurian Government dated 25 October 1933, nar-
 20 cotic factories were established at Hsinking, Mukden,
 21 Tsitsihar, Kirin and Chengteh. ^{d.} These factories pro-
 22 duced morphine, ester, morphine-ester and cocaine,
 23 some of which was destined for export to Europe and the
 24

25 AA-53. a. Ex. 387, T. 4709 c. Ex. 384, T. 4738
AA-54. a. Ex. 2462, T. 20314 d. Ex. 384, T. 4731
 b. Ex. 384, T. 4731

e.
U. S. A.

1 AA-55. Whilst ARAKI was Education Minister
2 the Cabinet of which he was a member decided on Decem-
3 ber 23, 1938, that the amount of raw opium to be sup-
4 plied or transferred to the Government General of For-
5 mosa, the Kwantung leased territory, and the govern-
6 ment of Manchukuo and the acreage for poppy growing
7 necessary to produce the required quantities of opium
8 should be decided upon after consultation by the authori-
9 ties concerned.^{a.} In December 1938 the Opium Committee
10 decided that the surplus stock of cocaine, accumulated
11 in Formosa since 1932, was to be used up within three
12 years by consumption in Formosa, by shipment to Japan
13 and other countries, and by supplying the proper de-
14 mands of Manchukuo and China.^{b.}

16 AA-56. Reports on these narcotic activi-
17 ties were compiled by the U. S. Treasury Attaches in
18 the various districts. The following are examples of
19 such reports on the narcotic situation in Formosa and
20 China during ARAKI's tenure of office as Education
21 Minister: (1) On 12 and 14 January 1939, the U. S.
22 Treasury Attache at Shanghai forwarded reports on the
23 camouflaging of Japan's narcotization policy.^{a.} (2) On
24

25 AA-54. e. Ex. 384, T. 4739 AA-56. a. Ex.420, 422, T.4870,
AA-55. a. Ex. 381, T. 4709 4873
b. Ex. 381, T. 4901

1 27 January 1939, the American Consul in Mukden wrote to
2 the Secretary of State regarding the financial import-
3 ance of opium and the narcotic traffic to the Government
4 of Manchukuo. ^{b.} (3) On 1 April 1939, the U. S. Treasury
5 Attache at Shanghai reported that Japanese opium ships
6 were traveling between Dairen and Shanghai and estab-
7 lished that two ships carrying Persian opium from
8 Dairen to Shanghai were Japanese. ^{c.} (4) On 5 April 1939,
9 the U. S. Treasury at Shanghai revealed the establish-
10 ment of a General Opium Amelioration Bureau for the
11 enforcement of an opium monopoly under the cover of
12 opium amelioration work. ^{d.} (5) On 14 April 1939, the
13 U. S. Ambassador compiled an aide memoire on the "Nar-
14 cotic Drug Traffic in Occupied Areas in China." ^{e.} (6)
15 On 21 July 1939, the U. S. Treasury Attache at Shanghai
16 made a report on the distribution of narcotic drugs
17 for medicinal and scientific purposes being granted a
18 monopoly by the Japanese authorities. ^{f.} (7) On 8
19 August 1939, the U. S. Treasury Attache at Shanghai
20 reported on the Formosan cocaine factory, revealing its
21 production and monopolistic nature. ^{g.}
22

23 AA-56. b. Ex. 385, T. 4745
24 c. Ex. 417, T. 4866
25 d. Ex. 424, T. 4878
e. Ex. 433, T. 4926
f. Ex. 426, T. 4894
g. Ex. 428, T. 4599

IX. ARAKI's Attitude Towards Union of Soviet Socialist Republics.

AA-57. ARAKI in his affidavit stated that, although he was not in agreement with communism, he had never felt the necessity of preparing for any positive military action against the U.S.S.R.^a Nevertheless preparation for military action was made, as can be seen from Lieutenant Colonel KANDA's report, dated 16 July 1932, to KAWABE, Japanese Military Attache in Moscow, in which he stated that preparations for a war against Russia would be completed by the middle of 1934. He stated, however that hostilities would not be opened as soon as they were completed. A Russian war was referred to as inevitable to consolidate Manchuria.^b

AA-58. KAWABE, the Japanese Military Attache in Moscow, on 14 July 1932, compiled a report in which he stated that, if diplomatic efforts do not avail, it is necessary to be ready to appeal to arms against the U.S.S.R., China and the United States. He also stated that a Russo-Japanese war in the future was unavoidable.^a

AA-59. In November, 1932, ARAKI advocated to Prince KONOYE the following national policy: 1, The execution of an emergency policy for increasing the

(AA-57. a. Ex. 3161, T. 28173.
b. Ex. 702, T. 7512.
AA-58. a. Ex. 701, T. 7508.)

1 national strength for two years; 2. They should con-
 2 sider whether or not to attack Soviet Russia within those
 3 two years; 3. They should plan the perfection of
 4 military preparedness and national defense within these

5 two years. ^{a.} As an alternative to 3, ARAKI suggested a
 6 peace conference of Japan, Manchukuo, China and Russia
 7 and an agreement not to spread communistic propaganda.

8 ARAKI said that if neighboring countries were disturbed
 9 by Red Movements, Japan must attack and destroy them. ^{b.}

10 AA-60. ARAKI denied both in direct examination
 11 ^{a.} and cross-examination ^{b.} that he was opposed to the

12 conclusion of a non-aggression pact with Russia, but
 13 stated that he thought that outstanding differences
 14 should be settled before a pact was concluded. Never-
 15 theless, he was a member of the Government which, on
 16 13 February 1933, declined the U.S.S.R. proposal for a
 17 non-aggression pact. ^{c.}

18 Moreover HARADA stated in
 19 January, 1933, that the Army was opposed to a non-
 20 aggression treaty with Russia because they thought it
 21 might facilitate communist propaganda. ^{d.}

22 AA-61. ARAKI in his affidavit contended that,
 23 as far as he knew, no positive plan of the responsible

24 (AA-59. a. Ex. 3766-A, T. 37614.

b. Ex. 3767-A, T. 37615.

25 AA-60, a. Ex. 3161, T. 28173.

b. Ex. 3161, T. 28395.

c. Ex. 746, 747, T. 7720, 7727.

d. Ex. 3769-A, T. 37630.

1 authorities against the Soviet existed.^{a.} On the other
 2 hand in December, 1933, at a Cabinet meeting, TAKAHASHI,
 3 whom ARAKI says he always respected very highly,^{b.} is
 4 reported to have blamed the army and navy for damaging
 5 Japan's foreign trade relations, with their propaganda
 6 about a crisis in 1935 and 1936 and war being imminent
 7 with Russia and the United States. He said there would
 8 be no crisis in 1935 and 1936. Thereupon ARAKI, turning
 9 pale with anger, replied, "That is not true. There will
 10 be a crisis. The military have no intention of starting
 11 a war today, but we must make preparations. It cannot
 12 be said that this is not a crisis."^{c.}

13 AA-62. TAKEBE stated that at a meeting of the
 14 prefectural Governors in 1933, ARAKI made a speech ad-
 15 mitting that Japan had brought about the Manchurian
 16 Incident and established Manchukuo and that her interests
 17 were clashing with the League of Nations. According to
 18 TAKEBE, ARAKI also stated that Japan would inevitably
 19 clash with the U.S.S.R. and that it was therefore neces-
 20 sary for her to establish herself in the territories of
 21 the Maritime Province, Zabarkalye and Siberia.^{a.} A
 22 plan "Otsu" -- preparations for attack on the U.S.S.R. --
 23 was drawn up by the Chief of the 1st Department in

24 (AA-61. a. Ex. 3161, T. 28175.
 25 b. T. 28345.
 c. Ex. 3775-A, T. 37650.
 AA-62. a. Ex. 3371, T. 31836.)

General Staff Headquarters, approved by the Chief of Staff, and submitted for sanction by the Emperor in March, 1935,^{b.} during ARAKI's tenure of office as a Supreme War Councillor.

AA-63. In August, 1941, ARAKI stated to ISHIWATA that Japan's present ambition to dominate the continent might be said to have germinated in the Siberian Expedition and expressed his regret that the Japanese had failed to accomplish their plans in Siberia in 1922.^{a.} On October 5, 1932, the Vice-Chief of Staff, MASAKI, instructed KAWABE to take charge of the strategem for a war with the U.S.S.R. and China.^{b.} As a member of the first KONOYE and HIRANUMA Cabinets ARAKI shares their responsibility for Japanese actions in the Changkufeng and Nomonhan incidents.

X. ARAKI's Responsibility for Events in China after 1937.

AA-64. On 15 October 1937, ARAKI was appointed a member of the Cabinet Advisory Council on China. This body was established in October, 1937, to advise on the situation in China. ARAKI was appointed a member almost as soon as it was formed and remained a member until he was appointed Minister of Education, once again resuming

(AA-62. b. Ex. 691, T. 7441-2.
 AA-63. a. Ex. 667, T. 7309.
 b. Ex. 2409, T. 19469.)

1 his membership as soon as he resigned from that office.

2 Meetings were held once a week and attendance was com-
 3 pulsory.^{a.}

4 AA-65. ARAKI stated that, in his capacity as
 5 a Cabinet Councillor, he did his best to comply with the
 6 Premier's request to terminate the China Incident^{a.} and,
 7 in his interrogation, he placed responsibility for the
 8 aggression against China on the Army and Navy. He
 9 stated, however, that troops could be sent overseas only
 10 with the consent of the Prime Minister and the War,
 11 Navy, Finance and Foreign Ministers.^{b.}

12 AA-66. ARAKI was a Cabinet Councillor when, on
 13 24 December 1937, the Cabinet made its decision regard-
 14 ing the outline of measures for the China Incident. At
 15 this meeting the decision was made to establish an anti-
 16 communistic and pro-Japanese regime in the occupied
 17 parts of China, in opposition to the Nanking Regime.
 18 This regime was to be established as military operations
 19 progressed, although negotiations were still being
 20 carried on with Nanking, hopeless though they might be.^{a.}

22 AA-67. Although ARAKI was a Cabinet Councillor
 23 at the time, he denied all knowledge of the Rape of Nan-
 24 king.^{a.} The Court will remember the large amount of

25 (AA-64. a. Ex. 2217, T. 15883.

AA-65. a. Ex. 3161, T. 28178.

b. Ex. 2216, T. 15832.

AA-66. a. Ex. 3263, T. 29817.

AA-67. a. T. 28401.)

b.
testimony given about this event.

1 AA-68. On 16 January 1938, the Japanese
2 Government issued a statement in which they declared
3 they would no longer deal with Chiang Kai-shek, but
4 henceforth would look forward to the establishment of a
5 New China Regime, with which they could co-operate
6 harmoniously. a. ARAKI stated that the Cabinet advisors
7 were opposed to the wording of this declaration of the
8 KONOYE Cabinet that Japan would have no further dealings
9 with Chiang Kai-shek, and that although they saw it
10 before it was published and voiced their opinions on the
11 wording, the statement was nevertheless issued. b. In
12 view of ARAKI's record as regards China over a period of
13 almost eight years, it may be doubted whether his oppo-
14 sition to this wording, if in fact he ever really ex-
15 pressed any, amounted to anything of importance.

17 AA-69. On 27 January 1938, the program for
18 the establishment of the Central China New Regime was
19 tentatively decided upon by the Japanese Cabinet. The
20 site of the government was to be first at Shanghai and
21 later at Nanking. This government was to be powerfully
22 stimulated by Japan and Japanese influence was to be
23 extended. Its education system was to undergo wholesale

24 AA-67. b. Ex. 205-208, T. 2556-2615;
25 Ex. 306-329, T. 4455-4604.

AA-68. a. Ex. 972-H, T. 9505
b. T. 28408.)

a.
revision.

1 AA-70. On 24 May 1938, ARAKI joined the Cab-
2 inet as Minister of Education, and during his tenure of
3 Cabinet office, was, of course, responsible for all acts
4 of the Government. He himself admitted during interro-
5 gation that, as a member of the Cabinet, and according
6 to the Constitution, he could be held responsible for a
7 statement made by the Japanese Government. a.
8 He also
9 stated that, whilst he was Education Minister, the
10 Prime Minister, Foreign, Navy and War Ministers brought
11 important questions of policy before the full Cabinet
12 meeting, which normally met once a week and that policy
13 had to be agreed by the whole Cabinet. b.
14 He says that
15 he joined this Cabinet, although it had previously re-
16 jected his advice, because he felt he should make one
17 more final effort for the sake of his country. c.
18 In our
19 submission, joining the Cabinet, as he did, immediately
20 after seven months membership of the Cabinet Advisory
21 Council on China, he must have been perfectly well aware
22 of the government policy towards China, which he adopted
23 as his own by entering the Cabinet. Moreover, the fact
24 that he was a member of this Cabinet Advisory Council on
China from October, 1937, to May, 1938, and again, after

(AA-69. a. Ex. 463, T. 5311.
AA-70. a. Ex. 2219, T. 15841.
b. Ex. 2218, T. 15837.
c. T. 28410.)

1 he ceased to be Minister of Education, from August, 1939,
2 until August, 1940, shows, in our submission, that he was
3 recognized as an authority on China. The worst outrages
4 committed by the Japanese forces in China whilst he was
5 a member of this Council, notably the Rape of Nanking,
6 must have been known to him. His continued tenure of
7 this position, and subsequent acceptance of office in
8 the government responsible for such a barbarity, throws
9 light on his probable attitude to similar events, whilst
10 his denial of all knowledge of it ^{d.} throws, in our sub-
11 mission, light on his reliability as a witness. He
12 stated, during interrogation, that the Cabinet Advisory
13 Council on China met once a week and that attendance was
14 compulsory. ^{e.}

15 AA-71. On 26 October 1938, Japan objected
16 (though without effect) to the shipment of Chinese war
17 supplies through French Indo-China. ^{a.}

18 AA-72. An official declaration was issued by
19 the Japanese Government on 3 November 1938 stating that
20 Japan had practically achieved her end in China, with the
21 National Government reduced to a local regime, and the
22 main territory conquered, but would fight on until it
23 was completely destroyed. Japan's aim was stated to be

24 (AA-70. d. T. 28401.

e. Ex. 2217, T. 15833.

AA-71. a. Ex. 616-A, T. 6802.)

a new order in East Asia and the declaration further
1 stated that other powers should realize Japan's inten-
2 tions and change their attitude to suit the situation. ^{a.}
3 ARAKI was Education Minister at the time of this Govern-
4 ment statement, yet in his affidavit he contended that
5 he had never dreamed of aggression against China. ^{b.} On
6 22 December 1938, Premier KONOYE stated that it was
7 Japan's resolve to exterminate the Kuomintang Government
8 and establish a new order in the Far East, and he
9 visualized the unification of Japan, China, and Manchu-
10 kuo. ^{c.} When asked why he remained a member of a govern-
11 ment which, by statements such as these, clearly demon-
12 strated that it was acting in opposition to his
13 principles, ARAKI maintained that he still held hope
14 that his ideals could be realized. ^{d.} Despite ARAKI's
15 insistence that his intent towards China was one of
16 peace, he made a statement to the Domei Press on 11 July
17 1938 in which he stated Japan's determination to finish
18 with China and the U.S.S.R. and that she would carry the
19 fight on for more than a decade. ^{e.}

21 THE PRESIDENT: We will adjourn until half
22 past one.

23 (Whereupon, at 1200, a recess was taken.)

24 AA-72. a. Ex. 1291, T. 11695. d. T. 28411.
25 b. Ex. 3161, T. 28179. c. Ex. 671-A, T. 7336.
c. Ex. 972-H, T. 9527.

AFTERNOON SESSION

G
r
e
e
n
b
e
r
g
&
Y
e
l
d
e
n1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The Tribunal met, pursuant to recess, at 1330.

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

THE PRESIDENT: Captain Kraft.

LANGUAGE ARBITER (Captain Kraft): If the
Tribunal please, the following language correction is
submitted: Exhibit No. 74, page 2, Article X (was not
read into court record), change "Article No. X" to

"Article No. XI." Insert Article No. X as follows:

"Article No. X. In the Military Affairs Bureau shall
be established the Military Administration Section
and the Military Affairs Section."

THE PRESIDENT: Thank you, Captain.

Mr. Brown.

MR. BROWN: XI. ARAKI's Relations with the
Western Powers.

AA-73. In view of the joint and several
responsibilities of all members of the Cabinet for
government policy, to which reference has already been
made, ARAKI's tenure of the Ministry of Education from
May 1938 to August 1939 is very important when one is
considering his record.

AA-74. In his capacity as Minister of

1 Education he attended the Privy Council meeting on
2 22 November 1938, where the cultural agreement to
3 enlighten cultural relations between Japan and Germany
4 was approved.^a This agreement was not meant to be
5 confined to Germany alone, but to embrace as many
6 countries as possible. Subsequently, Japan entered
7 into an agreement with Hungary, Brazil and Siam as
8 well as carrying out cultural exchanges with Poland,
9 Portugal, Argentina and Belgium.^b On 23 March 1939,
10 a cultural cooperation agreement was concluded with
11 Italy.^c These cultural agreements are said to have
12 aimed at cultural exchanges throughout the world and
13 the Foreign Office is said always to have conferred
14 with the Ministry of Education as to the conclusion
15 and enforcement of such an agreement.^d

16 AA-75. ARITA stated that discussions on
17 important affairs, such as the conclusion of a Tri-
18 partite Alliance, were discussed at Five Ministers'
19 Conferences, which ARAKI, as Education Minister, could
20 not attend.^a Yet ARAKI himself stated that, when he
21 was Education Minister, the Premier, Foreign, Navy and
22

23 AA-74.

- 24 a. Ex. 589, T. 6573.
25 b. Ex. 3169, T. 28487.
c. Ex. 38, T. 6577.
d. Ex. 3169, T. 28488.

AA-75.

- a. Ex. 3169, T. 28486.

