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* OPENING STATEMENT BY MR. BLAKENEY.

35350 * Exhibit 3609, the affidavit of ARITA, Hachiro, certified that the affiant was vice-minister of foreign affairs from 10 May 1932 to 16 May 1933, and as such examined and read in 1933 a report by TOGO, then director of the European-American Bureau entitled "On the Foreign Policy of Japan vis-a-vis Europe and America Following Withdrawal from the League of Nations", which was prepared for submission to Foreign Minister UCHIDA. He had seen a * document which he identified as the original report he read at the time.

December 16, 1947

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* Exhibit 3609-A, the document identified by the above affiant, stated that toward the Manchurian Incident the Soviet Union maintained an attitude of neutrality and non-interference. In view of Japan's neutral attitude at the time of the Soviet-Chinese conflict over the Chinese Eastern Railway issue in 1929, this attitude was understandable. Moreover, the Incident was at first * restricted to southern Manchuria, which was outside the Soviet sphere of influence. Even when operations extended to northern Manchuria, involving Soviet interests, Russia continued her neutral attitude. Her consent to Japan's sending troops by the CER, her refusal of the League request for cooperation of Soviet consular officials in Manchuria with the Lytton Commission, her offer of good offices in evacuating Japanese at the time of the Su Ping-won Incident; her expression of consent to the sale of the CER to Japan, and her rejection of the League request to join its advisory council, were among the facts worthy of note. This attitude of the Soviet Union should properly be interpreted in the light of its understanding of Japan's power being much greater than other countries and of the fact that since incidents with foreign countries could not be permitted to occur while Russia was busily occupied with internal activities, she was avoiding any provocative actions.

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The desire of the Soviet * for a non-aggression pact with Japan was motivated by its desire to secure the safety of its far Eastern territory from the increasing threat it feels since the Japanese Manchurian advance. To the extent that the Soviet was striving toward world revolution, a clash with Japan might be unavoidable, and the five year plan should be watched. The course which Japan should follow was to pursue their Manchurian and Mongolian policy, but avoid friction and promote friendly relations with other powers. As to Soviet relations, there were various issues hard to solve, but they should make every effort in accordance with the * policy to promote friendly relations with her, and they might be able to solve these issues. It might even be possible to get the Soviet to recognize Manchukuo.

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35367 A review of Soviet-Japanese relations would show that the Soviet felt a sense of insecurity over its far Eastern territory since the Manchurian Incident, and especially after Japan, in replying to the Soviet proposal of a non-aggression pact in December, 1932, stated such a pact was premature. This apprehension was to be noted in the statements of influential Soviet leaders. There were difficult issues between the two countries, but if things were left as they were, mutual distrust could not be removed and relations * might come to be dominated by the domestic communism problem or the development of Soviet-Manchukuo problems.

35368 Japan should try mainly to develop Manchukuo and should watch the progress of the five year plan, and the Soviet attitude toward other countries, endeavoring to avoid friction with Russia and establish friendly relations with her. As to the possible influence of the improvement of these relations on third powers, there was no reason that it should disturb U. S.-Japanese relations, as America did not want Japan to dominate Siberia and was not pleased to see Soviet communism firmly established. The fact that some Americans suspected Japan of aggressive intentions because of her refusal of the Soviet * offer of a non-aggression pact showed that improvement of Soviet relations was desirable for betterment of U. S. relations.

With regard to Britain, some feared that friendly relations with the Soviet might cause trouble in relations with Britain, but it was clear that Soviet-Japanese accord would not extend to such a point that the two in combination would oppose Britain. It was not reasonable for Britain to have any apprehensions over this.

35369 Improvement of Soviet-Japanese relations would have a good influence on third powers by proving Japan's peaceful intentions and contribute to the improvement of better relations with other nations. * It was by all means advisable that they make efforts to improve relations with the Soviet, and of all the measures for accomplishing this, that most desired by the Soviet was a non-aggression pact; but there were pros and cons on the question in Japan.

35370 * There were no reasons why such a pact should not be concluded. This pact was recommended, and thereafter they should proceed with negotiations on the questions of recognizing Manchukuo, purchase of the CFR, and issues relative to concessions in northern Saghalien. If the domestic situation did not permit concluding such a pact, they should first endeavor to tranquilize relations between the two countries, keeping in close touch with Manchukuo with respect to her policy toward the Soviet.

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35371 To realize these aims, it was recommended that in the economic sphere they conclude a commercial treaty, thus promoting economic relations with the Soviet. In the political sphere, it was recommended that measures be found to prevent border clashes, and in * this connection the problem of demarcation of the Soviet-Manchukuo border should be solved; a system be established peacefully for Soviet-Manchukuo management of the CER on an equal basis; and steps taken to purchase Soviet rights in that railway.

35372 The problem of demarcating the boundary was pending even before the establishment of Manchukuo. Left unsettled, it was a source of trouble. Although there might be difficulties, it should be solved quickly. Also, the CER was built by Czarist Russia as an instrument for Far East exploitation. Since they could not justifiably obtain Russian * interests in the railway forcibly, they should purchase their share in it.

35373 Since the Manchurian Incident, various nations had charged Japan with practically ignoring her treaty obligations and embarking on aggressive actions. They were apprehensive lest Japan engage in such actions whenever opportunity was offered. As a result, Japan had lost as much international confidence as she had gained military prestige. In modern international society resort to armed force was a matter of the utmost seriousness, and every effort should be made to avoid it. Although there were instances in history of unjustified use of armed force, Japan should not repeat this. Respect for truthfulness should * be the same among nations as among individuals, for when a nation forfeits international confidence it was ultimately the loser.

The Soviet was not only making efforts to avoid conflict with Japan, but was not in a position to apply either military or economic pressure in the near future, and Japan should give attention to this point. In case armed conflict with the Soviet became inevitable, it was most desirable to make a common front with Britain and America, but since it was clear the Soviet was trying to avoid this eventuality, other powers would not support Japan but would condemn her as an aggressor, and Japan should by all means avoid clash with the Soviet.

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Particulars Regarding the Personal Message from
President Roosevelt

I. The United Press wire-dispatch which was received here early in the morning of the 7th of December, last year, reported that the Secretary of State of the United States officially announced that President Roosevelt's message to His Majesty the Emperor had been sent. Therefore, the authorities of the Foreign Ministry were awaiting the arrival of the message, by immediately contacting the departments concerned.

II. However, the arrival of the message seemed to have been delayed considerably. It was after ten o'clock that evening, when the American Ambassador in Tokyo finally sent word to the Foreign Minister to the effect that he wanted to see the Minister late as he had just received instructions on some urgent and vital matter and was deciphering the telegram. At midnight of the same day (0015 hour), Ambassador GREW called on Foreign Minister TOGO at the latter's official residence with the message.

III. During the meeting which ended in ten odd minutes, Ambassador GREW requested the good offices of the Foreign Minister, saying that he had received President Roosevelt's personal message to His Majesty the Emperor and that he had been especially instructed to present it personally to the Emperor. The Foreign Minister replied to the effect that since it was midnight he could not make arrangement for an audience with the Emperor until the following morning but that whether or not the Ambassador would be received in audience as he wished may depend upon the contents of the personal message. Ambassador GREW, thereupon, unofficially handed to the Minister a prepared copy (No. a) of the personal message, saying that he is again requesting special consideration for an audience with the Emperor which is most necessary in view of the exceedingly grave situation. The Ambassador left, promising to see the Minister again.

IV. The Foreign Minister went to the Premier's official residence with the translation of the outline of the personal message. As a result of a hasty conference with the Premier and others, the Foreign Minister decided generally as to the method of handling this matter. At 2:30 a.m. the same night, he went to the Palace (The Emperor appeared in full naval uniform) where he gave a detailed report to the Throne.

V. Since the Foreign Minister returned to his residence after 3:30 a.m. he made arrangements to notify the British and American Ambassadors in Tokyo of the close of the Japanese-American negotiations at 6:00 a.m. of the 8th as scheduled, and at the same time made arrangements to notify Ambassador GREW at that time of the following as the opinion of the Emperor regarding the personal message of President Roosevelt:

I have had the Japanese Government reply to the recent inquiry of the President of the United States concerning the circumstances surrounding the concentration of Japanese troops in French Indo-China.

Furthermore, the withdrawal of troops from French Indo-China constitutes an item in the Japanese-American negotiation, and since I have had the Japanese Government express its intentions concerning it, I hope that you will thereby understand.

It is my cherished desire to bring about peace and quiet to the Pacific and to the whole world, and I am sure that the President will truly acknowledge the fact that I have been having my Government make efforts for that purpose to this day.

Soon after that (past 4:00 o'clock) OKA, The Director of the Naval Affairs Bureau reported to the Minister over the telephone of the success of the surprise attack on Pearl Harbor.

VI. On the morning of the 8th, the Foreign Minister received the British and American Ambassadors a little behind schedule (due to difficult telephone connections). At that time, a conversation took place between Ambassador GREW and the Minister, the gist of which is as outlined in the annexed sheet (No. B)

(NOTE)

1. Secretary KASE was present at the conversation acting as an interpreter.
2. The personal message was never presented to the Throne at all. The official announcement of the Information Bureau differs from the facts, on this point.
3. Both the British and American Ambassadors did not know of the outbreak of the state of war prior to the above, at the time of the conversation on the morning of 8th.

GIST OF THE CONVERSATION BETWEEN FOREIGN MINISTER TOGO
AND THE AMERICAN AMBASSADOR IN TOKYO.

7:0 a.m. 8 December 1941

I said, "In regard to the personal message of President ROOSEVELT to His Majesty the Emperor, which you brought last night, I had an opportunity, after meeting you, to obtain the Emperor's opinion regarding it. The Emperor ordered me to transmit to President Roosevelt the following gist through you: 'I have had the Japanese Government reply to the recent inquiry of the President of the United States concerning the circumstances surrounding the concentration of Japanese troops in French Indo-China. Furthermore the withdrawal of troops from French Indo-China constitutes an item in the Japanese-American negotiation, and since I have had the Japanese Government express its intentions concerning it, I hope that you will thereby understand. It is my cherished desire to bring about peace and quiet to

Pacific and to the whole world, and I am sure that the President will truly acknowledge the fact that I have been having my Government make efforts for that purpose to this day."

The Ambassador listened to this in awe and replied that he will immediately deliver the Emperor's opinion to the President. He further said that according to the instructions which he has, he is to request an audience with the Emperor and present the above personal message personally to the Emperor. He requested that since the relation between the two nations is confronting a great crisis, arrangements be especially made for an audience with the Emperor.

(5) I replied, "If the purpose of your audience with the Emperor is simply for the purpose of presenting the personal message, I feel that it may be unnecessary, as the Emperor's opinion is as previously stated. However, I have no intention whatsoever of interfering with your desires, and if you have something to add besides the personal message, I will naturally give considerations."

The Ambassador expressed his extreme satisfaction and appreciation and took his leave.

In accordance with the Ambassador's request, the English translation (appended) of the gist of the proposal was forwarded later.

Memorandum of M. Kuro

+ Exam of Togo

Emperor had asked time & again
that sufficient notice be given

① 59-60-61

2 agreement for war if negotiations failed -
Nov 1-2

Togo stood out 1 night -

If he had stood out the next day
decision would have (1) caused cabinet to fall,
(2) put it up to Emperor -

a Man of Peace

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INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al.

-vs-

ARAKI Sadao, et al.

will conclude about 2:35 in the afternoon

Began reading

A F F I D A V I T

TŌGŌ SHIGENORI

3:10

This corrected as per errata sheet

I
General

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

1. I entered the service of the Japanese Foreign Ministry in November 1912, immediately after passing the diplomatic and consular service examination, and for the following thirty-three years until my retirement upon resignation of the post of Foreign Minister on 17 August 1945 I devoted my life continuously (except for the period 1 September 1942 to 9 April 1945, when I was retired) to the diplomatic service. During that period I occupied successively the usual positions at home and abroad which are the history of a diplomat's life, and received promotions, decorations and other forms of recognition in the usual course of a government servant's career. I have never held military office nor had connection of any nature with any military or militaristic group or clique; neither have I been a member of any political party or society nor ever held political office, except that after my retirement from office on 1 September 1942 I was appointed a member of the House of Peers, a sort of retirement honor frequently bestowed on retiring cabinet ministers and other high officials. (I did at one time receive membership in the Imperial Rule Assistance Political Society, which I suppose might be considered a "political party"; but I was never active in it, and took so little interest in it that I am not even sure when I received my membership, whether it continued until the Society's dissolution, and whether an advisorship or the like position was conferred on me.) My profession has been diplomacy; my aim as a diplomat has been the advancement of my country's interests, but always governed by the conviction that my own country would be best served by attempting to understand other's viewpoints, by promoting international friendship and striving for amicable settlements and maintenance of peace, thus to contribute to the welfare of mankind as a whole.

Rec'd 30

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2. The facts of my career are substantially as contained in the record of the Personnel Section of the Cabinet Secretariat, introduced into evidence as Exhibit No. 127, subject to the amplifications contained in Defense Documents Nos. 1280, 1281 and 2066, which points I shall mention in detail hereafter at the appropriate times. My diplomatic career up to the time I became Foreign Minister was related almost wholly to European and American affairs, and primarily to European. My introduction to the diplomatic service was a period of something short of three years in the Consulate-General at Mukden, but I never served thereafter in any country in Asia. During World War I I was appointed to a post in Switzerland, and after the armistice served on the Japanese

delegation to the Peace Conference. I was dispatched to Germany, and remained there after the conclusion of the peace treaty as a secretary to the Japanese Embassy in Berlin. I then served in Tokyo as Chief of the 1st Section of the European-American Bureau of the Foreign Ministry, which section is concerned with affairs of Russia and neighboring states (Exhibit No. 127). In December 1925 I was ordered to the Japanese Embassy in Washington as senior secretary, staying there until May 1929, and then from June of that year until the end of 1932 I was Councillor of Embassy in Germany. During that time I was twice ordered to Geneva (Defense Document No. 1280). The first of these occasions was in September 1930, when I was designated as a member of the suite of the Japanese delegation to the 11th Assembly of the League of Nations. I was absent from my post at Berlin that time only 22 days, and was at Geneva about ten days. Again, in December 1931 I was detailed as the Secretary-General of the Japanese delegation to the Conference on General Disarmament, and served in that capacity in Geneva from February to August and in November 1932.

3. At this point I should like to take the occasion to correct a few misconceptions arising from the prosecution's evidence or assertions. From the fact that I was once in Geneva at the same time as Mr. Matsuoka, the prosecution have produced this argument: "At the time of the Manchurian Incident he was with Matsuoka on the delegation of the League of Nations, whose business it was to defend the aggression and to give the assurances which were so often broken" (31 January 1947, Record, p. 16,939). At "the time of the Manchurian Incident", September 1931, I was not in Geneva, but at my post in Berlin. Presumably the prosecution's assertion relates to 1932, a year after the Manchuria Incident. At that time I was in Geneva as chief secretary of the Japanese delegation to the Disarmament Conference. I point out that there was no connection whatsoever between the business of the two delegations, that to the Extraordinary Assembly of the League of Nations, Matsuoka, Chief Delegate, and that to the Disarmament Conference, of which latter I was the Secretary-General. Although some evidence has already been given on this point (Defense Document No. 2740), I should like to emphasize that I originated the proposal that neither should the business of the two delegations be intermingled nor should the personnel of the two be common, and that this proposal was adopted in principle by our Chief Delegate, Mr. Matsudaira, and the other delegates, and was as far as possible carried out in practice; although inevitably there was some overlapping of personnel, I, at least, had nothing whatsoever to do with the business of the delegation to the Assembly concerned with the Manchurian question. So far as concerns my being "with Matsuoka", he did not in point of fact leave Tokyo for Geneva until October (Defense Document No. 2780). By that time the Disarmament Conference was in summer recess, and I had been ordered home to report and confer, and had left Berlin on 22 August for Japan. Upon my arrival at my post in Berlin on 19 November, I found the order, dated the preceding day, for me to return to Tokyo for a new assignment as Director of the European-American Bureau. I therefore went to Geneva to report on my visit to Japan, remained there for about ten days, and returned to Berlin, which I quitted on 22 December for Japan. During that brief stay at Geneva I had no official connection with Mr. Matsuoka, and no occasion to "defend" the Manchurian Incident--although we stayed at the same hotel and I did, of course, meet him. By the time that he led the Japanese delegation's withdrawal

from the Extraordinary Meeting of the League Assembly, in February 1933, I was no longer in Geneva, but was then in Japan (Defense Document No. 1280).

4. The prosecution have asserted (13 November 1946, Record, p. 10,297) that in 1941 I became a member of the Supreme War Council. That the Supreme War Council was composed of military men can be discovered from Defense Document No. 2781. That membership in this body was restricted to general officers of the Army and flag officers of the Navy was in fact stated to the Tribunal by a prosecutor (14 June 1946, Record, p. 672). This allegation of my membership seems to be founded upon a document (Exhibit No. 102), the original Japanese of which refers not to the Supreme War Council (Gunji Sangiin) but to the Supreme Council for Direction of the War (Saikō Sansō Shidō Kaigi); however, the prosecutor also explained, correctly, to the Tribunal (14 June 1946, Record, p. 681), that this organ was established under the Koiso Cabinet, in 1944. I was therefore not a member of this body in 1941.

5. It has been pointed out to the Tribunal several times that in the course of my public service I received various awards and decorations, some of which are suggested to have sinister implications. Since I believe that evidence already introduced (Defense Documents Nos. 2744 and 2755) will have given the Tribunal an understanding of this subject, a few words from me should suffice to dispose of the matter. It is intimated that the award bestowed upon me "for services during 1931-4" was related to the Manchuria Incident (IPS Document No. 0001). It is obvious from the record of my career that I had no connection whatever with the Manchuria Incident, nor is there any evidence to connect me therewith; I was in Berlin when the incident occurred, and during all of 1931-34 to the time of this award I was stationed either in Berlin or in Tokyo as Director of the Foreign Ministry's European-American Bureau, which had no direct connection with Manchurian affairs. As awards for service in connection with any contemporaneous affairs could in those days have been given in the guise of award for services in the Manchuria Incident, the award bestowed upon me for services in 1931-4 could therefore have been in connection with other matters; but if I had been decorated for services in connection with the Manchurian affair I would have been, as has already been testified (Exhibit No. 3147, Record, p. 28,026), one of 452,826 recipients of such awards. The award granted me for services in connection with the conclusion of the Anti-Comintern Pact came to me as director of the bureau in charge of the negotiations concerning the Pact. It is customary on these occasions, under the Japanese system, to bestow the awards upon the officials concerned in management of the matter, quite without regard to their personal views or the large or small part which they actually played in the matter. That I was given an award upon the occasion of the conclusion of the Anti-Comintern Pact despite my having, as I shall testify presently, been unsympathetic to it, is perhaps sufficient commentary upon the significance of these awards. So far as concerns the decoration for "services in connection with the China War" (31 January 1947, Record, p. 16,944), these awards as I have mentioned, covered all services in the period under consideration. But if I had been decorated for services in connection with the China Affair, it has already been shown (Exhibit No. 3147) that 3,319,547 others received awards on the

same basis. My award, it is said, was "the highest Japanese award". It is quite clear that Japan has higher awards; but in any event, this one was in the circumstances the one appropriate for bestowal under the Japanese system of awards.

6. I should like also, before coming to the substantive matters of my testimony, to dispose of the question of the Kokusaku Kenkyūkai (National Policy Research Society), my membership in which has been shown (Exhibit No. 683) to prove that I entertained aggressive designs upon the world at large. I believe that the nature of the Society has been made sufficiently clear from evidence already introduced (Exhibit No. 678 and Defense Document No. 2747). I need add only that I never paid membership fees or dues, never attended meetings (unless it be a ceremonial New Year's Day affair, or the like), never served the Society as officer or committeeman (though I was requested to take office in it), and never had the slightest knowledge of what it was doing or proposed. I was solicited by a personal friend to become a member, and did, in just the same way that any man in public life is likely to take out membership in any number of organizations without inquiring into the details of their activities. As to the donation which has been testified to have been made to the Society by the Foreign Ministry, I had nothing to do with it; if it occurred, it was a matter transacted by the Vice-Minister in conformity with precedent and routine, and I was not consulted concerning it.

II

Russian Affairs

7. Throughout my diplomatic career Russo-Japanese relations have been the most important problem for Japan after that of China, and not a small part of my career has been devoted to it. As section chief in the European-American Bureau from 1923 to 1925 I was concerned directly with Russian affairs; and during my time in the post of Director of the European-American (later European-Asiatic) Bureau, 1933-1937, Russian affairs were of paramount importance among the affairs under my jurisdiction.

8. During my tenure as Chief of the First Section of the European-American Bureau I was the official directly concerned with solution of Japanese-Russian problems, and it was during this time that we finally reached a settlement of the many points of contention which had arisen as a result of the Soviet Revolution and the Siberian Expedition carried out jointly with the United States, Britain and France, and which had been since pending between Japan and the U S S R. My efforts were devoted to the settlement of such problems as Soviet ratification of the Treaty of Portsmouth, Soviet recognition of the Czarist debts to Japan and the question of prohibition of Communist propaganda in Japan. The settlement of these questions which was finally arrived at was embodied in the Soviet-Japanese Basic Convention, granting Japanese recognition of the Soviet Government and reestablishing relations on a normal basis, signed at Peking in January 1925.

9. Although my designation as chief of the European-American Bureau was dated 1 February 1933, I actually took over the office only in early March, having meanwhile visited my

home on leave and spent a considerable time at my personal affairs. I am charged here with having assisted in engineering the withdrawal of Japan from the League of Nations; actually, I had no connection with this high-level policy decision, the general trend of which had been decided before I entered upon the discharge of the duties of my office as bureau director in March (Defense Document No. 2941)--my bureau not being the one in charge of the matter. (I had expressed my personal opinion, in the days when the question of withdrawal was being mooted at Geneva, that such a course would be unfortunate for Japan (Defense Document No. 2740.) Although the formal notification of Japanese withdrawal from the League was given on 27 March 1933, the policy had for all practical purposes been determined when Mr. Matsuoka led the Japanese delegation from the meeting of the assembly in late February. After the withdrawal from the League of Nations, I submitted to Count Uchida, the Foreign Minister, at his request, a written opinion entitled "On the Foreign Policy of Japan vis-à-vis Europe and America Following Withdrawal from the League of Nations" (Defense Document No. 146). As showing my concern with Russian questions, it may be noted that although this report treats of Japanese relations with the United States and all the chief European countries, over a third of it is devoted to the Soviet question. I might say that so far as it lay within my competence and my abilities, I worked throughout my later career for the fulfillment of the entire diplomatic policy set out in this plan of 1933. With such other important branches of Japanese diplomacy as affairs of China and of the United States and Britain I had in later years almost no direct connection--until by their complications they had so deteriorated as to bring us to the verge of the Pacific war--and was not in a position to work to any good effect for the carrying out of my proposed policies in those fields. But so far as Soviet affairs are concerned, I had the opportunity to deal with them for a considerable period, and the main points of my program as set forth in the above-mentioned opinion were subsequently brought to fruition. These points, which were the results of my interest in and study of the question, were three: conclusion of a non-aggression pact; settlement of the Chinese Eastern Railway question by purchase of the Soviet interest; demarkation of the Soviet-Manchoukuo boundaries.

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10. My first work as Director of the European-American Bureau was the negotiations proposed by the U S S R which eventually led to the purchase by Manchoukuo of the half interest of the U S S R in the Chinese Eastern Railway, and the removal of that long-standing source of friction in Soviet-Manchoukuo and Soviet-Japanese relations. These negotiations were peculiarly taxing and complex, and occupied much of my time for almost two years. I shall not here repeat the details--how the parties were at the outset extremely far apart in their ideas of the monetary value of the Soviet interest; how the negotiations were repeatedly interfered with and rendered more difficult by the occurrence of conflicts in Manchoukuo; how the Japanese military authorities had repeatedly to be persuaded that amicable settlement of the issue was to Japan's interest. These have been told by other witnesses (Exhibit No. 3234 and Defense Document No. 2753). The result was that, while to eliminate a source of friction in Manchuria and to make the situation tranquil the Japanese Government worked as mediator to smooth the course of the negotiations between Manchoukuo and the U S S R, my bureau and I

were in fact fully occupied in persuading the parties to compromise their original claims. The prosecution have referred to the Chinese Eastern Railway sale as having been intended to strengthen Japan's position in Manchoukuo and to eliminate concessions of foreign countries, except Japan, there. This argument overlooks the fact that the sale was first proposed by the U S S R, and that the three Governments concerned were from the first at one on the belief that the transaction would promote peace in the Far East (Exhibit No. 3251). It was by the request of the U S S R that the guarantee by Japan of the obligation to pay the purchase price also was made, the Soviet Government lacking confidence in the solvency of Manchoukuo. As I have already mentioned, the consummation of this transaction was an ambition of mine of long standing, as proposed in the report to Foreign Minister Uchida.

11. During the progress of the negotiations referred to in the preceding paragraph the Foreign Ministry was reorganized; the European-American Bureau was divided into two, and its functions transferred partly to the new American Bureau and partly to the new European-Asiatic Bureau, which was charged also with responsibility for matters affecting European countries and continental Asia except China, Thailand, etc. My chief interest and specialty being, as I have mentioned before, in the Russian field, I was appointed to the bureau which succeeded to responsibility for Russian relations, the European-Asiatic Bureau (I shall hereafter refer to the Bureau during my tenure generally by its later name).

12. Immediately after the successful conclusion of the Chinese Eastern Railway transaction, I had to turn my undivided attention to the Soviet-Manchoukuoan border question. Before my entry into the office of Director of the European-American Bureau agreement had been reached between the Governments of Japan and the U S S R to study the question proposed by Japan of establishing a mixed (Soviet-Japanese-Manchoukuoan) commission for the prevention of border disputes. With the Chinese Eastern negotiations supervening, however, it was not until May 1935, when they were at last concluded, that the negotiations on this question were entered into. After the foundation of Manchoukuo, border incidents had been numerous; but during the time that the Chinese Eastern Railway question was under discussion feeling was good, and the number of incidents had decreased. It seemed to me an opportune time, therefore, to try to put an end to the constant expenditure of effort which, to the annoyance of both parties, was required to settle the incidents, by entrusting the task of preventing and settling border disputes as far as possible to such a commission. I therefore endeavored to commence negotiations for establishment of this commission in the summer of 1935. The Government of Manchoukuo and the Kwantung Army, however, insisted that first the establishment of a border-demarcation commission be agreed before the establishment of the commission for settlement of disputes to which the Soviet Government eventually agreed; as a result, however, of differences of opinions the negotiations were finally dropped. Thus even in 1938, when I arrived in Moscow as ambassador, I found neither commission yet established, and the demarcation of the Mongolian-Manchoukuoan border in the Nomonhan District, which in 1939 I succeeded in bringing about by negotiations with People's Commissar Molotov (Exhibit No. 767), was the only result achieved in the history of many years' negotiations between Japan and the U S S R directed toward this end.

