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- 31649 - * Opening Statement by Mr. Howard
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- 31654 * Exhibit 3346, the affidavit of Alfred F. Kretschmer stated that the affiant wished to explain exhibit 1272 in which Ambassador Ott stated that KIMURA, while Chief of the General Staff of the Kwantung Army, from October 1939 to October 1940, especially worked in behalf of Germany and was one of the principal advocates of German-Japanese military cooperation.
- 31655 * The affiant stated that he did not word this part of the telegram but Ott's word was based, without doubt, on the affiant's proposition and its dates, which he now saw were incorrect.
- 31656 * As to the wording KIMURA had especially worked in behalf of Germany, the affiant was sure it referred to the fact that before the German-Soviet Russian war, tungsten, rubber, etc. were sent to Germany via Manchuria and the U.S.S.R. The shipments were often delayed by Japanese railroad authorities in Manchuria, and in such cases the German Mission had to ask for the help of the Kwantung Army Headquarters in Hsingking. But the affiant was not sure whether such cases occurred while KIMURA was Chief of Staff.

While KIMURA was Vice War Minister, KIMURA neither asked the affiant to his office nor did he go to his office to talk on official business, for his official business reached no higher than the political department, and he even met Major General SATO seldom officially.

- 31657 In exhibit 1272, Ott had remarked that KIMURA closely cooperated with War Minister and Prime Minister TOJO, as well as * his primary preoccupation in his position as premier had enhanced his influence on the leadership of the War Ministry, as well as his position in regard to other vice ministers.

The affiant stated that he observed nothing that indicated this statement of Ott's was true.

- 31658 Exhibit 3347, the curriculum vitae of KIMURA was received into evidence and showed he was appointed Chief of Staff of the Kwantung Army on 22 October 1940. Attention was called to exhibit 3031 to show that the Vice War Minister was on an equal footing with the * Parliamentary Vice Minister and the Parliamentary Vice Councillor.

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Exhibit 3348, an excerpt from the General Regulations for the Service and Handling of Documents provided that they should provide for items concerning affairs under the War Minister, and affairs between the War Minister and Army Air Force Headquarters.

31659 The affairs of the ministry should be divided among the bureaus and the minister's secretariat, the latter having * charge of the management of affairs thereof, unless otherwise provided.

Documents issued within or without the army might be dispatched in the name either of the vice minister or senior adjutant. The vice minister shall assist the minister, manage ministerial affairs and supervise the minister's secretariat and the respective bureaus.

Bureau chiefs shall have charge of bureau affairs, supervising their subordinates, pursuant to the minister's orders, and should establish detailed regulations concerning the affairs of the bureaus, and the senior adjutant should do likewise in connection with the secretariat.

31660 Incoming documents shall be received by the communication * clerk of the secretariat, except those addressed to bureau of section chiefs. Telegrams, except those addressed to a bureau or section, shall be received by the communication clerks of the secretariat and be translated, except those relating to personnel affairs, or those of which translation is prohibited, and will be delivered to the competent adjutant, or according to the delivery book directly to the addressee, except those relating to personnel affairs. Translations shall be conducted by officers especially nominated.

The competent adjutant shall deliver the documents according to the above regulations, except those deemed important and deserving prompt inspection by the minister, the Parliamentary Vice Minister, the Vice-Minister or the Councillor, to the Senior Adjutant. Others will be handed to clerks for delivery to sections.

31661 * The transaction of affairs of the ministry shall be entrusted to the decisions of the vice minister, bureau chiefs, or the senior adjutant, but bureau chiefs may transfer minor matters to competent section chiefs.

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Matters deemed necessary will be reported to the superiors, as the occasion arises. As to the approval of a document under consideration, the section in charge shall, in accordance with regulations, and with the degree of its importance, indicate (Vice-Minister in charge) on a column specified for approval, in case approval of a vice minister should be required, and if approval of the director is required and the document is sent to a parliamentary vice minister or councillor, the same action shall indicate this on the same column.

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* Documents of each section whose consideration has been furnished must be handed over to the secretariat for review by the adjutant, and have it carried into effect after the approval of the minister or vice minister. Those bearing an indication of matters with which the senior adjutant is entrusted must be carried into effect by the adjutant, and among matters with which the bureau chief and senior adjutant are entrusted, which are considered simple, can be carried out by the principal adjutant in charge without review by the senior adjutant.

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* Exhibit 3349, the regulations concerning the treatment of business of the War Minister provided that matters entrusted to the vice minister were the enactment, alteration, and abolition of minor laws; official tours of army department

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officials below sonin rank; * authorization of incorporations, subscription, etc.; working budgets for the Yasukuni Shrine and military museum; the imperial prince's presence at commencement exercises of army schools; emperor's approval of war relief funds; visits made as the minister's representative, connected with personnel affairs, decisions as to how many should be chosen out of officer and second lieutenant candidates; number to be admitted into military schools; assignment of officer candidates to their units; recognition of

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conscription exemption schools; school applications for attachment of officers; *special rewards to officials below hannin rank;

University lecture-attending officers, courses of lectures, and schedules; selection of officer-students to be assigned to school of foreign languages and to be sent abroad for study; matters of minor importance re conference on maneuvers, and the choice of units participating; convocation of chiefs of staff's conference and its schedule; minor matters re organization affairs; minor matters re Manchuria and China; instructions to officials abroad and professors.

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31669 * Exhibit 3350, regulations of the Kempei dated 27 November 1898, provided that the Kempei should be under the war minister's jurisdiction and should control the military policies and the administrative and judicial policies. In the execution of his duties, the Kempei shall take orders from the war and navy ministers regarding military police matters, and from the justice minister regarding judicial police matters.

31671 * Exhibit 3351, affidavit of SAWAMOTO stated that the affiant was vice minister of the navy from April 1941 to July 1944. As KIMURA's vice war minister from April 1941 to March 1943, the affiant had official relations with him during that time, but other than that had no connection. During the time the affiant was vice minister, regulations concerning the duties and responsibilities of that office were construed and practiced, as follows: the vice minister was to assist the minister in the latter's capacity as chief administrative official, and there was no stipulation by which the vice minister was to help the minister in his character as minister of state.

31672 Before the vice minister could be proxy for the minister, the cabinet must grant such permission and the minister had no such authority. Only the minister * had a right of direction and command, authority over personnel matters, and power to punish. The vice minister could do no more than help by expressing his opinion to the minister, with the exception of persons who were in service by order of the vice minister.

31673 Bureau and division chiefs were directly responsible to the minister. According to regulations, the vice minister helped the minister adjust departmental affairs, and supervised the bureaus and divisions. Adjustment of departmental affairs had as its main object the coordination of the bureaus and divisions. The vice minister also attended to matters entrusted to him, and various functions not * belonging to any other bureau or division, and other miscellaneous matters.

Supervision of business meant that to be carried out by the vice minister in the sense of helping the minister, since bureau and division chiefs dealt with matters for which they were responsible. Accordingly, the vice minister had no authority to direct, command, or cancel business assigned to bureaus and divisions. In cases necessitating such action, he could only express his opinion to the minister and await his instructions. The vice minister had authority to decide matters

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only assigned to him and no right to command outside of his jurisdiction. As to matters other than those assigned him, even though the vice minister's approval was lacking, it was not unlawful so long as the minister approved. In the navy ministry, the vice minister did not take part in the nomination and appointment of personnel.

31674 * In establishing regulations or giving orders in general, they were issued in the minister's name, and there were cases, though it was actually the minister's orders, in which the minister's name was not used, but instead notifications by order in the name of the vice minister were usually issued.

The vice minister's notification by order was nothing more than a communication in writing made in the vice minister's name of what had been decided by the minister. The vice minister's notification, which was different from the vice minister's notification by order of the minister, was issued in connection with matters assigned to the vice minister. When there was a cabinet change, no member of the navy ministry was affected, except the navy minister, and there was no case in which the vice minister was changed.

31675 * The affiant, the same as other vice ministers, was requested to be a committee man or councillor of various committees, but it was only nominal and he did not attend those committee meetings. In the rare occasions in which he did attend, they were called nominally and proceedings had already been deliberated beforehand. He did no more than simply hear reports.

