

575.1

Testimony Shows Emperor's Disapproval Of Incident's Spread, Control By Army

INTERNATIONAL MILITARY TRIBUNAL COURTROOM, June 28.—Describing the steps taken by his father Tsuyoshi Inukai to stem the expansion of the Manchurian Incident, Ken Inukai, son of the former assassinated Prime Minister, testified as follows in today's session of the Tokyo trials.



K. Inukai "When my father visited Prince Saionji, the Elder Statesman, to confer concerning assumption of the post of Prime Minister, as was customary, the Prince told my father that it was the Emperor's wish for Japanese politics not to become in such a state that it would seem only the Army was controlling everything.

"When my father had an audience with the Emperor, the Emperor told him words to the same effect. I am convinced that my father had staked his life to meet the Emperor's wishes.

To Check Army's Action

"In order to solve the Manchurian Incident, my father decided that the best way was to have an audience with the Emperor and obtain an Imperial Command that the movement of the Japanese Army should cease.

"In line with his policy, my father had an audience with the Emperor and have his opinion that Manchuria should not be made into a separate state and that the Japanese Army should return to their original positions.

"The Emperor asked my father at that time what he would do if the Army was against his proposal. My father replied that even if the entire Army was against him, he would carry out this policy.

Emperor Expresses Hope

"During the audience, the Emperor frequently said he hoped the Manchurian Incident would be limited to the smallest possible scale as quickly as possible and that negotiations could begin with Chinese statesmen to find some basis for fundamental and eternal peace."

Inukai then outlined the preparations which were started to carry out the Emperor's wishes, such as the dispatching of a secret emissary, Kayano, to Nanking without the knowledge of the Army.

Kayano, by code telegram, informed Inukai that Chu Chen, president of the Legislative Yuan of the Kuomintang, would go to Manchuria to negotiate with a Japanese Ambassador. Inukai declared that Motaro Yamamoto had been chosen. However, events turned for the worse and it became impossible for the preparations to continue.

At this point Sir William Webb halted Inukai's testimony.

Wakatsuki Testifies

Prosecutor Hugh Helm (U.S.) then called in the witness Baron Reijiro Wakatsuki, 80-year-old ex-Prime Minister.

According to Baron Wakatsuki's affidavit (Exhibit 162), the chief task of his Cabinet (April 1931 to December 1931) was to prepare the budget reducing the Army and Navy expense for the following Hamaguchi Cabinet.

Cabinet Learns Day Late Of Incident's Outbreak

Wakatsuki testified that his Cabinet learned about the Manchurian Incident on September 19, 1931, one day after its outbreak. War Minister General Minami, Wakatsuki declared, at the time agreed to make efforts to terminate hostilities. Minami, however, was unable to do so and on September 22 General Hayashi, commander of the Japanese Army in Korea, moved into Manchuria, thus spreading the incident without Imperial or governmental sanction.

Minami agreed to the policy of ceasing these operations, but each day only saw the expansion of the troop movement. Wakatsuki continued that he tried everything in his power to control the situation.

Finally he tried to form a coalition Cabinet with the Seiyukai and Minseito in order to put up a strong front. However, Wakatsuki concluded, Minami failed to control the army in Manchuria and failed to carry out the Cabinet policy. The Wakatsuki Cabinet thus had to resign.

Cross-Examination Begins

The cross-examination of Baron Wakatsuki began with Defense Counsel Toshio Okamoto (on behalf of defendant Minami) questioning concerning Minami's activities during the period in question. Wakatsuki testified that he was aware that General Minami in the middle of October, 1931, had caused the arrest of several young officers, who were apparently plotting to kill him.

Wakatsuki also recalled that orders were given for the Kwantung Army to halt its advance in Chinchow but did not recall whether General Minami had given the order.

"I believe General Minami was opposed to the spread of warfare in Manchuria," Wakatsuki declared.

At this point, President Webb called the noon recess.

Upon the session reconvening at 1:30 p.m., Defense Counsel Okamoto cross-examined the witness.

Ugaki Takes Witness Stand

Another recess was taken and upon reconvening at 3:05 p.m., General Kazushige Ugaki took the witness stand and his affidavit was read.

In answer to questions, General Ugaki testified that when he was given the Imperial command to form the Cabinet, he was unable to do so due to opposition by the Army.

When asked if the War Minister were responsible for action taken by the Kwantung Army and other overseas forces, Ugaki replied that such responsibility rested with the Chief of the General Staff. The session adjourned at 4 p.m.

Okawa Plotted To Seize Govt With Army's Help

United Press
TOKYO, June 28.—Dr. Shumei Okawa organized a plot to seize the Government of Japan with the aid of the Army in March, 1931, but the plot failed when the Minister of War, Gen. Kazushige Ugaki, refused to support it, Ugaki testified today in the war crimes trial.

Ugaki said he received a letter from Okawa urging him to head an army-controlled government and that he immediately notified his assistants in the War Ministry to forbid the army to have anything to do with the movement.

Okawa's letter was admitted in evidence and made it clear that the mentally-diseased ultra-nationalist leader, who now is in a hospital undergoing treatment for paresis, was one of the leaders in the whole series of plots which resulted in the conquest of Manchuria and the later war against China.

Okawa's letter was written in the typical mystical language which he used in addressing his "disciples" and contained a veiled threat that disaster would overtake Ugaki if he refused to become the titular head of the proposed militarist regime.

Ugaki used Okawa's name with obvious distaste and went on to say that a number of leading figures in the army including General Terauchi, Sugiyama and Nishio were among the ultra-militarists who opposed his program of keeping the Army out of politics.

Okawa's letter was written while the late Yuko Hamaguchi was Prime Minister but predicted that he would be forced to resign to avoid a disturbance in the political world which would create "fearful muddy waves" that would swallow Ugaki. Okawa referred to his revolutionary movement as the Showa Renovation and denounced the existing political parties as corrupt and dishonest.

MAINICHI 30 JUN 1946

NOTORIOUS GUARD GETS 20 YEARS

Brutal 'Watersnake' Found Guilty By 8th Army Court

YOKOHAMA, June 29 (AP)—Genji Minemo, known to prisoners as "Watersnake", was sentenced 20 years imprisonment by Eighth Army Commission, which found him guilty of war crimes charges of brutalities and mistreatment of war prisoners.

Among the charges on which Minemo was found guilty, were beating Cpl. John S. Painter on the head with rifle and forcing him to stand in a tank of cold water; torturing Seaman 1c. George Dewitt Stoddard by beating and inserting slivers of wood under his fingernails; tying up William O. Cash and pouring water down his nostrils.

STARS & STRIPES
30 JUN 1946

Wrong General Hata on Trial, Claims Defense

TOKYO (INS), June 26.—Defense counsel claimed Wednesday that one of the generals being tried with Hideki Tojo before the International Military Tribunal was arrested because of a case of mistaken identity.

The defense further claimed that not only is Field Marshal Shunroku Hata not a Class A war criminal but he actually was one of the Japanese army's sternest disciplinarians who was sent to Nanking to restore order among Japanese troops who committed the infamous rape.

Another Hata, Lieut. Gen. Hikosaburo Hata, was guilty of many

Tribunal Asked to Produce Real Culprit, General Hikosaburo Hata

crimes charged in the indictment against the field marshal, according to Marine Lieut. Aristides G. Lazarus, New York, defense counsel who formally requested the Tribunal to produce Hikosaburo Hata.

Lazarus' appeal stated that the latter was chief of staff of the Kwangtung Army at the end of the war and nothing has been heard of him since the Russians over-ran Manchuria last August.

Field Marshal Hata is named in count 25 of the indictment of participating in the attack against the Russians at Lake Khazan in 1938, but Lazarus pointed out that at that time he was in central China where he had been sent to relieve defendant Gen. Iwane Matsui following the rape of Nanking.

Both graduated at about the same time from the military academy and both had closely parallel military careers.

Since none of the Kwangtung Army personnel have yet been repatriated a Tribunal decision to produce Hikosaburo Hata would involve an appeal to the Russians.

NIPPON TIMES 27 JUN 1946

2 More Convicted For PW Atrocities

Interpreter Kameoka Gets Life; Lt. Hirata 20-Year Prison Sentence

Two military commissions on Wednesday returned convictions in two war crimes trials for mistreatment of Allied prisoners of war.

A sentence of life imprisonment was pronounced upon Yoshio Kameoka, civilian interpreter at the Narumi PW camp near Nagoya. The verdict came shortly after an affidavit was entered from Vincent W. Owen, former prisoner, which stated that Kameoka "was responsible for some of the worst rules imposed on prisoners at the camp."

Lt. Takeharu Hirata, former commandant of Fukuoka Prisoner of War Camp No. 23, was handed a 20-year prison sentence. Evidence showed he had withheld food and medical care from the Allied prisoners in his camp, and otherwise mistreated them.

Meanwhile, Vice-Admiral Naomasa Sakonji and 21 other suspected Japanese war criminals were admitted to Sugamo Prison between June 14 and June 20, according to SCAP's Legal Section.

As commander of the 16th Squadron, Admiral Sakonji, it is charged ordered the execution of 67 British, Indian and Chinese survivors of the British ship, "Bear," which was sunk in the Indian Ocean in March, 1944.

The names of the others in the group, who are former prisoner of war camp administrators and guards, follow:

- Sgt. Hiroyuki Morita, Sgt. Toshikazu Uchida, Cpl. Yoshitaro Matsunoto, Cpl. Masayoshi Nagamiye, Cpl. Eisuke Watanabe, 1st Lt. Tsunemoru Ashida, 2nd Lt. Tsuneo Ouchi, 2nd Lt. Kunio Miyazawa, 1st Lt. Yasushi Nishina, Sgt. Maj. Terumistu Noguchi, Col. Junichi Nakano, Yoshio Koga, Cpl. Toshinori Kihara, 1st Lt. Iwao Tahara, 1st Lt. Juro Tsukada, Sgt. Mitsutoshi Kawano, 2nd Lt. Hideo Yamamoto, Cpl. Kiyoshige Yamaguchi, Capt. Shigeru Kyoda, Major Noboru Hirano, Sgt. Masayoshi Michishita.

NIPPON TIMES 28 JUN 1946

Indictment Discharged

Fujita Tells Of Talks With Shigeto, Hashimoto

The death of Defendant Matsuoka was reported to the International Military Tribunal by Defense Counsel Kobayashi as the session opened Thursday, June 27, at 9.30 a.m.

After admitting the death certificate of the former Japanese diplomat-statesman as Exhibit 159, President of the Tribunal Sir William Webb ruled:

"As against the defendant Matsuoka, the indictment is discharged. His name will hereby be stricken from the indictment."

Colonel Warren, American defense counsel of Matsuoka, made the further request: "We should like to turn the remains over to the family as soon as possible."

Sir William: "We order accordingly, subject to any requirements of the Supreme Commander."

Nobuichi Obara, defense counsel for defendant Okawa, continued the cross-examination of Marquis Tokugawa.

Prosecutor Helm then called in the next witness, Isamu Fujita, journalist, who stated in his affidavit that he was intimate with Col. Chiaki Shigeto and Col. Kingoro Hashimoto who talked often to him about the emergency situation in Manchuria and the need for positive action.

Fujita, who has been president of several papers, declared that both Shigeto and Hashimoto admitted their plans succeeded when the Manchurian Incident broke out.

Counsel Hayashi began the cross-examination, basing his questions on dates and places. Counsel Obara in his cross-examination, then asked for details of what Shigeto and Hashimoto said concerning the emergency in Manchuria.

MAINIC 28 JUN 1946

Ito's Insanity Plea Denied

Kyodo-AP GUAM, June 30.—An American military commission denied the insanity plea of Colonel Kikujū Ito who is accused of bayonetting and beheading two American war prisoners on Chichijima in August, 1944. The decision followed testimony by psychiatrist, Robert Switzer, who said that while Ito suffered from neurasthenia, he was sane now and at the time of the alleged murders.

NIPPON TIMES 1 JUL 1946

WAR CRIMES TRIAL TO CONSIDER JAP MANCHURIAN WAR

By United Press

The phase of the prosecution's case dealing with the power of the army over the Japanese Government is expected to be completed today in the war crimes trial.

The next phase of the case which begins tomorrow will concern Manchurian aggression. The prosecution will go into great detail on this part of Japan's overall war efforts.

When the trial is resumed today, former War Minister Gen. Kazushige Ugoki will be recalled for further cross examination by the defense. He testified before adjournment Friday regarding efforts by ultranationalists, including defendant Shunpei Okawa, to overthrow the civilian government and put the militarists in power.

A member of the prosecution staff said the best evidence against the defendants still has not been introduced.

STARS & STRIPES 1 JUL 1946

575-1

Educational Institutions Oppressed By Militarists, Testifies Prof. Ouchi

Professor Hyoei Ouchi of Tokyo Imperial University was a witness for the prosecution at the International Military Tribunal on Wednesday, June 19.

He testified that the Japanese Army held a heavy hand of control over the Japanese universities.

The 14th day proceedings of the court began at 9.35 a.m.

Professor Ouchi looked pale and nervous as he took the oath

and replied "no" to the question, "Are there any errors in the affidavit?" asked by Valentine C. Hammach, assistant U.S. prosecutor.

Prosecutor Hammach submitted the affidavit to the court as evidence. Then the affidavit by Professor Ouchi was read.

The affidavit outlined the militaristic oppression of the educational institutions during the time when Sadao Araki and Marquis Koichi Kido were Education Ministers.

Then Attorney Hozumi for Marquis Kido and Shigenori Togo and Attorney MacManus for Sadao Araki asked questions.

Recess was taken at 10.45 a.m., the session resuming at 11 a.m.

'On-Scene' Witnesses

United Press

TOKYO, June 18.—Three "on-the-scene" American witnesses of Japanese aggression in China arrived in Tokyo from the United States last night to give eyewitness testimony in the major Japanese war crimes trials now being held before the International Military Tribunal for the Far East.

They are J. B. Powell, former editor of the Shanghai China Weekly Review, Dr. Robert O. Wilson, former physician and surgeon for Nanking hospital who witnessed the "rape" of the city by Japanese troops in 1937, and Rev. John G. Mages, now minister of Episcopal students of Yale University, who was also present during the fall of Nanking.

MAINICHI 20 JUN 1946

Tozuka Is Accused Of Slaughter Of 1,600

G.H.Q., U.S. ARMY FORCES, PACIFIC, P.R.O., June 18.—SCAP's Legal section today accused former Lt.-Col. Ryoichi Tozuka, of responsibility for the slaughter of 1,600 unarmed non-combatants in the Philippines, including 17 United States citizens. Tozuka will be tried in Manila.

MAINICHI 22 JUN 1946

Propaganda for War Brought Up at Trial

Prosecution Witnesses Bare How Government Prepared People for Hostilities

The prosecution yesterday, Thursday, sought to show the court that the Japanese Government through a well-organized propaganda plan tried to inflame the people against the United States and Great Britain.

It brought to the stand Nobumi Ito, former President of the Board of Information, who declared that propaganda issued by the War Ministry was of inflammatory nature with the purpose of preparing the Japanese people for war against the United States and Great Britain.

He stated that the propaganda disseminated through the Board of Information, which was established in 1940, sought to justify Japan's position in world affairs and to prejudice the people against "potential enemies" such as America and Britain.

Beginning in 1930, all channels of propaganda dissemination in Japan were mobilized to make the people believe that "Manchuria was the life-line of Japan" and that that country must be set up as a defense state against Russia, declared former Education Minister Tamon Mayeda another witness.

Acting upon orders from the Government, Mayeda stated, editorial writers, speakers and writers of books were all united in a concerted effort to justify to the people the aggression in Manchuria.

He accused Shumei Okawa, one of the 28 defendants standing trial, as being one of the leading writers of that period, urging expansion and control of Manchuria. Okawa, suffering from venereal disease of the brain was not present in court.

Mayeda was one of the witnesses presented by the prosecution which further sought to prove Japan had prepared for war.

Both testimonies were presented in affidavit form, but cross-examination was made only on Ito. Mayeda was ordered by the court to leave will point out the necessity of increased production and supply of fertilizer, farm implements and fishing apparatus.

The Liberal Party, after consulting with the Progressives, reached a tentative decision to appoint Tomojiro Okubo and Shotaro Yano as chairman of the Whole House and Budget Committees, respectively. Formal decision is expected to be made at today's executive committee meeting.

NIPPON TIMES

21 JUN 1946

WITNESSES TELL COURT OF JAP SCHOOL SYSTEM

Affidavits, Book Offered As Evidence In Trial Of Ex-Education Minister

By Sgt. ROLAND MARTONE

The case of the U.S. versus Sadao Araki, former minister of education, progressed through five more witnesses in yesterday's war crimes trials, with the prosecution offering affidavits and publications to show that Imperialism and the necessity of war were taught in Japanese schools.

The court session included a discussion between prosecution and defense concerning the translation of a book "The Way of the Subjects", introduced while Tamon Maeda, another ex-Minister of Education was on the stand. The defense declared that although the prosecution had entered the book as evidence, it had only translated sections of the book. Such was contrary to an agreement that publications tendered as evidence would be translated and made available to the other side, the defense said.

Book in Court

Chief Justice Webb, agreeing that the translation problem was very acute, said the book "is here in court and as a remedy the defense can tender the balance of the article"

Other witnesses of the day included Prof. Yukitaki Takikawa, who had been on the stand Wednesday; Dr. Nobufumi Ito, former member of the Board of Information; Prof. Shigenobu Ikeshima of Hosei University and Akio Saki, publisher of "paper plays" for children. All offered affidavits to show that propaganda, encouraging aggressive expansion of Japanese imperialism had been disseminated to children and grown-ups alike via text-books, radio, and the "paper plays."

Defense Attorney Ichiro Kiyose, in cross-examining Ikeshima, made the latter admit that much of his affidavit was based on hearsay. Ikeshima, among other statements, had said that military training started in schools in 1893.

Kiyose, on ascertaining that Ikeshima is only 43 years old, said, "How can you possibly know such things except by hearsay?"

Tojo Glad Emperor Safe

Hideki Tojo, who sat solemnly through the day, made the statement between court sessions that he agreed with Chief Prosecutor Joseph B. Keenan that Emperor Hirohito should not be tried as a war criminal. He told Associated Press in an exclusive statement that he was "very glad and full of joy" to hear of Keenan's opinion.

One of the high-lights in court yesterday came at the conclusion of the morning session. In a solemn, official tone, the court clerk announced:

"Joe Louis won over Billy Conn in the eighth round."

STARS & STRIPES

21 JUN 1946

Show Film At Trials As Proof Of Jap Military Education

By Sgt. ROLAND MARTONE, Staff Writer

The War Crimes Trials took a turn toward dramatics yesterday with the screening of part of a propaganda film and the showing of a "Paper Play" high-lighting the day's court session. The movies will continue on Monday.

One reel of "Critical Period in Japan," produced by the Osaka Mainichi, a newspaper, was shown to the Tribunal after the movie had been referred to by Kimbei Nakai of the Nippon Newsreel Co. as being "an example of many propaganda pictures" made in Japan before the war.

According to Nakai, the Japanese Army and Navy had many films made that definitely encouraged militarism and imperialism. In "Critical Period in Japan," former Lt. Gen. Sadao Araki appears in what might be called a "supporting role." In the first reel, he faces the camera and makes a speech warning Japan of her predicament. The general, now on trial, sat

stolidly in the court-room while the film brought the past back to him on the screen.

The defense protested against the showing of the movie under such "short notice" conditions on the grounds that there would be no time to prepare a cross-examination or to check the translations for accuracy.

Chief Justice William Webb there-upon adjourned the Tribunal until Monday to permit the prosecution and defense to view the film privately in order to check translations and to prepare questions based on the film.

Fighting" urges friendship and cooperation between Japan and China and asks the Japanese people to brace themselves during the critical period.

Cross examination by the defense attempted to show that the propaganda contained in the cards were not positively directed against the United States and Britain, but the witness stuck to his belief to the effect that a war with the Anglo-Americans was inevitable.

During yesterday's trial, the problem of presentation of evidence documents 24 hours prior to tendering in court was brought up again through defense protests. The prosecution claimed that they were.

Sir William stated that according to his colleague, Lord William Donald Patrick, Justice for Britain, the defense here is getting "much more consideration" than in Germany. Sir William said that only two copies were given the defendants there.

Uzawa Named Chief

The leading Japanese accused as war criminals and now standing trial before the International Military Tribunal for the Far East Thursday selected Somel Uzawa, prominent Japanese attorney, as chief of the individual Japanese counsel representing them.

George Yamaoka, New York Attorney brought here at the specific request of the defendants, previously had been designated by all defense counsel as chairman of the defense section to coordinate the defense work. His selection followed the resignation of Navy Captain Beverly Coleman, who was chief of the defense section, which post has not been filled.

Uzawa was named in a notice filed with the Tribunal's secretariat Thursday morning.

STARS & STRIPES 22 JUN 1946

Prosecution Shows Propaganda Picture To Support Its Case

Film Made in 1933 Exhibited To Prove Araki Statement on 'Japan's Divine Mission'

The first reel of a 12-reel motion picture "Critical Period of Japan" (Hojoji Nippon), produced by the Osaka Mainichi Newspaper Publishing Company in 1933 was shown at the International Military Tribunal yesterday by the prosecution to prove Japan's ambition to dominate the "whole world."

In the first direct evidence so far against one of the accused Japanese war leaders, the prosecution sought to back the charge that Sadao Araki made the statement that it was "Japan's divine mission to dominate East Asia and the whole world."

The showing of the entire picture, however, was postponed until the court reconvened Monday morning at 9:30.

After one reel, Justice Sir William Webb President of the Tribunal, considered the film a waste of time, but the prosecution maintained that it was an important evidence which the rest of the film will show. Sir William then consented to its continuance on Monday.

The 13-year-old film showed its age, but nevertheless it was apparently an ambitious attempt, with dramatic shots and sound effect in addition to Araki's speech, to arouse and muster the people's cooperation with the existing policy.

The production was submitted in conjunction with the testimony of Kimbei Nakai, a cameraman for the Nippon Newsreel Company.

Cameraman Testifies

In his affidavit, Nakai declared that numerous propaganda films were produced following the Manchurian Incident in the effort to justify Japan's position in Manchuria, to implant upon the peo-

ple Japan's divine mission to dominate East Asia and the whole world and to support the idea that the Japanese were superior to any other race.

He listed as typical pictures "Holy War," "Glorious Japan," and "Critical Period of Japan." These, he said, were shown in most of the schools and movie houses throughout Japan.

Japanese counsel for Sadao Araki, Yutaka Sugawara, strongly denied that his client had made the statement vis-a-vis "domination of the whole world" alleged by the prosecution and declared a showing of the picture would show that the accusation was "without foundation."

Witness Nakai countered the picture would bear out the fact.

Earlier in the morning session, the prosecution brought to the witness stand Takatora Ogata, former vice-president of the Asahi Shimbun and president of the Board of Information in the Koiso Cabinet. The witness himself is listed as a war criminal suspect and under home arrest.

Government Controlled Press

Ogata stated in his affidavit that throughout his 35-year newspaper career, freedom of the press had been controlled by government censorship, becoming particularly dominant preceding the Manchurian Incident.

Following the Incident, a Police Bureau of the Home Ministry was created and all military news had to be given its approval. So strict did the censorship become, Ogata said, a special censorship section had to be created within and by the Asahi in 1941.

Cross-examination of Thursday's witness, Akio Saki, former president of the Japan Kamishibai Association, was resumed as the court opened at 9:35 a.m.

At the request of Dr. Ichiro Kiyose, Saki explained the paper theatrical production in Japan, performing with the actual pictures submitted as evidence to the court by the prosecution.

The card play "Japan is Now

NIPPON TIMES
22 JUN 1946

Film Shown In Court

When the Tokyo trials reconvened Friday, June 21, at 11 a.m., Kinbei Nakai of the Nippon Newsreel Corp., a prosecution witness, testified in his affidavit that motion pictures played an important role in war propaganda, such as "The Holy War" produced in 1939.

Nakai testified that motion pictures after the Manchurian Incident all pointed toward justifying Japan's position in Manchuria and in preparing the Japanese people for further aggression.

The afternoon session was devoted to a showing of "Hijoji Nippon" (Japan in Emergency) produced by the Osaka Mainichi and containing a speech by the then War Minister General Sadao Araki.

The Friday session adjourned at 2:15 p.m.

MAINICHI 23 JUN 1946

575.1

Maeda Takes Turn On Witness Stand

Tokyo Tribunal Continues
Prosecution Testimony

As the fourth Japanese witness summoned by the prosecution to testify on the militarists' oppression of education, Tamon Maeda, former Education Minister, appeared before the International Military Tribunal during the session on Thursday, June 20, which opened at 9 a.m.

Dr. Nobufumi Ito, former governor of the Board of Information; Tatsuo Iwanami, commentator; and Shigenobu Ikejima, former director of the Broadcasting Corporation of Japan and a professor of Hosei University, have also been summoned as witnesses and their affidavits prepared.

On the previous day, June 19, after the session was resumed at 11 a.m., Professor Hyoei Ouchi of Tokyo Imperial University continued his testimony, particularly the educational policies at the time General Sadao Araki held the Education portfolio.

Koshin Takigawa, dean of the Kyoto Imperial University's jurisprudence department who was ousted by the militarists, also testified, showing how war was glorified and the hours given over to military training increased. He was cross-examined by Defense Counselor Kiyose.

The Wednesday session ended at 4:10 p.m.

Newspapermen Held In Line

United Press

TOKYO, June 20.—Japanese liberal writers and newspapers were held in line by threats from "violent organizations" which visited those expressing unfavorable views toward the military, the former Japanese Education Minister Tamon Maeda revealed Thursday in testimony before the International War Crimes Tribunal.

Testifying by affidavit as prosecution witness in the trial of 18 major war criminal suspects, Maeda told how militarists had used newspapers and books to spread ultra-nationalistic ideas. Recalling that he had served as an editorial writer on the Asahi Shimbun from 1928 to 1938, he said he had no recollection of any organized program by the military of government in 1928 to build up propaganda through newspapers in anticipation of the Manchurian incident.

Maeda said he did know that it was the government's policy to adopt more aggressive attitude in connection with Manchuria and that the Tanaka Cabinet was formed for this purpose.