13. In the summer of 1937 Russo-Japanese relations were again troubled, by the landing on and occupation by Soviet troops of the Kwan-tsa-tse Island in the Amur River. The Kwantung Army was eager to dispatch troops to the spot to settle the incident by defence of what it considered were the frontiers of Manchoukuo; but I insisted strongly on negotiation first, and in the end the incident was settled by negotiation without developing into a serious clash. This was, however, the last matter of business concerning the U S S R which I managed as bureau director. In March 1936, Premier Hirota (who was concurrently Foreign Minister) had intimated to me his intention of appointing me Ambassador to the U S S R. Having been engaged for many years in Soviet affairs, and they being of the greatest interest to me, I was of course quite happy at the prospect of appointment to the post of Ambassador to Moscow. However, after Mr. Arita was appointed Foreign Minister, relieving the Premier of the portfolio, the Moscow post went to another, and I was finally in October 1937 appointed Ambassador to Germany. Mr. Hirota told me afterward that, though he had considered it appropriate to send me to the U S S R, personnel problems of the Foreign Ministry had compelled him to make a different appointment.

14. On 15 October 1938, being then Ambassador to Germany, I was appointed Ambassador to the U S S R, and arrived at my post in Moscow on 29 October. Upon my arrival I found awaiting my attention a serious problem, in the form of the perennial fisheries question. Since 1936, when the negotiation of a new fisheries convention had bogged down owing to the conclusion of the Anti-Comintern Pact, it had been necessary to conclude annually an arrangement on the fisheries question, and trouble and difficulties arose annually. At the time of my arrival in Moscow as ambassador, at the end of October 1938, I found the state of affairs especially serious, because a large part--about half--of the Japanese leases for fisheries lots, including those operated under long-term contracts, were about to expire together, and the Soviet Government evidenced no intention to conclude the annual agreement, as the Japanese Government desired. It required much patience and long-drawn-out negotiations to settle the matter--for the first time in the course of the fisheries questions the new year commenced with no agreement of any sort in effect--and the matter became so serious that for a time it even threatened to bring about a rupture of diplomatic relations between the two countries. Finally, however, our labors resulted in a settlement in April of the following year, 1939; but as a result of the work done then the negotiation of the annual modus vivendi in subsequent years was easier for me and my successors. In 1939, for example, after the Nomonhan settlement, we commenced the negotiation for an agreement for 1940 in the middle of November, and had reached agreement and were able to initial the document, after a last all-night session, by 8 o'clock on New Year's morning, 1940--a day which Commissar Molotov and I, with our staffs, greeted in the Kremlin in the most friendly atmosphere with toasts drunk in champagne.

15. The Nomonhan Incident, which broke out in May 1939, is charged to me as a crime against the U S S R conspired for by me. It is probably superfluous to say that, being in Moscow when the incident occurred, I first knew about it only by the Soviet protests and by cables from the Foreign Ministry, and that I had never discussed it or any other conspiracy against the Soviet Union with any person whomsoever. The details of the negotiations for settlement of the Nomonhan Incident:

have been testified to by the witness Ōta (Exhibit No. 2659), and I therefore refrain from repeating them here. I might add that when the settlement was arrived at between Foreign Commissar Molotov and me (Exhibit No. 767) there was none who suggested that I had conspired to wage a war of aggression against them or that my position or conduct throughout the affair were other than those of any diplomat negotiating to settle a problem which had arisen between two governments--in fact, Foreign Commissar Molotov said at the time we agreed upon the settlement that it was an augury of better relations between our countries. As a result of the Nomonhan settlement, part of another item of my 1933 plan for Russo-Japanese relations--the demarcation of Soviet-Mongolian boundaries with Manchoukuo--came about. This point having already been fully testified to by the witness Ōta, I shall not refer further to it here.

16. At this stage of relations between the two countries, I felt it opportune to undertake the negotiation of the non-aggression pact which I had long desired. My motive was nothing more recondite than to secure for both countries the obvious benefit in the way of improved Soviet-Japanese relations to be derived from the conclusion of such a pact. I had certainly no idea of encouraging Japan to undertake southward expansion--a policy which I was always opposed to as sure to cause conflicts with Britain and the Netherlands, and probably, in the end, with the United States as well; and therefore I had no such intention as that which the prosecution has imputed to me of "making a friend of the enemy in the north" in order to facilitate a southward advance. My motives in undertaking to conclude a non-aggression pact were just as I had expressed them in my written opinion on the subject submitted to the Foreign Minister in 1933. (With the Soviet proposal for a non-aggression pact made in December 1931, and declined as premature in January 1933 Exhibits Nos. 744-747 I had nothing to do, arriving in Japan from Germany only on 28 January 1933 and taking office as Bureau Director in March.) The commencement of such negotiations, however, even in 1939 was not easy, and required repeated telegrams and the dispatching to Tokyo of a member of my staff, as has been testified to. After at length obtaining authority from the Japanese Government, I commenced such negotiations. These resulted in general agreement between Commissar Molotov and me for conclusion of a neutrality pact, which had been put into draft form, and only the Russian desire concurrently to liquidate some of the concessions in North Sakhalin prevented conclusion of the agreement. Then suddenly, in October 1940, I was compelled to return to Japan, leaving the negotiations uncompleted. At the time I received the instructions for my return to Japan I received also specific directions to cease negotiations on the neutrality pact. Nevertheless, when a neutrality pact was concluded between Japan and the U S S R in April 1941--by which time I was thus able to see the realization of the three basic points which I had set out, in 1933, as essential for the rationalization of Soviet-Japanese relations--it was of contents almost identical with those of the preliminary agreement reached between Commissar Molotov and me (Exhibit No. 45 and Defense Document No. 2918).

17. The prosecution seems to place great reliance on what they contend to be the fact that when Foreign Minister Matsuoka carried out his "purge" of the diplomatic service, recalling and dismissing all ambassadors and ministers considered insufficiently ardent toward his Axis-alignment policy, I was left undisturbed in my position in Moscow (24 September 1946, Record

p. 6,270, 31 January 1947, record, p. 16,943). That such is not the fact, but is an error growing from an incomplete personnel record, has been asserted by my counsel before the Tribunal (25 September 1946, record, p. 6,364, when the prosecutor undertook to investigate and report), and is proved by Defense Document No. 1280, from which it appears that I was recalled on 29 August 1940, and actually arrived in Tokyo on 5 November. This is perhaps the most convenient place to give the sequel. Upon my return to Tokyo Foreign Minister Matsuoka intimated that my resignation would be acceptable, several times mentioning the matter personally or by sending the Vice-Minister or the Chief of the Personnel Section with the same suggestion. I was quite obstinate in my refusal to resign, and told the Foreign Minister that his demand that diplomats resign simply because they were opposed to his policy or estranged from him was entirely unjustified; I warned him also of the consequences of dismissal of many experienced diplomats at one time. On each occasion that my resignation was requested, I gave the same answer: "If you want to dismiss me, go ahead; but I will not tender my resignation voluntarily, for that would mean my approval of your policy". No further steps were taken by Mr. Matsuoka; my successor, General Tatekawa, replaced me in Moscow (Defense Document No. 1281), and I held the nominal position of Ambassador, while in actuality I lived in retirement and had nothing to do with the activities of the Foreign Ministry for the year following my return to Japan, until I became Foreign Minister in October 1941. During that year I received no information regarding the development of Japanese diplomacy, and had no concrete knowledge concerning it.

III

German relations

18. I have never been a specialist in German affairs, though I have served in the Japanese Embassy in Germany three times--as Second Secretary, Councillor and Ambassador. My first impressions of Germany, when I was dispatched there in April 1919 under orders to examine the post-war condition of the country and to report on the German attitude toward the peace treaty, were such as to impress upon me the horrors and miseries of war. My basic policy toward Germany in later years was, as it had been set forth in my report to Count Uchida, not one of positive cooperation. After the Nazis came to power, I was not only antipathetic to their dictatorial and totalitarian politics but was skeptical of the widespread admiration of the strength of Nazi Germany, having spent considerable time in Germany and known the situation there.

19. My first connection with German affairs material here was, however, when the Anti-Comintern Pact was negotiated during my service as Director of the European-Asiatic Bureau of the Foreign Ministry. The prosecution alleges that I had a "close connection" with the Anti-Comintern Pact. Of course I had a close connection with it, as director of the Foreign Ministry bureau which had charge of the negotiations concerning the subject from the time that it came to the Foreign Ministry. The nature and extent of my connection, as bureau director, with this pact requires some explanation if the true facts are to be understood.

20. The history of the Anti-Comintern Pact, so far as it concerned me or the Foreign Ministry, commences at about the beginning of February 1936, with a report from the Chargé d'Affaires in Berlin, Councillor Inoue that since the previous year conversations had been in progress in Berlin between the German side and the military attaché to our Embassy with a view to a defensive alliance between Germany and Japan (Exhibits Nos. 477 and 478). Upon receipt of this information I requested the War Ministry and the General Staff officers concerned for information about it; shortly afterward Lieutenant-Colonel Takamatsu informed us of his general impressions of conditions in Germany, from where he had just returned, but not about the details of the conversations.

21. While the Foreign Ministry was studying the matter, Mr. Arita returned from China and became Foreign Minister. At that time the Japanese Ambassador to Germany, Viscount Mushakōji, was in Tokyo on leave, and the Foreign Minister had a conversation with him in which he gave him oral instructions to the effect that since it seemed to be necessary to make a political agreement of some kind with Germany, he should make a study of the matter upon his return to Berlin. Formal instructions to the same effect were sent to him around the time of his arrival there. Ambassador Mushakōji after returning to his post reported a German proposal for an agreement which was basically the Anti-Comintern Pact, but contained many objectionable features. I had opposed from the outset the idea of a pact based on Nazi ideological grounds, and so stated to Foreign Minister Arita. Being merely a bureau director, I naturally had no voice in the decision of the policy--although a bureau director can submit his opinion to his superiors, in the end he only carries into effect the policies decided and dictated by the Government and the Foreign Minister. I did on this occasion, however, endeavor to persuade my superiors as well as the military authorities concerned of the desirability of making the proposed Japanese-German agreement as weak as possible. In other words, I argued that it should be limited strictly to the bare minimum of what had been determined as the national policy to be Japan's needs; and particularly that the matter should be so managed, and the treaty so framed, that it should not injuriously affect our relations with Britain and the United States, as well as with the U S S R, unnecessarily. In this endeavor I was successful in several points. The policy on this question presented here as Exhibit No. 3267 was drawn by the European-Asiatic Bureau, and my intention is to a certain extent represented in it and the aforementioned points are to be seen in it.

22. One of my chief reasons for insistence on revision of the draft pact which had come to us from the German Government was to the propagandistic tone which permeated it. The preamble particularly, which originally read like a Nazi manifesto, was greatly changed while the document was in the hands of the European-Asiatic Bureau, which changes were eventually agreed to by the Japanese military authorities and by the German side, with the result of the form as it finally stands (Exhibit No. 36). The text of the pact, moreover, was rewritten to limit the cooperation between the two nations to the exchange of information concerning the destructive activities of the kind mentioned and counter-measures to be taken against them. The term of the pact was reduced from ten to five years. I also removed such provisions as that for meetings of the Foreign Ministers and other high officials of the contracting nations. I thus succeeded in making the Pact more businesslike.

23. Above all, I strongly asserted that the secret agreement attached to the Pact (Exhibit No. 480) should be of strictly defensive nature, and I insisted on changes to that effect. The first article of the secret agreement originally provided that it would become effective "should one of the High Contracting States become the object of an attack or a threat of attack" by the U S S R; this was amended, at my insistence to limit its operation to the case of unjustified attack, to read "should one of the High Contracting States become the object of an unprovoked attack or an unprovoked threat of attack". In connection with Article 2, also, I succeeded in securing German agreement to a list of exceptions from the requirement of mutual approval of the contracting of political agreements with the U S S R, with the intention of leaving Japan freer of German meddling in our relations vis-à-vis the Soviet Union than would have been the case under the provision of the Pact taking its language at face value (Exhibit No. 480).

24. It was my feeling also that since Japan had, despite what seemed to me the dangers of such a liaison, determined upon the national policy of entering into the Anti-Comintern Pact with Germany, it was essential to keep the foreign policy of our nation on a rational and balanced basis that efforts be made to maintain a close relationship with the democratic powers-- especially England. This stand of mine can readily be comprehended from my 1933 report--especially in that the report put emphasis on the British policy--but the latter part of Exhibit No. 3267 will further clarify it as of July 1936, at which time I presented to a conference held between Foreign Ministry and Army officials a policy for managing the matter. The revisions in the Pact were agreed to by the Army officials. But at the same time I presented to the Army officials my views of the necessity of concurrently undertaking negotiations for an entente cordiale with Great Britain. War Minister Terauchi became angry at this suggestion, and it was only after making great efforts to persuade him that I obtained his agreement to undertaking negotiations toward the rapprochement with England. The general outline of what I had in mind, modelled on the familiar treaties of consultation, is shown by the memorandum prepared at the time (Exhibit 3267). While time was consumed in working on China affairs related to the negotiations with Britain, the Hirota Cabinet fell. Even after the fall of the Hirota Cabinet I continued my efforts to obtain agreement within the Foreign Ministry and to persuade the military authorities to start the negotiations with the British Government with a view to establishing closer relations. After formation of the Kono Cabinet I requested of Foreign Minister Hirota that my appointment to an ambassadorship be postponed still further to enable me to work on the problem. Eventually an agreement was reached among the ministries concerned, and an instruction was sent to the Ambassador at London to commence negotiations; but at this point, when negotiations were about to be initiated, the China Affair broke out, in July 1937, bringing about the indefinite postponement of the Anglo-Japanese pact question. My appointment in October following as Ambassador to Germany forced me to give up my design of bringing about closer Anglo-Japanese relations.

25. The prosecution seems inclined to make much of my attendance at meetings of the Privy Council and its committee at which the Anti-Comintern Pact was considered. The responsibility for the management of this matter relative to the Privy Council was joint, shared by the Treaty Bureau and the European-Asiatic Bureau, and in this case the director of the Treaty Bureau undertook the explanations; I made none. In any event, a bureau director in attendance on such occasions has in no way any part in the debates nor in the vote and decision.

In fact, the record shows that explanation of the Anti-Comintern Pact to this Privy Council Committee was made by the Premier and the Foreign Minister; I made no explanation, said nothing, nor did I speak at any meeting of the committee or of the full Privy Council which treated of the matter.

26. The Anti-Comintern Pact was signed by Germany and Japan in Berlin in November 1936. Italy was not an original signatory of the Anti-Comintern Pact, coming in only in November 1937--and was never a party to the secret protocol. Although the prosecution have denominated me one of those "most instrumental in the realization of . . . Japanese-Italian collaboration", the negotiations which brought Italy into the Pact were carried on entirely in Europe and I took no part in the conduct of them. I was no longer handling the affairs of the European-Asiatic Bureau (and was in fact absent from Tokyo) when Italy's adhesion to the Anti-Comintern Pact was decided upon and took place; for in September 1937 my appointment to the German ambassadorship had already been informally decided upon, and the business of my bureau undertaken by my successor, Councillor Inoue. On 10 October I had left Tokyo for a trip of investigation in Manchoukuo (Defensa Document No. 2866), and I had nothing to do with Italy's adhesion to the Pact.

27. The circumstances of my designation as Ambassador to Germany have already been mentioned. My appointment was dated 27 October; I left Tokyo on 24 November and arrived at Berlin one month later, on Christmas Eve of 1937. At that time, Japan had been attempting to solve the China Affair through the good offices of Germany, but the position of the German Government was extremely equivocal. Professing concern with strengthening friendly relations between the two countries, at the same time she had for many years had her military advisers in China, a great deal of arms and ammunition were sold to China, and it was even said that many German officers were training the Chinese army and directing the construction of military works, and were accordingly actually engaged in war against Japan, helping the Chinese. For that reason the stoppage of German aid to China was regarded by the Japanese Government as most important and my instructions from Foreign Minister Hirota on the occasion of my departure for Germany were to endeavor to effectuate the recall of the military mission and the stopping of the shipment of arms. My approach to the German officials on this subject was, as it is hardly necessary to emphasize, made in my character as Ambassador; I did not make policy, but merely carried it out in accordance with my instructions, by which the ambassador's field of action is inescapably bounded. My own opinion of the China Affair will be mentioned in the appropriate place.

28. The prosecution have attempted to make much of my talk with Foreign Minister von Neurath of 10 January 1938 (Exhibit No. 486-D) as proof of collaboration. I had called on him, as his memorandum shows, merely to tender the thanks of my Government for Germany's efforts by way of mediation between Japan and China (with the plan for mediation I had nothing to do, the negotiation having been conducted in Tokyo). He brought up the general question of the China Incident. It must be borne in mind that the policy of the Japanese Government of not dealing with Chiang Kai-shek and of fighting the incident to a military conclusion was just then under consideration by the Cabinet and had been substantially decided upon.

This policy, with the formulation of which I had no connection, was published to the world on 16 January, a few days after my conversation with von Neurath, as the "Konoe Declaration" (Exhibit No. 972-A). I had, however, had advance information from Tokyo of the imminent decision, and therefore naturally took it into account in stating to von Neurath the policy of the Japanese Government.

29. The problem of German-Japanese economic coöperation in Germany was the chief matter which occupied me during my brief service in Germany. I do not know whether it is necessary for me to say much concerning my part in these negotiations, for the evidence which has been produced to the Tribunal seems to tell about as well as it can be told the story of the absence of coöperation not only between the German officials and me, but between the two Governments as well. In early 1938 I was instructed by the Foreign Ministry to commence negotiations with the German Government for conclusion of a trade agreement to try to rectify the unfavorable balance which Japan's trade with Germany showed under the arrangements then in effect. Negotiations started between Commercial Attaché Shudō and the Wilhelmstrasse. Then in May 1938 Foreign Minister Ribbentrop communicated to me his desire to make an agreement to the effect that Germans engaged in trade in North China should be given substantially equal treatment in conditions of trade with Japanese traders. On receipt of this proposal I flatly declined to enter into any negotiations for the reason that I was not authorized to do so. Long before-- immediately upon Ribbentrop's appointment as Foreign Minister, in February--I had had occasion to tell him that all important political and economic matters involving the Governments of Germany and Japan should be transacted exclusively by negotiations between the Foreign Minister and the Japanese Ambassador or with their approval. Ribbentrop had definitely replied that he willingly agreed to this. As I found at this May meeting that Foreign Minister Ribbentrop was still, despite his promise to me, discussing economic problems of China with others than the Embassy personnel directly concerned, I made little effort to conceal my dissatisfaction with his attitude. From about this time the discord between Ribbentrop and me became impossible to conceal.

30. Ribbentrop tried again, after some delay, to open negotiations on the trade-in-China question. This time he handed me a memorandum, similar to the earlier one, but with the substitution of "preferential" for "equal" treatment to be accorded to German nationals. This being the second time that the German Foreign Minister had proposed it, I transmitted this one to the Foreign Minister. With it, however, I sent my opinion that it would naturally result in violation of existing treaty obligations (I had in mind the Nine-Power Treaty) to grant to Germany anything other than most-favored-nation treatment in China, and that I therefore opposed it.

31. I received from Tokyo in response to my report of Ribbentrop's proposal instructions (Exhibit No. 2,228A) directing me to offer to Germany "the best possible preference" in economic matters in North China, and to promise that Germany's interests would be given preference over those of any third country. Nevertheless, being doubtful of the appropriateness of such measures, I tentatively narrowed down the proposal still further before presenting it, in the form of the Pro Memoria, Exhibit No. 591. I limited its terms to

German "foreign trade", and offered, instead of "preferential" treatment, "benevolent" treatment, an altogether different thing from the preference which Ribbentrop had in mind, and substantially equivalent to the most-favored-nation treatment embodied in numerous existing international commercial agreements. As Ribbentrop himself states in his memorandum of our conversation (Exhibit No. 592), he considered my formula unsatisfactory. Negotiations continued without showing any progress, but my connection with them was cut short by my being ordered, on 15 October, to leave Berlin for Moscow as Ambassador to the U S S R. This story I shall now tell.

32. I had gradually become unpopular with Ribbentrop and the other German Nazi leaders, the reasons being my dislike of Nazism and its creed, ^{which} came to their knowledge soon enough; and doubtless my lack of sympathy for the Anti-Comintern Pact likewise had become known. I was of course always solicitous for the betterment of Japan's relations with all powers, not excluding Germany; but my greatest efforts had always been directed toward improvement of relations with the United States, Britain and the Soviet Union, and I always objected to any rapprochement with Germany at the expense of those paramount interests. From my knowledge of the strength of Germany gained during long residence there, I did not believe that Japan's future lay in alliance with Nazism and Fascism.

33. Beginning early in my tenure in Berlin, Military Attaché Oshima was negotiating with Foreign Minister Ribbentrop for the "strengthening of the Anti-Comintern Pact". These negotiations, as General Oshima has himself testified (Exhibit No. 497), were without my approval or participation--which is made clear also by the Kido Diary (Exhibit No. 2262). The negotiations were again in violation of Ribbentrop's assurance to me that he would deal only with the Ambassador in connection with important political and economic matters. The very good reason for my being ignored in this matter was my known strong opposition to any project of the sort. Europe was now in a state of increasing tension, and the danger was clearly apparent that Japan would, if tied by alliance to Germany, be involved in an imminent war. I emphasized to the Foreign Minister the danger to which a Japanese-German-Italian alliance would expose Japan. The reinforcement of the Anti-Comintern Pact meant a three-power alliance. At last Ribbentrop presented to General Oshima a draft of an agreement, which was sent on to Tokyo by Major-General Kasahara as a courier, and only thus became known to the Foreign Minister (Exhibit No. 497). Having been informed of this fact, I cabled to the Foreign Minister registering my opposition to the project as one which was most undesirable and should be forestalled promptly for the reason that a tripartite alliance would not, as its supporters argued, contribute to the solution of the China Affair, but rather would involve Japan in an imminent war in Europe; but the Foreign Minister notified me that the decision had been made by a conference of five ministers to have the Military Attaché formally make a proposal with a view to proceeding with negotiations on the German proposal. I answered with my objections to a tripartite pact, pointing out the difficulties in and disadvantages of cooperation with such a dictator as Hitler. The result of my sending this cablegram was that I received shortly afterward a request from the Foreign Minister to assent to my transfer to the post of Ambassador to the U S S R.

Oshima - Ribbentrop negotiations

officially notified allowed

ask that the German authorities

Transfer to U.S.S.R.

34. My position was then somewhat peculiar. The Moscow post had long been my ambition; and I was certainly not, in the usual sense, a success in Berlin. It was, however, obvious that my removal from Berlin would facilitate the realization of the course of action which I had feared and fought and I felt that by remaining there I might be able to exert some restraint upon the militarists, and might even be able to sabotage the military-alliance scheme. I therefore requested the Foreign Minister to leave me in Berlin for the time being. A second and more peremptory request for my assent came the following day, to which I could only submit. I was appointed Ambassador to the Soviet Union on 15 October, and left Berlin for Moscow on the 27th.

35. My transfer to Moscow naturally ended my connection with Japanese-German affairs. The further negotiations and the conclusion of the Tripartite Alliance itself, were entirely outside my sphere. I had occasion only once to have even semi-official connection with these questions. This was when in February 1939, some time after my transfer to Moscow, I met in Berlin with Ambassadors Ōshima and Shiratori and with Minister Itō, who had been sent to Berlin to convey the opinion of Tokyo concerning the question. I had received a telegram from Ambassador Ōshima saying that he was requesting Foreign Ministry permission to call a meeting in Berlin, on the occasion of the arrival of the Itō mission, of all Ambassadors stationed in Europe; but as transportation to Berlin was slow, I could not wait for advice from Tokyo, and left for Berlin to attend the meeting after advising the Foreign Ministry. Upon my arrival there I found that the Ministry had disapproved the conference, and I therefore merely had dinner with Ambassadors Ōshima and Shiratori who were there, and later called on Minister Itō, who was sick in his hotel-room. In conversation with the two Ambassadors I repeated my fixed views in opposition to this alliance, and I urged Mr. Itō to go home promptly to prevent the conclusion of such a pact, as it would bring disaster to Japan.

36. The prosecution have attempted to prove, by presentation of a memorandum of Knoll of the German Foreign Office of a conversation in June 1940 with Ambassador Kurusu, that my opinion in the matter of German-Japanese alliance had undergone a change, and that Ambassador Kurusu knew of my opinions. It is true that I did once, in May 1940, see him while I was Ambassador in Moscow and he in Berlin, but we did not discuss this matter, and I could never have expressed to him such an opinion as Knoll records, for I did not hold it. A perusal of the original record of Knoll shows, beyond any question, that Mr. Kurusu did not state to him as his opinion or mine the conclusion which the prosecution have drawn.

37. The Tripartite Alliance (Exhibit No. 43), was signed while I was still in Moscow as Ambassador (Defense Document No. 1280), and I had nothing to do with it. As the Tribunal has already heard, it was signed in such secrecy that a very few even in the Government knew of it beforehand (Exhibit No. 2744A). For convenience, I may mention here my later connection with Japanese-German matters. The Anti-Comintern Pact was renewed and extended for a further term of five years on 25 November 1941, when I was Foreign Minister (Exhibit No. 495). This was nothing more than the continuance of the policy which had been in effect since 1936, the date of the original pact, and the Government had already been committed to it by Foreign Minister Matsuoka, when he visited Berlin in the spring of 1941

(Exhibit No. 2694). Moreover, I was successful at that time in obtaining the abrogation of the secret protocol, the part of the Pact most likely to exacerbate the sensibilities of the U S S R. Further, in 1945, during my second terms as Foreign Minister, at the time of the formation of the Doenitz régime in Germany there was opinion in some quarters that the Anti-Comintern Pact, having other signatories, should not be terminated. At that time I urged--and again my view prevailed--that all political agreements with Germany be abrogated, the Anti-Comintern Pact included, particularly in view of the necessity of not giving offence to the Soviet Union, as well as the desirability, which I had always insisted on, of dissociating our foreign policy from that of Nazi ideology. This was done, on 15 May 1945.

38. The no-separate-peace treaty among Japan, Germany and Italy was concluded in 1941, when I was Foreign Minister (Exhibit No. 51). The treaty was concluded on 11 December, but of course the negotiations for it had begun before the outbreak of war with America and Britain (Exhibits Nos. 604-607). It will be seen, however, that these negotiations were undertaken only when the consummation of the Japanese-American negotiations had come to appear all but hopeless, and that they were undertaken only as a precautionary measure in case worse came to worst--all of which will be treated of more fully later. As to the Japanese-German-Italian military operational agreement signed on 18 January 1942 (Exhibit No. 491), it was planned and concluded exclusively among the military authorities of the three powers. I had no knowledge of its conclusion or contents beforehand, but was simply notified of it later by the High Command, and then only of the fact that operational zones had been established; the Tribunal doubtless understands that military operations plans, such as this, were not confided to civilians, no matter what their rank or position. Lastly, I am charged with German-Japanese collaboration as a member of the three-power committee established under the provisions of the Tripartite Pact (Exhibit No. 127). The Pact itself provides that the Foreign Ministers of the contracting powers shall be ex officio members of such committees in the respective countries, and it was as Foreign Minister of Japan, not as an individual of any particular ideology or views, that I became a member. The Committee had, in Japan at all events, only a nominal existence, and never met while I was in office.