The affiant was also councillor of the Total War Research Institute, as were other vice ministers. The only part he took in the proceedings was to attend once a year, together with his colleagues from other ministries, to hear the report of the studies.

31676 * Exhibit 3352, excerpts from the military court-
31677 martial law dated 26 April 1921, and revised in 1941 and 1942, providing that the court martial had the right * to try the following for alleged crimes: Those mentioned in certain named parts in the criminal code; the crew of army transports, those belonging to and accompanying the army, other than those before mentioned; and POWs.

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31678 The court martial also had the right to try those before mentioned for crimes committed prior to the time their status was acquired, and also had the right to try them, although they were no longer in one of the above categories, if arrested, imprisoned, detained, or reported for search, while still retaining their status. The court martial also had the right to try those mentioned and * which pass under article 8 of the Army Criminal Code.

Court martials to be established were the general army division, encircled locality, and temporary court martial. The general army and division court martial should be permanent, and the encircled locality court martial should also be established where a military administration was proclaimed. The temporary court martial should be especially established as needed. The war minister shall be the chief of the general court martial, and the army commander chief of the division court martial.

31679 * A unit or area commander should be chief of the especially established court martial. The temporary court martial had jurisdiction over cases against those under the command or control of the unit commander establishing this court martial, except when the court martial was established in units under his jurisdiction, and those under the command or control of these units should not be included.

Cases against those in areas of operations or defense in units in whose area the temporary court martial was established, or those committing crimes there, should be limited to cases where the units of the accused did not have a court martial in those areas.

Cases against those stationed in areas of operations, control or defense of the unit where temporary court martial was established, should be under its jurisdiction.

31680 Trials shall be carried out by a council of five judges, with a senior judge as president. In these especially established court martial cases, the judges would be reduced by two and the same will be true in the case of a permanent court martial, except higher ones, in case of emergency. With the exception of higher court's martial, the bench should consist of one field officer, and three company officers, or two

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31681 field and three company officers, where the accused is a private or noncommissioned officer, two field or two company officers, where the accused was a company or warrant officer. One general and three field officers, * or two generals and two field officers where the accused was a field officer, and 4 generals where the accused was a general. Where the court martial was located in an area cut off from communication, judges might be selected from judges higher or equal to the accused, but otherwise should not be lower in rank.

31682 * Decision to dismiss the accusation is cancelled when the accused is dead, or when the case shall not be tried under articles 24 or 25.

31683 When the decision is given to dismiss the accusation by reason of cancellation, no one shall institute an accusation nor demand a preliminary trial again. Where the accused is found not guilty, or there is no evidence, the verdict shall be not guilty, the decision to dismiss the case shall be given when final judgment has been rendered; when punishment is abolished in accordance with law enacted after the crime was committed; when he should be exempt from punishment; when an amnesty is proclaimed; or when the case is barred by limitation.

When the accused is found not guilty, acquitted, placed on probation, or the prosecution is dismissed not within the jurisdiction, or the accused is fined, the accused shall be released.

31684 When the court martial declares dismissal or nonjurisdiction, * it may preserve the warrant of detention or issue a new one. * When the prosecutor fails within three days to institute an accusation on the case for which he preserves or issues a new warrant of detention, or send the case to the competent court martial, he shall at once release the accused, and this also holds good when the prosecution fails to institute an accusation within five days.

This law has been in force since 1 April 1942.

31685 Exhibit 3353, excerpts from the military criminal code, of April 10, 1908, provided that army personnel included persons on the active list, except those who have not yet entered barracks or on leave; reservists under orders for calling out;

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reservists taking up duties in various units without being called out; reservists wearing army uniforms, or actually fulfilling service duties; and persons voluntarily enlisted and in service.

31686 * Army personnel shall also include army students; army civilian employees; naval personnel in army duties. Exception to the above shall be decided by order.

EPM/jen

7 October 1947



MEMORANDUM FOR: Mr. D. N. Sutton, Associate Prosecutor, IPS.

FROM: Edward P. Monaghan, Chief, ID-IPS.

SUBJECT: Defense Document No. 2245.

In compliance with the request contained in your memorandum to this office, dated 4 September 1947, there is attached hereto memorandum report dated 7 October by Mr. Henry A. Dolan, Jr., Investigator. This matter is still pending.

E. P. Monaghan

EDWARD P. MONAGHAN,
Chief, Investigative Division,
IPS.

Attachment as described above.

Kimura

7 October 1947

MEMORANDUM FOR: Mr. D. N. Sutton, Associate Prosecutor
FROM: Mr. Henry A. Dolan, Jr., Investigator
SUBJECT: Defense Document Number 2245

Pursuant to your request to this office dated 4 September 1947 that the authenticity of Subject Document be investigated, the following report is offered detailing the progress of the investigation:

Search of the files of the Prisoner of War Intelligence Bureau showed that the Document has been correctly reproduced from their copy, with certain errors in regard to names, e.g., the name of the International Red Cross Representative is properly spelled PESTALOZZI (Max), not PESTALLOCCI, as it appears in Document 2245.

Interrogation of the Commandant of the MUKDEN POW CAMP at the time of the inspection reported, one Colonel MATSUDA, who is now serving a sentence of seven years at Sugamo for abuse of prisoners at MUKDEN, of Lt. MIKI, serving twenty five years, and of Sgt. NODA, at present on trial at Yokohama on a charge of murder, were all at MUKDEN at the time of the inspection. However, because of the fact that their Defense, from Legal Section, SCAP, had allowed them all to see the Subject Document, interrogation of all three proved of no value, as their stories all concurred essentially with the Document.

As undeveloped leads, this Investigator is awaiting a report from the Swiss Government at BERN. Also, Prosecution's Legal Section, SCAP, has subpoenaed as witnesses in the current trial of Sgt. NODA two enlisted men, also of the MUKDEN Camp. These men will be interrogated as soon as possible, with a view toward securing from them affidavits which will serve to discredit Subject Document.

Mr. Max Pestalozzi is now in private business in ZURICH, Switzerland.

Henry A. Dolan, Jr.

HENRY A. DOLAN, Jr.,
Investigator, ID-IPS,
Room 381, WMB

10/22/47

STATEMENT OF DEFENSE EVIDENCE

AS TO

KIMURA

The following excerpts from the Defense case are particularly applicable to General KIMURA. Little if any applied to his activities prior to assuming the post of Vice War Minister under TOJO, thus the items listed come under

- (1) his position as Vice Minister, or
- (2) his duty as Commander of the Burma Area Army.

Part I AS VICE WAR MINISTER, April 1941 to March 1943

Record Page:

- 17,699-701 Exh's 103-129 and 2344 offered to show participation of accused in the 17 cabinets, to disprove conspiracy -- "KIMURA - None."
- 18,185 Exh. 2367 - Report on the Examination of the Revision of Imperial Ordinance on Organizing the War Ministry. "The Ministers of War and Navy came under the Supreme Command and have heavy responsibility to direct and control the officers and men and maintaining strict military discipline... Vice Ministers assist their Ministers and supervise the work done by bureaus and divisions. (See also R. 17486 - Exh. 73 - the Imperial Ordinance.) It is therefore essential that both Ministers and Vice Ministers be on active service - - - and have powers of command."
- 17,853 MITARI testified that the War Minister is the Administrative Chief of the War Department and is responsible for the Army.
- 18,124 Exh. 2361-C (Book) "the Army and Navy was a special problem since the tenure of military officers was more protected than other officials."
- 17,542-3 FUJITA - (ex legal Counsellor of War Ministry) testified explaining the constitutional division of authority between the political (cabinet), military (supreme command) judicial and household organs of the Government, (citing the Articles - constitution) also the wartime G.H.Q. (of which KIMURA was a member).

