

EX 336A

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

The United States of America, et al

-vs-

ARIMU, Sadao, et al

SWORN DEPOSITION

DEPONENT: SHIBAYAMA, Kaneshiro

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

1. I, SHIBAYAMA, Kaneshiro, was born at Osone, Amahikimura, Makabe-gun, Ibaragi Prefecture, and I now live at 861 Komaba-machi, Meguro-ku, Tokyo. I held the position of Vice-Minister of War from August 1944 (Showa 19) to July 1945 (Showa 20).

2. I have had no direct connection, whatever, officially or otherwise with the defendant KIMURA, Heitaro.

3. During the time that I was Vice-War Minister and during the time that LIMURA was Vice-War Minister, the regulations concerning the duties and responsibilities of that office were construed to mean and were placed in practice as follows:

a. The Vice-Minister acts as an assistant to the Minister. Toward other departments and authorities he has no authority to represent the Ministry, nor does he possess the right of command, accordingly he is not in a position to take any responsibility for matters outside the ministry.

b. The Vice-Minister acts as an assistant to the Minister concerning military administrative affairs, but not concerning state affairs. Therefore, when the Minister wants to order the Vice-Minister to act in his place, first he has to go through the formalities of appointing the Vice Minister to the position of Minister of State according to the routine of the cabinet organization, otherwise the Minister has no authority to have the Vice-Minister

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~~This is similar to the way in which~~ ^{Because} the Chiefs of Bureaus and Departments direct and supervise the affairs of Departments and Sections which are under their jurisdiction.

f. The Chief of the War Prisoners Control Bureau superintends affairs in the War Ministry concerning the treatment of prisoners of war, and the Chiefs of other bureaus also supervise respectively the affairs relating to prisoners of war, according to their jurisdiction by order of the Minister. While the Chief of the War Prisoners Control Bureau is entrusted with some matters which are not very important, the Vice Minister has nothing entrusted to him relating to affairs within the jurisdiction of the War Prisoners Control Bureau.

g. The Vice-Minister is entrusted with a number of unimportant affairs which are under the jurisdiction of the Bureaus, and has no right to decide other matters, still less the right to give orders to those who are outside of the Ministry.

h. The Vice-Minister's notifications by order are such notifications as are issued in the name of the Vice-Minister according to the routine hitherto in practice in case the Minister's orders are to be transmitted in writing. Also telegrams, references, answers, etc., are issued or received in the name of the Vice-Minister according to the routine procedure of business, but this fact does not necessarily mean that the Vice Minister is responsible for such statements.

i. Within the War Ministry it is the rule that the Vice Minister has nothing to do with appointments of personnel. This is contrary to the practice in other ministries.

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act in his place. For instance, once when Minister of War UGAKI suffered illness for a long period of time, Lt. General ABE, who was the Vice-Minister then, was appointed specially to be Minister of State and then was ordered to act in place of the Minister.

c. The rights to command, to appoint or dismiss, and to punish the Chiefs of Bureaus and Departments belongs only to the Minister, and not to the Vice-Minister. The Vice-Minister has only the right to supervise business management. This, however, does not imply such strong authority as the right to direct and command such management. It merely implies the right to offer ^{and} guidance/instruct with regard to business.

The Chiefs of the Bureaus and Departments have the right to command, to control and punish their staffs, and to keep examination records concerning them.

d. The Chiefs of Bureaus and Departments are under direct control of the Minister, administer their duties by order of the Minister, and are directly responsible to the Minister. Therefore, they can present their opinion directly to the Minister and ask his decision, and the Minister can directly command and order them.

e.e. "The disposition of departmental business" which is the duty of the Vice-Minister means that the Vice-Minister is to coordinate business between bureaus and departments, to decide the matters delegated, and to transact miscellaneous and routine affairs which do not belong to any Bureau or department. "The supervision of business" means that the Vice-Minister, as an assistant to the Minister in regard to the affairs for which the Minister is responsible, is to direct the business of Bureaus and Departments.

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j. The actual circumstances in which business is handled at the military section of the Imperial Headquarters are not different from the relation between the General Staff and the War Ministry in peace time. Accordingly, the Vice-Minister and the Chief of the Military Affairs Bureau who attend the Imperial Headquarters councils as attendants of the War Minister, have their own chairs as in the War Ministry; therefore, they perform their functions rather as members of the War Ministry than as members of the Imperial Headquarters and manage the matters of military administration concerning military operations, but do not participate in the planning and executing of military operations. That is to say, the purpose of establishing the Imperial Headquarters was to make the resolution of the people more firm and to show to the foreign countries a firm determination of Japan concerning the China Incident. As regards business management, there is essentially no difference from peace time.

4. Changes of Cabinets have no connection whatever with the appointment of the Vice Minister of War, which belongs in the jurisdiction of the War Ministry.

5. It was natural that the Vice-Ministers, no matter who they were ^{were} appointed as members or councillors of various committees, but many of them actually have played no important part as such.

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On this 25 day of Jan., 1947

At 861 Kamaba-machi Meguro-ku, Tokyo

DEPONENT SHIBAYAMA, Kaneshiro (seal)

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

On the same date, at same place

Witness: /S/ SHIOBARA, Takisaburo (seal)

O A T H

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

/S/ SHIBAYAMA, Kaneshiro (seal)

Translation Certificate

I, Charlie S. Terry of the Defense Language Branch, hereby certify that the foregoing translation described in the above certificate is, to the best of my knowledge and belief, a correct translation and is as near as possible to the meaning of the original document.

/S/ Charlie S. Terry

Tokyo, Japan

Date May 21, 1949