

EXHIBIT No. 3337

(39)

THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

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

Affidavit

Defendant

KAYA, Okinori

Sept. 25, 1947
(KAYA)

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

(1) - I was born on January 30, 1889, in the city of Hiroshima, Hiroshima Prefecture, coming from a middle class family. After graduating from the First Higher School in 1911, I entered the Political Science Department of the Tokyo Imperial University and graduated in March 1917.

Immediately after graduation I entered the Finance Ministry as an employee. I took and passed the higher civil service examination and thereafter received promotions continuously under the Civil Service.

In September 1918, I was sent to the United States as secretary to the Japanese Financial Commissioner in New York City. In November 1919 I was ordered to Europe and returned to Japan in March 1920 to a post in the Accounts Bureau of the Finance Ministry. In 1927, I was sent to the Geneva Disarmament Conference and in January 1928 was appointed acting secretary to the then Finance Minister Mitsuchi. In November 1929, I was ordered to attend the London Naval Conference as an attendant to the Plenipotentiary. In March 1930 I was appointed secretary to the Finance Minister and ~~Section~~ Chief of the Accounts ^{Section} ~~Bureau~~. I returned to Japan in May 1930. In November 1932 I was appointed Chief of the Budget and Settlement Section and in May 1934, Chief of the Accounts Bureau. I was appointed Chief of the Finance Bureau in May 1936 and Vice-Minister of Finance on February 2, 1937. On June 4, 1937 I was appointed Minister of Finance, which post I held until May 26, 1938, when I resigned. In August 1939, I was appointed President of the North China Development Company, which post I resigned on October 18, 1941 to become Finance Minister. I resigned as Finance Minister on February 19, 1944.

(2) - As the above mentioned record indicates, except for a period of about two years which I served as President of the North China Development

Company, I devoted my entire career as an official of the Finance Ministry and was wholly occupied with matters of financial administration. The goal of my endeavor was the maintenance of a healthy national finance.

I had no connection whatsoever with the so-called rightist or leftist or military clique, nor was I a member of any political party. For a short period after August 1944, I joined the Imperial Rule Political Assistance Association, an organization composed chiefly of members of both houses of the Diet, but I do not know whether that association could be termed a political party.

In the Finance Ministry, a great part of my time was spent in the study and evaluation of military budgets and other civil budgets, and during this period, I constantly endeavored to slash military budgets and prevent them from increasing. The prevailing conditions at the time made this task extremely difficult, but I believe I succeeded in no small degree in suppressing the growth of military budgets.

I attended the Geneva and London Naval Disarmament Conferences as a member of the Japanese delegations and exerted myself toward the successful culmination of the disarmament treaties.

My effort to suppress the military budgets and successfully conclude the disarmament conferences were due to the instruction of my superior officials and to my personal desire to maintain a healthy national finance and thus lessen the burdens of the people and a strong hope for the maintenance of peace.

(3) - I am charged with Counts 1 to 5 of the Indictment. Even if the conspiracy and planning of war of aggression as mentioned in these Counts did take place I was not party to them and had no connection whatsoever.

I am charged with all the Counts from 6 to 36, except for Counts 18, 23, 25, 26, 33, 35 and 36. Of the Counts I am charged with, with reference to those concerning the Manchurian Incident, I wish to state, as my personal record indicates, that prior to the outbreak of the Manchurian Incident and for sometime thereafter, I was nothing more than A Section

Chief in the Finance Ministry and had no connection with the Incident whatsoever. From December 1929 to November 1932. I was not even concerned with ~~military budgets~~ ^{the Budget of the War Ministry.} Prior to December 1929 and after November 1932, I was concerned with the study and evaluation of military budgets and during this period exerted my efforts toward reducing them. The demands for military budgets increased greatly after November 1932. I vehemently opposed the increased demands and fought to the best of my ability to keep them down.

I wish to state that I had no connection whatsoever with any plan or preparation for an aggression against the French Indo-China or against the Soviet Russia.