IV.

British and American Relations and the Pacific War

39. Up to the time of becoming Foreign Minister in the Tōjō Cabinet I had had little direct contact with American and British affairs. It is true that the European-Asiatic Bureau, of which I had once been director, had to do with British affairs (and the predecessor European-American Bureau with American affairs); the Japanese-American and Japanese-English relations of those days, however, mostly related to problems of China and Manchuria, and in consequence were almost entirely the concern of the East Asiatic Bureau, which had to do with those affairs. But of course a Japanese foreign policy could never be conceived to ignore relations with the two dominant powers, and having served and travelled in those countries and acquired considerable knowledge of their conditions and the characteristics of their people, I had long-considered ideas con-

cerning Japanese relations with Britain and the United States. The specific American and British policy which I had set forth in my 1933 document (Defense Document No. 146) was, owing to the greatly changed situation, obsolete; but I still had confidence in the principles which had inspired that policy. I did not enter the Tōjō Cabinet to strive for domination of the world, which I had never dreamed of, nor for the annihilation of America and Britain nor their expulsion from East Asia. My intention in accepting the Foreign portfolio was to work for improved relations which would lead to an enduring peace with those countries, and to settle somehow the interminable China Affair; but in October 1941, at all events, the obvious immediate policy could only be to avert war.

40. Before accepting the post of Foreign Minister in the Tōjō Cabinet, I had in effect no correct knowledge of the progress of the Japanese-American negotiations--for although nominally still an ambassador in active service, in fact I had had no post since my return from the U S S R in November 1940, and was in all but name living in retirement. I knew that negotiations designed to effect an improvement in relations with the United States and Great Britain had been in progress since Ambassador Nomura's arrival in America, and from Foreign Ministry friends I occasionally heard the outlines of the subject-matter; but the whole subject was highly secret (it was "State Secret", and heavy penalties were imposed by law for revealing such information to any but the small circle of high officials entitled to access to it), and I knew and could know nothing concrete concerning it, except that evidently relations were gradually deteriorating, a process which if unchecked might lead Japan into a disastrous war.

41. However, I did know at the time of assuming the post of Foreign Minister enough of Japanese diplomatic and internal political history to be fully aware of the impotence of the foreign minister of Japan even within the field of foreign relations which was outwardly his charge. The position of the foreign minister in the Japanese system differed so radically, in both theory and practice, from that of the equivalent official in most other modern nations that I should like to emphasize certain facts in connection with the matter, for without full comprehension of this question my position cannot be understood.

Responsibility for foreign matters

42. On the one hand, the foreign minister is not solely charged, even within the cabinet or the government itself, with responsibility for the conduct of foreign affairs. This is apparent from the Constitution itself, according to which the ministers are collectively responsible to the Throne (full explanation of this point has also been made to the Tribunal by former Minister of Welfare Okada Tadahiko Record, p. 17,752 and former Director of the Legislative Bureau Moriyama [Defense Document No. 2930]. With the collective responsibility has come its corollary, collective management of affairs; but subject to still another growing tendency of recent years, in every country, that of the Premier to assume more and more power over all affairs of state, including foreign affairs. On the other hand, it has to be noted that in Japan the government itself has undergone within the past, say, fifteen years a progressive weakening of its power vis-à-vis the High Command of the Army and the Navy. The Tribunal is well aware of the independence which by virtue of long custom and the Constitutional provisions was enjoyed by the

High Command; but what I wish to emphasize especially is the gradual, sometimes imperceptible, but unceasing encroachment by the High Command upon the sphere of action of the government. By virtue of the assertion that such matters bore directly upon their special concern of national defence, the High Command had come to have the power even in time of peace to force acceptance of its proposals in matters of budgets, national finance, industry, education and other fields, as well as foreign affairs. The Foreign Minister, on the other hand, had no means of knowing the military strength of the country, and even in the field of foreign affairs was quite powerless to block any measures insisted upon by the military.

43. In the atmosphere of war of the ten years since the Manchuria Incident the military had wielded increasingly strong influence over foreign affairs, and the area within which a foreign minister could influence the national policy had become very much circumscribed indeed. As examples of this process, most of which are already familiar to the Tribunal, I might mention the following. The testimony of Baron Shidehara, Foreign Minister at the time of the Manchuria Incident, has shown how powerless he was to influence the decision of the high national policy where war questions were involved. After the commencement of the China Incident there was an increasingly strong opinion in military circles that the Foreign Ministry should be restricted as far as possible; at that time occurred the establishment of the Kōain (China Affairs Board), one of the manifestations of the design to deprive the Foreign Ministry of more and more of its responsibility, protest against the creation of which was a main reason leading Foreign Minister Ugaki (himself a retired full general of the Army) to resign his office. Examples of the Foreign Minister's being ignored in the taking of the most serious decisions affecting the national policy were numerous in the period leading up to the Pacific War. Thus (as I learned for the first time in this Tribunal) in the spring of 1941 military currency was already being printed for use in a possible war, without consultation with the Foreign Ministry, notwithstanding this currency was to be used in foreign countries, and accordingly might be expected to call for consultation with the Foreign Ministry. Again, on 17 October, upon the occasion of the resignation of the third Konoe Cabinet, the Lord Keeper of the Privy Seal called in the outgoing War and Navy Ministers--but not the Foreign Minister--urging them to a review of the Imperial Conference decision of 6 September and to come to agreement between Army and Navy on a basic national policy for the most serious question which can face a nation--war or peace (Exhibit No. 1154).

Kō-A-11

Military Currency 1941

Conference
Tōjō
accept
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44. It was in these conditions that I was asked by Premier-Designate Tōjō on 17 October 1941 to assume the post of Foreign Minister. Knowing these things very well, and knowing that it was the strong stand of the Army, as expressed through Minister of War Tōjō, which had directly brought about the downfall of Prince Konoe's last cabinet, I was at some pains to assure that as Foreign Minister I would have scope for action. Therefore I told Gen. Tōjō, when I called upon him at his request at about 11:30 on the night of 17 October, that before coming to any decision whether to accept the portfolio I must first be informed of the situation which had brought about the fall of the preceding cabinet. After hearing his explanation I said that in the event that the Army's stand was to be uncompromising, if even only on the question of the stationing of

troops in China, the negotiations would to a certainty end in a breakdown. Since in that case the continuance of negotiations would be meaningless, I said that if the new cabinet was to be formed on the basis of such a prospect I should have to reject the proffered portfolio of Foreign Affairs. I made it quite plain that I would agree to enter the cabinet only if the Army consented to make considerable allowances in reviewing the question of troop-stationing, and as well to reexamine the other questions in the Japanese-American negotiations--in short, only if the Army genuinely intended to facilitate the consummation of these negotiations on a rational basis. In response to my statement of my position, General Tōjō assured me that reconsideration of the various questions involved in the negotiations including that of the stationing of troops in China, might be undertaken. On this assurance, I agreed to accept the Foreign Ministership, and on the following day, 18 October 1941, the investiture ceremony was held and the Tōjō Cabinet was organized. There has been some mention during this trial of a "clique" centering around General Tōjō. I did not and do not know whether such a clique existed; but in this connection it may be worth-while for me to state the extent of my acquaintance with General Tōjō and some of the other defendants. So far as my memory serves, I had met General Tōjō, prior to 17 October 1941 when he called me in and requested me to accept the portfolio of foreign affairs, twice; the first time (though he does not remember this and I am vague concerning the details of time and place) in 1935, when he was chief of the Temporary Investigation Section of the War Ministry; and again in Hsingking, in 1937, during my visit of inspection to Manchoukuo. In Hsingking we met only with a group of people, never tête-à-tête. We never had more than this bowing acquaintance; I knew nothing, before entering his Cabinet, of his personality or outlook and he, I suppose, nothing of mine. I was not selected as Foreign Minister by reason of any personal relations with the Premier, for none existed, but (I assume--I never knew the facts) as a senior of the Foreign Ministry eligible in the normal course for the place. Three of the other defendants (Dohihara, Hashimoto and Hata) I met for the first time when we were confined in Sugamo Prison; three others (Generals Kimura, Mutō and Satō) after I became Foreign Minister. The rest I had known for varying periods; but the only ones who could be said to be more than official acquaintances were the defendants Hirota and Shigemitsu of the Foreign Ministry. With some of the others I had had occasion to come into more or less frequent official contact. General Ōshima I first met in Berlin, when I was appointed Ambassador and found him there as Military Attaché.

45. Concurrently with the Foreign Affairs portfolio, I took over that of Overseas Affairs, concerned with Japan's overseas possessions and colonies, and emigration. In my brief connection with that office--I was Minister only to 2 December 1941--I conducted no business whatever of the Ministry. So far as I remember, I was on the premises of the Ministry three times--once to be welcomed after investiture as Minister; once when I dropped in in passing to look about; and finally to say goodbye to the officials upon quitting the ministership. The Ministry was capably operated by the Vice-Minister, who had been with it since it was a mere bureau, and I was entirely too busy with the Japanese-American negotiations during October and November 1941 to devote any attention to its affairs--aside from the fact that I knew nothing about them. With this, I shall say no more concerning the Ministry of Overseas Affairs.

46. As I have mentioned above, I had not been informed prior to becoming Foreign Minister of the details of the course of the Japanese-American negotiations, which were high state secrets. I had, for example, absolutely no knowledge of the Imperial Conference decision of 2 July, which effected a decisive change in the course of Japan's policy; while regarding the decision of 6 September, which had driven diplomacy into a corner, I had only vague knowledge, nor was I familiar with the proceedings of the 14 October cabinet meeting, which had made the fall of the Konoe Government inescapable. I felt the need at the very outset to acquaint myself in detail with the negotiations which had gone before, by reference to the documents and papers relating to them, and this I did immediately upon my assumption of office. My chief reference data for this purpose were the cables from Washington reporting Ambassador Nomura's negotiations, the copies of cables from the Foreign Ministry to the Embassy and the "Opinion" of Foreign Minister Toyoda, Exhibit No. 2916.

47. My first impressions upon examining the proposals which had been advanced by the two parties to the negotiations, and the correspondence between the Foreign Ministry and the Embassy in Washington, were about these: First, that while basically Japan's position had been one of endeavoring to secure the stability of the Far East taking into consideration the actual conditions resulting from the events which had occurred since the Manchuria Incident, that of the United States had been one of not paying due regard to these conditions, which fundamental and almost unbridgeable difference in the viewpoints of the two countries had brought the negotiations virtually to a stalemate. Second, there was an extraordinary situation in that although Japan had in the course of the negotiations made considerable concessions from the desire to settle the China Incident which had so long been an embarrassment to her, nevertheless the positions of the two nations could be truly said to be farther apart by October than in April. This was owing to the United States' having taken a progressively stronger stand--gradually from about June, then after the Japanese advance into southern French Indo-China in July more rapidly cooling toward the negotiations. Thirdly, it was generally understood in Tokyo at that time that an agreement in principle had been reached with the United States on two of the three basic questions in the negotiations--the Tripartite Pact question and that of the non-discriminatory treatment in trade in China. Premier Tōjō himself told me that, based on the reports from Ambassador Nomura, such was the situation; it therefore appeared that there remained only one large point of contention--the stationing of troops in China--between the United States and Japan.

Liaison Conference
48. Since the days of the second Konoe Cabinet, the Japanese-American negotiations had been managed in the Liaison Conference between the Government and the Imperial General Headquarters. The Liaison Conference has been much discussed in the evidence here, but I do not believe that its nature and power have been made sufficiently clear. I wish therefore to give the following explanation. The Liaison Conference, which has no standing as a constitutional organ of government, dated from the time of the first Konoe Cabinet, when it became necessary to establish some liaison between the military High Command and the Cabinet, each of which was responsible directly to the Emperor. I repeat, the Conference as such has no constitutional existence, and its decisions had in a formal sense no weight. But since the decisions were treated at that time

as being binding so far as concerned those present (Premier, Chiefs of Army and Navy General Staffs, Army and Navy Ministers, Foreign and Finance Ministers and President of the Planning Board normally; occasionally other ministers as required), in practice they had great weight. Since the Army and Navy Vice-Chiefs of Staff were almost always in attendance before the war, and since of the three secretaries of the Conference (Chief Secretary of the Cabinet, Directors of Military and Naval Affairs Bureaus) two were military men, it can be seen how strong the military influence in the Conference was. Indeed, the fact of the establishment of such a conference is proof of the fact that the military authorities were not only interfering in politics but were exercising such influence as to control and direct the national policy, and that some co-ordination was needed; but while the military members of the Liaison Conference exercised great influence on affairs of state, the civilian members exercised very little or none on military affairs, and were not allowed even knowledge of military operations. Decisions of the Liaison Conference involving affairs of state had of course to be presented to the Cabinet--and, in proper case, to an Imperial Conference--but in almost no instance did such a decision fail to pass through the Cabinet in the form in which the Conference had adopted it. Of course drafts of the decisions of the Liaison Conference were always prepared beforehand--the matters examined by the staffs of the ministries concerned and co-ordinated by the three secretaries before they were submitted to the Conference; hence the matters to be passed upon were known in advance to the ministers and high officials of the ministries concerned, which facilitated their approval by the Cabinet. In accordance with the well-established custom which had prevailed since the days of the second Kono Cabinet, at that time all explanations to the Throne of deliberations and decisions of the Liaison Conference on questions involving peace or war were made by the Premier, the Foreign Minister reporting only on the diplomatic negotiations themselves.

49. Thus immediately after the formation of the new cabinet, meetings of the Liaison Conference again began to be held almost continuously, undertaking the most thorough re-consideration from every point of view of Japanese policy and its adjustment to the Japanese-American negotiations. To understand the situation of those days, it is necessary to bear in mind the state of opinion in Japan. The United States, Britain and the Netherlands had ruptured economic relations with Japan in July, and were known to be strengthening their measures of cooperation directed against Japan, thus making it appear, rightly or wrongly, that those Governments regarded a war as highly probable and were anticipating its outbreak. Japan was then engaged in a war with China which had been in progress for over four years (or, in another way of looking at it, since 1931). With all public opinion which manifested itself approving of and supporting Japan's course during and since the Manchurian Incident, it was unthinkable for any cabinet even to consider ignoring all of the changed conditions which had resulted from those years of warfare, as the United States was demanding of us--in fact, no Japanese, even those of us who had most strongly opposed aggressive courses, felt that we should do so. Indeed, the strong-policy advocates were already before the inauguration of the Tōjō Cabinet declaring with finality that there was no prospect of a settlement with the United States, and insisting that measures of self-defence be taken without further loss of time.

Oct 1941

50. My position at that time will be apparent from the conversation which I had had with Premier Tōjō at the time of his offering me the Foreign portfolio; it was my desire to bring the negotiations to successful consummation without fail, for the sake not only of Japan but of the world. It was, of course, clear from the outset that the military authorities hold strong views concerning the Japanese-American negotiations but I believed that there was still some prospect of saving the situation and ensuring the continuance of peace and a settlement which would be to the benefit of both countries. Since, however, from the time of the previous Konoe Cabinet all basic matters concerning the Japanese-American negotiations, were discussed and decided upon by the Liaison Conference; so in fact the Foreign Ministry was restricted in its conduct of foreign affairs to what was discussed with and gained the approval of the High Command in the Liaison Conference. One of the first steps that I took to further the Japanese-American negotiations was a removal from the Foreign Ministry of a number of officials who were urging the adoption of a strong policy toward Britain and the United States and were trying to guide foreign policy in an unsound direction, even going to the extent of conspiring with or catering to the radical elements of the Army and the Navy to achieve this. This had gone so far that many of the moderates of the Ministry, who constituted the great majority, had come to shrink from expressing their views, and their influence was declining, which not only disturbed the execution of a sound foreign policy in general, but in my judgement was likely to have a direct effect for the worst on the Japanese-American negotiations. I therefore determined to eliminate the radical elements from the service, and instructed Vice-Minister Nishi to carry out such a purge, the details of which have been testified to (Defense Document No. 2741). The result of my action was, I think, that the discipline of the Foreign Ministry personnel was effectively restored to a condition where we could exert all our efforts for the success of the negotiations without being distracted by internal dissention.

51. As I have said, the Liaison Conference meetings began immediately upon installation of the new cabinet. At the first meeting, on 23 October, the Chief of the General Staff of the Army, General Sugiyama, emphasized the need of hastening a decision. The intent of the 6 September decision of the Imperial Conference, he asserted, was that during the month of September diplomacy should be accorded primary emphasis and military preparations subordinated, but that from the beginning of October preparations for military operations would be the primary and diplomacy the secondary concern. Thus I soon found that despite the understanding that the 6 September decision would be reexamined, the High Command's unceasing acceleration of preparatory military actions as well as its strong stand on the conditions of the negotiations, were to be an obstacle to the management of the negotiations throughout. At the time that I became Foreign Minister and a participant in the Liaison Conference the only other changes in its membership were the Ministers of Navy, Shimada, and Finance, Kaya. There is a sort of momentum which must be reckoned with in such a case; not only did those who had been members of the Conference longer exercise greater influence in its deliberations than did newcomers, but they were also unable entirely to free themselves from the history of the matters discussed. Their approach to the reexamination of the 6 September decision, therefore, was to take that decision as a basis and to study what revisions of it could be made; and there was a strong feeling that it

should not easily be changed. At the same meeting of the Liaison Conference--the first--the Vice-Chief of the Army General Staff, Lieutenant-General Tsukada, was even more pessimistic and more intransigent: he saw, he said, no possible prospect of a successful outcome of the Japanese-American negotiations, and in view of the fact that Britain and America had already ruptured economic relations and strengthened their encirclement of Japan, these should be broken off at once and action taken in self-defence. I opposed this position of the High Command vigorously, insisting that if there were means of breaking the deadlock it was necessary that all of them be tried; and I declared that since there was room to try them, it would be an error to be over-hasty in taking military action now. With the object of reconciling these sharply-conflicting viewpoints the Liaison Conference studies went on, with re-consideration and study continuing every day, sometimes through the night and into the early hours of the morning; debate often developed into heated argument; no effort was spared for minute and careful discussion of the problems on hand.

52. There had been three major points of difference between the two Governments; the Tripartite-Pact question, that of non-discriminatory access to trade in China, and that of the stationing of Japanese troops in China. It then appeared, from the report of Ambassador Nomura, that of these the first two had reached a point of understanding where agreement would readily be reached (Exhibit No. 2906). I therefore concentrated my efforts on persuading the Liaison Conference to agree to the making of such further concessions on what was considered the remaining outstanding problem--that of the stationing of troops in China--that agreement might be reached with America. My study of the subject had convinced me that it would be necessary to make some further advance toward the American position, the best method of approach to which was by adopting as a basis the conditions which my predecessor, Foreign Minister Toyoda, had regarded as offering the possibility of agreement (Exhibit No. 2916), and then endeavoring to get agreement on new proposals. I therefore worked to secure agreement by the Liaison Conference upon a program developing those points. There was at that time a wide gulf between the positions of the two parties in the Japanese-American negotiations, and it was agreed by all that it would require a radical, almost revolutionary, change in the American attitude for any prospect to appear of settlement on the basis of the minimum demands contained in the 6 September decision. From the beginning, however, the majority of the participants in the Liaison Conference opposed the adoption of the principle of withdrawal of troops from the specified areas of China, and I had to fight unceasingly for it; the Army members especially strongly emphasized the necessity of indefinite stationing of Japanese troops in specified areas of China. In the end, as a result of my strong contention that it was improper and disadvantageous to station troops indefinitely on the soil of another country, the others relaxed their stand to the extent of agreeing with me to put a time-limit on the stationing. As to the duration, however, various strong opinions were still presented. I first proposed the same time-limit as that suggested by Foreign Minister Toyoda, five years. I could obtain no support for this, and then suggested eight years and ten years, also without success; there were even suggestions in the Conference of setting a 99-year period, or one of 50 years. Finally twenty-five years was agreed upon as an approximate limit. It will be observed that the actual proposal (Proposal "A") to the United States did not mention the twenty-five year period, but limited the time only

(as had been done in all proposals) to "a necessary period". This was because it was felt that at that stage the whole negotiation might be upset if debate over details were injected into it. The twenty-five year "approximate goal" was therefore given to Ambassador Nomura to be used in case of inquiry by the United States; but I had a talk privately with the Premier, and reached an understanding with him that if we found the United States to be in a receptive mood toward Proposal "A", in general, still further moderation of its terms might be considered. I did succeed in winning agreement to limiting the stationing of troops in the geographical sense, by having excluded from the areas where troops would be stationed the Shanghai triangular zone, Amoy and others; this too was achieved only after a struggle, for there was opinion by the military and naval authorities that we should retain the right to station troops at all the points specified by the 1940 treaty between Japan and the Wang Ching-wei régime.

53. A related problem was that of French Indo-China. Admiral Toyoda's proposal in this connection was that of no further increase of Japanese troops in Indo-China, in view of the apprehension entertained by the United States over the threat of Japanese military advance to the south with Indo-China as a springboard. With respect to this point also I prevailed upon the Army to agree, in pursuance of the main object of avoiding war, that upon the reaching of an agreement with the United States all troops would be immediately withdrawn from southern French Indo-China--a greater concession than that proposed by Foreign Minister Toyoda. In this matter, too, the opposition was strong; I won my point here and on the time-limit for stationing of troops in China only by threats to resign if this much scope for diplomatic action was not allowed me.

French Indo China
Threats to resign

54. Persuading the Liaison Conference to agreement on these two major points was not achieved without long and arduous work--for, despite the "wiping the slate clean" which was often spoken of, practically it was not possible to ignore entirely the past course of affairs, and the limitation imposed by the 6 September decision upon diplomatic action did still subsist, at least that part which was a fait accompli--namely, that the period up to the middle of October had passed, and that the increasing military preparations which had been carried out had given rise to a feeling among the military that Japan would not be defeated if war came. This constituted a great obstacle to the reexamination of the 6 September decision or the determination of the conditions of further diplomatic negotiations. But while I had expected that the Army's stand on the making of concessions in the negotiations would be a strong one, I was somewhat astonished, in view of the history of the matter, to find from the Liaison Conference discussions toward the end of October that of the Navy scarcely less strong. In view of this, on 30 October I sent a representative to Admiral Okada, veteran of the Navy and an ex-premier who, I thought, had much influence in naval circles, to inform him of this situation and to request him to use his influence to moderate the stand of the Navy toward the negotiations.

Navy's Position
OKADA

55. By these efforts I finally succeeded in securing consent of the Liaison Conference to my presenting the Proposals "A" and "B", which were approved at the Imperial Conference of the 5th. The plan of these two proposals was my own idea,

but subject to modifications as above mentioned, and in the form adopted represented the utmost concessions which at that time could be wrung from the military authorities.

Policy of negotiations failed

56. In addition to the question, already discussed, of whether and on what basis to continue the negotiations with the United States, there was another which was never absent from the background of the Liaison Conference discussions. This was the question of what Japan's policy should be if the negotiations failed in the end. This question first became explicit at the all-night session of 1-2 November, when there was a heated discussion of it and I again insisted with all possible force on avoiding war. To me it seemed of paramount importance to avoid war at almost any cost; I had seen the after-effects of World War I, in Europe, and knew that modern warfare would bring still greater suffering and misery to the peoples of the belligerent countries, and I felt that only by steady, sound development, avoiding sudden expansion or war, could a nation progress. I therefore insisted that even if the negotiations should end in failure, war need not follow; that even in such circumstances we should exercise patience and forbearance and await a changed situation. The military representatives retorted with the utmost vehemence that Japan must fight sooner or later, unless the negotiations could be concluded, for the reason that Japan's dependence upon imports of supplies, especially petroleum, was so great that with economic blockade of Japan in progress the "gradual exhaustion" of Japanese resources was apparent, and that if after our stockpiles had fallen to a minimum additional pressure were applied to enforce demands made by the United States and Britain relative to China or other problems we would have no alternative but complete submission without being able to fight. In this connection, a suggestion ^{had been} made that perhaps we could continue with economic relations ruptured, assuring a supply for our needs by the production of synthetic oil. I concurred in the suggestion and argued in support of it, but the opinion of the Planning Board was that reliance could not be placed on synthetic petroleum, for Japan's production of iron and coal was insufficient, and their use for manufacture of petroleum would be at the sacrifice of other vital industries. The Board's opinion was also that, in view of the amount of equipment and other materials needed, it would if it were attempted be four or five years before annual production of four million tons could be attained. Thus the overwhelming opinion of the Liaison Conference was that though there might be a possibility of the international situation's turning in our favor if we exercised patience and watched the development of affairs until the spring of 1942, nevertheless in view of the gradual exhaustion of our stockpiles and the operational disadvantages which would come with delay, the prospect of the negotiations must be definitely ascertained while the situation was still favorable to Japan, and that if they were to fail we must go to war without further loss of time. The general feeling was, throughout this period, that the United States was conducting negotiations only to gain time for military preparations, and it was pointed out that from this cause also delay was disadvantageous to Japan.

57. The great majority of those attending the Liaison Conference were, as I have said, of the view that there was no alternative to war if negotiations failed. The Army High Command expressed confidence in victory in the over-all prospect of the war. But the view of the Navy was that they were confi-

why did you not do it

dent of initial success; that though the situation after a year and a half or two years would depend on the general strength of the country and the international situation, we could establish an impregnable position if we occupied strategic points in the South; and that since we could only go to war immediately if negotiation failed and since we would lose the opportunity of success unless we did so immediately, we should decide on that day the steps to be taken in case of failure of negotiations. As, however, it was clear to me that once a war with America and Great Britain began it would be a long war, I thought it a short sighted view and a great mistake to depend much on the good prospects at the outset. I knew, I said, something of the determination and indomitable spirit of the American and British people, and by embarking Japan upon a war with them, should we lose it, no matter if the other party was wrong, we would be inviting disaster to our country. I therefore specifically asked the War and Navy Ministers for their views on the over-all prospect of a war.

War + Navy

58. The War Minister, Taji, replied by saying that the prospects were certain that not only success at the outset but also victory in the war as a whole could be won. Navy Minister Shimada said that there was no need for pessimism; and the Chief of the Naval General Staff, Admiral Nagano, stated, in addition to reiterating the necessity of immediate decision, that the Navy had every confidence in its ability to carry out interceptive operations, and that if the United States fleet should venture northward from the Central Pacific the Japanese Navy could and would destroy it, in the area of the Mandated Islands.

