

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

PART C

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November 1948

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PART C

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FINDINGS ON COUNTS OF THE INDICTMENT

In Count I of the Indictment it is charged that all the defendants together with other persons participated in the formulation or execution of a common plan or conspiracy. The object of that common plan is alleged to have been that Japan should secure the military, naval, political and economic domination of East Asia and of the Pacific and Indian Oceans, and of all countries and islands therein or bordering thereon, and for that purpose should, alone or in combination with other countries having similar objects, wage a war or wars of aggression against any country or countries which might oppose that purpose.

There are undoubtedly declarations by some of those who are alleged to have participated in the conspiracy which coincide with the above grandiose statement, but in our opinion it has not been proved that these were ever more than declarations of the aspirations of individuals. Thus, for example, we do not think the conspirators ever seriously resolved to attempt to secure the domination of North and South America. So far as the wishes of the conspirators crystallised into a concrete common plan we are of opinion that the territory they had resolved that Japan should dominate was confined to East Asia, the Western and South Western Pacific Ocean and the Indian Ocean, and certain of the islands in these oceans. We shall accordingly treat Count I as if the charge had been limited to the above object.

We shall consider in the first place whether a conspiracy with the above object has been proved to have existed.

Already prior to 1928 Okawa, one of the original defendants, who has been discharged from this trial on account of his present mental state, was publicly advocating that Japan should extend her territory on the Continent of Asia by the threat or, if necessary, by use of military force. He also advocated that Japan should seek to dominate Eastern Siberia and the South Sea Islands. He predicted that the course he advocated must result in a war between the East and the West, in which Japan would be the champion of the East. He was encouraged and aided in his advocacy of this plan by the Japanese General Staff. The object of this plan as stated was substantially the object of the conspiracy, as we have defined it. In our review of the facts we have noticed many subsequent declarations of the conspirators as to the object of the conspiracy. These do not vary in any material respect from this early declaration by Okawa.

Already when Tanaka was premier, from 1927 to 1929, a party of military men, with Okawa and other civilian supporters, was advocating this policy of Okawa's that Japan should expand by the use of force. The conspiracy was now in being. It remained in being until Japan's defeat in 1945. The immediate question when Tanaka was premier was whether Japan should attempt to expand her influence on the continent - beginning with Manchuria - by peaceful penetration, as Tanaka and the members of his Cabinet wished, or whether that expansion should be accomplished by the use of force if necessary, as the conspirators advocated. It was essential that the conspirators should have the support and control of the nation. This was the beginning of the long struggle between the conspirators, who advocated the

attainment of their object by force, and those politicians and latterly those bureaucrats, who advocated Japan's expansion by peaceful measures or at least by a more discreet choice of the occasions on which force should be employed. This struggle culminated in the conspirators obtaining control of the organs of government of Japan and preparing and regimenting the nation's mind and material resources for wars of aggression designed to achieve the object of the conspiracy. In overcoming the opposition the conspirators employed methods which were entirely unconstitutional and at times wholly ruthless. Propaganda and persuasion won many to their side, but military action abroad without Cabinet sanction or in defiance of Cabinet veto, assassination of opposing leaders, plots to overthrow by force of arms Cabinets which refused to cooperate with them, and even a military revolt which seized the capital and attempted to overthrow the government were part of the tactics whereby the conspirators came ultimately to dominate the Japanese polity.

As and when they felt strong enough to overcome opposition at home and latterly when they had finally overcome all such opposition the conspirators carried out in succession the attacks necessary to effect their ultimate object, that Japan should dominate the Far East. In 1931 they launched a war of aggression against China and conquered Manchuria and Jehol. By 1934 they had commenced to infiltrate into North China, garrisoning the land and setting up puppet governments designed to serve their purposes. From 1937 onwards they continued their aggressive war against China on a vast scale, overrunning and occupying much of the country,

setting up puppet governments on the above model, and exploiting China's economy and natural resources to feed the Japanese military and civilian needs.

In the meantime they had long been planning and preparing a war of aggression which they proposed to launch against the U.S.S.R. The intention was to seize that country's Eastern territories when a favourable opportunity occurred. They had also long recognized that their exploitation of East Asia and their designs on the islands in the Western and South-Western Pacific would bring them into conflict with the United States of America, Britain, France and the Netherlands who would defend their threatened interests and territories. They planned and prepared for war against these countries also.

The conspirators brought about Japan's alliance with Germany and Italy, whose policies were as aggressive as their own, and whose support they desired both in the diplomatic and military fields, for their aggressive actions in China had drawn on Japan the condemnation of the League of Nations and left her friendless in the councils of the world.

Their proposed attack on the U.S.S.R. was postponed from time to time for various reasons, among which were (1) Japan's preoccupation with the war in China, which was absorbing unexpectedly large military resources, and (2) Germany's pact of non-aggression with the U.S.S.R. in 1939, which for the time freed the U.S.S.R. from threat of attack on her Western frontier, and might have allowed her to devote the bulk of her strength to the defence of her Eastern territories if Japan had attacked her.

Then in the year 1940 came Germany's great military successes on the continent of Europe. For the time being Great Britain, France and the Netherlands were powerless to afford adequate protection to their interests and territories in the Far East. The military preparations of the United States were in the initial stages. It seemed to the conspirators that no such favourable opportunity could readily recur of realising that part of their objective which sought Japan's domination of South-West Asia and the islands in the Western and South Western Pacific and Indian Oceans. After prolonged negotiations with the United States of America, in which they refused to disgorge any substantial part of the fruits they had seized as the result of their war of aggression against China, on 7th December 1941 the conspirators launched a war of aggression against the United States and the British Commonwealth. They had already issued orders declaring that a state of war existed between Japan and the Netherlands as from 00.00 hours on 7th December 1941. They had previously secured a jumping-off place for their attacks on the Philippines, Malaya and the Netherlands East Indies by forcing their troops into French Indo-China under threat of military action if this facility was refused to them. Recognising the existence of a state of war and faced by the imminent threat of invasion of her Far Eastern territories, which the conspirators had long planned and were now about to execute, the Netherlands in self-defence declared war on Japan.

These far-reaching plans for waging wars of aggression, and the prolonged and intricate preparation for and waging of these wars of aggression were not the

work of one man. They were the work of many leaders acting in pursuance of a common plan for the achievement of a common object. That common object, that they should secure Japan's domination by preparing and waging wars of aggression, was a criminal object. Indeed no more grave crimes can be conceived of than a conspiracy to wage a war of aggression or the waging of a war of aggression, for the conspiracy threatens the security of the peoples of the world, and the waging disrupts it. The probable result of such a conspiracy, and the inevitable result of its execution is that death and suffering will be inflicted on countless human beings.

The Tribunal does not find it necessary to consider whether there was a conspiracy to wage wars in violation of the treaties, agreements and assurances specified in the particulars annexed to Count I. The conspiracy to wage wars of aggression was already criminal in the highest degree.

The Tribunal finds that the existence of the criminal conspiracy to wage wars of aggression as alleged in Count I, with the limitation as to object already mentioned, has been proved.

The question whether the defendants or any of them participated in that conspiracy will be considered when we deal with the individual cases.

The conspiracy existed for and its execution occupied a period of many years. Not all of the conspirators were parties to it at the beginning, and some of those who were parties to it had ceased to be active in its execution before the end. All of those who at any time were parties to the criminal conspiracy or who at any time with guilty knowledge played a part

in its execution are guilty of the charge contained in Count I.

In view of our finding on Count I it is unnecessary to deal with Counts 2 and 3, which charge the formulation or execution of conspiracies with objects more limited than that which we have found proved under Count I, or with Count 4, which charges the same conspiracy as Count I but with more specification.

Count 5 charges a conspiracy wider in extent and with even more grandiose objects than that charged in Count I. We are of opinion that although some of the conspirators clearly desired the achievement of these grandiose objects nevertheless there is not sufficient evidence to justify a finding that the conspiracy charged in Count 5 has been proved.

For the reasons given in an earlier part of this judgment we consider it unnecessary to make any pronouncement on Counts 6 to 26 and 37 to 53. There remain therefore only Counts 27 to 36 and 54 and 55, in respect of which we now give our findings.

Counts 27 to 36 charge the crime of waging wars of aggression and wars in violation of international law, treaties, agreements and assurances against the countries named in those counts.

In the statement of facts just concluded we have found that wars of aggression were waged against all those countries with the exception of the Commonwealth of the Philippines (Count 30) and the Kingdom of Thailand (Count 34). With reference to the Philippines, as we have heretofore stated, that Commonwealth during the period of the war was not a completely

sovereign State and so far as international relations were concerned it was a part of the United States of America. We further stated that it is beyond doubt that a war of aggression was waged in the Philippines, but for the sake of technical accuracy we consider the aggressive war in the Philippines as being a part of the war of aggression waged against the United States of America.

Count 28 charges the waging of a war of aggression against the Republic of China over a lesser period of time than that charged in Count 27. Since we hold that the fuller charge contained in Count 27 has been proved we shall make no pronouncement on Count 28.

Wars of aggression having been proved, it is unnecessary to consider whether they were also wars otherwise in violation of international law or in violation of treaties, agreements and assurances. The Tribunal finds therefore that it has been proved that wars of aggression were waged as alleged in Counts 27, 29, 31, 32, 33, 35 and 36.

Count 54 charges ordering, authorising and permitting the commission of Conventional War Crimes. Count 55 charges failure to take adequate steps to secure the observance and prevent breaches of conventions and laws of war in respect of prisoners of war and civilian internees. We find that there have been cases in which crimes under both these Counts have been proved.

Consequent upon the foregoing findings, we propose to consider the charges against individual defendants in respect only of the following Counts: Numbers 1, 27, 29, 31, 32, 33, 35, 36, 54 and 55.

PART C
CHAPTER X

VERDICTS

The Tribunal will now proceed to render its verdict in the case of each of the accused.

Article 17 of the Charter requires that the judgment shall give the reasons on which it is based. Those reasons are stated in the recital of facts and the statement of findings the reading of which has just been completed. Therein the Tribunal has examined minutely the activities of each of the accused concerned in relation to the matters in issue. Consequently, the Tribunal does not propose in the verdicts now to be read to repeat the many particular findings on which the verdicts are based. It will give its reasons in general terms for its findings in respect of each accused, such general reasons being based on the particular statements and findings in the recital already referred to.

ARAKI, Sadao

The defendant ARAKI, Sadao is charged under Count 1 with conspiracy to wage aggressive wars and wars in violation of international law, treaties, agreements and assurances. He is charged also under Counts 27, 29, 31, 32, 33, 35 and 36 with waging such wars. Under Counts 54 and 55 he is charged with responsibility for war crimes committed in China. At all material times he was a Military Officer of high rank. He became a Lieutenant-General in 1927 and a General in 1933. Throughout he was prominent in the hierarchy of the Army.