Record Page:

- 17,552 He considers that administrative matters are for the Ministry but mixed matters such as size of army, for joint decision of War Ministry and General Staff. He explains the Liaison Conference, Supreme War Council, etc., but does not mention the Vice Ministers. (This coupled with other evidence of responsibility ties in with KIMURA's positions.)
- 17,480 Exh. 71 - Organization of the Planning Board. Duties re plans of expansion, etc. (KIMURA was a member.)
- 17,797 MITARAI - explaining the reasons for the fall of the various Cabinets, states that the Second KONOYE Cabinet fell because of the need to eliminate MATSUOKA. The Third KONOYE Cabinet collapsed because it lacked unity at a critical time (October 1941) Note: KIMURA was Vice War Minister and survived with TOJO through these shuffles.
- 27,694 NISHIURA testified he had a thorough knowledge of P.O.W. affairs and their administration. He showed the procedure of the Bureaus or Departments concerned in the War Ministry (while KIMURA was Vice War Minister.) At 27,700 he told how replies of the Vice Minister re application of the Geneva Convention were drafted. He explained (on next page) the War Ministry's full responsibility for the Burma-Thailand Railway and that the Vice Minister of War was jointly responsible.
- 27,752 KODAMA, Chief of the Military Service Section, Military Affairs Bureau told of the measures taken to preserve discipline.
- 27,761-965 The witnesses that followed here told of conditions making it difficult for the War Ministry to know and adequately control proper discipline and treatment of POW's. The defense evidence of good treatment in various camps particularly in Japan is related to offset prosecution evidence of mal-treatment. It is too lengthy to relate and does not mention KIMURA direct but is presumed to refute the charge of his joint or partial responsibility for such cruelties while he was Vice War Minister.
- 27,159 Testifying re complaints about POW's, KUDO said that important matters were referred to the Vice War Minister. The POW Information Bureau in the War Ministry got less important items direct.
- 27,202 SUZUKI, Kunji, told of the September 1942 meeting to educate new Chiefs of POW Camps, but that neither TOJO nor KIMURA were present. He explained the righteous policy to be followed.

Record Page:

- 27,231 YAMAZAKI related a similar account of June and July 1942 meetings of new Chiefs of P.O.W. Camps where TOJO's instructions were read, but he and KIMURA were both absent.
- 27,067 IIMURA, a director of the Total Warfare Institute gave a detailed explanation of its purpose - fundamental investigation, education of officials concerning total warfare, etc., the subjects studied, the ministries administering it, etc., all of which was not used to plan any war. That KIMURA (p. 27,071) did not give it any suggestion or direction.
- 27,093-4 Exh. 1501 - KRETCHNER's affidavit attempts to minimize the importance of the German decorations given Japanese officers, says they enhanced cooperation in their work, and were more of a diplomatic courtesy, that Ott's proposal to confer same on KIMURA (et. al.) was made because of their position in the Army rather than for any accomplishment for Germany.
- 17,914 Absences of TOJO during which KIMURA presumably headed the War Ministry. YAMAMOTO testified he went with TOJO on a tour of the Southern Regions. (Date not given but likely spring of 1943, prior to KIMURA's resignation.)
- 18,471 YOSHIDA on cross-examination admitted that the superior officers of the War Ministry (Bureau Chiefs, Vice Minister and Minister) customarily contacted the Education Ministry in matters re military training in schools.

PART II AS COMMANDER IN BURMA - September 1944 to August 1945

- 27,538 IKEJIRI testified he was KIMURA's adjutant in the Burma Area Army, that the railroad construction was completed a year before KIMURA arrived. The Rangoon P.W. Camp was under the Commander of the combined Southern Army. The Camp Chief and both NCO's were from the Malay Camp, though the Surgeon and Guards were from the Burma Army. (See also 27,544)
- The Tavoy Camp under the 24th Mixed Brigade were under the Burma Army. KIMURA always directed that P.O.W.'s be treated with benevolence. Good conditions at Rangoon were narrated. Officers work was voluntary. No complaints came from Tavoy, but during KIMURA's tenure supplies became very scarce.
- 27,544-52 The witness admitted on cross-examination that Burma Headquarters received copies of Rangoon reports and controlled supplies.

Record Page:

- 27,558 SAKURAI, (Chief Adviser to Burmese National Defense Army under KIMURA) testified that KIMURA stressed winning the confidence of the Burmese and enforced discipline, even wrote a booklet on attitude to be taken towards the Burmese, that the native people were not maltreated, even when their Army revolted, (27,561) KIMURA ordered no revengeful action permissible.
- 27,565-6 Exh. 3087 - Interrogation of TAZUMI, who commanded the Rangoon Camp, admitted that the Burma Area Army Commanding Officer was above the Malay Commanding Officer re affairs at Rangoon Camp. He gave further details on health conditions, work, diet, etc., and added that KIMURA never visited his camp while he was there. (27,572)
- 27,576 Witness ICHIDA, KIMURA's Vice Chief of Staff in Burma, gave testimony similar to SAKURAI's to show good discipline and good treatment of the Burmese by KIMURA. The losing battle and increasing hardships never changed his policy to promote good feeling among the Burmese, even after the revolt. KIMURA had no chance to take any British-Indian troops as prisoners. They had no reports of bad conduct and KIMURA gave no orders for atrocities. Neither he nor KIMURA knew of the Kagalon Village affair. Tavoy Camp was put under the 24th mixed Brigade (Independent) 3½ months after KIMURA arrived, and by December it was under the Thailand Army. POW's were better supplied than Japanese. Instances of good treatment were cited. Japanese retreats were in full swing by January 1945.
- 27,601 YOSHIDA gave similar testimony of KIMURA's strict discipline and policy of friendship with the Burmese; that the scorched earth policy was not used and since the Burmese got along well with Japanese the policy was appreciated. By June 1945 communications between Commander and subordinates was hardly possible.
- (Supplement to Part I)
- It is noted that the Defense evidence re trail and disposition of the Doolittle fliers is partially applicable to KIMURA, then Vice Minister of War. See Exh's 3129-3135, incl., p. 27,901. KIMURA is not quoted. His office is noted on one exhibit but he supervised the Bureau and condoned the action.
- 27,806 KIMURA will expect credit for the notification (Exh. 1965) referred to in ODAJIMA's testimony (27,807) re proper transportation of P.O.W.'s.
- 30,166 IHARA on cross-examination acknowledged Exh. 1975, a report to the Vice War Minister in October 1942 re P.O.W.'s being of exemplary value before the Koreans to drive out admiration of Allies.

INTERNATIONAL PROSECUTION SECTION

MEMORANDUM

1 October 1947

TO : Mr. T. R. Delaney
FROM : D. N. Sutton
SUBJECT: Statement of Defense Evidence as to KIMURA

This will confirm our conversation of today in which I requested you to prepare a statement of the defense evidence which has been heretofore introduced as to the defendant KIMURA. I am enclosing a copy of the memorandum from Mr. Tavenner, dated 14 July 1947, outlining the manner in which this statement is to be prepared and what facts are to be included therein.

Upon completion, I would appreciate receiving four copies of this statement.

D. N. Sutton

cc: Mr. Tavenner
Lt. Col. Mornane

Part in Kimura file

INTERNATIONAL PROSECUTION SECTION

N. G.

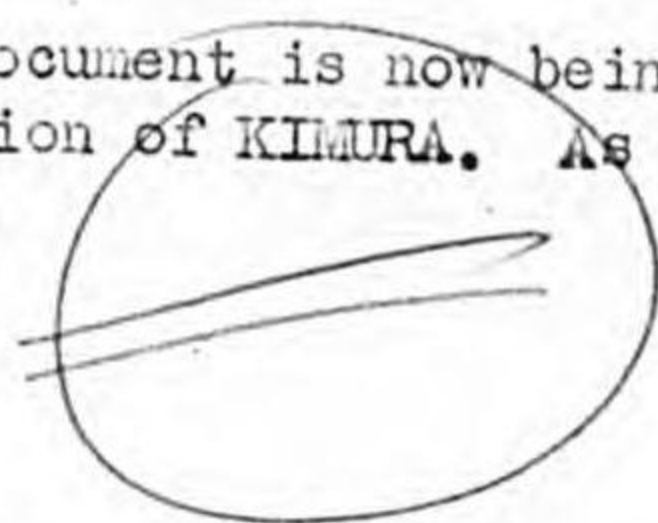
4 June 1947

MEMORANDUM FOR: Mr. Sutton
FROM : Commander Cole
SUBJECT : IPS Document #638

1. The above document consists of two telegrams from KURIBAYASHI, Tadamichi, Chief of Staff of the "HA" troops in China to KIMURA, Heitaro, Vice-Minister of War about the murder by Japanese military personnel of a Catholic missionary and 24 natives in the village of Hakubun (telegram dated 26 August, 1941), and about the lotting of a church in To-ha, village north of Bun-sho (telegram of 20 July, 1941).