Religion in War
Request for time to think

59. After the all-night discussion on 1-2 November the majority agreed that if the negotiations on the basis of Proposals "A" and "B" failed Japan would decide upon war. However, the explanations of the military and naval authorities and of the Planning Board failed to satisfy me, and I was not willing to concur at once in the proposal to decide on war in case the negotiations failed. Therefore, despite the High Command's and the War and Navy Ministers' pressing for an immediate decision, at the conclusion of the Liaison Conference of 1-2 November I requested that I be given the right to think the matter over before giving my vote. Finance Minister Kaya joined me in this request.

why I did not resign

60. I deliberated over the whole matter that night. Although I felt that something less than full credit should be accorded to the assurances of the military authorities, I could not refute their arguments, having no accurate data (all of which were military secrets) upon which to judge of the condition of the armed forces of Japan, nor of the national strength of Japan in other fields. All of the arguments from the viewpoint of the international situation had been fully considered. I had pointed out the vast material and spiritual strength of Britain and the United States, and I had insisted that no great expectation could be entertained of German assistance. I came to the conclusion that so far as concerned the views of the armed services on the prospects of war, I was in no position to refute them or disprove their factual basis, but had to take them on trust. The only remaining question was whether I might be able to bring about a change in the situation by my own resignation. In this connection I called, in the morning of 2 November, on former Premier Hirota, who was one of my seniors in the Foreign Ministry and from whom I had

*Hirota
wants*

received advice and assistance on other important problems. I explained to him the general situation, and told him that the Japanese-American question was in far more serious state than I had thought when I entered the Cabinet, and that there was great danger of war despite my resolution to succeed by diplomacy, and asked his opinion of whether there was a possibility of bringing about a change in the situation by my resignation. Mr. Hirota was opposed to the idea; if I resigned, he pointed out, a supporter of war might immediately be appointed Foreign Minister, therefore I should remain in office to do all that I could to maintain peace. Meanwhile, Vice-Minister Wishi, whom I had sent to learn the Finance Minister's decision, returned with the report that Mr. Kaya had reported to Premier Tojo his concurrence in the decision of the majority of the Liaison Conference. It seemed to me, considering all these factors, that there was nothing for me to do but agree; and I therefore called on the Premier around 12 o'clock and told him that I did so. I took the occasion, however, to secure his agreement to several suggestions which I made to him. One was that if the United States showed a receptive attitude toward either of our proposals, "A" or "B", he would support me in obtaining Japanese reconsideration of our maximum concessions, for the sake of the success of the negotiations. Premier Tojo also confirmed the agreement which I had obtained from the High Command in the Liaison Conference, that if negotiations should be successfully concluded, all military operations would be suspended and the original status restored. I told the Premier at that time that I would now continue the negotiations on the basis of Proposals "A" and "B", with the resolve that if they did end in failure I might consider resigning. The proposals were reported to the Cabinet meeting, with my explanation of how they had been decided upon by the Liaison Conference. The proposals were of course approved by the Cabinet, and also by an Imperial Conference on 5 November.

*Kaya
agrees*

*Tojo
agrees*

61. Proposals "A" and "B", which were approved by the Imperial Conference on 5 November, are already in evidence (Exhibits Nos. 1246 and 1245H). I felt that if the United States were willing to understand Japan's position and manifest a spirit of reciprocity, it might be quite possible to break the deadlock by agreement on the general lines of Proposal "A". By that time, however, matters had reached such a stage that settlement of all the outstanding problems at a stroke was likely to be difficult at best, and sure to be impossible if we encountered continued American insistence on their demands. It was for the purpose of averting a crisis by agreement on the most urgent matters calling for immediate solution that I had prepared Proposal "B" as well. The intention of Proposal "B" was, by restoring conditions to something resembling normal relations--to those prevailing before July--to create a calm atmosphere and remove the imminent threat of an outbreak of war.

62. Negotiations on the basis of the new proposals commenced in Washington on 7 November. The course of the negotiations in Washington has been fully testified to by the witness Yamamoto (Exhibit No. 2915), and I shall not repeat his explanations. The deliberations of the Liaison Conference, however, continued; it would be a happy solution if the impasse in the negotiations could be broken by the two new proposals, but in the light of the past attitude of the United States sufficient expectations of favorable reception could not be entertained to justify the abandonment of further study toward the eventuality of failure in the negotiations. Hence the Liaison

Conference discussions treated not only of the conduct of the negotiations but also of measures to be taken in case of failure of negotiations.

Kurusu sent Washington

63. It was a little before this time that I discovered that the condition of the negotiations was not quite what we had all thought it. I have mentioned before that reports from Washington had given reason to believe that the Tripartite-Pact and China-trade questions had already been all but settled. The longer I studied the files, however, the less evidence I could find of anything tangible to support this belief; and finally I inquired directly of Ambassador Nomura. His answer was that the reports to that effect had not been quite correct. This naturally made the prospects of settlement even more remote, though I still had confidence that my Proposals "A" and "B" were fair and reasonable, and hoped that the United States might be persuaded to recognize that fact. It was at this same time that I sent Ambassador Kurusu to assist Ambassador Nomura in Washington. My motive in doing this was that of having in Washington during that critical period an experienced career diplomat, to assist Ambassador Nomura in conducting the negotiations. Since Ambassador Nomura had specifically requested even before I became Foreign Minister that Ambassador Kurusu be sent for the purpose (Exhibit No. 2921), and since Ambassador Kurusu and I shared a sense of the importance of maintaining good relations with the United States, he was the natural choice for the purpose. On 3 November, therefore, I requested him to accept the mission, which he did; I outlined to him the situation prevailing and the imperative necessity of early settlement of Japanese-American problems, war being unavoidable if they failed, and requested him to convey this to Ambassador Nomura and to cooperate with him to do their best for the success of the negotiations, which he promised to do.

Time limit

64. Again we encountered the time-limit. Since the beginning of November the High Command representatives had urged in the Liaison Conference necessity from operational considerations that it be ascertained promptly whether the negotiations would succeed or fail, and they had stated strongly in the beginning of November that it must be made clear in the course of that month what the prospect of the negotiations was. It was necessary, they said, for them to make operational preparations on the assumption that military action would be commenced in the beginning of December should war become unavoidable. I argued against putting a time-limit to the negotiations for the reason that it would hinder the diplomatic activities greatly, and would be likely to prevent successful conclusion of the negotiations, but I was overruled for reasons of operational necessities. This time-limit imported an additional difficulty into the negotiations; it was of course because of it that the so-called dead-line was set in instructions to the Washington Embassy.

Military preparations were, of course, simultaneously being made ever since the decision of 6 September but, they being matters of operational secrets, no information concerning them was given to the Liaison Conference. The civilian Cabinet ministers who participated in the Liaison Conference were never informed of the operational preparations, and never knew, for example, that the Japanese fleet had assembled in and sailed from Mitokappu Bay, or that the Southern Army Headquarters had been formed and General Terauchi appointed its commander-in-chief. As to the sailing of the fleet, it first came to my

Did not know that Pearl Harbor would be attacked

knowledge after the termination of the war, from reading the newspapers. The fact that the first target of military operations was Pearl Harbor had never before the attack been communicated to me in the Liaison Conference or anywhere else, nor from any source whatever. I personally assumed that the Philippines and Malaya would be the first targets of military operations should a war occur, since in the Liaison Conference there had been in early November some mention by the High Command of what time would be required to occupy the Philippines and Malaya, and a remark by the Naval High Command to the effect that they were confident of victory in battle with the American fleet when it should come near Japan. I did not dream that the Japanese Navy would ever attack the American fleet in Pearl Harbor. The Navy High Command, when mentioning war prospects, always spoke of "luring out" the American fleet and destroying it "in the vicinity of the Mandated Islands"-- see for example the 13 November Liaison Conference decision, Exhibit No. 919.

65. Proposal "A" did not gain American acceptance--did not, in fact, arouse any perceptible interest, contrary to our expectation. Proposal "B" was therefore--after I had secured assent of the Liaison Conference, of course--presented on 20 November. At first conditions appeared promising; when we learned that the American newspapers of the 25th were reporting the probability that a modus vivendi would be concluded, we assumed that it was on the basis of Proposal "B". It was on this assumption that I sent to the Embassy an instruction regarding the amount of oil which would be requested when an agreement was reached. The figure adopted in this instruction was much less than that suggested originally by the Army General Staff, owing to my insistence, and was approximately equivalent to the average of Japanese imports over several years (Exhibits Nos. 2944 and 3445).

Embassymade a recommendation

66. On 26 November, in Washington, Secretary Hull handed his "ten-point" proposal to our Ambassadors. The cable from the Ambassadors summarizing Secretary Hull's note was received on the morning of the 27th. Almost simultaneously I received another cable from the Ambassadors giving their recommendation of a procedure for settling Japanese-American affairs by having President Roosevelt send a personal message to the Emperor and the Emperor reply, after which in the cordial atmosphere so created the Japanese Government should propose the neutralization of French Indo-China, Thailand and the Netherlands East Indies. The Ambassadors requested that Lord Keeper of the Privy Seal Kido be consulted concerning this proposal. The suggestion of the Ambassadors of the neutralization of three areas, implying the withdrawal of troops which would follow as the consequence, raised many complicated and difficult questions. Only after heated discussions and the threat of resignation in the Liaison Conference had I been able to obtain the consent of the military high command to the withdrawal of troops from southern Indo-China; in the circumstances prevailing it would have been impossible to secure a decision for withdrawal from all of Indo-China without any assurance of solution of such related questions as that of Japanese-Chinese peace, freezing of assets, and others. The recommendation of the two Ambassadors proposed only the neutralization of French Indo-China, the Netherlands East Indies and Thailand, and made no mention of the possibility of rescission of freezing of assets, deemed absolutely necessary by Japan, if it were adopted, nor of the United States' readiness to undertake mediation for peace between Japan and China, the

reaching of which peace had been the fundamental reason for the stationing of Japanese troops in Indo-China. Moreover, it was clear that the two Ambassadors themselves had no confidence in the success of this procedure after receiving Secretary Hull's note on the 26th, for in their telegram dispatched shortly after the receipt of that note they reported that there was no prospect of reaching an agreement and advised measures to be taken in case freedom of action was resorted to (Exhibit No. 2919). ///

/// made an Press Sheet
67. On the 27th there was a Liaison Conference at which the Hull note of 26 November was discussed. The reaction of all of us to it was, I think, the same. Ignoring all past progress and areas of agreement in the negotiations, the United States had served upon us what we viewed as an ultimatum containing demands far in excess of the strongest positions theretofore taken. We felt that clearly the United States had no hope or intention of reaching an agreement for a peaceful settlement, for it was plain to us and must have been plain to the Americans that this document demanded as the price of peace total surrender by Japan to the American position. Japan was now asked not only to abandon all the gains of her years of sacrifice, but to surrender her international position as a power in the Far East. That surrender, as we saw it, would have amounted to national suicide. The only other way to face this challenge and defend ourselves was war. //

68. The following day, the 28th, I called on the Premier at his official residence fifteen minutes before the Cabinet meeting which was scheduled to convene at 10 A.M. I talked over with him and with Navy Minister Shimada, who appeared from the next room and joined us, the Ambassador's recommendation, as well as the Hull note, the full text of which had been received. Though they should both of course have been familiar with the Ambassador's report of Secretary Hull's note and with their recommended plan--since copies of all the important cablegrams relating to the negotiations were automatically routed by the Foreign Ministry to the War and Navy Ministries, and the General Staffs through the Military and Naval Affairs Bureaus (Exhibit No. 2915)--I made explanation to them of the contents of these messages. Both the Premier and the Navy Minister were of opinion that there was absolutely no hope of a solution by such means as that proposed by the Ambassadors. I left before the end of the Cabinet meeting, since I was being received in audience at 11:30. Before being received in audience I explained to Lord Keeper Kido about the Hull note, and talked with him (telling him that that was their desire) concerning the two Ambassadors' recommendation.

Both not He was discouraged by the Hull note, and he too was of the opinion that the Ambassadors' recommendation was insufficient to save the situation. Marquis Kido even said that if its conditions were adopted as the basis of a settlement, the result might be civil war. I told him that I would report his opinion to Ambassador Nomura. The plan was not reported to the Emperor because there was none who could take responsibility for it, the Government having no confidence in its realization and his chief adviser being against it. Ambassador Nomura was instructed accordingly, that the quarters he had suggested had been consulted but that the recommendation was not regarded as appropriate for adoption at that time (Exhibit No. 1193). It was at this time that we received a report from Ambassador Nomura that the State Department, which had theretofore maintained silence concerning the negotiations,

had made public their development, and that the American press was saying that the decision of peace or war was in Japan's hands (Exhibit No. 2750). In reading this report, we felt that America was expecting war.

*Considered
Resigning*

69. Now for the second time I considered resigning as foreign minister. I had at all times had the intention of resigning if by doing so I could further the Japanese-American settlement. Conditions were now, however (for reasons which I shall mention in a moment), basically different from those of early November when I had first considered resignation, and there seemed little likelihood that a change in foreign ministers could affect the situation. I did, nevertheless, ask for the advice of former Foreign Minister Satō, one of the Foreign Ministry seniors who had been much interested in the success of the negotiations, whether by resignation I could bring about a change of over-all policy by forcing a change of cabinet, and thus avoid war. He advised me against resignation, saying that there was no possibility that it could affect the situation--as did a few others whom I consulted concerning the matter. My reason for feeling at that time that resignation would be useless is as follows. Before, the question had been one of wringing from the military authorities agreement to the making of further concessions which might lead to a compromise of the Japanese and American positions; by resignation I might (I had thought) have been able to force a change of government in favor of one able to take a stronger stand against the demands of the military high command. Now, it appeared that no concessions which Japan could make would avail to reach an agreement with America; America evidently was no longer interested, if she ever had been, in any compromise; it was now, patently to everyone, a question of the self-defence of our nation. There remained only the faintest hope of a diplomatic settlement, and that hope was based on the possibility of American reconsideration; my resignation would in no way have assisted toward a settlement, but would only have been an escape from my responsibility. I therefore decided to stay on, work for every last chance to avoid war, and, should war break out, to do everything in my power for its earliest possible termination, in the interest of Japan and of the world.

Reason

70. As I have said, the feeling not only of myself but of all concerned in the matter was that after the Hull note of 26 November there was no hope for a settlement with the United States unless it could be persuaded to reconsider its newly-adopted extreme stand. I had felt earlier that war need not be the consequence of a failure of negotiations; I had been overruled, and submitted. But now it was a far broader question. The very existence of the Japanese nation was at stake, and I was compelled to agree that we must wage war, whatever the prospects, unless America would reconsider. At the Liaison Conference of 27 November, everyone had agreed on this, and there was no dissenting voice to the proposition that we must go to war. The meeting adjourned with the decision to present the recommendation to an Imperial Conference.

*27 Nov
Liaison
Conference
agrees on war*

71. The Liaison Conference decision after consent by the Cabinet meeting of the following day, was presented to the Imperial Conference of 1 December and was there approved, the general feeling being that Japan had no alternative but to resort to self-defence. On the 29th there was a meeting of the Elder Statesmen, or ex-Premiers, concerning which there has been some testimony. There was a morning meeting called by the Government, and an afternoon audience with the Emperor. At

*Elder Statesmen
Meeting*

the morning meeting there were explanations made to the Elder Statesmen by the Premier and other cabinet ministers; the Premier's was of the reasons compelling Japan to resort to war, mine was confined to the Japanese-American negotiations, and was given in detail; ex-Premiers Wakatsuki and Hirota alone made inquiries concerning the negotiations, which I answered fully, as has been testified to by Admiral Okada (Exhibit No. 3229). No one present expressed the view that the American proposal should be accepted. At the afternoon meeting, held in the presence of the Emperor, Prince Konoe especially stated that he was fully informed concerning the negotiations and approved of the efforts of the Government. He said that he agreed that there was no hope for the negotiations, in view of the recent United States proposal, but wondered whether there was no way by perseverance to avert war. The Premier replied that the matter had been thought over again and again and studied most earnestly by us, and that the conclusion was that there was no other course than war.

To go
No other
was there
war

Imperial
Conference
officers
war

72. On 1 December the actual decision to commence the war was made, by the Imperial Conference called for the purpose. Those present were all members of the Cabinet, Chiefs and Vice-Chiefs of Army and Navy General Staffs, the Chief Cabinet Secretary, Directors of Military and Naval Affairs Bureaus, and the President of the Privy Council. Again explanations were made by the Premier (Exhibit No. 2954) of the circumstances compelling us to go to war, and by me of the negotiation and the impossibility of continuing them after the 26 November note (Exhibit No. 2955). Explanation of various other matters by the other Cabinet ministers and the High Command followed. There was then unanimous agreement on the necessity of going to war.

73. Even with the formal decision taken to go to war, there remained some hope, faint though it was, of reaching a solution through diplomacy. Japan had nothing new to offer; but there always remained the possibility that, especially if we took a strong stand--by manifesting no intention to yield to the American demands--the United States would repent of the finality with which its latest position had closed negotiations and, being willing to make a "peace with honor" for both sides, would reconsider. For this reason I urged our Ambassadors in Washington to do what they could to obtain American reconsideration, and so reported to the Liaison Conference. Prior to the decision for war of 1 December, of course, I had already instructed the Ambassadors not to let negotiations lapse, which would have made certain the war which up to then was only probable. For continuing the negotiations in the only way that I could see open I am now charged with deceit and perfidy, with having kept up a pretence only to gain time to cloak the military preparations which were going forward. I have attempted to make it clear that it was never, at any time, on our side, a question of gaining time, but that rather I had the constant struggle to prevent precipitate action by the military High Commands--and not only I, but my predecessors had had this struggle throughout the Japanese-American negotiations, to defer military action and keep negotiations going. It seems to me yet that, even when war had been actually decided on, I would have been a traitor to my profession had I not tried to take advantage of any last hope for a peaceful settlement; and, as has already been testified (Exhibits Nos. 809 and 2915), I had secured the commitment of the High Command that if by any chance an agreement could yet be reached, all military plans would be canceled.

74. Meanwhile, there remained the important questions of procedure--how and when to notify the commencement of hostilities if we obtained no reconsideration from the United States and had to carry out the plan for war. These questions of procedure came up at the first Liaison Conference following the Imperial Conference. At this meeting I asked when operations would commence. General Sugiyama, Chief of the Army General Staff, said, "about next Sunday". I thereupon said that it was appropriate that the usual and customary procedure be followed in regard to notifying the commencement of hostilities, which I had assumed would be done as a matter of course. I was immediately met, however, with the statement by Admiral Nagano, Chief of the Naval General Staff, that the Navy wished to carry out a surprise attack, and by the demand by Vice-Chief Itō that the negotiations be left un~~terminated~~, in order that the war be started with the maximum possible effectiveness. I rejected this suggestion, replying that it was contrary to the usual practice and highly improper, and that such conduct would be disadvantageous because, even if we were going to war, there would be a time when the war would come to an end and we would be a nation at peace again, and we should think of our national honor and repute against that day before committing irresponsible acts at the war's beginning. I had received a telegram from our Ambassadors in Washington actually discussing this very point and urging that if Japan was going to resort to "freedom of action" a notification of the breaking off of negotiations should be given also in Washington (Exhibit No. 2949); and I quoted this to the meeting to show that my suggestion was the natural and normal one and that notification was absolutely necessary as a matter of international good faith. However, Admiral Nagano continued to contend strongly that if we were to go to war we must win. None among the members came to my support; which is perhaps the best explanation for the fact that none of them now remembers this alteration. I was disgusted by the Navy's position, and took the initiative in adjourning the Conference, without any decision's having been reached. Immediately upon my arising from my seat Admiral Itō came to my place and pleaded with me to understand the difficult position of the Navy, and suggested that in any event the notice breaking off negotiations, if one must be given, be given to the American Ambassador in Tokyo, rather than in Washington. I refused, and we parted without any agreement. I felt, nevertheless, that he recognized that the Navy would have to agree to giving somewhere a notification of termination of negotiations before attacking.

Navy did not want to give notice

Ambassadors in Washington

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75. Upon the opening of the following Liaison Conference Admiral Itō announced that the Navy had no objection to delivering the notification of termination of the negotiations in Washington, and requested that the notice be delivered at 12:30 P.M., 7 December, Washington time. No one opposed. I inquired whether that would leave a sufficient time before attack, and he said that it would. (I shall explain presently my conception of "a sufficient time".) It was therefore so agreed. My feeling was that after a hard struggle I had succeeded in stopping the Navy's demand, but had stopped it at the ultimate limit of international law. Since the end of the war--or, more precisely, since the beginning of this trial--the Navy has taken the line that nothing was ever further from their intention than to mount a "surprise attack" against the United States. It is clear that my testimony on this point, as in some other particulars of events leading up to the Pacific war, is in conflict with that of other defendants. The decision

Line of notice

Navy's position

between us is, of course, for the Tribunal. I have fought throughout my life for what I thought was right, and now at the end of it I am determined, for the sake of history as well as the purposes of this Tribunal, to the best of my ability and recollection to tell the full truth as it is known to me, neither attempting to evade responsibility which is mine nor accepting that which others would transfer to me.

Law re Germany Hostilities
76. This may be the opportune time to explain my understanding of the international law in regard to the question of commencement of hostilities. I am no scholar of international law, but of course as a diplomat throughout life I have made some study of the subject, and in December 1941 I saw the matter as follows. As I have attempted to make clear, my feeling, like that of all others concerned in the decision to wage war against the United States and the British Empire, was that the war was one of self-defence--clearly so under the broad interpretation of the scope of the right of self-defence laid down by the United States in these very Japanese-American negotiations--and I was aware that opinion existed that a war of self-defence required no giving of a declaration of war. I know for example that when Hague Convention III was considered in the Peace Conference of 1907 the American delegate, General Porter, specially stated that the policy of the United States invested the President with the power to exercise the right of national self-defence at any time and place--and that the United States did not, apparently, regard the Convention as applicable in such case, as was demonstrated when the punitive expedition was sent to Mexico in 1916 without the declaring of war by the Congress, it being explained as an act of self-defence. I knew also that Secretary of State Kellogg, in his note to all the nations participant in the Kellogg-Briand Pact, had said that the right of self-defence was above treaty provisions. But since international agreements did in their wording provide for (though international practice had largely ignored) the giving of a notice as the normal course, I thought it better in every way that that course should be followed even in a case where it might be superfluous, rather than that there should be any question of Japan's good-faith observance of international morality.

Notice to U.S.
77. The notice which we proposed to and did serve upon the United States was not in terms a declaration of war. I considered a notice of termination of negotiations to be sufficient, and a compliance with international law in the situation of that time, for the following reasons. The Hull note of 26 November we regarded as being beyond any possible question an ultimatum from the United States--it offered to Japan the alternatives of abject surrender or war. Japan's answer to the American ultimatum, rejecting it, we felt to be sufficient as a notification that hostilities would be resorted to, and in effect a declaration of war. It seemed to me, in considering and approving the form of the final note, that it was in any point of view tantamount to a declaration of war: the expression "the earnest hope of the Japanese Government to preserve and promote the peace of the Pacific . . . has finally been lost", I thought, clearly imported that peace was ended, with war to follow. I did not feel that the document would have been made any more unequivocally a declaration of war by the inclusion in it of such stock phrases as "a state of war exists between our countries" or the reservation of "freedom of action" which Admiral Oka has testified that he proposed (and which, by the way, I never saw or heard of); they would only have emphasized the obvious. The note as it stood being more plainly a declaration of war than the "ultimatum" contemplated by Hague

Oka

Convention III, there was no room for such phraseologies. So far as I remember, the opinion is universally held among international-law scholars that no special form of words is necessary for a document to constitute a declaration of war, but that any language was sufficient which unequivocally expressed the intention (it was clearly in my mind that one of the most recent cases, France's declaration of war against Germany in 1939, France notified only the carrying out of her obligations to Poland). But, over and above all technical questions, it had been unmistakably clear for some time in Japan that rupture of the negotiations would lead to war, and I have no doubt that it was so understood in the United States as well. Hence we drew the notification in the form of a breaking-off of negotiations, which the Liaison Conference had authorized, and which was drawn in the full confidence that it would be understood as a declaration of war.

Final
Joint Note

discussions

78. The draft of this final notification had, except for its final part, already been drawn, in the days after our receipt of the United States' note of the 26th. It was actually written, of course, by the American Bureau of the Foreign Ministry; but its contents were those dictated by the ~~decisions~~ of the Liaison Conference. After drafting by ~~discussions~~ the Foreign Ministry in accordance with those ~~decisions~~, the note was revised on the basis of the opinions of the Army and Navy officials interested; but the details of this have been testified to, and I need not repeat them. The draft note as eventually agreed upon was distributed to the members of the Liaison Conference at the meeting on 4 December, and approved by them, and also, no one dissenting, by the Cabinet meeting of the 5th, when I orally reported on the contents.

Postponement
in delivery
of note

79. In the afternoon of 5 December the Vice-Chiefs of the Army and Navy General Staffs, General Tanabe and Admiral Itō, called on me. Upon entering my office Admiral Itō stated that it was the desire of the High Command to postpone delivery of the final note in Washington from 12:30, as previously agreed upon, to 1 o'clock, and asked my consent. I feared that the time between notification and attack might be made too short, and asked why the change was desired. Admiral Itō said that he needed the postponement only because of his own miscalculation of the time. General Tanabe said that the Army's operations would commence after those of the Navy. I asked how much time was needed between notification and attack, but was told that the operational plans were secret and could not be disclosed. I then insisted on knowing whether the proposed arrangement left an adequate time before the attack, and upon receiving Admiral Itō's assurance that it did, I agreed to the change. On leaving, Admiral Itō remarked that he hoped the note would not be dispatched to the Embassy too early; but I replied that it had to be so sent as to insure delivery to its destination at the time fixed. The agreement to change the hour of delivery was reported to the Liaison Conference by Admiral Itō on the 6th. No one opposed this, and it was approved. At the same meeting, Admiral Nagano, Chief of the Naval General Staff, said that this was a very important note and should be delivered to Secretary Hull personally. It occurred to me that the Secretary might well have other plans for lunch-time on a Sunday, so I promised to order it done if possible--which was ordered (Exhibit No. 1218).

80. I have mentioned above my conception of "a sufficient time". I was well aware that the conference which adopted the

where did he get the
the idea

*1 hour
sufficient*

Hague Convention had debated fully and finally rejected a proposal to fix a definite time for advance notification of hostilities. Since, as a result, many scholars had stated that one minute's advance notice was sufficient, I felt quite assured that if ~~some such~~ ^a period ~~of at least~~ ^{of at least} an hour were allowed it would comply with the requirement of the Convention. Not being, as I have said, an expert of international law, I not only read much on this subject in those days, but also especially sought out legal opinion. I requested the opinion, for example, of Dr. Tachi Sakutarō, generally accounted Japan's most distinguished living international law scholar, then adviser on international law to the Foreign Ministry. I had also discussed the matter long before with Dr. Nagaoka Harukaz who had been a member of the Secretariat of the Hague Peace Conference and Judge of the Permanent Court of International Justice; this was when I was Councillor in Berlin under him as Ambassador. Both of these authorities were of the opinion that I was correct in my beliefs that a war of self-defence required no giving of notice, but a notice however short was valid where notice was necessary. I might just add a word concerning the Kellogg-Briand Pact. As First Secretary of the Embassy in Washington at the time the Pact was negotiated I had worked on it and was therefore familiar with its history and meaning. I assumed that the explanations of Secretary Kellogg concerning the non-applicability of the Pact to a situation of self-defence, and the reservations of the right of self-defence made by various Governments before their ratifications of the Pact and not taken exception to by any other signatory power, clearly imported that that Pact likewise was not applicable in the case of Japan's war against the United States and Great Britain.

