

(Translation)

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INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al.

- vs -

ARAKI, Sadao, et al.

SWORN DEPOSITION

Deponent: HORINOUCHI, Kensuke.

Date of birth: March 30, 1886.

Domicile: 4-871 Shimo-Meguro, Meguro-ku, Tokyo.

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

(1) I received appointment as a diplomatic attache on December 2, 1911, and remained in the diplomatic service until I retired on December 21, 1940. During that period I was appointed Vice-Minister for Foreign Affairs under Mr. Hachiro Arita, the Foreign Minister of the Hirota Cabinet, on April 10, 1936, and remained in the office until I was appointed Ambassador to the United States on October 15, 1938. Of the same period, I was under Foreign Minister Hirota in the First Konoye Cabinet from June 4, 1937, to May 26, 1936.

(2) Early in June, 1937, the Hayashi Cabinet resigned en masse, and Prince Konoye received an Imperial mandate to form a new Cabinet. Rumours were then abroad, in connection with the appointment of the Foreign Minister, that the Premier was to hold an additional office of Foreign Minister, or that he would select for that office someone outside the diplomatic circles or from among the military. As I was then Vice-Minister for Foreign Affairs, I called on Marquis Kido, who was the Chief Secretary to the Lord Keeper of the Privy Seal and was Prince Konoye's close friend, and expressed the opinion prevailing in the Foreign Office to the effect that to have the Premier hold an additional post of Foreign Minister was undesirable, and that for that post someone should be appointed from among those who were richly experienced in diplomacy, asking him to inform Prince Konoye of that opinion.

The Konoye Cabinet was formed on June 4, and Mr. Hirota was appointed Foreign Minister to the relief of the Foreign Office staff.

I stayed, in accordance with Mr. Hirota's wishes, in the office of Vice-Minister for Foreign Affairs. On that occasion, Mr. Hirota told me that, though he did not wish to assume the office of Foreign Minister, he was compelled to accept the appointment by the ardent request of Prince Saionji as well as Prince Konoye.

Baron Harada, private secretary to Prince Saionji, also told me that, by order of the Prince, then at Okitsu, he conveyed by telephone the latter's request to Mr. Hirota in Tokyo to the effect that, as that was the first chance for Prince Konoye to form a cabinet, and as he was little experienced in diplomacy, Prince Saionji desired to have Mr. Hirota, who was of rich experience and sound opinions, join the Cabinet to assist the new Premier.

(3) The negotiations between the Japanese and Chinese Governments for improving their relations after the Manchurian Affair had been continued, though intermittently, since 1934 or thereabouts. The two Governments took the opportunity of the Cheng-tu incident of August, 1936, and the Pakhoi incident of the same year to resume the negotiations seriously in Nanking with a view to adjusting the relations between the two countries. The negotiations, however, were discontinued towards the end of that year, leaving unsettled all other questions but the aforesaid two incidents. Meanwhile, the Suiyuan incident which took place at the end of 1936 seemed to have flattered the Chinese military to a triumphant feeling, and the Sian incident which occurred almost simultaneously was reported to have prompted the Nationalist Government to adopt the pro-Comintern and anti-Japanese policy. Such was the general trend of affairs affecting China and Japan before the Marco Polo Bridge incident broke out.

(4) The Foreign Office did not have the slightest inkling of this incident. The official telegram reporting its outbreak reached Tokyo on July 8, 1937, the following day. Foreign Minister Hirota was at his villa at Kugenuma, and had already been in bed when he received a telephone call from the Foreign Office, reporting the outbreak of the incident.

The Foreign Office's policy was to make its utmost effort in seeking an amicable settlement of the matter as soon as possible. An extraordinary meeting of the Cabinet council was held on July 9, and decided the attitude of the Government to hold fast to the policy to arrest the spread of the disturbance, and to seek a prompt, local settlement of the matter. This decision was made largely due to the opinion of Foreign Minister Hirota.

(5) Meanwhile, in North China, Major-General Gun Hashimoto, the then Chief of the Staff of the North China Stationary Force, and others negotiated with the Chinese 29th Army, reaching an agreement at 8:00 P.M. on the 11th. The Chinese 29th Army accepted the following demands of the Japanese Army.