MAINICHI 21 JUN 1946

Ogata Is Witness In Trial On Friday

Affidavit Inaccuracies
Attacked By Defense

INTERNATIONAL MILITARY TRIBUNAL COURTROOM, TOKYO, June 21.—The Tokyo trials today opened at 9:30 a.m. on schedule as the members of the Tribunal, led by President Sir William Flood Webb, filed on to the judges' bench.

After Marshal of the Court Van Meter called the court to order, Prosecution Counsel Mansfield (Australia) announced that the prosecution is endeavoring to conform to all rules concerning the delivery of documents, a matter which has been in dispute for the past two days.

Saki Is Witness

With both sides agreeing to clear up the confusion, the cross-examination of the prosecution witness, Akio Saki, president of the Nihon Kami Shibai Association, continued at the defense's request.

Defense Counsel Kiyose requested a demonstration of the paper theater play (Kami Shibai) in evidence, "Japan Is Fighting," which was allowed. Before demonstrating, Saki declared that the play in evidence was a poor example.

Following the demonstration, Dr. Kiyose based his cross-examination on the assertion that the play in question was not issued to declare America and Britain as enemies but to stress the gravity of the situation.

Cross-Examination Made

Cross-examination of the witness was made by Defense Counselors Goichiro Fujii and Nobuo Naritomi, following which the witness was dismissed.

The next prosecution witness Takatora Ogata, former president of the Board of Information, was called in.

Upon questioning, it was disclosed that numerous inaccuracies occurred in Ogata's affidavit in evidence, which brought on a wave of objections by the defense asserting that these inaccuracies proved that the affidavit was not Ogata's own but a distortion of Ogata's ideas by the prosecution.

Sir William recessed the court at 10:45 a.m. at this point, reconvening at 11 a.m.

MAINICHI 22 JUN 1946

25 YEAR SENTENCE CUT, TO 20 BY EICHELBERGER

Gen. Finds Akamatsu Not Guilty
On One Charge

Lieutenant General Robert L. Eichelberger, Eighth Army commander, on Friday for the first time reversed a finding of "guilt" on one charge to "not guilty" in his review of a case tried by an Eighth Army War Crimes Commission.

As a consequence, Sgt. Shigeo Akamatsu, formerly of the Ohye-yama prisoner of war camp number three, near Osaka, will be required to serve but 20 years instead of the 25 prescribed by the tribunal last April 4.

Eichelberger reversed the court's decision on a charge of contributing to the death of Pfc. Elmer A. Latvala. He ruled that the evidence presented in the trial did not substantiate a finding of this nature.

The general approved the remainder of the findings of the commission. These were that Akamatsu was guilty of beating Seaman First Class Thomas J. O'Conner, Pfc. Marcus Rael, Pvt. Archie York, Cpl. Paul D. Floyd, Pfc. J. C. Grant, and Pvt. Harold Goff. He also was found guilty of forcing Third Class Woodrow T. Shaffer to squat for a long period of time with a pole behind his knees while holding a leg aloft.

Meanwhile 26 suspected war criminals whose apprehension had been requested by the SCAP Legal Section were admitted to Sugamo prison between June 4 and June 10. Included in the group was Lt. Col. Shigeji Mori, who commanded the O'Donnell and Cabanatuan prisoner of war camps in the Philippines. Others who were confined are junior officers and enlisted men accused of atrocities at prison camps in Batavia, Formosa, and Japan.

NIPPON TIMES
23 JUN 1946

PERMISSION ASKED TO CUT DOCUMENTS

War Crimes Prosecution
To Use Excerpts In Trial

The prosecution section at the war crimes trials has asked the court that they be permitted to file only such parts of book or documents as will be used as evidence instead of the whole documents. This would save time by cutting down on reproduction work, the prosecution said. They asked permission to file a motion to that effect.

Prosecution stated that they plan to use excerpts from 1,000 documents or books, of which 30 copies must be made. If copies of the complete works have to be made, a total of 4,500,000 pages will have to be reproduced, taxing inadequate facilities.

It would become necessary to send some of the material to the United States for reproduction.

STARS & STRIPES
25 JUN 1946

5-25-1

Togo Was Duped By War Premier, Suzuki Testifies

Yomiuri Editor in Limelight as He Describes Talks With Ex-Foreign Chief

Tomin Suzuki, a prosecution witness, yesterday declared he had believed Shigenori Togo, one of the 28 defendants standing trial, to be a peaceful man and that he could not understand how such a man assumed the post of foreign minister under Tojo.

The witness made this statement in regard to an interview he had with Togo when the latter assumed the foreign portfolio. He said this article appeared in the Contemporary Japan in 1941.

Suzuki told a defense counsel that it was borne out in the interview that Tojo had assured Togo that he would do his utmost to make a peaceful settlement with the United States. Togo, Suzuki added, had assumed the cabinet post under this assurance.

Tojo also assumed the concurrent post of Minister of War in order to suppress the militarists, Togo was told by the Premier.

According to the witness, Togo said he began to wonder, then doubt and finally tried to find out if Tojo would fulfill his assurances of peace efforts. He gradually began to doubt the Premier's sincerity.

Prosecution witness Suzuki is one of the editors of the Yomiuri Shimbun and the central figure in the current strike of the paper.

Tomin Suzuki, earlier declared that there has been "no such thing as the semblance of free press in Japan" since 1935.

He asserted in his affidavit that news organs in Japan during that period were "completely under control and domination of the Japanese Government."

Egged on by Dr. Ichiro Kiyose's prying interrogation, Suzuki, however, explained he took advantage of "loopholes" in the press restrictions to write his own opinions in certain "liberal" magazines.

His affidavit stated he had written articles (1) "favoring settlement of the China dispute, (2) depicting peace, (3) questioning Japan's right to rule China, and (4) criticizing Japanese military aggression."

Suzuki stated that various newspapers played into the hands of the Government and obeyed its instructions, but some magazine publishers fought to get around the restrictions.

Adamant refusal by Suzuki and five other editors to adhere to President Tsunego Baba's order to quit had precipitated the present strike at the Yomiuri, one of the leading metropolitan newspapers.

In court, Suzuki asserted he was "still a member" of the paper. He stated he had been a member since 1931 except one year when he was "instructed" by the police to leave Tokyo.

As the court reconvened Monday after a two-day recess, the prosecution announced that the showing of the motion picture "Critical Period of Japan" would be delayed several days to repairs needed for the pro-

jection machine. The picture, however, was admitted Exhibit 148 and cross-examination of Kimbei Nakai, for whom the evidence was submitted, was resumed.

The picture was presented by the prosecution to support its allegation that General Sadao Araki, one of the 28 defendants, urged domination of the Far East and eventually the whole world.

Araki's Japanese counsel, Yutaka Sugawara, attempted to point out that his client's speech was a "characteristic Japanese philosophy, the concept of which is the morality as existing in the universe . . . which Araki was desiring to disseminate to the world in a moral sense as one of the missions of the Japanese people."

Chief Justice Sir William Webb declared the counsel had made a statement which will not be permitted.

The prosecution then presented as evidence a group of still photographs taken from the postponed motion picture. Witness Captain T. F. Donohue, who has served in the U.S. Navy the past 23 years, identified them as pictures of battleships of the Maryland and California class.

Yomiuri editor Suzuki was brought in to testify as the mid-morning recess was called.

Referring to the witness's ideological leanings, Dr. Kiyose asked point-blank if they were Communist.

"I am an exponent of democracy," Suzuki replied. He admitted, however, that he was considered as a Communist by the Japanese Government during the war. Although he was never arrested he explained he was questioned by the police and was told to leave Tokyo and refrain from writing or lecturing.

Suzuki later declared he had written an editorial in the Yomiuri in 1937 criticizing the Nazis to a questioning by Captain George Furness, American defense counsel. He said he objected against Japanese-Nazi collaboration because he believed it would lead to aggressive war by Japan.

NIPPON TIMES
25 JUN 1946

TOGO WANTED TO AVERT WAR, SUZUKI SAYS

Editor Testifies At War Trials; Describes Jap Press Censorship

By Sgt. Roland Martone
Staff Writer

Togo accepted the post of foreign minister in Tojo's cabinet because he had Tojo's assurance that the latter was sincerely trying for a peaceful settlement of differences with the U.S. Tomin Suzuki, well-known Japanese editor, at present involved in the Yomiuri Shimbun labor dispute, told the Major War Crimes Tribunal yesterday.

Called to the stand by the prosecution to describe press control in Japan before and during the war,

Suzuki said he was convinced after pre-war interviews with both Togo and Tojo that the two men did not want hostilities to break out.

No Free Press

"There was no semblance of a free press in Japan from 1935 to the end of the war," Suzuki said. "Newspapers and publications in Japan since 1935 had been subjected to strict censorship directed by the government and put in practice by the Home Ministry."

Suzuki asserted that he wrote articles favoring settlement of the China dispute and questioned Japan's right to rule China. Some of his writings severely criticized Japanese military aggression.

Every time he wrote such articles, Suzuki said, he was visited by Japanese military and civil police who warned him not to write about such topics again.

Suspended From Staff

Suzuki said he had been suspended from the Yomiuri Shimbun staff from Sept., 1944, to Sept., 1945, as a result of his writings. Asked if he is now affiliated with Yomiuri Shimbun Suzuki said flatly:

"Yes. I am now a member of the Yomiuri Shimbun Press."

Asked if he is involved with the current strike at Yomiuri, Suzuki told Kiyose:

"Yes. I have some connection with the present strike."

"Has the defendant an ideology like communism?" Kiyose asked Suzuki.

"I am an exponent of democracy in Japan," the editor replied.

At this point, Sir William Webb, Chief Justice of the Tribunal, interrupted the questioning to remind Kiyose that "his politics do not concern us; his war attitude does."

Kiyose thereupon asked Suzuki: "Is there any indication that during the war the government misunderstood you to be a communist?"

"Oh yes. That is so," Suzuki answered. "The Japanese government and the Japanese police did everything in their power to make a communist out of me."

Major George A. Furness, continuing the cross-examination, asked Suzuki if he has any records of the articles he wrote against militarism.

Didn't Keep Records

Suzuki replied that he did not have since "it was not safe" to keep copies of such articles or even a diary, and that he had to move his residence so often that it was very difficult to keep personal records.

He recalled, however, that on April 16, 1937, the Yomiuri Shimbun printed an article of his in which he criticized the Nazis and opposed Nazi-Japanese collaboration on the ground that such a union would endanger peace.

STARS & STRIPES
25 JUN 1946

575-1

**Prosecution on Task
Of Proving Charges**

Allies Settle Down to Laborious Job of Establishing Guilt of 28 Defendants

TOKYO (AP), June 23.—The Allied project of prosecuting Hideki Tojo and company, has settled down to the laborious task of establishing the grave charges against the 28 defendants.

None of the three principals—the International Military Tribunal, the Prosecution and the Defense—is completely satisfied with the conduct of the trial in the first six days of testimony which had told of Japan's propagandist buildup for the war.

The prosecutors, however, managed to put ten witnesses on the stand and there are indications that the changes in procedure and the acceptance of the Tribunal's special character, will help to speed up the proceedings, which several participants predict will require six to nine months time.

Much of the early procedural trouble, was directly traceable to language difficulty. All judges, except Russian I. M. Zaryanov, follow the trial in English. Heavyside Zaryanov, the only uniformed Justice on the bench, tunes in the Russian version on earphones.

It is no easy matter to translate English into Japanese or Japanese into English immediately after a witness speaks. Copies of official documents and auditing testimony itself, show awkwardness in the translations into English. Additionally, the Japanese defense counsel contend there are many errors.

Aside from that, the defense counsel repeatedly have complained about what they regard as loose rules of evidence—unlike those of any court of law—and lack of time to prepare their cases. In private they commented on the asperity of Chief Justice Sir William Webb, whose cutting remarks have interspersed testimony.

The prosecution in turn, has displayed impatience with the defense "quibbling" and the efforts which have the effect of slowing the trial.

The court of 11 Allied judges has publicly rapped both sides—the prosecution for the substance of some respective testimony and the failure to present actual evidence; the defense for seeking to "trap" witnesses and for treating the tribunal as a regular court by raising technical points.

Whether or not the Australian Chief Justice had been unduly harsh on defense attorneys, probably remains a matter of opinion. Others in the courtroom think not. They say he had been attempting to limit unnecessary objections and it is just natural for him to speak sharply.

Sir William in the past week made it clear that he and his colleagues represented a Military Tribunal and not a national court and hence it was not bound by ordinary rules of law and procedure. It is he who said they are primarily interested in getting facts and while doing so in assuring justice for the accused.

"We are not a jury," he said on several occasions. We are 11 ex-

perienced men, who can be trusted to judge evidence."

Another time he said technicalities such as those raised by the defense are "utterly unnecessary for the hearing here."

In contrast with the constant prodding or shutting off, the American counsel assigned to the defendants, Webb has shown patience with the Japanese attorneys. "I am reluctant to prevent the Japanese counsel from pursuing cross-examination," he said one day.

Sir William who became the outstanding personality in the courtroom confers with his colleagues within reach on the bench, from time to time, but no other member of Tribunal has uttered a word since the start of the trial. American Justice John P. Higgins, on Webb's right, appears to make suggestions occasionally.

The court officially has taken cognizance of the language problem several times already. Sir William commented that the trial should have the benefit of the best translations possible, and there should be no question of money, if that was all that needed to provide the necessary service.

The defense previously won the ruling that the prosecution would have to provide the reproduction of every document or book which it plans to enter—and to get it 24 hours in advance. The prosecution yesterday gave notice it would ask that only excerpts to be used should be delivered to the representatives of the accused.

The defense is still functioning without a chief counsel. Individual attorneys rotated on sitting at the chief counsel table since the unexplained resignation of Navy Captain Beverly Y. Coleman, who quit with five other defense attorneys. Coleman is expected to return to Washington shortly.

For that matter, Chief Prosecutor Joseph B. Keenan, took off for United States, after delivering his 13,000 word-opening address June 22. The American members of his staff, particularly Valentine Hammack and the 31-year-old Robert M. Denihi, have handled the bulk of the present propagandist phase.

What the prisoners themselves think of it all, is not apparent from their almost general impassivity.

It will be surprising, however, if they haven't reached the conclusion that the American attorneys—some in uniform of the army they fought—are making a great to do in their behalf.

**NIPPON TIMES
25 JUN 1946**

**Suzuki Of Yomiuri
Testifies At Trials**

**Outlines Press Bans
Of 1935-1945 Period**

INTERNATIONAL MILITARY TRIBUNAL COURTROOM, War Ministry Building, Tokyo, June 24.—After a weekend rest over Saturday and Sunday, the International Military Tribunal trials for the Far East reconvened today at 9.30 a.m. with the prosecution continuing to present its witnesses and evidence.

The court opened on schedule at 9.30 a.m. The prosecution announced that due to defects in the projection equipment, it would not be able to present in evidence the motion picture film "Critical Period of Japan" as scheduled.

It was added that several days will be required before parts could be obtained. The film was shown in part on Friday, June 21 but was halted due to the poor quality of the sound and translation errors.

Cross-Examination Continues

The cross-examination of the motion picture producer, Kimbei Nakai then continued with Defense Counsels McTice, Smith, Furness, and Sugawara participating. During Counsel Sugawara's examination, the prosecution objected that cross-examination should be confined to the affidavit, to which Sir William Flood Webb, president of the Tribunal, answered that this would impose an undue limitation on the defense.

Prosecutor Robert Donihi then called in the next witness, Captain C. F. Donaghue of the U.S. Navy attached to a minesweeping squadron in Japan. The American officer was called to identify certain photographs taken from the motion picture film "Critical Period of Japan," which he identified as photographs of U.S. battleships of the Maryland and California class. The mid-morning recess was called at 10.40 a.m. as Prosecutor Donihi called in the next witness, Tomon Suzuki, Japanese journalist.

Exhibit 148 Admitted

The court reconvened at 10.55 a.m. when the prosecution formally tendered as evidence twelve reels of the film "Critical Period of Japan" which was admitted as Exhibit 148.

After the witness Tomon Suzuki was sworn in, the prosecution read his affidavit (Exhibit 150) which stated that Suzuki had been a member of the staff of the Yomiuri newspaper since 1935. Suzuki asserted that he wrote several articles questioning Japan's right to rule China and opposing aggression.

He also outlined the press bans imposed in the period between 1935 and 1945, claiming that the press in that period was under government control.

Suzuki Unable To Give Names

The cross-examination of the witness was then made by Counsels Kiyose and Furness. In an answer to Counsel Furness' question, Suzuki was unable to give the names of the articles in question which he wrote. He also disclosed that he was never arrested.

The noon recess came at 12.00 noon until 1.30 p.m.

MAINICHI 25 JUN 1946

5767

Shidehara Testifies In Tokyo Tribunal; Objection Over-Ruled

Battle In Courtroom Carried On Spiritedly Despite Hot Weather

International Military Tribunal Courtroom, War Ministry Building, Tokyo, June 25.—Slight but not cool breeze greeted the opening of today's session of the International Military Tribunal trials for the Far East.

Despite the discomfort of the weather, however, the battle on the courtroom floor was carried on spiritedly. Baron Kijuro Shidehara's testimony as the prosecution's witness featured the day's activities.

Most of the early morning session was taken up with the motion by the prosecution section to amend Rule VI B Paragraph 1 of the Rules of Procedure concerning the presentation of books and documents as evidence.

Prosecutor Justice Mansfield (Australia) asked for an amendment to read as follows:

"We propose that in case only excerpts from books or documents are placed in evidence, that a copy of the excerpt only shall be delivered to the defense and the Tribunal and that a copy of the whole of the document shall be placed with the Secretariat where it can be inspected by any person who desires to inspect the whole of the document."

In presenting the prosecution's side, Justice Mansfield outlined the great difficulties faced by the section in complying with the rule as it now stands. He pointed out examples, stating that they are about 4,500,000 pages which have to be printed and the total may rise above 15-million pages if copies of every whole document is to be presented.

Koizumi Examined

Following reconvention of the court, Defence Counsel Furness continued his cross-examination of Witness Koizumi, questioning the latter on the neighbourhood association and the Imperial Rule Assistance Association and the roles they played in carrying out government policy.

Prosecutor Robert Donihi then introduced into evidence (over the objection of the defense) two laws: Imperial Ordinance 37 of January 10, 1941 concerning the control and censorship of newspapers; and the Law of April 5, 1939 concerning the control and censorship of motion pictures.

It was stated that these two laws propose to show the control exercised in the period and life of the alleged conspiracy.

Shidehara Called Su

Prosecutor Hugh Helm of Kentucky called in the next witness,

Baron Kijuro Shidehara, at present, Minister of State in the Yoshida Cabinet. Defense Counsel Cunningham tried to object at this point to the admission of Shidehara's affidavit in evidence because of the inadequacy of such affidavits, but President of the Tribunal Webb over-ruled the objection.

Shidehara in his affidavit declared that he was Foreign Minister in the Hamaguchi Cabinet. He asserted that the Hamaguchi Cabinet carried out a reduction of the Army and Navy budgets and ratified the naval disarmament treaty.

After Shooting of Hamaguchi

Shidehara asserted that following the shooting of Premier Hamaguchi on the platform of Tokyo station, he ordered in his capacity as acting Premier a full investigation during which it was learned that the plot evolved over dissatisfaction with the naval disarmament policy of the Hamaguchi Cabinet.

During the succeeding Wakatsuki Cabinet, he added, he was also Foreign Minister. From secret reports, he learned that the Kwantung Army was preparing to move. Shidehara asserted that he was assailed by the press and ultra-nationalist for a week-kneel foreign policy.

The Wakatsuki Cabinet finally resigned because it could not

control the Army. Shidehara concluded.

Defense Counsel McCormick, on behalf of the accused, Jiro Minami, then carried on the cross-examination during which it was disclosed that General Minami was War Minister in the Hamaguchi Cabinet which carried out reductions in the Army and the Navy budget and ratified the disarmament treaty.

Lapses of memory on the part of Baron Shidehara created some difficulty for the witness. At this point, Sir William Webb called the room recess until 1.30 p.m.

'Togo Was Peaceful Man'

When the International Military Tribunal reopened Monday, June 21, at 1.30 p.m. Defense Counsel William Logan cross-examined prosecution witness Tomin Suzuki regarding press censorship during the war.

In a later testimony, Suzuki declared his belief that former Foreign Minister Shigenori Togo, one of the 28 defendants, was a peaceful man who had been duped by Prime Minister Tojo.

The Monday session adjourned at 3.50 p.m.

MAINICHI 26 JUN 1946

Shidehara Denies Jap Expansion Aim

The Japanese government had no desire for territorial expansion in 1929 and 1930, Baron Kijuro Shidehara, former premier and minister of foreign affairs at the time of the Manchurian incident, told the International Military Tribunal, yesterday.

Testifying as a prosecution witness in the war trial of Hideki Tojo and his 27 co-defendants, Baron Shidehara admitted however, that the government at that time exercised no direct control over the activities of the Army and that the Japanese foreign office had no means of investigating the Mukden incident but through regular Army channels.

Describing the "military clique" which maintained an increasing control over Japan's armed forces, as composed mainly of "younger officers", Shidehara said that the shots at Mukden started a "small incident which grew out of control." He declared that in his opinion, Japan had no "desire" of annexing Manchuria and that his own policies towards China were in the maintenance of peaceful relations.

He countered however that China had expressed anti-Japanese feelings during the late 20s but insisted that his office had exerted its full influence to avert open hostilities.

STARS & STRIPES
26 JUN 1946

5-Year Sentence Stays

United Press

YOKOHAMA, June 22.—Lt. Gen. Robert L. Eichelberger, 8th Army commander, denied as "inadequate" an Eighth Army military commission's recommendation of a suspended sentence for Japanese Major Yaichi Rikitake, and ordered the sentence—15 years imprisonment—carried out.

MAINICHI 26 JUN 1946

Largest Y'hama Trial

G.H.Q., U.S. ARMY FORCES, PACIFIC, P.R.O., June 24.—The largest common trial yet held in Yokohama district court, with judges from Australia, Canada and England sitting on the 8th Army Tribunal for the first time, reconvened Monday at 9 a.m. All defendants at the mass trial pleaded "not guilty," at the opening session June 21.

MAINICHI 27 JUN 1946

575.1

Shidehara Continues Testimony; Shimizu Introduced As Witness

International Military Tribunal Courtroom, War Ministry Building, Tokyo, June 26.—The continuation of the cross-examination of Baron Shidehara and the introduction of the witness Konosuke Shimizu, one of the plotters of the eventful year of 1931, featured today's session of the war criminal trials by the International Military Tribunal for the Far East.

Baron Shidehara's revelation that the War Minister at the time of the outbreak of the Manchurian Incident in 1931 had no knowledge of such events was the highlight of the information disclosed in the continuation of yesterday's cross-examination of the elderly statesman.

Failure Of Settlement

During the examination by Defense Counsel Furness, Shidehara declared that disagreement within the Chinese Government itself was to blame for failure of a settlement of the incident.

He asserted that Mamoru Shigemitsu, then Minister to China, worked with whole-hearted sincerity toward a settlement. Shidehara further revealed that he as Foreign Minister and the rest of the Cabinet had no control over the movement of troops.

In answer to a question by Defense Counsel McCormick, the baron replied that War Minister General Minami's actions had nothing whatsoever to do with the resignation of the Wakatsuki Cabinet at the time.

Several Corrections Made

Prosecutor Helm then took the floor for a re-direct examination. In reply to the first question, Baron Shidehara made several corrections in his testimony made yesterday principally concerning dates.

In the re-direct examination, Shidehara disclosed that General Minami was in complete agreement with his views at the time but that the cabinet was not able to control the army.

When the cabinet met on September 19, 1931, the War Minister General Minami had no knowledge of the outbreak on September 18. Shidehara emphasized that General Minami issued instructions to prevent the spread of the incident. Shidehara however admitted that despite the outbreak of the incident, neither General Honjo who commanded Kwantung Army nor any other officers under him were disciplined or recalled, but instead that the Japanese Army in Korea moved in to reinforce the Kwantung Army without the Imperial sanction.

The court reconvened at 11 a.m. following the mid-morning recess.

Webb Calls Halt

President of the Tribunal Sir William Webb called a halt to the prolonged cross-examination

of Baron Shidehara. Prosecutor Hugh Helm then called in the next witness, Konosuke Shimizu, notorious plotter.

After being sworn in by the Marshal of the Court Van Meter, Shimizu's affidavit was read. Laughter was caused among the spectators when Prosecutor Helm held up the affidavit and asked "Is this your affidavit," and the witness replied "Yes" before he looked at it.

President Webb over-ruled objections and the reading proceeded. Shimizu in his statement declared that he became acquainted with Ikki Kita and Shumei Okawa, one of the accused, in 1919 and was thus disclosed that most of the plots at the time were discussed at the Kinryutei restaurant in Tsukiji, Tokyo.

Was to Throw 300 Bombs

He asserted that it was at this restaurant that he was assigned a part in the abortive March Incident of 1931 when he was to throw 300 bombs into the Diet building and in which Colonel Kingoro Hashimoto had a leading role. After the

failure of the March Incident, Shimizu continued, he and Okawa met at the Kinryutei restaurant several times during which Okawa hinted that an interesting event might take place shortly in Mukden, apparently referring to the event leading to the Manchurian Incident.

Shimizu declared that Okawa made these disclosures when the latter was drunk at the restaurant.

Recess was called at noon.

MAINICHI 27 JUN 1946

Hashimoto Urged War in Manchuria, Witness Testifies

Opposition of Premier Inukai Bared by Son—Long Speeches Vex Webb

Colonel Chiaki Shigeto and Colonel Kingoro Hashimoto, one of the accused, urged "positive action" be taken in Manchuria a month prior to the blowing up of the railroad which precipitated the Manchuria Incident, Isamu Fujita, a journalist witness of the prosecution, informed the International Tribunal yesterday.

He also asserted that Shigeto promised he would expel and replace Chang Hsueh-liang of Manchuria and that both officers were pleased when the Incident broke out.

"You have accomplished what you were contemplating and suggested in Manchuria," the witness said to Shigeto when he read the incident on September 19, 1931.

"Yes," the Colonel replied, and nodded and smiled.

Fujita also asked Colonel Hashimoto: "I see you accomplished what you said should be done in Manchuria," to which Hashimoto replied, "Yes, the thing came to the pass where they should come."