During the period from May 26, 1938 to October 18, 1941, I ~~had~~ ^{was not a} member of the Cabinet ~~no connection with the Cabinet~~ nor was I an official of the Japanese Government, and I had no connection whatsoever with the Tri-Partite Pact with Germany and Italy, concluded in 1940.

(4) - I became Minister of Finance on June 4, 1937. I know nothing about Lukouchiao Incident before its outbreak. The Cabinet made no plans or preparation for the Incident. I learned about it for the first time after the outbreak of the Incident and the report was that hostility between the Chinese and the Japanese broke out due to illegal attack by the Chinese. The Cabinet, of which I was a member, decided on a policy to regard the Incident as a local Incident and to settle it on the spot as soon as possible. It was against the sending of troops from Japan, but if that became inevitable to limit the troops to a small number. The sending of troops or the increase in troops was due to the Army report that continued illegal attacks on the part of the Chinese troops and to the massing of their forces in the area so when the Army requested for increase in troops in order to protect the lives and interests of Japanese in that area, the Cabinet could not help but give its assent. The Cabinet's motive in assenting to the requests for sending troops by the Army was to protect ^{the lives and property of Japanese nationals,} Japanese legal rights,

the small Japanese force stationed there in accordance to treaty.

I opposed especially the dispatching of troops to Shanghai for I believed it would spread the Incident wider. I asked for reconsideration, but my request came to no avail, for the other Cabinet members thought the dispatching of troops was necessary in order to protect Japanese interests. However, on every occasion I tried my best to limit the budgets required for the dispatching of troops.

The Cabinet of which I was a member was staunch on its policy to refrain from infringing upon the rights of Third Powers.

(4-b) We, civil members of the Cabinet, were not informed beforehand nor consulted about the various plans for ~~battles~~ ^{military operations}. It was with the greatest anxiety that we viewed the spread of the hostilities to a wider and wider area.

Regarding the Nanking attack, we civilian members of the Cabinet, were not consulted about the attack.

We received no report about the alleged acts of atrocity at Nanking and other places, nor read anything about such acts in the press. I did not know that such acts had been committed.

(4-c) I resigned as Finance Minister in May 1938, long before the spread of the hostilities to Hankow in Central China and Canton in Southern China. My resignation was requested by Premier Konoye and I was happy to be relieved for I had been hoping for an opportunity to do so.

(4-d) The arbitrary confiscations of Chinese enterprises, etc., in ~~North~~ China were made by the military for operation purposes and the Japanese Cabinet had no connection with such acts whatsoever.

(4-e) The prosecution has charged that during the period I was Vice-Minister of Finance from February to June 1937, the Five Year Plan for Steel and the Third Plan for North China were adopted by the Japanese Government; however, I know nothing about such plans.

The prosecution has charged that during the period I was Finance Minister from June 1937 to May of the following year, the Army Five Year Plan for Heavy Industries was adopted for preparation of a future war. The Cabinet did not adopt any such plan. I did not know such a plan actually existed or not and I could not have been a party to it.

From the time prior to my becoming Finance Minister, the financial circle of the country was in a state of uncertainty and I felt the difficult responsibility when I assumed the post of Finance Minister. The sudden outbreak of the China Incident only increased the unrest among the economic and financial circles thereby multiplying the burden placed on my shoulders. During the one year I was Finance Minister, there was no room for any preparation for a future war. I was occupied with the difficult task before me and I did not even dream about a preparation for a future war. The Cabinet had its hands full with the China Incident and did not think about going into another war.

(5-a) I was President of the North China Development Company from August 1939 to October 1941 and shall testify chiefly about the Company during the period I was its president.

The North China Development Company was established in November 1938 in conformity to the Law for the Establishment of the North China Development Company and its purpose and object were defined by laws, passed by the Diet. It aimed to bring about economic cooperation between China and Japan for mutual benefit of both countries. It was not established for the purpose of infringing upon the economic interests of third powers. On the contrary, it desired the participation of third power capital in the economic development of North China. The Company did not infringe upon the rights of the Chinese people nor made any preparation with aim toward war, nor received any instruction from the Japan Cabinet to that effect.