(I) The representative of the 29th Army should express their regret, punish the responsible, and make a vow that recurrence of such event should be prevented.

(II) As the concentration of Chinese troops near Fengtai where Japanese forces are stationed is liable to cause untoward incidents, the Chinese troops stationed at the citadel of the Marco Polo Bridge and Lungwangmiao should be withdrawn, and police forces should take their places.

(III) Anti-Japanese organizations should be kept under strict control.

These terms seemed to be carried by the Chinese into execution somehow or other before July 22.

But, in the meantime, there occurred frequently skirmishes between the Japanese and the Chinese troops, as the latter, once withdrawn, reappeared in the areas in question, and the situation called for prudence and caution.

(6) Prior to this, it was arranged that an extraordinary session of the Cabinet council was to be held on July 11, and it was reported that the Army would propose preliminary measures for mobilization. The Foreign Minister was again at his villa at Kugenuma from the evening of July 9. The programme was immediately reported to him by telephone, and on the morning of July 11, he arrived at Shimbashi Station around 9 o'clock. As soon as he reached the Foreign Office, he assembled myself, East-Asiatic Director Ishii and European-Asiatic Director Togo in his office to deliberate upon the reported Army's proposal, and it was decided that the proposition should be opposed. The

Foreign Minister soon attended the Cabinet meeting, and the following results were reported afterward.

First, War Minister Sugiyama explained the plan for the preliminary arrangements for mobilization. It was made clear by this explanation that the plan was not to make immediately arrangements for mobilization. It might have more properly be said just preparing for the preliminary arrangements of mobilization. It amounted to the decision of the Cabinet to envisage eventual preparatory measures for mobilization in case the situation assumes more serious proportions. The Foreign Minister suggested, however, that the matter might have already been settled locally by that time, and took the position that the consideration of the Army proposal in question should be postponed until further reports reached the Government.

Thus the discussion was once postponed. But, the awaited report being so late in coming, the Cabinet council was assembled again on the same day and was compelled to approve the Army proposal which provided that, in order to secure the apology and future guarantee by the Chinese, necessary forces in the home land should also be mobilized while contingents from the Kwantung Army and the Chosen Army were to be despatched to reinforce the North China Stationary Force, and that all possible efforts should be made for a peaceful settlement of the incident in conformity with the policy of local settlement, and also that the despatch of the troops should immediately be stopped when the above-mentioned object was attained and the apology and future guarantee were fulfilled by the Chinese.

Foreign Minister Hirota consented to this decision with reservations that the despatch of troops, even when it was carried into execution, should be exclusively for the purpose of protecting the Japanese residents and securing the safety of the North China Stationary Force itself which was comparatively small in strength, and that the decision for the mobilization of home troops was nothing more than an attitude of preparedness as contended by the War Minister.

(7) Holding fast to the policy of speedy local settlement of the incident, the Foreign Office was determined to spare no effort for its attainment. By the Foreign Minister's order, I asked Mr. Yang Yun-chu, the Chinese Charge d'Affaires, to call at the Foreign Office on the morning of July 11, and called the attention of the Chinese Government to the critical situation in North China, urging the necessity of a quick local settlement. I also told him that instructions to the same effect had been given early in that morning to the Japanese Ambassador to China.

(8) Mr. Kawagoye, the Japanese Ambassador to China, was on his journey to North China, at that time, leaving Shanghai on the very day of the outbreak of the incident, and Councillor Hidaka executed the instructions on his behalf. Meanwhile, we successively received authoritative reports that the Nanking Government, in spite of our representations made at Nanking as well as at Tokyo, were despatching reinforcements, troop after troop, to North China. The Chinese 29th Army also, probably influenced by such military actions of the Nanking Government, became to show a dubious attitude in connection with the execution of the three terms of settlement agreed upon on July 11. The Foreign Office, thereupon, ordered Councillor Hidaka by wire on July 16 to call upon the Nanking Government not to interfere with the execution of the three terms, and to check the northward movement of the Chinese Central Armies. Nevertheless, the Central Armies were reported still advancing northward as before.