The witness confirmed what he said actually was. "At last it's happened," when defense counsel Shin-ichi Ohara pointed out that his statement in the affidavit was contrary to Japanese rhetorics.

Witness Fujita also qualified the term "positive action" which he said the officers urged. "If occasion presents itself," he said should be added. That is, a counteraction against any provocative action.

The idea to oust Chang, "Young Marshal of Manchuria," appeared to be the general opinion prevailing among General Staff circles, Fujita declared.

Fujita said the Army considered Marshal Chang as pursuing a provocative policy against the Japanese and also planning a parallel line to the South Manchurian railway. The Army therefore believed measures were necessary to remedy the situation.

Associate Prosecutor Hugh Helm then brought in as witness Ken Inukai, son of the former Premier who was assassinated in the "May 15 Incident" by a young naval officer.

Young Inukai declared his father was shot a week after he made an anti-militaristic speech condemning Fascism and praising the Democratic way.

The Premier, he said, was often threatened by Kaku Mori, Chief Secretary of the Inukai Cabinet and leader of the military faction of the Seiyukai Party, that if he continued his anti-military policy in Manchuria, his life would be endangered.

During his five-month tenure as Premier, Inukai opposed the extension of the Manchurian Incident and favored the withdrawal of Japanese troops from that country. He even appealed to the Emperor, to achieve his policy but was unsuccessful, young Inukai testified.

His cross-examination brought to light the dispatch of a secret delegate to Nanking to confer with General Chiang Kai-shek, to settle the Sino-Japanese dispute. Communications to the Premier, however, were intercepted by the Army.

Long-winded quizzing by various Japanese defense counsels stalled the court proceedings to a snail's pace in the morning.

Sir William Webb, President of the Tribunal, appeared visibly irritated and on several occasions admonished the counsels to quit making "speeches." He said it was "terrible to make these comments" but the court proceedings must be speeded up.

The session was especially slow as the defense resumed cross-examination of Marquis Yoshichika Tokugawa. Counsel for Hashimoto, Itsuro Hayashi, at length tried to point out that Shumei Okawa was in the habit of making "grandiose" statements when drunk. The questioning was finally stopped by Sir William stating "you can't go on like this."

NIPPON TIMES
28 JUN 1946

575-1

Prosecution Moves To Speed Up Trials

Asks for Revision of Rule for Reproduction of Full Copies Of Evidence

In an application filed on Saturday with the International Military Tribunal for the Far East, the International Prosecution Section asked permission to file a motion which would make it unnecessary for the section to reproduce copies of every document or book which it plans to enter as evidence in the trial of the accused Japanese war criminals.

The prosecution, in its application, contended that if it meets requirements of a present Tribunal rule, "considerable delay will be caused in the trial."

"It is estimated that the prosecution will use excerpts from 1,000 such documents or books and that the average number of pages in each complete document or book is 150," the application stated.

"If 30 copies are made of each page of each of such books or documents, the total number of pages to be reproduced would be 4,500,000," it was asserted.

The prosecution seeks modification of a rule which now requires that the whole of a document and not the excerpt alone to be used be served only the defendants.

The section says that the reproducing and processing units and material available in Japan are insufficient to enable such copies to be made promptly, "and it will therefore be necessary to send some of the said documents or books to the United States for reproduction," to meet requirements of the present rule.

Modification asked for would permit the filing of a copy of every document the whole of which is intended to be adduced in evidence by the prosecution or the defense but where parts of documents alone are to be introduced, only those parts would be required to be filed and not the entire document.

Carlisle Higgins, assistant prosecutor, made the request for all members of the International Prosecution Section.

NIPPON TIMES
24 JUN 1946

Eichelberger Denies Lenity For Rikitake

Terms 15-Year Sentence 'Inadequate' and Says It Can't Be Suspended

Terming the sentence "inadequate", Lieutenant General Robert L. Eichelberger, Commanding General of the Eighth Army, on Sunday denied an Eighth Army military commission's recommendation that the 15-year sentence given Major Yaichi Rikitake be suspended.

"No justifiable basis for clemency appears in the record and Allied papers," Eichelberger stated in his review of the case of the 62-year-old former commander of the Fukuoka POW Camp No. 3. The re-

commendation of clemency, because of the advanced age of the sentenced man, was made last March, when Rikitake was sentenced at Yokohama.

"Because of the several deaths of prisoners of war directly attributable to the acquiescence of the accused in cruel and barbarous atrocities committed by his subordinates, as well as his personal participation in brutalities against prisoners of war, I feel that the evidence warranted a more severe sentence than was imposed," Eichelberger asserted.

"In order that the accused may not escape punishment, the sentence, though inadequate, is approved and will be duly executed. Sugamo Prison, Tokyo, or elsewhere as the Supreme Commander for the Allied Powers or other proper authority may direct, is designated as the place of confinement."

Rikitake was found guilty of failing to provide adequate medical care for prisoners at his camp and compelling and permitting prisoners to perform arduous labor while ill, resulting in the death of a number of prisoners. He was found guilty also of charges that he failed to provide proper and adequate clothing for prisoners.

NIPPON TIMES
24 JUN 1946

EICHELBERGER UPHOLDS JAP'S JAIL SENTENCE

Clemency Recommendation For Former POW Camp Commander Turned Down

YOKOHAMA, June 23 (UP)—Lt. Gen. Robert L. Eichelberger, Eighth Army commander, denied as "inadequate" an Eighth Army military commission's recommendation for a suspended sentence for Japanese Major Yaichi Rikitake, and ordered the sentence—15 years imprisonment—carried out.

Rikitake, 62-year old former commander of Fukuoka Prison Camp No. 3, was convicted for failing to provide adequate medical care for prisoners of war at his camp, which resulted in the death of several of them.

His plea for clemency, originally granted on March 15 because of Rikitake's advanced age was turned down by Eichelberger, who stated:

"Because of the several deaths of prisoners of war directly attributable to the acquiescence of the accused in cruel and barbarous atrocities committed by his subordinates, as well as his personal participation in brutalities against prisoners of war, I feel that the evidence warranted a more severe sentence than was imposed."

"In order that the accused may not escape punishment, the sentence, though inadequate, is approved and will be duly executed."

STARS & STRIPES
24 JUN 1946

FACTS ON JAP MILITARY RISE TOLD AT TRIAL

Diet Member Testifies Premier Assassinated For Opposing 1931 Incident

By Sgt. ROLAND MARTONE
Staff Writer

The story of the active rise of militarism in Japan continued to unfold in the war crimes trials yesterday as Ken Inukai, Diet member, told of the shooting of his father, Premier Inukai, May 15, 1932. His father, Inukai declared, was shot by a Navy officer for having opposed military expansion.

"I served as secretary to him while he was premier, and was very well acquainted with what was going on," the witness said.

On the date of the shooting, Inukai was summoned to his father's side to find the latter had been wounded but was still able to speak.

"He told me that several young Navy officers had forced their way in and that one of them had shot him," Inukai said.

Opposed Incident

The witness pointed out that his father had opposed the Manchurian Incident and had tried to have the Army withdrawn from Manchuria. Also, Premier Inukai had had an unsuccessful audience with the emperor on the whole matter, the witness said.

Inukai said his father had been a close friend of Dr. Sun Yat-sen, the founder of the Chinese Republic. A secret delegate had been sent from Tokyo to Nanking to talk with Chiang Kai-shek, but code messages sent back by the delegate had been intercepted by the Japanese military, the witness said.

Isamu Fujita, newspaper publisher, testified against Kingoro Hashimoto and Shumei Okawa to the extent of describing a militaristic plot in which the two were involved. Fujita's evidence indicated that both men had knowledge of the army's intentions to strike in Manchuria even before the Mukden railway incident of Sept. 18, 1931.

Fujita said that early in September, Hashimoto and another army officer, Chiaki Shigeto, now deceased, had predicted an incident in Manchuria. In fact, the witness said, both men dined at his home during the month of August and discussed the "positive action" that should be taken in regards to the Manchurian situation.

"Ten or 15 days after this meeting," Fujita's affidavit stated, "Col. Shigeto brought 40,000 yen to me at my home and asked me to sign a receipt for it and to hold this money for him until he needed it."

A few days later, Shigeto returned to get 20,000 yen, and shortly after that returned to pick up almost all of the remainder.

After reading of the blowing up a railway track in Manchuria, Fujita said he rushed to Shigeto's home and asked him if he had accomplished "what you were contemplating and suggesting in Manchuria."

STARS & STRIPES
28 JUN 1946

5751

**Prosecution Active
On 2nd Day of Trial**
Nolan, Horwitz Present Detailed Picture of Nippon Government Set-Up

The Prosecution yesterday presented a broad detailed picture of the existing Japanese governmental structure apparently in the attempt to fix the responsibilities of the accused Japanese war leaders and their respective position in the governmental setup.

Associate Prosecutor Brigadier Henry Gratton Nolan completed his lengthy explanation of the governmental setup which was carried over from the previous day.

The explanation was then taken over by Solis Horwitz, assistant prosecutor for the United States, who informed the Tribunal more specifically as to the areas of division, gap and overlap in the Japanese constitutional system and as to the functions of those bodies which operating privately and "unseen," fill the gaps and carry out the required liaison and whose competence to advise the Throne rests primarily outside the Constitution.

The Tribunal reconvened at 1:30 p.m. Friday. The morning session was not held due to the taking of a "nose count" of the occupation forces.

Nolan's address included explanation of the formation and functions of various governmental bodies and offices such as the Munitions Ministry, the Supreme Council for the Direction of War, as well as wartime legislation. He explained also the government of the Japanese occupied territories such as in Manchukuo and China.

Horwitz outlined the Constitution and the government in order "to fix the responsibility for governmental function and action in the Japanese state and in order to fully comprehend the responsibility of the defendants for the crimes charged against them."

His address included specific information of the functions and responsibilities of the Emperor, the Diet, the Cabinet and their composing members. For example, he pointed out that, according to the Constitution, the "Ministers of State are responsible for the advice which they give to the Emperor."

At one time, defense counsel, Ben Bruce Blakeney, objected to the continuation of the prosecution's address, stating that it was repetitious and that the prosecution does not propose to prove their interpretations. The Tribunal overruled the objection and asked the prosecution to continue.

The Friday session adjourned at 4 p.m. and is scheduled to reconvene 9:30 Monday morning.

**NIPPON TIMES
15 JUN 1946**

Top War Criminals Sentenced
MANILA, June 16, (AP)—Major Hideo Mikami was sentenced to hang and 12 other Japanese officers and men were given terms from 10 years to life imprisonment, by the War Crimes Commission on charges of atrocities at Mindanao Island, September 16, 1945.

**STARS & STRIPES
17 JUN 1946**

**EX-MEDICAL SERGEANT
IS SENTENCED TO HANG**

Araki to Die for Causing Death Of 2 Men, Beating Others

Kunichi Araki, a former Japanese medical sergeant at the Hakodate prisoner of war camp, Muroran, the Hokkaido, was found guilty on Tuesday of war crimes by an Eighth Army Commission at Yokohama and sentenced to death by hanging.

Most of the complainants against Araki were British and Dutch nationals who were taken prisoner at Singapore and in the Netherlands East Indies.

Araki was found guilty of contributing to the death of Ernest Glover by beating him and forcing him from his sick bed to attend roll call, and by refusing him necessary medical attention.

He also was found guilty of causing the death of Van Daalen Meyers by beating him into going to work when he was unable to work, and by denying him medical treatment.

He was further found guilty of brutally beating, striking and kicking Douglas J. Lewis, Emil H. Pieters, A. E. Green, Hamar de La Brethoniere, and Peter Robertson as well as many others.

Araki was the 55th war crimes suspect tried and found guilty by Eighth army commissions. Five have previously been sentenced to death. Four have been acquitted.

**NIPPON TIMES
18 JUN 1946**

**Lt.-Gen. Tajima Hanged
For Beheading US Fliers**

Kyodo
MANILA, Apr. 3.—Lieut.-Gen. Hikotaro Tajima, responsible for the beheading of three American naval fliers, was hanged today shortly after the execution of Lieut.-Gen. Homma.

The execution of General Homma was announced at 1:56 a.m. April 3 (Tokyo Time). The hanging of General Tajima was formally announced at 2:20 a.m.

**4 Camp Guards Sentenced
To 10 Years' Hard Labor**

United Press
YOKOHAMA, Apr. 3.—An Eighth Army war crimes tribunal meted out sentences of 10 years at hard labor to four guards at the Saka POW camp for contributing toward the death of Pvt. Everett Tyler, of Glen Easton, W. Virginia, after his unsuccessful attempt to escape from the prison.

The commission president, Col. D. B. Wyant, of Bellevue, Ohio, pronounced the sentences on Buichi Gmoi and Rynosuke Kimura, civilian guards, and Corporals Yoshinari Minemoto and Tokuichi Ichiba. The two latter men were found guilty of beating and clubbing Tyler after his recapture.

A fifth defendant was acquitted.

Trial, Punishment Approved

By Radio
SAN FRANCISCO, Apr. 4.—The Allied Far Eastern Commission meeting in Washington has approved the policy of apprehension, trial and punishment of war criminals in the Far East.

It is to be the formal policy governing the occupation of Japan. The text will be published later in the week.

MAINICHI 5 APR 1946

**Indictments Coming
For Top War Crimes
Suspects April 15**

**Arraignments To Follow
Shortly; Tribunal Busy
On Formal Procedure**

Former Prime Minister Hideki Tojo and other major Japanese war criminal suspects will be indicted, probably in the War Ministry building courtroom, on April 15, it was announced Wednesday, April 3.

Chief Prosecutor Joseph B. Keenan said that arraignments would follow shortly the first official action of the International Military Tribunal for the Far East. The tribunal is working out a formal procedure.

Both the arrangement date and the date for the beginning of the trials will be announced once the indictments have been returned. It was estimated unofficially that the trials will begin early in May.

Pleas of the defendants will be heard at the arraignments as in an American court of justice, Keenan said.

MAINICHI 5 APR 1946

Won't Drag On

**Tokyo Trials Will Be
Speedier, Says Golunsky**

United Press
TOKYO, May 11.—Minister S.A. Golunsky, who heads the Russian Division of the International Prosecution Section, said the Tokyo trial of former Japanese Prime Minister Hideki Tojo and 27 other major defendants would be conducted in a much speedier manner than the international trial at Nuremberg.

He emphasized a need for such speed, saying interest wanes if the trials drag out a considerable length of time.

MAINICHI 13 MAY 1946

575.1

All 28 Defendants In War Trials To Be Arraigned Together

Considered 1 Case,
Declares Tavenner;
Questions Are Answered

Frank S. Tavenner, member of the international prosecution section for the forthcoming international war criminal trials for the Far East, met the Japanese press May 1, at 10 a.m., at Radio Tokyo to answer questions concerning the trials.

Following are the answers to questions as given by Mr. Tavenner who, in ordinary life, is the U.S. attorney for the western district of the state of Virginia:

Q—Will the important suspects outside of the 28 named in the indictment be released?

A—The matter of the release of those not indicted will have to be determined by GHQ. It is assumed that some will be released, but the fact that a person has not been indicted does not necessarily mean he is declared innocent.

Q—If any are to be released, when will it be?

A—I think with reasonable dispatch.

Q—Are there any who will be indicted in addition to the 28 named?

A—You no doubt are aware of the fact that at Nuremberg, it was decided to have a second trial. I have no information at this time as to what course will be followed here. That is a matter which will be settled in due time.

Q—Is there not an error in the indictment as to the date of the Potsdam Declaration?

A—The indictment alleges the date to be July 20. In fact, the date should read July 26. This has apparently been a typographical error.

Considered As 1 Trial

Q—Will all 28 of the indicted be made to appear before the court and arraigned, or will they appear individually, or will each case be examined separately?

A—This, of course, is considered as one trial in which all defendants will be tried together as one case. It follows that the arraignment of all will take place at the same time. By arraignment, I think you understand that the defendant is called before the court and answers to his name for the purpose of identifying individuals. The second step is to read the indictment unless the reading is waived by the defendant. The purpose of this is to make certain that the defendant understands the nature of the charge being made. The third and last step is to ask each individual whether he pleads guilty or not guilty. Although parts of the arraignment must of necessity relate to individuals, yet it is all one case and all are arraigned at one time.

Q—Japanese lawyers are unable to see the defendants at Sugamo prison. In their opinion this is an injustice. What does GHQ think about this?

A—The responsibility for this matter does not rest with the international prosecution section. In fact it is necessary for us to get permission to see the defendants. Several weeks ago the executive committee of the international prosecution staff passed a resolution that no one in custody after the indictment should be interrogated without the permission of his lawyer and the court. It is very easy to understand that there must be some restriction to interrogate those in custody, but certainly there should not be any difficulty for an attorney to interview his client although of course there must be some procedure. I take it that there is no difficulty for any attorney to interview his client if he sees the proper person for such permission.

Date For Trials Not Fixed

Q—Has the date for the public trials been fixed?

A—It has not. The matter lies within the discretion of the court and the court unquestionably will be guided by fairness to the defendants and the necessity of expediting proceedings.

Q—At Nuremberg, the arraignment took place about one month after the indictment was issued. Why is it taking place so soon here?

A—The matter of determining when to arraign is entirely within the discretion of the court. I do not presume to answer for the court, but in my personal opinion, it seems to me that it is fair to the defendant that they be given an abundance of time between the arraignment and the trial for preparation of the case. Until the arraignment, the court has no way of knowing who will have counsel and who will not. The court may find it necessary to appoint counsel for a defendant. An early arraignment will hasten all these matters and I think will work to the advantage of the defendants and to others in the case.

Q—How can the Japanese people contribute to the success of the international tribunal?

A—I should think that the first and foremost way the Japanese public can contribute to the success of the tribunal is to be informed of what goes on during the trial of this case. In this connection, we naturally see the important role the press will play in informing the public.

MAINICHI 3 MAY 1946

Military Tribunal To Resume Session

Counsels Are Selected
For 5 More Defendants

The International Military Tribunal for the Far East will again sit on Monday, May 6, at 9.30 a.m. The arraignment of the 28 defendants is scheduled.

The court was adjourned abruptly on May 4 in order that defense counsels for five of the defendants could be chosen and to study errors in the indictment's Japanese translation as claimed by the defense.

Defense counsels for five more of the 28 defendants in the war crimes trial at the Tokyo Tribunal were provisionally decided on May 4. They are:

Ichiro Kiyose (proxy pro tem for Jonosuke Inamoto) for Kenryo Sato, Tokisaburo Shiohara for Heitsyo Kimura, Shotaro Miyake for Yosikazu Umezumi, Hanzo Yamamoto for Shishiro Itagaki, and Goichiro Fujii for Naoki Hoshino.

MAINICHI 6 MAY 1946

'Life' For Mantani

EIGHTH ARMY HEADQUARTERS, YOKOHAMA, May 9.

Life imprisonment at hard labor was the sentence given to Unosuke Mantani, former Japanese sergeant, by an Eighth Army Commission in Yokohama this afternoon. He had been charged with mistreating Allied prisoners while second in command of the Nagoya prisoner of war camp.

MAINICHI 13 MAY 1946

Akamatsu Is Sentenced To Life Imprisonment For Torturing Prisoners

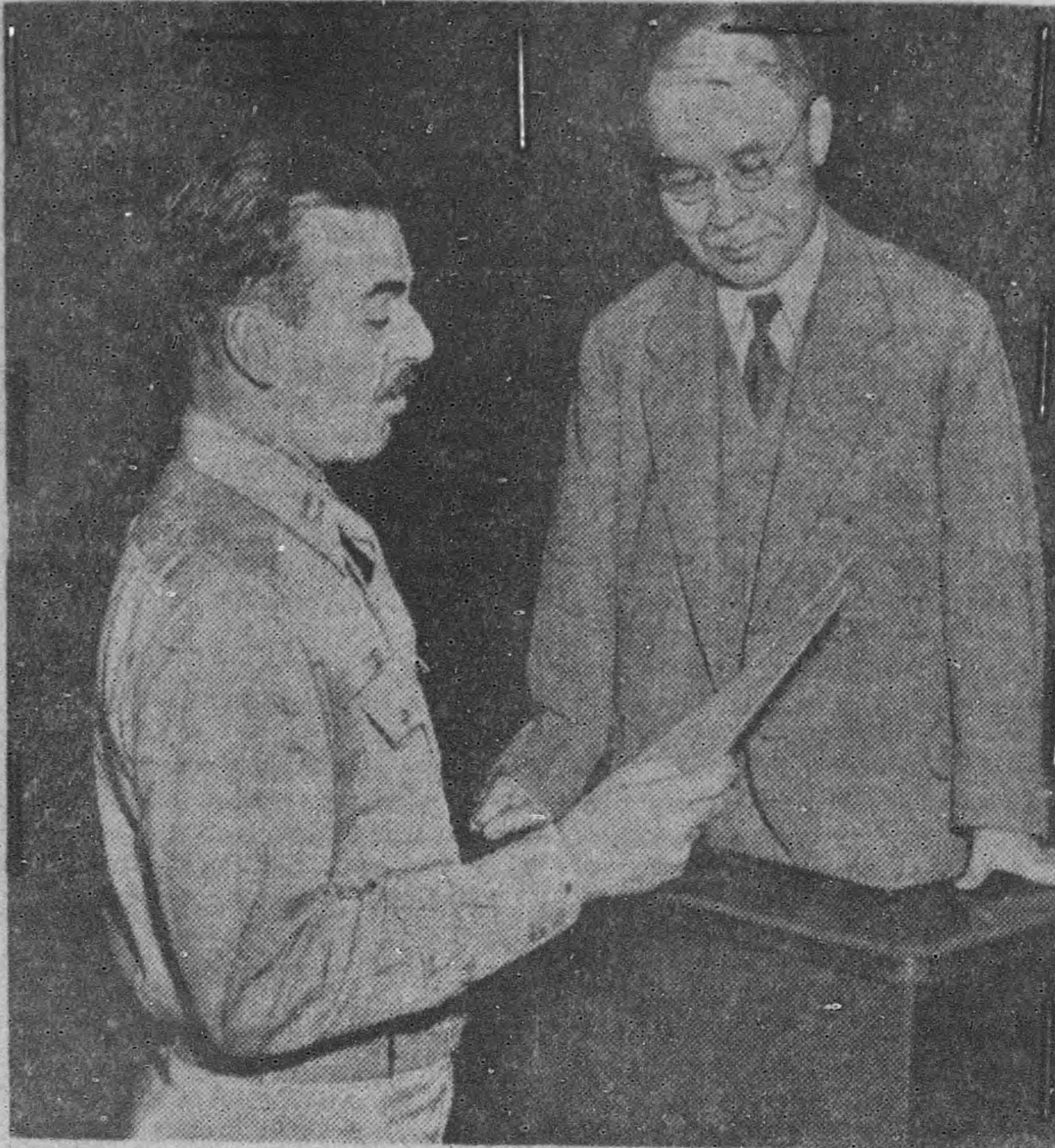
Toranoshin Akamatsu, whose war crimes trial was resumed Wednesday after continuance of two weeks, was found guilty by an Eighth Army commission and sentenced to life imprisonment, Eighth Army Headquarters has announced. Conclusion of the trial had been delayed while clarifying evidence was obtained from former American prisoners who are now in the States.

Akamatsu, a civilian guard at the Yodogawa camp, Osaka, was found guilty on 18 of the 19 specifications accusing him of torturing or otherwise mistreating prisoners.

Thirty-nine war crimes trials have now been concluded by Eighth Army Commissions at Yokohama. Fifty-six persons have been found guilty and sentenced. Of these, six have been sentenced to death and six to life imprisonment. There have been four acquittals.

NIPPON TIMES
21 JUN 1946

5751



IMPORTANT TESTIMONY One of the major witness to testify at the war-crimes trial of Hideki Tojo and 27 co-defendants yesterday was Baron Kijuro Shidehara, former premier and minister of foreign affairs at the time of the Manchurian incident in 1931. Swearing him in is Capt. Donald Van Meter, marshal of the court. (Staff Photo by Sgt. Mickey Portillo)

Shidehara Says China Caused Peace Failure

By Sgt. ROLAND MARTONE, Staff Writer

Disagreement within the Chinese Government prevented the success of peace meetings following the Manchurian Incident, ex-premier Kijuro Shidehara told the War Crimes Tribunal in yesterday's session. There was no difficulty on the Japanese side, he declared.

The veteran political leader said Ex-Foreign Minister Mamoru Shigemitsu, one of the defendants met with China's T. V. Soong and "did his best to solve the incident."

Following the Manchurian affair, the Japanese Army became increasingly independent of the cabinet, Shidehara revealed as he appeared on the witness stand for the second day.

"The cabinet could reach the Army only through the war minister, but could not give orders to the army," the baron said. "The Privy Council had even less control than the cabinet."

"What did you do when you heard the army was massing men and materials in Manchuria?" the prosecution asked Shidehara.

"I received no official report on it," the former premier replied. "Japanese residents returning from Manchuria visited me in Tokyo and Minami (war minister at that time) told me about it. I told General Minami that some steps must be taken to stop the spreading of the incident."

Minami was willing to help stop the military action in Manchuria, but the army's chiefs of staff had already taken over the situation, and the incident kept spreading, the witness said.

Shidehara explained that he only got military information through the newspapers inasmuch as the cabinet and the army operated entirely independent of each other. Even the fact that Gen. Shigeru Honjo was in command of the

~~Kwantung Army in Manchuria was~~ learned by the former prime minister through newspaper sources, he declared.

The prosecution asked: "Did the cabinet cut off supplies from the

~~Kwantung Army to suppress the Manchurian Incident?"~~

"I do not remember that the cabinet took any such steps," Shidehara answered.

A plot that failed was described by Konosuke Shimezu, called by the prosecution to describe an attempt made in March, 1931, to "renovate the Japanese government through a revolution."

Dr. Shumei Okawa and Col. Hashimoto were key figures in the proposed revolution, and Shimezu was seen to it that 300 bombs, supplied by Hashimoto, were thrown outside the Diet Building as the revolt started.

"The plot was called off, though. Later, I heard it failed because the military had pulled out of it," Shimezu said.

Asked by the defense if there was any connection between the "plot that failed anyhow" and the actual war, Shimezu said there was none.

"The incident of March, 1931, was strictly an internal problem," the witness emphasized.