(5-b) - The Company was not permitted to engage in any industry. It

served as a financial organ and its activity was confined to making investments and loans. It did not have the power to mobilize the material wealth of North China, nor was it engaged in such work.

In making loans or investments, the Company was limited by law in scope, that is, it was permitted to make investments or loans only in such industries as mining, transportation, communications, electricity, salt manufacturing, in certain small manufacturing enterprises and in the wholesale of coal. It was concerned only with a limited number of companies in the field in which it was permitted to make loans or investments. It was not concerned with the spinning industry, tobacco and milling industries, which were active in North China, nor in general trade, agriculture, banking and insurance business.

Investments and loans were generally made in Sino-Japanese Joint Stock Companies and other Japanese companies besides the North China Development Company also made investments in these companies. The North China Development Company did not exercise a monopoly over the investments.

(5-c) - The Company did not have any arbitrary rights. It had no more power than any other ordinary company. It aimed to adjust the economic activities of North China, but it was not given any power to control the economy of North China. Loans and investments were subject to contracts under which the company obtaining the financial aid was required to obtain the approval of the North China Development Company in certain prescribed matters in order to avoid over-investment or unwarranted expansion and thus endeavored to bring about a sound and orderly development of the economy of North China. The Company had no rights over any industry except those in which it had financial interest and even then, the rights were limited to those prescribed in the contracts.

(5-d) - All major acts of the Company, including the granting of approval to its affiliated companies, were made at the instruction and approval of the China Affairs Board. The Company was prohibited from

taking any action ^{only} on its own.

(5-e) - The Company's accounts were mostly in the red and subsidies from the Japanese Government were required to pay private stockholders dividends of not more than six (6) percent per annum. Most of the affiliated companies were in the red or made very little profits. In the payment of dividends the Japanese stockholders were not given special favors.

(5-f) - All funds the Company invested in North China were raised in Japan. The Company did not receive any property nor special rights from the North China Political Council, nor did the Company grant any monopolistic right to anyone. It had no power to do so.

The investments and loans handled by the Company were not large. Compared to those in Japan Proper and Manchuria during the same period, they were very small.

(5-g) - The Company did not receive any instructions from the Japanese Government nor on its own free will attempted to expand the production of its affiliated companies with 1941 or thereabout as the goal. While the production of the affiliated companies increased from time to time, the Company looked forward towards long-ranged development of the industries. The Company endeavored toward a solid expansion of the industries it was concerned with. The Tatung Coal Mines, for instance, was expanded on a well-planned program and after my resignation as president of the North China Development Company this coal mine was producing ten thousand tons of coal per day.

(5-h) - I thought of many plans for the welfare of the people in the area, but I was not able to carry out my plans due to disorder caused by the fighting in the area and because Japan was not in a position to help us materially. However, I was able to carry out one plan which did help the people.

In early 1940, the Peiping-Tientsin area was swept by a famine

which threatened the whole area. I was told that importation of twenty million yen worth of wheat flour was necessary to tide over the crisis, but the Government of North China - the North China Political Council - did not have the necessary foreign funds to buy the flour with. I, therefore, negotiated with the Japanese Government for twenty million yen in foreign funds with which to buy the flour. The Japanese Government at that time was hard pressed for foreign money, but I managed to obtain the understanding of the Vice-Minister of Finance Ohno, who promised to extend us as much help as was possible. I next negotiated with the then Minister of Communications Katsu for bottoms to transport the flour. Bottoms, likewise, were short in Japan at that time, but I succeeded in obtaining some and thus succeeded in importing into North China a considerable quantity of flour which helped to tie over the famine.

(6-a) - In the year 1941, rumors to the effect that Japanese-American relations were getting worse with the passing of the days grew in intensity. As I had harbored a sincere hope for the maintenance of peace between Japan and the United States, it made me feel bad to hear such rumors. However, I did not know anything about the contents of the negotiations, nor did I know anything about the policies decided on by the Japanese Government.