(9) In view of such attitude on the part of China, the Cabinet decided at its meeting of July 20 that, in order to meet emergency, preparations should be made for the mobilization of three home divisions.

The Foreign Office, however, did not give up the hope of amicable settlement, and had Councillor Hidaka pursue in earnest the negotiation in Nanking. Unfortunately, there again occurred armed clashes between the Japanese and Chinese forces in North China since July 25 or 26. The situation thus making serious developments, the orders for the mobilization of three home divisions were at last issued on July 27. From the early morning of the following 28th onwards, the hostilities in North China went on spreading. Moreover, Shanghai and its vicinity, where the situation had been comparatively tranquil, turned disquieting. Thus all the efforts of Councillor Hidaka in Nanking proved fruitless.

(10) In Tokyo, Mr. Dodds, the British Charge d'Affaires, called on me on July 15, and asked if Britain could be of any service to Japan in settling the incident. I told him in reply that I thought there were prospects of local settlement. From that day on till about July 20, Mr. Dodds came to see me almost every day and kept me informed of the gist of the conversations between Ambassador Huggessen and the Chinese Foreign Minister. On these occasions, I always told him that we had not yet given up our hope to settle the incident locally. On the 22nd, American Ambassador Grew made an offer to Foreign Minister Hirota that his Government would render its services, if necessary, in the way short of mediation. But the Foreign Minister replied that, in the light of the actual situation of North China about the 19th, there was still some hope that the Agreement of August 11 might be carried into execution. Actually the Japanese Foreign Office had not given up the hope of local settlement then, and was making desperate efforts.

(11) It was in July that a draft of terms of settlement with China was worked out as a result of the deliberation among the competent authorities of the Foreign Office, the War Office and the Ministry of the Navy. It consisted of three main points: (A) the establishment of unfortified zones along the River Pai-ho, and the withdrawal of Japanese and Chinese troops from the areas specified as such; (B) no annexation of territories; and (C) no indemnities. The draft was approved on August 5 or 6 by the Foreign Minister, the War Minister, the Minister of the Navy and the Premier.

(12) Early in August, Foreign Minister Hirota made up his mind to despatch Mr. Tatsuichiro Funatsu, an authority on China, to Shanghai, in an attempt at restoring peace between Japan and China. Mr. Funatsu's mission was to have talks, on the lines of the said peace terms decided upon in August, with Mr. Kao Tsung-wu, the Chief of the Asiatic Bureau of the Chinese Foreign Office, who had a direct contact with Generalissimo Chiang Kai-shek. Mr. Funatsu left Tokyo about August 5, arriving at Shanghai on the 7th. Ambassador Kawagoye, on the other hand, returned to his post in Shanghai almost at the same time. And, on deliberation between the two, it was decided that Ambassador Kawagoye in person would negotiate with Mr. Kao Tsung-wu. The interview took place on the 8th. As the Ambassador revealed the three terms of the August plan as his personal propositions, Mr. Kao stated that he thought there were prospects of peaceful settlement between Japan and China upon these terms, and promised that he would promptly return to Nanking to make a report to Generalissimo Chiang Kai-shek, and then again see Ambassador Kawagoye in Shanghai. But, it happened that a Japanese naval officer was killed by Chinese soldiers on August 9 (the so-called Oyama incident), and from the 13th on, both Japanese and Chinese forces entering into hostilities even in Shanghai district, the communication was utterly suspended between Nanking and Shanghai. The Kawagoye-Kao interview ended, in this way, without tangible results.

(13) Even after that, Foreign Minister Hirota did not give up his hope to find a clue of an amicable settlement of the incident. He asked Mr. Arita, who had been Foreign Minister in the Hirota Cabinet, to go to Shanghai where the leading figures of the Nanking Government gathered often, and stay there for some time to seize a chance of having informal talks with them. Mr. Arita accepted it, and, on deliberation between the two, it was so arranged that he would first visit Manchuria and North China, staying there until the Foreign Minister wired him and let him know the proper time to start for Shanghai. Mr. Arita left Tokyo on August 28 on his tour of inspection in Manchuria, Peking, Tientsin and other places, but, as the situation did not take a favourable turn for his visit to Shanghai as expected, he was compelled to leave Dairen for Tokyo at the end of September.