2. Inasmuch as the accused HATA was C-in-C of the Expeditionary Force in China from 1940 to 1944, this document might have evidentiary value as against him.

3. The document is now being processed in six copies for use on cross-examination of KIMURA. As soon as completed, a copy will be furnished you.



C. T. Cole
C. T. COLE
Commander, USN

Delivered to Mr. Sutton on 17 Sept. 1947

C. T. C.

Ha-shu Staff Office Class E No. 451

Matter pertaining to the murder of
French missionaries.

October 14, 1941

KURIBAYASHI, Tadamichi:

Chief of Staff of Ha-shu Corps.

To: Vice Minister of War: KIMURA, Heitaro

Having the report of the matter mentioned above from
TAKASHIMA, commander of the troops on Hainan Island, I re-
port it in a separate paper.

Reported to: the whole army.

Sent to for reference: The War Ministry and
Army General Staff.

The following seals appear on the sheet
numbered as marked with lead pencil on
the original sheet:

1. "Confidential" (Rubber Stamp, red)
2. "Received by the War Ministry:
Riku /T.N. War/
Shi /T.N. China/
Mitsu /T.N. Secret/
Ju /T.N. Received/
No. 10695."
3. Rubber Stamp (blue) "War Ministry Oct 20 Showa 16
(1941) A.M. Minister's secretariat."
4. Rubber stamp (blue) "War Ministry Oct 20 Showa 16
(1941) 7.00 Military Service Sect."
5. "Reference" Rubber stamp, red.
6. A personal seal (red) "YAMADA"

7. A personal seal (red) "MATSUYAMA"
8. An official seal (red)
"The seal of the Chief of Staff of 'HA-SHU' Corps"
9. Check mark seal (red) "Military Service".
10. A personal seal (rubber, blue)
"NAKAMURA"
11. An autographical initial in red ink. Writer unintelligible
12. A rubber stamp "No. 154 page"
13. Two stamps in red "Oct 27th"
"Settled"
14. Hand writing in red ink
"FOREIGN MINISTRY FINISHED"
15. Hand written with pencil.
"The East Asiatic Bureau -
The first sect. /T.N. Foreign Ministry/
Secretary NAKAGAWA."

Report on the Murder of a French Missionary.

(HAINAN ISLAND)

October 10, 1941

The South China Expeditionary Force Headquarters.

Contents.

1. Re: The Murder of a French Missionary by a Guerilla Unit in LING-MENG
2. Re: The Murder of a French Missionary by Our Navy in POWEN.
3. Re: Looting of a French-owned Church by our Navy and the men of the Self-Defense Unit.

Report on the Murder of a French Missionary.

1. Re: The Murder of a French Missionary by a Guerilla Unit in LING-MENG.

COLLENTIN BERNARD, a Frenchman and a Catholic Missionary who had been residing and preaching in LING-MENG for the last three years was killed by a guerilla unit in the church of the said city on September 14. DOMINIC DESPELPA, Bishop of the Haikow Church, upon receipt of this information, immediately dispatched another missionary to the site to investigate the actual state of affairs, of which the following fact has been clarified:

(1)---The reason for being murdered and the condition prevalent.

In September of last year, the said missionary, COLLENTIN BERNARD was asked to deliver a letter to WANG-I by the Japanese troops in the Ting-An area, which he handed to WANG-I's men and had it delivered to WANG-I. In regard to this act, WANG-I tried to kill COLLENTIN BERNARD, but since the said person was a missionary and that there were Chinese among the congregation of the LING-MENG church who were on intimate terms with WANG-I, he only ended by warning him not to be entrusted with such letters in the future, and without killing him, kept watch over him.

Perceiving these circumstances, the above-mentioned missionary intended escape to the Japanese occupied area from the enemy zone of which, until today, he had been unsuccessful. It happened that the Japanese forces carrying out the present "mop-up"

operation stationed themselves in the vicinity of NAN-LU and the city of FENG-MU, thereby placing the city of LING-MENG under the influence of our forces. Having attained its first aim, the Japanese forces scheduled to withdraw their troops from these guarded areas on September 14. Several men, including an officer from the FENG-MU Defense Unit, approached the said church in the city of LING-MENG on September 14, requesting delivery of two letters to WANG-I. Furthermore, it is said that the men told the missionary that there was no danger of him staying there. It seemed that the residents of the neighborhood had informed the guerilla unit of the negotiations being carried on between the missionary and the Japanese forces, and before he was able to deliver the letters to WANG-I, the guerilla unit in the neighborhood suddenly attacked the church on September 14, entirely destroying the church by fire and also murdered the said missionary, a Chinese preacher, together with two other Chinese employees, and gave injury to another Chinese employee. Thereafter, the residents of the neighborhood, finding the dead body of the missionary at the place of the burnt church, built a grave there.

(2)---Measures taken by DESPELPAN.

DOMINIC DESPELPAN, Bishop of the HAIKOW Church, reported by air mail to the branches of the Catholic Church in PEKING and LISBON as follows: "One missionary and three Chinese Christians were murdered by Chinese guerilla units."

(3)---Funeral rites shall be held at the HAIKOW Church on October 6, together with that of Missionary MOLBAN who was murdered in POWEN. Attendance by the Japanese Army personnel is expected. Army personnel is expected to attend.

2. Re: The Murder of a French Missionary by our Navy in Powen.

The following was revealed upon further investigation of the case based upon the words of DOMINIC DESPELPAN, Bishop of the Catholic Church in HAIKOW, who stated that the French Missionary MOLBAN had been killed by our Navy in the city of POWEN, a district then under the punitive operation of our Navy.

(1)---The circumstances under which the HAIKOW Church came to possess such information. When the Catholic Missionaries MANDIE and TENEBES, stationed in the interior of the HAINAN ISLAND, arrived in the city of POWEN in the early part of September, they found that their brother missionary MOLBAN had been killed, and after investigating the affair, reported this matter to DOMINIC DESPELPAN, Bishop of the HAIKOW Church.

(2)---Presumptive reasons for being murdered and the conditions prevalent. During the current punitive operation--it was on the 25th and the 26th of August that our Navy arrived in the city of POWEN.

On August 25, the Navy unit only passed through the city of POWEN, but, on the 26th of August, a detachment of the unit again arrived in the city of POWEN with several lorries and found a dead body of a sailor of our Navy exposed on the front entrance of the city. (A body which had been dead for eight days)

Under the assumption that this work had been done by the residents of the POWEN City, the said detached unit burned the natives houses and the church of the city, killing the missionary MOLBAN and 24 other natives, burning their bodies. (one dead body remained unburned)

The murder of the missionary was executed in a native's house which is located between the church and the market a short distance away. Furthermore, they burned about 5 to 6,000 dollars in FAPI (Chungking dollars) and, within the same day, the detached unit withdrew to NAN-MENI-PO in the neighborhood, stationing there for two days, and later moved away.

(3)---Measures taken by DESPREPAN, Bishop of the HAIKOW Church. DESPREPAN, upon receiving the above-mentioned information, only telegraphed to the PEKING and LISBON Branches of the Church as follows: "Missionary MOLBAN succumbs;" without giving any further detailed reports.

(4)---The funeral rites are scheduled to be held at the HAIKOW Church from 9:00 a.m. October 6. Japanese military personnel are expected to attend.

3. Re: Looting of a French owned church by our Navy and the men of the Self-Defense Unit.

(1)---The source of information. This information is a narration by a missionary by the name of GAYE who returned to the HAIKOW Catholic Church, which is, in part, accurate.

(2)---Outline of the looting. There was a French Catholic Church in the village of TUNG-PO north of WECHANG. GAYE, the French Missionary, stayed there and preached in the neighborhood. On July 20 of this year, the said missionary was absent and the supervision of the church was being carried on by the residents of the village. It was during this absence that several men of our Navy and the Defense-Unit came.

They broke open the doors of the church and intruded into the rooms, taking away with them the church's funds of \$1,000 in FAPI (Chungking dollars) besides the beds and the lounges of the church, which they took away in the lorry, he says.