He was an energetic proponent of the Army policy of political domination at home and of military aggression abroad. He was in fact and was recognised as being one of the prominent leaders of that Army movement. As a member of different Cabinets he advanced the Army policy to prepare for wars of aggression by stimulating the warlike spirit of the young men of Japan, by mobilizing Japan's material resources for war and by speeches and by control of the press inciting and preparing the Japanese people for war. Both in and out of political office he helped to formulate and was a vigorous advocate of the policy of the military party to enrich Japan at the expense of her neighbours. He both approved and actively supported the policies undertaken by the Japanese Army in Manchuria and Jehol to separate that territory politically from China, to create a Japanese-controlled government and to place its economy under the domination of Japan. The Tribunal

finds him to have been one of the leaders of the conspiracy set out in Count I and he is adjudged guilty under that Count.

ARAKI assumed office as Minister of War in December 1931 after the aggressive war against the Republic of China in Manchuria had commenced. He continued as Minister of War until January 1934. Throughout that period he took a prominent part in the development and the carrying out of the military and political policies pursued in Manchuria and Jehol. He gave all possible support to the successive military steps taken for the occupation of that portion of the territories of China. ARAKI from May 1938 until August 1939 was Minister of Education, in which capacity he approved and collaborated in military operations in other parts of China. We have found that the war in China was from 1931 onwards a war of aggression and we find that this defendant participated in the waging of that war. Accordingly we find him guilty under Count 27.

There is no evidence that he took any active part in the wars referred to in Counts 29, 31, 32, 33, 35 and 36, on all of which we find him not guilty. As to war crimes there is no evidence of his responsibility for such crimes and we find him not guilty under Counts 54 and 55.

DOHIMARA, Kenji

The defendant DOHIMARA, Kenji is charged under Counts 1, 27, 29, 31, 32, 33, 35, 36, 54 and 55.

At the commencement of the period under review DOHIMARA was a Colonel in the Japanese army and by April 1941 had attained the rank of General. Before the Manchurian Affair he had been in China for about eighteen years and had come to be regarded in the Army as a specialist on China. He was intimately involved in the initiation and development of the war of aggression waged against China in Manchuria and in the subsequent establishment of the Japanese-dominated state of Manchukuo. As the aggressive policy of the Japanese military party was pursued in other areas in China DOHIMARA took a prominent part in its development by political intrigue, by threat of force and by the use of force.

DOHIMARA acted in close association with other leaders of the military faction in the development, preparation, and execution of their plans to bring East and South East Asia under Japanese domination.

When his special knowledge of China and his capacity for intrigue there were no longer required he was employed as a General Officer in the field in pursuit of the aims for which he had conspired. He took part in the waging of aggressive war not only against China but also against the U.S.S.R. and against those countries against whom also Japan waged aggressive war from 1941 until 1945 excepting the Republic of France.

As to the wars waged against the U.S.S.R. in 1938 and 1939, DOHIHARA was a Lieutenant General on the General Staff which had overhead control of the Iake Khassen fighting. At Nomonhan elements of the Army he commanded took part in that fighting.

As to the waging of war against the Republic of France (Count 33) the decision to wage this war was made by the Supreme Council for the Direction of War in February 1945. The accused was not a party to that decision and the evidence does not establish that he took part in the waging of that war.

We find him to be guilty of conspiracy to wage aggressive war under Count I and of waging aggressive wars as charged under Counts 27, 29, 31, 32, 35 and 36. He is not guilty under Count 33.

DOHIHARA commanded the 7th Area Army from April 1944 until April 1945. This command included Malaya, Sumatra, Java and for a time Borneo. The evidence as to the extent of his responsibility for protecting prisoners of war within the area of his command from murder and torture is conflicting. At least he was responsible for their supplies of food and medicine. The evidence is clear that they were grossly ill-treated in respect of these supplies. Prisoners were starved and deaths from malnutrition and food deficiency diseases occurred at an appalling rate. These conditions applied only to prisoners of war and did not occur among their captors. It was urged in defence that the deterioration of Japan's war position in those areas and the severance of communications made it impossible to maintain better

supplies for prisoners. The evidence shows that food and medicine was available which could have been used to relieve the terrible conditions of the prisoners. These supplies were withheld upon a policy for which DOHIMARA was responsible. Upon these findings of fact DOHIMARA's offence falls rather within Count 54 than Count 55. Accordingly he is found guilty under Count 54 and we make no finding under Count 55.

HASHIMOTO, Kingoro

HASHIMOTO is indicted under Counts 1, 27, 29, 31, 32, 54 and 55.

He was an Army officer and early joined the conspiracy. He thereafter rurthered the achievement of its objects by all the means in his power. None of the conspirators held more extreme views than he did; none was more outspoken in his statement of these views. In the beginning he advocated the expansion of Japan through the seizure of Manchuria by force of arms. As time went on he advocated the use of force against all Japan's neighbours for the accomplishment of the aims of the conspirators.

He was an ardent admirer of government by military dictatorship. He detested the political parties, which played some part in the government of Japan and opposed the schemes of conquest which the conspirators were determined to effect. He was a principal in many of the activities by which the conspirators came ultimately to suppress the opposition of the democratic elements in Japan and to control the government. Without this control their aggressive schemes could not have been accomplished. Thus, for example, he was one of the principals in the plots of March and October 1931 which were designed to overthrow the existing cabinets and to establish cabinets in their place which would support the conspirators. He was also a party to the plot of May 1932 of which the object and result was the assassination of Premier Inukai who had championed

democracy and opposed the policies of the conspirators. His publications and the activities of the societies he founded or supported were largely devoted to the destruction of democracy and the establishment of a form of government more favourable to the use of war for achieving the expansion of Japan.

He played some part in planning the occurrence of the Mukden Incident so as to give the Army a pretext for seizing Manchuria. He claimed some of the credit for the seizure of Manchuria and for Japan leaving the League of Nations.

After its early years it was mainly as a propagandist that he figured in the execution of the conspiracy. He was a prolific publicist and contributed to the success of the conspiracy by inciting the appetite of the Japanese people for the possessions of Japan's neighbours, by inflaming Japanese opinion for war to secure these possessions, by his advocacy of an alliance with Germany and Italy which were bent on similar schemes of expansion, by his denunciation of treaties by which Japan had bound herself to refrain from the schemes of aggrandisement which were the aims of the conspiracy, and by his fervent support of the agitation for a great increase in the armaments of Japan so that she might secure these aims by force or the threat of force.

He was a principal in the formation of the conspiracy and contributed largely to its execution.

As to Count 27, having first plotted the seizure of Manchuria by force of arms he thereafter played some part in the planning of the Mukden

Incident so that it might serve as a pretext for the seizure of Manchuria. Being thus fully apprised that the war against China was a war of aggression and being one of those who had conspired to bring about that war he did everything within his power to secure its success. For a time he was, in fact, a military commander in the field. He thereby waged a war of aggression against China as charged in Count 27.

There is no evidence directly connecting HASHIMOTO with any of the crimes charged in Counts 29, 31, 32, 54 or 55. The Tribunal finds him not guilty on these Counts.

The Tribunal finds HASHIMOTO guilty on Counts 1 and 27.

HATA, Shunroko

HATA is charged under Counts 1, 27, 29, 31, 32, 35, 36, 54, and 55.

On the formation of the Abe Cabinet in August 1939 HATA assumed the post of War Minister which he held continuously until July 1940 when the Yonai Cabinet fell. Though holding Cabinet rank for less than one year HATA contributed substantially to the formulation and execution of the aggressive plans. As War Minister he exerted considerable influence on Government policy. The war in China was waged with renewed vigor; the Wang Ching Wei Government was established at Nanking; the plans for control of French Indo-China were developed and the negotiations with the Netherlands in relation to matters concerning the Netherlands East Indies were conducted.

HATA favored Japanese domination of East Asia and the areas to the South. To achieve this object he, for example, approved the abolition of political parties to be replaced by the Imperial Rule Assistance Association, and in collaboration with and after consulting other high military authorities he precipitated the fall of the Yonai Cabinet, thereby making way for the full alliance with Germany and the establishment of a virtual totalitarian state in Japan.

Thereafter from March 1941 as Commander-in-Chief of the expeditionary forces in China he continued to wage war in that country until November 1944.

He continued to wage war against China and the Western Powers as Inspector General of Military Education, one of the highest active military posts in the Japanese Army.

When the Lake Khassan hostilities occurred HATA was in Central China and at the time of the Nomonhan Incident he was Aide-de-Camp to the Emperor, becoming War Minister a little more than a week before the conclusion of that Incident. The Tribunal is of the opinion that HATA did not participate in the waging of either of these wars.

War Crimes

In 1938 and again from 1941 to 1944 when HATA was in command of expeditionary forces in China atrocities were committed on a large scale by the troops under his command and were spread over a long period of time. Either HATA knew of these things and took no steps to prevent their occurrence, or he was indifferent and made no provision for learning whether orders for the humane treatment of prisoners of war and civilians were obeyed. In either case he was in breach of his duty as charged under Count 55.

The Tribunal finds HATA guilty under Counts 1, 27, 29, 31, 32, and 55. He is not guilty under Counts 35, 36 and 54.

HIRANUMA, Kiichiro

HIRANUMA is indicted under Counts 1, 27, 29, 31, 32, 33, 35, 36, 54 and 55. He became a member of the conspiracy if not at the beginning, shortly afterwards. He was a member and from 1936 President of the Privy Council until 1939, when he became Prime Minister; later he served in succession as Minister Without Portfolio and Home Minister in the second and third Konoye Cabinets.

During the period when he was a member of the Privy Council he supported the various measures coming before that body which involved the carrying out of the aggressive plans of the militarists. As Prime Minister and as Minister he continued to support these plans.

From 17 October 1941 until 19 April 1945, the accused was one of the Senior Statesmen. At the meeting of Senior Statesmen held on 29 November 1941 to advise the Emperor on the question of peace or war with the Western Powers, the accused accepted the opinion that war was inevitable and advised the strengthening of public opinion against the possibility of a long war.

At the meeting of the Senior Statesmen held on 5 April 1945 the accused strongly opposed any overtures for peace and advocated that Japan should fight to the end.

At all times covered by the Indictment HIRANUMA was not only a supporter of the policy of the domination of Japan in East Asia and the South Seas by force when necessary, but he was one of the leaders of the conspiracy and an active participant in furthering its policy. In carrying out that policy he waged war against China, the United States of America, the British Commonwealth of Nations, the Netherlands, and in 1939 against the U.S.S.R.

The Tribunal finds the accused HIRANUMA guilty on Counts 1, 27, 29, 31,32 and 36.