(14) It was in September after the Kawagoye-Kao conversation proved failure that the competent Chiefs of Bureaus of the Foreign Office, the War Office and the Ministry of the Navy assembled to talk over how to deal with the peace problem thereafter, reaching an agreement that, if the endeavour after peace was to be continued at all, there was no other way for it but to ask for the good offices of a third power to find settlement with China on the terms of the August plan. This opinion was presented to the Government, and was approved by the Premier, the Foreign Minister, the War Minister and the Minister of the Navy.

Almost at the same time as the above, the Chiefs of the Bureaus concerned assembled, by the orders of the Ministers concerned, to discuss the policy which the Government was to adopt in connection with the various problems of the China Affair. They, however, could not attain agreement on two or three points. Thereupon, I conferred with the Vice-Ministers of War and of the Navy, and settled the points. This was decided as the policy of the Government on October 5, with the approval of the Premier, the Foreign Minister, the War Minister and the Minister of the Navy. The point which demands our special attention is that this "Shina-Jiben Taisho Yoko" (The Gist of the Policy for the Settlement of the China Affair) stipulated (a) to bring the China Affair to the quickest possible conclusion, (b) to act strictly in conformity with the international law, (c) to limit the scene of battle chiefly within the provinces of Hopei and Chahar as well as Shanghai district, and (d) to strive for the settlement of the North China question along the lines of policy that the said area should be placed under the administration of the Chinese Central Government.

(15) On September 21, the League of Nations requested the Japanese Government to participate in the Twenty-Three Power Consultative Committee. Japan, however, had seceded from the League on March 27, 1933. Since then, it had maintained a firm attitude not to participate in any political activity of the League of Nations. ~~Moreover, the people of Japan seemed to harbour a strong hostile feeling against it ever after the Manchurian Affair.~~ Under such circumstances, it was quite impossible that the League's request of September 21 should be accepted by the Japanese public opinion. The Japanese Government, thereupon, made a reply on September 25 to the effect that it could not accept the said request of the League of Nations.

On October 20 and November 7 of 1937, the Belgian Government invited Japan to participate in the Brussels Conference which was to be held in accordance with the provisions of Article VII of the Nine Power Pact. But the public opinion of Japan was strongly against the participation in the said Conference. ~~As it was considered by the Japanese people, that the said Conference was nothing but an extension of the activity of the League of Nations, the Japanese people's feeling against it was all the more hostile. As Ambassador Grew writes in his "Ten Years in Japan," the political parties as well as newspapers were in one, in effect, in opposing to Japan's participating~~

~~in the Brussels Conference,~~ and the Japanese Government was compelled to reply to the Belgian requests of October 20 and November 7, on October 27 and November 12 respectively, that it could not accept the same. With respect to Article VII of the Nine Power Pact, the Foreign Office authorities held the following interpretation:

Article VII of the Nine Power Pact runs: "The contracting Powers agree that whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present Treaty, and renders desirable discussion of such application, there should be full and frank communication between the contracting Powers concerned." Either in the light of the wording of the Article or in consideration of the circumstances under which the said Article was referred to discussion at the first meeting of the Subcommittee for the Pacific and Far Eastern Problems of the Washington Conference (held on February 2, 1922), it is evident that "communication" here means communication in any form, and not necessarily that in the form of conference. Moreover, the proceedings of the said Subcommittee show that the communication should be made, as a general rule, through ordinary diplomatic channels, and the communication in the form of conference is not in the least expected.

In accordance with such interpretation, the Foreign Office understood that to reject the participation in the Brussels Conference was not against the provisions of the Nine Power Pact inasmuch as the participation was expected to be detrimental to the internal affairs of Japan.