1 War Ministers brought important questions of foreign
2 policy before the full cabinet meeting.^{b.}

3 AA-76. While ARAKI was a member of the
4 Cabinet, in 1939, the intensification of the anti-
5 Comintern Pact was decided upon.^{a.} TOMITA testified
6 that ARAKI opposed the conclusion of the Tripartite
7 Alliance both from an ideological and professional
8 military standpoint^{b.} and ARITA stated that ARAKI's
9 feelings on this point was one of the principal
10 reasons for his being considered a likely successor
11 to HIRANUMA.^{c.} Yet, on 22 February 1939, ARAKI
12 attended the Privy Council meeting where the par-
13 ticipation of Hungary and Manchuria in the anti-
14 Comintern Pact was unanimously approved.^{d.}

15 AA-77. On 12 January 1940, during ARAKI's
16 tenure of office as Cabinet advisor, the Japanese
17 Government informed the Netherlands Government of the
18 abrogation of the Japanese-Netherlands Arbitration
19 Treaty.^{a.}

20 AA-75.

21 b. Ex. 2218, T. 15837.

22 AA-76.

23 a. Ex. 500, T. 6094.
24 b. Ex. 3172, T. 28547.
25 c. Ex. 3169, T. 28488.
d. Ex. 491, T. 6037.

AA-77.

a. Ex. 1308, T. 11769.

1 AA-78. While ARAKI stated that Japan desired
 2 good relations with both Britain and the United States^a.
 3 he was a member of the government which, despite
 4 numerous protests and complaints, continued the policy
 5 of trade discrimination against, and destruction of,
 6 British and American interests in China. A large
 7 number of protests were delivered to the Japanese
 8 Government in this connection.^b The Japanese Govern-
 9 ment, however, took no real action as a result of
 10 these protests for, although they reiterated their
 11 regard for the rights of Third Powers^c and paid lip
 12 service to the Open Door Policy, they never altered
 13 their policy as a result of these complaints.^d

14 XII. ARAKI's Work as Education Minister.

15 AA-79. On 24 May 1938, ARAKI became Minister
 16 of Education in the First KONOYE Cabinet, which
 17 position he held until the fall of the HIRANUMA
 18 Cabinet on 30 August 1939.^a Apprehension was felt
 19

20 AA-78.

a. Ex. 3161, T. 28180.

21 b. Ex. 974, T. 9537; Ex. 975, T. 9538; Ex. 976,
 22 T. 9540; Ex. 980, T. 9554; Ex. 981, T. 9555;
 23 Ex. 982, T. 9556; Ex. 973, T. 9531; Ex. 457,
 24 T. 5207; Ex. 983, T. 9557; Ex. 984, T. 9558;
 25 Ex. 989, T. 9577; Ex. 991, T. 9592; Ex. 990,
 T. 9590; Ex. 613A, T. 6733; Ex. 992, T. 9598;
 Ex. 985, T. 9560; Ex. 995, T. 9604; Ex. 1003,
 T. 9616, 9618.

c. Ex. 9721, T. 7512.

d. Ex. 987, T. 9565.

AA-79.

a. Ex. 103, T. 686.

1 in some circles about his appointment, particularly
 2 since he was a military man, but IWAMATSU testified
 3 that ARAKI's attitude soon dispelled these feelings.^{b.}

4 AA-80. As far back as 1931, ARAKI, who was
 5 then War Minister, advocated military training and
 6 military lectures as part of the curriculum at
 7 Tokyo University, but at this time the demand was
 8 refused.^{a.} In 1938, when he became Education Minister,
 9 military drill and lectures were a part of the school
 10 curriculum although attendance was still optional.^{b.}

11 It was during his tenure of this office -- in 1939 --
 12 that compulsory military training and lectures were
 13 ordered in all universities,^{c.} and that school
 14 military training became a separate course from the
 15 gymnastic course.^{d.} Lectures, training and propaganda
 16 were conducted by military instructors to inspire a
 17 militaristic and ultranationalistic spirit in the
 18 students,^{e.} whilst failure by professors to cooperate
 19 resulted in their dismissal or imprisonment.^{f.}

20 Military training was formulated after consultation
 21 between the War and Education Ministries, and the
 22 Education Ministry was to a very great extent ruled

23 AA-79.

24 b. Ex. 2378, T. 18542.

AA-80.

c. T. 943.

d. Ex. 2377, T. 18451.

25 AA-80.

a. T. 943.

e. T. 743.

f. T. 944

b. Ex. 2378, T. 18540.

1 by the War Ministry.^g ARAKI admitted he changed the
 2 system of training in schools, but maintained it was
 3 for the promotion of lofty ideals amongst the students.^h
 4 This admission in itself conflicts with the stout
 5 contention by the defense witness IWAMATSU that ARAKI
 6 took no new measures concerning military education on
 7 his own initiative.ⁱ ARAKI testified that the issu-
 8 ance of lethal weapons for this training was made at
 9 the request of the students and school authorities
 10 and not by order of the Education Ministry.^j On the
 11 other hand, OUCHI stated that the use of such weapons
 12 was made compulsory in 1939.^k

13 AA-81. IWAMATSU stated that youth schools
 14 were founded in 1935 for the enlightenment and
 15 training of youth, and that, although attendance
 16 was made compulsory in 1939, even then no punitive
 17 measures were taken for non-attendance.^a ARAKI stated
 18 that in January 1938, before his appointment as
 19 Education Minister, compulsory education in youth
 20 schools had been decided on at a Cabinet meeting. The
 21 subject was deliberated on and accordingly, in July of
 22 the same year, it was decided that an Imperial Ordinance

23 AA-80.

24 g. T. 965.
 25 h. Ex. 3161, T. 28211.
 i. T. 18548.
 j. Ex. 3161, T. 28212.
 k. T. 964.

AA-81.

a. T. 18554.

1 be issued, in April 1939, for its enforcement.^b On
2 the other hand, IWAMATSU contended that general
3 agreement had been reached in 1935, although the
4 regulation itself was issued during ARAKI's tenure
5 as Education Minister in 1939.^c In 1939 the youth
6 training schools were renamed the Youth Schools and
7 became a compulsory course.^d IWAMATSU testified
8 that, on 30 November 1938, after consultation between
9 the War and Education Ministries, "a regulation of
10 the Ministry of War concerning Education" was issued
11 by the War Ministry.^e ARAKI himself was amongst
12 the signatories of an amendment concerning the in-
13 spection of military training at youth schools.^f

14 XIII. Speeches and Writings by ARAKI.

15 AA-82. ARAKI in his affidavit referred to
16 an article entitled "To President Chiang Kai-shek,
17 an appeal to my Brethren" in which he expressed his
18 feelings on the subject of relations between Japan
19 and China.^a However, in his commentary, in the
20 film "Critical Period for Japan" he demonstrated an
21 entirely different line of thought. He stated that
22 Japan was a divine country with a mission to restore
23

24 AA-81.

AA-82.

b. Ex. 3161, T. 28207. c. Ex. 3161, T. 28175.

c. T. 18509.

d. T. 18451.

e. Ex. 2379, T. 18568.

f. Ex. 135, T. 1018.

1 peace in the Orient, depicted the League of Nations
2 as not understanding her intentions, and acclaimed
3 the Manchurian Incident as a revelation from heaven.
4 He called for increased efforts in the field of arma-
5 ments and manpower, extolling the glory of Japan.^{b.}

6 AA-83. On 23 March 1932, ARAKI made a
7 speech at the 61st Diet Session concerning the
8 Manchurian Incident and justifying Japan's action
9 in the first Shanghai Incident.^{a.}

10 AA-84. ARAKI, in an article "Japan's
11 Mission in the Showa Era 1933," stated that Japan
12 did not want such an ambiguous area as Mongolia next
13 to her sphere of influence. Mongolia should be given
14 independence and it would be outrageous to leave her
15 to be preyed upon by other countries. Therefore, it
16 should be made clear that the Japanese would crush
17 any country that turned against the Imperial Way.^{a.}
18 In a book by ARAKI, "Address to All Japanese People"^{b.}
19 dated 21 February 1933, he stated, in connection with
20 Manchuria, that Japan must let Europe and America
21 understand the existence of a spirit which would
22

23 AA-82.

b. Ex. 148A, T. 1176, 3155.

24 AA-83.

a. Ex. 3167, T. 28436.

25 AA-84.

a. Ex. 760A, T. 7828.

b. Ex. 3164A, T. 28364.

1 cause Japan to push ahead, brushing everything
 2 aside, if obstacles were laid in her way. He also
 3 said that Japan would no longer tolerate the high
 4 handedness of white races and that it was her duty
 5 to resolutely oppose the action of any power if it
 6 was against Japan's policy.^c He added that any who
 7 opposed the Imperial Way should be given an injection
 8 with the bullet and the bayonet.^d

9 AA-85. At a meeting of prefectural
 10 governors in 1933 ARAKI made a speech in which he
 11 stated that Japan would inevitably clash with the
 12 U.S.S.R. and that she should establish herself in
 13 the territories of the Maritime Province, Siberia and
 14 Labarkalye.^a

15 AA-86. It is true that, in the summer of
 16 1934, ARAKI made a speech to a group of foreigners at
 17 Karuisawa, in which he expressed his belief in world
 18 peace through discussions between U.S.A., Britain
 19 and Japan,^a but, in a statement to the Japanese
 20 press, printed in the "Japan Advertiser" in July
 21 1938, ARAKI stated that "Japan's determination to
 22 fight to a finish with China and the U.S.S.R. was
 23 sufficient to carry it on for more than a decade."^b

25 AA-84.

c. Ex. 3164A, T. 28368.

d. Ex. 3164A, T. 28370.

AA-86.

a. Ex. 3161, T. 28182.

b. Ex. 671A, T. 7336.

AA-85.

a. Ex. 3371, T. 31836.

1 In 1938, on the 15th Anniversary of the issuance of
2 the Imperial Rescript, ARAKI, as Education Minister,
3 made a speech on the awakening of the National
4 spirit. In this he said that, at this time, when
5 Canton and the three principal cities near Hankow
6 had been captured by the Japanese Army, they must
7 proceed on the path of supporting the Emperor's
8 undertaking of expanding the Imperial Way. This was
9 only the first ray of the dawn of a new world, towards
10 the construction of which they must push forward
11 slowly but steadily.^c

12 AA-87. On March 28, 1939 ARAKI was
13 appointed President of the General National Mobiliza-
14 tion Committee.^a It is clearly inconceivable that
15 such a post should have been confided at such a time
16 to anyone who was not heart and soul in sympathy
17 with and an active supporter of, the Japanese con-
18 spiracy for world domination.

19 AA-88. It is submitted that the whole story
20 establishes his membership in each of the conspiracies
21 charged in Counts 1 to 5 and is therefore evidence of
22 his responsibility for the specific matters, alleged
23 in the remaining counts, which arose out of those

24 AA-86.

25 c. Ex. 2223A, T. 15847.

AA-87.

a. Ex. 103, T. 686.

1 conspiracies. Particular attention is, however,
2 drawn to certain paragraphs of this summation in
3 connection with certain counts, as follows:

4 Count 18: Par. AA-2 - AA-15, incl.,
5 AA-38, AA-62, AA-65, AA-70, AA-75, AA-82, AA-84.

6 Count 19: Par. AA-55, AA-56, AA-59, AA-63 -
7 AA-73, incl., AA-75, AA-78, AA-80 - AA-84, incl., AA-86.

8 Counts 25 and 26: Par. AA-57 - AA-63, incl.,
9 AA-70, AA-72, AA-75, AA-76, AA-80, AA-81, AA-82, AA-84 -
10 AA-86, incl.

11 Count 27: Par. AA-2 - AA-56, incl., AA-58,
12 AA-59, AA-62 - AA-73, incl., AA-75, AA-78 - AA-84, incl.,
13 AA-86.

14 Count 28: Par. AA-51, AA-52, AA-55, AA-56,
15 AA-58, AA-59, AA-63 - AA-73, incl., AA-75, AA-78,
16 AA-80 - AA-84, incl., AA-86.

17 Counts 35 and 36: Par. AA-57 - AA-63, incl.,
18 AA-70, AA-72, AA-73, AA-75, AA-76, AA-80 - AA-82,
19 incl., AA-84 - AA-86, incl.

20 Counts 45, 46, 47: Par. AA-70, AA-72.

21 Count 51: Par. AA-57 - AA-63, incl.,
22 AA-70, AA-72, AA-75, AA-76, AA-80, AA-81, AA-82,
23 AA-84 - AA-86, incl.

24 AA-89. This summarizes the case against
25 ARAKI.

1 And now, your Honors, Judge Nyi will con-
2 tinue for the prosecution.

3 THE PRESIDENT: Judge Nyi.

4 JUDGE NYI: May it please the Tribunal, I
5 shall present summation on DOHIHARA, Kenji.

6 THE PRESIDENT: Yes, Judge.

7 JUDGE NYI: DOHIHARA, Kenji.

8 1. DOHIHARA as a Forerunner of Aggression
9 BB-1. The role played by DOHIHARA in this
10 over-all conspiracy is a most important one, because
11 he was one of the original conspirators and partici-
12 pated in the conspiracy from the very beginning to
13 the end. In all his adventures in China, beginning
14 with the Manchurian invasion, evidence shows that he
15 invariably acted as a forerunner and his bold under-
16 takings, though obviously unlawful, were time and
17 again connived at or even ratified by higher authori-
18 ties as fait accompli.

19 BB-2. DOHIHARA's tactics of creating inci-
20 dents to pave the way for further intrigues and aggres-
21 sion became so well-known in China that his presence
22 in any locality was always looked upon as a precursor
23 of trouble and a sign of impending invasion. Such
24 apprehension of the Chinese people about DOHIHARA can
25 be seen from the reports of his own Special Service

Organ to the War Ministry in 1934 in the following
 1 words: "In South China, to hear the names of major
 2 General DOHIHARA and ITAGAKI is something like 'mention
 3 a tiger and the people turn pale.'" ^{a.}

4 II. DOHIHARA's Activities Prior to the Man-
 5 churian Incident.

6 BB-3. Prior to the Mukden Incident, DOHIHARA
 7 already had spent eighteen years in China, ^{a.} and his
 8 knowledge of the situation there had won the recog-
 9 nition of his superiors. ^{b.} He was particularly famil-
 10 iar with the situation in Manchuria, where he had
 11 served as aide to MATSUI, Nanao, Japanese adviser to
 12 the Chinese Governor, Marshal Chang Tso-Lin, ^{c.} who was
 13 murdered by a clique of officers in the Kwantung Army
 14 in 1928. ^{d.}

15 BB-4. DOHIHARA became intimately acquainted
 16 with Dr. OKAWA, Shumei, ^{a.} who fervently advocated the
 17 incorporation of Manchuria into the Japanese Empire ^b
 18 in order to make Japan economically self-sufficient
 19 and capable of waging a protracted war with the
 20 United States. ^{c.} For more than two years prior to the

21 BB-2. a. Ex. 3177-A, T. 28,618-9, 28,657

22 BB-3. a. Ex. 2190-A, T. 15,723 b. T. 19,995

23 c. Ex. 2190-A, T. 15,722 d. Ex. 175, T. 1817-8

24 BB-4. a. Ex. 2177-A, T. 15,565

25 b. Ex. 2177-A, T. 15,566

c. Ex. 2177-A, T. 15,578

1 Manchurian Incident, OKAWA had been agitating for
 2 positive action in collaboration with the Army,^{d.}
 3 gathering authorities versed in the situation in
 4 Manchuria, Mongolia and other parts of China to push
 5 forward his program.^{e.} DOHIHARA, being an Army man
 6 and expert on China, became one of the very inner
 7 circle. Other members of the Army who were intimate-
 8 ly acquainted with OKAWA included the accused ITAGAKI
 9 and KOISO.^{f.} Although DOHIHARA had been kept busy at
 10 his outpost in China, he was in the meantime involved,
 11 according to OKAWA's testimony in the Tokyo Court of
 12 Appeals, in the drafting of a plan to set up a Cabin-
 13 et centering around the Army with a more positive
 14 policy toward Manchuria.^{g.}

15 BB-5. In August 1931, when the tension
 16 began to mount in Manchuria, DOHIHARA was appointed
 17 the Chief of the Special Service Organ of the Kwan-
 18 tung Army at Mukden and arrived at Mukden on 18
 19 August 1931.^{a.} Ostensibly, he went there to inves-
 20 tigate the case of Captain NAKAMURA and to negotiate
 21 with the Chinese authorities on the matter, but
 22 his real mission was, as disclosed in his interro-
 23

24 BB-4. d. Ex. 2177-A, T. 15,573-5
 25 e. Ex. 2178-B, T. 15,595
 f. Ex. 2177-A, T. 15,565
 g. Ex. 2177-A, T. 15,587
BB-5. a. Ex. 2190-A, T. 15,713-4

1 gation, to investigate and determine the strength of
2 the Chinese forces, their training, their communica-
3 tion and the condition of the civilian population. b.

4 Before he finally arrived at Mukden, he had made an
5 extensive trip through Shanghai, Hankow, Peking and
6 Tientsin, c. which was entirely unnecessary for the
7 investigation of the NAKAMURA Case.

8 BB-6. While every effort was being made on
9 the part of the Chinese authorities to meet the wishes
10 of the Japanese and an amicable solution of the NAKA-
11 MURA Case was believed to be near by the Japanese
12 Consular authorities and press men in Mukden, it was
13 DOHIHARA who continued to question the sincerity of
14 the Chinese efforts to arrive at a satisfactory
15 solution. a. Even his own witness, SHIBAYAMA, had to
16 admit the sincerity of the Chinese. b. There remains
17 no room for doubt that DOHIHARA after making the ex-
18 tensive trip had already counted on China's lack of
19 power to resist. Consequently, he stood ready for
20 positive measures.