RESIGNED WAR CRIMES LAWYER RAPS TRIALS

Formal Naval Commander Says Prosecution Victim Of 'Maladministration'

SAN FRANCISCO, June 28 (AP)—Allied prosecution of Japan's accused war makers has "fallen victim to maladministration, neglect and inefficiency which in view of the issues at stake is tragic," a former

Keenan Replies

WASHINGTON, June 28 (AP)—Chief Prosecutor Joseph B. Keenan who is here on temporary leave from the International War Crimes Tribunal in Tokyo, said Navy Commander Bentley M. McMullin resigned from the war crimes prosecution staff "after he requested and failed to receive a promotion."

"McMullin was disappointed and resigned," said Keenan. "His resignation was promptly accepted."

member of the prosecution staff charged in the first public criticism by any officer connected with the trials.

Naval Reserve Cmdr. Bentley M. McMullin, returning to private law practice in Denver, declared in a written statement that Chief Prosecutor Joseph B. Keenan and his aides had been "rushed precipitously to Japan . . . personnel was selected on the run . . . there is little else than a series of spasmodic and frenzied efforts first in one direction and then another."

He added that the trials will not have accomplished their purpose unless they are a means by which the East, and Japan in particular, may learn exactly what the Japanese leaders did.

"The facts must be brought out so clearly that the subjects of the emperor can not escape consciousness of guilt," said McMullin.

"It might also be hoped that there may emerge new progressive principles of international law . . . these tasks require leadership of the highest order . . . such leadership unfortunately has not been provided."

STARS & STRIPES
29 JUN 1946

Keenan Returning Next Week

Byodo-UP
WASHINGTON, June 27.—Joseph Keenan chief prosecutor in the Japanese war criminal trials said he would return to Tokyo next week to resume duties. Keenan who came here to take care of pressing personal business and to examine the war, Navy and State Department files on Japan's war leaders said there was absolutely no truth to reports he would not return.

NIPPON TIMES
29 JUN 1946

STARS & STRIPES
27 JUN 1946

ITEM 2 "General Hata", Defendant, Mistaken for Another "General Hata", Counsel Says - Tokyo Shimbun - 28 Jun 46. Translator: K. Murakami.

5751
Full Translation:

Marine Capt. Aristides LAZARUS (TN: Actually a lieutenant according to navy rank) and KANZAKI, Masayoshi, defense counsel for General HATA, Shunroku, told the Secretary Bureau of the Tribunal that General HATA, one of the major war criminals now on trial, has been mistaken for General HATA, Hikosaburo, who was Vice-Chief of Staff at the time of JAPAN's surrender. Because of this, the defense attorneys asked the Tribunal to summon Lieutenant-General HATA, Hikosaburo to the court as a witness, presenting the following information necessary for calling him:

1. When the SOVIET UNION entered the war, (9 August 1945), Lieutenant General HATA, Hikosaburo was in the office of the Chief of Staff of the KWANTUNG Army.
2. We have no information concerning Lieutenant General HATA, Hikosaburo after that time.
3. Lieutenant General HATA, Hikosaburo is needed as witness to prove the fact that the name "HATA", frequently seen in the counts in the indictment, is not General HATA, Shunroku, who is being tried, but is actually Lieutenant General HATA, Hikosaburo.
4. Thus, through HATA, Hikosaburo as witness, it will be found that HATA, Shunroku, defendant, has been a victim of mistaken identity.

According to the defense attorneys, this misunderstanding arose partly because of the similarity in their past careers. At any rate, if the defense counsel is to ask for the summoning of the witness, they would have to ask this of the SOVIET UNION. Concerning this, Counsel LAZARUS spoke as follows: "General HATA, Shunroku had been sent to NANKING to control the military discipline of the Japanese armed forces, and prevent another disgraceful NANKING Incident. It is not General HATA, Shunroku but Lieutenant General HATA, Hikosaburo who is responsible for most of what has been charged against the former. For example, at the time of the anti-SOVIET attack in the Lake HASAN area, in August of 1948, General HATA, Shunroku was in NANKING." Counsel LAZARUS and KANZAKI on 27 June presented an additional statement giving reasons for the summoning of the witness to the Secretariat of the Tribunal. According to the view of the defense counsel, the charges, which are not applicable to General HATA, Shunroku, are, for the present, Count 25 and Count 26 (the Lake HASAN and CHOKOHO Incidents). However, the attorneys anticipate, by examining the witness, that they will have more new data attesting to this misunderstanding, on the basis of which they would present a motion for the dismissal of the accusation against Defendant HATA. The statement is as follows:

1. Witness HATA, Hikosaburo is a Japanese.
2. According to a certain information, HATA, Hikosaburo has not been repatriated as yet. It is not known how well he has fared since the war's end.
3. HATA is needed to confirm the misinterpreted facts in Count 25 and Count 26.
4. In order to present an application for the dismissal of the charges against Defendant HATA, Witness HATA must be called to the Tribunal as quickly as possible.

CELL GUARD ACCUSED IN DEATH OF 450 AT FORT SANTIAGO, MANILA

5751
The tragedy of Fort Santiago, Manila, where 450 unarmed, non-combatant Filipinos and military prisoners died in agony in the winter of 1944, was recalled today with the filing of war crimes charges by the Legal Section of SCAP against Takao Saito, 41 years old.

Saito, former warrant officer in the Imperial Japanese Army, bears command responsibility, according to the charges, for the fate of the hundreds who died.

The prison of Santiago is revealed as the "Black Hole of Calcutta" of the war in the Pacific. In November 1944, when Saito was placed in charge of the cells and cell guards of the Fort, unknown hundreds of unarmed, helpless Filipinos noncombatants and military prisoners were herded into the dank, unsanitary cells, without ventilation food or water.

The Legal Section charges that 450 of the prisoners died of suffocation and other unnatural causes.

Among the victims named in the charges as having died at Fort Santiago, were Joaquin Asuncion, Hospicio Caniedo, Artemio Aquino, Pablo Jacinto, Andres Bonifacio, Victor Salanio, Jose Torres, Pedro Hermoso, Placidio de la Cruz, Vitaliano Bernardo, Jaime Pedro, Felix de la Cruz, Gesler, first name unknown; Eliseo, Gregorio, and Felicio, last names unknown, all residents of the Province of Rizal and the City of Manila.

Chief prosecutor at the trial of Saito will be 1st Lt. James A. Wrightson of Ellicott City, Maryland. He was formerly employed by the Standard Oil Company of New Jersey.

First Lt. Rodolfo G. Tiquia of San Simon, Pamanga, Philippines, who was a prisoner of war at Camp O'Donnell from the "Death March of Bataan" until August 1942, will be assistant prosecutor.

Following his release on parole from Camp O'Donnell, Lieutenant Tiquia served with the Filipino Guerillas, who were known as the "American Dominion Forces." He was an "intelligence operative until the arrival of the American liberation forces in Manila.

A graduate of the University of the Philippines, and holder of an LLB Degree from the Philippine Law School, Lieutenant Tiquia was engaged in general practice of law in Manila before the war, and was commissioned in November 1940. At his home, 408 Ricafort, Tondo, Manila, are his wife, Ana Calingo, and sons, Rudolfo Jr., and Napoleon.

JUL 8 1946

**GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
ALLIED TRANSLATOR AND INTERPRETER SECTION**

PRESS TRANSLATIONS

No. 3852

DATE: 9 Jul 46

POLITICAL SERIES: 971

ITEM 1 Tokyo War Crime Trials - Asahi Shimbun - 6 Jul 46. Translator: Faasche.

Summary:

One question has constantly intrigued the world: Who were the young officers behind the Manchurian conflict which started the ball rolling toward World War II? This riddle was at last solved by the TOKYO International Military Tribunal when, on 5 July, TANAKA Ryukichi stated, on the witness stand that the military officers responsible were ITAGAKI, TATEKAWA, ISHII HARA, FASHIMOTO and CHO, in addition to the civilian, Dr OKAWA.

Prosecutor SACKETT: How did you know that an investigation of the CHANG TSO-LIN case was carried out?

TANAKA: When the War Ministry moved to ICHIGAYA in 1942, I read the documents relating to the May 15th and February 26th incidents.

SACKETT: Who conducted the investigation?

TANAKA: Col NAGAMINE of the TOKYO Military Police, on orders from the War Minister in 1928.

SACKETT: What can you tell us about the CHANG TSO-LIN murder?

TANAKA: Col KAWAMOTO of the General Staff of the KWANTUNG Army planned the dynamiting of CHANG TSO-LIN's train, but the Chief of the General Staff had nothing to do with it. KAWAMOTO's idea was to oust CHANG TSO-LIN and make his son CHANG HSUEH-LIANG, ruler of MANCHURIA independent of NANKING thereby creating a new state which could be controlled by JAPAN and would serve as a buffer state. The TANAKA Cabinet cracked down on this scheme, but KAWAMOTO could not be so easily discouraged. On 3 June 1927 CHANG TSO-LIN's train was blown up in Southern MANCHURIA. The act was committed by Japanese sergeants sent from SEOUL, KOREA. KAWAMOTO ordered Capt OZAKI of the General Staff to attack CHANG TSO-LIN's Chinese guards and to concentrate the fighting force of the KWANTUNG Army, but Lt GEN SAITO of the General Staff vetoed this. KAWAMOTO is now in TAI YUAN, SHANSI Province, CHINA.

SACKETT: What did KAWAMOTO tell you about his ideas for an independent MANCHURIA?

TANAKA: He wanted a buffer state under Japanese leadership. He also wanted to reform JAPAN's economy and strengthen her defenses.

SACKETT: What was the attitude of the Japanese Army towards MANCHURIA?

TANAKA: After the clash at TSIENAN, SHANTUNG Province, and the Manchurian incident, there was a state of undeclared war; hence the Army took a strong attitude. Notably in the autumn of 1928, after CHANG HSUEH-LIANG had joined the KYOMINTANG and the NANKING flag had been carried into MANCHURIA, the plains that had been soaked with Japanese blood in the Russo-Japanese War seemed at stake. Hence the opinion prevailed in the

POLITICAL SERIES: 971 (Continued)ITEM 1 (Continued)

Army that the issue must be settled once and for all. Maj Gen TATEKAWA was particularly outspoken in this regard. These tendencies were supported by civilian organizations, among whom Dr OKAWA held a leading position. After 1931 ardent supporters of these ideas were Colonels HASHIMOTO and CHO, members of the Cherry-Blossom Association (SAKURA-KAI). The SAKURA-KAI was established early in 1931 by Lt Col HASHIMOTO, Kingoro. Educators and about 60 Army and Navy officers took part in the first meeting. Students of the Military Academy later swelled the membership considerably. As to the aims of the Society, HASHIMOTO, ITAGAKI and CHO held different views, but the common denominator was the desire to settle JAPAN's political conditions at home as well as her relations with CHINA. Therefore the SAKURA-KAI wanted to remove the Chinese warlords in MANCHURIA, thereby paving the way for a monarchy. It was further intended to develop Manchurian industry under Japanese leadership. All this was to be JAPAN's basic policy designed to make her the stabilizing force of ASIA.

SACKETT: What did HASHIMOTO tell you about the Manchurian Incident?

TANAKA: I met him in 1934 in a restaurant in TOKYO. He said the Manchurian coup was planned by the KWANTUNG Army, that he himself had agreed to it and that he desired a reform of the Japanese political system. He and CHO had mapped out the October Incident (1931), but it failed. However, the Manchurian project had materialized. At first the intention had been to occupy and develop MANCHURIA, but he had told the KWANTUNG Army that it was better to set up an independent state so as to avoid international friction. HASHIMOTO co-operated with CHO before the Incident, and afterwards he worked in the War Ministry. He said he wanted to overhaul the rotten politics of JAPAN and to help in the completion of the Manchurian Incident. As I heard from CHO in the following year (1932) that the aim of the October Incident was to assassinate the political leaders of JAPAN in order to bring about a political and spiritual rejuvenation and to assist the activities in MANCHURIA. TATEKAWA wholeheartedly supported HASHIMOTO and CHO and was an enthusiastic advocate of MANCHURIAN independence. According to HASHIMOTO, the attitude of the WAKATSUKI Cabinet was definitely passive and lukewarm, so that the members of the SAKURA-KAI were for joining forces with Dr OKAWA's group in staging a coup d'état in TOKYO. OKAWA maintained that JAPAN alone had not fallen prey to the colonial policy of the white man in ASIA and should therefore lead the fight for his expulsion and bring about the revival of ASIA. Since he had been unable to convince CHANG HSUEH-LIANG of this when he met him personally in 1931, he had had to resort to military violence. He told me that the October Incident miscarried because of the interference of Lt Col NEMOTO. General ITAGAKI contended that war must come as a surprise and therefore suddenly used howitzers at MUKDEN, frightening the Chinese away.

SACKETT: How did ITAGAKI control MANCHURIA when he was Chief of Staff of the KWANTUNG Army?

TANAKA: Through the Treaty of Mutual Defense between JAPAN and MANCHU KUO, the KWANTUNG Army was able to control the country from within. ITAGAKI called this relationship the 'indivisible relations between JAPAN and MANCHURIA'. Nothing of importance could be done without ITAGAKI's consent. HOSHINO, Naotake completely controlled the economy of the country through the 'Five Year Plan', but ITAGAKI had no direct influence over this field of activity. Lt Gen TATEKAWA had been appointed Inspector of the KWANTUNG Army by War Minister MINAMI. He had foreseen the conflict in MANCHURIA and hoped that JAPAN would become all-powerful there. When Foreign Minister SHIDEHARA heard of the impending incident through the Japanese Consulate in MUKDEN, he sent a protest to War Minister MINAMI, who thereupon went to MANCHURIA but without any intention of putting a stop to the Army's plans. Nevertheless, the KWANTUNG Army thought he would interfere and restricted his movements until after the outbreak of the incident by shutting him up in his hotel.

ITEM 2 Tokyo Trial on 6 July - Mainichi Shimbun - 7 Jul 46. Translator:
M. Yasutake.

Summary:

575.1

On 6 July, the International Military Tribunal for the FAR EAST

POLITICAL SERIES: 970 (Continued)ITEM 2 (Continued)

opened at 0930 hours and testimony was given by former Maj Gen TANAKA, Ryukichi. The following questions and answers were exchanged between Prosecutor SACKETT and the witness:

Question: Did Lt Gen TATEKAWA know of the outbreak of the Manchurian Incident beforehand?

Answer: No, he did not.

Question: Who are the persons whom TATEKAWA mentioned as being directly connected with the outbreak of hostilities?

Answer: They are members of the SAKURA-KAI, headed by HASHIMOTO, Kingoro, OSA, Isamu, and OKAWA, Shumei, the latter an ultra-nationalistic thinker. They were given positive support by ITAGAKI, Seishiro and ISHIWARA, Kanji, of the KWAN TUNG Army.

Question: What was the aim of the above-mentioned officers and ultra-nationalists?

Answer: When the Incident took place in MANCHURIA, public opinion was against it. The WAKATSUKI Cabinet was strongly opposed. Hence, those officers plotted the "October Incident" to overthrow the existing Government and establish a new one which would approve of the Incident. TATEKAWA gave positive support to this.

Question: What is the relation between you and OSA, Isamu, head of the SAKURA-KAI?

Answer: I worked with him in the CHINA section of the General Staff Office. He pointed out the names of those who participated in the plot of the Manchurian Incident, and said that he himself was chiefly responsible for the "October Incident". Just after the "October Incident", the Army was not necessarily for the continuance of the Manchurian hostilities, but the KWANTUNG Army persuaded the Central Army to support the independence of MANCHURIA. Gen MINAMI told me that he was not getting along well with Foreign Minister SHIDEHARA, since he conveyed the strong attitude of the Army regarding Manchurian affairs in a Cabinet meeting. Gen TOJO participated in the appointment and discharge of chief government officials of MANCHURIA when he was in the KWANTUNG Army.

Question: Do you know about the Autonomous Government in North CHINA?

Answer: The KWANTUNG Army planned to establish governments in Inner MONGOLIA and North CHINA. The establishment of the Inner MONGOLIA Autonomous Government aimed indirectly at the checking of Russian influences in Outer MONGOLIA, and directly at the independence of both Inner and Outer MONGOLIA. The establishment of an autonomous government in North CHINA aimed at the separation of five North CHINA provinces from the NANKING Regime, and connecting them with MANCHURIA, under Japanese guidance. The movement for autonomy made smooth progress, and in November 1935, two governments were established through the efforts of Maj Gen DOIHARA.

The trial recessed at 1043 hours, and reopened at 1100 hours. The witness continued his explanations on the autonomous governments in North CHINA as follows: "One of the autonomous governments was entirely independent of the NANKING Regime; the other one, though it was not completely separated from the NANKING Regime, pledged close co-operation with JAPAN. Both of these two governments lasted until the outbreak of the CHINA Incident on 7 July 1937." Then the

POLITICAL SERIES: 970 (Continued)

ITEM 2 (Continued)

exchange of questions and answers was taken up again between the prosecutor and the witness.

Question: Why did DOIHARA remain in PEIPING?

Answer: At the command of MINAMI. I remember that the command included the establishment of an autonomous government in North CHINA and its maintenance in close relation with JAPAN and MANCHURIA. At the same time, the command included the formation of a united front against communism.

Question: Had UMEZU anything to do with the autonomy movement?

Answer: The UMEZU-HWOU Ping Chin Agreement was concluded in 1935 and, as a result, the Chinese Central Army withdrew from North CHINA. Then, troops belonging to a Chinese war lord, entered the cities of North CHINA. The KWANTUNG Army strongly supported the establishment of an autonomous government in Inner MONGOLIA, because Inner MONGOLIA would form a good base for possible Japanese operations against the SOVIET UNION.

The witness pointed out that MINAMI and ITAGAKI were ardent supporters of the autonomous government in Inner MONGOLIA. Answering the question regarding the training of the Japanese forces in MANCHURIA, the witness stated:

"The training of the Japanese forces began in 1935, preparing for possible clashes with the SOVIET UNION. The Japanese troops there were excellently equipped and numbered about 2,600,000. Some of them were sent to the South after the outbreak of the Pacific War".

The trial adjourned at 1144 hours.

GENERAL HEADQUARTERS
 UNITED STATES ARMY FORCES, PACIFIC
 Public Relations Office

Press Release:

16:30
 12 July 1946

JAPANESE FORMER MAJOR GENERAL DOOMED TO HANG FOR SLAUGHTER OF BURMESE

The Legal section of SCAP announced today that Tamanori Sato, former major general in the Japanese army, and one of his subordinates, Keizo Tazawa, former lieutenant colonel, have been tried for war crimes by a British military tribunal at Singapore, and sentenced to death by hanging.

575.1 Sata and Tazawa were found responsible for the murder of 18 men, nine women, and 34 children, all Burmese, in the Andaman islands between July 23 and 25 of 1945. Convicted with them were Takuichi Kiyomoto, former colonel, who was sentenced to 15 years imprisonment; Tadashi Ishida, and Ikuo Baba, both former lieutenants, who were sentenced to one year's imprisonment.

The trial brought out that the slaughtered Burmese had attempted to escape from the terrors of the Jap-occupied Andamans in a "daihatsu" (large boat). They were caught by Baba. Tazawa decided that the entire group should be shot, and the former general, Sato, approved the decision.

Kiyomoto ordered Baba to take the unfortunate Burmese men, women and children, to Tarmugli island, and there to shoot and bury them. Baba and Ishida took a firing squad to the island with the victims.

The 18 Burmese men were shot and buried first. Then the women and children were dealt with, in each case the mother being shot first and the children afterward. They were all buried immediately.

It was brought out at the trial that after the Japanese surrender, Sato ordered the bodies recovered and burned, to conceal all evidence of the crime. 12 JUL 1946 PRESS RELEASE - AFPAC

POLITICAL SERIES: 963 (Continued)

ITEM 2 The Tokyo War Crime Trials - Asahi Shimbun - 4 Jul 46. Translator: Paasche.

Extracts:

595.1
On 3 July, Prosecutor MANSFIELD caused an outburst of opposition from Mr McCORMACK, and seven other counsels, by his motion that more excerpts of the affidavits concerning JAPAN's actions in the Pacific Ocean should be used as evidence. The other interesting feature of the day was the discovery that General OKADA had taken an extremely important part in the shaping of events, and that his statements covered a very large area. OKADA testified that "the Government was unable to control the young officers".

Chief Justice WEBB pointed out that there were not enough American counsels present, but KIYOSE replied that the defendants, TOJO and HASHIMOTO were satisfied with the available Japanese lawyers. Later KIYOSE began to cross-examine OKADA.

KIYOSE: "I understand the TANAKA Cabinet turned its attention to KOREA and MANCHURIA because Japanese emigration to AMERICA was restricted. Did Premier TANAKA assume that AMERICA would tolerate this Manchurian policy of the Japanese?"

OKADA: "I believe he thought so."

KIYOSE: "Did this policy concern MANCHURIA and KOREA only, having nothing to do with CHINA proper?"

OKADA: "It is as you say!"

KIYOSE: "What caused the downfall of the TANAKA Cabinet? Was it the murder of CHIANG Tso-Lin or rather the fact that its punishment was delayed?"

OKADA: "This and other difficult problems, including the Treaty for outlawing war, collectively contributed to its downfall. The view was expressed that the anti-war pact and notably its Preamble 'In the name of the people' were unconstitutional. For this reason Viscount UCHIDA left the Privy Council."

KIYOSE: "In other words, the murder of CHIANG Tso-Lin was not the only cause of the Cabinet downfall. What did you mean by the term 'the Manchurian Puppet Regime'?"

OKADA: "A regime that could be easily controlled by JAPAN."

KIYOSE: "In connection with the MUKDEN Incident, you referred to the plans of OKADA and others. Did you hear of these plans after the incident had taken place?"

OKADA: "In my capacity as a cabinet minister in the SAITO Cabinet (in 1932), I conducted an investigation through official channels and had a thorough knowledge of current affairs."

KIYOSE: "What did you think was the aim of the rebels on 26 February (1936)?"

OKADA: "I was not in a position to form an opinion."

KIYOSE: "Please explain your statement that the Government had absolutely no means of checking the Army."

OKADA: "It is true, the Army and Navy were the concern of the Government, and the Army and Navy Ministers co-operated accordingly; but there was a group of young officers who could not be controlled, despite the efforts of the High Command."

POLITICAL SERIES: 963 (Continued)ITEM 2 (Continued)

KIYOSE: "What can you tell us about the Manchurian policy of the SAITO and OKADA Cabinet?"

OKADA: "The concern at the time was the peaceful development of Manchuria."

KIYOSE: "What were the aims of the Navy Department, which was set up in MANCHURIA at the time?"

OKADA: "To find out about conditions in MANCHURIA."

KIYOSE: "When this country extended political recognition to MANCHURIA in 1932 (15 September), you gave your assent, as cabinet minister. What were your reasons?"

OKADA: "Since things had come to such a pass, there was nothing else to do."

Chief Justice WEBB then brought up the question of the alleged "Gentlemen's Agreement" with the UNITED STATES regarding MANCHURIA.

OKADA: "Premier TANAKA darkly hinted at some understanding, but, I am not acquainted with its nature."

Replying to questions by Mr OKAMOTO, OKADA said: "The OKADA Cabinet has no Manchurian policy at all."

Mr KLEIMAN: "On 13 September 1932, there was a Privy Council Session in the presence of the Emperor during which the recognition of MANCHURIA was discussed. Did you take part in this deliberation?"

OKADA: "I should have attended that meeting, but I do not recall whether I actually did."

KLEIMAN: "Didn't you oppose the occupation of MANCHURIA before that meeting took place?"

OKADA: "I harbored different views but did nothing."

KLEIMAN: "You assented to the recognition of MANCHURIA---did you think this was in the interest of that country?"

OKADA: "Certainly."

Mr BROOKS: "From what source did you know that the Army intended to commence military action in MANCHURIA in 1931?"

OKADA: "When I joined the SAITO Cabinet 1932, I made investigation through official channels."

BROOKS: "Have you no evidence or material on the motives of the Army's action in September 1931 in MANCHURIA?"

OKADA: "There was much evidence, but it was lost during the air raids."

Mr OKAMOTO: "Why did you abrogate the WASHINGTON Treaty in 1934 when you were Navy Minister?"

OKADA: "Conditions in JAPAN left me no choice."

OKAMOTO: "Didn't you think that the abrogation was necessary for the defense of the country?"

POLITICAL SERIES: 963 (Continued)

ITEM 2 (Continued)

OKADA: "No, I didn't think so."

OKAMOTO: "Then what about the abrogation of the LONDON Naval Agreement in June 1936?"

OKADA: "I thought that was all right."

POLITICAL SERIES: 941 (Continued)ITEM 2 Tokyo War Crime Trials - Asahi Shimbun - 28 Jun 46. Translator: Paasche.575
Summary:

On 27 June the Court passed from the "March Incident" to the "15 May Incident" and heard testimony by FUJITA, Isamu and INUKAI, Ken concerning the background of the Manchurian affairs. The Court was informed of the death of MATSUOKA. The statement that attracted the greatest attention was witness INUKAI's (TN: Son of Premier INUKAI) remark concerning the attitude of the Emperor: "Premier INUKAI planned to withdraw the Army from MANCHURIA on the strength of an Imperial Decree, but owing to the opposition of the Army this was not possible. It was the intention of the Emperor to prevent the extension of the Manchurian conflict."

After the name of MATSUOKA was erased from the indictment, FUJITA testified as follows: "I made the acquaintance of Colonel SHIGETO, Chiaki in 1930. In August 1931, SHIGETO and HASHIMOTO visited me and said that strong action must be taken in MANCHURIA. When, on 18 September 1931, I read in the newspaper that a railroad had been blown up in MANCHURIA and that hostilities had started between Chinese troops and the KWANTUNG Army, I went at once to SHIGETO to ask how the matter would be dealt with and received the following reply: 'We will expel CHIANG Hsiich-Liang, son of the late CHIANG Tso-Lin, from MANCHURIA and replace him with CHU Cheng.' I asked him what would happen in case of international repercussions and if things did not work out as smoothly as he anticipated, to which he replied: 'I am a member of the General Staff and will take the responsibility for all incidents in CHINA. Therefore, if something goes wrong, I will commit harakiri.' HASHIMOTO only said: 'The inevitable has happened.'