(16) Early in September, British Ambassador Craigie arrived at his post in Tokyo. He was such an enterprising man that he set about settling the case of Ambassador Huggessen's accident of August 26 as soon as he took up his duties. He had frank talks with Vice-Admiral Yamamoto, the Vice-Minister of the Navy, and myself, succeeding in solving the problem soon.

On October 27, the Foreign Minister, in an individual interview with the Ambassadors of Britain, the United States, Germany and Italy, told them that the Japanese Government could not accept the invitation to the Brussels Conference, but desired to have either of the four powers use its good offices for bringing about direct peace negotiations between Japan and China upon the terms of the August plan. And, as the British Ambassador soon called upon the Foreign Minister and informed him of his Government's willingness to use its good offices for negotiations between the two countries, the Foreign Minister accepted. Between them there were several exchanges of views concerning terms of settlement. But, as it was realized afterwards that there was strong opposition within the Army against Britain acting as a go-between, the scheme had to be held in abeyance.

A similar offer was made also by American Ambassador Grew almost at the same time, though on condition that both Governments of Japan and China asked for it. This offer of the American Ambassador, however, did not materialize after all.

(17) The Army maintained to ask for the good offices of the German Government. But the Foreign Minister hesitated, as he doubted if the services of the German Government alone, which did not have strong voice in China, were really effectual. In the meantime, British Ambassador Craigie made a suggestion for the joint services of Britain, the United States and Germany, for fear of the inefficacy of the efforts of the single-handed Germany. The Army's objection against the participation of Britain and the United States, however, was too obvious. The Foreign Minister, thereupon, asked Ambassador Craigie to take the initiative in requesting Germany to let the other powers participate in the attempt, for it was expected that, inasmuch as Germany

herself agreed to act in concert with Britain and the United States, the Army also might possibly consent to their cooperation. But, it was reported later, by Ambassador Craigie that, in response to his request he was told by the German Ambassador to the effect that, as the approach to the Chinese Government still remained in the stage of sounding, consideration would be given later to the proposal of Britain and the United States after it attained the stage that China responded to the Japanese efforts.

One day in December, the Foreign Minister received a personal letter from German Ambassador Dirksen saying that he had an important matter to discuss with the Foreign Minister, and that he wished to invite the Foreign Minister to tea, as he could not get out on account of illness. The Foreign Minister called upon the German Ambassador, and was told that, when Herr Trautmann, the German Ambassador to China, met Generalissimo Chiang Kai-shek on December 2, the head of the Chinese Government revealed he had no objection to starting peace negotiations on the basis of the Japanese terms. And Dirksen asked the Foreign Minister if there was no alteration in the peace terms of the August plan yet.

(18) The Foreign Minister, thereupon, had the Director of East Asiatic Bureau confer with the competent authorities of the War Office and the Ministry of the Navy, and it was made clear that both the Army and the Navy had no objection to the peace terms of the August plan.

The question, however, had to be submitted to the Liaison Conference of the Government and the Army and the Navy which had been set up a little before that, and it was placed on the agenda for the meeting of December 20. The fall of Nanking on December 13 had considerably stiffened the general feelings of the Japanese public towards China. ~~Drastic opinions often appeared in the newspapers. As a matter of course, the Liaison Conference could not but be influenced by such circumstances.~~ Home Minister Suyetsugu, for example, was supported by such general feelings. Claiming to give a smashing blow to China, he was known for his drastic attitude towards China, and was naturally against the peace negotiation itself. Unprecedentedly as Home Minister, he attended the December 20 meeting of the Liaison Conference which was held to deliberate upon the peace terms for China. He layed an extremely strong opinion before the Conference, and, after a heated discussion, the Conference decided upon the four fundamental terms of peace for China, which were naturally far less compromising than those of the August plan.

The four terms were as follows:

- 1) The Chinese Government is requested to give up its pro-Comintern and anti-Japanese, anti-Manchoukuo policy, and cooperate with Japan and Manchoukuo in their anti-Comintern policy.
- 2) Unfortified zones shall be set up in needed areas, and special administrative machineries shall be established in the said areas.
- 3) Close economic relations shall be created among Japan, Manchoukuo and China.
- 4) The Chinese Government is requested to make necessary reparations.