81. After the final note had been approved by Liaison Conference and Cabinet, I gave instructions that it should be cabled to Washington in good time, together with instructions to the Ambassador to make all necessary preparations for its delivery at the time agreed upon. The Tribunal has heard full evidence concerning this question, as well as how the delay occurred in making delivery, and I should like merely to refer to that evidence as showing that all that was possible was done in Tokyo to insure proper delivery, and that the delay was not caused, deliberately or negligently, by any action taken by me or anyone in Tokyo (Exhibits Nos. 2964, 2967 and 2970). I naturally learned, however, from American radio broadcasts soon after the commencement of the war, that apparently there had been mismanagement in Washington. I learned even sooner that the attack on Pearl Harbor took place at about twenty minutes after the time when the note should have been delivered, and a few days after the outbreak of the war when Vice-Chief of the Naval General Staff Itō explained the matter to me I protested to him that if the attack was to follow so soon on the notification, I saw no reason for the Navy to have objected to notification in the first place. His reply was evasive--to the effect that "I am sorry for you; we cut it too fine". A short while after the beginning of the war, in the course of a conversation with Premier Tōjō, the subject came up of the American broadcasts' having reported that our note had been delivered late--after the beginning of hostilities. We had both been dismayed and displeased at this report, and I mentioned that it was unfortunate, if true, especially in view of the great propaganda value to our enemies of such an incident, and that it was being so used by them. I recall that the Premier said "I wonder how such a delay could have taken

place? Can it be that the United States itself delayed the delivery?" I answered that I did not believe that, but that, since no communication could be had with Ambassador Nomura, we would have to wait to learn how the delay had occurred until we could inquire of him and the Embassy staff upon their return to Japan. In fact, I gave instructions at that time to the Vice-Minister and the Chief of the Cable Section to have an investigation made when the Embassy staff returned from Washington, and when they arrived in Japan on 20 August 1942, I again ordered the investigation commenced into the causes of the delay. Within a few days after that, however, I became very busy with the problem of the Greater East Asia Ministry, as a result of which I resigned office on 1 September, without having received a report on the matter. The investigation was made, and its results have been testified to (Exhibit No. 2964). The prosecution have introduced into evidence a pamphlet (Exhibit No. 1270A), printed by the Treaty Bureau of the Foreign Ministry, as evidence that I had a guilty conscience over the late delivery of the final notification to the United States and attempted to procure legal opinion to justify it. Not only was that pamphlet prepared without my direction or knowledge; not only did I never see it while I was Foreign Minister; but it is wholly unnecessary for me to seek justification for an incident which occurred in violation of my orders. Reference to the preface of the pamphlet itself shows that it was wholly unofficial, and represented merely the individual opinions of those who prepared it (Defense Document No. 2914).

82. I first knew the contents of President Roosevelt's message of 7 December to the Emperor at around 12:30 A.M. of the 8th, when Ambassador Grew called on me. We had heard suggestions during the day of the 7th that such a message was on the way, and I had had inquiries made to try to locate it (Exhibits Nos. 2960 and 2963), but had learned nothing until at about 10:00 at night Ambassador Grew called to say that he had an important message which was being decoded, and would like to call as soon as the job could be finished. He did call soon after midnight; he informed me of the arrival of the President's message, asked an audience--which I told him would have to be arranged through the Imperial Household Ministry but, it being midnight, it could not be said when it could be granted--and left a copy of the message with me, taking his departure after about fifteen minutes. I immediately ordered a translation prepared; and, the matter being an important one, I called the Imperial Household Minister, Mr. Matsudaira Tsunoo, told him that the message from President Roosevelt to the Emperor had come through Mr. Grew, who wanted to have an audience to submit it to the Emperor, and asked him how, in view of the fact that it was the middle of the night, I should proceed. He told me that I should talk with the Lord Keeper of the Privy Seal, the matter being political. I then called Marquis Kido, who suggested that I consult the Premier, and said that the Emperor would receive me even at such a time. The translation being ready about 1:50, I called on Premier Tōjō at his official residence; he said that a message of such contents would do no good. I left him, returned to my residence to change clothing for the audience, and started at about 2:45 for the Palace, where I arrived at about 2:40. There I met Marquis Kido in the waiting-room, and had a three- or four-minute talk with him before my audience, telling him the contents of the telegram; then was received in audience from 3 to 3:15. I reported the matter to the Emperor and received his answer, and left, returning to my residence at about 3:30.

83. The following morning Ambassador Grew called on me around 7:30--I had ordered arrangements made to see him at 6, but the arrangements were reported delayed by difficulty in making telephonic connection with him--and I gave him the Emperor's answer to the President's message, as well as a copy for his reference of our final note. The war having then, of course, already started, the Ambassador never formally delivered the President's message to the Emperor. Before the interview with Mr. Grew I had heard that radio broadcasts of the commencement of the war and the attack on Pearl Harbor ~~had~~ been made by Imperial Headquarters at 6; and naturally assuming that the Ambassador had received the information, I made no mention in my conversation with him of the state of war, but expressed as my farewell words my appreciation of his efforts for the negotiations and my regret at the precipitation of such a state of Japanese-American relations. It has since been charged that I was engaged in deceiving Mr. Grew; but it should be sufficient to point out that I could have had no motive for doing so at that time when the commencement of hostilities had been published to the world. British Ambassador Craigie followed Mr. Grew, seeing me at about 8 o'clock. This visit also was made by my request, though the time of the Ambassador's arrival was much later than planned. To him also I gave a copy of our final note, and informed him of the cessation of negotiations. As my farewell I thanked him for his endeavors for the improvement of relations between our two countries since his arrival. I thought that both these interviews were understood to be farewell greetings.

84. Regarding the delay in delivery to Ambassador Grew of the President's telegram, I had no knowledge at the time. The testimony given in the Tribunal has disclosed that incoming and outgoing diplomatic messages were delayed by the Ministry of Communications at the request of the Army General Staff; but neither of these organizations consulted me nor, so far as I know, the Foreign Ministry in the matter, nor had I any knowledge that the delay was being effected. I had heard from Ambassador Nomura of the press report that such a message had been sent by the President, even before which (having gotten such news from the press services) I had inquired of him concerning it, and had had my subordinates inquire of the Ministry of the Imperial Household on the supposition that the message might have been directed to the Emperor personally. However, as I say, I was able to get no information concerning it until Ambassador Grew reported.

Why Great Britain not notified

85. The question has arisen why our final notification was not served on the Government of Great Britain as well as that of the United States. The Liaison Conference decision that a notification of breaking off negotiations would be delivered in Washington of course precluded the delivering of a declaration of war in London. There was, moreover, reason to expect that the course chosen would be equally effective. In the latter stages of the negotiations--or at all events from the time that I became Foreign Minister--relations with Great Britain were naturally considered. Throughout the whole of the negotiations with the United States ran the assumption that to any agreement to be concluded with it the British and Dutch (and of course the Chinese) Governments would become parties, or that simultaneous settlements of outstanding problems of Pacific interest would be made with them. I therefore from time to time inquired concerning this point not only of the United States Government and Ambassador, but also of the British Ambassador, the answer invariably being that the settlement of all such

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matters would be managed by the United States Government, which would keep the British and other interested Governments informed. I was aware also of Prime Minister Churchill's speech of 10 November 1941, in which he had promised that hostilities between Japan and the United States would be followed automatically by those with Britain. The Tribunal has already seen the evidence of these facts (Exhibits Nos. 2956, 2918, 2957, 2958, etc.). It was therefore evident that any notification to be given in connection with the negotiations might properly be given to the United States alone, relying upon it to inform the powers associated with it and for whom it had acted as representative.

86. The prosecution argue that I am convicted, by a variety of evidences, of double-dealing in carrying on the Japanese-American negotiations while, as they charge, I was secretly taking part in the making of plans for war. I have already described as accurately as I am able to my actions and my thoughts and intentions of the seven weeks of my foreign ministership prior to the war; but, lest my silence be taken as admission of the charges, I must deal also with a number of minor points. First of these is the consular reports of shipping from various ports of America, the Indies and elsewhere, which were addressed to me in response to requests which had gone out over my name. Evidence has already been given that these were routine matters which were managed by subordinates of the Ministry (Exhibit No. 2915). I do wish, however, to take the occasion to deny specifically that I ever had any knowledge of the subject other than the fact that such routine was followed, and to state that none of the messages in question ever came to my attention.

By production of Exhibit No. 2975, a draft of proposed policy drawn by some Foreign Ministry subordinate official, the prosecution have attempted to show, I suppose, that the Foreign Ministry or the Foreign Minister had the intention of continuing negotiations as a sham. Inasmuch as this document is one of a very large number of the same type produced during the trial, I should like to say a word about its significance. In the Japanese ministries and governmental offices it is customary for low-ranking officials--especially those below section chief--to prepare, without specific instructions on each occasion, various "studies" or drafts of policies, notes, etc., relating to current questions. These in no way represent policy of the ministry; if occasion arises, the drafts will be presented to responsible officials for their consideration, when they may be adopted in toto, serve as the basis for final drafts, or be rejected. It is obvious that it would be quite out of the question for a foreign minister to read or to know of all of these papers. So far as concerns Exhibit No. 2975, I can deny that I have ever seen or known of it; but in general I point out the fallacy of indulging any presumption that a state minister knows of such documents simply because they are found in the files of his ministry.

87. I have already mentioned the no-separate-peace agreement which was concluded on 11 December 1941 among Japan, Germany and Italy (Exhibit No. 51). Despite the importance which the prosecution profess to attach to this agreement, I remain unconvinced that it is not a most natural thing for a nation which expects or fears to find itself at war to take such measures as are prudent by way of provision for it, including the acquiring of as many allies as possible. Nor was

it perfidious that the negotiations for conclusion of the agreement began, as the prosecution have pointed out, during the last week before the outbreak of war. The probability of war, after the Liaison Conference of 27 November, was very great; and this agreement was the result of our desire to get whatever assistance we could from the nations which were in all likelihood to be our co-belligerents. (My own estimate of the amount of assistance that we were likely to get was, as I had said in the Liaison Conference, quite low, and so far as I could see the main effect of a no-separate-peace agreement would be what encouragement it would bring to our people, by warding off the feeling of isolation. The Liaison Conference, however, had decided that negotiation for it should be undertaken.) Up to the time of receipt of the United States' 26 November note--and even thereafter--I had refused repeated requests of Ambassador Ott to give the Germans any concrete or detailed information concerning the development of the Japanese-American negotiations--no other course would have been consistent with my desire to bring the negotiations to success. After the American note made war almost unavoidable, for the first time on 30 November I instructed the Japanese ambassadors in Berlin and Rome to inform the Governments of Germany and Italy of the general outlines of the negotiations and to commence negotiations for a no-separate-peace agreement in the event of war. In connection with General Ott, moreover, I should point out the absurdity of such reports of his as that of 5 December (Exhibit No. 608) that any "leading official" of the Foreign Ministry gave him such misinformation as he there recites concerning Japan's intention in commencing hostilities. No responsible official of the Foreign Ministry--certainly none of the three or four who were informed on this subject--would have discussed the matter with General Ott; and anyone who told him as late as 4 December that the procedure for opening hostilities was under "deliberation" could not have been one of those few, who knew that the matter had been settled by the Liaison Conference. The Ambassador of Germany was patently taken in by the gossip of some bureau director who wished to appear to have important information to give in confidence on a matter of which he was uninformed--or perhaps the general was, as he has testified (Exhibit No. 3503) to having done on occasion, indulging his imagination.

88. Lastly, on one or two broader questions related to the Pacific war. With the naval disarmament question I have had some connection. First was in 1932, in Geneva, when as Secretary-General of the Japanese delegation I worked for the success of the General Conference on Disarmament. Later, Japan's abrogation of the Naval Disarmament Treaties, in 1935, and the withdrawal from the London Naval Disarmament Conference of 1936 occurred during my service as Director of the European-Asiatic Bureau, and as Bureau Director I had to work on these matters with the naval officials concerned. The Navy Ministry submitted to me the draft instruction to the Japanese delegation, based on the principle of the common upper limit. In the Washington and London Treaties, however, Japan had agreed to the ratio principle of naval limitation, and had made a proposal approving it at the General Conference on Disarmament in Geneva. When I received this proposal of the Navy I opposed it, on the ground that contending for the principle of the common upper limit would not only make an agreement difficult, but would give rise to suspicion of Japan's intentions, probably blocking the conclusion of a new treaty, and thus enhancing the danger of an armaments race and a war. For two or three months we had heated discussions, during which time I

never agreed to the Navy's proposal. Finally, as agreement could not be reached at the bureau-directors' level, the matter went to the higher authorities for decision. Foreign Minister Hirota adopted and spoke for my view, but was overruled, and the Navy's proposal became the national policy. Having failed in my efforts for quantitative disarmament, I continued working for qualitative limitation and the exchange of information on naval ship-building, but the Navy's opposition again prevailed. Throughout the controversy the Navy's stand was extremely strong, and the assertion was freely made that the question of naval strength lay within the prerogative of the High Command and allowed of no outside intervention.

Sochiya
Mandates
Islands

89. The prosecution have produced evidence to show that at various times the South Seas Islands held by Japan under mandate of the League of Nations were being fortified, contrary to the terms of the mandate. I suppose that it is self-evident that if fortification was carried on, the Foreign Ministry had no part in it; but perhaps it will be charged that we were in a conspiracy because correspondence concerning the matter passed through the Ministry. This whole matter was the responsibility of the Treaty Bureau--in which I never served--and I never had any official connection with it or knowledge of it; I was told by Treaty Bureau personnel that the military authorities had given assurance that they had no intention of violating the terms of the mandate, and there seemed to be no reason to disbelieve it. In any event, the Foreign Ministry was, as the only branch of the government which dealt with other governments, the mere channel of communication through which passed the inquiries made by the League and the answers received from the military and naval authorities.

V.

War-time Diplomacy and "Greater East Asia" Relations

90. The scope of diplomacy in war-time was much restricted. With the United States, Great Britain and the Netherlands there were, of course, no diplomatic relations; with Germany and Italy questions of war were uppermost. There remained, in effect, the questions only of our relations with the U S S R, the countries of East Asia and South American countries, and of diplomatic preparation for the eventual restoration of peace.

91. I have already mentioned the tendency not to pay due regard to the diplomatic function, which had been increasing from some years before the war. War inevitably intensified this condition--but diplomacy, it seemed, was expected not only to play a secondary role, as was natural with war in progress, but to be wholly neglected. A striking example of this tendency came to light at the time of the question of Japan's participation in the war against Russia. When I reported to the Emperor in July on the refusal of the German request to go to war against the U S S R and discussed with him the steps to be taken to insure that his desire should be correctly conveyed to the German Government, without interference by the military authorities, he also mentioned his desire to see an early restoration of peace. I then discovered for the first time that the Emperor had expressed this desire to Premier Tōjō as long before as February, but neither he nor

the Lord Keeper of the Privy Seal had ever mentioned it to me. Needless to say, questions of military operations were still kept secret in war-time, including those which had intimate connection with foreign affairs--the Navy, for example, kept entirely secret even from the Liaison Conference the defeat at Midway.

92. Disagreement of views, partly over this question and partly concerned with the policy of direction of the war, had early after the start of the war developed between me and the Premier and some of the other Cabinet ministers. The general atmosphere, both within the government and outside, was at that time one of over-optimism brought about by the initial victories of the war. The Premier and others believed that it was going to be a long war--of ten to twenty years' duration--and that it would take a long time for the United States to build up her fighting power, so that she would not be able to undertake a counter-offensive before 1944. Instead of trying to establish Japan in an impregnable position, therefore, they concentrated on strengthening the political position of the government by securing election of the candidates for the Diet sponsored by the Imperial Rule Assistance Association in the spring of 1942 and by the creation of the Greater East Asia Establishment Council (from the purview of which military and diplomatic matters were excluded), and tried to consolidate the authority of the government by putting into effect such measures as those for reorganization of enterprises and reform of the educational system.

93. I opposed such measures on the ground that it was premature to undertake such a program with the war just started, and that long-range plans should not be laid in a time of emergency. As to the prospect of the war, I felt that a large-scale war of attrition could not last longer than five or six years, and I therefore insisted that it was urgent that preparations be made for increase of production and stabilization of living conditions. I came into collision with the Premier also on such other matters as the China question, in connection with which I frequently urged the Liaison Conference to reconsider promptly a fundamental policy for its solution. These differences developed, finally leading to a head-on clash and my resignation over the Greater East Asia Ministry question in September 1942. But before coming to that I should sketch the diplomacy which I conducted while still in office.

*Wog's
Diplomacy
488R*

94. With the Soviet Union I attempted, as always, to maintain the best relations possible. Maintenance of neutrality with the U S S R was the fundamental policy of the government; but beyond that, from the beginning of the Pacific War I was thinking of and planning for its termination, and considered that the most promising method of approach was to try to bring about Russo-German peace as a preliminary step. I did in fact try as early as 1942 to set such a plan in motion (Defence Document No. 2740).

95. During my tenure of office the Soviet-Manchukuoan border was generally maintained in peace. In January 1942, in particular, the Governments of Manchukuo and the Mongolian People's Republic finally approved the work of the border-demarcation commission which, in accordance with the agreement arrived at between Foreign Commissar Molotov and me, had marked the border in the Nomonhan areas (Exhibit No. 2659). Considering

that the Russian-Manchoukuoan border was (especially in view of the Russo-German war) quite secure, I often suggested to the military authorities that they could rely on my assurance that the Red Army would not launch an invasion of Manchoukuo even if the Japanese forces on the border should be considerably decreased. I attempted also to avoid irritation of the U S S R by persuading the military authorities not to reinforce the Kwantung Army (I never knew, by the way, of the "Kantokuon" of the year before).

before U.S.S.R.
U.S.S.R.
96. At the outbreak of the Pacific war some controversies occurred between Japan and the U S S R, growing out of restrictions, based on the rights of a belligerent, enforced upon the vessels of the U S S R, a neutral. To such controversies the Foreign Ministry paid careful consideration, forwarding to the Government of the U S S R the replies of the Navy concerning measures taken in response to the Soviet protests or inquiries. The Foreign Ministry took the initiative also in offering conveniences for the rescue and repatriation of Soviet sailors and vessels involved in such incidents, and for recompensing the Soviet Government by transfer to it of vessels to replace such of theirs as were sunk. There were, while I was Foreign Minister, no steps taken toward disturbing the transportation through Vladivostok of munitions from America, despite various complaints from Germany in regard to it.

Foreign Policy
Germany
Italy
97. War-time relations with Germany and Italy were, so far as concerned the Foreign Ministry, very much restricted. Events bore out my prophecy of the amount of coöperation to be expected from our European allies; it was, as the Tribunal is already aware, never more than nominal. The Russo-German war had cut rail communication between us; and sea transportation became increasingly difficult until with the German defeat in North Africa communication was practically restricted to the token exchanges of small amounts of supplies by submarine (Exhibits No.s 2751, etc.). At the time, of course, I had no information of the extent of such coöperation, it being military and hence outside my field. The respective German and Japanese attitudes vis-à-vis the U S S R also illustrate the kind of relations between the two countries. Germany's expressed desire from the time of the third Kono Cabinet had been that Japan join in the war against the Soviet Union, and that request was renewed in July 1942. It was decided, however, that Japan should refuse the request and give as a reason that she could not undertake a two-front war, which was accordingly communicated to the German Government through the German Ambassador in Tokyo and the Japanese Ambassador in Berlin (Exhibits Nos. 3508, 2751 and 2762). I never dreamed of, far less participated in, any plan for Japan for domination of the world in cooperation with Germany and Italy.

98. It was in October 1941, when I became Foreign Minister, that for the first time I managed as on my own responsibility affairs relating to China, including Manchoukuo. I had once, many years before--in 1929, before the Manchuria Incident--made a visit of inspection to Manchuria, and as a result had reported to the then Foreign Minister, Count Makino, that we must coöperate with China in a spirit of mutuality and achieve truly cordial relations. The intervening years had seen the occurrence of the Manchuria Incident and the China Incident--with neither of which had I anything to do. I am now charged with having,

by serving as a diplomat and Cabinet minister in later years, worked to secure the fruits of aggression committed there. I have never done so. I was never sympathetic to those incidents, and when I have been in positions of responsibility toward them I have done what I could to prevent their occurrence or spread.

KO-A-7M
99. It was at any rate more clear than ever in 1941 that the China Incident must be settled, and I hoped when I became Foreign Minister that I should be able to achieve it. At that time the Kōain (China Affairs Board) had been in charge for some years of all political, economic, cultural and other business of China (excluding Manchuria); it had its agencies at various places in China, and negotiations with regional régimes in China were its affair. The creation of the Kōain had opened a new and major phase of China relations. Its purpose was frankly that of removing from the Foreign Ministry control, so far as concerned China matters, the normal functions of a foreign office; the Foreign Ministry's liberal attitude toward other countries was heresy to the militarists, who therefore managed to have China affairs confided to a new organ under their control. The Foreign Ministry's remaining jurisdiction extended only to diplomatic negotiations in Nanking--"diplomacy in the narrowest sense"--and matters pertaining to the consulates (whose main business was protection of Japanese nationals in China). Thus the connection of the Foreign Ministry with Japanese-Chinese relations was all but severed, and the Ministry had lost its power to deal with affairs in China. I was, it is true, as Foreign Minister an ex officio vice-president of the Kōain (others were the Ministers of War, Navy and Finance); but since the very purpose of the creation of that body had been the destruction of the Foreign Ministry's authority vis-a-vis China, the influence of the Foreign-Ministry vice-president in the Kōain was nothing. As has been pointed out by the prosecution (13 June 1946, Record, p. 543), the business of the Kōain was conducted almost exclusively by its Director-General.

100. Manchurian affairs had in the main been confided for many years to the Taiman Jimukyoku (Manchurian Affairs Board); I had nothing to do with that body, and therefore very little to do with Manchurian affairs. The Foreign Ministry's only connection with Manchuria was that we maintained the Embassy in Hsingking and consulates in Harbin, Manchuli, He'ho and Mutangchiang, but the functions discharged by the Foreign Ministry through them were only negotiation with the U S S R over Manchoukuoan matters. The post of Ambassador was held ex officio by the Commander-in-Chief of the Kwantung Army, and the Foreign Ministry of course did not control him.

101. After the commencement of the Pacific war, the Government of Manchoukuo and Nanking China cooperated with Japan, without themselves entering the war. Neither went to war. On the basis of Exhibits Nos. 1214 and 1219 the prosecution assert that the Japanese Government directed and controlled those two in their policy toward the war. These telegrams are submitted in the form of intercepts, and of course the Japanese translation provided is not the text originally sent. I do not remember having sent messages of such content, and the language has not the sound of Foreign Ministry phraseology; but in any event, if they were sent by the Foreign Ministry, there is nothing inherently sinister in the use of such language as appears there, for it is customary in diplomatic instructions, for simplification of telegraphic language, to use such terms as "to have the foreign Government do so-and-so", or "the steps to be taken by the foreign Government are". Similar expressions may be found in our telegrams to our embassies in Washington, London and Moscow.

Shover
102. I have mentioned a time or two heretofore that I had consistently opposed the China Incident from its beginning, and had worked as far as I could for its early settlement on an equitable basis. My opposition at the time of the outbreak is already in evidence (Exhibit No. 3260). I was not at that time in charge of China affairs, but I believed that for the sake of Japan's international relations generally it was a matter of urgent necessity to arrest the expansion of the incident by settling it locally. With Vice-Minister Horinouchi and the Director of the Bureau of East Asiatic Affairs, Ishii Itarō, I earnestly advised Foreign Minister Hirota that he should object to the dispatch of troops to China, to which he agreed. But our efforts failed, and the long-drawn-out China Affair got under way. Later, I had worked at the Japanese-American negotiations from the point of view of arriving at an early settlement of it. Still in war-time I insisted on this. In March 1942 the question of the policy for direction of the war was discussed in the Liaison Conference, and I then pointed out that in the domestic field the increase of production and the securing of food, and in the international field the preservation of Russo-Japanese peace and the prompt solution of the China Affair, were of primary and immediate importance. At that time I obtained the agreement of the Conference to my proposal that the basic policy vis-à-vis China be examined from all points of view; but it was subsequently reported by the Army High Command that although the military authorities had been examining the military aspects of the matter, there were many difficulties and no conclusion had yet been arrived at. The matter failed to develop thereafter, notwithstanding I seized one more opportunity to press it. This was in the middle of July, when former ambassador Ōta Tamekichi, returning from a trip to China, reported to me that Wang Ching-wei had suggested to him the immediate cessation of Japanese-Chinese hostilities and general

peace between Japan and China. I reported this to Premier Tōjō with another request for prompt examination of the China policy.

Philippines
103. As to the Philippines, Japan declared as early as January 1942 her intention to accord them the status of an independent country--partly as having inherited the United States' promise that Philippine independence should be realized by 1946 (Exhibit No. 1338B). So far as concerned my motives in supporting this policy, they were on the one hand to demonstrate that we entertained no territorial ambition in the South, and on the other to remove one obstacle to eventual peace with the United States by manifesting the same intention vis-à-vis those islands as that of the United States.

IndoChina
104. The only new event during my tenure of office in the Tōjō Cabinet affecting Indo-China was the military agreement of 9 December 1941 (Exhibit No. 656). This was a measure taken by the military authorities on the spot, and the Foreign Ministry and I had nothing to do with it.

NEI
105. It was, despite the Imperial Conference decision, Japan's intention if possible to avoid entering into belligerence with the Netherlands East Indies. The Dutch Government, however, declared war against Japan (record P.11,654) for reasons of her close relationship with the United States and Great Britain, and the Dutch Navy was at once reported as carrying out attacks on Japanese shipping. Japan was therefore compelled to take hostile measures against the Indies.

SEA
106. It was the relations of Japan with "Greater East Asia" generally which brought about my final break with Premier Tōjō and my resignation from the government. There was a fundamental difference of outlook between us on the question of these relations. Japan had long been recognized to occupy in East Asia the position of stabilizing force; very recently there had begun to be expounded the idea of a New Order in East Asia or a Greater East Asia Co-prosperity Sphere, which originated in such concepts as those of bloc-economy and Lebensraum. My fundamental policy was different from that. As will be seen from various evidences, it was one of establishing good, neighborly and amicable relations among nations on the basis of mutual respect for sovereignty and of economic cooperation. My principle was that Japan, as an advanced nation of East Asia, should assist the progress of the countries and regions of East Asia and realize the prosperity of these countries and of Japan through peaceful means. This idea of mutual assistance excluded any policy of exerting control over these countries by force.