(6-b) - On the night of October 17, 1941, Tojo requested me over the telephone to join his Cabinet as Finance Minister. Before giving my reply, I requested for an interview and called on Tojo at the official residence of the War Minister that same night. At the interview, we exchanged conversations to the following purports:

(1) - To my query as to whether he (Tojo) was decided on waging war against the United States, he replied in the negative and stated he intended to continue with the Japanese-American negotiations and exert his efforts toward an amicable settlement.

(2) - I next stated to him that there was rumor to the effect that the Supreme Command and the Cabinet did not always cooperate, that unless these two organs reach a more closer relationship there would be a stumbling block in the negotiations for a successful settlement of the negotiations, ^{maintaining peace} and asked him whether he intended to do something to close the gap. He replied that he fully understood my deep concern and that he would work toward a more closer relationship.

(3) - I told him there was a tendency to adopt reform policies based on the so-called ideology, that we should forget the ideology and adopt policies in keeping with the time and needs of the country. I asked his opinion on this matter and his reply was he felt the same as I did.

I was quite satisfied with the interview, but I left his residence without giving my reply. The public rumor at that time was that the Army was especially pronounced in its attitude towards the United States and I was greatly relieved to learn that Tojo planned to continue with the negotiations and try to settle the disputes amicably. The second point had an important connection in the maintenance of peace and the third point was an assurance that dangerous policies, both domestic and foreign, were to be avoided. I felt that I should join the Cabinet and do what I could to help steer the State to a peaceful landing. Late that same night Tojo telephoned for my reply so I consented to join his Cabinet.

(6-c) - Before joining the Cabinet, I had no relations with Tojo. If I remember correctly, I met him only once. Even after I joined the Cabinet, our contacts were solely official. We had no social relationship.

(6-d) - After joining the Tojo Cabinet, I did everything within my power to avoid war. I realized the goal of my efforts should be the successful culmination of the negotiations. However, the prevailing circumstances of the time were mostly against the successful settlement of the negotiations and I realized the necessity of working towards the prevention of war even if the negotiations could not reach settlement. There were two causes for a possible war:

The first was the military pressure of the ~~Axis~~ Powers and the second was the economic pressure by these powers.

The embargo on vital materials placed on Japan by the Allied Powers was a big blow to Japan. Of all the imported materials, oil was the most critical problem. Japan produced hardly any oil and without imported oil she could not maintain her national defense. I felt that even if the import of oil from the United States and the Dutch East Indies should not be renewed due to the failure of the negotiations, if some other source of oil could be found, it would be a big factor in the prevention of war. I, therefore, suggested a plan for the manufacture of synthetic oil and a plan to buy oil from nearby North Karafuto and if necessary and if possible buy North Karafuto. I fully realized the difficulty of my plans, but I felt we must do everything possible to avoid a war with the United States. My plans, however, were turned down as being impractical.

I also recollect that of the conditions in the negotiations, I was in favor of equal trade opportunity not only in the ^{South} Western Pacific, but in all the Pacific area.

(6-e) - At the Liaison Conference of November 1, 1941 various important problems were discussed. Proposal to commence war immediately was brought up, but this proposal did not meet with favor. For the settlement of the Japanese-American negotiations, the "Ko" and the

"Otsu" plans were discussed. The conference was unanimous in the opinion that Japan should give in as much as possible in order to settle the disputes. The proposal by the Supreme Command, however, plunged the conference into an extreme difficulty. The proposal of the Supreme Command was: "If by the end of November the negotiations did not show a possibility of a settlement we should be ready to decide on war and with that in mind there is need of commencing preparations now". "Japan faces a crisis" stated the Supreme Command in support of its proposal, "Due to the military and economic pressures by the Allied Powers. If the negotiations remain unsettled and we drift along as we are, the defensive power of Japan in the Western Pacific in comparison with that of the Allied Powers will day by day decline. We will reach a critical point if we go along as we are until after December. If we are then attacked or there arises a necessity of waging a war in self-defense Japan will be so weak by then that the Supreme Command will not be able to accept the responsibility of national defense. We must make up our minds to decide on war before the opportune moment is lost and with that in mind we should decide on a preparation for war."