21 BB-7. Early in September 1931, reports came
22 to Tokyo that ITAGAKI and other staff officers of the
23

24 BB-4. b. Ex. 2190-A, T. 15,724-5
c. Ex. 2190-A, T. 15,725

25 BB-6. a. Ex. 57, P. 65
b. T. 28,642

1 Kwantung Army, with the NAKAMURA Case as a pretext,^a
2 were scheming to start military actions in Manchuria.
3 DOHIHARA was summoned to Tokyo to report. Ignoring
4 the sincere wish of General Chang Hsieh-Liang for a
5 peaceful settlement which had been made clear to the
6 Japanese Government by two of his enissaries, SHIRA-
7 YAMA and Tang Er-Ho, DOHIHARA was quoted by the
8 press as the advocate of solving all pending issues
9 in Manchuria by force, if necessary, and as soon as
10 possible.^{b.} Upon DOHIHARA's report, TATEKAWA of the
11 General Staff, who had always maintained that Man-
12 churia should be placed under Japanese control,^{c.} was
13 sent to Mukden, and DOHIHARA immediately followed.^{d.}
14 On the day TATEKAWA made his appearance in Mukden
15 dressed in civilian clothes, the Incident broke out.^{e.}

16 III. DOHIHARA's Part in the Mukden Incident.

17 BB-8. Although DOHIHARA himself was not in
18 Mukden on the night of 18 September 1931 when the
19 Mukden Incident broke out, the office of DOHIHARA's
20 Special Service Organ was, nevertheless, the center
21 of invasion operations. This organ served as the
22 indispensable link in the chain of communications

- 23 BB-7. a. T. 1324, 33, 590
24 b. Ex. 57, pp. 64-6
25 c. T. 2002
d. Ex. 2190, T. 15714, 15725-6
e. T. 3022-3

1 between the outposts and the Headquarters of the
2 Kwantung Army. It had the exclusive possession of a
3 special code by which communication to the Commander-
4 in-Chief was to be made.^a It was on the premises of
5 this organ that ITAGAKI approved the plan of SHIMAMOTO
6 and HIRATA for attacking the Chinese and reported the
7 same to HONJO, who was then at Port Arthur.^b MORI-
8 SHIMA's testimony during cross-examination that he
9 thought DOHIHARA had no connection with the Incident^c
10 merely dispels the assumption that as one of the
11 original schemers DOHIHARA would very likely have
12 taken part personally in the activities of September
13 18, but evidence of subsequent events clearly shows
14 the significance of his role.

15 BB-9. On the morning of 19 September 1931,
16 the population of Mukden woke to find their city in
17 the hands of Japanese troops.^a The Kwantung Army
18 Headquarters moved into occupied Mukden on the same
19 morning.^b Following his return from Tokyo, DOHIHARA
20 was appointed on 21 September 1931 Mayor of Mukden
21 assisted by an Emergency Committee with a majority
22 of Japanese members.^c All the important positions in

24 BB-8.

25 a. T. 30353
b. T. 35355
c. Ex. 245, T. 3103

BB-9.

a. Ex. 57, P. 67
b. T. 30265
c. Ex. 57, p. 88

1 his administration, including the General Affairs
2 Section, the Police Affairs Section, the Financial
3 Affairs Section, the Sanitary Affairs Section, and
4 the Public Works Section were occupied by Japanese.^d

5 BB-10. The assumption of mayoralty by
6 DOHIHARA was significant, because for the first time
7 an officer in active service in the Japanese Army
8 took over the administration of a city in China, whose
9 territorial and administrative integrity Japan had
10 pledged to respect by the Nine Power Treaty. What-
11 ever name might have been used at that time to
12 characterize this administration, MINAMI, the then
13 War Minister, frankly admitted that the Cabinet deci-
14 sion of 21 September 1931 prohibiting the establish-
15 ment of a military administration at Mukden was not
16 carried out for a month or two.^a

17 BB-11. It was contended that DOHIHARA as
18 Mayor of Mukden did not interfere with internal
19 political affairs, but was merely charged with the
20 duty of restoring peace and order.^a The evidence
21 shows, however, that his activities far exceeded
22 that limit. Immediately after his return to Mukden,
23 while occupying the post of Mayor of that city, he

24 BB-9. d. Ex. 3479-B, T. 33603

25 BB-10 a. T. 19879

BB-11 a. T. 20068

1 acted concurrently as the spokesman for General HONJO,
2 Commander-in-Chief of the Kwantung Army, and through
3 him connection between Army Headquarters and the out-
4 side world was to be established.^b

5 BB-12. In the latter part of September 1931,
6 when the Self-Government Guidance Board was set up
7 in Mukden to foster the so-called independence move-
8 ment, DOHIHARA was in charge of the Special Service
9 or Espionage Division and supplied much of the infor-
10 mation about the attitude of the Chinese to ITAGAKI,
11 the man who was to approve all the policies and
12 activities of the Board.^a According to the report of
13 Consul-General HAYASHI at Mukden to Foreign Minister
14 SHIDEHARA on October 28, every effort was being made
15 toward the realization of local autonomy sponsored
16 by the Japanese Army, and for this purpose the Guid-
17 ance Committees of the various prefectures were ac-
18 tually occupied by Japanese. Instructions were given
19 to garrison commanders and provost marshals of various
20 areas to support the policy and not to reveal it out-
21 wardly, the report continued.^b

22 BB-13. DOHIHARA was also active on the
23 Local Peace Preservation Committee and exercised a
24

25 BB-11. b. T. 3212

BB-12. a. T. 2793-4

b. Ex. 3479-I, T. 33623-9

1 great deal of pressure on the Chinese officials left
2 behind there.^a On September 28, HAYASHI reported to
3 SHIMOHARA that according to DOHIHARA the Local Peace
4 Preservation Committee should be led and gradually
5 made into the central organ of administration.^b On
6 October 6, HAYASHI reported that DOHIHARA stopped the
7 attempt of YOSHII, Kiyoharu, and others to establish
8 a new political regime other than the Local Peace
9 Preservation Committee supported by the Army, and
10 DOHIHARA advised YOSHII to resign voluntarily.^c
11 Pressure was brought to bear upon the Local Peace
12 Preservation Committee to declare on November 8 that
13 it would sever relations with the old regime of
14 General Chang Hsueh-Liang and with the National
15 Government of China.^d Thus, the stage was set for
16 the emergence of a puppet to make this independence
17 movement perfect.

18 IV. DOHIHARA's Plot of Abducting Pu-Yi.

19 BB-14. DOHIHARA was not content to stop
20 midway, so he headed and executed the plot to remove
21 the ex-Emperor Pu-Yi from Tientsin to Manchuria. He
22 admitted in his interrogation that in October 1931 he
23 BB-13.

- 24 a. T. 3962-3
25 b. Ex. 3479-C, T. 33605-6
c. Ex. 3479-E, T. 33610
d. Ex. 3479-J, T. 33623

1 was sent to Tientsin to contact Pu-Yi by order of
2 HONJO, while the details of the meeting were arranged
3 by ITAGAKI.^a On October 26, DOHIHARA secretly left
4 Mukden for Tientsin via Dairen with a political free
5 lancer (ronin) named OTANI, Takeshi, and expected to
6 execute, upon arrival there, the plan to kidnap the
7 ex-Emperor to Tangku and from there to Yinkow.^b

8 BB-15. Despite the fact that his arrival at
9 Tientsin was kept secret, the nature of his mission
10 became widely known in other parts of China. Accord-
11 ing to the report of Consul-General MIURA at Shanghai
12 to Foreign Minister SHIDEHARA on 2 November 1931,
13 DOHIHARA in Tientsin was planning to take Pu-Yi to
14 Mukden, but the latter refused and was being threaten-
15 ed.^a Pu-Yi testified that he was during that time
16 annoyed by a series of threats and terroristic acts
17 behind which, as he later ascertained, DOHIHARA was
18 the man pulling the strings.^b Goette also testified
19 that DOHIHARA was in North China at the time when a
20 fruit basket containing a bomb was sent to the home
21 of Pu-Yi in the Japanese concession at Tientsin.^c

22 BB-16. DOHIHARA had been previously told by

23
24 BB-14. a. Ex. 2190-A, T. 15726

b. Ex. 3479-H, T. 33618

25 BB-15. a. Ex. 288, T. 4361-3

b. T. 3954, 4124

c. T. 3729-30

1 his Government, through KUWASHIMA, Consul-General at
2 Tientsin, that the creation of an independent state
3 in Manchuria at this time would raise the question of
4 its being contrary to Section 1, Article 1 of the
5 Nine Power Treaty and that since the whole population
6 of Manchuria consisted of Chinese nationals, the
7 restoration of the ex-Emperor would be unpopular in
8 Manchuria and would make it impossible for the Govern-
9 ment to reach an understanding with China in the
10 future.^a Nevertheless, DOHIHARA insisted upon carry-
11 ing out the plan and told KUWASHIMA on November 3
12 that it would be possible to pretend that Japan had
13 nothing to do with it by landing the ex-Emperor at
14 Yinkow (in Manchuria).^b On the same day, DOHIHARA
15 pointed out to the staff of the consulate that the
16 state of affairs in Manchuria was brought about solely
17 by the activities of the Chinese military authorities
18 there, and that in case the enthronement of the Em-
19 peror became indispensable in order to save the situa-
20 tion, it would be outrageous for the Japanese Govern-
21 ment to take action to prevent it.^c He went so far
22 as to say that in case of interference by the Govern-
23 ment, the Kwantung Army might separate from the
24

25 BB-16. a. Ex. 286, T. 4356-8
b. Ex. 239, T. 4364
c. Ex. 290, T. 4367

Government and accidents graver than assassination
 might occur in Japan.

BB-17. To accelerate his plan DOHIHARA had
 an interview with Pu-Yi and insisted upon the latter's
 return to Manchuria by all means before November 16.^a
 In the meantime, DOHIHARA was again reported to have
 threatened Pu-Yi in various ways.^b He even associated
 himself with various factions and subversive organiza-
 tions to cause a riot to occur on November 8, and
 carried out the ex-Emperor's passage to Manchuria
 amid confusion following the riot.^c Consul ARAKAWA
 reported on November 13 that DOHIHARA headed the plot
 for the escape of the ex-Emperor from Tientsin under
 armed guard.^d Pu-Yi was at first placed under the
 "protective custody" of the Japanese Army at Yinkow,
 but was later taken to Port Arthur.^{e.}

BB-16. d. Ex. 290, T. 4367-9

BB-17. a. Ex. 291, T. 4373

b. Ex. 292, T. 4375-6

c. Ex. 300, T. 4395-6

d. Ex. 294, T. 4379-80

e. Ex. 297, T. 4387-8; Ex. 298, T. 4390;

Ex. 302, T. 4400

BB-18. The desperateness of DOHIHARA's
1 actions in carrying out this plot was summarized by
2 the report of Consul-General KUWASHIMA in the
3 following wording:

4 " . . . The object of DOHIHARA's arrival in
5 Tientsin, in which he embodied the intentions of the
6 Kwantung Army, was in the speedy enticement of the
7 former Emperor Hsuan Tung which was to serve as a
8 promise for the establishment of the independent
9 state of Manchukuo, and thereby to undermine and
10 crush the influence of Chang Hsueh-Liang. For this
11 matter he repelled all intervention and remonstrance;
12 and at times, knowing that it was against the
13 national policy, he would resort to all sorts of
14 plots under the secret support of influential
15 politicians, with determination that it was unavoi-
16 dable for him to take free activities from the stand-
17 point of the Kwantung Army. And without regard to
18 means, he finally caused a riot to occur on the 8th,
19 but when he saw that it ended in a failure due to
20 miscarriage of the plan, he took the opportunity of
21 the riot throughout the city and carried out resolutely
22 the Emperor's passage to Manchuria. His desperate
23 actions are beyond our imagination. . . . The riot has
24 turned into a clash between Japan and China and the
25

1 trouble started by DOHIHARA has not only caused
2 difficulties and complications for the Japanese
3 residents but has thrown Tientsin into disorder and
4 confusion. It has extremely hurt the prestige of the
5 Empire and has created an unfavorable international
6 situation. It can be imagined that the reactionary
7 element especially, in following his orders, committed
8 unpardonable acts and it is quite natural that it has
9 drawn the suspicion of both the Japanese people and
10 people of the rest of the world. I have fully talked
11 with him several times not to commit such rash actions,
12 but it appears he is continuing plans to overthrow
13 Chang and there is apprehension that he may start
14 another Incident in the Peking-Tientsin area in the
15 near future."a.

16 BB-19. Particular attention is invited
17 to the fact that in carrying out this plot, DOHIHARA
18 not only repelled all advice or intervention by the
19 consular authorities in Tientsin, but also ignored
20 the instructions of his superiors. On November 12,
21 HONJO told Consul-General HAYASHI that not only had
22 he heard nothing whatsoever regarding Pu-Yi's coming
23 to Manchuria, but that he even had ITAGAKI notify
24 Tientsin several days before not to hurry about
25

BB-18.

a. Ex. 300, T. 4394-97.

1 it.^a ITAGAKI also admitted in cross-examination
2 that he was so ordered to send the telegram.^b But
3 nothing was shown why the order was not obeyed.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

23 BB-19.

24 a. Ex. 2196, T. 15740.
25 b. T. 30381.

BB-20. DOHIHARA stated in his interrogation
1 that he was told by ITAGAKI not to bring back Pu-Yi
2 forcibly.^{a.} Nevertheless, Pu-Yi was taken to Yinkow
3 under armed guard, as reported by Consul ARAKAWA.^{b.} He
4 had practically taken up the matter in his own hands in
5 carrying out the plot resolutely and defiantly, while
6 his superiors tacitly approved it later. It had a far-
7 reaching effect on the discipline and demeanor of the
8 officers in the Kwantung Army, who continued to victim-
9 ize China at later stages. Such was the usual method
10 of handling things by DOHIHARA, for he admitted in his
11 interrogation that it was his motto that whatever the
12 order he received he saw to it that its purpose was
13 accomplished.^{c.} ITAGAKI knew him well enough to give
14 him a previous warning. Even that warning did not
15 prevent him from taking such rash actions, as KUWASHIMA
16 characterized them.^{d.}

BB-21. KUWASHIMA's testimony for the defense
19 that his reports about the activities of DOHIHARA might
20 be based on rumors is totally incredible for he ad-
21 mitted in his own affidavit that he had personally
22 sifted information from whatever source and drawn his

23 (BB-20. a. Ex. 2190, T. 15728
24 b. Ex. 294, T. 4379-80
c. Ex. 2190, T. 15729
25 d. Ex. 300, T. 4395, 4397)

a.
own conclusions. When asked during cross-examination
1 whether or not the contents of his various reports
2 correctly stated the activities of DOHIHARA through
3 his personal contact or the contact of the consular
4 staff with DOHIHARA, he admitted that there was no
5 reason to doubt the accuracy and that he had nothing
6 further to answer. b.

7 BB-22. DOHIHARA introduced in evidence the
8 record of his interview with the Lytton Commission
9 to show that his trip to Tientsin in November 1931
10 had nothing to do with Pu-Yi's acceptance or his going
11 to Manchuria. a. This is contradictory to his own state-
12 ment in his interrogation that the specific purpose
13 for sending him to Tientsin was to contact Pu-Yi. b. He
14 was well aware of the illegal consequences of his mis-
15 sion for he admitted in his interrogation that he knew
16 what the Nine Power Treaty was and knew that it guar-
17 anteed the sovereignty of China when he was sent to
18 contact Pu-Yi. Further, he knew when the Kwantung
19 Army was planning to set up an independent state, it
20 was going to violate the Nine Power Treaty. c. But he
21 explained that at the time Japan had made some

22 (BB-21. a. Ex. 3179, T. 28650
23 b. T. 28665-66)

24 (BB-22. a. Ex. 3180-A, T. 28669
25 b. Ex. 2190-A, T. 15726
c. Ex. 2190-A, T. 15729-30)

d.
proclamation about her attitude toward the Treaty.

1 If there were any such proclamation at that time, it
2 was only the assurance given by Premier INUKAI to
3 Ambassador Forbes in the latter part of December 1931
4 that Japan would never impair Chinese sovereignty in
5 Manchuria, but was presently protecting her nationals
6 in that territory.^{e.} This explanation is, of course,
7 not a valid one under the circumstances.

8 BB-23. In the light of the evidence shown
9 above, it is impossible to dispel the conclusion that
10 DOHIHARA had deliberately carried out the plot of ab-
11 ducting Pu-Yi in order to perfect his job of adding
12 the desired puppet to the scene of "Manchurian Inde-
13 pendence."
14

15 V. DOHIHARA's Undercover Activities in the
16 Tientsin Incident.

17 BB-24. While the movements of Pu-Yi in con-
18 sequence of DOHIHARA's presence in North China were
19 being closely watched, the significance of the riots
20 in Tientsin on November 8 and 26, engineered by
21 DOHIHARA pursuant to the strategical plan of the Kwan-
22 tung Army, should not be overlooked. Consequently,
23 they deserve separate mention.

24 BB-25. Previously, the presence of Chinese
25 (BB-22. d. Ex. 2190-A, T. 15730
e. Ex. 191, T. 2254)

1 troops in the southwestern part of the Liaoning Prov-
2 ince, very close to the foremost Japanese outposts,
3 had caused some anxiety among the Japanese military
4 authorities. The outbreaks at Tientsin immediately
5 afforded the staff officers of the Kwantung Army a
6 pretext for suggesting a plan to dispatch troops by
7 land to reinforce the Japanese Garrison at Tientsin
8 thereby enabling the advancing Japanese force to dis-
9 pose en route of the Chinese troops around Chinchow.^{a.}
10 To accomplish this object, DOHIHARA's machinations for
11 riots well fitted into the plan of the Kwantung Army.

12 BB-26. According to the testimony of ITAGAKI,
13 the assignment given to DOHIHARA consisted of collect-
14 ing information and intelligence in the Tientsin-
15 Peiping area and ascertaining the desire of Pu-Yi to
16 return to Manchuria.^{a.} He went on to explain that at
17 the time there were troops of Chang Hsueh-Liang still
18 left north of the Great Wall and it was highly nec-
19 essary to ascertain the true situation there, inasmuch
20 as there was a possibility that these troops might
21 withdraw within the Great Wall.^{b.} He further explained

22 that there would be the possibility or danger of some

23 (BB-25. a. Ex. 57, pp. 76-6)

24 (BB-26. a. T. 30379-80

25 b. T. 30379)

c.
confusion as a result of troop withdrawal.