107. My speech reporting on foreign affairs to the Diet on 22 January 1942 (Exhibit No. 1339A) was an expression of those principles. Notwithstanding that this speech was delivered soon after the outbreak of the war, it in no way expresses (as will be clear to anyone who reads it) any intention that Japan should annex or exploit any part of East Asia. Of course it is stated that such areas as are absolutely necessary for the defence of East Asia in the war were to be grasped by Japan--but this is a war-time speech, ^{chiefly} concerning war measures. Needless to say, Ambassador Ott's distorted account of this speech (Exhibit No. 1271), which for some reason the prosecution chose to introduce in addition to the original document, while it may represent his view, has nothing to do with mine. I wish

to point out especially that in the Diet speech I clearly said that the Greater East Asia Co-prosperity Sphere should not be conceived of as an exclusive thing, and that measures to exclude non-Asiatic states from participation in East Asia should not be taken.

108. In the course of this trial has come to my attention Exhibit No. 1333A, denominated a Foreign Ministry Plan for the Policy on the Disposal of the Southern Areas, dated 14 December 1941. If this extraordinary document was actually drawn in the Foreign Ministry, it could have been only a draft worked up by a section chief or a lower official, of the type already referred to; I never approved it, never saw it nor heard of it. That it is quite impossible that it should have been adopted or proposed as Foreign Ministry policy is demonstrable from the inconsistency of this purported policy with my proposed policy in the matter which was finally adopted by the Liaison Conference. After the Japanese occupation of the southern areas the High Command had proposed there that for the sake especially of convenience of execution of military administration the disposition of those occupied territories be then determined. Against this suggestion I insisted that such an important matter should certainly not be decided at that stage in war-time, when nothing was as yet finally settled. Premier Tōjō agreed with my view, and it was finally so decided by the Liaison Conference.

109. Confirmation of my true attitude toward the Greater East Asia question can be found in the matter of the Greater East Asia Ministry. This question, which led to my final break with the Tōjō Cabinet, had first come up in May or June of 1942. At that time there were only rumors that the establishment of a new ministry was contemplated; but as time went on the general outlines of the scheme emerged. It appeared that all outpost agencies in the area of Greater East Asia (excluding Korea, Formosa and Sakhalin) were to be placed under the control and supervision of the Ministry of Greater East Asia; with the exception of matters of what was called "pure diplomacy", all political, economic and cultural affairs concerning foreign countries in the Greater East Asia area-- such as Manchoukuo, China, Thailand, French Indo-China, etc.-- were to be placed in charge of the new ministry. With its establishment, the Taiwan Jūhōkyoku, the Kōain and the Ministry of Overseas Affairs were to be abolished. The avowed purpose of the plan was to place these countries under special treatment as brother nations, and to contribute to the attainment of the objectives of the war by carrying out a general mobilization of material power throughout Greater East Asia.

110. The creation of the Ministry had been planned by the four cabinet board presidents, and principally by the Planning Board, and by the summer of 1942 conditions had so far developed that there was considerable prospect of its realization. At that time I had a talk about it with Premier Tōjō. I told him that it was no time to indulge in changes of administrative structure, the urgent necessity being to establish an undefeatable position, and expressed my opposition to the plan for the reasons that the establishment of the proposed ministry would in practice remove from the Foreign Ministry the essential part of the diplomacy of Japan, thus impairing the unity of Japanese diplomacy, and would injure the pride as independent nations of the other countries in Greater East Asia, with the result that it would become impossible for Japan to

maintain friendly cooperation with them. The Premier promised that he would give the matter careful consideration.

111. On 29 August Mr. Hoshino, Chief Secretary of the Cabinet, called on me at the direction of Premier Tōjō, and handed me a copy of a draft proposal for establishment of the Ministry for Greater East Asia which was on the line above mentioned and was to be submitted to the Cabinet. It was, he told me, the intention of the Premier to present it at the Cabinet meeting of 1 September. I glanced through the proposal which Mr. Hoshino had handed to me and inquired of him about the meaning of the "pure diplomacy" which was to be left to the Foreign Ministry. He explained that by "pure diplomacy" were meant such things as matters of protocol and the formalities relating to the conclusion of treaties. Thus the Foreign Ministry would receive ambassadors of foreign countries, and would sign any treaties concluded, but the Greater East Asia Ministry would conduct all negotiations. I pointed out the impropriety of the plan, and requested that its submission be postponed until the Cabinet meeting of 5 September, so that there would be enough time to study the proposal. Mr. Hoshino left, but called again later, bringing Premier Tōjō's reply that he wanted the plan decided on without fail at the 1 September meeting. After a dinner on 31 August I had an opportunity to discuss the matter with Premier Tōjō, and repeated my opposition to the plan, again urging that its submission to the Cabinet meeting of 1 September be put off. The Premier refused. Thus the plan came up for decision at the Cabinet meeting of 1 September. At that meeting I explained my opposition somewhat as follows, and we had a discussion which lasted for three hours in the morning. I had four grounds of objection to the proposal.

*Reasons
Dojo offered
G.E.A. Ministry*

112. First of these was that under the proposed plan the foreign policy of Japan would be in the hands of two different ministries, according as it related to Greater East Asia or to the rest of the world. Such an arrangement would render it impossible for Japan to conduct a unified and consistent diplomacy, and neither the Foreign Ministry nor the Ministry of Greater East Asia would be able to function properly.

Secondly, the countries of Greater East Asia, because of being treated differently from other foreign countries, would entertain distrust and suspicion of Japan, and their pride would be hurt. Any treatment of this sort is certainly contrary to the spirit of respecting the independence of other countries.

Thirdly, the proposed plan meant the extension of the jurisdiction of the Kōain, which had excited ill-feeling among the Chinese people, and it would thus be a failure.

Fourthly, it was urgently necessary to concentrate our efforts toward the execution of emergency measures, and it was not the time to undertake the changing of the administrative structure.

113. Against my assertions Premier Tōjō argued that the Greater East Asia countries had to be treated differently from other countries, as relations between Japan and the countries of Greater East Asia were like those of kin. General Suzuki, President of the Planning Board, contended that the Kōain had not been a failure. I retorted that it was a fact well known

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to everyone that it had been a failure. A few other Cabinet ministers expressed themselves, but none came to my support. The Cabinet meeting took a recess with the discussion unfinished. During the recess Premier Tōjō asked me for my individual resignation, but I refused it, saying that it was the Premier and the other supporters of the plan, not I, who should reconsider the matter. I considered it necessary from the viewpoint of the general war-guidance policy to persist in my stand to force out the Tōjō Cabinet.

Resignation

114.. Soon thereafter, Finance Minister Kaya called on me to ask my reconsideration. Subsequently, General Satō and Admiral Oka, Directors of the Military and Naval Affairs Bureaus, together visited me. They said that the plan for the establishment of the Greater East Asia Ministry was supported equally by the Army and the Navy, and requested me once more to agree to the plan. I again refused altogether. Finally, Navy Minister Shimada came to me and said that a change of Cabinet was not desired by the Court, and that he would work for a compromise solution if one was possible. After exchanging views with him, I presented my final plan of compromise. Navy Minister Shimada left, but later returned and conveyed to me the information that Premier Tōjō did not accept the compromise plan. I had never expressed any intention to make an individual resignation, but had been making efforts with the determination to do everything possible for the attainment of my purpose. In view, however, of the talk with Navy Minister Shimada, I decided to and did tender my resignation, out of a desire not to cause annoyance to the Emperor by further complicating the matter, and retired on the same day, 1 September.

115. As a result of my resignation of office Premier Tōjō became concurrently Foreign Minister, and the plan for the establishment of the Ministry for Greater East Asia was thus decided upon at the Cabinet meeting of 1 September. The Government had intended the new ministry to commence functioning as of 1 October. My resignation, however, aroused public opinion, and it was not until 9 October that the Privy Council began examination of the plan. There followed sharp arguments between the Privy Council and the Government over the plan, as seen in Exhibit No. 687; the Privy Council even suggested to the Government that it withdraw the proposal, but Premier Tōjō and the other supporters of the plan refused. On 24 October the Examination Committee of the Privy Council adopted the plan by a majority vote (Privy Councillor Ishii being absent). At the meeting of the full Privy Council which followed also there was much controversy over the plan before it was passed by a majority, with Councillors Ishii and Minami dissenting. Finally, the Ministry was inaugurated on 1 November.

116. I learned later that with regard to the scope of "pure diplomacy" the Government had decided to make the necessary definition in the Cabinet, leaving the regulations governing the functions of the ministries concerned without any provisions on this point, and that this also had been explained to the Privy Council. But the "pure diplomacy" defined by the Cabinet understanding upon the establishment of the Greater East Asia Ministry was somewhat wider than the plan shown to me at the Cabinet meeting of 1 September, as a result of the opposition of the Foreign Ministry and the criticism expressed by the Privy Council.

117. At the Cabinet meeting of 1 September civilian members of the Cabinet also had supported the Greater East Asia Ministry proposal. Later I learned that they were not necessarily in opposition to my position, but were of opinion that a change of cabinet at that time was to be avoided. As I have said before, however, I had by that time come to the conclusion that the Tōjō Government, somewhat intoxicated by the initial victories of the war, was paying no serious consideration to preparations for the conduct of the war; that some within the Cabinet felt that there was no need of diplomacy in the management of external affairs; and that in general the Government's policies were being executed in a very superficial manner. I considered the Greater East Asia Ministry proposal an expression of such tendencies of the Tōjō Cabinet, and it was my conviction that at that opportunity it should be replaced. Despite my strong opposition to the Greater East Asia Ministry, for this and other reasons already mentioned, I could not change the current single-handedly; but events were already justifying my view, for the battle of Guadalcanal had deteriorated, not to mention the sea-battle off Midway, and the road to defeat was already plainly marked out.

118. As I have said, I retired from the government service at the time of my resignation of the Foreign Ministership and remained in retirement until I was again appointed to the position on 9 April 1945. Notwithstanding the fact that during my second term I held concurrently the ministership of Greater East Asia, my connection with Greater East Asiatic affairs from then until my quitting office on 17 August of the same year was slight; partly because I was chiefly occupied with the problem of ending the war, partly because almost all authority over matters relating to East Asiatic countries had by then been transferred to the military ministries. A word first, however, as to how I came to accept the portfolio of Greater East Asia Affairs notwithstanding that I had bitterly opposed the creation of that ministry. It was my desire and intention when I could to see the Ministry of Greater East Asia abolished; meanwhile, by holding the two portfolios concurrently I could let it die of inanition, and did. As Minister for Greater East Asia Affairs I did nothing.

119. The continuity of my attitude toward the countries of East Asia can be seen in the decisions of the Greater East Asia Ambassadors' Conference held in Tokyo on 23 April 1945, decisions adopted in accordance with my proposals and with the consent of the Governments of the countries represented as the guiding principle for the establishment of the world order (Defense Document No. 2931). The principles here spoken of are: 1) establishment of political equality of nations and avoidance of racial discrimination; 2) respect for national independence and non-interference in domestic affairs; 3) freedom for colonial subject peoples; 4) economic reciprocity and equality; 5) exchange of cultures; 6) prevention of aggression; 7) the establishment of the international order by means of both regional and universal security systems. This plan, I venture to believe, is not essentially different from that later developed by the United Nations at San Francisco.

120. By the time of my second assumption of the Foreign Ministership in April 1945 there was almost nothing for even the Greater East Asia Ministry to do in connection with the countries of East Asia. Although its jurisdiction did include some matters relative to occupied areas, these were not matters of administration actually but only of rendering assistance to the Army and the Navy, which conducted the administration,

by training officials in Japan to be sent to the occupied areas. In Burma and the Philippines (which had declared their independence during my retirement) the military commander was in control not only of military affairs but also of the guidance of internal politics, because it was considered to be inseparably related to the conduct of the war. Thus while the ambassadors to those countries managed diplomatic affairs under the direction of the Minister for Greater East Asia, they were interfered with even within the scope of their jurisdiction by the military commanders. The same was true of the ambassador to Indo-China; despite the different status of that country, the ambassador could not act against the will of the military commander. In addition the war situation had so deteriorated that in most of those countries we no longer even had functioning ambassadors. Burma, for example, had been partially reoccupied and our ambassador had escaped from Rangoon to the interior, where communication between him and Tokyo was so nearly impossible that it was impossible even to learn conditions there. The Philippines likewise had been lost by Japan, and there was no possibility of our conducting diplomatic functions. The various "plans" submitted by the prosecution for the disposal of British Malaya, involving the annexation by Japan of part of that territory (Exhibits Nos. 1333A and 1334-1336) were never approved or known by me during either of my terms as foreign minister.

121 The changed conditions occurring in French Indo-China in March 1945 (Exhibits Nos. 661-664), preceding my assumption of office, I had nothing to do with. As a result of this change, Indo-China was placed under the exclusive jurisdiction of the military authorities, and the Embassy was closed in March and the Ambassador returned to Japan in the following month. From that time, of course, the Greater East Asia Ministry had nothing to do with affairs of French Indo-China. At the Greater East Asia Ambassadors' Conference mentioned above, a resolution was adopted on the motion of the Thai Ambassador that full support be given to the movement for independence, then recently declared, in Annam, Cambodia and Luan Phrabang. It was the unanimous desire of the countries of East Asia that all the peoples thereof have their independence, which was in conformity with the policy of Japan. The same may be said of the resolution adopted at the same time relative to the status of the Netherlands East Indies; I again in fact emphasized in July at the Supreme Council for Guidance of the War the necessity for our assisting the Indonesians to the independence, thus to demonstrate that we had no territorial aspirations in that area.

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122. Lastly, among war-time questions, is that of prisoners of war. The Foreign Ministry's connection with this matter commenced when, in January 1942, notes from the British and American Governments were received through the Swiss Government requesting advice whether Japan would agree to reciprocal application of the Geneva Convention of 1929 regulating treatment of prisoners of war. Japan was not a signatory of that Convention; but I felt that Japan should--and assumed that she would--out of humanitarian considerations, agree to application of it so far as was reasonably possible. The decision, however, was not for the Foreign Ministry to make. The Tribunal has heard full explanation of the question of responsibility for prisoners of war in the Japanese system; I wish, however, to mention one additional point to clarify the very limited

management of

responsibility of the Foreign Ministry in this matter. The sum of responsibility for matters relating to prisoners of war resides in the Prisoners-of-War Management Bureau and the Prisoners-of-War Information Bureau. The former being a War Ministry bureau, no responsibility for its management of prisoners accrues to the Foreign Ministry. The latter, however-- which is the bureau responsible for giving information in answer to protests and inquiries--is one especially created by Imperial Ordinance in time of war. When action is taken by exercise of the Imperial Ordinance power, the Ordinance is countersigned by the ministers who have responsibility in the matter (Defense Document No. 2924). The ordinances establishing the Prisoners-of-War Information Bureau, at the time of not only the Pacific war but also of the World War, are countersigned by Ministers of War and Navy, but not by the Foreign Minister (Defense Documents Nos. 2924 and 2934). It is the War Ministry which is the responsible authority.

123. The inquiries from the United States and Britain were therefore referred in the normal course by the Foreign Ministry Treaty Bureau, which managed such matters, to the War Ministry, as the ministry empowered to decide the question. The answer which came back (Exhibit No. 1958) was that we should undertake to apply the terms of the Geneva Convention "mutatis mutandis", and it was therefore so replied to the Governments inquiring (Exhibits Nos. 1469 and 1496). Although the prosecution seems to consider that by the giving of this answer Japan became bound by the Convention to the same extent as if she had ratified it, I assumed (and still assume) that we were binding ourselves only to apply the Convention so far as circumstances permitted. "Mutatis mutandis", then, I supposed to imply that in the absence of serious hindrances the Convention would be applied (Exhibit No. 3039); I assumed also (although this was only assumption on my part) that where the requirements of the Convention came into conflict with the provisions of domestic law the former would prevail. If this proved to be a mistaken assumption, neither War nor Navy Ministry ever suggested any other interpretation to me, nor does the War Ministry's reply to our request for a statement of policy suggest it. In any event, knowing the high reputation which Japan had gained by her humanitarian treatment of prisoners of war in both Russo-Japanese and World Wars, I took it for granted that those precedents would be followed (this consideration also perhaps influenced me later, when we began to receive Allied protests of mistreatment, to accord less credit to the Allied claims than might have been the case had history been different, and to go to the War Ministry direct or through my subordinates, fully confident that steps would be taken to correct abuses if any existed).

124. I should like to emphasize, also, that the Foreign Ministry received and answered the protests and inquiries regarding prisoners of war only as a channel of communication, not as the responsible agency. The answers returned were not in fact prepared in the Foreign Ministry, but were those given to us by the Prisoners-of-War Information Bureau; but the Foreign Ministry was the only place to which correspondence from foreign Governments could come, and from which answers could go--there was nowhere else that the correspondence could go.

125. Little question concerning prisoners of war arose during my first term as Foreign Minister. I recall the case of Hong Kong--when in the spring of 1942 Foreign Minister Eden

was reported to have made a speech charging the Japanese Army with atrocities after the capture of the city. At that time I said to War Minister Tōjō that special attention should be paid to treating prisoners of war kindly, and for that matter to preserving the name of the Japanese Army from disgrace. He sympathized with my viewpoint, and said that he would give due attention to the matter; and soon after I was pleased to hear that Mr. Eden had made a radio broadcast to the effect that the situation in Hong Kong had improved.

Exchange of Enemy nationals
126. A more active question during my first term was the exchange of enemy nationals. It was my idea that not only should diplomatic personnel be exchanged, in the usual way, but also that civilian internees of British and American nationality should be repatriated. This was difficult to achieve; it involving the allocation of shipping bottoms and facilities, the High Command was reluctant to agree, and only after considerable insistence on my part were the exchanges brought about, as had been testified to (Defense Document No. 2916). We succeeded thus in returning to their homes some thousands of enemy nationals, not only from Japan Proper but as well from China, Manchoukuo, French Indo-China and Thailand.

Prisoners of War
127. During my second term as Foreign Minister, toward the spring and summer of 1945, the situation of the Japanese army on the front in the Philippines, Burma, and other Southern districts deteriorated extremely. There was already a large accumulation of prisoner-of-war matters on hand when I took office; and as the Allied forces advanced in various districts of the South, protests began to be lodged concerning the treatment accorded by the Japanese Army to the prisoners of war and internees in those regions. In those days, Japan itself being subject to severe air-raids, the Ministers of the neutral countries representing the interests of enemy countries had moved to Karuizawa and communication with them accordingly became very difficult. In spite of these difficulties, under my instruction, the Foreign Ministry transmitted these protests and inquiries to the competent authorities and did not fail to convey all the replies that were received from the competent authorities concerned. We often sent and received personal letters, or sent officials to Karuizawa, in addition to the exchange of official notes, thus exercising all possible efforts to meet the situation. So far as I am aware there was never any neglect by the Foreign Ministry of its duty in the matter, which was the transmitting of the protests or inquiries received from the Allied countries to the Japanese authorities concerned, and the sending to the former of the replies received. The Foreign Ministry, despite having no power over prisoners of war, repeatedly requested the authorities concerned to do their best to accord fair and generous treatment to the prisoners of war. On 3 June 1945, when the Swiss Minister handed me a protest of the United States Government concerning atrocities to American prisoners of war at Puerto Princesa on Palawan Island (Exhibit No. 2107), I personally called the special attention of War Minister Anami to the subject and urged him to accord fair and generous treatment to prisoners of war in general, to which he consented. In spite of these efforts, however, conditions had become such that provision of information satisfactory to the Allied countries was impossible. On this point, it was explained by the military authorities that, as the result of the defeat of the Japanese Army, telegraphic communication between the central military authority and the forces at the front had become very difficult and often impossible.

and that even when such communication was possible, the confusion within the Japanese forces at the front rendered investigation into the matters almost impossible. The Foreign Ministry, having neither jurisdiction nor means of investigation of these problems, could do nothing beyond conveying communications from one party to the other. I wish to add that the Foreign Ministry received no information whatever concerning the trials of Allied fliers, such as those which took place in the middle of July 1945.

128. The Foreign Ministry, under my direction, constantly attempted, despite its purely liaison function in the prisoners-of-war business, to ameliorate the condition of the prisoners. In some ways we succeeded; especially insofar as concerned Japan Proper, conditions were relatively good. We could not, of course, meddle with matters under military jurisdiction, and could only urge the military authorities to be humane; this was done repeatedly. If only from self-interest, this would have had to be the position of the Foreign Ministry; for we had some hundreds of thousands of our nationals in enemy countries for the amelioration of whose lot we were responsible, and there was a self-evident correlation between the two questions.

129. With the truth or falsity of the replies furnished by the Army (or, in a few cases, by the Navy) to inquiries from enemy countries, the Foreign Ministry had nothing to do. I, as Foreign Minister, had no personal contact with the matter of inquiries and answers, which were purely routine liaison work so far as the Foreign Ministry was concerned. But regardless of who actually managed the business, no one of the Foreign Ministry could do more than forward the answers received from the military authorities. We had neither the right nor the facilities to inspect camps, and we could have done nothing had we had reason to doubt the truth of the answers--which, in the absence of opportunity to inspect conditions, we had not.

VI.

The Suzuki Cabinet and the Ending of the War

130. My entry into and service in the Suzuki Cabinet can be said to have had only one purpose: ending the war. Before treating of my activities during this period, therefore, I shall give a brief description of my previous efforts in the direction of peace, which form the background to my efforts in this period.

131. My various efforts to bring the war to the earliest possible end were the continuation and extension into war-time of my opposition to the war before its start. These efforts therefore began at once after 8 December 1941. I have already explained fully the state of my mind at that time--that I did not share the over-optimism or the illusions of most Japanese and believed that it would be extremely difficult to overcome the fighting spirit and the industrial productivity of America and Great Britain; that I did not doubt that from the Japanese point of view the war had to be ended as quickly as possible if it were not to end in complete disaster; and that I still believed that if it became a long-drawn-out war, there would be no real victor, both sides being exhausted and the world as a whole being as impoverished, dispirited and in distress as the belligerents. On New Year's Day of 1942 I took the

opportunity of the occasion to address an instruction to the staff of the Foreign Ministry to suggest this idea, elucidating the inter-relationship between war and diplomacy, the task of diplomacy at war; I told them that, though the prevailing tendency was to neglect diplomacy--which was very short-sighted--diplomacy would only gain in importance as the war progressed. We should therefore, I said, study and make every preparation to end the war, lest we should fail to seize the chance when it did come.

132. Although it would be difficult to bring about the termination of a war which had encompassed the whole world, I thought that there was some possibility offered by the idea of a Russo-German peace, which might give a beginning to the movement toward general peace. Therefore, when I had a conversation with Soviet Ambassador Smetanin in February, I told him that the relations between our two countries were like a bright spot in a troubled stormy sky, and that I desired to enlarge and extend this spot to cover other regions with the aim of restoring peace throughout the entire world--which was an added reason for the necessity of maintaining neutrality between the U S S R and Japan. I also directed Ambassador Satō in Kuibyshev to prepare the ground for such steps in order not to miss the chance when an opportunity should present itself, concerning which he would be instructed later. My resignation from the Tōjō Cabinet prevented any development of this plan.

133. Although out of office from September 1942 to April 1945, and in no position in the government, I expressed my opinion to various persons that the war had to be ended promptly. For example, in November 1944 I happened to have a conversation with General Umezu, then Chief of the Army General Staff, to whom I said that the war should be ended, perhaps by first arranging for the termination of the Soviet-German war. (General Umezu agreed, and said that although the government had failed to do anything he would continue to work for this idea.) *Umezu*

134. On 8 April 1945 I received in Karuizawa, where I was then living, a request from Admiral Suzuki, the Premier-Designate, to come to Tokyo to see him. Accordingly I returned to Tokyo that evening, and called on Admiral Suzuki, who asked me to become Foreign Minister in his cabinet. My earnest desire being to bring about peace promptly, I considered that, for this purpose, it was necessary that the Premier share with me not only the desire for prompt peace but also the estimate of the war situation and its prospect. I therefore asked his view on the prospect of the war before giving him my answer to his request. However, having heard him state his estimate of the war situation, which differed from mine, although I found him sincere and earnest for prompt peace, I felt that I could hardly accept the responsibility of directing diplomacy unless we had identical opinions on the prospect of the war, and left, telling him so. I soon received earnest and serious persuasions from many quarters to enter Admiral Suzuki's Cabinet and enlighten him on the matter: Admiral Okada; Mr. Matsudaira Tsuneko and Mr. Hirota Kōki, seniors of the diplomatic service; Marquis Matsudaira Yasumasa, Private Secretary to the Lord Keeper of Privy Seal; Sakomizu Hisatsune, Chief Secretary of the Cabinet, urged me to accept the post. After another talk with Admiral Suzuki at which I reiterated my views, he agreed to them, as a result of which I accepted the appointment.

135: Upon becoming Foreign Minister, my chief concern was how to realize my long-cherished desire, prompt restoration of peace. Shortly after taking office, I received a call from our Minister to Finland, Sakaya Tadashi, who told me that some arrangement had been made between my predecessor, Mr. Shigemitsu, and the Swedish Minister, Mr. Bagge, according to which the Swedish Government would, on its own initiative, sound out the American peace terms and inform us. Minister Sakaya asked my opinion of this plan. I replied that it was the first time that I had heard anything about it, but that such services by Minister Bagge and his Government would be very much appreciated by me, inasmuch as I was eager for an early peace. I instructed him to convey to Mr. Bagge my words to that effect. Nothing came of this scheme, however, and in fact an attempt in another direction was begun soon, that of securing Soviet mediation for peace.

136. As early as 1942, as I have already stated, I had attempted to bring about world-peace, using the good relations between Japan and the U S S R as a starting point, but the situation had greatly changed since that time. On 5 April 1945--shortly before I became Foreign Minister--the Soviet Government had given notice of abrogation of the Neutrality Pact, though it had by its terms still more than a year to run. Immediately upon my assumption of office I received requests from military and other quarters to make efforts for cooperation with the U S S R, but it seemed to me that it was too late, and I therefore warned them that the possibility of Russia's having concluded an agreement with Britain and the United States for division of the spoils of the war had to be taken into consideration, and I carefully watched the world situation with a view to seizing a good opportunity for the restoration of peace.

137. Toward the end of April, the defeat of Germany became an accomplished fact, and in the beginning of May the Doenitz régime surrendered unconditionally. I considered that this surrender provided an opportunity to achieve the ending of the war, and therefore, in early May, when I reported to the Emperor on the causes of the defeat of Germany, among which air-raids were one of the major factors, I took the opportunity to add that now that air-raids on Japan were becoming severer we should promptly bring the war to an end. I advised the Premier to the same effect, and urged him to convene a meeting composed only of the principal members of the Supreme Council for the Direction of War. The reasons for this were that the ordinary meetings, in which the secretaries participated, had a tendency to be formal and adopt a strong stand, and there was also danger of leakage of secrets to the lower military ranks through such meetings. My advice was adopted and the principal members of the Supreme Council met three times in the middle of May. (General Umezu can also claim some credit for bringing about the meetings in this form). At the meeting of 14 May, after much discussion it was agreed that in view of the war situation and events abroad, Japan should realize a speedy termination of the war. As to the measures to be adopted, it was further agreed that, although an approach through the Chungking régime or negotiations through such neutrals as Switzerland or Sweden could be considered, it was clear that an approach through such countries would end in the American demand for unconditional surrender; and that therefore the only way was to request Soviet mediation, although that too might be too late in view of the world-situation.