The Japanese Government expected the reply to the above to be given before January 5 or 6 of the following year.

(19) These four terms of peace were presented to Ambassador Dirksen with a detailed explanation. They were submitted to the Chinese Government through Ambassador Trautmann on December 26, but no reply was obtained by the appointed date.

The Foreign Office urged the reply several times through the German Government, and as late as January 13, the Chinese Foreign Minister replied to German Ambassador Trautmann to the effect that, as the Japanese peace terms covered too wide a scope, the Chinese Government wished to know their further details in order to make the final decision thereof. Ambassador Dirksen conveyed the Chinese reply to the Japanese Foreign Minister on January 14.

As to the contents of the four fundamental terms, however, a detailed explanation had already been given through the German Government. It was quite incomprehensible to us that the Chinese Government should make a request to know the contents of the terms to further details. In the light of the progress of the past negotiations between the two Governments since the outbreak of the incident, the Japanese Government could not but regard it as an artifice to delay the settlement on purpose. The Foreign Office was greatly discouraged by this reply of the Chinese Government.

The reply of the Chinese Foreign Minister was brought up for discussion at the Cabinet council of January 15. The council also regarded it as an artifice to delay intentionally the settlement of the incident, and had to decide to close the negotiation. The declaration "not to deal with the Nationalist Government hereafter" was made in this way on January 16.

(20) I should like to relate, by the way, what I know about the circumstances which caused the Japanese Government to use, in the manifestation of its serious intention, such a colloquial expression as "not to deal with the Nationalist Government hereafter", which is not necessarily clear in meaning. It was first proposed to use an expression "to discontinue the negotiation", at the conference of the competent authorities of the Ministries concerned. But the Foreign Office opposed to using such a plain and definite expression, and it was decided, after careful consideration, that the more or less vague expression as the above-mentioned should be adopted. This is a proof that the Japanese Foreign Office had the intention to leave scope enough to resume the negotiation for peace with the Nationalist Government. In March of that year, the Italian authorities at Shanghai frequently transmitted to the Japanese Embassy there the intention of the Nationalist Government concerning the peace terms which was sounded by the Italian Councillor then at Hankao. And I remember Foreign Minister Hirota gave a tacit consent to the Japanese Embassy in China keeping in touch with the Italian diplomatic authorities. Also his successor General Ugaki had Consul-General Nakamura negotiate in Hongkong for peace with Mr. Chiao Fu San acting for Dr. Kung Hsiang-hai, head of the Administrative Yuan of the Chinese Government, several times in June, 1938.

(21) Foreign Minister Hirota always gave careful consideration to safeguarding the interests of the third powers in China. Even after the outbreak of the incident, he mentioned it several times in the announcements of the Government, and actually exerted all his efforts in its favour. I can cite a striking instance of such efforts of the Foreign Minister. In April or May, 1938, he ordered me, in response to an offer of the British Government, to discuss with Ambassador Craigie the questions regarding the maintenance of the Chinese customs system and the modification of tariff. We met several times, and, as a result, an agreement, satisfactory to both parties, was concluded, and made public. This agreement restrained the modification of the tariff rates, in the light of the real state of things in those days, within a certain limit so that it might not be against the interests of the third powers. It also aimed at forestalling the seizure of the Chinese customs by



the Japanese Army. Ambassador Craigie had kept close contact with the Ambassadors of the United States and France before the agreement was arrived at, and the British Ambassador confidentially told me that both countries had no objection to the said agreement. In this way, Foreign Minister Hirota exerted his efforts to keep the effects of military measures upon the interests of the third powers within the least limit, through negotiations with those third powers.

(22) The originals as well as the copies of the telegrams referred to in the present deposition, in (7) and (8), having been lost in the fire, they are not found in the files of the Foreign Office.

On this 21st day of August, 1947, at Tokyo.

(Signed) Kensuke Horinouchi (Seal)

Sworn to and subscribed before me on the above-mentioned date and place.

(Signed) Goro Morishima (Seal)

Witness

O A T H

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

(Signed) Kensuke Horinouchi (Seal)