There is no evidence directly connecting him with the crimes charged in Counts 33, 35, 54 and 55. We, therefore, find him not guilty on those counts.

HIROTA, Koki

HIROTA is indicted under Counts 1, 27, 29, 31, 32, 33, 35, 54, and 55.

HIROTA was Foreign Minister from 1933 until March 1936 when he became Prime Minister. From the fall of his Cabinet in February 1937 for four months he held no public office. He was Foreign Minister again in the First Konoye Cabinet until May 1938. From that time forward his relation with public affairs was limited to attending meetings of the Senior Statesmen (Jushin) from time to time to advise on the appointment of Prime Ministers and on other important questions submitted.

From 1933 to 1938, when HIROTA held these high offices, the Japanese gains in Manchuria were being consolidated and turned to the advantage of Japan and the political and economic life of North China was being "guided" in order to separate it from the rest of China in preparation for the domination by Japan of the Chinese political and economic life. In 1936 his cabinet formulated and adopted the national policy of expansion in East Asia and the Southern Areas. This policy of far-reaching effect was eventually to lead to the war between Japan and the Western Powers in 1941. Also in 1936 the Japanese aggressive policy with regard to the U.S.S.R. was reiterated and advanced, culminating in the Anti-Comintern Pact.

From the 7th of July 1937 when the war in China was revived, throughout HIROTA's tenure of office, the military operations in China received the full support of the Cabinet. Early in 1938, also, the real policy towards China was clarified and every effort made to subjugate China and abolish the Chinese National Government and to replace it with a

government dominated by Japan.

In early 1938 the plan and legislation for mobilization of man power, industrial potential, and natural resources was adopted. This plan with little change in essentials was the basis on which the preparations to continue the China War and for waging further aggressive wars were carried out during the succeeding years. All these plans and activities were fully known to and supported by HIROTA.

Thus during his tenure of office HIROTA, apparently a very able man and a forceful leader, was at times the originator and at other times a supporter of the aggressive plans adopted and executed by the military and the various Cabinets.

On his behalf Counsel in final argument urged the Tribunal to consider HIROTA's consistent advocacy of peace and peaceful or diplomatic negotiation of disputed questions. It is true that HIROTA, faithful to his diplomatic training, consistently advocated attempting firstly to settle disputes through diplomatic channels. However, it is abundantly clear that in so doing he was never willing to sacrifice any of the gains or expected gains made or expected to be made at the expense of Japan's neighbours and he consistently agreed to the use of force if diplomatic negotiations failed to obtain fulfilment of the Japanese demands. The Tribunal therefore cannot accept as exculpating this accused the defense offered on this point.

The Tribunal consequently finds that at least from 1933 HIROTA participated in the common plan or conspiracy to wage aggressive wars. As Foreign Minister he also participated in the waging of war

against China.

As to Counts 29, 31 and 32 HIROTA's attitude and advice as one of the Senior Statesmen in 1941 is quite consistent with his being opposed to the opening of hostilities against the Western Powers. He held no public office after 1938 and played no part in the direction of the wars referred to in these Counts. The Tribunal holds that the evidence offered does not establish his guilt on these Counts.

As to Counts 33 and 35, there is no proof of HIROTA's participation in or support of the military operations at Lake Khassan, or in French Indo-China in 1945.

With regard to War Crimes there is no evidence of HIROTA's having ordered, authorized, or permitted the commission of the crimes as alleged in Count 54.

As to Count 55 the only evidence relating him to such crimes deals with the atrocities at Nanking in December 1937 and January and February 1938. As Foreign Minister he received reports of these atrocities immediately after the entry of the Japanese forces into Nanking. According to the Defence evidence credence was given to these reports and the matter was taken up with the War Ministry. Assurances were accepted from the War Ministry that the atrocities would be stopped. After these assurances had been given reports of atrocities continued to come in for at least a month. The Tribunal is of opinion that HIROTA was derelict in his duty in not insisting before the Cabinet that immediate action be taken to put an end to the atrocities, failing any other action open to him to bring about the same result. He was content to rely on assurances which he knew were not being imple-

mented while hundreds of murders, violations of women, and other atrocities were being committed daily. His inaction amounted to criminal negligence.

The Tribunal finds HIROTA guilty under Counts 1, 27 and 55. He is not guilty under Counts 29, 31, 32, 33, 35, and 54.

HOSHINO, Naoki

HOSHINO is charged under Counts 1, 27, 29, 31, 32, 33, 35, 54 and 55.

Until the accused HOSHINO went to Manchuria in 1932 he was employed in the Japanese Department of Finance. He was sent to Manchuria by his Government to become a Senior Official of the Manchukuo Finance Ministry and of the Manchukuo General Affairs Bureau. By 1936 he had become Vice Chief of the Finance Ministry of Manchukuo and Chief of the General Affairs Section of the National Affairs Board of Manchukuo. In these positions he was able to exercise a profound influence upon the economy of Manchukuo and did exert that influence towards Japanese domination of the commercial and industrial development of that country. He operated in close co-operation with the Commander of the Kwantung Army, the virtual ruler of Manchukuo. In effect, if not in name, he was a functionary of that Army whose economic policy was directed to making the resources of Manchukuo serve the warlike purposes of Japan.

Although he was nominally a servant of the Government of Manchukuo and had been so for eight years he was recalled to Japan in 1940 to become a Minister without Portfolio and President of the Planning Board. In this position he was the leader in the special steps then being taken to equip Japan for the continuation of the aggressive war then being waged in China and for wars of

aggression then contemplated against other countries with possessions in East Asia.

From April 1941, when he left the Cabinet, his official functions in connection with warlike preparations were reduced but not entirely abandoned.

Upon the accession of the accused TOJO as Prime Minister in October 1941 HOSHINO became the Chief Secretary of the Cabinet and soon after a Councillor of the Planning Board. From this time he was in close association with all the preparations for the aggressive war already determined upon and now shortly to be waged against those countries attacked by Japan in December 1941.

Throughout all the period from 1932 to 1941 he was an energetic member of the conspiracy alleged in Count 1 of the Indictment and is accordingly adjudged guilty under that Count.

Not only did he conspire to wage aggressive war but in his successive official positions he took a direct part in the waging of aggressive wars as set out in Counts 27, 29, 31 and 32, under all of which also he is adjudged guilty.

He has not been proved to have participated in the wars charged in Counts 33 and 35 and of those is found not guilty.

There is no evidence connecting him with the crimes charged in Counts 54 and 55 and of those also he is found not guilty.

* * *

ITAGAKI, Seishiro

The accused is charged under Counts 1, 27, 29, 31, 32, 33, 35, 36, 54 and 55.

By the year 1931 ITAGAKI, then a Colonel on the Staff of the Kwantung Army, had joined the conspiracy the immediate object of which then was that Japan should seize Manchuria by force of arms. He fanned the agitation in support of this aim: he helped to engineer the so-called "Mukden Incident" as a pretext for military action: he suppressed several attempts to prevent that military action: he authorized and directed that military action.

He next played a principal part in the intrigues which fostered the sham movement for the independence of Manchuria and which resulted in the establishment of the puppet state of Manchukuo.

He became Vice-Chief of Staff of the Kwantung Army in December 1934 and thereafter was active in setting-up puppet regimes in Inner Mongolia and North China. He wished to extend Japan's military occupation into Outer Mongolia to serve as a threat to the territories of the U.S.S.R. He was one of the coiners of the phrase "Anti-Communism" to serve as a pretext for Japanese aggression in North China.

When fighting broke out at Marco Polo Bridge in July 1937 he was sent from Japan to China where he took part in the fighting as a

Divisional Commander. He favoured the expansion of the area of aggression there.

He became Minister of War in the Konoye Cabinet in May 1938. Under him the attacks on China were intensified and extended. He was a party to the important ministerial conferences which decided to attempt to destroy the National Government of China and to set up a puppet regime in its stead. He then was largely responsible for the preliminary arrangements which resulted in the setting-up of the puppet regime of Wang Ching-wei. He took part in the arrangements for the exploitation of the occupied areas of China for the benefit of Japan.

As Minister of War in the HIRANUMA Cabinet he was again responsible for the prosecution of the war against China, and for the expansion of Japan's armaments. In the Cabinet he was a strong advocate of an unrestricted military alliance among Japan, Germany and Italy.

As War Minister he tried by a trick to obtain the consent of the Emperor to the use of force against the U.S.S.R. at Lake Khassan. Subsequently at a Five Ministers Conference he obtained authority to use such force. He was still War Minister during the fighting at Nomonhan.

He was a strong supporter of the declaration of Japan's so-called "New Order" in East Asia and the South Seas. He recognised that the attempt to set up the New Order must lead to war with the U.S.S.R., France and Great Britain who would defend their possessions in these areas.

From September 1939 to July 1941 he carried on the war against China as Chief of Staff of the China Expeditionary Army.

From July 1941 to April 1945 he was Commander-in-Chief of the Army in Korea.

From April 1945 to the date of the Surrender he commanded the 7th Area Army with Headquarters in Singapore. His subordinate armies defended Java, Sumatra, Malaya, the Andaman and Nicobar Islands, and Borneo.

Having conspired to wage wars of aggression against China, the United States of America, the British Commonwealth, the Netherlands, and the U.S.S.R., he took an active and important part in waging these wars which he knew were wars of aggression.

The Tribunal finds ITAGAKI guilty on Counts 1, 27, 29, 31, 32, 35 and 36. He is not guilty under Count 33.

War Crimes

The area which ITAGAKI commanded from April 1945 to the Surrender included Java, Sumatra, Malay, the Andaman and Nicobar Islands, and Borneo. Many thousands of prisoners of war and internees were held in camps in these areas during the above period.

According to the evidence which he adduced these camps, save those in Singapore, were not under his direct command but he was responsible for the supply of food, medicines and hospital facilities to them.

During this period the conditions in

these camps were unspeakably bad. The supply of food, medicines and hospital facilities was grossly inadequate. Deficiency diseases were rampant and as a result many persons died every day. Those who survived to the date of the Surrender were in a pitiable condition. When the camps were visited after the Surrender no such conditions prevailed among the guards.

ITAGAKI's excuse for this atrocious treatment of the prisoners and internees is that the attacks of the Allies on Japanese shipping had made the transportation of supplies to these areas very difficult and that he did the best he could with the supplies he had. After the Surrender, however, supplies of food and medicine were made available by ITAGAKI's Army to the camps in Singapore, Borneo, Java and Sumatra. The explanation tendered in evidence and argument for ITAGAKI is that the Japanese were expecting a long war and were conserving supplies. This amounts to a contention that ITAGAKI was justified under the prevailing circumstances in treating the prisoners and internees with gross inhumanity. The Tribunal has no hesitation in rejecting the defense. If ITAGAKI, being responsible for supplies to many thousands of prisoners and internees, found himself unable to maintain them for the future, his duty under the Laws of War was to distribute such supplies as he had and meantime to inform his superiors that arrangements must be made, if necessary with the Allies, for the support of the

prisoners and internees in the future. By the policy which he adopted he is responsible for the deaths or sufferings of thousands of people whose adequate maintenance was his duty.