According to the above proposal, failure of the negotiations meant war. Discussions dragged on until after midnight on such points as whether it was not possible to go on without going to war even if the negotiations remain unsettled and whether or not waging a war meant extreme danger to Japan. As for me, it was my desire to go along as it was without war, even if the negotiations remained unsettled, but there was no way of bringing this about.

The Supreme Command was responsible for national defense and it was not possible to just oppose its proposal. However, to give assent to the proposal meant making the possibility of war that much greater. I was in an extremely difficult position. I fully realized what suffering

"When the Supreme Command said it could not take the responsibility of national defense"

war would mean that we should try to avoid it if at all possible.

My first trip to Europe was made a year and several months after the Armistice, of the First World War, but I became fully aware of the horrors of war. The horrors of war were especially visible in the defeated countries, but for the people and the governments of the countries which won the war there was also suffering. I saw the battlefield and the wide devastations and the horrors of war sank into my bones. The China Incident had been going on for a long time and the people were feeling the effect of it. Needless to say, if a war against the United States should break out it would greatly add to the sufferings of the people.

The Supreme Command insisted that there was a chance for victory if war was started at an opportune time, however, the Navy Branch of the Supreme Command had predicted that should the war drag on for over two years the outcome would be uncertain. There was the possibility that the war might drag on for a long period and should Japan lose after a protracted war she would suffer more than if she did not go to war at all, even if the war was a defensive war. For the above reason, I felt I could not then and there give my assent to the Supreme Command's proposal and insisted we should give the matter further consideration. The Supreme Command replied that the matter called for immediate decision, otherwise for there will not be sufficient time for preparation it could not assume responsibility for national defense. I argued strongly against making an immediate decision and was finally given an opportunity to consider the matter for another day. Togo also made the same reservation.

Returning home from the Liaison Conference, I spent a restless night pondering over the matter. A decision on the pending proposal was not a decision to wage war, but it meant war would be highly probable if the Japanese-American negotiations were not settled by the end of November and I wanted to avoid war if at all possible. Thinking over the matter, however, I came to the conclusion, regardless of whether the issue in

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question was good or bad, circumstance did not permit me to stop it. If I opposed it, there was nothing I could do except to resign. I felt that if I resigned, the effect, both at home and abroad, would be unfavorable towards the settlement of the Japanese-American negotiations and thus aggravate the possibility of a war between the United States and Japan. That much was clear.

Next morning Tojo telephoned me twice for my reply, I believed that further delay on my part would only aggravate the pending issue so I replied that I was not opposed to the proposal before the conference yesterday, but sincerely hoped for an amicable settlement of the negotiations.

(6-f) - The Hull Note of November 26 was a big blow to all. Japan could not accept the terms and the Foreign Minister explained there was little room for reconsideration on the part of the United States. The question at issue was whether to commence hostilities or drift along with the disputes unsettled. The Supreme Command was of the opinion that it could not accept responsibility for national defense if hostilities were not commenced at once. If the United States showed the least compromising attitude, there might be a way of continuing the negotiations even by altering the terms of the "Ko" or the "Otsu" plans, but the Hull Note indicated that settlement was not possible. In view of the conditions, a decision to wage war in self-defense was inevitable.

Japan was embarking on a perilous war, whether good or bad. If the Finance Minister had resigned,^{*} the effect to the general public would have been extremely great. The public would have interpreted the resignation to mean that financially and economically, Japan was not in a position to fight the war successfully, that the Finance Minister resigned because he felt the burden too great for the nation to bear. When it comes to national finance, the feeling of the people is especially important. If ^{*} on the ground that he was against war, there would arise the possibility of adding greater difficulties to this ⁻¹²⁻ already difficult situation

the people are made to lose confidence it will breed a feeling of uncertainty and thus might become a cause for defeat. I was against the war, but I could not think of increasing the dangers that Japan faced. I felt it my duty to carry out my responsibility.