Counsel OHARA: "Exactly what did you mean when you referred to the state of emergency in MANCURIA?"

FUJITA: "The Army of CHIANG Hsiich-Liang had adopted a challenging attitude towards JAPAN and his policy infringed on JAPAN's vested rights. He was building another parallel railroad and was prepared to oppose the Japanese. On a suitable occasion JAPAN had to do some thing about this condition."

(TN: According to MAINICHI - FUJITA: "In order to protect her rights JAPAN had to seize the opportunity for determined military action." OHARA: "What do you mean by 'opportunity'?" FUJITA: "If the Chinese started positive action there was to be a counter attack." OHARA: Was the expulsion of CHIANG Hsiich-Liang and the substituting of CHU Cheng to be taken as SHIGEMOTO's private intentions or as the policy of the Japanese Government?" FUJITA: "I heard this was the predominant view of the General Staff."

The next witness, INUKAI, Ken, stated that his father Premier INUKAI, had spared no effort to bring the Manchurian outbreak under control. He was, however, killed during the "15 May Incident".

Counsel SUGAHARA: "Did the Premier try to settle the Manchurian Incident?"

INUKAI: Yes, not only that, but he wanted to remove the causes of it."

SUGAHARA: "What happened in connection with Premier INUKAI's secret mission to General CHIANG Kaishek in NANKING?"

INUKAI: "Since CHINA's first revolution my father was on friendly terms with SUN Yat Sen and CHIANG Kaishek. The secret messenger was SUGANO, Choji. It was intended to adjust the underlying causes of Sino-Japanese friction as well as to workout concrete methods for an early cessation of hostilities in MANCHURIA."

POLITICAL SERIES: 941 (Continued)ITEM 2 (Continued)

(TN: MAINICHI - "My father was against an extension of the Manchurian Incident and was for withdrawing the troops. Several months after the outbreak he was anxious to see the Emperor and obtain an Imperial rescript ordering the withdrawal of the Army from MANCHURIA. The audience was granted, but the withdrawal did not materialize. Premier INUKAI was opposed to the recognition of a puppet state since it constituted a violation of CHINA's sovereignty. The messages of my father's envoy to NANKING were intercepted by the Army and he was repeatedly warned that his opposition to armed intervention in MANCHURIA was extremely dangerous for him. One week after he delivered an anti-fascist speech in YOKOHAMA he was killed by a group of naval officers.")

SUGAHARA: "What did your father think of General ARAKI, who was the War Minister at that time?"

INUKAI: "He thought him unable to control the young Army officers who were the driving force behind the movement for extending the scope of the conflict in MANCHURIA."

SUGAHARA: "In other words you confirm that ARAKI made efforts to avert an extension of the conflict?"

INUKAI: "I think he did."

SUGAHARA: "Was a Sino-Japanese alliance the primary object of SUN Yat Sen's repeated travels to JAPAN?"

INUKAI: "His chief object was to seek shelter from the prosecution of the MANCHU court, but when he had made some friends he began to think that an alliance was possible."

Counsel SAMMONJI: "Did your father contemplate the withdrawal of all troops from MANCHURIA?"

INUKAI: "With the exception of railway guards as stipulated in the Sino-Japanese agreements."

Counsel HOZUMI: "Why did your father not succeed in obtaining authorization for withdrawing the troops although he was granted an Imperial audience?"

INUKAI: "There were various reasons of which the Army's resistance was the most important."

HOZUMI: "From what you say it appears that your father asked the Emperor for an Imperial Rescript and that the Emperor refused to grant it. Since the responsibility of His Majesty is involved you must clarify this point."

INUKAI: "Since my statement proves that the Emperor was peace loving and firmly opposed to an extension of the conflict, it should not be altered."

HOZUMI: "Certainly not. But you must be clear since your statement may be used as evidence."

INUKAI: "I believe it to be in the interests of the Japanese nation if I explain this matter if and when His Majesty so wills."

KLEIMAN: "Did the Emperor consult the Privy Council on this subject?"

INUKAI: "I do not think so. My father's preparations for a Sino-Japanese peace had not yet reached that stage."

KLEIMAN: "Did the Privy Council take any measures toward withdrawal of the Army from MANCHURIA?"

POLITICAL SERIES: 941 (Continued)

ITEM 2 (Continued)

INUKAI: "In my opinion, the Privy Council had no such powers at that time."

FURNESS: "You say that SHIGEMITSU was made envoy to CHINA. Did he loyally support the policy of non-extension of the Manchurian conflict and of seeking good relations with CHINA?"

INUKAI: "My father seemed to trust his character and ability very much."

ITEM 2 The Proceedings at the International Tribunal during the Past Week -
Tokyo Shimbun - 1 Jul 46. Translator: R. Ochiai.

595-1
Summary:

During the past week the proceedings of the International Military Tribunal shifted from the clarification of past militarist education and propaganda in JAPAN to the actual steps which marked the militarist clique's preparation for war, notably the "March Incident", the "Manchurian Incident" and the "October Incident." The tribunal heard testimony on these incidents by a number of important witnesses: Baron SHIDEHARA, Marquis TOKUGAWA, Baron WAKATSUKI, Mr INUKAI, Ken, and General UGAKI. Their evidence clearly showed the active part which the military caste played in these incidents. However, the highest point of the discussion was brought about with Mr INUKAI's testimony concerning the Emperor's attitude toward the Manchurian Incident.

POLITICAL SERIES: 955 (Continued)ITEM 2 (Continued)

Judging from what was said, the Emperor, in an audience with the late INUKAI's Cabinet and its preceding cabinets, held to a policy of non-expansion. He explained how the Cabinet was in earnest in withdrawing the Japanese troops from MANCHURIA, and in negotiating with CHINA to reach an amicable solution. "The Government, however, was unable to control the actions of the Army, and therefore was not responsible for what the Army did," INUKAI said.

Baron SHIDEHARA took the stand and said, "Although there is no provision in the law regarding the place where responsibility lies, the only Cabinet member who should bear the responsibility for the incident is War Minister MINAMI."

Baron WAKATSUKI said, "MINAMI was a member of the Cabinet which had no responsibility for the war. Therefore, although he was connected with the prerogative of supreme command, we must not say that he is responsible for the war."

Being afraid that their opinion regarding responsibility might arouse doubts concerning the Emperor, the witnesses did not clarify their statements. However, they gave a full explanation concerning the inside history of the incidents.

INUKAI said that the Emperor strongly desired peace and advised his father that a condition should not prevail wherein politics in JAPAN were to be controlled by the Army. The Prime Minister asked the Emperor to issue an Imperial Rescript, and dispatched a special emissary to NANKING for consultations with General CHIANG KAI-SHEK. The mission was kept a secret but was interfered with by the Army.

Baron SHIDEHARA and other witnesses revealed the truth concerning the outbreak of the Manchurian Incident. The Japanese people had been told that the incident started with the challenge of only the Chinese troops at RYUJOKO, but this was not true. Colonel HASHIMOTO and Colonels SHIGETO and OKAWA urged that "positive action" be taken in MANCHURIA a month prior to the demolition of the railroad. Together with General Staff circles, they carried out their imperialistic policy and intended to establish a militaristic cabinet. It is surprising to realize that the militarists tyrannized to a much greater extent than we imagined.

ITEM 3 TOKYO War Crime Trials - Mainichi - 2 Jul 46. Translator: Faasche.595.1
Summary:

Continuing its inquiry into the military conquest of MANCHURIA, the Court yesterday summoned two witnesses, General UGAKI and GOTO, who testified on the general subject of militarism with emphasis on the Imperial Rules Assistance Association.

McCORMACK: "Did the War Minister have a higher position than the Chief of the General Staff in relation to troops overseas?"

UGAKI: "The Chief of the General Staff had the highest military command and was directly under the Emperor."

McCORMACK: "In what respect, if any, was the post of Governor General of KOREA a military command?"

UGAKI: "The Governor General had some relations with the army in regard to policy and defense."

POLITICAL SERIES: 955 (Continued)ITEM 3 (Continued)

McCORMACK: "Had he anything to do with the movements of the army stationed in KOREA?"

UGAKI: "He was merely informed of the fact that the KOREAN Army had moved into MANCHURIA."

SAMMONJI: "What do you mean by militarists' in your written statement?"

UGAKI: "Soldiers on active duty scheming to take part in politics."

SAMMONJI: "Does not the term GUMBATSU suggest the formation of a party or clique?"

UGAKI: "You are free to think so!"

SAMONJI: "Do you think the defendant HATA had a liking for participation in politics?"

UGAKI: "By no means."

OHARA: "What was the meaning of the letter you received from OKAWA?"

UGAKI: "He wanted a political reform to be led by me, but his outlook was very narrow. I talked this over with SUGIYAMA and KOISO."

OHARA: "Did you not feel a reform was needed in JAPAN at the time?"

UGAKI: "I realized the corruption of party politics but did not think a thorough-going reform was called for."

OHARA: "Why did you resign from active service?"

UGAKI: "I was appointed Governor General of KOREA."

Later GOTO, Fumio, former Minister of the Interior and President of the Imperial Rule Assistance Association was introduced as a witness.

Hugh HELM: "You worked for a new world order; what exactly did you do?"

GOTO: "I had neither time nor authority to work for such a thing."

HELM: "Is it right to assume that the following programs were not among the aims of the Imperial Rule Assistance Association: 1) to become the moral leader of the world; 2) to establish a new order?"

GOTO: "No, these were not the aims."

HELM: "Can it be said that the Association was not a militaristic body?"

GOTO: "What do you mean by militarism?"

Chief Justice WEBB: "That term need not be defined, but what does 'the way of the subject' mean?"

GOTO: "The carrying out of the duties of the subjects; that is, the Japanese people."

WEBB: "Including the duty of military service?"

GOTO: "Yes, as well as tax paying and various other moral duties?"

HAYASHI: "Did the activities of the Association constitute a preparation for a provocative, unjustifiable war against the Allies?"

POLITICAL SERIES: 955 (Continued)ITEM 3 (Continued)

HELM: "This question is inadmissible because it forces the witness to make up his mind on the principal question whether war is legal or illegal."

Chief of Justice WEBB: "I would like him to answer it all the same."

GOTO: "I do not think that the Association was established with this end in view."

HAYASHI: "You have stated that the OKADA Cabinet was afraid of the military - when was that?"

GOTO: "Especially toward the end of its term. The Cabinet knew that some of the military wanted a political reform."

Questioned by KLEIMAN, GOTO said that according to the intention of its founder, KONOE, the Imperial Rule Assistance Association was not to be a political party but an organization which everyone could join regardless of his views. The Diet members who had joined it after the dissolution of their parties were disappointed by its lack of political power and hence founded the "Political Association" (YOKUSEI KAI). The relations between Baron HIRANUMA and the Imperial Assistance Association was not very close because he was only an adviser.

DISTRIBUTION "X"

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC
Public Relations Office

Press Release:

16:30
3 July 1946

LIFE SENTENCE FOR YUHICHI SAKAMOTO APPROVED

575-1
HEADQUARTERS, EIGHTH ARMY, Yokohama---The life imprisonment sentence meted out last February 25 to Captain Yuhichi Sakamoto, former commander of Fukuoka Prisoner of War Camp No 1 by an Eighth Army Military tribunal at Yokohama was approved today by Lt. Gen. Robert L. Eichelberger, Eighth Army Commander.

General Eichelberger, ordered that Sakamoto, whose sentence is the 18th he has reviewed, be confined at Sugamo prison, Tokyo, or elsewhere, as the Supreme Commander for the Allied Powers or other proper authority may direct.

Tenth war criminal suspect tried by the Eighth Army, Sakamoto was found guilty of beating with a saber Pfc. Tom Holland, Box 262, Brooklyn, Miss., and of striking with various instruments a number of other prisoners. He was found guilty of contributing to the deaths of prisoners by failing to furnish adequate medical care and sufficient food, and of withholding Red Cross Supplies from the prisoners.

Sakamoto was convicted on a charge that he permitted subordinates to kill Corporal William C. Larson, Route 3, Seattle, Wash.; contribute to the death of numerous prisoners by refusing to fill prescriptions, forcing them to do strenuous calisthenics, and by beating them; to beat William O. Hensen, Dallas, Wis., and to mistreat numerous other prisoners.

Striking numerous prisoners while he was commander of Fukuoka prisoner of war camp No. 9 was another charge on which Sakamoto was convicted. He was cleared, however of contributing to the deaths of numerous prisoners and permitting subordinates to cause the deaths of two prisoners.

On motion of the defense early in the trial, he was declared innocent of a charge that he permitted a subordinate to beat and otherwise mistreat prisoners.

Sakamoto was found innocent of a charge that he humiliated American prisoners by forcing them to attend and furnish entertainment at a party given by the Japanese celebrating the death of the late

President Franklin D. Roosevelt.

Capt. Frank M. Morrison, 3080 Dale Drive, NE, Atlanta, Ga., and Lt. Rudolph J. Stone, 1141 East Adams Street, Tucson, Ariz., were the prosecutors in the trial of Sakamoto. Defense attorneys were Capt. George A. Grier, 614 Fourth Avenue, New York City, and Lt. Sam Rogol, Darlington, S. C.

Colonel Oliver E. Trechter, 10632 3/4 Wilshire Boulevard Los Angeles, Cal., headed the Eighth Army tribunal which sentenced Saka-

moto. JUL 3 1946 PRESS RELEASE - AFPAC

ITEM 3 Tokyo War Crime Trials - Mainichi Shimbun - 27 Jun 46. Translator:
Paasche.

575.1
Summary, Extracts:

On 26 June, the cross examination of witness Baron SHIDEHARA was continued, by Prosecutor HELM, who probed into the responsibility for the Manchurian incident. The fact was brought to light that the Army completely disregarded the Government's policy of non-expansion. The Army in KOREA acted without regard to the Imperial Rescripts. Other witnesses threw light upon the "March Incident" which proved that the Army did not hesitate to use terror as a means of political interference. SHIDEHARA was questioned by Mr FURNESS, counsel for SHIGEMITSU, as follows: "I am now coming to the friendly talks between SHIGEMITSU and SUNG, Tze-Wen. Were these meant to bring about a local solution and formal agreements as the prerequisite for the termination of hostilities?" SHIDEHARA: "Yes, the failure of this plan cannot be blamed on

POLITICAL SERIES: 934 (Continued)ITEM 3 (Continued)

the Japanese Government." FURNESS: "Had the Foreign Ministry received previous information on troop movements inside MANCHURIA and transports destined for that country?" SHIDEHARA: "Yes." Mr KLEIMAN: "You said yesterday the Government had no political organ able to control the Army. What about the Privy Council?" SHIDEHARA: "The Cabinet could contact the Army through the War Minister, but the Privy Council had absolutely no power." Mr HELM: "When did you receive news about troop concentrations of the KWANTUNG Army in MANCHURIA or information on impending events?" SHIDEHARA: "I was informed by private sources and had not obtained official information, but I remember General MINAMI to have said that something had to be done about it." HELM: "Did the incident occur after your interview with MINAMI?" SHIDEHARA: "Yes." HELM: "Which person in the Cabinet was responsible for actions of the Army." SHIDEHARA: "No one in the Cabinet knew that an incident had taken place; MINAMI said he would make a report on it (laughter)." HELM: "Who in the Cabinet received the report?" SHIDEHARA: "After two days we were appraised of the facts through a statement by MINAMI. The Cabinet was not in a position to give orders to the War Minister, but I believe that the orders issued by MINAMI were in line with the overall policy of the Cabinet. However, the incident grew in scope. The Commander in Chief of the KWANTUNG Army was General HONJO, a Baron and Privy Councillor who committed suicide after the war." HELM (sarcastically): "Was General HONJO discharged on the ground that the incident had grown?" SHIDEHARA: "Not during my term in office." HELM: "Was anyone among his inferiors taken to task?" SHIDEHARA: "The Cabinet could not do that, hence, I cannot answer this question." HELM: "You have not heard of such a rebuff to have taken place?" SHIDEHARA: "No." HELM: "Did the Cabinet or any other government organ put an embargo on shipments of materials to the KWANTUNG Army with a view to precluding further expansion?" SHIDEHARA: "While I was in office there was no need for such deliveries because they had enough material over there. At any rate, I have heard of no such measures on the part of the Cabinet

HELM: "Was the KWANTUNG Army numerically strengthened?" SHIDEHARA: "It was strengthened by contingents from KOREA without the knowledge of the Government." HELM: "Was this an arbitrary action without Imperial sanction?" SHIDEHARA: "I understand there was no Imperial sanction." This statement bore out the important fact that General HAYASHI, Commander in Chief in KOREA had moved armies at will and without authorization. KIYOSE then rose to put questions to SHIDEHARA: "Was not the Chief of the General Staff responsible for troop movements, the War Minister and the Cabinet having no saying in the matters?" SHIDEHARA: "as far as I know the Chief of Staff makes important decisions after consultation with the War Minister." KIYOSE: "Isn't the Chief of Staff legally responsible?" SHIDEHARA: "I don't know." KIYOSE: "Don't you know that according to our Constitution the Supreme Command is regarded as autonomous?" SHIDEHARA: "I know that there is such an opinion, but I do not know whether it is correct." After SHIDEHARA had been heard for almost five hours, inner political events were again in the limelight. SHIMIZU, Konosuke gave testimony concerning the attempted coup d'etat by HASHIMOTO, Kingoro and OKAWA, Shumei. SHIMIZU testified as follows: "I contacted OKAWA in 1919 after my return from SHANGHAI, through a certain KITA. KITA and OKAWA had leading roles in extreme rightist organization in which I played minor parts. In March 1931 I met HASHIMOTO, OKAWA and many Army officers who, according to OKAWA, planned a revolution. Colonel HASHIMOTO had received 300 bombs from the Army which I was supposed to use against the Diet Building and which were hidden in my house. The plot, however, failed because the Army backed out. OKAWA and I then went to see General UGAKI said to be involved in the plot in the War Ministry. We actually talked to Major General KOISO, Chief of the Military Affairs Bureau, who told us the plan had been called off on direct Army orders.

POLITICAL SERIES: 934 (Continued)ITEM 3 (Continued)

The bombs were returned to the General Staff at the request of Marquis TOKUGAWA. In August, OKAWA said, in a state of intoxication and in the presence of Army and Police Officers, that an incident would break out at MUKDEN. After the Manchurian incident in September 1931, I was imprisoned. When I was released after three months, OKAWA was the main cog of a rightist group known as the JIMMUKAI (Holy Warriors' Society) and aiming at the expulsion of the white man from ASIA under Japanese leadership and the reform of the Japanese Government. In 1932 OKAWA was hatching a plot jointly with a naval officer who led an organization of farmers and youths. Later OKAWA was involved in the Affair of May 15." Captain BROOKS, Counsel for KOISO: "Had these terroristic acts any relation to the ensuing war?" SHIMIZU: "No, since they had to do with home politics." BROOKS: "What did you mean by "Reform of the Government?" SHIMIZU: "The parties thought only of their own advantage and the people were in distress." BROOKS: "You mean the government was to be entrusted to reliable men?" SHIMIZU: "The March incident had only this motive." BROOKS: "In other words, it had no militarist or expansionist implications?" SHIMIZU: "No." BROOKS: "You said OKAWA's movement was extreme rightist ---." SHIMIZU: "In the sense that it was violently patriotic." BROOKS: "Were you not a member of certain societies yourself, as well as an executive member of the JIMMU KAI?" SHIMIZU: "I had nothing to do with the last-named society." OHARA, counsel for OKAWA: "You have both stated and denied, at different occasions, that OKAWA wanted the white race to be driven from ASIA. Can we therefore cancel this passage in your statement?" SHIMIZU: "After the Manchurian incident and the LYTTON Report it was generally felt here that JAPAN should not permit the white man to interfere in Asiatic problems."

DISTRIBUTION "X"

ITEM 4 TOKYO War Court Reconvening Tomorrow - Nippon Keizai Shimbun -
2 Jun 46. Translator: M. Kojima.

575.1
 Full Translation:

The International Military Tribunal for the Far East, now in recess, will reconvene on 3 June as previously scheduled. According to court procedures, the Tribunal must first hear and clear up 10 motions, six for the defense and four for the prosecution. The Court has decided that every war crime suspect will have an American and a Japanese counsel. Twenty-two American counsels have been assigned up to the present time. Counsels for HASHIMOTO, OKA, ITAGAKI, DOIHARA, OKAWA, and MATSUOKA have not been selected. It is reported that 70 seats have been built for the lawyers and their interpreters by reconstructing a part of the courtroom. Such large-scale preparations are indeed worthy of these historical trials.

The expenses of the Japanese counsel attending the trials are to be included in the cost of papers needed to print 75 copies of documents in English and 26 copies in Japanese. Also to be included on this expense account are printing fees, salaries, and the wages of translators, interpreters, typists, and clerks, as well as board and room expenses of necessary out of town personnel attending court. In the present, however, the emergency is met by an accounting of expenses between the lawyers and defendants. It has been decided that every Japanese lawyer contribute 1,000 yen, and every defendant 10,000 yen to an expense fund.

With the world's attention focused on these trials, the Japanese counsel intend to devote themselves to performing their duties credibly to gain world recognition of Japanese legal culture. To this end, some of the Japanese have asked the Government to defray expenses out of the national treasury, but the Government has only gone as far as to provide offices for them. Therefore, the lawyers are complaining of the difficulty of raising the necessary funds.

Admission tickets to the TOKYO War Court allotted to the Japanese number about 170. These tickets are parceled out in the following manner: one gallery each to members of the 28 defendants' families; two galleries for each of the 27 counsels (these tickets, which were delivered to the counsels, seem to have been turned over to the families of the defendants); 20 tickets to Government offices of the defendants, such as the First and Second Demobilization Ministry and Foreign Ministries; five tickets to the Cabinet's War Investigation Committee; five tickets to each Government office having an especially profound interest in the Trials, such as the Home and Justice Ministries; and one ticket each to the Imperial Household Ministry, the Privy Council, and the General Affairs' Section of the Cabinet. The majority of the remaining 50 tickets have been delivered to the 22 American counsels. It is therefore difficult for people desiring to hear the trials to get admission tickets.

ITEM 3 Mineno Sentenced to 20 Years' Imprisonment - Asahi Shimbun - 29 Jun 46.
Translator: S. Firata.

575.1
 Full Translation:

MINENO, Genji, 29, former military employee attached to the Third Prisoner of War Camp of KOKURA, was brought to trial for the last time on 28 June. The presiding judge sentenced him to 20 years imprisonment.

ITEM 1 Kayano Tells How Mission Of Special Peace Emissary To Nanking Was Frustrated; Mori Kaku Was Also Opposed - Tokyo Shimbun - 29 Jun 46.
Translator: A. Kido.

575
 Full Translation:

At the war crimes trials last Thursday, Mr INUKAI, Ken testified on the circumstances surrounding the MANCHURIAN Incident. Mr KAYANO, Nagatomo, 21, TAKANAKAHARA-Machi, KAMAKURA, who had been mentioned in Mr INUKAI's testimony, made the following statement at his residence, endorsing the latter's deposition: "I was long acquainted with Mr INUKAI, and we were of the same opinion that questions between JAPAN and CHINA must be settled peacefully and the method of reaching a peaceful agreement was decided upon. I was eating SUSHI (pressed boiled rice with fish, eggs, etc.) at Mr INUKAI's residence at YOTSUYA, when he came back from the Imperial palace where he had been discussing the matter of forming the cabinet.

He said to me, 'Hello! Are you going?' Of course, he meant to CHINA in order to settle the matter peacefully. I answered, 'Yes, I'm going.' I conferred with the Chinese representative at SHANGHAI, and this conference proceeded smoothly. Prior to my departure, I made arrangements to keep in contact with Mr INUKAI by code, and all my coded messages to the Prime Minister were deciphered by Mr INUKAI, Ken, private secretary to the former. Whenever such coded telegrams reached the Cabinet, Mr MORI, Kaku, Chief Secretary of the Cabinet, was rather displeased; for, his dignity was offended, especially in light of his former connection with the Army. The drastic attitude taken by the military had lessened in intensity and my negotiations with the Chinese representative, were successful. I came back in January after a short stay in SHANGHAI."

CONVICTION OF PAIR BRINGS WAR CRIMINAL TOTAL TO 63

EIGHTH ARMY HEADQUARTERS, YOKOHAMA--- Two Japanese were found guilty of war atrocities today by an Eighth army tribunal at Yokohama. The accused, Harushige Kawakami and Naozo Shimadairo former civilian guards at Kawasaki PW camp No. 5, were sentenced to ten and twelve years, respectively.

575.1 Conviction was based primarily on evidence obtained from affidavits submitted by former American prisoners at the camp.

Colonel William H. McCutcheon, Morningside Avenue, Mineral Wells, Texas, headed the commission trying the pair.

Lt. James D. Hodnett, 75 Wellsville Avenue, Bolivar, New York, and Mr. O. Vincent Esposito, Tantalus, Honolulu, Hawaii, were members of the prosecution. The defense counsel was Lt. John H. Slagle, 327 N. Chelsea Avenue, Kansas City, Mo.

This brings to 63 the number of war criminal suspects to be sentenced by an Eighth army commission at Yokohama. 12 JUL 1946

PRESS RELEASE - AFPA6

ITEM 3 Tokyo War Crime Trials - Asahi Shimbun - 30 Jun 46. Translator: Paasch575-1
Summary:

The TOKYO Trials have brought to light the historical background of the Manchurian Incident; in other words the interference of the militarists in politics. These facts may have been known to some, but the majority of the people have been ignorant of the truth. However, the task of the Court is not to make known the secrets of history but to obtain evidence for count six of Indictment A (preparation of the fields of politics and public opinion for war). Those responsible for the preparation of JAPAN's aggressive war are to be prosecuted and only as a byproduct of such prosecution, the secret history of the war is being made known.

It is, as yet, not clear who is responsible for the aggressive war. According to SHIDEHARA, MINAMI, then minister of war, was nominally responsible. Another witness, WAKATSUKI, held the General Staff answerable for the military activity. His evidence was very circumstantial. On the other hand, SHIDEHARA expressly stated that MINAMI tried to lend a helping hand in preventing the incident from flaring up. If the government was not responsible, the culprits must be sought in the Army. But who is it?