1 BB-27. All this explanatory account of
2 DOHIHARA's assignment clearly indicates the relation
3 between the situation in the Tientsin-Peiping area and
4 the presence of Chinese troops around Chinchow, the
5 latter being a sting which the Kwantung Army was anxious
6 to remove. Had there existed any real danger in the
7 Tientsin-Peiping area, it would be for the Japanese
8 garrison at Tientsin, which was under a different com-
9 mand, to call for reinforcements, and it was no occasion
10 for the Kwantung Army to send a man like DOHIHARA to
11 ascertain the situation there. As Chinchow is situated
12 between the areas occupied by Japanese troops and the
13 Tientsin-Peiping area, the disturbances in the latter
14 area, where there were some Japanese population, gave
15 the Kwantung Army a pretext to push towards the Great
16 Wall and thereby to remove the sting of Chinese troops
17 around Chinchow. DOHIHARA was the one who worked out
18 the situation that served as the signal call for the
19 movements of the Kwantung Army.
20

21 BB-28. A secret investigation of the Tientsin
22 Incident made by the Japanese Consulate-General at
23 Tientsin revealed that DOHIHARA contacted and persuaded
24 Chang Pi, connected with the Peace Preservation Corps,
25 (BB-26. c. T. 30382)

and Li Chi-Chun, connected with the Tsin-Pang Secret
 1 Society, and rogues in the city and others to bribe the
 2 Peace Preservation Corps, the "plain clothes" organiza-
 3 tion and the troops.^{a.} He supplied them with 50,000
 4 taels as working funds and provided Li with armaments,
 5 and the riot was to start at 10 p.m. on November 8.^{b.}
 6 When the Chinese Bureau of Public Safety received infor-
 7 mation about the plot, they kept strict surveillance
 8 on the Peace Preservation Corps, and the riot ended in
 9 a complete failure, despite the activities of the plain
 10 clothes organization.^{c.}
 11

12 BB-29. The story told above of the riot which
 13 occurred on November 8 confirms the account given by
 14 the Municipal Government of Tientsin to the Lytton Com-
 15 mission.^{a.} Consul-General KUWASHIMA in his report to
 16 SHIDEHARA further stated that there were unmistakable
 17 proofs that DOHIHARA had the various factions afore-
 18 mentioned participate in all of the riots plotted.^{b.}

19 BB-30. Goette testified that while DOHIHARA
 20 was in North China in the early days of November 1931,
 21 the fear among the Chinese officials that the Japanese
 22 operation might spread to North China was enhanced.^{a.}

23 (BB-28. a. Ex. 300, T. 4395 (BB-30. a. T. 3729)

24 b. Ex. 300, T. 4395-6

25 c. Ex. 300, T. 4396)

(BB-29. a. Ex. 57, p. 76

b. Ex. 300, T. 4396)

He also gave an account of his visit to Tientsin

1 where he and Captain Brown, the U.S. Assistant Naval
2 Attache, saw bodies of dead Chinese soldiers and police-
3 men in the streets and property damage from shelling. ^{b.}

4 When asked who were fighting the Chinese troops and
5 where they came from, he stated that in the party es-
6 corting him and Captain Brown were Chinese police and
7 army officials who themselves had seen Chinese dressed
8 in plain clothes emerging from the Japanese Concession
9 of Tientsin to fire upon Chinese police and military
10 posts. ^{c.}
11

12 BB-31. After Pu-Yi's departure from Tientsin,
13 DOHIMARA remained there until the end of November. ^{a.}

14 As feared by KUWASHIMA, ^{b.} he caused a second riot to
15 occur on November 26. In the evening, a terrific ex-
16 plosion was heard immediately followed by firing of
17 cannon, machine guns and rifles, while plain-clothes
18 men emerged from the Japanese Concession to attack the
19 police stations in the vicinity. ^{c.} Using this as a
20 pretext, the Kwantung Army sent troops across the Liao
21 River on November 27 and bombed Chinchow, but news of
22 the improved situation at Tientsin made the Japanese

23 (BB-30. b. T. 3731

24 c. T. 3732)

25 (BB-31. a. Ex. 3180-A, p. 5

b. Ex. 300, T. 4397

c. Ex. 57, p. 76)

d.
abandon their plan.

1 BB-32. It is therefore quite clear that the
2 Tientsin riot served a double purpose. From the point
3 of view of strategy, it served as a pretext for mili-
4 tary movements to remove the Chinese troops around Chin-
5 chow. Such a plot was liable to create disturbances
6 which afforded a convenient escape for the ex-Emperor
7 Pu-Yi to Manchuria and no one can deny the significance
8 of it from a political point of view. For both of
9 these purposes DOHIHARA has been unmistakably proved
10 to be the man who engineered the project and had it
11 carried out.

13 BB-33. As SHIDEHARA testified that he supplied
14 the then War Minister MINAMI with copies of all the con-
15 sular telegrams including those from KUWASHIMA,^{a.}
16 MINAMI's previous statement that DOHIHARA's presence
17 in Tientsin at the time of the occurrence of the riot
18 was purely accidental^b can be given no credence. ITAGAKI
19 also attempted to deny the accusation against DOHIHARA
20 that money and arms were used by DOHIHARA to bribe the
21 Chinese Peace Preservation Corps at Tientsin.^{c.} But
22 ITAGAKI, being an accomplice in the same project, the
23 (BB-31. d. Ex. 57, pp. 76-77)

24 (BB-33. a. T. 33596-7
25 b. T. 19909
c. T. 30328)

1 prosecution respectfully submits that his denial cannot
2 in any way affect the credibility of KUWASHIMA's report
3 which was based on a secret investigation and was sup-
4 ported by "unmistakable proofs."

5 VI. DOHIHARA's Activities in North Manchuria.

6 BB-34. While a puppet in the person of Pu-Yi
7 was being sought for the formation of a new state, the
8 rest of Manchuria was gradually occupied. On 20 Jan-
9 uary 1932, DOHIHARA was again sent out to take over the
10 office of Japanese Special Service at Harbin.^{a.} Al-
11 though by that time the Nonni Bridge operations had
12 been over and Tsitsihar taken by the Japanese, General
13 Ma Chan-Shan, Commander of the Chinese troops, was
14 still holding out with his administrative offices of
15 the provincial government removed to Hailun.^{b.}

17 BB-35. It was at this point, as testified by
18 Powell, that DOHIHARA who had been active in Chinese
19 political affairs in Manchuria and elsewhere in China
20 for many years, entered the picture in North Manchuria.^{a.}
21 As a result of negotiations with DOHIHARA, General Ma
22 accepted the position of Minister of War in the puppet
23 government.^{b.} The negotiations leading to the developments

24 (BB-34. a. Ex. 57, p. 79
25 b. Ex. 57, pp. 74,75)

(BB-35. a. T. 3231
b. T. 3232)

1 were conducted from DOHIHARA's office at Harbin and
2 General Ma was bribed with a million dollars in gold
3 bars.^{c.}

4 BB-36. The witness had interviewed General
5 Ma on two occasions and further learned of the details
6 of the negotiations from a lengthy circular telegram
7 to Generalissimo Chiang Kai-Shek sent by Ma from the
8 Russian town of Blagovestchensk in which Ma explained
9 how he had taken advantage of this delay and the dis-
10 cussions with DOHIHARA to move his troops up to the bor-
11 der town of Aigan, and had succeeded in getting them
12 across the river into Russian territory, from which
13 they were sent west and returned to China.^{a.} Despite
14 Ma's success in saving the strength of his troops,
15 DOHIHARA had also won another distinction in solving
16 strategic problems by sinister dealings and in procur-
17 ing another formidable figure for the forthcoming new
18 government.

19 BB-37. With the establishment of the puppet
20 state of "Manchukuo," virtually placing the whole of
21 Manchuria under Japanese control, DOHIHARA was promoted
22 to Major General on 11 April 1932.^{a.}

23 (BB-35. c. T. 3232, 3234)

24 (BB-36. a. T. 3230)

25 (BB-37. a. Ex. 104, T. 695)

VII. DOHIHARA's Control of Opium Traffic.

1
2 BB-38. After 18 September 1931, many opium
3 shops were opened in Mukden by the Japanese.^{a.} DOHIHARA
4 was then mayor of the city.^{b.} On 13 October 1931 Consul-
5 General HAYASHI at Mukden reported to Foreign Minister
6 SHIDEHARA that according to reliable sources the Muni-
7 cipal Administrative Office planned the monopolization
8 of opium and the issuing of lottery tickets for the
9 purpose of raising funds. The report also added that
10 the monopolization of opium and the issuing of lottery
11 tickets were the materialization of a part of the plans
12 of the army.^{c.}

13 BB-39. Prior to the setting up of the Opium
14 Control Board in 1935, the Mukden Special Service Or-
15 gan headed by DOHIHARA was in control of opium traffic
16 in southern Manchuria.^{a.} Except for a short time when
17 another person was in charge of the Organ, DOHIHARA
18 remained the head right down to the time when the con-
19 trol was transferred.^{b.} In an attempt to whitewash
20 DOHIHARA, MINAMI testified that DOHIHARA had nothing
21 to do with problems such as opium.^{c.} When asked whether
22 the Special Service Department had anything to do with
23

24 (BB-38. a. Ex. 377, T. 4691

b. Ex. 57, p. 88

c. Ex. 3740, T. 37340-1)

25 (BB-39. a. T. 15856-7

b. T. 15857

c. T. 19975)

1 opium, he answered that he did not know. ^{d.} However,
2 after further questioning he practically reversed
3 his former statements by admitting that one of the
4 reasons for abolishing the Special Service Department
5 might have been, as he put it, that they were running
6 the opium traffic for their personal benefit. ^{e.}

7 BB-40. Defense witness AIZAWA also denied
8 that the Special Service Organ had anything to do with
9 opium, ^{a.} but he was only a civilian employee and had
10 testified at the very beginning that he could not answer
11 the question as to what the original duties of the organ
12 were, and that he had no personal knowledge of the or-
13 ders of the Kwantung Army Commander. ^{b.} Again, his
14 reference as to the work of the organ in relation to
15 the supervision and guidance of Japanese employees of
16 the Manchukuo Government ^{c.} clearly indicates that the
17 activities of the organ far exceeded the mere collec-
18 tion of information and issuance of press releases; as
19 stated in a previous paragraph of his affidavit. ^{d.}

20
21 The testimony of a former employee as compared with the
22 positive evidence given by TANAKA and MINAMI will
23 naturally receive little credence, not to speak of the

24 (BB-39. d. T. 19976
e. T. 19976)
25 (BB-40. a. T. 28606
b. T. 28604
c. T. 28606
d. T. 28604)

inconsistency in the whole of his affidavit.

1 VIII. DOHIMARA's Endeavor in Setting up
2 Inner Mongolia Autonomy

3 BB-41. Japan had completed the occupation
4 of Manchuria in the spring of 1933, when the Tangku
5 Truce was signed,^{a.} but she was not satisfied with Man-
6 churia alone and DOHIMARA was again given active duties
7 to pave the way for further aggression.
8

9 BB-42. Early in 1935, MINAMI deemed it proper
10 to enlarge the scope of the Tangku Truce and sent
11 DOHIMARA to negotiate with the Chinese Authorities in
12 Chahar Province.^{a.} Chahar is a part of what is commonly
13 known as Inner Mongolia. Because DOHIMARA was in charge
14 of information in that area and because he was con-
15 sidered best suited for negotiating with the Chinese,
16 DOHIMARA was given the assignment.^{b.}

17 BB-43. In June of the same year, an inci-
18 dent occurred in Chang Pei district where four Japan-
19 ese army officers entering the district without the
20 required permits from the Chahar Provincial Government
21 were taken to the Headquarters of the Chinese Division
22 Commander, but they were soon released with a warning
23 (BB-41. a. T. 2023-4)

24 (BB-42. a. T. 20755
25 b. T. 20755)

that this should not be taken as a precedent.^{a.}

1 BB-44. After that, HASHIMOTO, the Japanese
2 consul at Kalgan, protested to the Chinese authorities
3 alleging that those Japanese officers had been insulted
4 and demanding that the responsible officers be punished.^{a.}
5 After General Ching had several talks with HASHIMOTO,
6 the latter suddenly announced that the situation was
7 grave and the matter was referred to DOHIIHARA.^{b.} The
8 result of the negotiations, commonly known as the
9 "Ching-DOHIIHARA Agreement" was that: (a) the units of
10 the 29th army be withdrawn from certain districts
11 north of Chang Pei, (b) the Chinese thereafter refrain
12 from migrating to and settling in the northern part of
13 Chahar Province, (c) the Kuomintang Party activities
14 be withdrawn from Chahar Province and (d) anti-Japanese
15 institutions and acts be banned.^{c.} Thus, the demili-
16 tarized zone created by the Tangku Truce was extended
17 to a part of Chahar.^{d.}

19 BB-45. DOHIIHARA's work in Inner Mongolia did
20 not stop there. According to the report of October 2,
21 1935, by WAKATSUKI, Secretary General of the Japanese
22 Embassy in Peiping, to the accused HIROTA, the then
23

24 (BB-43. a. T. 2311)
25 (BB-44. a. T. 2312
b. T. 2312
c. T. 2312
d. T. 20756)

1 Foreign Minister, DOHIHARA made a trip a few days
2 before from Changkiakow (Kalgan) to Chengteh and back
3 and saw the Governor of Chahar Province and Prince Teh.
4 His mission was to promote Inner Mongolia Self-
5 Government.^{a.} In November 1935, under an agreement
6 between DOHIHARA and the Hopei-Chahar Regime, it was
7 agreed that Chahar would be under the control of
8 Prince Teh, who had previously promised close coopera-
9 tion with the accused MINAMI, the then Commander-in-
10 Chief of the Kwantung Army.^{b.}

11
12
13
14
15
16
17
18
19
20
21 (BB-45. a. Ex. 197, Cable No. 2, T. 2284
22 b. T. 2041)
23
24
25

IX. DOHIHARA's Role in the Conspiracy to
Estrange North China.

1
2 BB-46. DOHIHARA and his co-conspirators now
3 directed their attention to North China, attempting
4 to have Hopei and Chahar and other parts of North
5 China under Japanese domination.^{a.} They indulged in
6 persistent conspiracy to oust the political power of
7 the Chinese National Government and utilized every
8 chance to put up difficulties against the Chinese Gov-
9 ernment. They openly declared that the political
10 structure in North China did not satisfy the wishes
11 of the Japanese.^{b.}

12
13 BB-47. The purpose of creating the autono-
14 mous regime in North China was to separate the five
15 northern provinces from the Nanking Government and to
16 bring the area into close relationship with Manchuria
17 under Japanese leadership.^{a.} In September 1935,
18 DOHIHARA went to Peiping on MINAMI's order to exert
19 his efforts on behalf of the autonomous movement with
20 the intentions of the Kwantung Army and the Japanese
21 Army in North China in mind.^{b.} Since then DOHIHARA had
22 repeatedly instigated the North China authorities
23 headed by General Sung Cheh-Yuan to form a North China
24 (BB-46. a. Ex. 210, T. 2701 (BB-47. a. T. 2026-27
25 b. Ex. 210, T. 2702) b. T. 2028)

Autonomous Government separate from the Central Govern-
 ment.^{c.} The inducements were that Sung would be leader
 of the North China Autonomous Government and the
 Japanese would extend every possible economic and
 military aid, but General Sung stood firm.^{d.}

BB-48. When inducements failed to bring about
 the desired result, DOHIHARA resorted to stronger
 measures. On the political level he demanded:

(a) Announcement of the establishment of the North
 China Autonomous Government by circular telegrams;
 (b) Withdrawal of the Central Government's personnel
 in charge of publicity; (c) Control of public opinion
 in Peiping and Tientsin and ban on opposition to
 autonomy.^{a.} In the economic field, he demanded:

(a) Construction of a railway between Tientsin and
 Shi-chia-chuan; (b) Revision of Tientsin customs tariffs
 in favor of Japanese goods and against European and
 American goods.^{b.}

BB-49. During these negotiations DOHIHARA
 had a dual role. He was representing both the Kwantung
 Army and the Japanese Garrison in Tientsin.^{a.} Although
 the Chinese authorities had refused the demands, they
 were feeling very badly the oppression of DOHIHARA.^{b.}

(BB-47. c. T. 2314
 d. T. 2314-5)
 (BB-48. a. T. 2315-6
 b. T. 2316)

(BB-49. a. T. 2443
 b. T. 2316, 2368)

1 BB-50. At this juncture the Japanese were
2 bringing more pressure upon General Sung. In November
3 1935, motor cars sped down the main streets of Peiping
4 throwing out hand bills containing an alleged appeal
5 for autonomous rule from the people for the five
6 northern provinces of Suiyan, Chahar, Hopei, Shantung
7 and Honan with some 600,000 square miles of territory
8 and a population of 170,000,000.^{a.}

9 BB-51. On 19 November 1935, DOHIHARA announced
10 that if autonomy for North China was not proclaimed,
11 he was prepared to send five Japanese divisions into
12 Hopei and six into Shantung and he fixed an ultimatum
13 to expire at noon the next day, November 20. Defense
14 witness KUWASHIMA, when confronted with Japanese
15 embassy press telegrams from England and China and
16 newspaper cuttings from abroad which were kept by his
17 East Asia Bureau of the Foreign Office,^{a.} had to admit
18 that these reports about DOHIHARA's demands and intimi-
19 dation concerning North China autonomy were seen by
20 his Bureau and reported to the Foreign Minister HIROTA
21 or Vice Minister SHIGEMITSU.^{b.} Upon further questioning
22 he admitted also that DOHIHARA's ultimatum to the North
23 (BB-50. a. T. 3750-51)