The Tribunal finds ITAGAKI guilty on Count 54. As in the case of DOHIMARA, the Tribunal makes no finding on Count 55.

KAYA, Okinori

The accused KAYA is charged under Counts 1, 27, 29, 31, 32, 54 and 55.

KAYA was a civilian.

In 1936 he was appointed a Councillor of the Manchurian Affairs Bureau and in February 1937 he became Vice Minister of Finance. In June 1937 he was appointed Finance Minister in the first Konoye Cabinet, which position he held until May 1938. In July 1938 he became Adviser to the Finance Ministry. In July 1939 he was appointed a member of the Asia Development Committee, and in August of that year President of the North China Development Company, in which position he remained until October 1941, when he became Finance Minister in the TOJO Cabinet. He resigned as Finance Minister in February 1944, but again became Adviser to the Finance Ministry.

In these positions he took part in the formulation of the aggressive policies of Japan and in the financial, economic and industrial preparation of Japan for the execution of these policies.

Throughout this period, particularly as Finance Minister in the first Konoye and TOJO Cabinets, and as President of the North China Development Company, he was actively engaged in the preparation for and the carrying out of aggressive wars in China and against the Western Powers. He was an active member of the conspiracy alleged in Count 1 and is adjudged guilty under that Count.

In the various positions held by him KAYA took

a principal part in the waging of aggressive wars as alleged in Counts 27, 29, 31 and 32 of the Indictment. He is, therefore, adjudged guilty under those Counts.

The evidence does not disclose KAYA's responsibility for war crimes and accordingly he is found not guilty under Counts 54 and 55.

KIDO, Koichi

The accused KIDO, Koichi is charged under Counts 1, 27, 29, 31, 32, 33, 35, 36, 54 and 55.

From 1930 until 1936 KIDO was a member of the Emperor's household in the position of Chief Secretary to the Lord Keeper of the Privy Seal. During this period he was aware of the true nature of the military and political ventures in Manchuria. At this time, however, he was not associated with the conspiracy which had been instituted by the military and their supporters.

In 1937 KIDO joined the first Konoye Cabinet as Education Minister and for a period was Welfare Minister. On the accession of HIRANUMA as Prime Minister in 1939 KIDO continued as a member of the Cabinet until August 1939 with the portfolio of Home Affairs. In this period from 1937 to 1939 KIDO adopted the views of the conspirators and devoted himself wholeheartedly to their policy. The war in China had entered into its second phase. KIDO was zealous in the pursuit of that war, even resisting the efforts of the General Staff to shorten the war by making terms with China. He was intent on the complete military and political domination of China.

Not only did KIDO thus support the plans of the conspirators in China but as Education Minister he applied himself to the development of a strong war-like spirit in Japan.

Between August 1939 and June 1940 when he became Lord Keeper of the Privy Seal, KIDO was active with Konoye in the development of a scheme to replace the existing political parties by a single party of which Konoye was to be President and KIDO Vice President.

This one party system was expected to give Japan a totalitarian system and thus remove political resistance to the plans of the conspirators.

As Lord Keeper of the Privy Seal KIDO was in a specially advantageous position to advance the conspiracy. His principal duty was to advise the Emperor. He kept in close touch with political events and was on terms of intimate political and personal relationship with those most concerned. His position was one of great influence. He used that influence, not only with the Emperor but also by political intrigue so as to further the aims of the conspiracy. He shared those aims which involved the domination of China and the whole of East Asia as well as the areas to the South.

As the time approached for the commencement of war against the Western Powers KIDO displayed some degree of hesitation because doubts of complete success were entertained within the Navy. Even in this state of timidity KIDO was determined to pursue the aggressive war against China and lent himself, although now with less confidence, to the projected war against Great Britain and the Netherlands and in case of need against the United States of America. When the doubts of the Navy had been overcome KIDO's doubts seem also to have been removed. He resumed his pursuit of the full purposes of the conspiracy. He was largely instrumental in securing the office of Prime Minister for TOJO who until now had been a determined advocate of immediate war with the Western Powers. In other ways he used his position in support of such a war or purposely refrained from action which might have prevented it. He refrained from advising the Emperor to take any stand

against war either at the last or earlier when it might have been more effective.

The Prosecution has tendered no evidence pointing to guilt in KIDO for the wars referred to in Counts 33, 35 and 36.

As to war crimes KIDO was a member of the Cabinet when the atrocities were committed at Nanking. The evidence is not sufficient to attach him with responsibility for failure to prevent them. During the war against the Western Powers in 1941 and thereafter KIDO's position was such that he cannot be held responsible for the atrocities committed.

KIDO is found guilty of the charges in Counts 1, 27, 29, 31 and 32, and not guilty under Counts 33, 35, 36, 54 and 55.

KIMURA, Heitaro

KIMURA is indicted under Counts 1, 27, 29, 31, 32, 54 and 55.

KIMURA, an army officer, during the greater part of the period under consideration was engaged in administrative work in the War Ministry, culminating in his becoming Vice Minister of War in April 1941. Later he was appointed Councillor of the Planning Board and Councillor of the Total War Research Institute. In March 1943 he was relieved of the post of Vice War Minister and in August 1944 he became Commander-in-Chief of the Burma Area Army which post he held until the surrender of Japan in 1945.

During his service as Vice War Minister in almost daily contact with the War Minister and other Ministers, Vice Ministers, and Bureau Chiefs he was in a position to learn and was kept fully informed of all government decisions and action during the crucial negotiations with the U.S.A. He had full knowledge of the plans and preparations for the Pacific War and the hostilities in China. Throughout, he collaborated and cooperated with the War Minister and the other Ministries from time to time giving advice based on his wide experience, wholeheartedly supporting the aggressive plans.

Though not a leader, he took part in the formulation and development of policies which were either initiated by himself or proposed by the General Staff or other bodies and approved and supported by him. In this way he was a valuable collaborator or accomplice in the conspiracy to wage aggressive wars.

Concurrently with his activities as one of the conspirators as Commander of a division in 1939 and 1940,

then as Chief of Staff of the Kwantung Army and later as Vice War Minister he played a prominent part in the conduct of the war in China and in the Pacific War. Possessed with full knowledge of the illegality of the Pacific War, in August 1944 he took command of the Burma Area Army and so continued until the Surrender.

In a positive way he was a party to breaches of the Rules of War in that he approved the employment of prisoners in many instances in work prohibited by the Rules and in work under conditions resulting in the greatest hardship and the deaths of thousands of prisoners. An example of the latter case is the employment of prisoners in the construction of the Burma-Siam Railway, the orders for which were approved and passed on by KIMURA.

Furthermore with knowledge of the extent of the atrocities committed by Japanese troops in all theaters of war, in August 1944 KIMURA took over command of the Burma Area Army. From the date of his arrival at his Rangoon Headquarters and later when his headquarters was moved to Moulmein the atrocities continued to be committed on an undiminished scale. He took no disciplinary measures or other steps to prevent the commission of atrocities by the troops under his command.

It has been urged in KIMURA's defence that when he arrived in Burma he issued orders to his troops to conduct themselves in a proper soldierly manner and to refrain from ill-treating prisoners. In view of the nature and extent of the ill-treatment of prisoners, in many cases on a large scale within a few miles of his headquarters, the Tribunal finds that KIMURA was

negligent in his duty to enforce the rules of war. The duty of an army commander in such circumstances is not discharged by the mere issue of routine orders, if indeed such orders were issued. His duty is to take such steps and issue such orders as will prevent thereafter the commission of war crimes and to satisfy himself that such orders are being carried out. This he did not do. Thus he deliberately disregarded his legal duty to take adequate steps to prevent breaches of the laws of war.

The Tribunal finds KIMURA guilty under Counts 1, 27, 29, 31, 32, 54 and 55.

KOISO, Kuniaki

KOISO is charged under Counts 1, 27, 29, 31, 32, 36, 54, and 55.

He joined the conspiracy in 1931 by participating as one of the leaders of the March Incident the purpose of which was to overthrow the Hamaguchi Government and put in office a government favourable to the occupation of Manchuria. Thereafter he played a leading role in the development of the Japanese plans for expansion from August 1932 when he was appointed Chief-of-Staff of the Kwantung Army.

As Chief-of-Staff of the Kwantung Army from August 1932 to March 1934 he prepared or concurred in proposals and plans submitted to the Government through the War Ministry for the political and economic organization of Manchukuo according to the policy of the conspirators as adopted by the Japanese Government. It is urged in his defence that in forwarding proposals and plans to Tokyo he did so merely as Chief-of-Staff and that such action did not import his personal approval. In view of his knowledge of the aggressive plans of Japan the Tribunal cannot accept this plea. He went beyond the scope of the normal duties of a Chief-of-Staff in advising on political and economic matters to further these plans.

While he was Chief-of-Staff there also occurred the military invasion of Jehol and renewed fighting in Manchuria.

Later as Overseas Minister in the Hiranuma and Yonai Cabinets KOISO supported and took part in the direction of the war in China, the beginning of the

occupation of French Indo-China and the negotiations intended to obtain concessions from and eventual economic demination of the Netherlands East Indies.

During the same period he advocated the plan for Japan to advance "in all directions".

In July 1944 KOISO was recalled from his post of Governor of Korea to become Prime Minister. In that capacity he urged and directed the waging of the war against the Western Powers. He retired as Prime Minister to make way for the Suzuki Cabinet in April 1945 when it became clear that the war was lost for Japan.

There is no evidence that he played any part in the hostilities at Nomonhan either by organizing or directing them.

War Crimes

When KOISO became Prime Minister in 1944 atrocities and other war crimes being committed by the Japanese troops in every theater of war had become so notorious that it is improbable that a man in KOISO's position would not have been well-informed either by reason of their notoriety or from inter-departmental communications. The matter is put beyond doubt by the fact that in October 1944 the Foreign Minister reported to a meeting of the Supreme Council for the Direction of War, which KOISO attended, that according to recent information from enemy sources it was reported that the Japanese treatment of prisoners of war "left much to be desired". He further stated that this was a matter of importance from the point of view of Japan's international reputation and future relations. He asked that directions be issued to the competent authorities so that the matters might be fully discussed. Thereafter KOISO remained

Prime Minister for six months during which the Japanese treatment of prisoners and internees showed no improvement whatever. This amounted to a deliberate disregard of his duty.

The Tribunal finds KOISO guilty under Counts 1, 27, 29, 31, 32 and 55. He is not guilty under Counts 36 and 54.