General UGAKI, General OKADA, and Admiral YONAI will testify later in an attempt to point out the responsible party, and to also throw light on the dark periods of history.

575-1
JAPANESE EX-SERGEANT FACES TRIAL IN MANILA TORTURES AND KILLINGS

A former Japanese Army sergeant, Akira Takeshita, was named today in a charge filed by the Legal Section of SCAP as the perpetrator of tortures of 100 non-combatant Filipino civilians, and the murder of 16 others. He was ordered held for trial by a military tribunal in Manila.

Takeshita is specifically accused of the killing of five persons in the town of Talisay, Province of Occidental Negros, in April, 1944; the killing of one Filipino civilian in Bacolod City on March 22, 1944, and with the killing of ten Filipino civilians in Bacolod City on or about July 20, 1944, including Porfirio Garina, the mayor of the town of Sipalay, Occidental Negros. 5 JUL 1946

Prosecutors for the Takeshita trial will be 2nd Lt. Felix L. Finley, Pickens, South Carolina, and 1st Lt. James H. Ross, Pelahatchie, Mississippi. JUL 5 1946 PRESS RELEASE - AFPAC

MAJ. GEN. CRAMER ARRIVES TOMORROW FOR TRIBUNAL POST

575-1
Maj. Gen. Myron C. Cramer, newly appointed U.S. Member of the International Military Tribunal for the Far East, is scheduled to arrive at Atsugi Airfield at 3 p.m. tomorrow, after a delay because of engine trouble in San Francisco. Gen. Cramer succeeds the Hon. Justice John P. Higgins, who left last week to resume official duties in the United States.

Gen. Cramer, former Judge Advocate General in Washington, D.C., is a graduate of the Command and General Staff school, and received his Bachelor of Laws Degree from Harvard University in 1907. 19 JUL 1946

PRESS RELEASE - AFPAC

FULL TEXT OF KEENAN ADDRESS

This is the full text of the opening address delivered on June 4 by Chief Prosecutor Joseph B. Keenan before the International Military Tribunal for the Far East in Tokyo.

Mr. President and members of the International Military Tribunal for the Far East:

As Chief of Counsel of the prosecution, it is now my responsibility under the Charter which created this honorable Tribunal, and which likewise provided for the appointment of Associate Prosecutors by the nations participating in this trial, to present to you an outline of our theory of the law under which we are proceeding and the facts which we intend to prove to show that each of the accused now before the Tribunal is guilty of the crimes with which he is charged in the indictment.

This may well be one of the important trials of history. It is important to the eleven nations here represented, constituting orderly governments of countries containing much more than one-half of the inhabitants of this earth. It is important to all other nations and to the unborn generations of every nation, because these proceedings could have a far reaching effect on the peace and security of the world.

At the very beginning of these proceedings it is essential that those directing the prosecution make clear their purpose. Our broad aim is the orderly administration of justice; our specific purpose is to contribute all we soundly can towards the end—the prevention of the scourge of aggressive war.

Not an Ordinary Trial

Mr. President, this is no ordinary trial, for here we are waging a part of the determined battle of civilization to preserve the entire world from destruction. This threat of destruction comes not from the forces of nature, but from the deliberate planned efforts of individuals, as such and as members of groups who seem willing to bring the world to a premature end in their mad ambition for domination. This is a strong statement, but the facts are such that we find ourselves unable to describe it in more moderate terms.

A very few throughout the world, including these accused, decided to take the law into their own hands and to force their individual will upon mankind. They declared war upon civilization. They made the rules and defined the issues. They were determined to destroy democracy and its essential basis—freedom and respect of human personality; they were determined that the system of government of and by and for the people should be eradicated and what they termed a "New Order" established instead. And to this end they joined the Hitlerite group; they did it formally, by way of treaty and were proud of their confederacy. Together they planned, prepared and initiated aggressive wars against the great democracies enumerated in the indictment. They willingly dealt with human beings as chattels and pawns. That it meant murder and the subjugation and enslavement of millions was of no moment to them. That it encompassed a plan or design for murder in all parts of the

world of children and aged, that it envisaged the entire obliteration of whole communities, was to them a matter of complete indifference. That it should cause the premature end of the very flower of the youth of the world—their own included—was entirely beside the point. Treaties, agreements and assurances were treated as mere words—bits of paper—in their minds, and constituted no deterring influence to their efforts. Their purpose was that force should be unloosed upon the world. They thought in terms of force and domination and entirely obscured the ends of justice. In this enterprise millions could die; the resources of nations could be destroyed. All of this was of no import in their mad scheme for domination and control of Eastern Asia, and as they advanced, ultimately the entire world. This was the purport of their conspiracy.

Facing Critical Phase

We are now confronted with this question: Is civilization, today sternly reminded that it is facing a critical phase of its existence, compelled to stand idly by and permit these outrages without an attempt to deter such efforts?

No one needs even a slight reminder to realize that wars in our time are quite different from those of old. Today, and far more important still, tomorrow and forever hereafter, wars can be nothing other than total wars. Today and tomorrow all wars have no limit of space or territory. The victims will be the young and the old, the armed and unarmed, and hardly a home—from one in a great metropolis to that in a smallest village—will be free from destruction. To say that wars of the future will literally threaten the existence, not alone of civilization but of all beings, has become such a truism that its reiteration seems trite. This problem of peace, which has ever been the desire of the human race, has now reached a position of the crossroads. For the implements of destruction that we already know of, even in what might well be called primitive development, have reached such proportions that only the human imagination at its highest development is fit to cope with the realities. Our question at the crossroads is now literally an answer: "To be or not to be."

The answer to this question will require infinite patience and tolerance, and a most earnest attempt to reach understandings and agreements. With only one part of the problem are we concerned. What can we do with the powers conferred upon us here in this courtroom to contribute in a just and efficient manner to the prevention of future wars?

Purpose Is Prevention

Our purpose is one of prevention or deterrence. It has nothing whatsoever to do with the small meaner objects of vengeance or retaliation. But we do hope in these proceedings that it is neither impossible nor improbable that the branding of individuals who visit these scourges upon mankind as common felons, and punishing them accordingly, may have a deterring effect upon aggressive warlike activities of their prototypes of the future, should they arise.

Our specific purpose, therefore, in these trials is to confirm the already

recognized ~~rule~~ such individuals of a nation who, either in official positions or otherwise, plan aggressive warfare, especially in contravention of sound treaties, assurances and agreements of their nations to the contrary, are common felons and deserve and will receive the punishment for ages meted out in every land to murderers, brigands, pirates and plunderers.

We shall contend that it never was compatible with justice or law to initiate murders. We shall contend herein that it is no less an offense to plan and initiate the destruction of the lives of a million people than it is to plan and initiate the murder of a single individual.

We shall further contend that the having taken an oath to support the laws and institutions of a nation does not create immunity from punishment; nor does the device of describing wars, where millions of lives are taken, as "incidents" or "episodes"; nor the claim that they are justified as the furtherance of the national aspirations, as they are so interpreted by such individuals.

Breaches of Law

We shall claim that the facts and circumstances adduced and presented in evidence before this Tribunal will show breaches of valid laws and obligations of the nation of Japan by these individuals so accused, who controlled their government or influenced its action.

We shall further show beyond peradventure that these accused, and each of them, well knew that the wars which they were planning, and for which they were preparing, and which they initiated and waged, could result in nothing else than wholesale destruction of human lives, not alone on the field of battle, but in the homes, hospitals, and orphanages, in factories and fields; and the victims would be the young and the old, the well and the infirm—men, women and children alike.

Mr. President, We would like to emphasize for many years back, sober-minded, patient and peaceful beings have been puzzled in their search for the reason why transgressors in the high places of a nation, who bring about these international tragedies, remain unpunished. It is difficult for them to understand the logic and reasoning of those proponents of the principle of international law who conclude that such leaders are beyond the reach of the practical administration of justice. They have been puzzled to understand that method of precedent or logic, or concept of justice, which permits the lawful destruction of teen-aged youth on the field of battle, but denies the lawfulness of bringing to justice the enemies of peace and the war lords of foreign nations who are the real originators, planners, initiators and designers of the pattern of destruction which brought these youths their untimely ends.

Part of Grand Pattern

Mr. President, I have no inflammatory purpose in reminding this Tribunal that there was much bloodshed of the flower of our youth at Nanking, at Pearl Harbor, at Hongkong, in Malaya, at Guadalcanal, at two Jima, at Okinawa, on the island

NIPPON TIMES

JUN 6 1946

JUN 12 1946

of Luzon in the Philippines, and in other parts of the world. There was the unloosening of cruel and inhuman forces in China and in other parts of Asia. It was all part of one grand pattern, and the vice of it consisted in the exhibition of utter contempt for the lives of blameless and helpless individuals all over the world.

Surely then this is no mean challenge. If there is no justification for punishment of individuals who have already brought civilization to the brink of disaster, then justice itself becomes a mockery.

For it is to be recalled that already in these proceedings, each and every accused has lodged an objection to the validity of this trial, which we contend constitutes a clear challenge to the capacity of civilized nations to take effective steps to prevent the

destruction of all civilization. For in effect and in essence, the accused have contended that there is no power presently on earth duly authorized to try them, and no just or legal right to mete out justice, even stern justice, to these accused, even though it be adequately proved that they participated in a plan or conspiracy, or in and of themselves acted to bring about this aggressive warfare, declared or undeclared, or warfare in violation of international law, treaties and assurances.

In Nuremberg today similar proceedings are taking place, with other accused in the dock. With those we have no concern, other than to indicate to this Tribunal that these accused were in accord with the designs of the accused at Nuremberg and were confederated with them to dominate the world.

Vital Decision to Be Made

Literally then, if our observations are sound, there is a vital decision to be made, and this decision may determine the continuance or the end of human life. If this be true—and we doubt that any thinking person would believe it to be overstated—we are certainly in a new and terrifying critical era. To those who demand precise, well-established precedents for action, we would point out that this is far from a novel idea. From the time of the prehistoric and primeval ages, and continuing through the medieval period right up to the present day, there has always been some process or other for the punishment of the originators of aggressive wars. This method of constituting an international tribunal and permitting such war criminals the privilege of defending themselves and asserting their innocence is but the culmination of the modern and civilized ideals of culture and tolerance which have become crystallized in concrete form.

Mr. President: with great humility but much earnestness, we approach our task to do our part this day. For no single just act can be left undone in aid of such an essential purpose. As we of the prosecution view it, a failure to make an earnest effort to contribute our part and a failure of the powers to do every sound thing to put an end to the forces that would destroy the world, would in and of itself constitute an unpardonable crime. Our sole fear is the lack of capacity or ability to perform this job well. For the obligation itself is a stern one.

The allegations contained in this indictment are necessarily so exten-

sive, the period covered so long, the area involved so great, the accused so numerous, and the power they wielded so far-reaching, that an opening statement attempting to cover in detail every phase of the case we would find it unduly long and burdensome. Moreover, some details mentioned now might become obscure by the time we reach the point of presenting evidence thereon. Therefore, in a desire to proceed in an orderly manner which will be helpful to the Tribunal and fair to the accused, the Associate Prosecutors and Assistant Prosecutors responsible for the presentation of the evidence concerning the various phases will summarize at appropriate times the evidence which they propose to adduce in proof of the charges set forth in the indictment.

Let us briefly consider the Charter which established the authority and jurisdiction of this Tribunal and defines the crimes with which these accused are charged.

(To Be Continued)

SECTION II

JURISDICTION AND GENERAL PROVISIONS

"ARTICLE 5: Jurisdiction Over Persons and Offenses. The Tribunal shall have the power to try and punish Far Eastern war criminals who as individuals or as members of organizations are charged with offenses which include Crimes against Peace. The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which here shall be individual responsibility:

"a. Crimes against Peace: Namely, the planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:

"b. Conventional War Crimes: Namely, violations of the laws or customs of war;

"c. Crimes against Humanity: Namely, murder, extermination, enslavement, deportation, and other inhuman acts committed before or during the war, or persecutions on political or racial grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

"Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan."

Creates No New Law

All of these offenses bring about the unlawful and intentional taking of human life so that, as we shall later point out at some length, this section of the Charter creates no new law. Quite to the contrary, it defines criminal offenses of the gravest nature which have long been recognized as illegal in the mind and public conscience of the world. Some of these offenses have been recognized in assemblies participated in by large groups of nations. Others have been outlawed by treaties, declarations and resolutions. Some of them have been in effect designated as criminal acts by assurances. However, by whatever

form this state of international law was established or however it became crystallized, it was with the full realization that the dictates of humanity and the requirements of civilization demanded that these offenses be recognized as such and placed beyond the pale of civilized conduct. Indeed, as we believe it quite obvious, all during the period of time wherein the crimes charged in this indictment occurred, it was well recognized by all nations that the continued existence of civilization required that they come to an end.

The eleven prosecuting nations have stated in the indictment, in accordance with the provisions of the Charter, the offenses which they charge that the accused have committed. Already in formal proceedings before this Tribunal in open court the indictment has been read in both English and Japanese in the presence of the accused, and prior thereto, in accordance with the requirements of the Charter, copies of the indictment, including all of the appendices were translated into the Japanese language and duly served upon the accused.

The indictment consists of an introductory summary, the counts

charging the war crimes, and appendices which are in the nature of Bills of Particulars. The offenses are charged in three groups, namely: Group One, Crimes against Peace; Group Two, Murder, and Group Three, Conventional War Crimes and Crimes against Humanity.

Crimes Against Peace

In Group One, Crimes against Peace as defined in the Charter are charged in thirty-six counts. In the first five counts the accused are charged with conspiracy to secure the military, naval, political and economic domination of certain areas, by the waging of declared or undeclared war or wars of aggression and of war or wars in violation of international law, treaties, agreements and assurances. Count 1 charges that the conspiracy was to secure domination of East Asia and of the Pacific and Indian Oceans; Count 2, domination of Manchuria; Count 3, domination of all China; Count 4, domination of the same areas named in Count 1, by waging such illegal wars against sixteen specified countries and peoples. In Count 5 the accused are charged with conspiracy with Germany and Italy to secure the domination of the world by the waging of such illegal wars against any opposing countries. The prosecution charges in the next twelve counts (6 to 17) that all or certain of the accused planned and prepared such illegal wars against twelve nations or peoples, identifying in a separate count each nation or people attacked pursuant thereto. In the next nine counts (18 to 26) it is charged that all or certain accused initiated such illegal wars against eight nations or peoples, identifying in a separate count each nation or people so attacked. In the next ten counts (27 to 36) it is charged that the accused waged such illegal wars against nine nations or peoples, identifying in a separate count each nation or people so warred upon.

Conspiracy to Murder

In Group Two, murder or conspiracy to murder is charged in sixteen counts (37 to 52). It is charged, in Count 37, that certain accused conspired unlawfully to kill and murder people of the United States, the Philippines, the British

Commonwealth, the Netherlands and (Siam), by ordering, causing and permitting Japanese armed forces, in time of peace, to attack these people in violation of Hague Convention III, and in Count 38, in violation of numerous treaties other than Hague Convention III.

It is charged in the next five counts (39 to 43) that the accused unlawfully killed and murdered the persons indicated in Counts 37 and 38 by ordering, causing and permitting, in time of peace, armed attacks by Japanese armed forces, on December 7 and 8, 1941, at Pearl Harbor, Kota Bahru, Hong Kong, Shanghai and Davao. The accused are charged in the next count (44) with conspiracy to procure and permit the murder of prisoners of war, civilians and crews of torpedoed ships.

The charges in the last eight counts (45 to 52) of this group are that certain accused, by ordering, causing and permitting Japanese armed forces unlawfully to attack certain cities in China (Counts 45 to 50) and territory in Mongolia and of the Union of Soviet Socialist Republics (Counts 51 and 52), unlawfully killed and murdered large numbers of soldiers and civilians.

In Group Three, the final group of counts (53 to 55), other Conventional War Crimes and Crimes against Humanity, are charged. Certain specified accused are charged in Count 53 with conspiring to order, authorize and permit Japanese commanders, War Ministry officials, police and subordinates to violate treaties and other laws by committing atrocities and other crimes against many thousands of prisoners of war and civilians belonging to the United States, the British Commonwealth, France, Netherlands, the Philippines, China, Portugal and the Union of Soviet Socialist Republics.

Violated Laws of War

Certain specified accused are charged in Count 54 with having ordered, authorized and permitted the persons mentioned in Count 53 to commit offenses mentioned in that count. The same specified accused are charged in the final count (55) with having violated the laws of war by deliberately and recklessly disregarding their legal duty to take adequate steps to secure the observance of conventions, assurances and the laws of war for the protection of prisoners of war and civilians of the nations and peoples named in Count 53.

Mr. President: In the preparation of this criminal indictment against a large number of individuals who are accused of numerous offenses within the Tribunal's jurisdiction, where the prosecution is composed of eleven great peoples each having its national interests and policies to consider, it was inevitable that the indictment should contain numerous allegations. It is necessary to express the views of each nation and also to assure a conviction of each of the accused under whatever the Tribunal finds to be the real or true state of facts, provided they are found guilty. Allegations in such a

case may appear repetitious and in some instances in the alternative. It is the decision of the Tribunal, however, which is important and which is final both as to the facts and law.

Summarized particulars in support of the counts in Group One are presented in Appendix A. Dates, places and other details are stated for instances of military aggression, beginning in Manchuria and expanding into many other areas and periods. In Appendix B are collected articles of treaties violated by Japan as charged in the counts for Crimes against Peace and the crime of murder. In Appendix C are listed official assurances violated by Japan and incorporated in Group One Crimes against Peace. Conventions and assurances concerning the laws and customs of war are discussed in Appendix D, and the particulars of breaches of the laws and customs of war for which the accused are responsible are set forth therein. Individual responsibility for crimes set out in the indictment and official positions of responsibility held by each of the accused during the period with which the indictment is concerned are presented in Appendix E.

Definition of Conspiracy

That, if the Tribunal please, is the gist of the crimes charged against these accused in this indictment. The next question to consider is the law upon which the indictment is based, itself. In the first instance, what constitutes cognizable crimes by this Tribunal is defined by the Charter. These may be divided into several general classifications.

The first offense charged in the indictment is conspiracy. Since this offense is merely named and not defined in the Charter, some definition must be made. This offense is known to and well recognized by most civilized nations, and the gist of it is so similar in all countries that the definition of it by a Federal Court of the United States may well be accepted as an adequate expression of the common conception of this offense:

In the case of *Marino v. the United States*, reported in 91 Fed. 2d, 691; 113 A.L.R. 975, the United States Circuit Court of Appeals for the Ninth Circuit, in discussing the law of conspiracy, said:

"A conspiracy is 'a combination of two or more persons, by concerted action, to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful, by criminal or unlawful means.'" (Citing cases.) "It is partnership in criminal purposes. The gist of the crime is the confederation or combination of minds.

"A conspiracy is constituted by an agreement; it is, however, the result of the agreement and not the agreement itself. No formal agreement between the parties is essential to the formation of the conspiracy, for the agreement may be shown 'if there be concert of action, all the parties working together understandingly, with a single design for the accomplishment of a common purpose.'" (Citing cases.)

Statute Is Violated

"On the other hand, if the purpose is unlawful and is carried out either by lawful or unlawful means, the statute is violated."

"The purpose of the conspiracy may be continuous, that is, it may contemplate commission of several offenses, or overt acts.

"The crime itself is completed when an overt act to effect the object of the conspiracy is done by at least one of the conspirators. An overt act is something apart from the conspiracy, and is 'an act to effect the object of the conspiracy.'" (Citing cases.)

"It need be neither a criminal act, nor the very crime that is the object of the conspiracy. It must, however, accompany or follow the agreement, and must be done in the furtherance of the object of it.

"All of the conspirators need not join in the commission of an overt act, for, if one of the conspirators commits an overt act, it becomes the act of all the conspirators."

"Continuing the quotation, in the situation where a conspiracy has been formed, the joinder thereof by a new member does not create a new conspiracy, does not change the status of the other conspirators, and the new member is as guilty as though he was an original conspirator. Where, after formation of a conspiracy, one of the conspirators withdraws, such withdrawal neither creates a new conspiracy, nor changes the status of the remaining members."

The next offenses charged run through Counts 6 to 36 in various forms; but the same essential elements are contained in all, that is, "The planning, preparation, initiation or waging of a declared or undeclared war of aggression," or "the planning, preparation, initiation or waging of a war in violation of international law, treaties, agreements or assurances."

"War of Aggression"

Taking the first section of this definition, the essential element here is "war of aggression." Is this a crime under international law, and has it been so understood during all the

period referred to in the indictment? We claim that it is and has been. To reach this conclusion we must establish two things: first, that there is international law covering the subject, and second, that it is a crime under that law.

The establishment of these two things is, we believe, among the most important questions before this Tribunal. For the first time in history, the Military Tribunal sitting in Nuremberg and this Military Tribunal for the Far East are being asked by the civilized nations of the world to recognize and state by judicial decision these two principles as an integral part of international law.

We believe this Tribunal, under Article 13, d. of the Charter, will take judicial notice of the fact that there is a large body of international law, known at different times and by different writers as the "common law" or the "general law" or the "natural law" of international law. That it is a living, growing body is well established by the following authorities:

In 1934, the late and highly respected Mr. Justice Cardozo, speaking for the United States Supreme Court in the case of *New Jersey v. Delaware*, 291 U.S. Reports 361, at page 383, said:

"International law, or the law that governs between states, has at times, like the common law within states, a twilight existence during which it is hardly distinguishable from morality or justice till at length the imprimatur of a court attests its jural quality. The gradual consolidation of opinions and habits has been doing its quiet work."

Lord Wright, Chairman of the United Nations Tribunal, a well recognized authority on international law, says of this subject in his paper, "War Crimes Under International Law": published in the Quarterly Review of, I believe, January, 1946.

"It is important for those who approach the consideration of this topic to consider what are the nature, the sources and the sanctions of International Law. They must not expect to find that they are the same as exist in the case of systems of Municipal Law, whether the particular law is of the Anglo-American or Common Law type, or is of the Civil Law or the codified class. Either type has the feature that it is law enacted by a central law-making authority such as a Legislature or a Court, and the further feature that there is a standing judicial authority to expound it and a standing executive to give effect to it.

No Central Authority

"International Law differs from these national systems because there is no central law-making authority. It may thus be described as the law of the international community. That community, however, consists of a number of independent sovereign nations, each with its own system of National or Municipal Law.

"The sources of International Law must, therefore, be sought elsewhere than in the acts of a national law-making authority. In my earlier essay I pleaded to have it recognized that International Law was the product, however imperfect, of that sense of right and wrong, of the instincts of justice and the humanity which are the common heritage of all civilized nations. This has been called for many ages 'Natural Law'; perhaps in modern days it is simpler and truer merely to refer to it as flowing from the instinctive sense of right and wrong possessed by all decent men, or to describe it as derived from the principles common to all civilized nations. This is, or ought to be, the ultimate basis of all law.

"Just as civilized men (or perhaps any men) living together in society under the most complete system of individual freedom must necessarily suffer the restrictions inevitably imposed on each by the similar freedom enjoyed by their neighbours, so, in the community of nations, the sovereignty (i.e., the freedom and independence of each nation) must be conditioned by regard for the like freedom and independence of the neighbouring nations. Modern conditions have made increasingly apparent the mutual interdependence of nations and have led to the concept of the community of nations. Some day there may be a central law-making and law-enforcing body charged with settling the relations between the members of what would then become the community of nations in

the full sense. But that time is not yet. International Law represents the imperfect endeavor to develop a body of rules and principles which will go towards establishing a rule of law among the nations, not dissimilar in character from the rule of law which is established in greater or lesser degree inside each separate sovereign nation."

(To Be Continued)

"Law consists of rules for determining conduct. There may be such rules without legislation, without Courts and without executives to give effect to them. There may be the customary or traditional rules which are so familiar that men obey them or act in accordance with them as a matter of ordinary course. The common lawyer is familiar with the idea of customs which develop law and may eventually receive recognition from competent Courts and authorities. But the Court does not make the law, it merely declares it or decides that it exists, after hearing the rival contentions of those who assert and those who deny the law."

"But International Law is progressive. The period of growth generally coincides with the period of world upheavals. The pressure of necessity stimulates the impact of natural law and of moral ideas and converts them into rules of law deliberately and overtly recognized by the consensus of civilized mankind. The experience of the two great world wars within a quarter of a century cannot fail to have made deep repercussions on the senses of the peoples and their demand for an International Law which reflects international justice. I am convinced that International Law has progressed, as it is bound to progress if it is to be a living and operative force in these days of widening sense of humanity."

Sir Frederick Pollock in "The Sources of International Law" in Columbia Law Review (1902), 511-12, in discussing customary law, said:

The Exceptional Case

"It is, therefore, impracticable, with one exception to be mentioned, to make any general statement as to the value of treaties and similar instruments as evidence of the law of nations. The exceptional case, which is of increasing frequency and importance, is where an agreement or declaration is made not by two or three states as a matter of private business between themselves, but by considerable proportion, in number and power, of civilized states at large, for the regulation of matters of general and permanent interest. Such acts have of late been the result of congresses or conferences held for that purpose, and they have been so framed as to admit of and invite the subsequent adhesion of Powers not originally parties to the proceedings. There is no doubt that, when all or most of the great Powers have deliberately agreed to certain rules of general application, the rules approved by them have very great weight in practice even among states which have never expressly consented to them. It is hardly too much to say that declarations of this kind may be expected, in the absence of prompt

and effective dissent by some Power of the first rank, to become part of the universal law of nations within a moderate time. As among men, so among nations, the opinions and usage of the leading members in a community tend to form an authoritative example for the whole."

Only July 26, 1934 the Judicial Committee of the British Privy Council, after considering numerous early views with respect to the law of piracy and in particular the case of R. v. Joseph Dawson (13 St. Tr. col. 451) which arose in 1696, through Viscount Sankey, L.C., stated:

"But over and above that we are not now in the year 1696, we are now in the year 1934. International law was not crystallized in the 17th century, but is a living and expanding code. In his treatise on international law, the English textbook writer Hall (1853-94) says at p. 25 of his preface to the third edition (1889) (1): 'Looking back over the last couple of centuries we see international law at the close of each fifty years in a more solid position than that which it occupied at the beginning of the period. Progressively it has taken firmer hold, it has extended its sphere of operation, it has ceased to trouble itself about trivial formalities, it has more and more dared to grapple in detail with the fundamental facts in the relations of States. The area within which it reigns beyond dispute has in that time been infinitely enlarged, and it has been greatly enlarged within the memory of living man.'"