24 (BB-51. a. Ex. 3232, T. 29539-40; Ex. 3232-A
25 T. 29542; T. 29540-1
b. T. 29543)

1 China authorities concerning the proclamation of
2 autonomous rule was one of the ultimatums to which
3 he had referred in his affidavit.^{c.}

4 BB-52. To back up DOHIHARA's intimidation,
5 MINAMI, the Commander-in-Chief of the Kwantung Army,
6 actually issued on November 12 the mobilization
7 order to his troops to be prepared by November 15 for
8 advancing into North China;^{a.} and on November 16 he
9 even mobilized the air force to make preparations by
10 November 20 for advancing towards the Peiping-Tientsin
11 area.^{b.} Although MINAMI had previously characterized
12 it as completely false,^{c.} ITAGAKI, the then Vice-Chief
13 of Staff of the Kwantung Army had to admit the fact
14 when the mobilization orders were introduced in
15 evidence.^{d.}

16 BB-53. As a result of the efforts made by
17 DOHIHARA, two regimes in North China came into being.
18 One was the East Hopei Anti-Communist Autonomous
19 Government with Ying Ju-keng at the head, which was
20 completely separated from the Nanking Government; the
21 other was the Hopei-Chahar regime with Sung Che-yuan
22 as leader which was not completely separated from the
23

24 (BB-51. c. T. 29489, T. 29545)
25 (BB-52. a. Ex. 3317-A, T. 30392.
b. Ex. 3318-A, T. 30394
c. T. 19996
d. T. 30392-4)

1 Nanking Government but stood for collaboration with
 2 Japan.^{a.}

3 BB-54. The East Hopei Anti-Communist Auton-
 4 omous Government took over 22 districts in the de-
 5 militarized area covering 10,000 square miles,^{a.} which
 6 were alleged to be within the geographical scope of
 7 the assignment and duty of the Japanese troops.^{b.} This
 8 new puppet regime became the center of dope and
 9 commodity smuggling.^{c.}

10 BB-55. DOHIHARA later reported to MINAMI
 11 that the Hopei-Chahar Regime and the East Hopei Regime,
 12 though unsatisfactory, had been established and would
 13 more or less obey the demands of the Kwantung Army and
 14 that the North China Regime would be established with
 15 the Hopei-Chahar Regime as its core.^{e.} DOHIHARA made
 16 this report to MINAMI in the presence of witness TANAKA,
 17 Ryukichi, who had drafted MINAMI's order to DOHIHARA.^{b.}
 18 MINAMI admitted that he heard of the formation of the
 19 Hopei-Chahar Regime from DOHIHARA.^{c.}

20 BB-56. On 7 March 1936, DOHIHARA was pro-
 21 moted to lieutenant general by the Japanese Government
 22 in recognition of his services rendered to Japan in

23 (BB-53. a. T. 2029-31;
 24 Ex. 211, T. 2704)
 25 (BB-54. a. Ex. 210, T. 2703,
 T. 3753.
 b. T. 20666
 c. T. 3754)

(BB-55. a. T. 2036
 b. T. 2124
 c. T. 19994-5)

Inner Mongolia and North China.^{a.}

X. DOHIHARA's Activities after the Marco
Polo Bridge Incident.

BB-57. In March 1937, DOHIHARA became Com-
mander of the 14th Division at Utsunomiya in Japan.^{a.}
After the outbreak of hostilities at the Marco Polo
Bridge on 7 July 1937, he returned to China with his
14th Division and participated in the Peiping-Hankow
Drive.^{b.} During the campaign in December, 1937,
he permitted the Japanese gendarmes, Sub-corps, under
the command of a warrant officer, YAMAMOTO, Mankichi,
stationed at Hsin Tei District, on the Peiping-Hankow
Railway, to bayonet seven Chinese civilians to death
after three days of starvation and torture.^{c.}

BB-58. He tried to prove, through his
witnesses YAZAKI, WATASE, and SAKURAI that he was
opposed to the war against China and that he loved,
and was loved by the Chinese.^{e.} But the evidence
shows that he was the man who paved the way for
Japanese aggression and mere mention of his name is
enough to make the people in China turn pale,^{b.}

BB-59. His success as a commander in the

(BB-56. a. Ex. 104, T. 696) (BB-58. a. T. 28680, 28692,
28704.)

(BB-57. a. Ex. 2190A, T. 15715 b. Ex. 3177a,
b. Ex. 2190a, T. 15715 T. 28618-9)
c. Ex. 348, T. 4646)

1 field was apparently not as brilliant as an instigator
2 of political disturbances. From 18 June 1938 to 19 May
3 1939 he was attached to the General Staff,^{a.} but in
4 August 1938 he was once more sent to China to carry
5 out an important assignment. Earlier, on 8 July 1938,
6 the Five Ministers Conference decided to bring about
7 the downfall of the Chinese National Government by
8 recruiting anti-Chiang Kai-shek elements and other
9 persons of first rank for the purpose of establishing
10 a puppet government in China.^{b.} In a subsequent meet-
11 ing of the Five Ministers Conference held 26 July
12 1938, a Special Commission on Chinese Affairs was
13 created to work out important political and economic
14 strategems against China, and DOHIHARA was chosen as
15 the number-one man of three leaders for this group.^{c.}
16 To DOHIHARA the job of hunting for a puppet leader
17 was his favorite sport. He immediately started work
18 on the Tang Shao-yi and Wu-Pei-fu.^{d.} This was commonly
19 referred to as the Wu project for which appropriations
20 were made by the Ko-A-In or China Affairs Board.^{e.}
21
22 The expenses required for the Wu project were to be
23 paid from the surplus of the maritime customs in oc-
24 cupied China, and the total amount was not to exceed

25 (BB-59. a. Ex. 104, T. 697 d. Ex. 2190A, T. 15716
 b. Ex. 3457, T. 37356 e. Ex. 3608A, T. 35281)
 c. Ex. 3457, T. 37361-2

10 million yuen. ^{f.} In utilizing the surplus funds of
 1 the Chinese customs revenue, Japanese names were used
 2 to maintain secrecy. ^{g.} His plan failed as a result
 3 of the flat refusal of Wu-Pei-fu. ^{h.} Reports to the
 4 Foreign and War Ministries on negotiations with Wang
 5 Ching-wei and other puppet Chinese leaders were all
 6 sent in the name of the DOHIHARA Kikan (Agency) at
 7 Shanghai. ^{i.}

9 BB-59a. Defense witness UGAKI, in an attempt
 10 to weaken the evidential value of Exhibit No. 3457
 11 which embodies the decisions of the Five Ministers Con-
 12 ference above mentioned, hinted that such documents
 13 as contain decisions of the Conference are not true
 14 originals unless they bear his signature. ^{a.} It is
 15 to be pointed out that the prosecution does not contend
 16 the document is an original copy. It is sufficient
 17 to show that the document is part of the official
 18 archives and files of the Foreign Ministry as per
 19 attached certificate. Time and again documents con-
 20 taining decisions of the Five Ministers Conference
 21 have been introduced without meeting defense objections. ^{b.}
 22 No question has been raised as to their accuracy.

24 (BB-59. f. Ex. 3743, T. 37393-5 (BB-59a. a. T. 38811
 25 g. Ex. 3744, T. 37397 b. T. 2727;
 h. Ex. 2190A, T. 15716 T. 6731;
 i. T. 24101-9; T. 30111; T. 9549)
 Ex. 3302, T. 30115)

1 BB-59b. UGAKI denied in his testimony the
2 substance of the decisions regarding the establish-
3 ment of the Special Commission on Chinese Affairs.^{a.}
4 Apparently he based his denial on the reasoning that
5 the Five Ministers Conference was not a legislative
6 organ and therefore no such executive organ could have
7 been created under its jurisdiction.^{b.} When asked
8 whether some of the decisions, covering the ones which
9 dispatched DOHIHARA to China under the Special Com-
10 mission, had been submitted to and adopted by the
11 cabinet meeting of 16 August 1938, the 81 year-old
12 witness chose to tell the Court that he had no recol-
13 lection of such, instead of refuting them as he did
14 before.^{c.} It is also to be recalled that defense witness
15 KAGESA, who was sent to China on a similar mission of
16 contacting prominent Chinese for the formation of a new
17 regime, testified that he was given the mission after
18 a meeting of the Five Ministers Conference.^{d.} The
19 prosecution further submits that as long as DOHIHARA
20 himself^{e.} and ITAGAKI^{f.} who was War Minister at the
21 time both admitted the trip made by DOHIHARA on a mis-
22 sion of such nature, it is immaterial upon whose

23 (BB-59b. a. T. 38813
24 b. T. 38813
25 c. T. 38829
d. T. 23982-3
e. Ex. 2190A, T. 15716
f. T. 30307)

1 authority he went, although the fact that he was sent
2 under the Special Commission created by the Five
3 Ministers Conference has been fully established.

4 BB-60. In May 1939, DOHIHARA was appointed
5 Commander-in-Chief of the 5th Army in Taonan, Manchuria. ^{a.}
6 When stationed at the border area of the East Manchuria,
7 the machine gun units, mortar units and other units
8 under his command were dispatched to the Nomanhan area
9 and took part in the battles against the Soviet and
10 Mongolian troops. ^{b.}

11 BB-61. In June 1940, DOHIHARA was a member
12 of the Supreme War Council. On 18 April 1940 he was
13 decorated with the Second Class of the Golden Kite for
14 meritorious service in the China Incident. ^{c.}

15 BB-62. On 29 April 1941, DOHIHARA was pro-
16 moted to full general and on 6 September 1941, was
17 assigned as Chief of Air Inspectorate General. ^{a.}

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

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

23
24 (BB-60. a. Ex. 104, T. 697 (BB-61. c. Ex. 104, T. 697-8)
25 b. Ex. 834, T. 8094-8102;
Ex. 2190A, T. 15716) (BB-62. a. Ex. 104, T. 698)

S
P
r
a
t
t
&
D
u
d
a

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

3 THE PRESIDENT: Judge. Nyi.

4 JUDGE NYI: (Reading)

5 XI. DOHIHARA's Contribution to the Tripartite
6 Pact.

7 BB-63. DOHIHARA was considered by Germany as
8 a man belonging to the immediate group surrounding
9 TOJO.^a He was recommended for the German Grand Cross
10 with the following citation: "By constant close and
11 friendly cooperation, with the air attache, he has in
12 a leading position, contributed, in the true sense of
13 the Tripartite Pact, to the extension and deepening of
14 the military alliance."
15

16 BB-64. On 1 October 1942, he received the
17 Grand Cross of German Eagle from Hitler at the German
18 Embassy in Tokyo, on which occasion Ambassador Ott
19 stated: "We acknowledge your merits in having by your
20 efforts won glorious victories in the joint execution
21 of the War."^a

22 XII. DOHIHARA's Part in the Pacific War.

23 BB-65. When the Japanese staged the surprise
24 attack on Pearl Harbor and started the war of aggression
25

(BB-63, Ex. 1272, T. 11,352, T. 11,356-7.
BB-64, Ex. 2247, T. 16,180.)

1 against the United States, Britain, France, The Nether-
 2 lands, Thailand, etc., in December 1941, DOHIHARA was
 3 Chief of the Air Inspectorate General and concurrently
 4 Supreme War Councillor.^{a.} On 30 June 1941, he attended
 5 the meeting of the council, presided over by TOJO, in
 6 which candid views were exchanged regarding the fast-
 7 moving international situation and the attitude to be
 8 taken by Japan.^{b.}

9 BB-66. On 1 May 1943, he became Commanding
 10 General of the Eastern Area Army, which was apparently
 11 directed against the United States.^{a.} On 22 March 1944,
 12 he was appointed Commander of the Seventh Area Army
 13 at Singapore and retained this position until 7 April
 14 1945. This command embraced Malaya, Sumatra, Java and
 15 Borneo.^{b.} From 7 April to 25 August 1945, he was commander
 16 of the 12th Area Army embracing the area around Tokyo,^{c.}
 17 concurrently holding the position of Commander of the
 18 East Area Army and Supreme War Councillor.^{d.}

19 XIII. DOHIHARA's Responsibility for Maltreat-
 20 ment of POW.

21 BB-67. DOHIHARA as Commander of the Eastern

22 (BB-65. a. Ex. 104, T. 698.

b. Ex. 2246, T. 16,179.

23 BB-66. a. Ex. 104, T. 698.

24 b. Ex. 104, T. 698; Ex. 2282, T. 16,258;
 25 Ex. 2190-A, T. 15,716.

c. Ex. 104, T. 698; Ex. 2282, T. 16,258.

d. Ex. 104, T. 698.)

1 Area Army in September and October 1943 had jurisdiction
 2 over POW camps located around Tokyo.^{a.} During that
 3 time some sixty prisoners died from starvation and ill-
 4 treatment at the Naoetsu Camp in Niigata Prefecture.^{b.}
 5 There is evidence of DOHIHARA's visit to the said camp,
 6 but the conditions of the camp were not improved after
 7 his visit.^{c.} From March 1944 to April 1945, while
 8 DOHIHARA was Commander of the Seventh Area Army at
 9 Singapore, there were many instances of mistreatment of
 10 war prisoners and civilian internees in Malaya, Sumatra,
 11 Java and Borneo.^{d.}

12 BB-68, FUHA, DOHIHARA's witness, testified
 13 that at no time was any prisoners of war camp located
 14 within the territorial jurisdiction of the 7th Area
 15 Army even under its control and that such camps were
 16 under the direct control of the Southern Army, which
 17 was a superior command to that of the 7th Army.^{a.}

18 When the witness was reminded of Article 3 of the Ordi-
 19 nance of Prisoners of War Camps of 23 December 1941
 20 which reads: "Prisoner of War Camps shall be
 21 administered by a commander of an army or a commander

22 (BB-67. a. Ex. 2282, T. 16257-8.

23 b. T. 14,272-3.

24 c. T. 14,273-6.

25 d. Ex. 2282, T. 16258. T. 12883-91.

Ex. 1422, T. 12629, 36. Ex. 1703, T. 13604.

Ex. 1513, T. 12915-26. Ex. 1917, T. 14197-9.)

BB-68. a. T. 28,725.)

1 of a garrison under the general supervision of the
2 Ministry of War," he merely explained that this provi-
3 sion applied to prisoners of war camps in the Japanese
4 homeland, and as far as prisoners of war camps overseas
5 were concerned he believed it should be interpreted
6 that the commander of the Southern Army^{b.} was the army
7 commander referred to in Article 3.

8 BB-69. Not only was FUHA's interpretation
9 purely speculative, but the evidence adduced in a later
10 stage also proves the incorrectness of such interpre-
11 tation. AYABE, Kitsuju, ITAGAKI's witness, stated in
12 his affidavit that ITAGAKI, when transferred to Singapore
13 from Korea, endeavored to give the best treatment
14 possible to the war prisoners and there was marked
15 improvement in the camps.^{a.} While it is immaterial here
16 in the individua. case of DOHIHARA whether the condi-
17 tions of the prisoners of war camps were changed for
18 better or for worse, the fact is now well established
19 that ITAGAKI, after taking over the command of the 7th
20 Army as successor to DOHIHARA, did assume an active
21 control over the POW camps under his jurisdiction.
22 Therefore, there is not the slightest tinge of truth
23 in the statement of FUHA.
24

25 (BB-68. b. T. 28,733.

BB-69. a. Ex. 3312, T. 30218.)

XIV. Conclusion.

1 BB-70. In conclusion it is respectfully sub-
2 mitted that the prosecution's charges against DOMIHARA
3 under:

4 Count 1 have been substantiated by facts supported by
5 the evidence summarized in headings I, II, III, IV, V,
6 VI, VII, VIII, IX, X, XI and XII;

7 Count 2 by headings I, II, III, IV, V, VI, and VII;

8 Count 3 by headings I, VIII, IX and X;

9 Counts 4-5 by headings XI and XII;

10 Count 6 by headings I, II, III, IV, V, VI, VII, VIII,
11 IX, X, XI and XII;

12 Counts 7-16 by headings XI and XII;

13 Count 17 by headings II, III, VI, X, XI and XII;

14 Count 18 by headings I, II, III, IV, V and VI;

15 Count 19 by headings I, VIII, IX and X;

16 Counts 20-24 by headings XI and XII;

17 Count 26 by heading X;

18 Count 27 by headings I, II, III, IV, V, VI and VII;

19 Count 28 by headings I, VIII, IX and X;

20 Counts 29-34 by headings XI and XII;

21 Count 36 by heading X;

22 Counts 37-43 by headings XI and XII;

23 Count 51 by heading X;

24 Counts 54-55 by heading XIII.
25

1 Your Honors, Colonel Woolworth will continue
2 for the prosecution.

3 THE PRESIDENT: Colonel Woolworth.

4 MR. WOOLWORTH: If the Tribunal please, the
5 prosecution submits the summation against HASHIMOTO,
6 Kingoro.

7 HASHIMOTO, Kingoro.

8 I. Charges against HASHIMOTO.

9 CC-1. In counts 1 through 5 HASHIMOTO is
10 charged with others in conspiring to wage wars of
11 aggression in violation of international law, treaties
12 and agreements with the object of obtaining for Japan
13 the military, naval, political and economic domination:

14 (a) Of East Asia, the Pacific and Indian
15 Oceans (Count 1).

16 (b) Of Liaoning, Kirin, Heilungkiang and
17 Jehol, parts of China (Count 2).

18 (c) The Republic of China (Count 3).

19 (d) East Asia and of the Pacific and Indian
20 Ocean and of all countries bordering thereon (Count 4).

21 (e) Of the world in conjunction with Germany
22 and Italy, but having domination in its own sphere
23 (Count 5).

24 CC-2. In counts 6 through 17 it is charged
25 that HASHIMOTO with others, between 1 January 1928 and

1 2 September 1945, planned and prepared a war or wars
2 of aggression in violation of international law,
3 treaties, and agreements:

4 (a) Against the Republic of China (Count 6).

5 (b) Against the United States of America
6 (Count 7).