C E R T I F I C A T E

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W.D.C. No. _____

I.P.S. No. 638

Statement of Source and Authenticity

I, Kaneo Ishibashi hereby certify that I am officially connected with the Japanese Government in the following capacity: Corresponding Secretary and that as such official I have custody of the document hereto attached consisting of _____ pages, dated 14 Oct., 1941 and described as follows: Military Secret Telegram. I further certify that the attached record and document is an official document of the Japanese Government, and that it is part of the official archives and files of the following named ministry or department (specifying also the file number or citation, if any, or any other official designation of the regular location of the document in the archives or files): First Demobilization Bureau.

Signed at Tokyo on this

5 day of July, 1946

/s/ Kaneo Ishibashi
Signature of Official

SEAL

Witness: /s/ Shinaji, Kobayashi

Official Capacity

Statement of Official Procurement

I, William C. Prout, hereby certify that I am associated with the General Headquarters of the Supreme Commander for the Allied Powers, and that the above described document was obtained by me from the above signed official of the Japanese Government in the conduct of my official business.

Signed at Tokyo on this

5th day of July, 1946

/s/ William C. Prout
NAME

Witness: /s/ Lillian Anderson

/s/ Investigator
Official Capacity

/s/ I.P.S.

9/11/47 Copy + Col Wornone

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STATEMENT OF PROSECUTION'S EVIDENCE

vs

KIMURA

Hereinafter is set out in chronological order with marginal reference to the record, the evidence summarized or quoted, which reveals this accused's positive part in the conspiracy, his failure to oppose the policy of aggression, and the enlargement of the scope of warfare while he participated.

KIMURA's activities in the conspiracy and the wars resulting, although a succession of increasing and varied responsibilities of a successful military career, fall into three categories:

- I. 1928 to 1941. Here he rose as an expert on military affairs, particularly ordinance - mobilizing war production. The evidence reveals only the positions held except for a few communications he handled with the War Ministry while in Manchuria in 1939 and 1940.
- II. 1941 to 1944. In this period KIMURA, being Vice War Minister, there is much more evidence of his participation in the war preparations and carrying it on, although he resigned in 1943 and accepted less important posts.
- III. From August 1944 to the surrender. KIMURA was Commander in Chief of the Army in Burma. Here the evidence consists principally of brutal atrocities which he blatantly tolerated despite the many protests which had been received.

PART ONE - (Prior to 1941)

1922

- Exh. 113, p. 727 (curric. vit.) KIMURA was attached to the Army General Staff Office and ordered to stay in Germany to study military affairs returning in 1925 to be assigned as a member of the Army General Staff Office. The following year he was concurrently assigned as Staff Officer of the Navy General Staff Office.
- Exh. 68 to 100 - p. 684. The Japanese Constitution and Ordinances are the basic proof of KIMURA's authority and responsibility as a Staff officer, and later as Vice War Minister, War Councillor, member of the Planning Board, and Commander of an Army.

1928

- Exh. 113 (Supra) (22 May). Decorated with 4th Order of Merit with Order of Sacred Treasure.

1929

- Exh. 113 (12 Nov.) Appointed member of the delegation sent to the London Naval Conference. Two years later he received a silver cup for this service.

1931

- Exh. 113 (1 Aug.) Appointed Army Colonel in Artillery. He rose rapidly, becoming Director of Research Dept., Field Artillery School, instructor, member of Army Technical Hqs., Chief of Control Sec., Mobilization Plans Bureau, and in 1935 a member of the Army War Supplies Commission.

1934

- Exh. 113 (29 Apr.) Decorated, 3rd Order of Merit with Order of Sacred Treasure in recognition of his services during the Incident - 1931 to 1934.

Note: The record does not show more than the positions held during this period but the increasing importance of these positions indicates that he was an expert in Ordinance, Artillery, and Investigative fields which was a vital part in aggressive warfare.

1936

(1 Aug.) Assigned as Director, Bureau of Ordinance - War Ministry and soon to top Investigative and Industrial Production Committees.

- Exh. 670, p. 7330. About this time, according to the testimony of TAKABE, the militarists in government were plotting against the Maritime Provinces, etc. - that Araki in a speech to the Governors' Conference said that these provinces and Siberia were necessary for Japan. SUZUKI endorsed the same idea according to this witness.

Exh. 668, p. 7332. Semyonov's affidavit shows the plan to industrialize Manchuria prior to war with USSR. (also p. 7331)

Note: The last two items do not mention KIMURA but illustrate the picture in Manchuria shortly prior to KIMURA's joining the Kwantung Army Staff and the Joint Economic Committee.

1939

Exh. 113 (9 Mar.) Appointed Lt. General, and assigned as Commander of 32nd Division.

(13 Apr.) Decorated 2nd Order of Merit.

Exh. 2282, p. 16258, is the record made of the 32nd Division by the Japanese Demobilization Bureau, showing it organized 1 April 1939, stationed at Yenchow March '39 to Nov. 1940.

1939 - 1940

Exh. 2282, p. 16258 lists KIMURA as Chief of Staff of the Kwantung Army, but no date is given. His predecessor presumably was transferred in 1939 and his successor took over in 1940. His curriculum vitae (Exh. 113) does show that on 7 November 1940 he was made a member of the Japan-Manchukuo Joint Economic Committee and of the Manchurian Land Development (Colonial) Committee, which posts he held until 21 April 1941.

MORISHIMA's testimony, p. 3024, verified that "This puppet government (Manchukuo) continued to be dominated and controlled by the Kwantung Army until 1945."

HOSHINO's interrogation, p. 5144 and 46 reveals that the Joint Economic Committee had to serve as a liaison between the two countries in making a treaty.

Exh. 243, p. 3002, Telegram from KIMURA, Chief of Staff, Kwantung Army, to Vice War Minister expresses agreement with proposed treaty with Germany to include Manchukuo and China as well as Japan.

Exh. 244, p. 3004, is a message from KIMURA in Manchukuo asking the Tokyo government to send Manchukuo's Ambassador back home to take another post, and mentions a successor. The reply approves the exchange of these two ("puppet") officials of Manchukuo.

Exh. 113 (29 April 1940) shows KIMURA decorated with 3rd Class Imperial Order of the Golden Kite, etc. for meritorious services in the China Incident (no details given).

Re Manchurian Phase:

Exh. 59, p. 513. League of Nations Report condemning Japanese action in Manchuria.

Note: This is mentioned only to call attention to the Manchurian aggression, although then, only an Artillery Colonel in the Army General Staff Office in Tokyo, KIMURA was in a position to know what was going on and later accepted the top military staff post as well as a position of economic control in Manchoukuo. The evidence of that period is not detailed as it alone is too remote but later connects.

Likewise, the narcotics evidence.

PART TWO - (1941 - 1944)

1941

KIMURA as Vice War Minister, War Councillor, Planning Board Member, etc.

Exh. 1305, p. 11751 (Apr. 1941). Decision of Imperial General Headquarters regarding policy concerning measures to be taken in the south to promote settlement of China Incident and expand defensive power in the interest of self-existence (to resort to arms if no solution found).

Exh. 634, p. 7000. Memorandum of 10 May 1941 from Chief of Staff, French Indo-China forces to Vice Minister KIMURA telling of an incident where a Japanese military employee was injured in house of ill fame, that the FIC authorities are afraid of Jap reprisal, and that now would be the time to increase the Army's demands; to bring in more troops; to require better housing; larger areas; and unrestricted use of airfields or travel.

Exh. 1306, p. 11753 (June 1941). Preparations to occupy bases in French Indo-China for military advance into Netherlands E.I. Decision of Liaison Conference 25 June 1941; "In case the French Indo-China authorities do not comply with our demands we shall obtain our objectives by force of arms, etc."

Exh. 2246, p. 16179 (30 June 1941). KIMURA, as Vice War Minister, attended meeting of Supreme War Council to discuss attitude to be taken by Japan in the future.

Exh. 638, p. 7029. This and the exhibits immediately following are intercepted messages which show the deliberate plan of aggression in the south. This telegram, Ott to Berlin, reveals that Japanese Army is zealously preparing under emphatic secrecy to take Netherlands E.I. oil, etc. by force, if demands are not met, after occupying F.I.C. as a jump-off.