MATSUI, Iwane

The accused MATSUI is charged under Counts 1, 27, 29, 31, 32, 35, 36, 54 and 55.

MATSUI was a senior Officer in the Japanese Army and attained the rank of General in 1933. He had a wide experience in the Army, including service in the Kwantung Army and in the General Staff. Although his close association with those who conceived and carried out the conspiracy suggests that he must have been aware of the purposes and policies of the conspirators, the evidence before the Tribunal does not justify a finding that he was a conspirator.

His military service in China in 1937 and 1938 cannot be regarded, of itself, as the waging of an aggressive war. To justify a conviction under Count 27 it was the duty of the prosecution to tender evidence which would justify an inference that he had knowledge of the criminal character of that war. This has not been done.

In 1935 MATSUI was placed on the retired list but in 1937 he was recalled to active duty to command the Shanghai Expeditionary Force. He was then appointed Commander-in-Chief of the Central China Area Army, which included the Shanghai Expeditionary Force and the Tenth Army. With these troops he captured the city of Nanking on 13th December 1937.

Before the fall of Nanking the Chinese forces withdrew and the occupation was of a defenceless city. Then followed a long succession of most horrible atrocities committed by the Japanese Army upon the helpless citizens. Wholesale massacres, individual murders,

rape, looting and arson were committed by Japanese soldiers. Although the extent of the atrocities was denied by Japanese witnesses the contrary evidence of neutral witnesses of different nationalities and undoubted responsibility is overwhelming. This orgy of crime started with the capture of the City on the 13th December 1937 and did not cease until early in February 1938. In this period of six or seven weeks thousands of women were raped, upwards of 100,000 people were killed and untold property was stolen and burned. At the height of these dreadful happenings, on 17th December, MATSUI made a triumphal entry into the City and remained there from five to seven days. From his own observations and from the reports of his staff he must have been aware of what was happening. He admits he was told of some degree of misbehaviour of his Army by the Kempeitai and by Consular Officials. Daily reports of these atrocities were made to Japanese diplomatic representatives in Nanking who in turn reported them to Tokyo. The Tribunal is satisfied that MATSUI knew what was happening. He did nothing, or nothing effective to abate these horrors. He did issue orders before the capture of the City enjoining propriety of conduct upon his troops and later he issued further orders to the same purport. These orders were of no effect as is now known and as he must have known. It was pleaded in his behalf that at this time he was ill. His illness was not sufficient to prevent his conducting the military operations of his command nor to prevent his visiting the City for days while these atrocities were occurring. He was in command of the Army responsible for these happenings. He knew of them. He had the power as he had the duty to control

his troops and to protect the unfortunate citizens of Nanking. He must be held criminally responsible for his failure to discharge this duty.

The Tribunal holds the accused MATSUI guilty under Count 55 and not guilty under Counts 1, 27, 29, 31, 32, 35, 36 and 54.

MINAMI, Jiro

MINAMI is charged under Counts 1, 27, 29, 31, 32, 54 and 55.

In the year 1931 MINAMI was a General and from April to December he was Minister of War. Prior to the Mukden Incident he had already associated himself with the conspirators in their advocacy of militarism, of the expansion of Japan, and of Manchuria as "the lifeline of Japan". He was forewarned of the likelihood of the incident occurring. He was ordered to prevent it. He took no adequate steps to prevent it. When the incident happened he described the action of the Army as "righteous self-defence". The Cabinet at once decided that the incident must not be expanded and MINAMI agreed to put the policy of the Cabinet into effect, but day after day the area of the operations expanded and MINAMI took no adequate steps to restrain the Army. In the Cabinet he supported the steps taken by the Army. He early advocated Japan's withdrawal from the League of Nations, if that body should oppose the actions Japan had taken in China. The Cabinet decided that there should be no occupation of Manchuria and no military administration. MINAMI knew that the Army was taking steps to carry both those measures into effect but did nothing to stop it. His failure to support the Premier and Foreign Minister by taking steps to control the Army led to the downfall of the Cabinet. Thereafter he advocated that Japan should take over the defence of Manchuria and Mongolia. He had already advocated that a new state must be founded in Manchuria.

From December 1934 to March 1936 he was Commander-in-Chief of the Kwantung Army, completed the conquest of Manchuria, and aided in the exploitation of that part of China for the benefit of Japan. He was responsible for setting-up puppet governments in North China and Inner Mongolia under the threat of military action.

He was in part responsible for the development of Manchuria as a base for an attack on the U.S.S.R. and for plans for such an attack.

He became Governor-General of Korea in 1936 and in 1938 supported the prosecution of the war against China, which he called "the Holy War", and the destruction of the National Government of China.

The Tribunal finds MINAMI guilty on Counts 1 and 27. He is not guilty of the charges contained in Counts 29, 31, 32, 54, and 55.

MUTO, Akira

The accused is indicted under Counts 1, 27, 29, 31, 32, 33, 36, 54 and 55.

He was a soldier and prior to holding the important post of Chief of the Military Affairs Bureau of the Ministry of War he held no appointment which involved the making of high policy. Further, there is no evidence that in this earlier period he, alone or with others, tried to affect the making of high policy.

When he became Chief of the Military Affairs Bureau he joined the conspiracy. Concurrently with this post he held a multiplicity of other posts from September 1939 to April 1942. During this period planning, preparing and waging wars of aggression on the part of the conspirators was at its height. He played the part of a principal in all these activities.

When he became Chief of the Military Affairs Bureau the fighting at Nomonhan was over. He had no part in the waging of this war.

He was Chief-of-Staff in the Philippines when Japan attacked France in French Indo-China in March 1945. He had no part in the waging of this war.

The Tribunal finds MUTO guilty on Counts 1, 27, 29, 31 and 32. He is not guilty on Counts 33 and 36.

War Crimes

MUTO was an officer on the Staff of MATSUI from November 1937 to July 1938. It was during this period that shocking atrocities were committed by the Army of MATSUI in and about Nanking. We have no doubt that MUTO knew, as MATSUI knew, that these atrocities were being committed over a period of many weeks. His superior took no adequate steps to stop them. In our opinion

MUTO, in his subordinate position, could take no steps to stop them. MUTO is not responsible for this dreadful affair.

From April 1942 to October 1944 MUTO commanded the Second Imperial Guards Division in Northern Sumatra. During this period in the area occupied by his troops widespread atrocities were committed for which MUTO shares responsibility. Prisoners of war and civilian internees were starved, neglected, tortured and murdered, and civilians were massacred.

In October 1944 MUTO became Chief-of-Staff to Yamashita in the Philippines. He held that post until the Surrender. His position was now very different from that which he held during the so-called "Rape of Nanking". He was now in a position to influence policy. During his tenure of office as such Chief-of-Staff a campaign of massacre, torture and other atrocities was waged by the Japanese troops on the civilian population, and prisoners of war and civilian internees were starved, tortured and murdered. MUTO shares responsibility for these gross breaches of the Laws of War. We reject his defence that he knew nothing of these occurrences. It is wholly incredible. The Tribunal finds MUTO guilty on Counts 54 and 55.

OKA, Takasumi

OKA is charged in Counts 1, 27, 29, 31, 32, 54, and 55 of the Indictment.

OKA was an officer in the Japanese Navy. In October 1940 he was promoted to Rear Admiral and became Chief of the Naval Affairs Bureau of the Navy Ministry.

OKA was an active member of the conspiracy during his tenure of office as Chief of the Naval Affairs Bureau from October 1940 to July 1944. In this office he was an influential member of the Liaison Conference at which the policy of Japan was largely decided. He participated in the formation and execution of the policy to wage aggressive war against China and the Western Powers.

War Crimes

There is some evidence tending to show that OKA knew or ought to have known that war crimes were being committed by naval personnel against prisoners of war with whose welfare his department was concerned but it falls short of the standard of proof which justifies a conviction in criminal cases.

The Tribunal finds OKA not guilty on Counts 54 and 55, and guilty on Counts 1, 27, 29, 31 and 32.

OSHIMA, Hiroshi

OSHIMA is indicted under Counts 1, 27, 29, 31, 32, 54 and 55.

OSHIMA, an Army officer, was engaged during the period under review in the diplomatic field. He was first Military Attache of the Japanese Embassy in Berlin, later being promoted to the post of Ambassador. Holding no diplomatic post for about one year from 1939 he returned to Berlin as Ambassador where he remained till the Surrender of Japan.

A believer in the success of the Hitler Regime, from his first appointment in Berlin OSHIMA exerted his full efforts to advance the plans of the Japanese military. At times, going over the head of the Ambassador, he dealt directly with Foreign Minister Ribbentrop, in an endeavour to involve Japan in a full military alliance with Germany. Upon his appointment as Ambassador he continued his efforts to force the acceptance by Japan of a treaty which would align Japan with Germany and Italy against the Western Powers and thus open the way for putting into execution the HIROTA policy. In furtherance of the aggressive policy of the Army faction he repeatedly pursued a policy in opposition to and in defiance of that of his Foreign Minister.

The Soviet-German Neutrality Pact temporarily blocked his schemes. He then returned to Tokyo and there supported the proponents of war by articles in newspapers and magazines and by closely cooperating with the German Ambassador.

OSHIMA was one of the principal conspirators and consistently supported and promoted the aims of the main conspiracy.

He took no part in the direction of the war in China or the Pacific War and at no time held any post involving duties or responsibility in respect of prisoners.

OSHIMA's special defence is that in connection with his activities in Germany he is protected by diplomatic immunity and is exempt from prosecution. Diplomatic privilege does not import immunity from legal liability, but only exemption from trial by the Courts of the State to which an Ambassador is accredited. In any event this immunity has no relation to crimes against international law charged before a tribunal having jurisdiction. The Tribunal rejects this special defence.

The Tribunal finds OSHIMA guilty under Count 1. He is not guilty under Counts 27, 29, 31, 32, 54 and 55.

SATO, Kenryo

The accused SATO, Kenryo, is charged under Counts 1, 27, 29, 31, 32, 54 and 55.

In 1937 SATO, then a member of the Military Affairs Bureau, was promoted to the rank of Lieutenant Colonel. In that year he was appointed an Investigator of the Planning Board. Thereafter in addition to his duties in the Military Affairs Bureau he had other duties, not only with the Planning Board, of which for a time he was Secretary, but also with other bodies in greater or less degree connected with Japan's war in China and its contemplated wars with other countries.

The Konoye Cabinet presented the General Mobilization Law to the Diet in February 1938. SATO was employed as an "explainer" and made a speech before the Diet in support of the measure.