7 (c) Against the United Kingdom and Northern
8 Ireland and all parts of the British Commonwealth of
9 Nations (Count 8).

10 (d) Against the Commonwealth of Australia
11 (Count 9).

12 (e) Against New Zealand (Count 10).

13 (f) Against Canada (Count 11).

14 (g) Against India (Count 12).

15 (h) Against the Commonwealth of the Philippines
16 (Count 13).

17 (i) Against the Kingdom of The Netherlands
18 (Count 14).

19 (j) Against the Republic of France (Count 15).

20 (k) Against the Kingdom of Thailand (Count 16).

21 (l) Against the U.S.S.R. (Count 17).

22 CC-3. In count 18, HASHIMOTO and others are
23 charged with initiating a war of aggression against
24 China, in violation of treaties, agreements, etc., on
25 or about 18 September 1931.

1 CC-4. In count 19, HASHIMOTO and others are
2 charged with initiating a war of aggression against China
3 in violation of treaties, agreements, etc., on or
4 about 7 July 1937.

5 CC-5. In counts 27 to 32, inclusive, and
6 count 34 HASHIMOTO and others are charged with waging a
7 war or wars of aggression in violation of international
8 law, treaties, agreements and assurances against:

9 (a) The Republic of China between 18 September
10 1937 and 2 September 1945 (Count 27).

11 (b) The Republic of China, between 7 July
12 1937 and 2 September 1945 (Count 28).

13 (c) The United States of America, between
14 7 December 1941 and 2 September 1945 (Count 29).

15 (d) The Commonwealth of the Philippines,
16 between 7 December 1941 and 2 September 1945 (Count 30).

17 (e) The British Commonwealth of Nations,
18 between 7 December 1941 and 2 September 1945 (Count 31).

19 (f) The Kingdom of The Netherlands, between
20 7 December 1941 and 2 September 1945 (Count 32).

21 (g) The Kingdom of Thailand, between 7 Decem-
22 ber 1941 and 2 September 1945 (Count 34).

23 CC-6. HASHIMOTO is charged with others as a
24 conspirator in formulating or executing a plan to permit
25 murder on a wholesale scale of POW on land and sea

~~between 18 September 1931 and 2 September 1945 (Count 44).~~

1 CC-7. HASHIMOTO is charged with others with
2 ordering or permitting an unlawful attack and the unlaw-
3 ful killing of thousands of civilians and disarmed
4 soldiers of The Republic of China:

5 (a) On 12 December 1937 at Nanking (Count 45).

6 (b) On 21 October 1938 at Canton (Count 46).

7 (c) On or about 27 October 1938 at Hankow
8 (Count 47).

9 CC-8. HASHIMOTO is charged with permitting
10 violations of laws and customs of war as to POW and
11 civilian internees in China from 18 September 1931 to
12 2 September 1945 (Count 53).

13 CC-9. HASHIMOTO is charged with ordering
14 violations of laws of war as to POW and civilian
15 internees in China from 18 September 1931 to 2 Septem-
16 ber 1945 (Count 54).

17 CC-10. HASHIMOTO is charged with deliberately
18 and recklessly disregarding his legal duty to secure
19 observance of the laws and customs of war as to POW and
20 civilians in the power of Japan between 18 September
21 1931 and 2 September 1945 in China (Count 55).

22 II. HASHIMOTO's Military Service.

23 CC-11. HASHIMOTO graduated from the Military
24 Academy in 1911 and was appointed 2nd lieutenant of
25

1 artillery. He served in the army continuously and
2 reached the grade of colonel in 1934. He was placed
3 on the reserve list in August 1936 and recalled to duty
4 in 1937. He then was placed on the reserve list in
5 March 1939, after which he performed no active duty.

6 CC-12. HASHIMOTO graduated from the Military
7 Staff College in 1917, served on the General Staff
8 in the War Office in 1921, and with the Kwantung Army
9 Headquarters in 1922, and again from 1923 to 1925.
10 From 1925 to 1927 he served with the General Staff
11 Office and War Office. From September 1927 through 1929
12 he served as Military Attache of the Japanese Embassy
13 in the Turkish Empire. From January 1930 to December
14 1931 he served on the General Staff War Office. From
15 1937 to 1939 he served as commander of the 13th Heavy
16 Field Artillery Division,

17 CC-13. He received several decorations --
18 among them one in 1934 in recognition of his services
19 during the disturbances from 1931 to 1934; another in
20 April 1940, when he received the 4th Class Order of the
21 Golden Kite in recognition of his services in the
22 China Disturbances.
23 a.

24 III. HASHIMOTO's Political Activities Prior
25 to the Manchurian Incident.

(CC-13. a. Ex. 105, T. 699.)

a, Views on the U.S.S.R., Manchurian and
1 Mongolian Problems.

2 CC-14. In April 1929, while HASHIMOTO was
3 Japanese Military Attache in Turkey, he attended a con-
4 ference held in Berlin of Japanese Military Attaches
5 in European countries which discussed items concerning
6 the U.S.S.R. At this conference conditions in the Soviet
7 were appraised, both present and future; the policy
8 Japan should adopt was discussed if any future change
9 took place in the U.S.S.R.; a study of sabotage measures
10 to be taken by various European countries was considered,
11 in case of war with the U.S.S.R.; a survey was presented
12 of the activities White Russians could engage in; and
13 views were exchanged on the effect on Soviet-European
14 relations if Japan should end friendly relations with
15 the U.S.S.R. HASHIMOTO suggested that Trotsky and
16 sixty of his associates who had arrived in Turkey might
17 be used for espionage, and that reports should be
18 bought from good spies whenever a "good spy" is found. a.

21 CC-15. In a secret report of 15 November
22 1929, HASHIMOTO recommended that the Caucasus should
23 be seized for operations against Russia. He suggested
24 to the Assistant Chief of the Army General Staff that
25 this could be brought about by making all races in
(CC-14, a. Ex. 732-A, T. 7658.)

1 the Caucasus confront each other and thus bring about
2 confusion in the area by instigating either the idea
3 of Greater Armenia, or an independent Georgia, or the
4 Mussulman movement, or the Partisan movement of the
5 mountaineers. He said that the idea of Greater Armenia
6 would be most promising as a fuse to give rise to such
7 a situation regardless of its success, as this would
8 result in great confusion breaking out because of oppo-
9 sition on the part of Georgia and Azerbaijan, and
10 Turkey.
a.

11 CC-16. In 1930, HASHIMOTO returned to Japan
12 after a three-year stay in Europe. On his homeward
13 voyage he pondered on how to reform Japan, because he
14 felt that Japan was the only country "within the whirl-
15 pool of world movement that stood within the bounds
16 of liberalism," and he considered that if she went on
17 under present conditions she would drop from the ranks
18 in the community of nations and fall. Therefore, on
19 his return to the General Staff Office he "devised
20 several schemes to put" his ideas into execution, and
21 while he would not dare to say they were the only cause
22 of such results, the Manchurian Incident, secession from
23 the League of Nations, and renunciation of the disarma-
24 ment treaty took place successively, and within the
25 (CC-15. a. Ex. 734-A, T. 7647.)

1 country the May 15th Incident, Shimpei Tai Incident, a.
 2 and the February 26th Incident took place in succession.

3 CC-17. KIDO records in his diary on 7 Aug-
 4 ust 1931 that HASHIMOTO and SHIGEFUJI backed a group
 5 of recent graduates from the Army Staff College in the
 6 study of Manchurian and Mongolian problems. a.
 7 These problems centered about the creation of a new regime, b.
 8 following the killing of Marshal Chang Tso-lin, by
 9 getting rid of the warlords in Manchuria and separating

10 Manchuria from the Nanking government. c.
 11 In fact an investigation by WINE, then chief of the Tokyo MP unit,
 12 disclosed that the purpose of the killing of Chang Tso-
 13 lin was to create such new state under Japanese

14 control. d.
 15 TANAKA, Ryukichi, testified that after Chang
 16 Hsueh-liang succeeded Chang Tso-lin the relations in
 17 Manchuria became extremely aggravated because Chang
 18 Hsueh-liang entered the Kuomintang and brought the
 19 Kuomintang flag into Manchuria. e.

20 The Japanese army took a strong attitude in view of the great sacrifice
 21 Japan had made in that area since the Russo-Japanese
 22 war, and took the stand that armed force should be
 23 resorted to in driving out the Chinese forces and

24 (CC-16. a. Ex. 177, T. 1918-21.

25 CC-17. a. Ex. 179-A to 179-R, T. 1928.

b. T. 1943.

c. T. 1953.

d. Ex. 180, T. 1951.

e. T. 1958.

f. T. 1958.)

1 setting up a new regime under Japanese control.^{g.}

2 Strong advocates of this procedure were HASHIMOTO and
3 Captain CHO, Isamu.^{h.}

4 b. HASHIMOTO, an Organizer of the Sakura-Kai.

5 CC-18. The Sakura-Kai, was formally orga-
6 nized in the spring of 1931, the first meeting being
7 called by HASHIMOTO.^{a.} All branches of the military

8 establishments were active in this organization,
9 including the War Office, the General Staff, and offi-
10 cers from the Inspector General of Military Education.

11 They ranked from lieutenant colonels to majors. The
12 navy also had several officers active in its affairs.^{b.}

13 The purpose of the Sakura-Kai was twofold; one, to
14 carry out an internal revolution, or renovation, and,
15 second, to settle the Manchurian problem.^{c.} These

16 purposes dovetailed into the plans of the army which
17 desired a settlement of the Manchurian problem, bringing
18 Manchuria under Japanese control, and, if harmony and
19 cooperation could be realized,^{d.} to use this as a

20 basis for eventually freeing Asia from white domination
21 and bring about the "ideal of Asia for the Asiatics."^{e.}

22 Coupled with military action in Manchuria, the
23

24 (CC-17. g. T. 1959. h. T. 1960.
25 CC-18. a. T. 1961, Ex. 183, T. 2188.
b. T. 1962.
c. T. 1963.
d. T. 1986.
e. T. 1987.)

1 Sakura-Kai, the group led by HASHIMOTO, sought to oppose
2 the Japanese politicians and financiers who were
3 extremely weak in their attitude toward various prob-
4 lems, and bring about their downfall and realize the
5 "renovation of Japan." Such renovation was to be car-
6 ried out by a "grand coup-d'etat," by overthrowing the
7 government and then setting up a new and renovated
8 government to cleanse politics and political adminis-
9 tration^{g.} as well as rally public opinion and efforts
10 of the people toward settlement of the Manchurian
11 problem.^{h.} That such plans were attempted is demonstrated
12 by the March and October Incidents, which will be
13 mentioned later.

14 (CC-18. f. T. 1982.
15 g. T. 1982.
16 h. T. 1983.)
17
18
19
20
21
22
23
24
25

1 CC-19. HASHIMOTO, the Sakura-Kai leader, in
 2 August 1931 told FUJITA, a newspaper owner, that positive
 3 action should be taken in Manchuria,^{a.} and on 19
 4 September 1931 FUJITA saw HASHIMOTO and recalled say-
 5 ing to him, "I see you accomplished what you said
 6 should be done in Manchuria," or "At last you have
 7 done it, haven't you,"^{b.} to which HASHIMOTO replied,
 8 "Yes, things came to the pass where they should come."^{c.}

9 CC-20. Thus the purposes and objects of
 10 the Sakura-Kai were put to practical use in effecting
 11 one of its primary objects, namely, the solution of
 12 the Manchurian problem, and in this HASHIMOTO had a
 13 leading part. The interference in political matters
 14 or political activity by officers, although prohibited,^{a.}
 15 was flagrantly and openly espoused by HASHIMOTO and
 16 other army officers in the Sakura-Kai and in movements
 17 for renovation of the government and by their stimula-
 18 tion and direction of a military-political movement in
 19 Manchuria, which ultimately led to international
 20 condemnation of Japan by the League of Nations.^{b.}

22 IV. HASHIMOTO'S connection with the March,
 23 October and Manchurian Incidents.

24 a. The March Incident.

25 CC-19. a. T. 1464. c. T. 1466.

b. T. 1465, 1474-5.

CC-20. a. Ex. 157, T. 1402-03; b.Ex.157, T. 1402-03.

1 CC-21. In connection with the March Incident,
2 which was a plan to seize control of the government,
3 OKAWA testified in the Tokyo Court of Appeals that it
4 was at the request of HASHIMOTO and Colonel SHIGETO
5 that he held his interview with UGAKI to learn his
6 views. The result of OKAWA's conference with UGAKI
7 was reported by HASHIMOTO and SHIGETO to Deputy Chief
8 of Staff MINOMIYA and TATEKAWA.^{a.} HASHIMOTO, in his
9 testimony named TATEKAWA, KOISO, MINOMIYA, SUGIYAMA,
10 OKAWA and himself as conspirators.^{b.}

11 C-22. To effect the plot, HASHIMOTO obtained
12 delivery of 300 bombs to SHIMIZU from the army^{a.} with
13 which to start a mass demonstration which would lead
14 to martial law and overthrow of the cabinet.^{b.}

15 b. The Manchurian Incident.

16 CC-23. In addition to what appears in
17 Part III of this summation, activities in preparation
18 for a solution of the Manchurian Incident, there is
19 evidence that HASHIMOTO admitted to TANAKA, Ryukichi,
20 in 1934 that he, HASHIMOTO, had assisted the Kwantung
21 Army, in accordance with a plan to have such an
22 incident. TANAKA testified that HASHIMOTO named him-
23 self and five others as conspirators and defined the
24

25 C-21. a. Ex. 2177, T. 15580-3; b. T. 28820.

C-22. a. Ex. 157, T. 1402-3; b. Ex. 157, T. 1402-3.

1 purpose to be the occupation of Manchuria, destruc-
2 tion of the influence of the war lords, and bringing
3 about economic development and army occupation.^{a.}

4 Captain CHO, another of the conspirators, in discussing
5 the matter with TANAKA also named HASHIMOTO as a co-
6 conspirator.^{b.}

7 c. The October Incident.

8 CC-24. As for the October Incident, which
9 was also a plan to seize control of the government,
10 HASHIMOTO admitted that he thought up the plan to
11 bring about a cabinet headed by ARAKI as a result of
12 a conversation with Captain CHO.^{a.} That HASHIMOTO
13 was involved in this plot is also confirmed by testi-
14 mony of OKADA in the Tokyo Court of Appeals where he
15 said that the aim of the October Incident was to crush
16 the WAKATSUKI Cabinet, which was dilly-dallying, and
17 to set up a new and powerful party capable of solving
18 important problems. OKAWA said he received his orders
19 from HASHIMOTO, and that others involved were SHIGETO,
20 ITAGAKI and DOIHARA.^{b.} TATEKAWA also told TANAKA
21 that HASHIMOTO, CHO, and OKAWA planned the October
22 Incident to overthrow the government in power and to
23 set up a new government which would support the
24 CC-23. a. T. 1968, 1978. b. T. 2014.
25 CC-24. a. Ex. 3195, T. 28975.
b. Ex. 2177-A, T. 15585-7.

Manchurian Incident. ^{c.} This plan was to cleanse the ideological and political atmosphere of Japan and renovate Japanese politics by assassinating the leaders. ^{d.} After the plot was discovered, HASHIMOTO and others were arrested, ^{e.} and HASHIMOTO was subjected to heavy disciplinary confinement for 25 days and relegated to the HIMEJI Regiment. ^{f.}

CC-25. Shelling of the Ladybird.

CC-26. On 11 December 1937, in the course of the blockade of China, a Japanese artillery unit under command of HASHIMOTO shelled the British vessel Ladybird and took it into custody. ^{a.} The lame excuse given before the Tribunal that it was barely dawn and that a heavy fog lay over the river ^{c.} is inconsistent with Japan's acknowledgment of a wrongful act, as is shown by her payment of indemnity, and a disavowal of the incident by profuse apologies. ^{d.}

V. HASHIMOTO's agitation for territorial expansion and creation of a Greater East Asia.

CC-27. In October 1936, after retirement, HASHIMOTO organized and was head of Dai Nippon Seinento, ^{a.} one of its aims being the renovation and

CC-24. c. T. 2013. e. Ex. 3195, T. 28795.

d. T. 1973. f. T. 19667.

CC-26. a. Ex. 258, T. 3466-7.

c. Ex. 2521, T. 21346-7.

d. Ex. 2522; Ex. 2523, T. 21350.

CC-27. a. Ex. 2188, T. 15677.

making young men the framework of the "New Japan."^{b.}
 1 The official organ of the Society was the Taiyo Dai
 2 Nippon, which was published three times per month.^{c.}
 3 In the January 1937 issue of the Taiyo Dai Nippon,
 4 HASHIMOTO advocated the dissolution of political
 5 parties and said that democratic government ignores
 6 the "TENNO."^{d.}
 7

8 CC-28. The following excerpt from an article
 9 written by HASHIMOTO and published in Taiyo Dai Nippon
 10 shows his activities from 1936 through 1941 in propa-
 11 gandizing for expansion and war:

12 "How shall Japan be able to battle against
 13 the Soviet Union without making an invincible air force
 14 the mainstay of Japanese armament?"^{a.}

15 He wrote the following:

16 "It is a humiliation to have to talk with
 17 England."

18 "Define England as the enemy."

19 "Our way is one: Expulsion of England!"

20 Arm the Axis!"

21 "The enemy that blocks our way to the south
 22 is England."^{b.}
 23

24 CC-27. b. Ex. 2185, T. 15648.
 c. Ex. 3193, T. 28784, 15683.
 d. Ex. 2185, T. 15649.
 25 CC-28. a. Ex. 2185, T. 15651.
 b. Ex. 2185, T. 15659-60.