Umezu

138. The policy thus being decided, I requested Mr. Hirota to have a talk with Mr. Malik, the Soviet Ambassador, to feel out the Soviet reaction. They met several times in June, at Gōra, Hakone. These conversations, Mr. Hirota informed me, were productive of a friendly atmosphere. Meanwhile, on 6 June a meeting of the Supreme Council for Direction of the War was suddenly called, and on 8 June an Imperial Conference was held. I stated on that occasion that the international situation was so unfavorable for us, and that war-time diplomacy was to so great an extent under the influence of the war situation, that we were likely to find ourselves in a position of extremely great difficulty. The war situation continued to deteriorate.

139. On the other hand, on several occasions since April I had explained my views on the necessity of ending the war quickly to the Lord Keeper of the Privy Seal, who informed me on 15 June that it was the Emperor's wish to see an early end of the war, and said that it was necessary to request Soviet mediation to gain an honorable peace even if the price was high, lest it become too late. On 18 June, a meeting of the chief members of the Supreme Council was held, and after deliberation an agreement was reached to the effect that proper measures for ending the war should be expedited, in view of the war situation. Accordingly, I reported the developments to Mr. Hirota and urged him to speed up his conversations with the Soviet Ambassador. On the following day I reported to the Throne the measures taken regarding the U S S R and the mission entrusted to Mr. Hirota; the Emperor expressed his desire for an early ending of the war without fail, in spite of the great difficulties, to which I replied that I would exert myself to the utmost, doing everything in my power. On 22 June, the Emperor called into his presence the chief members of the Supreme Council and expressed his wish that each of us there assembled should exert his efforts toward bringing the war to an end. It was about this time that I learned that the heads of state of the United States, Great Britain and China were soon going to meet at Potsdam in a conference in which the Soviet chief also would be taking part, and I wanted the Soviet Government to be informed of the Emperor's wish for an early peace before such a conference should take place. I sent instructions therefore to Ambassador Satō to convey the Emperor's wish to the Government of the U S S R (Exhibit No. 2696). Our intention to dispatch a special mission was also communicated to Moscow. The Soviet reaction, however, was not favorable.

140. On 26 July the Potsdam Declaration was issued by President Truman, Prime Minister Churchill and Generalissimo Chiang. At a meeting of the Supreme Council of the following day, I pointed out that the Declaration offered in effect a peace on terms, and that serious consequences would follow if we rejected it. It was therefore agreed that we should wait and learn the Soviet reaction to the proposal for mediation. At the Cabinet meeting that afternoon the same explanation was given, and it was agreed that the Declaration should be passed without comment and the press be guided not to play it up, in order to guard against unfavorable public reaction to it. The press unfortunately reported the Premier's statement that the Government had decided to "ignore" the Declaration, which was interpreted in the United States and elsewhere as a rejection and was used by President Truman as justification for the use of the atomic bombs and by the U S S R as reason for entering the war against Japan.

141. On 6 August the atomic bomb destroyed Hiroshima, and warning was served that the United States would drop the bombs until Japan was annihilated if she persisted in her rejection of the Potsdam Declaration. I instructed Ambassador Satō to press for an interview with Foreign Minister Molotov, at least to clarify the situation. The request by the Ambassador was not acceded to by the Soviet Government, and although Mr. Molotov returned to Moscow on 5 August, it was not until the 8th that Ambassador Satō was notified that Mr. Molotov would receive him at 5 P.M. of that day (Exhibit No. 2705). After that we received no communication from our Ambassador; but in the morning of the 9th I received from the radio-room of the Foreign Ministry an urgent report that it had been broadcast from Moscow that Mr. Molotov had handed to Ambassador Satō a declaration of war against Japan. Hostilities were also reported from Manchoukuo to have commenced at midnight preceding. At 11:15 A.M. of the 10th I received Soviet Ambassador Malik at his request and received from him the first formal communication from his Government notifying the declaration of war against Japan. Having mentioned to him the Soviet commencement of war when the Neutrality Pact was still in force, and when the Soviet Government had not yet replied to Japan's request for mediation between Japan and the Allied Powers, I asked him to transmit to his Government our reply relative to the Potsdam Declaration.

142. The situation having thus become very serious, a meeting of the Supreme Council was held at 11 o'clock that morning. All members recognized the difficulty of continuing the war, after the use of the atomic bomb and the Soviet entry into the war, and no one in the Council expressed objection to acceptance in principle of the Potsdam Declaration. Various opinions, however, were expressed regarding the conditions upon which it was to be accepted; all agreed that the preservation of the fundamental structure of the state should be made a condition, but the Army and Navy High Commands and the War Minister wished to add three more conditions: a) that the Allied forces would refrain so far as possible from occupying the mainland of Japan, and that if occupation was unavoidable it would be on a small scale and would exclude Tokyo; b) that the disarming of the Japanese forces should be done voluntarily by the Japanese themselves; c) that the punishment of war-criminals should be entrusted to the Japanese themselves. No agreement could be reached, and the meeting was adjourned; a Cabinet meeting in the afternoon was no more able to agree, though most of its members agreed with me that the condition for accepting the Potsdam Declaration should be limited to the absolutely necessary one of preserving the fundamental structure of the state. The matter was discussed that night when the Supreme Council and the President of the Privy Council met in the presence of the Emperor, at his command. I repeated my previous statement and strongly urged the acceptance of the Potsdam Declaration without any condition excepting that of the preservation of the fundamental structure of the state, but there were various opinions demanding other conditions and insisting on their necessity. Finally the Emperor expressed accord with my views and the wish that the Potsdam Declaration be accepted to relieve the sufferings of mankind and to save the country from ruin. The decision having been given, a Cabinet meeting was held thereupon at 3 A.M., and our answer was unanimously approved by the Cabinet. Accordingly I ordered the Minister in Switzerland to transmit it to the United States and China through the Swiss Government, and the Minister in Sweden to transmit it to the U S S R and Great Britain through the Swedish Government (Exhibit No. 3).

143. Trouble arose again, however, when the contents of the reply from the four Governments to the Japanese Government became known to us. I learned of it for the first time from the Foreign Ministry radio-room, and finding the phraseology somewhat unclear, instructed the officials of the Ministry to study the text. They reached the conclusion, after studying it carefully, that it could be interpreted as being generally in conformity with our understanding that the Potsdam Declaration did not imply a requirement of a change in the fundamental structure of the state, and that we should accept the Potsdam Declaration without proposing any further conditions, unless we were prepared to face and resolved to accept the breakdown and collapse of our peace efforts. Meetings of the Cabinet and the Supreme Council were held to consider this reply of the four Governments. Stating my views in these meetings, I strongly advised the acceptance of the Declaration with no further representations; but there was strong opposition by the group led by the Minister of War, insisting that the reply was unsatisfactory and unacceptable, and that further negotiations should be attempted. In these circumstances a conference was again called in the presence of the Emperor in the morning of the 14th. Again the conference could not reach a decision. At last the Emperor himself stated that we must accept the Declaration, that the polity and the existence of the Japanese nation should be preserved and the sufferings and hardships of mankind be alleviated. At 1 P.M. a cabinet meeting was held, and subsequently the Imperial Rescript accepting the Potsdam Declaration was promulgated. The acceptance was communicated to the Allied Powers through the Swiss Government in the morning of the 15th.

144. The grave decision to end the war having been made, Premier Suzuki called a meeting of the Cabinet on the 15th, at which he proposed the resignation en bloc of the Cabinet for the reason that he had much troubled the Emperor by having to request his decision, and that someone else should replace him. All agreed, and the resignations were submitted to the Emperor. On the following day Prince Higashikuni called me and requested me to remain as Foreign Minister in the Cabinet which he was forming, but I refrained from accepting it on the ground that the reason for Admiral Suzuki's resignation applied equally to me.

145. As I have testified above, I had striven throughout my career to see Japan maintain friendly and peaceful relations with the world, and had exerted every possible effort in the last critical months to improve relations with the United States, Britain, China and the other powers and to avert the Pacific war. At last I was driven into a position where, as I saw it, conditions no longer permitted me to oppose war, and I failed. But from the day of the outbreak of the war I devoted myself with special care to bringing about as speedily as possible the end of the war; and after becoming Foreign Minister in April 1945 I worked actively toward that end at the risk of my life, resisting all stubborn opposition of various circles until at last the decision for terminating the war by acceptance of the Potsdam Declaration was reached on 14 August 1945. It is the great sorrow of my life that I was not successful in preventing war in 1941, but it is a matter of some consolation for me that I was able by my efforts to contribute to lessening the suffering of mankind by ending it in 1945.

Def. Doc. No. 2927

O A T H

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

Tōgō Shigenori (seal)

On this 12th day of December, 1947

At Tokyo

Deponent: Tōgō Shigenori

I, Nishi Haruhiko, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date

At Tokyo

Witness: Nishi Haruhiko. (seal)

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages, and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
12 December 1947

R 36,027

24 DECEMBER 1947

LANGUAGE CORRECTION

If the Tribunal please, the following language correction is submitted: Reference Exhibit No. 1161, second paragraph, Lines 3-5 and Record Page 36027, Lines 9-11, delete "when I am already done with. I don't want to continue this hypocritical existence, deceiving other people" and substitute "; now that I am already a dead horse, for me it is painful to continue in a deceptive existence, deceiving myself and others."

LANGUAGE ARBITRATION BOARD

INTERNATIONAL PROSECUTION SECTION

M E M O R A N D U M

23 December 1947

TO: Mr. D. N. Sutton

FROM: G. S. Woolworth

SUBJECT: Suggestions as a basis for cross examination of TOGO in connection with his responsibility for mistreatment of POW

Paragraphs 122 to 129 of the affidavit of TOGO, Shigenori attempt to show that he had no responsibility for the maltreatment of POW in violation of treaties and assurances in connection with POW matters.

Article LV, Chapter IV of the Constitution of Japan enforced during World War II (Exhibit 68), provides as follows: "The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.***;" and the Preamble to the Constitution charges that, "Our Ministers of State on our behalf, shall be held responsible for the carrying out of the present Constitution.***" Article I of the Imperial Ordinance (Exhibit 76) relating to the organization of the Ministry of Foreign Affairs, reads pertinately as follows: "The Minister of Foreign Affairs shall control affairs relating to the conduct of political affairs concerning foreign countries, to the protection of Japanese commercial affairs in foreign countries and to Japanese subjects residing in foreign countries, and direct and supervise Japanese diplomatic and consular offices****." (underscoring supplied).

The statements contained in paragraphs 123 and 124 of TOGO's affidavit are belied by Annex 1 to Exhibit 1958, appearing at page 14,301 of the Record, which reads as follows: "Reply from Vice Minister of War to Vice Minister for Foreign Affairs, January 23, 1942 - 'In answer to your inquiries in clear No. 52 and No. 53, dated January 13 and No. 85, dated January 16, the views of this Ministry are as follows: I. Concerning No. 52: (1) In view of the fact that the Geneva Convention relating to prisoners of war was not ratified by His Majesty, we can hardly announce our observance of the same. But it would be safe to notify the world that we have no objection to acting in accordance with the Convention in the treatment of prisoners of war. (2) As regards providing prisoners of war with food and clothing, we have no objection to giving due consideration to the national or racial habits and customs of the prisoners.***"

No hint of the phrase "mutatis mutandis" appears in this communication from the Vice Minister of War to the Vice Minister for Foreign Affairs, however, Exhibits No. 1469 and 1496, appearing respectively at pages 12,788 and 12,822 of the Record, show that TOGO, while Foreign Minister, did not adopt the language of the Vice Minister of War in his answer to the American Government through the Swiss Government by inserting the phrase "mutatis Mutandis" and applying his own definition to that phrase.

TOGO, having given assurances to the enemy countries that Japan would act in accordance with the Convention on treatment of Prisoners of War, on 29 July 1942, informed the British Government through the Swiss Minister, as follows: "****I hasten to inform Your Excellency that the Imperial Government, having established a principle of not recognizing any representation of interests in occupied territory, the visit made by their delegates to camps of prisoners and civilian internees in the territories enumerated in the above mentioned letters, cannot be followed up, but in Shanghai alone, in occupied China, the competent authorities can give their authorization****." (Exhibit 2016-A, Record page 14,728). Such action was not only in violation of the provisions of the Geneva POW Convention of 1929, but also of The Hague Convention No. 4 of 1907.

Again on 15 May 1945, TOGO sent the following Note Verbale to the Swiss Legation: "Referring to Notes Nos. CC.1.3.8. - EGf. and CC.1.3.8. - EGc./CC.1.7.57/CC.1.7.60., of the Swiss Legation under dates of 4th July and 18th November, 1944, and following the Note No. 246/C.R. of 26 August 1944, the Imperial Ministry of Foreign Affairs has the honor to inform the Legation as follows, based on the report of competent authorities: 1. As regards notification of transfer of prisoners of war (paragraph 1-A of the British Government's protest transmitted by note No. CC.1.3.8. EGf of 4th July 1944), it was replied to by letter No. 246/C.R. of 26 August, 1944. 2. As regards the treatment of prisoners of war (paragraph 1-B of the British protest), the authorities concerned regret that the situation of prisoners of war in Moulmein camps and in the outskirts of that city are such that the concentrated efforts of all the sanitary services of the Japanese troops cannot prevent the spread of diseases of the digestive system, etc. cases of which have increased, caused not only by the very bad conditions due to the climate, but also by the frequent interruption, in the rainy season of 1943, of communications with these localities. The prisoners are not the only ones who suffer from this difficult situation; the Japanese troops stationed in the same region were themselves obliged to face the same situation. But by the extraordinary efforts of the troops in those places, in the autumn of the same year, necessary sanitary installations were completed, and in consequence the number of sick and deaths was considerably lessened. 3. The inquiry made into the subject of the exhibition of prisoners of war (paragraph 1-C of the British protest) discloses that no such thing ever occurred. 4. The full inquiry made by competent authorities has shown that it is impossible to accept the allegation of the British Government that atrocities were committed by Japanese troops in Burma (paragraph 2 of the British protest and the last part of the letter of 18th November 1944). The competent authorities, who are just as concerned about the treatment of prisoners of war now as they have been in the past, continue to guide the Japanese troops accordingly at these places." (Exhibit 2022, Record page 14,754).

This shows, in the first place, that the protest forwarded by the Swiss Legation on 26 August 1944 was not answered for over nine months and the note of 18 November 1944 was not answered for approximately six months. Paragraph 2 of this Note shows knowledge of the bad conditions under which POW were kept in the Burma-Siam area, contrary to the treaties and assurances. The statements contained in paragraph 4 in denial of the protests regarding atrocities committed by Japanese troops in Burma, were untrue, as evidenced

by the testimony of Colonel Coates, appearing at pages 11,404, et seq. of the Record, and the testimony of the late Colonel Wild appearing at pages 5,513 et seq. of the Record. Furthermore, the Japanese Government is charged with knowledge of the ill-treatment of POW in the Burma-Siam area as early as the summer of 1943, as appears from the testimony of General WAKAMATSU, Exhibit No. 1989, at page 14,633 of the Record.

In the Note Verbale dated 1 August 1945 from TOGO to the Swiss Legation in reply to a protest from the United States regarding the labor of POW in POW Camps in Japan, TOGO denied subjecting American POW to illegal labor (Exhibit 2025-A, Record page 14,833). However, Exhibit 1960, dated 30 May 1942 and Exhibit 1962, dated 25 June 1942, directives from TOJO to the effect that "no prisoners should be allowed to lie idle, doing nothing but eating freely," were official directives of which the Foreign Minister is charged with notice.

TOGO's attempt to disclaim responsibility in connection with protests and inquiries regarding POW, fails in view of Article I of the Imperial Ordinance, Exhibit 76, hereinabove quoted, as well as by the provisions of attached IPS Document No. 3337, "Matter Relating to the Establishment of an Office Concerning Japanese Residing in Enemy Countries and Enemy Nationals Residing in Japan." In particular, Paragraph I (3) implements Article I of the Imperial Ordinance, Exhibit 76, and reads as follows: "I. Work to be handled by the new office. (Full liaison shall be maintained with bureaus and sections concerned.) ***** (3) Matters relating to enemy nationals who are internees, prisoners of war, or interned in concentration camps under Japanese jurisdiction. Looks after business related to the treatment (food, clothes, living quarters, inquiries and answers as to safety, communication of the "list" /T.N./ of their names/, appointment of, and calls on, the nation representing their interests and the delegation of the International Committee of Red Cross, communications, relief, labor, punishment, repatriation, etc.) of the above mentioned enemy nationals. Among the abovementioned business shall be included, replying to proposals from enemy countries and other sources. (4). In dealing with the abovementioned business, shall handle negotiations with and guidance to the interest protecting power, International Committee of the Red Cross or Vatican, and to give guidance to relief bodies at home and abroad. *****"

Approval for the establishment of the above office was given 14 November 1942 after TOGO had left the Foreign Ministry, but was still in force and effect from April 1945 to the end of the war while TOGO was again Foreign Minister. During TOGO's first term of office as Foreign Minister - October, 1941 to 2 September 1942, these matters were handled by the Treaty Bureau of the Foreign Ministry, for whose actions, of course, the Foreign Minister was responsible.

Paragraph 127 of TOGO's affidavit is in the nature of a plea in confession and avoidance, but the "control" of such matters residing in the Minister of Foreign Affairs by virtue of Article I of the Imperial Ordinance (Exhibit 76) and its implementing regulations; establishment of the "Office Concerning Japanese Residing in Enemy Countries and Enemy Nationals Residing in Japan," squarely fix the responsibility on the Foreign Minister to see that Japan's treaties and assurances regarding treatment of POW were lived up to.

Drafted: November 12, 1942

Approved: November 14, 1942

from: Section 2 of the
Treaties Bureau

Draft Submitted for Approval of Higher Office "Matter
Relating to the Establishment of an Office Concerning
JAPANESE Residing in Enemy Countries and Enemy Nationals
Residing in JAPAN."

In the present GREATER EAST ASIA War, the Foreign Ministry finds it necessary to ensure the protection of JAPANESE interned in enemy countries and also make the world aware of JAPAN's moral principles by treating the enemy nationals under our jurisdiction and control in a fair and just manner. Since the treatment of JAPANESE Nationals interned in enemy countries and the treatment accorded enemy nationals under our jurisdiction have an inseparable and close relationship, it is necessary that matters relating to the above, which are now being dealt with by various bureaus and sections, be unified and dealt with in a comprehensive manner. Therefore, it is requested that a new office be established under the direct jurisdiction of the Vice-Minister, and composed mainly of repatriated diplomats; and have this office deal with the afore-mentioned matter.

We hereby request your approval.

I. Work to be handled by the new office. (Full liaison shall be maintained with bureaus and sections concerned.)

(1) Matters relating to investigations and improvements of the conditions of JAPANESE nationals who are prisoners of war, internees, and internees in concentration camps in enemy nations.

It shall have the Interests Protecting Representative Nation; the International Red Cross Committee; the exchanged repatriates, or the Vatican, report on the conditions. As regards unsatisfactory treatment, requests for improvements and protests shall be presented through proper channels, or relief funds and goods shall be forwarded by the Government, the JAPANESE Red Cross Society, Overseas Japanese Associations, etc., to improve conditions.

The location and safekeeping of the aforementioned JAPANESE (excluding prisoners of war) shall be investigated, and a list of names shall be made which will be announced in newspapers and the Official Gazette, or communications made with families residing in JAPAN.

(2) Matters relating to exchange of residents with enemy nations.

(3) Matters relating to enemy nationals who are internees, prisoners of war, or interned in concentration camps under JAPANESE jurisdiction.

Looks after business related to the treatment (clothes, food, living quarters, inquiries and answers as to safety, communication of the "list" (T.N. of their names), appointment of, and calls on, the nation representing their interests and the delegation of the International Committee of Red Cross, communications, relief, labor, punishment, repatriation, etc.) of the above-mentioned enemy nationals. Among the above-mentioned business shall be included, replying to proposals from enemy countries and other sources.

(4) In dealing with the above-mentioned business, shall handle negotiations with and guidance to the interest protecting power, International Committee of the Red Cross or Vatican, and to give guidance to relief bodies at home and abroad.

(5) Business related to Liaison and Consulting Association for affairs of non-combatant internees.

(6) Though the protection of the Japanese who are not interned or are not made to live in a concentration camp, or of those living in countries with which diplomatic relations are severed, is to be looked after by the Political Affairs Bureau, it shall keep in close touch with this office.

II. Personnel constituting the new office will, for the time being, be as follows:

Minister (Class	1
General Consul Class	1
Consul Class	3
Vice-Consul Class	3
Hannin officials	5
Officials of non-regular status	5
Miscellaneous employees	5
Laborers	8

Non-regular service officials, miscellaneous employees, and laborers shall be, as a matter of principle, selected from those within the Ministry.

Data for Explaining at Cabinet Meeting
re Internee and P.C.W. Duties (November 19, 1942 "JO" 2)

The Foreign Ministry has, with Minister SUZUKI, who returned recently to JAPAN from EGYPT and who has been ordered to engage temporarily in FOREIGN Ministry Duties - as their chief, arranged to have several diplomats and Consulate members, who have returned to JAPAN from enemy countries, engage in the following duties, maintaining liaison with the Bureaus and Sections concerned:

- 1) Duties regarding Investigations and Improvement of the Conditions of Japanese held as Internees, Concentration Camp Internees or POW's in Enemy Countries.

The Interest Protecting Powers, the International Red Cross Committee, Exchanged Repatriates or the Vatican shall make reports regarding their condition (clothing, food and living quarters, hygiene, labor, punitive measures, communication with their home country, etc.); to submit demands or protests through suitable channels regarding any bad treatment; or to try to improve their conditions by sending Relief goods from the Government, Japan Red Cross Society, and Overseas Compatriot Societies /T.N. KAIGAI KOKO KYOKAI/ etc. Investigating the addresses and state of health of the aforesaid JAPANESE (excluding POW's) and compiling Name Registers, or publishing same in the newspapers or the "Official Gazette" or enabling them to communicate with their family members in JAPAN.

/Page 7/

- 2) Business with enemy countries concerning the exchange of residents.
- 3) Business relative to the prisoners of war, internees or enemy countries' nationals who are now in concentration camps as internees within the influence of JAPAN.

Business will be handled pertaining to the treatment of enemy nationals, the visit by the representatives of the interest-protecting powers or by the members of the

Red Cross Society's International Committee, Shipments from enemy countries of relief supplies and remittance of money, inquiry and information as to the status of the persons affected.

The above business includes such jobs as dealing with protests or any other representations that may be submitted by enemy countries and others.

- 4) With regard to the prosecution of the aforementioned business: liaison with various government agencies in JAPAN, negotiations with the protecting powers, the International Committee of the Red Cross Society and the Vatican, and guidance of such negotiations; guidance for the relief associations at home and abroad.

Further, the affairs relative to the protection of Japanese-owned assets in enemy countries will, just as heretofore, be put under jurisdiction of the Foreign Trade Bureau of the Foreign Office; and also matters relative to disposal of assets owned by enemy nationals in JAPAN under the jurisdiction of the Finance Ministry just as in the past.

Thus these matters will be handled by the Enemy Assets Control Commission formed by the relevant officials of various ministries.

Subjects for review

1. Navy's request outside Saigon not to speak Navy's desire for conducting surprise attack - (Robinson)
2. Decision at cabinet Nov 1-2 for war if negotiations terminated - 40 59-60-61 - Logo had power to keep Japan out of war. (1) Navy's call of cabinet (2) but decision of 8 Super + war Dec
3. Ko-A-1N - See copy questions
4. Logo's speech 23 Apr 1945 - Doc 3328 ^{had if w} _{could it be} -
see at - 3636 (Compendium answers 9 & 4)
(Lange 16) = over
(6) my copy of June 45 - decision battle in Japan wanted
to not force (Lange 19)
5. P.W. (Lange 18) Woolworth's views -

INTERNATIONAL PROSECUTION SECTION

NETHERLANDS DIVISION

To: Mr. J. B. Keenan

18 Dec. 1947

From: A. T. Laverge

Subject: Cross-examination of TOGO.

- 1) In the affidavit of TOGO, there are certain specific points which are ^{not} contradiction to evidence already introduced or to known facts which, however, have not been proved. I will list these facts hereunder in the order in which they appear in the affidavit, taking into account that, as I understand it, you do not desire to cross-examine TOGO on his activities prior to October 1941.
- 2) There is one statement in the affidavit concerning the Tripartite Pact, which although dealing with the year 1940 should be contradicted by the Prosecution.

At the top of Paragraph 37, on Page 15, TOGO states that the Tripartite Pact was signed while he was in Moscow, that he had nothing to do with it, and that it was signed in such secrecy that very few even in the Government knew of it beforehand. However, German Ambassador STAMMER, on his way to Japan to conclude the Tripartite Pact, had visited TOGO in Moscow on 24 August and had told him that he was on his way to Japan to conclude a political agreement with the Japanese Government.

TOGO reported this to Foreign Minister MATSUOKA on 28 August 1940. This telegram is IPS Document 1590E, of which a copy is attached hereto. The question he might be asked is that:

"Q. Isn't it true that when Ambassador STAMMER was on his way to Japan to conclude the Tripartite Pact he visited you in Moscow and told you about the German plans in this respect?"

- 3) At the top of Page 15 of the affidavit, TOGO states that when the Anti-comintern Pact was extended in November 1941 he was successful in obtaining the abrogation of the secret protocol, making it appear that this was done at his initiative. This is contrary to the facts as shown in IPS Document 3121-2A (not in evidence), a copy of which is attached hereto. It appears from this that the Germans had proposed the abrogation of the secret protocol.

In addition, whatever TOGO's attitude might have been towards the Anti-comintern Pact originally, in 1941 he states that he did not desire the Pact to terminate but wished to prolong it.

Document 3121-2A should be introduced in evidence either during the cross-examination or in rebuttal as in addition to TOGO's views on the Anti-comintern Pact it contains on Page 4 the following remarks:

"Q: You have just said that the resolute attitude of Japan has a great effect upon the United States, but is the mission of Ambassador KURUSU also resolute?"

"T: Not only the mission of Ambassador KURUSU but also the attitude of the Japanese Government is firm. There is a limit to the concessions to be made by our Government, and I, as Minister, can not assent to acceding this limit."



This statement is of importance as it was made as early as 27 October 1941.

- 4) In Paragraph 44, on Page 18, TOGO states that he was well acquainted with the situation existing at the time when he was requested to join the TOJO Cabinet. He does not state how he came to know about this and his factual knowledge should be stressed in cross-examination.