Illustrations Cited

That international courts recognize a general body of international law is evidenced by the two following illustrations:

In the 1936 edition of the Statute of the Permanent Court of International Justice, there appears under Article 38 these provisions:

"The Court shall apply:

"1. International conventions, whether general or particular, es-

tablishing rules expressly recognized by the contesting States;

"2. International custom, as evidence of a general practice accepted as law;

"3. The general principles of law recognized by civilized nations;

"4. Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. This provision shall not prejudice the power of the Court to decide a case ex aequo et bono, if the parties agree thereto."

The Mixed Claims Commission, United States and Germany, established pursuant to the agreement of August 10, 1922, between the two countries, held in Administrative Decision No. 11 that in its adjudications the Commission would be controlled by the terms of the Treaty of Berlin but that where

"no applicable provision is found in that instrument, in determining the measure of damages the Commission may apply:

"(a) International conventions, whether general or particular, establishing rules expressly recognized by the United States and Germany;

"(b) International custom, as evidence of a general practice accepted as law;

"(c) Rules of law common to the United States and Germany established either by statute or judicial decisions;

"(d) The general principles of law recognized by civilized nations;

"(e) Judicial decisions and the teachings of the most highly qualified publicists of all nations, as subsidiary means for the determination of rules of law; but

"(f) The Commission will not be bound by any particular code or rules of law but shall be guided by justice, equality, and good faith."

Having shown the nature and growth of international law, and that when many civilized nations have acted in voluntary concert on a matter of general welfare it becomes recognized as a principle of international law, we shall now attempt to show that the question of aggressive war has been considered by so many nations and deliberately outlawed by them that their unanimous verdict rises to the dignity of a general principle of international law.

Aggressive War Condemned

Long before the occurrence of the facts complained of in this indictment, aggressive warfare had been condemned as illegal. Beginning with the opening of the present century, the civilized world began to place restraints upon the waging of war. At the first Hague Convention, 1899, the nations of the world agreed to settle their disputes by pacific means whenever possible. At the Hague Convention No. III, in 1907, this same policy was reaffirmed, and all the nations involved in this indictment, including Japan, agreed that "the Contracting Parties recognize that hostilities between themselves must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war." By that agreement undeclared wars and treacherous attacks were branded as international crimes.

In 1919 the victorious nations, of the last war including Japan, agreed that the violation of international treaties was a justifiable offense. The leading nations of the world, by successive agreements and treaties, took another definite step in the evolution of international law, after the close of World War I, by specially declaring: "A war of aggression constitutes an international crime." That statement was a part of the Geneva Protocol for the Pacific Settlement of International Disputes and was signed by the representatives of forty-eight nations. This was followed in the Eighth Assembly of the League of Nations in 1927 by a unanimous resolution in almost the same language. Japan was a signatory of both of these instruments.

The Sixth Pan-American Conference, of 1928, meeting at Havana, Cuba, went a step further when it adopted a resolution on "aggression," the preamble of which specifically states that "war of aggression constitutes an international crime against the human species;" and the resolution then proceeded to declare: "All aggression is considered illicit and as such is declared prohibited."

Kellogg-Briand Pact

By the Kellogg-Briand Pact, signed in Paris on August 27, 1928, the Contracting Parties, that is, practically the whole community of the civilized world, including Japan, condemned recourse to war for the solution of international controversies, and renounced war as an instrument of national policy in their relations with one another. Although the text of this Pact does not use the word "crime," it is clear that by renouncing war "as an instrument of national policy," they meant to put the system of aggressive war outside the law, to make it illegal. These conventions

and agreements cannot be waved aside with a light gesture. They are not, and have never been, mere scraps of paper.

Acting in conformance with the demands of the public conscience of the world, by 1928 all the civilized nations of the world had by solemn commitments and agreements recognized and pronounced wars of aggression to be international crimes and had thus established the illegality of war as a positive rule of international law.

That our conclusion meets with the approval of students of international law is shown by the following quotation from Lord Wright's article on "War Crimes Under International Law." The author has commented to these quotations I have incorporated.

"Every nation has the inalienable right to self defence. But a war of aggression falls outside that justification. War is an evil thing.

It is no hyperbole to describe the war of 1939 to be one of the greatest calamities that ever befell the human race. To initiate a war of aggression is thus not only a crime, but the chief of war crimes. It differs in its universal scope from the specific offences which are included in the breaches of the particular laws of war. It is the accumulated evil of the whole. If it were possible to conceive of a war conducted on the most chivalrous and humane methods possible, the initiation of the war, if it were an unjust war, would still be a crime. It would be a crime against peace."

What Is Aggression?

Having shown that the law of nations outlaws aggressive war, we must next determine what is an aggressive war. An act of aggression is defined in Webster's New International Dictionary, Second Edition, Unabridged, 1943, as:

"A first or unprovoked attack, or act of hostility; the first act of injury or first act leading to a war or a controversy; an assault; also the practice of attack or encroachment; as, a war of aggression."

"A nation that refuses to arbitrate or to accept an arbitration award, or any other peaceful method, in the settlement of a dispute but threatens to use force or to resort to war."

James T. Shotwell, in his book, "War As An Instrument of National Policy", page 58, defines it thus: "The aggressor being that state which goes to war in violation of its pledge to submit the matter of dispute to peaceful settlement, having already agreed to do so."

The next division of Crimes against Peace has to do with the planning, preparation, initiation or waging of a war in violation of international law, treaties, agreements or assurances. Here the law is well

defined and has been enforced for generations. When two or more nations enter into a solemn covenant or treaty, and especially when it reaches the dignity of a treaty, each nation has always been held to be bound by its terms. Unless that be true, there would be no reason whatsoever for their enactment. To contend otherwise would mean that international conduct has reached so low a level that their sole purpose is one of guile and deceit; that the nations affix their names thereto with the purpose of cheating on another. However, this absurd contention has been time and again rejected and international courts have recognized a general body of international law.

We come now to the point where we shall show the acts of Japan to be among the most treacherous and perfidious of all time. In 1904, Japan opened the Russo-Japanese War with an attack on the Russian fleet at Port Arthur without notice or warning. The civilized nations of the world recognized that a continuance of this practice would be intolerable. Under such conditions, every nation would have to be fully armed and on the alert at all times with a consequent stupendous and burdensome expense that would stifle the peaceful, commercial life of its people.

The Hague Convention

The direct result of Japan's treachery in this case was the Hague Convention III in 1907. "Relative to the Opening of Hostilities" in which every nation bringing the charges in this indictment, as well as Japan, united in saying in Article I: (as has previously been quoted for another illustration)

"The Contracting Powers recognize that hostilities between themselves must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war or of an ultimatum with conditional declaration of war."

Under this agreement, which remained in full force and effect, were the attacks without notice or warning on Mukden, Changchun and Kirin on September 18, 1931, and the subsequent, similar attacks on Nanking on December 12, 1937, and on Pearl Harbor, Manila, Davao and Hong Kong on December 7 and 8, 1941 under such acts without warning, were these acts lawful acts? We contend they were not; and we shall show by the undisputed evidence in this case that each and every attack was made without previous and explicit warning or an ultimatum of

any kind; that as a matter of fact at the very moment the attack was made on Pearl Harbor, the Japanese representatives were treacherously negotiating with the United States Government in Washington in an attempt to build up a false sense of security.

Were Illegal Acts

We shall show that each and every one of the aforementioned attacks, and the many others not mentioned at this time, constituted illegal acts, both as acts of aggressive warfare and attacks without warning in violation of treaties. We shall further show that each and every one of the accused named in this indictment played an important part in these unlawful proceedings; that they acted with full knowledge of Japan's treaty obligations and of the fact that their acts were criminal.

Do these accused contend that these are mere empty promises, and if so, upon what logic do they base this assumption? To put it otherwise, can nations expect to get on one with another and trust each other without keeping solemnly enacted pledges any more than their nationals could expect to live in orderly existence one with another within the confines of their own country without respecting the agreements which they make? Could any such procedure lead to anything else than world anarchy? And Mr. President can such world anarchy be longer tolerated in this day and age? These are real pertinent inquiries. We have little doubt as to their answer.

Is Personally Responsible

It is the well recognized law of every civilized community that one who engages in a criminal act is fully and personally responsible for the natural and probable consequences of that act. Can the accused deny that the waging of war means the taking of human lives. The taking of human life without legal justification is, and has been recognized from the dawn of history, as murder. We shall show, therefore, that these accused, and each and every one of them, are guilty of the charge of murder as contained in this indictment.

Even under the laws of their own land, these accused are guilty. In the Criminal Code of Japan, Chapter XXVI, Article 199 (Sebald), page 148, in trial of Sebald the crime is defined in more general terms and reads:

"Every person who has killed another person shall be condemned to death or punished with penal servitude for life or not less than three years."

Article 203 of the same Code makes the attempt to kill a person punishable; and Article 201 creates a crime out of the mere preparation with intent to commit murder, even though only one person is concerned in it and there are none of the usual elements of conspiracy present, and even though the preparations never reached the stage of an attempt. Since the usual definition of murder in civilized countries is the international killing of a human being without legal justification, we should perhaps see what constitutes "legal justification" is usually limited to the defense of one's person or property or, perhaps, in the case of an executioner, that he was merely carrying out the order of a properly constituted court.

In the case before us, the deaths all occurred as a result of belligerency or war, and since the war was illegal all the natural and normal results flowing from the original act are also illegal. This is true even under Japanese law:

Bound By Laws

In addition to the reasons already given, the military and naval forces of Japan were bound by "the laws and by the practice of civilized nations and partly by treaties, conventions and assurances which were either directly binding upon them or evidence of the established and recognized rules. As evidence of these customs, the Hague Convention IV in October, 1907, to which Japan was a party, provides:

"According to the views of the High Contracting Parties, these provisions, the drafting of which has been inspired by the desire to diminish the evils of war, so far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their relations with the inhabitants.

"It has not, however, been found possible at present to concert stipulations covering all the circumstances which arise in practice;

"On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in default of written agreement, be left to the arbitrary opinion of military commanders.

"Until a more complete code of the laws of war can be drawn up, the High Contracting Parties deem it expedient to declare that, in cases not covered by the rules adopted by them, the inhabitants and the belligerents remain under the protection and governance of the principles of the law of nations, derived from the usages established among civilized peoples, from the laws of humanity, and from the dictates of the public conscience."

(To Be Continued)

IV

In Section I, Chapter I, Article I of the Annex to the Convention, it provides in part as follows:

"The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

"1. To be commanded by a person responsible for his subordinates;

"4. To conduct their operations in accordance with the laws and customs of war."

Then follow other provisions with reference to the treatment of prisoners of war and the sick and wounded which will be specifically referred to subsequently when the evidence on Conventional War Crimes is presented. Article XXIII provides in part:

"In addition to the prohibition provided by special Conventions, it is especially forbidden:

"To kill or wound treacherously individuals belonging to the hostile nation or army;"

Treachery of Worst Type

Therefore, an attack without warning upon another nation with which Japan was at peace constituted treachery of the worst type, and under the provisions of the Hague Convention the killing of any human being became murder.

In order to show the full effects of a war of aggression and a war in violation of international law, treaties, agreements and assurances, we have referred incidentally to the law covering Conventional War Crimes. These are charged in Group Three in the indictment, but perhaps the aforesaid reference is sufficient as the law covering these articles is well set forth in the Annex to Hague Convention IV already referred to, and other conventions and resolutions, and is established by the customs of war recognized by all civilized nations.

The next group of crimes referred to in the Charter is Crimes against Humanity, namely, "Murder, extermination, enslavement, deportation and other inhumane acts committed before or during the war." It will be observed from the foregoing that the first crime listed is that of murder. Group Two of the indictment deals

specifically with this subject in Counts 37 to 52, but the crime of murder appears as the natural consequence of the acts charged in so many other counts that it has been difficult to eliminate at least a partial discussion of it in considering either Crimes against Peace or Conventional War Crimes.

Slaughter of Civilians

Heretofore, we have discussed the crime of murder as resulting from illegal warfare confined to aggressive attacks or in violation of treaties when the nations attacked were at peace with Japan. There remains to be considered the slaughter of great numbers of civilians and disarmed soldiers in numerous cities in China, the Philippines, and the Netherlands East Indies, hereinafter referred to. These killings were contrary to international law even if the warfare in which they occurred had been lawful in itself. The law applicable to these crimes has already been referred to under Conventional War Crimes as being governed to a large extent by the provisions of the Hague Treaty IV with its Annex and the regulations attached thereto and the customs of war upon which it is based. These murders followed such a similar pattern over such a wide range of territory and covered such a long period of time, and so many were committed after protests had been registered by neutral nations, that we must assume only positive orders from above, those accused here in this prisoners' dock, made them possible.

There remains at least one phase of the law to be considered—perhaps the most important. That is the law pertaining to the individual liability of these accused.

The Supreme Court of the United States, during the period of this war, has expressed itself on the question of individual liability of those accused of offenses occurring during war. In *Ex parte Quirin*, 317 U.S. 1, it extensively reviewed the prevailing international law and referred to various authorities in its opinion. It stated specifically:

"It is no objection that Congress in providing for the trial of such offenses has not itself undertaken to codify that branch of international law or to mark its precise boundaries, or to enumerate or define by statute all the acts which law condemns. An Act of Congress punishing 'the crime of piracy, as defined by the law of nations' is an appropriate exercise of its constitutional authority, Art. I, Section 8, cl. 10, 'to define and punish' the offense since it has adopted by reference the sufficiently precise definition of international law. *United States v. Smith*, 5 Wheat. 153; see *The Marianna Flora*, 11 Wheat. 1, 40-41; *United States v. Brig Malek Adhel*, 2 How. 210, 232; *The Ambrose Light*, 25 Fed. 408, 423-28; 18 U.S.C. Section 481. Similarly by the reference in the 15th Article of War to 'offenders or offenses that . . . by the law of war may be triable by such military commis-

sions, Congress has incorporated by reference, as within the jurisdiction of military commissions, all offenses which are defined as such by the law of war (compare *Dynes v. Hoover*, 20 How. 65, 82), and which may constitutionally be included within that jurisdiction. Supreme et says Congress had the choice of crystallizing in permanent form and in minute detail every offense against the law of war, or of adopting the system of common law applied by military tribunals so far as it should be recognized and deemed applicable by the courts. It chose the latter course."

Contention Is Supported

The prosecution, representative of these eleven nations, contends that these holdings are in accord with the laws enforced domestically in all of their nations. It is quite interesting to observe that even in the interpretation of domestic law, or, as sometimes referred to, as municipal law, where legislatures and courts have long been established and operated in a lawful and precise manner, there is still the recognition of the existence of a definite living and growing body of international common law.

So we observe that in *Ex parte Quirin*, and in the *Yamashita* case, also recently decided by the same Tribunal, as well as in many earlier cases, there is definite authority of the highest court of a great nation to support our contention that individuals may be punished by a military tribunal for violations of international law, which, even though never codified by an international legislative body, have been sufficiently developed and crystallized to make them cognizable by courts of justice.

Under the usual law of conspiracy heretofore defined, it is always held that every member of the conspiracy is equally liable for every act committed by any other member of the conspiracy in the furtherance of the common plan. When we add to this general rule the additional rule that every person is liable for the natural and probable consequences of his criminal acts, we find that these men, who held positions of power and influence in the Japanese Government and by virtue of their positions conspired to, and planned, prepared, initiated and waged illegal wars, are responsible for every single criminal act resulting therefrom.

Aside from the usual rule in conspiracy cases, we find another rule of liability common to all legal systems, which is similar to the conspiracy rule, that all who participated in the formulation or execution of a criminal plan involving multiple crimes are liable for each of the offenses committed and for the acts of each other. All are liable who incited, ordered, procured or counselled the commission of such acts or have taken a consenting part therein.

It is the contention of the prosecution that the positions held by these accused is no bar to their considered as ordinary criminals and felons if the evidence presented to this Tribunal proves beyond a reasonable doubt that they have been parties to crimes for which they should be punished. To the honorable members of this tribunal we emphasize that all governments

are operated by human agents, and all crimes are committed by human beings. A man's official position cannot rob him of his identity as an individual nor relieve him from responsibility for his individual offenses. The personal liability of these high ranking civil officials is one of the most important, and perhaps the only new question under international law, to be presented to this Tribunal. That question is being squarely presented. It will become necessary for this Tribunal to determine to a great extent whether it will proceed, as other tribunals and courts in the past have done, to recognize as law a principle that follows the needs of civilization and is a clear expression of the public conscience.

Facts are Considered

Let us now consider the facts. The indictment charges that the accused participated in the formulation or execution of a common plan or conspiracy to wage declared or undeclared war or wars of aggression and war or wars in violation of international law, treaties, agreements and assurances against any country or countries which might oppose them, with the object of securing military, naval political and economic domination of East Asia and of the Pacific and Indian Oceans, and all countries bordering thereon and islands therein and ultimately the domination of the world.

There are two issues involved: (1) the fact of conspiracy; and (2) who were parties to it. The fact of conspiracy will be proved by direct and circumstantial evidence, including the conduct and declarations of the accused and their accomplices. The evidence relied upon to establish the fact of conspiracy, together with additional testimony proposed to be introduced, will demonstrate the connection of each accused with the conspiracy charged.

As to the first issue, "the fact of

conspiracy, the prosecution is not required to prove the specific date of its inception so long as the proof establishes as a fact that the conspiracy charged existed within the dates specified in the indictment. We propose to prove that for years prior to 1 January 1928 the military in Japan had sponsored, organized and put into effect in the public school system of Japan a program designed to instill a militaristic spirit in the youth of Japan and to cultivate the ultra-nationalistic concept that the future progress of Japan was dependent upon wars aggression was of conquest; that as a result of her previous aggressive policy, Japan had acquired vast interests and special privileges in China, particularly in that part known as Manchuria; and that by special treaties Japan had acquired large areas in Manchuria in which she exercised extra-territorial powers.

Policy Toward China

In 1927 the Japanese Government formulated a positive policy toward China which resulted in sending troops to China in May 1927 and in April 1928. Political writers and speakers advocated public support of military action in Manchuria. A plan was developed, it will be shown, which anticipated the creation of an "incident" in Manchuria as a basis for military aggression and included the exertion and exercising of coercive methods in bringing the Japanese Government into accord with military aims and purposes in Manchuria.

On September 18, 1931 a provocative occurrence, which has come to be known historically as the "Mukden Incident," was planned and executed. It was no accident, as the evidence will show. It was followed by immediate military aggression, implemented by more than forty thousand armed troops, well prepared and on the alert for the occasion, resulting in the occupation of the three northeastern provinces of China and ultimately the setting up of a puppet regime (at all times responsive to the strings pulled from Japan, and formally given the dignity of "recognition" as the so-called State of Manchukuo), and military occupation of the province of Jehol.

The real purpose of the invasion, namely, the proprietary interest of Japan in Manchuria, will be shown by the financial, economic and political development which followed. Force of circumstances halted the military aggression temporarily at the Great Wall of China, but the designs of these conspirators were partially accomplished. The Tangku Truce was ultimately effected whereby a demilitarized zone was established in the eastern province of Hopei. But the evidence will clearly disclose that Japan, through these accused, again proceeded to effect the purposes of the conspiracy, this time by means of deceit, bribery and intrigue, and by the use of political and economic means, and whenever necessary, military pressure was always at hand to supplement the foregoing.

Divide and Conquer

Thus the court plead, the conspiracy proceeded, by the means and methods of Divide and Conquer, to establish separate autonomous state in Mongolia and North China. The purpose of these maneuvers was to make secure the territory already seized, and to form the basis for a strengthening and extension of Japanese domination and control of all China until such time as Japan should be ready and prepared to develop further the larger scheme, her Greater East Asia policy.

Throughout all of this period the pattern and design conforms to a simple plan; although the details vary from time to time. Military incursions were made into the provinces of North China and Mongolia, and on Manchukuoan-Siberian border "incidents" occurred. The similarity of methods employed and repeated use of the word "incidents" to describe the killing of thousands upon thousands of individuals ought to be noted.

The westward advance into Outer Mongolia was checked by the Mutual Assistance Pact of 31 March 1936 between Outer Mongolia and the Soviet Union. Unsuccessful in her various attempts to unite the provinces of Inner Mongolia and North China in so-called autonomous regimes, Japan was compelled to be satisfied with the conversion of the demilitarized zone into the Japanese dominated and controlled Eastern Hopei Anti-Comintern Autonomous Council. Japan, having temporarily been frustrated in her program of expansion, provoked the notorious Marco Polo Bridge Incident on 7 July 1937. This "incident" was patterned after the Mukden affair, and, as was the case in Manchuria, it served as the occasion for large scale Japanese military aggression on many fronts. Major campaigns were conducted, resulting in the occupation of

Shanghai in August 1937 after two months of bitter resistance on the part of Chinese troops. The occupation of Nanking was characterized by systematic, merciless slaughter, rape and torture of tens of thousands of prisoners of war, civilians, women and children, and the wanton and wholesale destruction of homes and property utterly beyond any possible military requirements. This action, commonly called the Rape of Nanking, is with-

out parallel in modern warfare. Nanking only one example.

Nanking was only one of the many Chinese cities in which the Japanese sought, as a part of their plan of aggression, to destroy the will of the people to fight by the commission of atrocities of almost unbelievable severity, both as to their character and extent. The evidence will disclose that this inhuman type of warfare was of so general a character, both with respect to geographic distribution and as to time of commission, as to demonstrate the existence of a pattern or plan of warfare which in fact characterized the Japanese military aggression wherever waged. The evidence will also disclose that opium was used as a military weapon to break the morale of the people and to destroy their will to fight as well as a means of some revenue to finance Japan's armies. The attack on the Panay, Ladybird, and other vessels of neutral powers will be shown as further evidence of wanton and reckless disregard for life and property and also as a demonstration to the Chinese people of the power and efficacy of Japanese arms.

The waging of aggressive warfare against China in that part known as Manchuria, as well as in the northern provinces of China, and subsequently in the rest of China, was aided and facilitated by military groups acting in concert with civilians in securing control of governmental departments and agencies. This control was acquired by various means.

The Imperial Ordinance of 1933 provided that the Minister of War must be a General or Lieutenant General on the active list and that the Minister of the Navy must be an Admiral or Vice Admiral on the active list. As it was also provided by an Imperial Ordinance that the Cabinet must include the Minister of War and the Minister of the Navy, no Cabinet could be formed without approval of its membership by the War and Navy Ministers, and a Cabinet once formed could not stand unless its policies were in accord with the views of the Army and Navy. This power, the evidence will show, was used by the Army in obtaining domination and control of the government and promoting Japan's policy of expansion by force.

Resorted to Intimidation

Through the express provisions of the Japanese Constitution, there has been a sharp distinction made between matters of general affairs of state and matters pertaining to the supreme command under the Army and Navy. Throughout the life of this conspiracy, the evidence will show, there was a constant tendency to enlarge the scope of matters contained within the concept of the supreme command at the expense of matters belonging to general affairs of state.

The evidence will show that militaristic cliques and ultranationalistic

secret societies resorted to rule by assassination and thereby exercised great influence in favor of military aggression. Assassinations and threats of revolt enabled the military branch more and more to dominate the civil government and to appoint new persons favorable to them and their policies. This tendency became stronger and more entrenched until on 18 October 1941 the military assumed complete and full control of all branches of the government, both civilian and military.

V

The prosecution contends, and it will introduce evidence to prove, that the government, dominated and controlled by militaristic cliques and civilians committed to the policy of war of aggression, resorted to the subterfuge and device of setting up and maintaining a puppet regime in Manchuria, the prototype of many others to follow, in an effort to evade world condemnation and responsibility for violation of specific treaty obligations in the waging of aggressive warfare, and in an effort to deceive those subjects of Japan who advocated peaceful solution of the Manchurian issues. As evidence of determination on the part of those responsible for Japanese policy to continue the program of expansion by force, Japan withdrew from the League of Nations, decided formally not to adhere to the London Naval Treaty or furnish information regarding its building program pursuant to the provisions thereof, refused to attend the Nine Power Treaty Conference at Brussels, and fortified the Mandated Islands in violation of the trust under which she obtained them.

Concluded Secret Treaty

Before committing herself to extensive military aggression against China in 1937, Japan sought and obtained an alliance with Germany which was concluded on 25 November 1936 and is known as the Anti-Comintern Pact, and on the same day concluded a secret treaty with Germany. The evidence will show that Japan proclaimed to the world that the Japanese-Germany agreement simply provided for cooperation between the two countries against the Communist Internationale and was not directed toward any particular country, when in truth and in fact a secret agreement had converted the pact into a military alliance against the Soviet Union, and that this pact, being a prelude to their joint aggression, was directed not only against the Soviet Union, but against all democratic nations. The evidence will demonstrate that the purpose of this pact was of a two-fold character: first, by the strength of the alliance, to check the Soviet Union on the north, thereby giving Japan freedom of action on the south; second, the pact, in being directed on its face against the Communist Internationale, could be and was used as a pretext and a blind for continued military, economic and political penetration into China. The military provisions were placed in the secret treaty, for the reason that knowledge of them would likely complicate and delay negotiations being conducted between Japan and the Soviet Union regarding certain proposed fishing treaties, but it was intended that danger of war between Japan and the Soviet Union resulting from military aggression in China could be averted by putting

forth the secret treaty at the proper time.

Worked for Alliance

It will be shown that Japan expected to break the resistance of China within a few months after the Marco Polo Bridge attack or Incident, but failing in this, Japan was forced to conclude on 16 January 1938 that a major war must of necessity be waged against China if she continued in her program of expansion by force.

Beginning in January 1938, Japan and Germany worked for a closer military alliance, which was to become another stage in their plot against democratic countries, Germany desiring an alliance against the world and Japan desiring a stronger alliance, primarily against Russia and secondarily against other countries. Japan desired alignment with Germany and Italy, two rising aggressive powers in Europe which had adopted the policy of "talking peace while preparing for war," in order to secure for themselves their share in the division of the world which they were going to effect, and in order to create, in the nearest future, conditions enabling their realization of the aggression they had initiated in the Far East and assist in bringing the Chinese war of aggression to a successful conclusion. The negotiations for such an alliance were suspended upon the conclusion of a non-aggression pact on 23 August 1939 between Germany and Russia.