Exh. 1097, p. 10034. Telegram, Ott to Ribbentrop, reveals that Japan is making preparation but undecided about attacking Russia unless the latter weakens. Southern expansion is getting more attention.

Note: KIMURA not mentioned in above communications but subsequent evidence indicates that these plans were within his knowledge.

TANAKA's Testimony, p. 16145: Following the Imperial Conference (2 July 1941) General Tanaka was directed to make an operational study on a campaign against Malaya, Java, etc., the Dutch E.I. and the Philippines that after the Imperial Conference, 6 September 1941, he was directed to begin preparations against those countries that Generals Tojo, KIMURA, and Muto knew of these instructions that following the Imperial Conference of 1 December 1941 he was directed to alert the commanders in the Southwest - that his wire had the approval of the same generals (p. 16146).

Exh. 908, p. 11920. "Japan's Decision to Fight." (Atis) This document sets out the Army-Navy Agreement on the plan of operations in the south, showing the attacks planned, time, and that both branches of the service were to be ready by October 1941 in case Japan's demands are refused. Note: KIMURA was a member of Imperial GHQ (p 5513)

Exh. 113 - c.v. (5 May 1941) KIMURA appointed Councillor of the Planning Board, Councillor of the Total Strength War Research Institute and several other Industrial, Financial, Mobilization, etc. Commissions.

Exh. 686 and 686-A, p. 7416 (Aug. 1941). Secret Symposium of the first Total War Games of the Scientific Research Institute of Total War 1941. It sets forth the plan against various Allied nations against whom force will be used if Japan's demands are not met.

NOTE: KIMURA was a Councillor. Further evidence on this falls under 1942.

Exh. 1148, p. 10250 (October 1941). "Facts Pertaining to the Resignation of the 3rd Konoye Cabinet." This reveals the feeling in Tojo's War Ministry that negotiation with the U.S. was time wasted. Konoye disagreed and his cabinet fell as a result, but KIMURA was retained in the new Tojo Cabinet that followed.

Exh. 1153-A, p. 10289, Tojo policy. This further shows the positive trend toward war with the U.S.

Exh. 1328, p. 11923 (October 1941). "Major items to be examined concerning essentials for the prosecution of national policies." These eleven questions to be presented to the Liaison Conference further prove the presumption that the new Tojo Cabinet intended to consider war as a means of enforcing its policy.

Exh. 2240, p. 16127, Interrogation of Muto (Oct. 1941). Muto states "the Cabinet was unanimous in agreement with Tojo (on all his policies) I recollect up to April 1942 (sent to the front after that).

Exh. 2240, p. 16125, Interrogation of Muto. "The ultimatum (to the U.S.) prepared by the Foreign Minister was shown to the War Ministry for consultation and agreement.

P. 2051, Tanaka testified on cross-examination (adverse to prosecution) "He was in the War Ministry as Chief of the Military Service Bureau and had occasion to listen to reports of Colonel Sato and Vice Minister KIMURA KIMURA did not advocate war with the U.S. at that time.

1942

Exh. 688 and 688-A, p. 7425 (27 Jan. 1942) "Plans for establishing the Greater East Asia Co-Prosperity Sphere" published by the Institute of Total War. This reveals the areas to be dominated with Japan, Manchukuo, North China, and the Soviet Maritime Provinces to be the central zone of the East Asia Union under Japan's leadership.

Note: KIMURA was the Councillor.

TOTAL WAR RESEARCH INSTITUTE (continued)

The activities of the Total War Research Institute are not enumerated herein since our own witness HIROTA, on cross-examination, brought out that it took no part in government policy or the preparation of plans for any government agency (p 8884) and was primarily an institution of learning for government officials (p 8885) to comprehend and be prepared for total war (p 8872-8885).

However, its activities have probative value in support of the conspiracy charge and since KIMURA was a member from its beginning and it was militarist inspired, the whole of this evidence is referred to without summarizing:

p. 8821 - Testimony of HORIBA
Exhs. 870-871-872, p. 8929 - Table Top Manouvers, Charts and Telegrams. Also Exh. 1335, p. 11973 and 1336, p. 12010, Plans for G.E.A. Co-prosperity Sphere.

The following is evidence of KIMURA's active part in plans of aggression to the South:

Exh. 873, p. 8977 (14 Nov 41) Telegram to Vice War Minister (KIMURA) from the Air Group Chief at Nanking that he would leave with a staff next day to establish a command post at Saigon.

Exh. 875, p. 8984 (22 Nov 41) Secret Telegram from So. Army Chief of Staff to Vice Minister KIMURA - that Hq. of that Army was to secretly move from Tokyo to Formosa and that staff officers would be stationed at Saigon, F.I.C.

- Exh. 689-A, p. 7431. Excerpt from above publication of the Institute stated that in the north, Japan must try to establish a defense base. It further contains details for waging war with the USSR.
- Exh. 1958, p. 14299. (Jan. 1942) This is a record of a conference in the War Ministry regarding the decision not to apply the Geneva Convention, and orders were issued in consequence thereof the government reply stated that Japan had no objection to acting in accordance with the Convention regarding treatment of prisoners of war. This reply went from Vice Minister KIMURA to the Vice Minister of Foreign Affairs (p. 14301).
- Exh. 1960 and 1962 (p. 14423 to 14426). Further prove the same decision - Mutatos Mutandis. Also Exhs. 1490-1496, p 12880.
- Exh. 1983, p. 14591. Tojo's Interrogation - reveals: the POW Information Bureau was set up a month after war was started on the basis of existing treaties. Orders came from the War Department but Army Commanders could issue further orders consistent therewith.
- P. 14288, Tanaka's Testimony: "KIMURA attended almost all the conferences of the bureau chiefs of the War Ministry, which were held twice a week." The same appears on p. 14328.
- P. 14287-8, Tanaka's testimony further reveals: "Replies (to protests re POW's) going to authorities outside the War Ministry were prepared in the Military Affairs Bureau and given the approval of the War Minister and Vice Minister (KIMURA), then sent to the Foreign Office.
- P. 12832, Suzuki's Testimony verifies that this procedure was followed.
- P. 14289 and 14290, Tanaka's testimony also reveals: "KIMURA attended the meeting (after the fall of Bataan) which determined treatment of POW's ... with Tojo and the Bureau Chiefs ... the decision was made by Tojo at the request of Eumura - that in the light of the prevailing situation in Japan and the current slogan being "no work - no food" POW's must engage in forced labor regardless of rank".
- Exh. 1989, p. 14639. Wakamatsu testified: "The decision to use POW labor on the Burma-Siam Railway was made by Sugiyama, Tojo and KIMURA. *Also shown by Ex 475 at p. 5524*
- P. 14419, Tanaka's Testimony: About early July, Commanding Officers of POW Camps were assembled and given further details on treatment of POW's which had been decided at conferences.
- Exh. 1963, p. 14428 (7 July 1942). Instructions from Tojo to POW Commanders that supervision must be rigid none to be idle a single day that all abilities of POW's are to be used.
- Exh. 2246, p. 16178 (1 July 1942). Report from Nichi Nichi - that the Supreme War Council met on 30 June and Tojo explained the fast changing situation others present: Doihara and KIMURA.

Exh. 475, p. 5513. Post surrender report by Japanese Government on Burma-Thailand Railway. This document acknowledges that the Imperial GHQ gave the orders for the construction of this railway with POW labor, admits that allied protests against atrocities and bad conditions were received by the War Ministry, that denials were made by the Japanese Government, but that the War Ministry did not have the details to verify conditions. KIMURA was a member of the GHQ. The document also acknowledges that the first protests were received as early as September 1942 through the Swiss Foreign Minister.

Note: The evidence of the mistreatment, murder and various atrocities committed by Japanese forces against allied POW's, civilians, and inhabitants of occupied countries is too voluminous to incorporate here. Reference is made to the 126 page summary of same prepared by Lt. Col. Mornane (not numbered). KIMURA shares responsibility for these atrocities, having served in the War Ministry through most of the period during which they were committed. As Vice Minister he met with the bureau chiefs who handle these matters, as is mentioned in other proof herein. Those items which are more directly connected to him, such as atrocities in Burma, when he was Commander-in-Chief during the last year of the war, will be mentioned.