(6-g) - The decision to wage war was decided at the Imperial Conference of December 1, 1941, but hope that the war might be averted, though dim, was not given up. I pressed and obtained at the Liaison Conference the Supreme Command's agreement that war plans would be cancelled even after the outbreak of skirmishes if the negotiations reached a point where settlement was possible.

(6-h) - I do not recall that the reply to the Hull Note of November 26 was ever discussed at any of the meetings I attended, Liaison or Cabinet. I was of the opinion the matter was competently handled by the responsible officials. The prosecution has charged that a declaration of war was discussed at the Privy Council meeting of December 8, 1941. A declaration of war was discussed at that meeting, but it was an Imperial Rescript on the declaration of war addressed to the Japanese people.

(6-i) - War operation plans were never discussed at the Liaison Conferences or at the Cabinet meetings. I was not consulted about the Pearl Harbor attack or any other attack, nor was I ever informed about such attacks beforehand.

(7a) - I shall next reply to the other counts: 37 to 46, 51, 52 and 53.

It was my sincere desire to avoid war and I did everything in my power to do so, but the conditions against me were too strong. My assent for war was inevitable. However, I firmly believed we were fighting a war in self-defense and for our very existence.

As to the attack prior to formal notification in violation of International Treaty, I did not know such a plan existed and not knowing about it, I could not have stopped it. Furthermore, the Japanese Government did not have such a plan.

As to the acts of atrocity and other acts in violation of the law of land warfare, I had no connection with them whatsoever. In Japan the Supreme Command existed as an independent organ from the Cabinet and we, civilian members of the Cabinet were not informed beforehand or consulted on plans and preparations for battles. Furthermore, we, civilian members of the Cabinet, had no power to command or stop a battle. We had no voice in the choice of commanders of the Army and Navy. I, at least, was not even informed about the acts of atrocity, either officially or otherwise. Nothing about the acts of atrocity was mentioned in the press or radio. I was not even informed about the protests from foreign countries. I was of the impression the war was being fought fairly.

(7-b) - As to the treatment of prisoners of war, I was not informed nor consulted about it either in the Cabinet meetings or elsewhere, nor was I informed about the protests from foreign countries. It was said that in previous wars Japan had accorded good treatment to prisoners of war. Concerning the treatment of prisoners of war during the Pacific War, I was not in a position to even dream that ill-treatment was being accorded the prisoners of war. I did not even hear of rumors that prisoners of war were being ill-treated. The press and radio made no mention of it.

(7-c) - As to Counts 45, 46 and 47, I have touched on them in the China Incident Phase.

(8) - I resigned from the Tojo Cabinet on February 19, 1944 at the request of Premier Tojo. By the year 1945, it became clear that Japan

was facing defeat. The suffering of the people due chiefly to the air raids was extremely painful and I deeply felt my political responsibility to the people. On August 11, I learned that the Government had decided to accept the terms of the Potsdam Declaration. Feeling deeply my political responsibility to the Emperor and the people, I made up my mind to resign all marks of honor which His Majesty was graciously pleased to confer upon me (the privileges of my former post as a Minister of State specially granted me court rank) order of ~~merits~~, and become a plain citizen and remain in the background in the future. However, as a private citizen, I felt I should do everything I could for the people and if circumstances permitted, do my small part in the prevention of a bad inflation which was sure to follow the war. I felt that we who were concerned with finance should bear the responsibility of maintaining financial stability.

On this 25th day of September 1947
at TOKYO.

DEPONENT: KAYA, OKINORI (seal)

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

On the same date at TOKYO

WITNESS: TAKANO, TSURUO (Seal)

O A T H

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

KAYA, OKINORI (Seal)