In February 1941 SATO was appointed Chief of the Military Affairs Section of the Military Affairs Bureau. He was promoted to Major General in October 1941. In April 1942 he became Chief of the Military Affairs Bureau, a position of considerable importance in the Japanese Army. This position he held until 1944. Concurrently he held a variety of other appointments mostly concerned with other departments of state whose activities he linked with the Ministry of War.

It was thus not until 1941 that SATO attained a position which by itself enabled him to influence the making of policy, and no evidence has been adduced that prior to that date he had indulged in plotting to influence the making of policy. The crucial question is whether by that date he had become aware that Japan's

designs were criminal, for thereafter he furthered the development and execution of these designs so far as he was able.

The matter is put beyond reasonable doubt by a speech which SATO delivered in August 1938. He states the Army point of view on the war in China. He shows complete familiarity with the detailed terms, never revealed to China, upon which Japan was prepared to settle the war against China. These on the face of them plainly involved the abolition of the legitimate government of China, recognition of the puppet state of Manchukuo whose resources had been by this time largely exploited for Japan's benefit, regimentation of the economy of China for Japan's benefit, and the stationing of Japanese troops in China to ensure that these illicit gains would not be lost. He states that North China would be put completely under Japan's control and its resources developed for national defence, i.e. to aid in Japan's military preparations. He predicts that Japan will go to war with the U.S.S.R., but says she will select a chance when her armaments and production have been expanded.

This speech shows that SATO did not believe that Japan's actions in China had been dictated by the wish to secure protection for Japan's legitimate interests in China as the Defence would have us believe. On the contrary he knew that the motive for her attacks on China was to seize the wealth of her neighbour. We are of opinion that SATO, having that guilty knowledge, was clearly a member of the conspiracy from 1941 onwards.

Thereafter in important posts in the Government and as an Army Commander he waged wars of aggression as charged in Counts 27, 29, 31, and 32.

War Crimes

There is no doubt that SATO knew of the many protests against the behaviour of Japan's troops, for these protests came to his Bureau and they were discussed at the bi-weekly meetings of Bureau Chiefs in the War Ministry. TOJO presided at these meetings and he it was who decided that action or inaction should be taken in regard to the protests. SATO, his subordinate, could not initiate preventive action against the decision of his chief.

The Tribunal finds SATO guilty on Counts 1, 27, 29, 31, and 32. He is not guilty on Counts 54 and 55.

SHIGEMITSU, Manoru

The accused is charged under Counts 1, 27, 29, 31, 32, 33, 35, 54, and 55.

As to Count 1, his actions are challenged when he was Minister to China in 1931 and 1932; when he was Councillor of the Board of Manchurian Affairs; when he was Ambassador to the U.S.S.R. from 1936 to 1938; when he was Ambassador to Great Britain from 1938 to 1941; and when he was Ambassador to China during the years 1942 and 1943. There is no evidence that he played any part in the making of policy as Councillor of the Board of Manchurian Affairs. For the rest we find that SHIGEMITSU, as Minister and Ambassador, never exceeded the functions proper to these offices. During the years above mentioned he was not one of the conspirators. Indeed he repeatedly gave advice to the Foreign Office which was opposed to the policies of the conspirators.

By the year 1943, when he became Foreign Minister, the policy of the conspirators to wage certain wars of aggression had been settled and was in course of execution. Thereafter there was no further formulation nor development of that policy.

The Tribunal finds SHIGEMITSU not guilty on Count 1.

In 1943 his country was engaged in the war in the Pacific. He was fully aware that so far as Japan was concerned that war was a war of aggression, for he knew of the policies of the conspirators which had caused the war and indeed had often advised that they should not be put into effect. Nevertheless he now played a principal part in waging that war until he resigned on 13th April, 1945.

The Tribunal finds SHIGEMITSU guilty on Counts 27, 29, 31, 32, and 33. He is not guilty on Count 35.

War Crimes

During the period from April 1943 to April 1945, when SHIGEMITSU was Foreign Minister, the Protecting Powers transmitted to the Japanese Foreign Office protest after protest which it had received from the Allies. These were grave protests forwarded to the Protecting Powers by responsible agencies of state and in many cases accompanied by a wealth of detail. The matters of protest were (1) inhumane treatment of prisoners, (2) refusal to permit the Protecting Powers to inspect all save a few prisoners' camps, (3) refusal to permit the representatives of the Protecting Powers to interview prisoners without the presence of a Japanese witness, and (4) failure to provide information as to the names and location of prisoners. The protests were dealt with in the Foreign Ministry in the first place. Where necessary they were passed to other ministries with requests for information to enable the Foreign Minister to reply to them.

One cannot read the long correspondence between the Japanese Foreign Office and the Protecting Powers without suspecting that there was a sinister reason for the failure of the Japanese military to supply their Foreign Office with satisfactory answers to these protests, or at the least that there was a case for an independent inquiry by an agency other than the military, whose conduct was in question. Protest after protest went unanswered or was only answered after months of unexplained delay. Reminder after reminder by the Protecting Powers went unnoticed. Those protests which were answered were

met without exception by a denial that there was anything to complain of.

Now it was the highest degree unlikely that every one of the complaints made by responsible people and accompanied by circumstance and detail was completely unjustified. Moreover the refusal of the military to permit inspection of camps, their refusal to permit the representatives of the Protecting Powers to interview prisoners without the presence of a Japanese witness, and their failure to provide details of the prisoners in their hands gave rise to the suspicion that they had something to hide.

We do no injustice to SHIGEMITSU when we hold that the circumstances, as he knew them, made him suspicious that the treatment of the prisoners was not as it should have been. Indeed a witness gave evidence for him to that effect. Thereupon he took no adequate steps to have the matter investigated, although he, as a member of the government, bore overheard responsibility for the welfare of the prisoners. He should have pressed the matter, if necessary to the point of resigning, in order to quit himself of a responsibility which he suspected was not being discharged.

There is no evidence that SHIGEMITSU ordered, authorized, or permitted the commission of war crimes or crimes against humanity. The Tribunal finds SHIGEMITSU not guilty on Count 54.

The Tribunal finds SHIGEMITSU guilty on Count 55.

In mitigation of sentence we take into account that SHIGEMITSU was in no way involved in the formulation of the conspiracy; that he waged no war of aggression until he became Foreign Minister in April 1943, by which time

his country was deeply involved in a war which would vitally affect its future; and in the matter of war crimes that the military completely controlled Japan while he was Foreign Minister so that it would have required great resolution for any Japanese to condemn them.

SHIMADA, Shigetaro

The accused is charged under Counts 1, 27, 29, 31, 32, 54 and 55.

Until October 1941 SHIMADA played nothing but the role of a naval officer carrying out his duties as such and until that date had no part in the conspiracy.

In October 1941 he was a Senior Naval Officer eligible for the post of Navy Minister. He became Navy Minister in the TOJO Cabinet and held that office until August 1944. For a period of six months from February to August 1944 he was also Chief of the Navy General Staff.

From the formation of the TOJO Cabinet until the Western Powers were attacked by Japan on 7th December 1941 he took part in all the decisions made by the conspirators in planning and launching that attack. He gave as his reason for adopting this course of conduct that the freezing orders were strangling Japan and would gradually reduce her ability to fight; that there was economic and military "encirclement" of Japan; that the United States of America was unsympathetic and unyielding in the negotiations; and that the aid given by the Allies to China had raised bitter feeling in Japan. This defence leaves out of account the fact that the gains to retain which he was determined to fight were, to his knowledge, gains Japan had acquired in years of aggressive war. The Tribunal has already fully examined this defence and rejected it.

After war was declared he played a principal part in waging it.

The Tribunal finds SHIMADA guilty on Counts 1, 27, 29, 31 and 32.

War Crimes

Some most disgraceful massacres and murders of prisoners were committed by members of the Japanese Navy in the islands of the Pacific Ocean and on the survivors of torpedoed ships. These immediately responsible ranged in rank from Admirals downwards.

The evidence, however, is insufficient to justify a finding that SHIMADA is responsible for these matters, that he ordered, authorized or permitted the commission of war crimes, or that he knew they were being committed and failed to take adequate steps to prevent their commission in the future.

The Tribunal finds SHIMADA not guilty on Counts 54 and 55.

SHIRATORI, Toshio

The accused is indicted under Counts 1, 27, 29, 31, and 32.

He entered the Japanese diplomatic service in 1914. He first comes into prominence as Chief of the Information Bureau of the Foreign Office, which post he held from October 1930 to June 1933. In that position he justified Japan's seizure of Manchuria to the Press of the world. No doubt it was dictated to him that he should do so, but it is characteristic of the accused's activities then and thereafter that he was not content to perform whatever might be his duties at the moment. Thus early he was expressing views on matters of policy, views which received consideration in high quarters. He early advocated that Japan should withdraw from the League of Nations. He supported the setting-up of a puppet government in Manchuria. From this period dates his support of the aims of the conspiracy, a support which he continued to afford for many years and by all the means in his power.

He was Minister to Sweden from June 1933 to April 1937. Certain letters of his show his views at this time. In his opinion Russian influence should be expelled from the Far East by force, if necessary, and before she became too strong to be attacked. He was further of opinion that such foreign influences as might be thought to be harmful to Japanese interests should be excluded from China, and that Japanese diplomats should support the policy of the militarists. He showed himself a whole-hearted believer in aggressive war.

Returning to Japan he published articles advocating a totalitarian form of government for Japan and an expansionist policy for Japan, Germany and Italy.

When the negotiations for an alliance among Japan, Germany and Italy^{had} commenced he was appointed Ambassador to Rome in September 1938. In these negotiations he collaborated with the accused OSHIMA, then Ambassador to Berlin, in support of the conspirators, who insisted on a general military alliance among these countries. He went so far as to refuse to comply with the instructions of the Foreign Minister, who wished a more limited alliance only. He and OSHIMA threatened to resign if the wishes of the conspirators were not met.

When Japan delayed too long and Germany signed a non-aggression pact with the U.S.S.R. the negotiations broke down, for Japanese opinion commonly regarded this as a breach of the Anti-Comintern Pact. SHIRATORI returned to Japan where he carried on propaganda designed to excuse Germany's action and to prepare the way for the general military alliance with Germany and Italy which he still thought necessary to support Japanese expansionist aims. In his propaganda at one time or another he advocated all the objects of the conspirators: that Japan should attack China, that Japan should attack Russia, that Japan should ally herself with Germany and Italy, that she should take determined action against the Western Powers, that she should establish the "New Order", that she should seize the chance offered by the European War to advance to the South, that she should attack Singapore, and so on. This propaganda was continued while he was advisor to the Foreign Office from August 1940 to July 1941.

He became ill in April 1941 and resigned the position of advisor to the Foreign Office in July of that year. Thereafter he plays no important part in events. The Tribunal finds SHIRATORI guilty on Count 1.