Since the Burma-Siam Railway was under orders of the GHQ, evidence of those atrocities is now referred to.

P. 5524, Col. Wilde testified that the railway was constructed at the order of the Imperial GHQ from June 1942 to October 1943 despite monsoons, unbearable conditions, lack of food, clothing and medical care and under relentless driving by the Japanese. He mentions the many deaths from malnutrition, disease and outright killing.

P. 13000. Lt. Williams in his testimony verifies the appalling conditions under which the railroad was built; e.g., his force was 884 men to start, the 200 died between April and October 1942 from mistreatment, and in December 1943 200 died from cholera alone.

Numerous affidavits of POW's were introduced and may be found in the record following Lt. Williams' testimony, verifying these atrocities.

Exh. 1967, p. 14485, a communication from the Chief of the General Staff, Eastern District Army, to the Minister of War, requesting permission to employ POW's for loading cargo, etc. This was approved 22 October 1942 and bears the seal of the Military Affairs Section by authority of the Vice War Minister KIMURA.

Exh. 1961, p. 14425. This notification from the War Ministry to Army units that labor by POW officers is prohibited by regulations of 1904 and central policy proves that Army commanders and the War Ministry were aware of the international policy, but ordered officers to be worked in spite of it.

- Exh. 1980-D, p. 14564, Tojo Interrogation: Tojo admitted that matters concerning POW's were taken up at bi-weekly meetings of the War Prisoners Bureau also that he and his assistants had made investigations many times regarding mistreatment of POW's on the Burma-Thailand Railway (and elsewhere).
- P. 14293, Tanaka's Testimony verifies the responsibility of the Vice War Minister: That the Imperial GHQ was divided into Army and Navy Departments in addition the War and Navy Ministers were regular members, also the Vice Minister of War and other bureau chiefs attended when necessary as members of the staff of the War Ministry. He also verified at Page 14365 that POW matters were under the supervision of the War Ministry.
- Note: Tanaka's testimony carries throughout statements to the effect that KIMURA had very little responsibility for a policy or decisions while he was Vice War Minister. The witness apparently went out of his way in an effort to assist KIMURA more than anyone else. Therefore, a few of these statements should be mentioned herein to determine the amount of damage it has done to the prosecution's case against KIMURA.
- P. 14385, Tanaka stated that at the meeting of the War Office in April 1942 (determining treatment of POW's) KIMURA did not say anything and took no positive part in the conference ... with certain exceptions, the War Minister or other ministers, issue all orders in accordance with certain stipulations ... the responsibility of the Vice Minister was merely to transmit notes and notifications which usually read: "By order of the War Minister." In Tojo's absence, KIMURA was War Minister and upon Tojo's return he did report on all matters and receive approval."
- P. 14386, Tanaka continues: With respect to the fliers who raided Japan in April 1942 ... captured in China ... the matter was decided by Imperial Headquarters. Both Tojo and KIMURA were strongly opposed to being too severe but the decision was carried over their opposition.
- P. 14388, he states that when Tojo was absent, KIMURA handled only small routine matters ... nothing with respect to state affairs, policy making, economics and diplomacy ... that KIMURA never made any important decisions.
- P. 14396, that KIMURA had no command authority while Vice Minister, over the Chiefs of the Bureaus ... without giving positive suggestion or opinion ... that he suggested to KIMURA that something be done to control the bureau heads but KIMURA did not agree, saying that the War Minister was capable and should be left to decide such matters ... that KIMURA was therefore called the robot Vice Minister.
- P. 14398, regarding KIMURA'S appointment: Tanaka testified that he was told by the Chief of Personnel that since KIMURA had been Chief of the Munitions Bureau and was well acquainted with material within the War Ministry, it was felt that a servile and honest man would be best for this position. War production was then waning and it was considered best to appoint KIMURA to boost war production since he was well acquainted with ordnance matters.

- P. 14401, Tanaka states that the War Ministry strongly opposed, as did KIMURA, the execution of the Doolittle fliers on the ground that residents in British and American territories might be treated in the same way.
- P. 14404. Tanaka: That the General Staff decided to use POW's in building the Burma-Siam Railway and it was highly improbable that KIMURA had any voice in the matter although technical procedure in assigning POW's, etc. might have been done on instructions from the Vice Minister, representing the Minister.
- P. 14407, Tanaka: KIMURA let each bureau chief handle his own affairs without interference.
- P. 15946, Tanaka stated: It was impossible for a Vice Minister not of a status of a State Minister to act in place of a War Minister. That KIMURA was never a State Minister ... that Tojo as Premier could not leave matters pertaining to State affairs in the hands of Vice Minister KIMURA ... who had no executive authority except for matters delegated. (p 15948).

Note: Ambassador Ott gives a different picture of General KIMURA's importance:

Exh. 1272, P. 11352. Telegram, Ott to Berlin, proposing certain decorations: Quoting from this communication: "A number of Japanese ... have made important contributions to German-Japanese cooperation ... they occupy key positions in the government or Army" ... this concerns men of the immediate group surrounding Tojo who will presumably retain for some time their decisive influence in the shaping of Japanese policy ... Lt. Gen. KIMURA ... in his position of Chief of the General Staff of the Kwantung Army, October 1939 to October 1940, he has specially worked in behalf of Germany. Vice Minister of War since April 1941, he is one of the principal advocates of German-Japanese military cooperation ... KIMURA has closely cooperated with Minister of War and P.M. Tojo already on the Kwantung Army. His personal relationship to Tojo, as well as his primary preoccupation in his position of Prime Minister have enhanced his influence on the leadership of the War Ministry, as well as his position in regard to the other Vice Ministers to a marked degree."

Exh. 1966, p. 14477, KIMURA's explanation to the Diet of War Prisoners' Punishment Act. This extract from the Diet proceedings of 17 February 1943 reveals KIMURA as the authority and spokesman of the War Ministry on POW punishment, asking for a revision of the law so that when a POW committed a crime against Japanese law in Japan or occupied areas, the law would apply. However, the act leaves much to be desired from the viewpoint of control and supervision.

P. 15911, Tanaka admitted in his testimony that he attended the Diet in the Spring of 1940 but was unable to attend the next session due to opposition of the Military Affairs Bureau. However, because Vice Minister KIMURA said that he must attend in the Spring of 1942, therefore by his order he attended the Diet.

Exh. 2245, p. 16176 - Reports on captured American Airmen - to KIMURA (et al) shows his knowledge of the fate met by the Doolittle Flyers.

- P. 12834, Suzuki testified that the protests from the U.S. were disseminated to the Vice Minister of War (KIMURA) by others. He verified that Exhibits 1468-1487 were disseminated in the same manner, although he did not recall them individually.
- Exh. 2170, p. 15508, Suzuki identified this letter sent by the Vice Foreign Minister to KIMURA and other Vice Ministers regarding transmittal of the U.S. note, requesting adherence to international treaties regarding POW's, etc.
- Exh. 1970, p. 14498, is another request for POW's for aircraft production, which was directed to KIMURA.
- Exh. 1973, p. 14512 (5 March 1942) KIMURA's answer to the Korean Army that proposed buildings to house POW's were too good.
- Exh. 1973 (22 Apr. 1942) ^{p. 14512} is an acknowledgment of KIMURA's telegram sending 1000 POW's to Korea.
- Exh. 1975 ^{p. 14520} is a report from Korea to KIMURA on the attitude of Koreans and behavior of POW's.
- Page 14630, Wakamatsu identified Exhibit 1989 and stated that he was head of the General Affairs Section, General Staff, during the summer of 1942 when the decision to build the Burma-Siam Railway was made by Imperial Headquarters, that the decision to use POW's was made by Sugiyama, Tojo and KIMURA, although the latter was not basically responsible.
- Wakamatsu also endeavored to relieve KIMURA of some responsibility in the following testimony: Page 14655, he states that the Vice Minister of War had no power of decision in matters concerning POW's.
- Exh. 1992, p. 14666, is a communication from KIMURA to the outside Chiefs of Staff (July 1942) conveying instructions regarding enemy air crew members ... that those who violate international law are to be treated as wartime capital criminals and defense commanders shall send to court martial those ... suspected of deserving such treatment. That provisions of the specially established court martial shall apply.
- Exh. 113 (c.v.) reveals a long list of important committees, boards, commissions, etc., to which KIMURA was appointed during the period he served as Vice War Minister. He was relieved of the ministerial position at his own request 11 March 1943, and then assigned as War Councillor. He continued on as member of various commissions, including Munitions Inquiry, Research and Mobilization, Planning Board, and received his German decoration above referred to, which was also shown by Exhibit 2247, p. 16180, a news item from the Asahi, Shimbun, 2 October 1942.