1 Again he wrote: "If it had not been for
2 the support of England, the Chiang Government would
3 be already destroyed. It is clear that if we attack
4 England, the incident will be brought to an end imme-
5 diately. . . We have no choice. Fight England!"^{c.}
6 "Now our real opponents are England and the Soviet
7 Union. When there is only one way ahead of us, why
8 are we hesitating? What we need now is a war time
9 cabinet with the highest authority."^{d.}

10 CC-29. HASHIMOTO was one of those who
11 moulded the plan for Japanese aggression by expounding
12 the theory that Japan must have territorial expansion
13 north, south, east and west, where Japanese could
14 freely develop their powers.^{a.} He demanded lands,
15 new lands, to develop "the riches now lying idle."
16 He particularly mentioned the South Seas Islands^{b.}
17 and argued that the Netherlands had its hands full
18 with Java, and had left Borneo, New Guinea and the
19 Celebes almost untouched.^{c.} He gave the Netherlands
20 a back-handed slap by saying that the actual power
21 protecting the South Seas Islands was the British
22 Empire,^{d.} and although Japan could not extol its past
23 rule of Korea and Formosa, people under Japanese rule
24
25 CC-28. c. Ex. 2185, T. 15660; d. Ex. 2185, T. 15661.
CC-29. a. Ex. 1290-A, T. 11692; b. T. 11691.
c. T. 11692; d. T. 11893.

1 were fortunate compared to those "under the tyrannical
 2 rule of the white man."^{e.}

3 CC-30. In 1939 he engaged in prolific
 4 writings, all directed at stimulating aggressive war-
 5 fare. He wrote that England was the enemy blocking
 6 Japan's "way to the South,"^a and he urged an attack
 7 on England,^{b.} saying that Hongkong should be occu-
 8 pied as well as the English concession in Shanghai.^{c.}
 9 He urged the strengthening of the Tri-Partite Alliance^d
 10 and said Japan should attack the foreign concessions
 11 in Tientsin "instantly."^{e.} He said England must be
 12 expelled^{f.} and that it would be very "easy to beat
 13 England";^{g.} that the time was opportune to start the
 14 attack.^{h.} In January 1941, before a large audience
 15 at Kyoto, he continued exhorting the Japanese to over-
 16 throw England and America, saying that Japan should
 17 advance southward and construct a Greater East Asia
 18 under the Imperial Sphere as soon as possible.^{i.} On
 19 30 January 1941 he published a work entitled "The
 20 Second Creation," in which he proposed absolute war
 21 preparations so as to enable Japan to crush, at any
 22 time, countries which may interfere with Japan,^{j.}

23 CC-29. b. T. 15694.

24 CC-30. a. T. 15660; b. T. 15660; c. T. 15659;
 25 c. T. 15660; e. T. 15660; f. T. 15659;
 g. T. 15659; h. T. 15660; i. T. 15666;
 j. T. 15672.

1 also he urged the expulsion of all British influence
2 from China first and gradually to exclude British
3 influence from the East Asiatic united zone.^{k.}

4 CC-31. As for Greater East Asia, HASHIMOTO
5 took the view that this should include Japan, Manchu-
6 kuo, China, the Soviet Far East, French Indo-China,
7 Burma, Malay, the Dutch East Indies, India, Afghan-
8 istan, Australia, New Zealand, Hawaii, Philippines,
9 and the islands of the Pacific Ocean and the Indian
10 Ocean, all in the sphere of Japan's influence.^{a.}

11 CC-32. The plan HASHIMOTO suggested for
12 Japan's influence to be made manifest was as follows:
13 "Territories incorporated into Japan should be ad-
14 ministered by Governors-General, while Japanese
15 advisers should be appointed for independent states.
16 Military and diplomatic affairs should be placed
17 absolutely under Japanese guidance. Other matters
18 also should be controlled by Japan.^{a.}

19 CC-33. In 1938 he dissolved the Dai Nippon
20 Seinento and instantly established the Dai Nippon
21 Sekiseikai, whose policies were:

22 (1) Restoration of the nation.

23 (2) Stronger armament for the defense and
24

25 CC-30. k. T. 15672.

CC-31. a. Ex. 675-A, T. 7349; 23377.

CC-32. a. Ex. 675-A, T. 12023.

liberation of the Asiatic nations.

1 (3) Asiatic autarchy.

2 (4) Attack Britain and her dominions.

3 (5) Imperialization of East Asia.

4 (6) Establishment of a state union in Asia. a.

5 CC-34. He was a leader and permanent director
6 of the Imperial Rule Assistance Association and was
7 responsible for the publication of Taiyo Dai Nippon. a.

8 CC-35. HASHIMOTO perjured himself when
9 questioned by one of the prosecutors prior to trial. a.

10 CC-36. It is apparent that in the critical
11 years between 1936 and 1941 HASHIMOTO was urging the
12 use of force to destroy the status quo; recommended
13 resort to force to create for Japan more territory
14 (similar to Hitler's seizure of so-called "Lebensraum"),
15 and stimulated lawless and aggressive prosecution by
16 force of Japan's desire for world leadership. His
17 pronouncements were inflammatory and willfully calcu-
18 lated to arouse the fighting spirit of those who read
19 or listened. The demands made by HASHIMOTO were in
20 total disregard of Japan's obligations as a member of
21 the community of nations, and in disregard of her
22 duties under international treaties, agreements and
23

24 CC-33. a. T. 15680-1.

25 CC-34. a. Ex. 2188, T. 15674.

CC-35. a. T. 15682-6.

1 assurances to which she was a party. It can be said
2 that HASHIMOTO directed public opinion to violate
3 such treaties, agreements and assurances, and that his
4 previous conduct fitted into the character he assumed
5 as one of the conspirators to wage unlawful wars of
6 aggression, for the purpose of military, naval,
7 political and economic domination by Japan.

8 DEFENSE TESTIMONY

9 CC-37. The defense testimony may be briefly
10 summarized as follows:

11 "The witness OBATA attempted to show that
12 the shelling of the "Ladybird" in December, 1937,
13 was a mistake due to foggy weather conditions. This
14 testimony is negated by the testimony given by
15 HASHIMOTO himself, in which he stated that his orders
16 were to sink all vessels proceeding toward Nanking
17 without regard to nationality.^{a.}

18 The witness OGAWA's testimony as to the pure
19 purposes of the Dai Nippon Seinento and the Dai Nippon
20 Sekiseikai,^{b.} is negated by the avowed purpose of
21 these societies,^{c.} as appears hereinbefore.

22 The testimony of HASHIMOTO amounts to a
23 general denial by the accused of having any part in
24

25 CC-37. a. T. 15678-9.
b. T. 28783.
c. T. 15680-1.

1 the Manchurian Incident or of planning or formenting
2 aggressive war. His testimony is negated, as appears
3 from his writings and speeches extending through the
4 period from 1929 to 1941. Furthermore, as hereinabove
5 mentioned, the accused is a self-confessed perjurer,
6 so that little credence may be given to his affidavit
7 in his own behalf.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

K
a
p
p
l
e
a
u
&
L
e
f
f
l
e
r

1 CC-38. The testimony of the defense witness,
2 OBATA, further shows that HASHIMOTO was guilty of
3 murder, as appears from the following:

4 "14. Since one death had resulted from the
5 shelling, the Captain of the British ship asked us to
6 attend the funeral service. We sent ~~one~~ representative
7 to this funeral service. This was held at the public
8 hall."^{a.}

9 CC-39. The testimony of HASHIMOTO in connec-
10 tion with the shelling of the British ship "Ladybird"
11 on or about the 10th of December, 1937, to the effect
12 that the shooting was by mistake due to the dense fog,^{a.}
13 is contradicted by an excerpt from the interrogation of
14 HASHIMOTO of 17 January 1946,^{b.} wherein he stated that
15 his orders were to sink all vessels proceeding toward
16 Nanking without regard to nationality, and that after the
17 fog lifted, at about 1000 hours, he started shelling
18 four ships, one of which was the Ladybird. The same
19 excerpt contradicts the testimony of OBATA, Minoru,^{c.}
20 wherein he stated that the shelling of the Ladybird took
21 place "before dawn and not yet light," and furthermore
22 the excerpt from the interrogation of HASHIMOTO^{d.} contra-
23 dicts the statement made by OBATA as to the contents of

24 (CC-38. a. T. 28772.

25 CC-39. a. T. 28796.

b. Ex. 3846; T. 38181.

c. T. 28769-70, d. IPS Doc. 3356.)

e.
the order from Lieutenant General YANAGAWA.

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

3 CC-40. HASHIMOTO's guilt of the offenses
4 charged is established as incidated below:

5 Count 1 - Paragraphs CC-14, CC-15, CC-16, CC-17, CC-18,
6 CC-19, CC-21, CC-22, CC-23, CC-24, CC-25, CC-27, CC-28,
7 CC-29, CC-30, CC-31, CC-32, CC-33.

8 Count 2 - Paragraphs CC-16, CC^r 17, CC-18, CC-21, CC-22,
9 CC-23, CC-24, CC-25, CC-31, CC-32, CC-33.

10 Count 3 - Paragraphs CC-16, CC-17, CC-18, CC-21, CC-22,
11 CC-23, CC-24, CC-25, CC-31, CC-32, CC-33.

12 Count 4 - Paragraphs CC-14, CC-15, CC-16, CC-17, CC+18
13 CC-19, CC-21, CC-22, CC-23, CC-24, CC-25, CC-26, CC-28,
14 CC-29, CC-30, CC-31, CC-32, CC-33.

15 Count 5 - Paragraphs CC-28, CC-29, CC-30, CC-31.

16 Count 6 - Paragraphs CC-16, CC-17, CC-18, CC-19, CC-20,
17 CC-23, CC-25, CC-28, CC-29, CC-31, CC-32, CC-33.

18 Count 7 - Paragraphs CC-29, CC-30, CC-31, CC-33.

19 Count 8 - Paragraphs CC-26, CC-28, CC-29, CC-30, CC-31,
20 CC-32, CC-33.

21 Count 9 - Paragraphs CC-29, CC-30, CC-31, CC-33.

22 Count 10, Paragraphs CC-29, CC-30, CC-31, CC-33.

23 Count 11 - Paragraph CC-33.

24 (CC-39. e. T. 28769.)
25

- 1 Count 12 - Paragraphs CC-31, CC-33.
- 2 Count 13 - Paragraphs CC-31, CC-33.
- 3 Count 14 - Paragraphs CC-29, CC-30, CC-31, CC-33.
- 4 Count 15 - Paragraphs CC-29, CC-30, CC-31, CC-33.
- 5 Count 16 - Paragraphs CC-29, CC-30, CC-31, CC-33.
- 6 Count 17 - Paragraphs CC-14, CC-15, CC-18, CC-19, CC-23
7 CC-28, CC-29, CC-31, CC-33.
- 8 Count 18 - Paragraphs CC-16, CC-17, CC-18, CC-19, CC-20,
9 CC-23, CC-28, CC-29, CC-32, CC-33.
- 10 Count 19 - Paragraphs CC-25, CC-26, CC-28, CC-29, CC-30,
11 CC-31, CC-32, CC-33.
- 12 Count 27 - Paragraphs CC-16, CC-17, CC-18, CC-19, CC-20,
13 CC-23, CC-25, CC-26, CC-28, CC-29, CC-30, CC-31, CC-32,
14 CC-33.
- 15 Count 28 - Paragraphs CC-25, CC-26, CC-28, CC-29, CC-30,
16 CC-31, CC-32, CC-33.
- 17 Count 29 - Paragraphs CC-30, CC-31.
- 18 Count 30 - Paragraphs CC-30, CC-31, CC-33.
- 19 Count 31 - Paragraphs CC-28, CC-29, CC-30, CC-31, CC-33.
- 20 Count 32 - Paragraphs CC-29, CC-30, CC-31, CC-33.
- 21 Count 34 - Paragraphs CC-29, CC-30, CC-31, CC-33.
- 22 Count 45 - Paragraph CC-26.
- 23 Count 54 - Paragraphs CC-16, CC-17, CC-18, CC-19, CC-20,
24 CC-21, CC-22, CC-23, CC-24, CC-28, CC-29, CC-30, CC-33.
- 25 Count 55 - Paragraphs CC-16, CC-17, CC-18, CC-19, CC-20,

CC-21, CC-22, CC-23, CC-24, CC-28, CC-29, CC-30, CC-33.

1 MR. WOOLWORTH: I omit paragraph 40 and pass to
2 page 19, section VI, paragraph 41:

3 VI. HASHIMOTO's Guilt under the Charges.

4 CC-41. As for HASHIMOTO's guilt under Counts
5 1-5, inclusive, 6-17, inclusive, 18, 19, and 27-32,
6 inclusive, which generally embrace the waging of wars
7 of aggression, Parts III, IV and V herein show how he
8 was an instigator of plans and schemes for the renovation
9 of Japan for the purpose of using a revitalized military
10 power for purposes of aggression and expansion. It was
11 no coincidence that the policies he so strenuously ad-
12 vocated, namely, war with Britain and America, a move-
13 ment south having in view a Greater East Asia under
14 Japan's domination, an alliance with Germany, and ex-
15 tinction of Chinese sovereignty by destruction of the
16 Chiang government were in fact carried out or attempted.
17 These policies were likewise the policies of the other
18 conspirators, who to a greater or less degree partici-
19 pated in the plan to impose its will by force on those
20 who refused to consent.
21

22 CC-42. The absurdity of the claim by HASHI-
23 MOTO that Japan needed more and more living space for
24 its millions is shown by the fact that Japan, from 1929
25 to 1941, already had possession of Korea and Formosa, and
also had control of Manchuria. It was not territory the

1 Japanese militarists were after. It was enslavement of
 2 the Asiatic world for Japan's announced destiny to bring
 3 the whole world under one roof, the roof of Japan (Hakko
 4 Ichiu explained by HASHIMOTO;^{a.} by MATSUOKA;^{b.} by
 5 TOJO;^{c.} referred to in connection with the Tripartite
 6 Pact;^{d.} referred to in connection with the Greater East
 7 Asia Co-Prosperity Sphere;^{e.} and defined.^{f.})

8 CC-43. As for HASHIMOTO's guilt under Counts
 9 45-47, inclusive, and 54-55, inclusive, relating to
 10 murder and mistreatment of prisoners of war and civil-
 11 ians, outside of the shelling of the Ladybird, it can
 12 only be said that by his inflammatory language in the
 13 incitement of violence he helped produce the mental
 14 state of those who fought the "holy war," to resort to
 15 any extreme to bring about the much desired victory.
 16 Cruelty can well be said to be a by-product of the cam-
 17 paign of hatred against Britain and the United States,
 18 fomented by HASHIMOTO, and having as its objective con-
 19 tempt for those who stood in the way. Viewed from that
 20 angle, HASHIMOTO is responsible on the theory prevail-
 21 ing in torts, that he who is the proximate cause if
 22 responsible for all damages normally arising therefrom.

23 (CC-42. a. T. 3535-6.
 24 b. T. 3491.
 25 c. T. 10306.
 d. T. 6409
 e. T. 12215.
 f. T. 9645.)

1 The murders, the mistreatment of prisoners of war and
2 civilians were incident to HASHIMOTO's challenge to
3 Japan to fight a war for supremacy. The crimes that
4 resulted were a concomitant of the drastic actions he
5 recommended.

6 Mr. Sutton will address the Tribunal.

7 MR. SUTTON: May it please the Tribunal:

8 HATA, SHUNROKU - SUMMATION

9 DD-1. HATA, Shunroku, is charged on Counts
10 1 - 17, inclusive, 19, 25 - 32, inclusive, 34 - 36,
11 inclusive, and 44-55, inclusive, in the Indictment.

12 DD-2. We shall briefly sketch his career and
13 the point out the evidence which shows his part in the
14 overall conspiracy of planning and waging wars of aggres-
15 sion, and in the component parts of the conspiracy. It
16 is our position that HATA was at all times a militarist -
17 one of the clique which set and kept Japan on the road to
18 war.

19 I. SKETCH OF CAREER.

20 DD-3. HATA was born 26 July 1879. After gradu-
21 ating from the Military Academy in 1900, he rose through
22 successive ranks in the Army to become Major-General in
23 1926. In the meantime, he had made two official trips
24 to Europe, once residing in Germany for the investigation
25 of military affairs, and two official trips to China.

1 He served as Chief of the First Department of the Head-
2 quarters General Staff, and on the staff of the Naval
3 General Staff. On 1 August 1931 he was appointed
4 Lieutenant General and inspector of artillery, continu-
5 ing in this position until August, 1933, when he became
6 Commander of the 14th Division. From December, 1935,
7 to August, 1936, he served as Chief of the Army Air
8 Force Headquarters, and from August, 1936, until August,
9 1937, as Commander of the Formosan Army. On 2 August
10 1937, he became Military Councilor, and on 26 August 1937,
11 he was appointed Inspector General of Military Education,
12 serving concurrently in this position and as Military
13 Councilor until 14 February 1938. During his tenure of
14 these two positions, he was appointed a full General,
15 and in December, 1937, named Cabinet Councilor. From
16 14 February 1938 until 15 December 1938, he was Com-
17 mander of the Central China Expeditionary Force. Immed-
18 iately thereafter, he became Military Councilor, serving
19 until 25 May 1939, when he was appointed Aid-de-Camp to
20 the Emperor. He was Minister of War in the ABE Cabinet
21 and in the succeeding YONAI Cabinet, his tenure in this
22 position extending from 30 August 1939 to 22 July 1940.
23 He was immediately thereafter appointed Military
24 Councilor in the 2nd KONOYE Cabinet and continued in this
25 position until he was appointed Commander-in-Chief of the

1 Expeditionary Forces in China, in which capacity he
2 served from 1 March 1947 until 22 November 1944. In
3 June 1944 he was awarded the special title of Field
4 Marshal, and appointed a member of the Board of Field
5 Marshals and Admirals. On 22 November 1944, he again
6 became Inspector General of Military Education, and on
7 7 April 1945, Commander-in-Chief of the 2nd Army Corps. a.