He never occupied such a position as would justify a finding that he waged any war of aggression. The Tribunal finds SHIRATORI not guilty on Counts 27, 29, 31 and 32.

SUZUKI, Teiichi

SUZUKI, Teiichi, is charged in Counts 1, 27, 29, 31, 32, 35, 36, 54 and 55 of the Indictment.

SUZUKI was a soldier. As a Lieutenant Colonel and Member of the Military Affairs Bureau in 1932, he was an active member of the conspiracy. After the assassination of Premier Inukai in May 1932 he said that similar acts of violence would occur if new Cabinets were organized under political leadership and he favored the formation of a coalition government. The object was to secure a government which would support the schemes of the conspirators against China.

During his service with the Bureau he insisted that the U.S.S.R. was the absolute enemy of Japan and assisted in the preparations then being made to wage aggressive war against that Power.

There is no evidence that SUZUKI participated in waging war against the U.S.S.R. at Lake Khasan and there is no evidence that he participated in waging war against the U.S.S.R. or the Mongolian Peoples' Republic at Nomonhan.

In November 1937, SUZUKI became a Major-General. He was one of the organizers and head of the political and administrative division of the Asia Development Board. As such he actively furthered the exploitation of the parts of China occupied by Japan.

When the Second Kono Cabinet was formed to complete the military domination of Japan, and to prosecute the move to the South, SUZUKI became Minister Without Portfolio and one of the Councillors of the Total War Research Institute. Kono replaced HOSHINO by SUZUKI as President of the Planning Board. SUZUKI continued in that position until the fall of the TOJO

Cabinet on 19 July 1944.

As President of the Planning Board and Minister Without Portfolio, SUZUKI regularly attended the meetings of the Liaison Conference, the virtual policy making body for Japan. SUZUKI was present at most of the important conferences leading to the initiating and waging of aggressive wars against the Allied Powers. At these conferences he actively supported the conspiracy.

There is no evidence that the accused was responsible for the commission of atrocities.

We find SUZUKI guilty as charged in Counts 1, 27, 29, 31, and 32, and not guilty of Counts 35, 36, 54 and 55.

TOGO, Shigenori

The accused TOGO is indicted under Counts 1, 27, 29, 31, 32, 36, 54 and 55.

TOGO's principal association with the crimes charged against him was as Foreign Minister in the TOJO Cabinet from October 1941 until September 1942 when he resigned and later in the Suzuki Cabinet of 1945 in which he also acted as Foreign Minister. During the interval between his resignation and reappointment he played no part in public life.

From the date of his first appointment until the outbreak of the Pacific War he participated in the planning and preparing for the war. He attended Cabinet meetings and conferences and concurred in all decisions adopted.

As Foreign Minister he played a leading role in the negotiations with the United States immediately preceding the outbreak of the war and lent himself to the plans of the proponents of war. The duplicity employed in these negotiations has been dealt with earlier.

After the outbreak of the Pacific War he collaborated with other members of the Cabinet in its conduct as well as in the waging of the war in China.

In addition to the defence common to all the accused of encirclement and economic strangulation of Japan, which has been dealt with elsewhere, TOGO pleads specially that he joined the TOJO Cabinet on the assurance that every effort would be made to bring the negotiations with the United States to a successful conclusion. He states further that from the date of his taking office he opposed the Army and was successful in

obtaining from them concessions which enabled him to keep the negotiations alive. However, when the negotiations failed and war became inevitable, rather than resign in protest he continued in office and supported the war. To do anything else he said would have been cowardly. However his later action completely nullifies this plea. In September 1942 he resigned over a dispute in the Cabinet as to the treatment of occupied countries. We are disposed to judge his action and sincerity in the one case by the same considerations as in the other.

There is no proof of any criminal act on TOGO's part as alleged in Count 36. His only part in relation to that count was to sign the post war agreement between the U.S.S.R. and Japan settling the boundary between Manchuria and Outer Mongolia.

War Crimes

Up to his resignation in 1942 TOGO appears to have endeavored to see to the observance of the Rules of War. He passed on such protests as came to him for investigation and in several instances remedial measures were taken. At the time of his resignation atrocities committed by the Japanese troops had not become so notorious as to permit knowledge to be imputed to him.

In the spring of 1945 when he returned as Foreign Minister there was then an accumulation of protests which he passed on to the proper authorities. The Tribunal is of opinion that there is not sufficient proof of TOGO's neglect of duty in connection with war crimes.

The Tribunal finds TOGO guilty on Counts 1, 27, 29, 31, and 32. He is not guilty on Counts 36, 54, and 55.

TOJO, Hideki

The accused is charged under Counts 1, 27, 29, 31, 32,33, 36, 54 and 55.

TOJO became Chief-of-Staff of the Kwantung Army in June 1937 and thereafter was associated with the conspirators as a principal in almost all of their activities.

He planned and prepared for an attack on the U.S.S.R.; he recommended a further onset on China in order to free the Japanese Army from anxiety about its rear in the projected attack on the U.S.S.R.: he helped to organize Manchuria as a base for that attack; never at any time thereafter did he abandon the intention to launch such an attack if a favourable chance should occur.

In May 1938 he was recalled from the field to become Vice-Minister of War. In addition to that office he held a great number of appointments so that he played an important part in almost all aspects of the mobilisation of the Japanese people and economy for war. At this time he opposed suggestions for a peace of compromise with China.

He became Minister of War in July 1940 and thereafter his history is largely the history of the successive steps by which the conspirators planned and waged wars of aggression against Japan's neighbours, for he was a principal in the making of the plans and in the waging of the wars. He advocated and furthered the aims of the conspiracy with ability, resolution and persistency.

He became Prime Minister in October 1941 and continued in that office until July 1944.

As War Minister and Premier he consistently supported the policy of conquering the National Government of China.

of developing the resources of China in Japan's behalf, and of retaining Japanese troops in China to safeguard for Japan the results of the war against China.

In the negotiations which preceded the attacks of 7th December 1941 his resolute attitude was that Japan must secure terms which would preserve for her the fruits of her aggression against China and which would conduce to the establishment of Japan's domination of East Asia and the Southern Areas. All his great influence was thrown into the support of that policy. The importance of the leading part he played in securing the decision to go to war in support of that policy cannot be over-estimated. He bears major responsibility for Japan's criminal attacks on her neighbours.

In this trial he defended all these attacks with hardihood, alleging that they were legitimate measures of self-defense. We have already dealt fully with that plea. It is wholly unfounded.

As to Count 36 there is no evidence that TOJO occupied any official position which would render him responsible for the war in 1939 as charged in Count 36.

The Tribunal finds TOJO guilty on Counts 1, 27, 29, 31, 32 and 33, and not guilty on Count 36.

War Crimes

TOJO was head of the War Ministry which was charged with the care of prisoners of war and of civilian internees in the theatre of war and with the supply of billets, food, medicines and hospital facilities to them. He was head of the Home Ministry which was charged with a similar duty towards civilian internees in Japan. Above all he was head of the Government which was charged with continuing responsibility for the care of prisoners and

civilian internees.

The barbarous treatment of prisoners and internees was well known to TOJO. He took no adequate steps to punish offenders and to prevent the commission of similar offences in the future. His attitude towards the Bataan Death March gives the key to his conduct towards these captives. He knew in 1942 something of the conditions of that march and that many prisoners had died as a result of these conditions. He did not call for a report on the incident. When in the Philippines in 1943 he made perfunctory inquiries about the march but took no action. No one was punished. His explanation is that the commander of a Japanese Army in the field is given a mission in the performance of which he is not subject to specific orders from Tokyo. Thus the head of the Government of Japan knowingly and wilfully refused to perform the duty which lay upon that Government of enforcing performance of the Laws of War.

To cite another outstanding example, he advised that prisoners of war should be used in the construction of the Burma-Siam Railway, designed for strategic purposes. He made no proper arrangements for billeting and feeding the prisoners, or for caring for those who became sick in that trying climate. He learned of the poor condition of the prisoners employed on the project, and sent an officer to investigate. We know the dreadful conditions that investigator must have found in the many camps along the railway. The only step taken as a result of that investigation was the trial of one company commander for ill-treatment of prisoners. Nothing was done to improve conditions. Deficiency diseases and starvation continued to kill off the prisoners until the end of the project.

Statistics relative to the high death rate from malnutrition and other causes in prisoners of war camps were discussed at conferences over which TOJO presided. The shocking condition of the prisoners in 1944, when TOJO's Cabinet fell, and the enormous number of prisoners who had died from lack of food and medicines is conclusive proof that TOJO took no proper steps to care for them.

We have referred to the attitude of the Japanese Army towards Chinese prisoners of war. Since the Japanese Government did not recognize the "Incident" as a war, it was argued that the Rules of War did not apply to the fighting and that Chinese captives were not entitled to the status and rights of prisoners of war. TOJO knew and did not disapprove of that shocking attitude.

He bears responsibility for the instruction that prisoners who did not work should not eat. We have no doubt that his repeated insistence on this instruction conduced in large measure to the sick and wounded being driven to work and to the suffering and deaths which resulted.

We have fully referred to the measures which were taken to prevent knowledge of the ill-treatment of prisoners reaching the outside world. TOJO bears responsibility for these measures.

The Tribunal finds TOJO guilty under Count 54. We make no finding under Count 55.

UMEZU, Yoshihiro

The accused UMEZU is charged under Counts 1, 27, 29, 31, 32, 36, 54, and 55.

UMEZU was an Army officer. While he was in command of Japanese troops in North China from 1934 to 1936 he continued the Japanese aggression in that country against the northern provinces, he set up a pro-Japanese local government, and under threat of force compelled the Chinese to enter into the Ho-UMEZU Agreement of June 1935. This for a time limited the power of legitimate government of China.

UMEZU was Vice-Minister of War from March 1936 to May 1938 while the National Policy Plans of 1936 and the Plan for Important Industries of 1937 were decided upon. These were Army plans and were one of the prime causes of the Pacific War.

In January 1937, when the Imperial Mandate to form a new Cabinet was given to General Ugeki, UMEZU played an important part in the Army's refusal to countenance Ugeki as HIROTA's successor. Because of this opposition Ugeki was unable to form a Cabinet.

When the fighting in China broke out anew in July 1937 at Marco Polo Bridge this accused knew and approved of the plans of the conspirators to carry on the war. UMEZU was a member of the Cabinet Planning Board as well as of many other boards and commissions which largely contributed to the formulation of the aggressive plans of conspirators and to preparations necessary for the execution of these plans.

In December 1937, TOJO, as Chief-of-Staff of the Kwantung Army, sent to UMEZU plans for preparation for

the attack on the U.S.S.R. and later plans for the strengthening of the Kwantung Army and plans for installations in Inner Mongolia which TOJO stated were of vital importance both in the preparation for war with the U.S.S.R. and in connection with the war with China.