PART III - 30 August 1944 to Surrender.

The evidence against KIMURA during this period is the atrocities and mistreatment to POWs, civilians, etc. in Burma, while he was Commander in Chief in that area. He is not mentioned in it but having served in the War Ministry he is presumed to have known his responsibility.

- Exh. 113, p. 731, proves his assignment to this command 30 August 1944 - retained until Sept. 1945.
- P. 11440 - COATES testified that in Sept. 1944 the POW Camp at Mompladuk was bombed by the Allies - 100 were killed and as many wounded, assistance was refused, no markings were allowed. That in Dec. 1944 mass punishment was inflicted to 7000 for the offense of one POW. Other mistreatment was also told of beatings, etc.
- Exh. 1575, p. 13087 - Oct. 1944 to Mar. 1945: One to three patients in ward of 40 died daily of dysentery due to lack of drugs and starvation.
- Exh. 1553, p. 12983 - Sworn statement of S. BAHADUR - In Jan. 1945 the witness with 621 men were packed into a "Hell Hole" 25 feet square, with no room to lie down - kept in their filth, ill fed and never let out for 38 days. Witness was taken out to be beheaded - the sword failed to kill him and he later escaped.
- P. 13087 - LLOYD testified that from Feb. to July 1945, 3000 officers were closely confined - mass punishment given sadistically and some individual cases told.
- Exh. 1547, p. 12976-B - Statement of R. A. Nichol: Early in 1945 he was taken to Moksokwin as interpreter, saw four Allied Airmen taken into the forest by Japanese guards who a little later returned with their clothes, shoes, etc. but no men.
- Exh. 1552-A, p. 12981. Statement of HARRY JOSEPH, that he saw fellow POW's beaten, strung up by their hands, also saw boiling water used on prisoners and one suffocated while water was poured slowly in his mouth (April to June 1945)
- Exh. 1558, p. 12994 - Sworn statement of Mrs. M. M. Williams describes the brutal treatment and raping of women in Tavoy in April 1945.
- Exh. 1543, p. 12973 - Statement of M. T. Shwe who saw two civilians tortured with water and burning, then taken out and decapitated. He mentioned others who met the same fate. This occurred in April or May 1945.
- Exh. 1544, p. 12,974 - Statement of MAUNG KIN, who saw seven Burmese beheaded in May 1945. Other such atrocities were related.
- Exh. 1570-A, p. 13079. Major Campbell gave an affidavit describing the torture of British officers, one of whom was driven insane.

Numerous other such examples of the atrocities in the Burma Area during KIMURA's period of command are related in the record, but rather than repeat the substance of each story we will hereafter refer to the principal examples by exhibit and page:

Exh. 1537, p. 12966

Exh. 1538, p. 12967

Exh. 1539, p. 12968

Exh. 1583, p. 13102

Exh. 1584, p. 13104

Exh. 1978, p. 14543 - This exhibit shows KIMURA's knowledge of his responsibility, his part in forming POW policy, and pious decorations made while he was Vice War Minister. KIMURA was not interrogated and no books or documents written by him appear in the record other than the messages referred to herein.

6 June 1947

MEMORANDUM FOR: **Capt. Robinson U.S.N. Att. Cmdr Cole;**
Mr. Sutton
FROM : **EDWARD P. MONAGHAN, Chief,**
Investigative Division, IPS
SUBJECT : **Defense Witness**

Refer to

1. Please find attached hereto list of material available on the following witness and/or witnesses.

DEFENDANT

KIMURA

The attached information has been taken from the compiled report prepared by MIS. The report was previously classified secret however this classification has been cancelled and at the present time does not carry any classification. It will be noted that much of this information has been furnished in curriculum vitae obtained from the Cabinet Secretariat's office.

WITNESS

KIMURA, Heitaro

LIST OF MATERIAL AVAILABLE

Info from MID report

2. Please acknowledge receipt of this memorandum by initialling and returning attached carbon copy to this office, Room 300.

E P M

Incl
(Described above)

EDWARD P. MONAGHAN

General Heitaro (Hyotaro) KIMURA: Former member Supreme Military Council;
Commander in Chief, Japanese Forces in Burma.

1888 Sept Born Saitama Prefecture.
1908 Graduated Military Academy; 2nd Lt., Artillery
1911 1st Lt., Artillery
1916 Graduated Military Staff College
1917 Attached to Army General Staff
1918 Captain, Artillery; on staff 3rd Division
1919 Instructor in Army Artillery and Engineers School
1922 Sent to Germany as language officer
1923 Major, Artillery
1925 Returned from Germany; on Army General Staff and
concurrently instructor Military Staff College.
1926 Battalion commander, 24th F.A. Regiment
1927 On staff of Inspector General of Artillery
1928 Lieutenant Colonel, Artillery
1929 Instructor Infantry and Field Artillery Schools concurrently;
also on staff of Research Department of latter.
1929 On Army General Staff and attached to Naval General Staff
concurrently.
1929-30 Member of delegation of London Disarmament Conference
1931 Colonel, Artillery; C.O., 22nd F.A. Regiment. Artillery;
1934 Instructor Field Artillery School and member of its
Research Department staff concurrently.
1935 Chief, Control Section, Complete Equipment Bureau, War
Ministry.
1936-37 Chief, Ordnance Bureau, War Ministry; Major General
1937 On Army General Staff; appointed to command a division on
the continent
1939 Lieutenant General; a corps commander
1940 (Oct) Chief of Staff of Kwantung Army
1941 Apr
1943 Mar Vice Minister of War in Konoye and Tojo Cabinets
1943 Mar Chief of Army Ordnance Administrative Staff; member Supreme
Military Council
1943 Dec Appointed Chief of Headquarters for Fortification Construction
1944 Commander in Chief, Japanese Forces in Burma
1945 May General

Address: Kobinata Dai-machi, Koishikawa-ku, Tokyo.

Known in the Army as an accomplished staff officer and excellent organizer. Because his experience had been primarily administrative and political, appointment to the Burma Command created considerable interest.

(b) The witness is in Rangoon in custody of the British Army. The desired witness is not charged as a war criminal.

It is further ORDERED: That the application of the accused for the issuance of a subpoena for the person named in his request for the production of a witness is indefinitely continued, awaiting results and disclosures of the interrogations hereinbefore authorized and ordered, and the accused is granted permission to file a supplemental application for the issuance of a subpoena for said witness, should he be found necessary to the proper defense of the accused as a result of said interrogations.

Dated at Tokyo, Japan, this 10 February, 1947.

BY THE TRIBUNAL:

/s/ W. F. Webb
PRESIDENT

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

- 1 -

Paper No. 722

THE UNITED STATES OF AMERICA, et al

- VS -

ARAKI, Sadao, et al

- Defendants -

REQUEST FOR PRODUCTION OF WITNESS

NOW COMES KIMURA, Heitaro, and requests the Tribunal, in accordance with Article 9(e) of the Charter, to order the production of the following witness necessary to his defense:

1. Lieut. General TANAKA, Nobuo
 - a. The nationality of the witness is Japanese;
 - b. The witness is in Rangoon in custody of the British army. The desired witness is not charged as a war criminal;
 - c. This witness is familiar with the Lalagon case in which some 500 civilian inhabitants in Lalagon, Burma, were allegedly unlawfully killed and tortured. He will testify that the accused KIMURA did not authorize nor have knowledge of this alleged atrocity, the relevancy of which is obvious.

KIMURA, Heitaro

by

SHICBARA Tokisaburo

Joseph C. Howard

His Counsel

3 February 1947