8 II. ACTIVITIES PRIOR TO AUGUST 1937 - PLANS
9 FOR AGGRESSIVE WAR.

10 DD-4. Before the outbreak of the Manchurian
11 Incident, HATA, as Chief of the First Department of the
12 Headquarters General Staff, a, gave instructions to
13 Colonel SUZUKI, Shigeyasu, in March, 1931, for an
14 inspection tour in Manchuria and Korean areas. He
15 directed that special consideration be given the strateg-
16 ic advantages in operational plans already prepared be-
17 tween the use of the western line of the Chinese Eastern
18 Railway and the Szepingkai-Taonan Railway for the trans-
19 portation of the main Japanese forces. HATA further
20 directed that consideration be given and report made
21 concerning the airports in Manchuria. The report of
22 Colonel SUZUKI submitted in May, 1931, in response to
23 the instructions he had received from HATA, shows
24 clearly that plans were being prepared for aggressive
25

(DD-3. a. Ex. 106, T. 701-7.)

DD-4. a. Ex. 106, T. 701.)

1 action against the U.S.S.R. SUZUKI recommended that in
2 the present plan of operation the 19th Division should
3 be concentrated for use at Fushun and that the principal
4 aim regarding the Army forces in the Maritime Province
5 was to land on the coast east of Vladivostock, thus
6 facilitating the operation by the Manchurian Army in
7 occupying the eastern line of the Chinese Eastern Rail-
8 way and the advance of the Japanese forces in the area
9 north of Nicholsk-Ussuzisk.
10

11 DD-5. In recognition of his meritorious
12 services rendered in the Manchurian Incident of 1931-
13 1934, HATA was decorated on 29 April 1934 with the First
14 Order of Merit with the Grand Cordon of the Rising Sun.^{a.}

15 III. HATA WAGES WAR IN CHINA.

16 DD-6. HATA's first period of waging war in
17 China falls into two divisions: (a) his acts and
18 responsibility as Military Councilor and Inspector
19 General of Military Education from August, 1937, to
20 February, 1938, and (b) his acts and responsibility while
21 Commander of the Central China Expeditionary Forces from
22 February, 1938, to December, 1938.

23 A. Military Councilor and Inspector General of
24 Military Education

25 DD-7. Within less than one month of the out-

(DD-4.b.Ex. 691-A, T. 7438; Ex. 699, T. 7501.
DD-5.a.Ex. 106, T. 703.)

break of hostilities at the Marco Polo Bridge in China
1 on 7 July 1937, HATA was, on 2 August 1937, recalled
2 from the Command of the Formosan Army and appointed
3 Military Councilor.^{a.} It was then his duty and respons-
4 ibility to advise the Cabinet on military matters. The
5 Japanese Army continued to overrun North China, and on
6 13 August 1937, hostilities broke out at Shanghai.^{b.}

7
8 DD-8. At this crucial stage, HATA was, on 26
9 August 1937, appointed to the politically powerful post
10 of Inspector General of Military Education and continued
11 to serve concurrently as Military Councilor.^{a.} Japan
12 rapidly extended the area of conflict and increased its
13 forces in China. By the end of September, the League of
14 Nations found that under the protection of thirty-eight
15 Japanese warships, an estimated 100,000 Japanese rein-
16 forcement had landed and Japanese military forces had
17 moved into the Yangtze Valley, Nanking, and the interior
18 of China had been bombed, and the Chinese coast blockaded
19 by the Japanese Fleet.^{b.} The Chinese estimated that by
20 the end of September, 1937, there were over 350,000 Japa-
21 nese troops in China, and defense witness TANAKA,
22 Shinichi, stated that by the end of October, Japan had

23 (DD-7. a. Ex. 106, T. 702.

24 b. Ex. 58, T. 3305.

25 DD-8. a. Ex. 106, T. 702.

b. Ex. 58, T. 3305-6.

1 and seeking to consolidate the results of its undeclared
 2 war against China, the Japanese Government, in which HATA
 3 then held a strategic position, offered so-called peace
 4 terms to China. These, if accepted, would have made of
 5 China a satellite of Japan.^{a.} These terms were sub-
 6 mitted through Germany and the reply demanded in no event
 7 later than 10 January 1938.^{b.} On 11 January 1938 Japan
 8 reiterated the terms, adding that in the event China
 9 failed to accept, Japan would destroy the Central Govern-
 10 ment of China and aid in the formation of a new regime.^{c.}
 11 On 13 January 1938, China asked about the new conditions;
 12 d. on 14 January 1938 Japan decided,^{e.} and on 16 January
 13 1938 Premier KONOYE announced to the world that Japan
 14 would no longer deal with the National Government of
 15 China, but would seek the establishment and development
 16 of a new government in China.^{f.} Those who wanted an all-
 17 out war against China had prevailed. The conspiracy
 18 was moving with increased tempo. On 14 February 1938,
 19 HATA assumed command in China.^{g.}

21 DD-11. When HATA assumed command of the Central
 22 China Expeditionary Forces on 14 February 1938, he knew
 23 that he was engaging in a war against China. In his

24 (DD-10. a. Ex. 270, T. 3619-20; Ex. 3260, T. 29702-3.
 25 b. Ex. 270, T. 3620.
 c. Ex. 3264, T. 29844. d. Ex. 486-C, T. 5987-8.
 e. Ex. 2260, T. 16223, 22055-6;
 f. Ex. 3340, T. 30838-9.
 g. Ex. 268, T. 3563-5.
 g. Ex. 106, T. 701.)

1 interrogation he stated: "Although it actually was a war,
2 all they ever considered it was a Chinese Incident.
3 Actually, it was a war."^{a.} The defense claim that HATA's
4 duties were "negative duties," merely to maintain peace
5 and order in the triangle between Shanghai, Nanking,
6 and Hangchow,^{b.} was not borne out by their witness,
7 KAWABE, Masakazu. On cross-examination he admitted that
8 the extensive military operations conducted by HATA as
9 Commander-in-Chief of the Central China Expeditionary
10 Forces, which included the battle of Taierhchuang, the
11 capture of Hsuchow, the campaign resulting in the cap-
12 ture of Wuchang, and the fall of Hankow, were neither
13 "negative" nor "inactive" duties. He then added that
14 these were new duties assigned to HATA.^{c.}
15
16
17
18
19
20
21
22
23
24

25 (DD-11. a. Ex. 256, T. 3451.
b. Ex. 2479-A, T. 21698.
c. T. 21713.)

1 DD-12. HATA did not long remain in the tri-
2 angle zone connecting Nanking, Hangchow and Shanghai.
3 On 19 May 1938 his forces captured Hsuehchow; on 6 June
4 Kaifeng, the capital of Honan Province, fell into his
5 hands. On 27 June, Matang was captured; on 25 July, Kiu-
6 king was captured; on 12 October, Sinyang fell to
7 the troops under HATA's Command; and his crowning
8 accomplishment as Commander-in-Chief of the Central
9 China Expeditionary Forces was the fall of Hankow on
10 25 October 1938. Even with that he did not cease the
11 penetration of China, and on 11 November 1938, his
12 forces captured Yeyang.^{a.} Further light is shed on
13 the size and extent of these operations by the state-
14 ment of HATA in his interrogation that the troops which
15 were reinforced to him from the North China Army prior
16 to the Hankow campaign were "about 300,000 or 400,000"
17 and that the campaign which resulted in the capture of
18 Hankow consumed five months.^{b.}

19 DD-13. The fall of Hankow was the high-water
20 mark of that period of Japan's undeclared war in
21 China. HATA had all but accomplished the purpose of
22 the conspirators. Ten days later, on 3 November 1938,
23 the Japanese Government issued a statement reciting
24

25 DD-12. a. Ex. 254, T. 3430-2
b. Ex. 256, T. 3443-8

1 that the Army had captured Kwantung, Hankow and Wuchang;
2 had overcome the important districts of China; had re-
3 duced the National Government of China to a local
4 regime. ^{a.} It boasted that operations would continue
5 until the National Government of China was "completely
6 annihilated." It affirmed that what Japan sought was
7 the establishment of a new order in East Asia. "This is
8 really the ultimate objective of the present expedi-
9 tion," and to accomplish this it was essential to link
10 Japan, Manchukuo and China. Japan demanded that China
11 take her own share in the task of establishing a new
12 order in East Asia.

13 DD-14. Having completed the task (as the
14 conspirators believed) of substantially destroying the
15 National Government of China, HATA, on 15 December 1938,
16 was relieved of his duties as Commander-in-Chief of the
17 Central China Expeditionary Forces, and on the same day
18 was brought again into the inner circles of Government
19 as Military Councilor. ^{a.} Before leaving the subject of
20 HATA's acts in China during this period, it might be
21 fitting to mention two points: (1) atrocities at Hankow,
22 and (2) HATA's responsibility for the handling of opium
23 and narcotics in the occupied portions of China.

25 DD-13. a. Ex. 268, T. 3564.

DD-14. a. Ex. 106, T. 702

1. Atrocities at Hankow

1 DD-15. Mr. A. A. Dorrance, Manager of the
2 Standard Oil Company at Hankow, testified that in
3 October 1938, he saw Japanese soldiers kicking captured
4 Chinese soldiers into the Yangtze River and shooting
5 those who came to the surface. He further testified
6 that he saw on the streets of Hankow, "Chinese men
7 dressed in Chinese gowns with their hands wired behind
8 them, and they had been shot ..."^{a.}

9 DD-16. Obviously impressed by this testimony,
10 the Defense produced a number of witnesses. Many of
11 these testified as to the military operations preced-
12 ing the fall of Hankow. Some testified that the city
13 of Hankow remained quiet following its capture and that
14 only a small force entered the city. Most of them also
15 testified either that they did not see any acts of
16 violence or did not believe that there were any atroci-
17 ties committed by the Japanese troops at Hankow, that
18 the occupation of the city was so tranquil that there
19 was no possibility for plunder, rape and murder. Some
20 testified that they saw no corpses in the city.^{a.}

21
22 Certain of the witnesses testified that HATA's Head-
23 quarters issued orders to maintain strict military
24

DD-15. a. T. 3392-6

25 DD-16. a. Ex. 2559, T. 21,642
Ex. 2553, T. 21,601
Ex. 2555, T. 21,612

1 discipline. AMANO testified that HATA always advocated
2 the three principles, "Don't burn, don't violate, don't
3 loot," and that his policy had always been, "Defeat
4 Chiang, but love his people." ^{b.} Several testified
5 that the troops under their command committed no acts
6 of violence ^{c.} and that by the first of November the
7 city had returned to normalcy. One witness testified
8 that many Chinese corpses were dumped into the Yangtze
9 River because of the cholera epidemic raging through-
10 out the city. ^{d.} The question resolves itself into the
11 determination between positive evidence by Dorrance
12 who testified as to what he saw, and negative evidence
13 of other witnesses who state that in the parts of the
14 city visited by them they did not witness atrocities,
15 or who give it as their opinion that atrocities could
16 not have been committed by the troops under their com-
17 mands.

18 DD-17. In considering this question it is
19 well to bear in mind that the troops under HATA's
20 command throughout the entire period of his campaign
21 in China in 1938, were destroying, looting and dese-
22 crating the properties of neutral nations, as well as

23 DD-16. b. Ex. 2564, T. 21,749
24 c. Ex. 2551, T. 21,592
25 Ex. 2567, T. 21,771
d. Ex. 2556, T. 21,619

1 entering their homes and killing their citizens. Am-
 2 bassador Grew, on behalf of the American Government,
 3 made repeated protests to the Japanese Foreign Office.^{a.}
 4 Instances of these protests included: 26 March 1938;
 5 the continuing occupation by Japanese forces of Ameri-
 6 can Missionary property in Shanghai and the occupation
 7 and looting of other American Missionary Property at
 8 Changshu; Changchow; Chingkiang; Liwhe; Nanking; Nan-
 9 schiang; Quinsan; Shanghai; Suchow; Sungkiang; Yang-
 10 chow; and Wishih; and other points in four different
 11 provinces in China.^{b.} 28 June 1938, the attack on
 12 American Missionary property at Pungtu in Shangtung
 13 Province and the wounding of the occupants.^{c.} 31
 14 October, the wounding and killing of American nationals
 15 in China and the destruction of American property.^{d.}
 16 21 November 1938, the continued outrages by Japanese
 17 troops against American citizens and property in China,
 18 including desecration of the American flag.^{e.} These
 19 continuing reports of the acts of troops under HATA's
 20 command against the persons and properties of a neutral
 21

22 DD-17. a. Ex. 971, T. 9523 Ex. 981, T. 9855
 23 Ex. 975, T. 9538 Ex. 973, T. 9534
 24 Ex. 976, T. 9540 Ex. 983, T. 9557
 25 Ex. 980, T. 9554 Ex. 986, T. 9562
 b. Ex. 971, T. 9503
 c. Ex. 980, T. 9554
 d. Ex. 983, T. 9557
 e. Ex. 986, T. 9562

1 country make it reasonable to believe the testimony
2 of an eye witness that atrocities were committed by
3 these same troops against the persons and properties
4 of Chinese citizens, and at the same time make it
5 difficult to believe, as one defense witness testified,
6 that HATA's policy was "Defeat Chiang, but love his
7 people."

8 2. HATA's Responsibility for Opium and Narcotics.

9 DD-18. SATOMI testified that he was engaged
10 in 1938 by the Special Service Department under the
11 China Expeditionary Force in Shanghai to handle the
12 sale of opium and that for from six to eight months he
13 sold opium for the Special Service Department, and
14 thereafter he continued in the same position under the
15 direction of the China Affairs Board.^{a.} He further
16 testified that the profits to the Special Service Or-
17 gan and the China Affairs Board out of the first one
18 thousand chests of opium which he handled for them
19 amounted to about \$20,000,000,000.^{b.} The Defense
20 attempted to rebut this evidence by the witness KAWABE,
21 Masakazu. His testimony is conflicting and contra-
22 dicting. He testified that after the China Affairs

23 Board was founded, political and economic affairs pre-
24 DD-17. f. Ex. 2564, T. 21,749

25 DD-18. a. T. 4882-3

b. T. 4885

1 viously handled by the Commander-in-Chief were trans-
2 ferred to it, and that until it was established the
3 Special Service Organization actually handled these
4 in every place upon the request of the Chinese authori-
5 ties. After admitting that the Special Service organi-
6 zations were under the command of HATA, he stated
7 that the China Expeditionary Force had nothing to do
8 with opium, and then makes the remarkable statement,
9 "It is clear that the Commander-in-Chief had nothing to
10 do with the opium question, but I am not quite certain
11 how far the Special Service Bureau, or the Special Ser-
12 vice organizations knew about it. It is difficult
13 to understand the conclusion reached by the witness
14 that HATA had nothing to do with opium and narcotics
15 although the Special Service Organizations under his
16 command were in charge of handling them.

17
18 DD-19. Gill testified that with the Japanese
19 Occupation of Shanghai, opium control and supervision
20 deteriorated; that in October 1938, discussions were
21 held between the Puppet officials and the Japanese
22 military authorities for the establishment of an opium
23 monopoly; and that in the fall of 1938, opium was openly
24 sold in Shanghai, with Japanese nationals taking a

25 DD-18. c. Ex. 2479-1, P. 21,703-5

1 prominent part in the business. ^{a.} Dr. Bates testi-
 2 fied that the use of opium and heroin increased in
 3 Nanking in the summer and autumn of 1938; that narcot-
 4 ics were advertised and sold under permission of the
 5 Puppet Government; the system providing for 175 licensed
 6 dens and 30 distribution stores; and that there were
 7 at least 50,000 persons using heroin in Nanking under
 8 the Japanese occupation. ^{b.} This was in the territory
 9 in which HATA's witnesses say that it was HATA's sole
 10 duty to maintain peace and enforce law and order. ^{c.}

11 IV. MILITARY COUNCILOR AND AIDE-DE-CAMP
 12 TO THE EMPEROR

13 DD-20. ^{a.} As heretofore mentioned, HATA had
 14 lead the Japanese armed forces into the very heart of
 15 China. He and his fellow-conspirators considered that
 16 the National Government of China had been reduced to a
 17 local regime. ^{b.} Having accomplished this purpose,
 18 larger and even more important measures in the carrying
 19 out of the overall conspiracy were in the offing. It
 20 is reasonable to infer that those closest to the new
 21 order in East Asia would seek the advice of the one who
 22 had so successfully carried their banner through China.
 23 On 15 December 1938, HATA was appointed as Military

24 DD-19. b. T. 2648-54

c. Ex. 2479-A, T. 21,698

25 DD-20. a. DD-12-13 supra

b. Ex. 268, T. 3564

1 Councillor in the First KONOYE Cabinet^{c.} and exactly one
 2 week later, on 22 December 1938, Premier KONOYE issued
 3 a statement reaffirming the purpose of the Japanese
 4 Government to completely destroy by force the National
 5 Government of China and at the same time to establish
 6 a new order in East Asia. In this statement he said;
 7 "Nothing is more necessary for China than to discard
 8 her old prejudices and to abandon her foolish resistance
 9 against Japan and her attitude in hanging on to Manchu-
 10 kuo."

11 DD-21. Military aggression in China continued.
 12 On 26 March 1938^{c.} the Japanese forces in China cap-
 13 tured Nanchang, the capital of Kiangsi Province.^{a.}

14 DD-22. On 25 May 1938 HATA was appointed
 15 Chief Aide-de-Camp to the Emperor and continued in this
 16 position until he was appointed Minister of War in the
 17 ABE Cabinet on 30 August 1939.^{a.} The fact that he had
 18 served as Aide-de-Camp and would be acceptable to the
 19 Emperor, gave to the conspirators an opportunity to
 20 hold at least one of their inner group in the ABE Cabi-
 21 net when their plans had been temporarily frustrated
 22 by the non-aggression pact between Germany and Russia,
 23 which brought about the fall of the HIRANUMA Cabinet.
 24

25 DD-20. c. Ex. 106, T. 702. D-22. a. Ex. 106, T. 703
 d. Ex. 268, T. 3566
DD-21: a. Ex. 254, T. 3431

1 THE PRESIDENT: We will adjourn until
2 tomorrow morning at nine-thirty.

3 (Whereupon, at 1600, an adjourn-
4 ment was taken until Friday, 20 February
5 1948, at 0930.)

6 - - - -

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25