Japan had increased her efforts to bring to a successful conclusion the war of aggression against China in order that she would be free to expand by force into the areas south of China. Aggressive aims against the Dutch, French and other South Sea territories had also been formulated. Her plans, it will be shown, also included war against the British Commonwealth, and if necessary, against the United States. Under such circumstances, negotiations for a military alliance with Germany and Italy were renewed and with unprecedented speed culminated in the conclusion of the Tri-Partite Pact on 27 September 1940. This pact in its essence contained the ultimate development of the plot of the aggressive powers directed towards the division of the

world and the establishment of the so-called "New Order," which had for its purpose the extinguishment of democracy throughout the world and the subjugation of all nations by the aggressive states.

Yonai Cabinet Ousted

To accomplish this result, the military hierarchy caused the downfall of the Yonai Cabinet in July 1940, and the posts of Foreign Minister and War Minister in the succeeding cabinet were filled by Matsuoka and Tojo respectively, both of whom were committed to the military alliance with Germany and Italy as the capstone of Japan's foreign policy.

The evidence will disclose that from the early days of the conspiracy Japan had determined to wage war against the United States for the purpose of executing her Great East Asia policy. By "Great East Asia," as used in the pact, was meant French Indo-China, Siam, Burma, the Straits Settlements, and the Oceania group ranging from the Dutch East Indies down to New Guinea and New Caledonia, with a view to a gradual expansion design-

and in time to include Australia, New Zealand, India and Eastern Siberia.

By the military alliance with Germany and Italy, it was sought to create a new world order in which Japan was recognized as the leader in Greater East Asia, and Germany and Italy as the leaders in Europe. By secret understandings it was contemplated that the signatories, by consultation, had the right to determine whether action, or a chain of actions, by the United States would be regarded as constituting an "attack" within the meaning of the pact, and in the event a decision favorable to an attack were reached, the provisions for military and other aid became automatic.

Conspirators Hurried Plans

These eleven prosecuting nations and peoples will show that in 1940 and during the first eleven months of 1941 the accused conspirators advanced their plans and preparations with increasing rapidity toward the initiation of war. Evidence will be presented to show that during the four years beginning in November 1941 and continuing to September 1945, these accused brought war in its most ruthless and frightful details by land, sea and air to their neighboring peoples of the continents and islands in the Pacific and Indian Ocean areas, on a stage extending more than ten thousand miles from east to west and more than five thousand miles from north to south. As the conspirators moved from their ten years of planning and preparation into the period of initiating and waging a lawless, aggressive war the pattern of the conspiracy became increasingly clear in its details. The conspiracy definitely entered the phase of an all-out alliance with Hitlerite Germany and Fascist Italy for the domination of the world. It will be shown, as in one instance, that on March 2, 1941, the accused Oshima and the German Foreign Minister Ribbentrop agreed on a division of the spoils of conquest between their respective countries; and in later understandings Italy came in for its share presumably not small of the prospective loot and spoils of war. It will be shown that Japan, Germany and Italy established and maintained close affiliation and understandings with respect to diplomatic relations and military and naval operations.

These prosecuting nations will show the unlawful initiation or commencement of hostilities, by stealth, deception and treachery on December 7 and 8, 1941, against the United States of America at Pearl Harbor, against the British Commonwealth of Nations at Kota Bharu, Hong Kong and Shanghai, and against the Commonwealth of the Philippines at Davao. The deliberately criminal intent in this phase of the conspiracy will be observed in its faithful copying of the attack without declaration of war by Italy against Abyssinia in 1935, by Japan against China in 1937 and by Hitlerite Germany in its "blitzkrieg" attacks against Poland and other nations in 1939, 1940 and 1941. The evidence will show that Hitler in December 10, 1941, expressed to the accused Oshima his "joy" because of the Japanese attack, and that Hitler added that the Japanese did the right thing by attacking without a declaration of war and that he himself had done the same thing before and would do so in the future. It will further be shown that in these criminal attacks more than five thousand nationals of the

prosecuting nations were unlawfully killed and murdered.

Same as Nazi Pattern

The prosecution will present evidence to show that the pattern adopted or accepted by the accused leaders in waging the war was the same pattern as that followed by their fellow conspirators, the Nazi Germans, in their habitual tactics of terrorism, ruthlessness and savage brutality, especially against helpless prisoners of war, civilians and survivors of ships destroyed at sea by submarines. It will be shown that the accused likewise received from Hitler and his associates the gift of two submarines and plans based upon German ex-

perience in machine-gunning and otherwise destroying survivors of torpedoed ships.

It is respectfully submitted that the occurrences and events described, when properly and adequately developed by the evidence, will clearly demonstrate and prove the existence of a continuing conspiracy to wage war or wars of aggression and war or wars in violation of international law, treaties, agreements and assurances for the expanding purposes of acquiring dominion and control in successive stages, with only such delays as consolidation of seized territories and preparation for further aggressions required; of Manchuria, the provinces of Inner Mongolia, North China and the rest of China, French Indo-China, Siam, Burma, Malaya, the Pacific and Indian Oceans, and all countries and islands therein and bordering thereon, and ultimately the domination of the world.

If the Tribunal concludes that the evidence proposed to be introduced establishes "the fact of conspiracy," the only remaining issue is "who are parties to it." To recite in this opening statement, the manner in which each accused participated, in his official and individual capacity, as a leader, organizer, instigator or accomplice in the formulation or the execution of the common plan or conspiracy, would require a statement in detail of the entire evidence in the case. Such would be a task beyond the purpose of this preliminary opening statement, and consequently we submit for the present that the proof relating to the fact of conspiracy and the matters and things set forth in the various appendices to the indictment, when supported by evidence proposed to be introduced, will establish that these accused participated with others in the common plan and conspiracy and were the major leaders responsible for the formulation and execution of the conspiracy charged.

Each to be Proved Guilty

Evidence will be introduced to prove each of the accused guilty, directly, or as responsible military or government officials, or as leaders, organizers, instigators or accomplices in the formulation or execution of a common plan or conspiracy, of violation of practically all of the recognized rules and customs of war, or "laws of war," as they are frequently termed—the Conventional War Crimes of Article 5b of the Charter.

In the military occupation of Manchuria, of China, of the Philippines, of the Dutch East Indies, of French Indo-China, of Burma, of Guam, of Wake and of other enemy territory occupied by Japan, the evidence will show a repeated and widespread disregard of the respon-

sibility of some of the accused to secure observance of these principles of law. This evidence includes facts concerning atrocities already known to the world—the mass destruction of prisoners of war employed in constructing and operating the Burma-Thailand Railway; the Bataan death march in the Philippines; the Sandakan-Ranau march in Borneo where there were six survivors of an original two thousand soldiers; the massacre of Australian nurses on Bangka Island off Sumatra; and the execution of the B-29 pilots. It includes evidence of other lesser known but equally infamous crimes—a Balikpapan, Borneo, where in January, 1942, the entire white population was killed when they refused to surrender oil fields undamaged; at Langson, Indo-China, where 450 prisoners of war were machine-gunned in the legs and then executed with bayonets and pick axes; at Lipa in the Philippines where out of 45,000 of its inhabitants 18,000 were executed in February, 1945, and practically the entire male population of several villages exterminated; at the village of Hsiang-Kuo-Chuang in Hopei Province, China, of over four hundred families, destroyed in the Spring of 1945, except for one house and twenty inhabitants; in Liaoning Province, Manchuria, where in February 1942, three thousand Chinese civilians were forced to serve as coolies in constructing military defense works and were then slaughtered to guard the secrecy.

Mistreatment of Prisoners

Evidence will be introduced of mistreatment of prisoners of war even within Japan, in fact within the city of Tokyo, indicating a deliberate and reckless disregard of the duty of certain of the accused to take preventive means within their powers. There will be evidence also of the destruction of prisoners of war by taking them in crowded and unmarked, but armed, Japanese prison ships, in spite of their protests, into active combat zones. Lawless attacks upon marked hospital ships will likewise be shown, with the resulting deaths not only of wounded soldiers and sailors, but also of surgeons and nurses engaged in relieving their suffering. Evidence of other similar but less wellknown atrocities will be introduced to show that in each area of the Pacific and the Indian Oceans occupied by Japan there was a pattern of mistreatment of prisoners of war and of other violations of the laws of war which prove a policy planned, initiated, and carried out by certain of the accused involving violations of the laws of war.

(To Be Continued)

VI

As further examples of this well-planned design, which will show that these atrocities were not merely accidental or isolated individual misbehaviors, but were the planned results of this national policy, we will show a pattern of murder and mistreatment of civilians, as at Nanking, Hankow and Manila, and of illegal attacks and murder of civilians and military personnel as at Pearl Harbor, Hong Kong and Kota Bharu, and other less known incidents. Evidence will be presented to show the circumstances of the massacres by Japanese armed forces of prisoners of war by burning to death at Palawan, by

stabbing to death or beheading as in the case of prisoners taken from the British ship Behar, and by drowning or disposition by some still undiscovered method as in the case of the American Liberty ship Jean Nicolle. Further proof of this established policy will be developed by evidence that identical measures were constantly employed throughout the areas of Japanese occupation to torture prisoners of war and civilians, such as the "watercure", "electric shock treatment", hanging upside down, prying finger-nails, and body beatings.

Reminded of Violations

Moreover, we shall show that instances of flagrant violations of the rules of war repeatedly were called to the attention of the Japanese officials, including some of the accused, by the complaining nations through the Protecting Power.

Evidence will be introduced of direct orders from certain of the accused in violation of the rules and customs of war, such as the employment of prisoners of war on work directly connected with the war effort, on the Burma-Thailand Railway. Other evidence will be offered to show that some of the accused directly violated the rules of war by the establishment of puppet governments in the Philippines, in China, and elsewhere, and in the violation of other rights of sovereignty of countries temporarily occupied by military forces and in the deprivation of personal and political rights of the inhabitants thereof, for example, in the Philippines and the Dutch East Indies. Other evidence will be offered to show that certain of the accused conspired to assimilate all of the Far East nations and divide into a Greater Japan in violation of the rules and customs of war.

Evidence to be offered under Charter Article 5a, Crimes against Peace, and 5b, Conventional War Crimes, has now been outlined. It remains to discuss briefly evidence to be presented with particular reference to Article 5c, Crimes against Humanity. It will be observed that the same evidence may constitute an offense under both class A and class B, or even under classes A, B and C.

Lawless Usurpation

These prosecuting nations and peoples will offer evidence to show that the accused and their subordinates and accomplices conducted the conquest and occupation of conquered nations by criminal violence, unlawful belligerency, and lawless usurpation of sovereignty. It will be shown that there was actual realization of the objects of the conspiracy, namely, the theft by armed force of territory, food, oil, ships, factories and other property of the neighboring peoples and nations in East Asia and the Pacific and Indian Ocean areas. The unfortunate countries and peoples conquered and overrun by Japanese armed forces under the command and government of the accused and their associates were treated not in accordance with their rights under international law, but as the loot, booty and spoils of criminal aggressive war. In this respect, again the pattern followed by the Japanese leaders was the same pattern as the one developed and followed by their fellow conspirators in Germany and Italy.

Ample evidence will be offered to show that the accused, in their official positions or places of responsibility, exercised their authority over Japanese army and navy forces and over Japanese government bureaus and agencies in such a manner that many members of these armed forces and government agencies committed these offenses as an accepted standard or habitual operating procedure, and that honorable and law-respecting Japanese who courageously opposed such practices were themselves terrorized or punished.

Protests Not Answered

It will be shown further that the protests, the pleas and the threats of eventual prosecution as war criminals, which were dispatched to these accused and their subordinates by the nations participating in this prosecution, were not answered or were evaded or generally disregarded by the accused and their subordinates.

We shall call particular attention to the fact that by Hague Convention IV of 1907, Article 4, Section 1, as set out in Appendix D of the indictment, direct responsibility for prisoners of war is placed upon the governments who are parties to that Convention, including Japan, and

every official member of the Japanese Government therefore was and is responsible for these notorious, continued and protested violations of this Treaty.

This Tribunal will have noted the necessity in this opening statement of referring to details of the indictment and other particulars that may have seemed tedious and at times repetitious. They have been, as we view it, necessary because of the fact that individuals are being brought to the bar of justice for the first time in history to answer personally for offenses that they have committed while acting in official capacities as chiefs of state. We freely concede that these trials are in that sense without precedent. And we are keenly conscious of the dangers of proceeding in the absence of precedent, for tradition crystallized into precedent is always a safe guide. However, it is essential to realize that if we waited for precedent and held ourselves in a straight jacket by reason of lack thereof, grave consequences could ensue without warrant or justification. So we believe that our observations will be better understood if it is realized that today we are faced with stark realities involving in a certain sense the very existence of civilization itself. "It is a condition and not a theory which confronts us," as a great American leader once said. It is no longer a theory but a fact, as has been so well demonstrated by recent scientific developments, that another war will mean the end of civilization the destruction of civilization. We are conscious of our obligations. Civilization without justice would be a paradox.

Have Single Obligation

To those who observe and move these proceedings, we can say only that we shall proceed without thought of criticism or commendation. We have a single obligation. That obligation is that our proceedings shall be in full conformity with the dictates of justice itself. This is a real challenge. We have attempted to demonstrate in our previous remarks that the acts of these

accused were in definite and clear violation of the requirements of human existence as those requirements have been crystallized, imperfectly we admit, in pronouncements of various treaties, conventions and assurances. In these proceedings, we can no more expect absolute accuracy or freedom from error than could have been expected in that voyage of the great mariner who once sailed from the shores of Europe to find a way to Cathay. That a more direct route or a more precise employment of the art of navigation could have saved many weeks is a matter of history. The inspiration and the impulse of his time dictated the necessities of proceeding across uncharted waters, and to a certain extent we bear that handicap. But the necessities demanding the embarkation upon that project were far different. Today we must realize that no sound, reasonable step to bring about world peace can be avoided. The development of the art of destruction has proceeded to such a stage that the world cannot wait upon the debating of legal trivialities. The plain reason is that the world itself may be destroyed while these niceties are being debated, developed and decided upon.

Will Uphold Law

We suppose that the first universally recognized doctrine is that self-preservation is the first law of nature. Therefore, the eleven nations represented in these proceedings are being asked to do their part to uphold that law. We realize the limitations of deterring influences. It may well be in the future that, regardless of the findings of this Tribunal and its conclusions of law, others, similar to these twenty-six accused now in the dock, with madness and zealotry may concoct, bring forth and even put into effect plans and efforts leading to the destruction of the entire world. This is madness. We are attempting to act with sanity and logic. So we seek the support of the world in our efforts to deal with this problem in a realistic manner.

To hold authoritatively that the planning, the preparation, the initiating or the waging of a war of aggression are crimes and further to establish as a matter of law that those human beings who bring such destruction upon mankind are common, ordinary felons, might fall far short of the deterring influence which we desire. But, with great respect, we point out to this Tribunal that such a finding may well prevent such individuals as these accused or their prototypes or followers from gaining seats of authority or positions of influence in their own community. This is of no small import.

It may be observed that in this discourse we have refrained from emphatic reference to each or any of these accused except in the rarest instance. We have done so with a view of the dignity within which these proceedings should be confined. We have no particular interest in any individual or his punishment. They are representative in a certain sense of a class and group. They are being prosecuted because they were ~~confronted~~ to the rule of

the tooth and claw. We cannot be concerned with their individual concepts, their alleged justification on the ground of achievement of national ambitions, or their alleged patriotic endeavors. We need only if the court pleases to take a few steps to the top of this building to see what they have brought upon their own people. The events speak more eloquently than any human being could achieve by way of description.

A Repulsive Theory

The accused have asserted, through their counsel, and still assert, we assume, that they are immune from punishment by reason of the offices they held. That is to say, the accused now claim that having set in motion deliberately and with design, aggressive warfare which envisaged the loss of countless human lives, as they of course fully understood at the time, it is lawful and proper for the humbler members of their community, subject to their will, to have lost their lives and their properties, while they, the perpetrators, the designers and the architects of this plan of world destruction, when finally brought to bay, should remain free solely by reason of the offices they held. This is an utterly repulsive theory. The Charter holds it untenable, and we submit that all of the moral and logic of human experience denounce it. The evidence will show in this case that at the last moment, with a large part of the municipalities of Japan already destroyed, with no prospect left but guerilla warfare and utter destruction of their homes, many of the accused still adhered to the view that before capitulation more and more human lives must be destroyed.

Philosophy of Accused

One of the colleagues of the accused is reported to have said to an American officer many years before the launching of the attack upon the United States of America at Pearl Harbor: "We are willing to spend the lives of 10 millions of Japanese. How many lives are you willing to spend?" That is their philosophy. The lives of human beings were held utterly valueless. The purport of this prosecution is that the life of a single individual is of the gravest moment and deserving of all reasonable efforts for its protection. The life of an individual is a matter of sanctity and can never be lawfully sacrificed for immoral purposes.

To show what their philosophy meant when translated into action, we shall offer in evidence the following compiled by the Army Information Section of the Imperial Headquarters of the Japanese Army:

"COMPREHENSIVE RESULTS OF THE JAPANESE MILITARY OPERATIONS IN CHINA"

During July 1937-June 1941
(Report of the Army Information Section, the Imperial Headquarters)

- Estimated number of Chinese
 - killed 2,015,000
 - The loss of Chinese forces, including death, the wounded, captives, etc. 3,800,000
 - The booty:
 - Arms 482,257
 - Tanks, cars, motor-trucks . . . 1,471
 - Trains, engines, carriages . . . 2,441
 - Warships and vessels 41
- Results of Air Forces' Activities, including Nomonhan Incident:
 - Enemy warplanes brought down 1,741
 - Destroyed, on the ground 231
 - Total loss of the enemy 1,972
 - Loss of the Imperial Army, including Nomonhan Incident:

Killed 109,250
Lost airplanes 203
These, your honor, are result of incidents.

CHRONICLE OF THE SINO-JAPANESE HOSTILITIES, July 1937-May 1941

- 1937
- July 7—North China Incident occurred at Marco Polo Bridge.
 - July 15—The Japanese Government decided to dispatch Japanese troops to North China.
 - July 25—Hostilities began at Langfang.
 - July 28—Commander Katsuki notified the Chinese authorities of the Imperial Army's decision to take free action.
 - July 29—Japanese troops began operations against the Chinese 29th Army.
 - Aug. 8—Japanese troops entered Peking. Japanese residents in the cities on the Yangtz completed evacuation.
 - Aug. 9—The Oyama Incident occurred in Shanghai.
 - Aug. 13—Hostilities began in Shanghai.
 - Aug. 14—Commander Hasegawa of the Third Fleet of the Imperial Navy, declared the intention of the Imperial Navy to attack the Chinese forces.
- The air forces of the Imperial Navy made their first attacks on Chinese military centers in Central China, flying over the China Seas from Japan.
- Sept. 5—The entire coast of China was blockaded by the Imperial Navy.
 - Sept. 8—The Imperial Army entered Inner Mongolia.
 - Dec. 10—General attack on Nanking by Japanese forces began.
 - Dec. 13—Fall of Nanking.
- 1938
- May 23—Air forces of Imperial Navy began attacks on Canton which were repeated for weeks following.
 - Oct. 21—Occupation of Canton." (To Be Concluded)

VII

For the sake of brevity, we shall not complete this recitation, but with great respect, remind the Tribunal that this was a report prepared under the authority of the Imperial Army Headquarters and contains a resume of each step in the bloody aggression in China from 1937 to 1941.

But these accused, in spite of this recitation, contend that these were neither aggressive wars nor wars at all, and they dismissed them from such categories by the terminology of "incidents," that is to say, that the dead, wounded, captives the estimated number of Chinese killed—2,015,000; the dead, wounded and captives, etc.—3,800,000—does not constitute war. The next heading is extremely interesting because it is entitled "the booty." Therein lies the real truth.

Murder Was Committed

The complete recitation of these cruelties on a mass scale would require more time than this Tribunal and these proceedings would permit. But, as we have attempted to stress in this prosecution, it is our contention that the taking of a single life intentionally without the sanction of law constitutes murder. Therefore, that these perverted fanatical, malicious leaders should have brought about murder on a vast scale and under the aegis of official position can constitute no defense. To concede the existence of such principles would mean that the enforcement of the law was the enforcement of the shadow and the avoidance of the substances.

As stated in the Potsdam Declaration, there never was, and is not now, an intent to enslave the Japanese

people or to destroy Japan as a nation. We must reach the conclusion that the Japanese people themselves were utterly within the power and force of these accused, and to such extent were its victims. With the permission of the Tribunal, we would point out that the forces of occupation, who have the full power under the terms of surrender to implement its terms in such manner as they should see fit, have given full opportunity to the Japanese people and to the world to observe the fair manner in which the occupation has been conducted.

The Potsdam Declaration stated, as did the Cairo Declaration, that stern justice should be meted out to war criminals. And in the last analysis in this case we come to the question of what constitutes such war criminals. Could it mean that the war criminals were only the soldiers who obeyed the orders of their lieutenants and grand marshals, or must it in justice and reality mean the leaders who were really responsible for what occurred? For the accused in the dock are no contrite penitents. If we are to believe their claims as already asserted in this trial, they acknowledge no wrong and imply that if they were set free they would repeat their aggressions again and again. So that from the sheer necessity for security they should be forever restrained.

The General Principle

This requires us to say a few words of general principle and not of detail about the individual accused. Among its other duties, the prosecution has had the particularly heavy task of selecting from the large number of persons who might properly have been charged in this indictment and those whose responsibility for the crimes set forth in the Charter appeared from the available evidence to be the greatest. In order that these proceedings would not become impossibly unwieldy, it was necessary to limit the number of the accused in this indictment now before this Tribunal. This is not, and will not be, the only trial of Japanese war criminals. It is obvious that a substantial share of the responsibility rested upon persons now dead or in such a state of health that they cannot be brought to trial. It may well be that if all the facts were now known to us, there are persons now on trial whom we might have charged in preference to some of the accused. That is, of course, no defense to any of these accused nor even a relevant subject of inquiry in this proceeding. The only question in the case of each one of these accused is whether the case against him as an individual is proved.

Although we charge that each of these accused was party to the progressive conspiracy alleged in this indictment and that they were acting in concert to commit the offenses alleged, the evidence will now show that they were a united band who were in agreement with one another, as was the case among the German conspirators. Or the contrary, there appear to have been differences of opinion between them and fierce rivalries, upon matters of which are, and some of which may not be, relevant to these charges. The evidence will show, we believe, that they were all agreed in a determination to expand by aggressive war or threats of aggressive war, the power of Japan in every possible or prudent way in their ag-

ressive action against any particular country, and as to which country it would be wise to attack first. Some directed their vision primarily against China, some against

the Union of Soviet Socialist Republics, some against the British Commonwealth, some against the United States; some advocated the meaner but more prudent cause of imitating Hitler's example and attacking the weaker countries first, or of attacking those nations which, because they were already involved in the European war, would be hampered in their capacity to resist. Some, who ultimately prevailed, were held as well as aggressive and were prepared to fight the greater part of the peace-loving world at one time; others were opposed for a time at least, to war against certain countries, particularly the United States, not because of any moral scruples but because they thought that Japan would be beaten. All, of course, and some, even perhaps among these accused, did have a moral sensibility about the iniquity of what they were planning, as well as fears of the result; but they did it. In our submission all are equally guilty, and from a moral point of view it may be said with a good deal of force that those who had scruples, if there were any, and yet joined in the commission of the crime, are even more to blame than those who were whole-hearted enthusiasts for the aggression.

Cause Dissension

There was another cause of dissension among some of these accused, namely, a three-cornered struggle for power within Japan between the Army, the Navy and the civilians; each group being further divided by factions and rivalries within itself. In our submission it is no defense for any of those who were in general committed to a policy of illegal aggression, to show that at a particular time they resisted a particular act of aggression merely because they did not wish its advocates to become too powerful in the government of Japan.

It will be the duty and the endeavor of the prosecution to put before the Tribunal as fully and fairly as possible the relevant facts with reference to the conduct of each accused. But when we do so we ask the Tribunal to bear in mind the considerations which I have stated.

It is necessary to emphasize again and again that nations as such do not break treaties, nor do they engage in open and aggressive warfare. The responsibility always rests upon human agents, the individuals who have voluntarily sought and achieved by one method or another the power either to enforce such treaties and agreements to maintain the peace, or to break them. Since they have voluntarily achieved and assumed this authority, they themselves, by the dictates of common ordinary justice, must be brought to individual punishment for their acts.

There remains finally a recapitulation of the thoughts and notions with reference to the injustice of ex post facto operations. To this we believe there is a short answer. Such wholesome provisions long established in the course of justice of many nations should never be undermined. But this principle of law means simply that a person would not, and should not, be punished for an act which was not

crime at the time when it was committed. It was never intended to mean that a person should not be punished for an act which was clearly recognized as a crime by the law to which he was subject. Every offense charged against these accused was well recognized as a crime in international law long before the dates stated in the indictment.

Seeks Commensurate Punishment

Again we state that the offenses of these accused resulted in the unlawful or unjustifiable taking of human lives, which constituted murder, the oldest of all crimes and the punishment that we ask to be inflicted is punishment commensurate with such offense.

If in the past there have been instances where such conduct has remained unpunished, and even though a maimed and mangled world permitted this failure of justice, our answer today is that no such neglect can longer be tolerated.

A great American four score years ago made a plea on a battlefield to his own people that government of and for and by the people should not perish from the earth. Today, we of the prosecution voice to this Tribunal a like sentiment, but the developments of our times require that we request this Tribunal to take such action, within the confines of justice, toward these individuals as will establish a principle which may in some degree serve to prevent not only government but civilization itself from perishing.

As a final word to the Tribunal, we reiterate the words of the Supreme Commander for the Allied Powers at the time of the surrender proceedings in Tokyo Bay:

"It is not for us here to meet, representing as we do a majority of the people of the earth, in a spirit of distrust, malice or hatred. But rather it is for us, both victor and vanquished, to rise to that higher integrity which alone benefits the sacred purpose we are about to serve, committing all of our people unreservedly to the

faithful compliance with the undertaking they are here formally to assume."

We have attempted and will continue in our effort to act in strict conformity with this pronouncement.

—(End)—