In Paragraph 46, at the top of Page 20, he contradicts his previous statement by stating that he had no knowledge of the Imperial Conference decision of 2 July and only vague knowledge of the decision of 6 September. This again is contradicted by the witness YAMAMOTO (Exhibit 2915) who states that TOGO had requested and obtained assurance on various points of the 6 September decision before accepting the portfolio of Foreign Minister. If this is true, TOGO must have had more than just a vague knowledge of this decision.

- 5) Paragraph 47, on Page 20, leaves considerable room for cross-examination but unless you wish me to drop specific questions, I will not go into this as presumably this is already being dealt with by you.
- 6) In Paragraph 49, on Page 21, TOGO states "With all public opinion which manifests itself approving of and supporting Japan's course during and since the Manchurian Incident, it was unthinkable for any Cabinet even to consider ignoring all of the changed conditions which had resulted from those years of warfare." Public opinion in Japan, of course, could not manifest itself and the whole statement he quoted amounts to nothing else but that Japan was not prepared to give up the fruits of aggression.

7) In Paragraph 53, on Page 24, TOGO states that he managed to obtain agreement from the military authorities that upon reaching an agreement with the United States, all troops would be immediately withdrawn from Southern French Indo-China. No such concession is to be found in the Japanese proposal "A" in which the other concessions are listed. The concession is included in proposal "B" but is the only concession Japan was willing to make in this proposal, the United States on their part having to lift all freezing measures, support Japan, and stop assistance to China.

8) In Paragraph 56, on Page 25, TOGO, in discussing the decision to go to war in case the United States refused to accept either proposal "A" or proposal "B", states that he insisted that even if negotiations should end in failure Japan should be patient and await a changed situation.

The witness YAMAMOTO (Exhibit 2915), testifying on the same subject, stated that TOGO insisted that Japan should manage herself with patience at least until American participation in the European war.

The witness TANAKA (Defense Document 1029), again discussing the same subject, stated that TOGO's opinion was that Japan should not go to war but persevere under all difficulties and wait for the opportunity to mature.

Both the witness YAMAMOTO and TOGO himself (same Paragraph 56) state that TOGO's main objection to agreeing to a decision for war was that he thought that Japan was not strong enough and could not possibly win. As, however, the military were confident of success, he finally agreed to the decision for war. All these statements are contradictory to TOGO's assertions that he was against the war in principle.

9) In Paragraph 78, on Page 35, TOGO discusses the contents of the final note. He does not deny, but neither does he positively admit, that the draft of the final note as originally submitted by the Foreign Ministry to the Liaison Conference did never contain more than a statement of breaking off the negotiations and that at no time was there any Foreign Ministry proposal to add a reservation regarding freedom of action. Although the evidence on this point is confused, this may be taken as a fact.

10) In Paragraph 82, on Page 37, TOGO discusses President Roosevelt's personal message to the Emperor. IPS Document 3122 (not in evidence) states that TOGO never showed the message to the Emperor. He should be made to admit this under cross-examination. If he denies it, we can prove it in rebuttal.

- 11) In Paragraph 86, on Page 39, TOGO admits that he knew that Japanese consular and diplomatic establishments abroad were used for military intelligence purposes and that military information thus collected was sent to the Foreign Ministry and passed on from there to the military authorities. He denies ever having seen any of the vital Pearl Harbor messages which were received by the Foreign Ministry in the weeks before the outbreak of war. If he had really felt that the military kept things secret from him, nothing would have been easier than to get full information from all these telegrams which were addressed to him as Foreign Minister.
- 12) In Paragraph 99, on Page 14, TOGO states that the China Affairs Board was created because the Foreign Ministry's policy toward China was too liberal and the militarists wanted, therefore, to have China affairs dealt with by an organization under their control. This is excellent evidence against SUZUKI who was the main figure in the China Affairs Board. If you so desire, I can draw specific questions to emphasize the point TOGO makes here.
- 13) In Paragraph 101, on Page 45, TOGO discusses his directives that the Manchukuo and WANG CHING WEI Governments should, when Japan entered the war, consider United States, Great Britain, and the Netherlands as defacto enemies. He states that there was nothing unusual in these messages and should be asked if it is his assertion that the Manchukuo and WANG CHING WEI Governments were independent and not under the control of Japan.
- 14) In Paragraph 105, on Page 46, TOGO states that it was Japan's intention to avoid entering into belligerency with Netherlands East Indies. He should be asked how he can reconcile this statement with the fact that as of 8 December 1941 Japan's naval, land, and air forces were under instructions to consider the United States, Great Britain, and the Netherlands as their enemies. He should also be asked if it was not a fact that Japan, although fully intending to occupy militarily the Netherlands East Indies, omitted serving a declaration of war upon the Netherlands because landing operations in the Netherlands' territory were not immediately to take place and it was, therefore, hoped that the Netherlands would refrain from opening hostilities against Japan until such time as the Japanese operations in the South had advanced sufficiently.
- 15) In Paragraph 108, on Page 47, TOGO disclaims all knowledge concerning Exhibit 1333A, a plan ~~found~~ in the Foreign Ministry providing for the final disposal of the southern regions. He calls the document extraordinary and ridiculous and might be asked if the plans laid down in this document were not generally in line with the plans for the disposal of the southern regions discussed and decided at various times prior to, during, and after the time he was Foreign Minister. He should then be asked if, as according to his own statements, he kept in touch with general events after his resignation, he knows that an Imperial Conference was held on 31 May 1943, at which Imperial Conference

the final plans for the disposal of Japan's newly conquered territories were approved.

(Note: There is no evidence in the case concerning this Imperial Conference and we have never been able to obtain a record of the decisions reached. All we know is that it dealt with the organization of the Co-prosperity Sphere and that specific plans were adopted as to which regions would be incorporated in the Japanese Empire, which regions would be created as semi-independent states, and what their relations to Japan would be)

16) In Paragraph 121, on Page 51, TOGO refers to the Greater East Asia Ambassadors' Conference in Tokyo on 23 April 1945. The resolution adopted by that conference was introduced in evidence in the TOGO phase. In that same conference, TOGO held a speech in which he stated Japan should fight America and Great Britain to the last. This speech, as reported in the Mainichi of 24 April 1945, is contained in IPS Document 3329 attached hereto. If TOGO should be willing to identify this speech it might be introduced in evidence and would to some extent counter his assertions that he desired nothing but peace.

17) In Paragraph 123, on Page 52, TOGO states that he was not informed about the ill-treatment of Prisoners of War. In an interrogation of TANAKA, Ryukichi, as quoted in File 1, Serial 83, the following questions and answers were made:

Q: Did TOGO ever tell you about protests he received from Foreign countries relative to the treatment of Prisoners of War.

A: Yes.

Q: What did he tell you.

A: He said that complaints were coming in from the various countries stating that treatment of war prisoners was not satisfactory. You perhaps remember during Doolittle's air attack on Japan nine of the crew were killed in Shanghai, but TOGO was against the killing of those nine American flyers. His contention was that the Japanese subjects detained in the United States had not been maltreated at all and he told TOGO that to order the death of those American flyers was not the right thing to do.

As TANAKA claims to be a friend of TOGO, there is no reason why this statement should not contain the truth.

- 18) In Paragraph 127, on Page 53, TOGO deals with the situation as regards Prisoners of War during his second term of office in 1945 and he states that by this time Japan was losing the war and the situation in the occupied territories had become exceedingly confused. He should, however, be made to admit that by this time specific protests from the Allied countries came in almost every day, that the Swiss Minister found it necessary to approach him personally to complain about the many atrocities, and the non-cooperation of the Japanese Government, and that on 14 June 1945 the Swiss Minister found occasion to address the Foreign Office in the following strong terms:

"The Government of His Britannic Majesty insists on knowing if the Japanese Government has modified its policy concerning the treatment of Prisoners of War. I would be extremely embarrassed to reply but it is what you know as well as I do, that the situation has perhaps never been as bad as during the last six months." (Exh. 2016, Part 70.)

The Prosecution evidence showing clearly that during this second period as Foreign Minister, TOGO was well informed through the many protests about treatment of Prisoners of War, he should be asked to explain why he never took any steps, except the passing on of the protests to the military authorities.

- 19) In Paragraph 138, on Page 57, TOGO discusses the negotiations with the Russian Ambassador in June 1945 and the Imperial Conference on 8 June 1945. The negotiations with the Russians, contrary to what TOGO states, had not the purpose of getting the Russians to mediate for peace but were aimed at keeping the Russians out of the war and obtain Russian cooperation. Japan, on her part, was willing to make considerable concessions to Russia in China and Manchuria.

In line with this, the Imperial Conference of 8 June 1945 did not, as TOGO implies, decide on peace measures, but undertook to continue the war even as far as holding a decisive battle on the Japanese Mainland. TOGO must have been present at this Imperial Conference and must have agreed to its decision as all decisions had to be unanimous. (The negotiations with the Russians in June are reported by TOGO himself in a speech to the Privy Council in August 1945 - IPS Document 1394. The Imperial Conference is reported by KIDO on Page 262 of his affidavit.)

It is true that on 22 June the Imperial Conference decision was reversed and that from that date onwards efforts were made to approach the Allies through the intermediary of the Russian Government. Prior to that date, however, the negotiations had a completely different purpose and the decision of the Government was to continue war.

Apart from the documents mentioned above, there are several more documents which might be used against TOGO either in cross-examination or rebuttal. I will list them hereunder and attach a copy of each:

- a) IPS Document 3161 is a Foreign Office State Secret document entitled, "Draft of the Declaration Concerning the Advance of the Imperial Army. (Tentative Draft)"

The importance of this document is that it is dated 22 November 1941 and that, therefore the Foreign Ministry was already making the final preparations for war long before the first American reactions to the Japanese "B" Proposal had been received.

- b) IPS Document 3116C and 3116G. These documents, circular telegrams from TOGO to his Ambassadors abroad dated 12 and 25 November, showed that TOGO had throughout November very little hope of the negotiations with the United States being successful.
- c) IPS Document 3126A, the report by Ambassador KURUSU on his mission to the United States which shows that when he was sent off the Japanese Government had very little hope for success in the negotiations.
- d) IPS Documents 3121-1A, 3121-1B, and 3121-1C, containing further reports of conversations between TOGO and Ambassador OTT on 30 October, 6 November, and 30 November. These documents do not contain much additional information but I attach them hereto because you have ^{not} previously received them.
- e) IPS Document 3106-52, a Foreign office secret document dated 26 November 1941 and showing the measures to be taken by Japan in case the United States accepted Proposal "B".
- f) Document 1358D, a Foreign Office top secret dated 28 November 1941 and entitled "Limits of War Aims and Demands".
- g) IPS Document 1358G, a Foreign Office draft for the statement to be made by TOGO at the Imperial Conference of 5 November. The exact text of the statement is not in our possession but would presumably be along the same lines. It might be useful to question TOGO about this.

I have refrained from drafting any questions which you might ask TOGO on the above subjects as I presume that you would prefer to undertake this yourself. However, if you so desire, I will be very willing to draw up specific questions on any of the above subjects during the week-end.

A. T. Laverge



Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Suttan
FROM : Robinson
SUBJECT: Memo attached.

DATE: 23 Dec '47.

1. If you think the attached memo appropriate, please mention it or deliver it to Mr. Keenan - (in your discussion) -

Robinson.

INTERNATIONAL PROSECUTION SECTION
Legal Division

23 December 1947

Memorandum for: Mr. Joseph B. Keenan
From : Captain Robinson
Subject : TOGO Cross Examination; Suggestion for Question

1. Reference is made to TOGO's answer to Brannon on cross examination (T. 35,839, lines 6-10):

"There were other occasions, outside of these conversations at Sugamo Prison, in which the Navy side requested me not to speak of the Navy's desire for conducting a surprise attack."

2. It is suggested for your consideration in cross examination of TOGO that you ask TOGO, referring to the foregoing quotation from the record, what were the other occasions to which TOGO referred, stating the time, the persons present, and what was said on these occasions.



Respectfully,


J. J. Robinson

19 December 1947

MEMORANDUM

TO : Mr. Joseph B. Keenan,
Chief of Counsel

FROM : D. N. Sutton

SUBJECT: Cross-Examination of TOGO--KO-A-IN (China Affairs Board)

Pertinent references in TOGO's affidavit to KO-A-IN are as follows:

1. "After the commencement of the China Incident there was an increasingly strong opinion in military circles that the Foreign Ministry should be restricted as far as possible; at that time occurred the establishment of the Ko-A-In (China Affairs Board), one of the manifestations of the design to deprive the Foreign Ministry of more and more of its responsibility, protest against the creation of which was a main reason leading Foreign Minister UGAKI (himself a retired full General of the Army) to resign his office." Sec. 43, page 18. R. 35,669
2. "It was at any rate more clear than ever in 1941 that the China Incident must be settled, and I hoped when I became Foreign Minister that I should be able to achieve it. At that time the Ko-A-In (China Affairs Board) had been in charge for some years of all political, economic, cultural and other business of China (excluding Manchuria); it had its agencies at various places in China, and negotiations with regional regimes in China were its affair. The creation of the Ko-A-In had opened a new and major phase of China relations. Its purpose was frankly that of removing from the Foreign Ministry control, so far as concerned China matters, the normal functions of a foreign office; the Foreign Ministry's liberal attitude toward other countries was heresy to the militarists, who therefore managed to have China affairs confided to a new organ under their control. The Foreign Ministry's remaining jurisdiction extended only to diplomatic negotiations in Nanking--"diplomacy in the narrowest sense"--and matters pertaining to the consulate (whose main business was protection of Japanese nationals in China). Thus the connection of the Foreign Ministry with Japanese-Chinese relations was all but severed, and the Ministry had lost its power to deal with affairs in China. I was, it is true, as Foreign Minister, an ex officio vice-president of the Ko-A-In (others were the Ministers of War, Navy and Finance); but since the very purpose of the creation of that body had been the destruction of the Foreign Ministry's

authority vis-a-vis China, the influence of the Foreign-Ministry vice-president in the Ko-A-In was nothing. As has been pointed out by the prosecution (13 June 1946, Record, p. 543), the business of the Ko-A-In was conducted almost exclusively by its Director-General." Sec. 99, page 44. R. 35,747-8.

3. One of the reasons advanced by TOGO for his unyielding opposition to the establishment of the Greater East Asia Ministry was that:

"* * * the proposed plan meant the extension of the jurisdiction of the Ko-A-In, which had excited ill-feeling among the Chinese people, and it would thus be a failure." Sec. 112, page 48. R. 35,759.

4. General SUZUKI defended the Ko-A-In. The affidavit states:

"General SUZUKI, president of the Planning Board, contended that the Ko-A-In had not been a failure. I retorted that it was a fact wellknown to everyone that it had been a failure." Sec. 113, pages 48-9. R. 35,759.

TOGO's Attitude Toward Japanese Action in China.

Referring to the Manchurian Incident and the China Incident, TOGO states:

"I was never sympathetic to those incidents, and when I have been in positions of responsibility toward them I have done what I could to prevent their occurrence or spread." Sec. 98, page 44. R. 35,747.

He says later,

"I have mentioned a time or two heretofore that I had consistently opposed the China Incident from its beginning, and had worked as far as I could for its early settlement on an equitable basis. My opposition at the time of the outbreak is already in evidence (Exhibit No. 3260). I was not at that time in charge of China affairs, but I believed that for the sake of Japan's international relations generally it was a matter of urgent necessity to arrest the expansion of the incident by settling it locally. With Vice-Minister HORINOUCHI and the Director of the Bureau

of East Asiatic Affairs, ISHII Itaro, I earnestly advised Foreign Minister HIROTA that he should object to the dispatch of troops to China, to which he agreed. But our efforts failed, and the long-drawn-out China Affair got under way." Sec. 102, page 45. R. 35,750.

NOTE: Exhibit #3260 referred to above is the affidavit of HORINOCHI, Vice-Minister of Foreign Affairs from April 1936 to October 1938, who outlines in detail the steps taken by Foreign Minister HIROTA seeking to restrict and localize the China Incident. Logo was at that time European Asiatic Director in the Foreign Office.

Suggested Questions for Cross-Examination of TOGO--KO-A-IN

1. In what manner did the militarists control the Ko-A-In (China Affairs Board)?
2. What were the primary functions of this Board?
3. How did it exercise these functions?
4. You state that the militarists managed to have the China Affairs confided to a new organ under their control (Sec. 99, page 44, R. 35,747-8). Who were these militarists?
5. Was the Minister of War one of the militarists to whom you referred?
6. Is it not a fact that the Ko-A-In outlined the plans and policies for the establishment of the Wang Ching-Wei Government in China?
7. Did not the Ko-A-In lay down the policies which would be followed by the new regime in China?
8. You state (Sec. 99 of the affidavit, R. 35,747) that for some years prior to 1941 the Ko-A-In had been in charge of all political, economic, cultural and other business of China. That it had its agencies at various places in China and that negotiations with regional regimes in China were its affair. Was this the means by which Japan exercised its control over the occupied portion of China?
9. In Section 112 of your affidavit (R. 35,759) you state that Ko-A-In excited ill-feeling among the Chinese people. How was this done?
10. You state in Sections 112 and 113 of your affidavit (R. 35,759-35,760) that the Ko-A-In was a failure in China. Tell us how and why it failed.

11. You state in Section 29 of your affidavit (R. 35,748) that the business of the Ko-A-In was conducted almost exclusively by its Director General. Is it not a fact that the accused SUZUKI was the Acting Director General of the Ko-A-In ~~from 1939 to 1941?~~ *in* *Director General in 1940 & 1941?*
12. And is it not a fact that SUZUKI had, prior to the time he became Acting Director General, been Chief of the Political Affairs Department of the Ko-A-In?

NOTE: SUZUKI was Chief of the Political Affairs Department of the Ko-A-In from December 16, 1938 to August 16, 1939, and Acting Director General ~~from~~ *in Aug 1939* ~~August 16, 1939~~ until April 4, 1941.

and Director General from Dec. 1940

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From the "MAINICHI" of
April 24th 1945

March On To the Realization Of The Joint Declaration re Greater East Asia. Views Of Foreign Minister TOGO.

The modern history of East Asia is the history of the sinister designs of AMERICA and BRITAIN to dominate the ORIENT and the struggles of the East Asiatic Nations against same. AMERICA and BRITAIN have realized their avaricious ambitions with their improved arms, their brutality which knows no limits, and their skillful trickery. The various East Asiatic nations have repeatedly been defeated in detail. Some have been made colonies of AMERICA or BRITAIN, some made their semi-colonies, some were invaded to be obliged to cede territories, or some have been subjected to unequal treaties or have been economically exploited. Thus the peoples of East Asia have been placed in a miserable plight by such powers as AMERICA or BRITAIN, who dare to hint as though justice and civilization are their own exclusive possessions. The significance of the present Greater East Asiatic War is extremely great for all the nations and peoples of East Asia.

In other words, our people believe firmly that the war of self-existence and self-support for the Empire is, in its East Asiatic Scope, the turning point of success or failure for the emancipation and prosperity of the East Asian one billion various people and races. And in the view of its worldly scope, it is directly linked to the struggle that has a definite significance whether justice and the fair international order for prosperity of all the nations may become brought to the world or not. This war is the climax of the predestined struggle of East Asia against the inordinate ambitions of the BRITISH and AMERICANS and will decide eternally the success or failure of the emancipation of East Asia, and the fate of the various East Asian Countries.

Today's war situation is extremely grave. However, if our enemies, being overzealous to end the war in a brief period, should invade closer to our mainland, it would favor us with a golden opportunity for dealing a fatal blow, and we feel confident of certain victory.

And now turning to the enemy camp of our enemies BRITAIN and AMERICA, they are self-confident that the war situation is already favorable to them and are actively resorting to the spreading of their favorite political stratagems throughout the world in concert with military affairs. The plan which they want to perform after the war ignores itself entirely the moral principles of human beings. Through diabolical means, they dare to slaughter and destroy in great numbers and forget and disregard the moral principles that should naturally be made the basis of this civilized world.

Their post-bellum plan is that they will establish AMERICAN and BRITISH military bases, station military forces and take charge of the international police self-complacently and arbitrarily with the aid of their overwhelming military power; economically they are planning to control the important natural resources and international transportation self-complacently, to put an institution of monopoly of world economy in the name of international cooperation in order to allow full play to AMERICA and GREAT BRITAIN as regards international finance and commerce and also to endeavor to continue the status quo of the monopolistic prosperity of AMERICA and GREAT BRITAIN which may be preserved by the exploitation of colonies and suppression of backward nations. Furthermore, in the political field, it is clear from the international safety and security structure proposed by AMERICA and GREAT BRITAIN that their intention lies in the arbitrariness of the international administration by the Great Powers who stand for so-called democracy and speak of equality.

Inasmuch as the said sinister designs of our enemies have become more and more manifest, we recognize it as being opportune to consolidate our firm and immutable determination still further as regards prosecuting the war to a successful finish by concentrating our total strength and at the same time to actively proclaim the principles concerning the establishment of a truly just world order which is destined to cope with the disclosure of the sinister ambitions of AMERICA and BRITAIN and is based upon the joint confidence of all countries in GREATER EAST ASIA. We have been conferring with the governments of various countries for some time, and I believe it to be our duty to hasten the realization of this plan at the present Conference.

C E R T I F I C A T E

Statement of Source and Authenticity

I, S. TERAMURA, hereby certify that I am officially connected with the MAINICHI SHIMBUN in the following capacity: Chief of Reference Library (Tokyo), and that as such official I hereby certify that the document hereto attached and described as follows: Newspaper clipping of an article entitled, "March On to the Realization of the Joint Declaration of Greater East Asia, Views of Foreign Minister TOGO" was published in the Mainichi Shimbun (OSAKA) on 24 April 1945.

Signed at Tokyo on this
10th day of December, 1947

/s/

S. Teramura
Signature

SEAL

Witness: Tsunewa Kubota /s/

Chief of Reference Library
Official Capacity

Statement of Official Procurement

I, Johnson F. Munroe, hereby certify that I am associated with the General Headquarters of the Supreme Commander for the Allied Powers, and that the above certification was obtained by me from the above signed official of the MAINICHI SHIMBUN in the conduct of my official business.

Signed at Tokyo on this
10th day of December, 1947

/s/

Johnson F. Munroe
NAME

Witness: Jewell E. Newman /s/

Investigator, IPS
Official Capacity

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Togo was Chief European-
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MEMORANDUM

On the basic principles of the purchase of the Chinese Eastern Railway by Manchoukuo (submitted by the Soviet delegation at the meeting on July 3, 1933)

I. The object of the sale. The role and importance of the Chinese Eastern Railway.

1. In conformity with the Feiping and Mukden Agreements the Soviet Government agrees to the purchase of the Chinese Eastern Railway by Manchoukuo with all its property including the property of the Railway which was captured by the Mukden authorities at different times unlawfully and through acts of violence.

However, the property of the Soviet Union which does not belong to the Chinese Eastern Railway and which was detained on the Railway during the intervention or which was left on the Railway as a result of the uncompleted stipulated exchange of cars naturally does not constitute the object of the sale. This property, the inventory of which should be made by a special commission should be returned to the Government of the U. S. S. R.

Thus the following is to be purchased.

a). The railway with the main line of 1726 kms long and with the total length of 2544.9 kms including auxiliary lines, ballast lines and fire wood supply lines; wire line of 2567 kms long; telephone system and water supply;

b). The rolling stock park of the railway;

c). Civilian installations consisting of buildings for the railway personnel and passengers, stores, apartment houses, offices, military barracks and so on with the total area of 1,199,762 square meters.

d). Workshops and round-houses including the Main Harbin workshops, railway workshops, telegraph service workshops and so on.

e). Electric power stations;

f). The telephone exchange in Harbin;

g). The river flotilla consisting of steamers and non-steamers with the transit wharf in Harbin;

h). Land belonging to the Railway;

i). Forest concessions ("Chol", "Tsailinghne" and the Eastern Concession).

The Chinese Eastern Railway is also of a great importance as a main communication line of Northern Manchuria which connects this rich area having a prospect of further development with Southern Manchuria and the Ocean. There is no need to prove that the railway will not lose this importance of it after its transfer to Manchoukuo.

On the contrary, this Railway under the restored conditions for the normal functioning will be of still more importance for the life of this area and its role and value will undoubtedly increase along with the economic rise of Manchuria.

4. There are no grounds to mix the temporary deterioration of the financial position of the railway which was created recently by specific conditions disrupting its normal functioning with its actual economic condition, its importance and the possibilities for further development. It is sufficient to note the fact that from the outset of the joint Soviet-Chinese management of the Chinese Eastern Railway up to 1930 inclusive the profits of the railway exceeded its expenditures by 140 million golden roubles, i. e. approximately by 20 million golden roubles annually.

Especially it should be noted that even in 1932 in the period of the world economic crisis which heavily effected all economic life of the Manchuria and under the extremely difficult conditions for the railway created by the above-mentioned reasons the profits of the railway still exceeded the exploitation and expenditures by 11 million golden roubles.

These figures very clearly demonstrate great economic power and stability of the railway. Insufficient profitability of the railway for the Soviet Government in comparison with the tremendous exploitation expenditures of the railway may be explained exclusively by the fact that up till now the railway has been put to considerable expense to maintain and give credits to the police, guard troops, government offices and to carry out gratuitous freight and passengers transportations free of charge.

The Soviet representatives in the Board of Directors constantly met with strong opposition of the Chinese side and now of the Manchurian side in the course of their attempts to eliminate or at least considerably cut down these expenditures which are not organically connected with this railway as a commercial enterprise. Manchoukuo after assuming the possession of the Chinese Eastern Railway will undoubtedly put an end to all imposed and unproductive expenditures and thus will considerably increase its actual profits.

II. The purchasing price and the methods of payment.

1. In defining the purchasing price of the Chinese Eastern Railway and its property one should adhere to item 2, article 1 of the Mukden Agreement setting forth that the

- tutions j). Medical, sanitary and veterinary institutions
- k). Summer cottages and meteorological stations;
- l). Agronomic institutions, forest preserves and hothouses;
- waste mill; m). Sawmill, drying oil factory and cotton
- n). Soft drinks factory;
- o). Wool-carding mill;
- Harbin. p). Printing shop; water supply system in
- q). Motor vehicle park
- r). School and club buildings;
- s). Other buildings, installations and property of the railway.

2. Thus the Chinese Eastern Railway with its property is a powerful economic unit which even now plays a tremendous role in the economic life and development of North Manchuria and is of great value from the point of view of property and economic interests of the U. S. S. R. It should be noted that with the sale of the Chinese Eastern Railway certain economic rights and privileges of the U. S. S. R. which are of no small importance for the latter will be in part eliminated and in part will lose their value. This, for instance includes the obligatory use employment by the railway of many thousands of Soviet workers and employees, certain tariff advantages and so forth.

3. Speaking of the importance of the Chinese Eastern Railway one cannot but stress the great international importance of the Railway which constitutes a very important communication line between Europe and Asia. It is quite obvious that the Chinese Eastern Railway will not lose its importance after its transfer to Manchoukuo and after the removal of those obstacles which recently disrupted the normal functioning of the Railway.