While UMEZU was Commander of the Kwantung Army from 1939 to 1944 he continued the direction of the economy of Manchukuo so as to serve the purposes of Japan; plans were made for the occupation of Soviet territories, and plans were also made for the military administration of the Soviet areas to be occupied and officers were sent to the occupied areas in the south to study the military administration there with a view to using the information thus obtained in the Soviet territories.

The evidence is overwhelming that the accused was a member of the conspiracy.

With reference to Count 36, the fighting at Nomonhan had begun before he took command of the Kwantung Army. He was in command only a very few days before the fighting ceased.

UMEZU served as Chief of the Army General Staff from July 1944 until the Surrender. He thereby played a principle part in the waging of the war against China and the Western Powers.

War Crimes

There is not sufficient evidence that UMEZU was responsible for the commission of atrocities.

The Tribunal finds UMEZU guilty on Counts 1, 27, 29, 31, and 32. He is not guilty on Counts 36, 54, and 55.

1 Under the Charter the Judgment I have read is
2 the Judgment of the Tribunal.

3 The Member for India dissents from the majority
4 Judgment and has filed a statement of his reasons for
5 such dissent.

6 The members for France and the Netherlands
7 dissent as to part only from the majority Judgment and
8 have filed statements of their reasons for such dissents.

9 The Member for the Philippines has filed a
10 separate opinion concurring with the majority.

11 Generally, I share the view of the majority as
12 to the facts, but without recording any dissent, I have
13 filed a brief statement of my reasons for upholding the
14 Charter and the jurisdiction of the Tribunal and of some
15 general considerations that influenced me in deciding on
16 the sentences.

17 These documents will be part of the Record and
18 will be available to the Supreme Commander, to Defense
19 Counsel and to others who may be concerned. Defense
20 Counsel have applied for a reading in court of these
21 separate opinions, but the Tribunal had already considered
22 this matter and decided that they would not be so read.

23 The Tribunal adheres to this decision.

24 The accused will be removed from the dock and
25 then returned singly for sentence in the order in which

1 their names appear in the title of the Indictment.

2 The three accused who are too ill to attend the
3 trial today will be sentenced in their absence after
4 those accused who are present have been sentenced.

5 To enable the accused who are present to be
6 presented for sentence in the order stated, we will
7 adjourn for fifteen minutes.

8 (Whereupon, at 1530, a recess was taken
9 until 1555, after which the proceedings were
10 resumed as follows:)

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MARSHAL OF THE COURT: The International

1 Military Tribunal for the Far East is now resumed.

2 THE PRESIDENT: In accordance with Article 15-h
3 of the Charter, the International Military Tribunal
4 for the Far East will now pronounce the sentences
5 on the accused convicted on this Indictment.

6 Accused ARAKI, Sadao, on the Counts of the
7 Indictment on which you have been convicted, the
8 International Military Tribunal for the Far East
9 sentences you to imprisonment for life.

10 Accused DOHIMARA, Kenji, on the Counts of the
11 Indictment on which you have been convicted, the
12 International Military Tribunal for the Far East
13 sentences you to death by hanging.

14 Accused HASHIMOTO, Kingoro, on the Counts of
15 the Indictment on which you have been convicted, the
16 International Military Tribunal for the Far East
17 sentences you to imprisonment for life.

18 Accused HATA, Shunroku, on the Counts of
19 the Indictment on which you have been convicted, the
20 International Military Tribunal for the Far East
21 sentences you to imprisonment for life.

22 Accused HIRANUMA, Kiichiro, on the Counts of
23 the Indictment on which you have been convicted, the
24 International Military Tribunal for the Far East
25 sentences you to imprisonment for life.

1 Accused HIROTA, Koki, on the Counts of the
2 Indictment on which you have been convicted, the
3 International Military Tribunal for the Far East
4 sentences you to death by hanging.

5 Accused HOSHINO, Naoki, on the Counts of the
6 Indictment on which you have been convicted, the
7 International Military Tribunal for the Far East
8 sentences you to imprisonment for life.

9 Accused ITAGAKI, Seichiro, on the Counts of
10 the Indictment on which you have been convicted, the
11 International Military Tribunal for the Far East
12 sentences you to death by hanging.

13 Accused KIDO, Koichi, on the Counts of the
14 Indictment on which you have been convicted, the
15 International Military Tribunal for the Far East
16 sentences you to imprisonment for life.

17 Accused KIMURA, Heitaro, on the Counts of the
18 Indictment on which you have been convicted, the
19 International Military Tribunal for the Far East
20 sentences you to death by hanging.

21 Accused KOISO, Kuniaki, on the Counts of the
22 Indictment on which you have been convicted, the
23 International Military Tribunal for the Far East
24 sentences you to imprisonment for life.
25

1 Accused MATSUI, Iwane, on the Counts of the
2 Indictment on which you have been convicted, the
3 International Military Tribunal for the Far East
4 sentences you to death by hanging.

5 Accused MINAMI, Jiro, on the Counts of the
6 Indictment on which you have been convicted, the
7 International Military Tribunal for the Far East
8 sentences you to imprisonment for life.

9 Accused MUTO, Akira, on the Counts of the
10 Indictment on which you have been convicted, the
11 International Military Tribunal for the Far East
12 sentences you to death by hanging.

13 Accused OKA, Takazumi, on the Counts of the
14 Indictment on which you have been convicted, the
15 International Military Tribunal for the Far East
16 sentences you to imprisonment for life.

17 Accused OSHIMA, Hiroshi, on the Counts of the
18 Indictment on which you have been convicted, the
19 International Military Tribunal for the Far East
20 sentences you to imprisonment for life.

21 Accused SATO, Kenryo, on the Counts of the
22 Indictment on which you have been convicted, the
23 International Military Tribunal for the Far East
24 sentences you to imprisonment for life.
25

1 Accused SHIGEMITSU, Mamoru, on the Counts of
2 the Indictment on which you have been convicted, the
3 International Military Tribunal for the Far East
4 sentences you to imprisonment for seven years as from
5 the date of arraignment.

6 Accused SHIMADA, Shigetaro, on the Counts of
7 the Indictment on which you have been convicted, the
8 International Military Tribunal for the Far East
9 sentences you to imprisonment for life.

10 Accused SUZUKI, Teichi, on the Counts of
11 the Indictment on which you have been convicted, the
12 International Military Tribunal for the Far East
13 sentences you to imprisonment for life.

14 Accused TOGO, Shigenori, on the Counts of the
15 Indictment on which you have been convicted, the
16 International Military Tribunal for the Far East
17 sentences you to imprisonment for twenty years as from
18 the date of arraignment.

19 Accused TOJO, Hideki, on the Counts of the
20 Indictment on which you have been convicted, the
21 International Military Tribunal for the Far East
22 sentences you to death by hanging.
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1 The Tribunal sentences the accused KAYA,
2 SHIRATORI and UMEZU on the Counts on which they have
3 been convicted to imprisonment for life in each case.

4 The Tribunal adjourns.

5 (Whereupon, at 1612, 12 November
6 1948, the Tribunal adjourned.)

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JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

ANNEXES



JUDGMENT
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

ANNEXES

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ANNEX NO. A-1

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE POTSDAM DECLARATION

26 July 1945

PROCLAMATION BY HEADS OF GOVERNMENTS,
UNITED STATES, UNITED KINGDOM, AND CHINA

(1) We--the President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain, representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

(2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceases to resist.

(3) The result of the futile and senseless German resistance to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which, when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the method of life of the whole German people. The full application of our military power, backed by our

resolve, will meet the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland.

(4) The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.

(5) Following are our terms. We will not deviate from them. There are no alternatives. We shall brook no delay.

(6) There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world.

(7) Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

(8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

(9) The Japanese military forces, after being completely disarmed, shall be permitted to return to

their homes with the opportunity to lead peaceful and productive lives.

(10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals including those who have visited cruelties upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights, shall be established.

(11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to re-arm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

(12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

(13) We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter destruction.

ANNEX NO. A-1-a

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

JAPANESE QUALIFIED ACCEPTANCE

LEGATION DE SUISSE
Washington, D. C.

Sir: August 10, 1945 .

I have the honor to inform you that the Japanese Minister to Switzerland, upon instructions received from his Government, has requested the Swiss Political Department to advise the Government of the United States of America of the following:

"In obedience to the gracious command of his Majesty the Emperor who, ever anxious to enhance the cause of world peace, desires earnestly to bring about a speedy termination of hostilities with a view to saving mankind from the calamities to be imposed upon them by further continuation of the war, the Japanese Government several weeks ago asked the Soviet Government, with which neutral relations then prevailed, to render good offices in restoring peace vis a vis the enemy powers. Unfortunately, these efforts in the interest of peace having failed, the Japanese Government in conformity with the august wish of His Majesty to restore the general peace and desiring to put an end to the untold sufferings entailed by war as quickly as possible, have decided

upon the following:

"The Japanese Government are ready to accept the terms enumerated in the joint declaration which was issued at Potsdam on July 26th, 1945, by the heads of the Governments of the United States, Great Britain, and China, and later subscribed by the Soviet Government with the understanding that the said declaration does not comprise any demand which prejudices the prerogatives of His Majesty as a Sovereign Ruler.

"The Japanese Government sincerely hope that this understanding is warranted and desire keenly that an explicit indication to that effect will be speedily forthcoming."

In transmitting the above message the Japanese Minister added that his Government begs the Government of the United States to forward its answer through the intermediary of Switzerland. Similar requests are being transmitted to the Governments of Great Britain and the Union of Soviet Socialist Republics through the intermediary of Sweden, as well as to the Government of China through the intermediary of Switzerland. The Chinese Minister at Berne has already been informed of the foregoing through the channel of the Swiss Political Department.

Please be assured that I am at your disposal at any time to accept for and forward to my Government the reply of the Government of the United States.

Accept, Sir, the renewed assurances of my
highest consideration.

The Honorable
James F. Byrnes
Secretary of State

/s/ Gressli
Chargé d'Affaires ad interim
of Switzerland

ANNEX NO. A-1-b

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

REPLY BY SECRETARY OF STATE TO
JAPANESE QUALIFIED ACCEPTANCE

August 11, 1945

Sir:

I have the honor to acknowledge receipt of your note of August 10, and in reply to inform you that the President of the United States has directed me to send to you for transmission by your government to the Japanese Government the following message on behalf of the Governments of the United States, the United Kingdom, the Union of Soviet Socialist Republics, and China:

"With regard to the Japanese Government's message accepting the terms of the Potsdam proclamation but containing the statement, 'with the understanding that the said declaration does not comprise any demand which prejudices the prerogatives of His Majesty as a sovereign ruler,' our position is as follows:

"From the moment of surrender the authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander of the Allied powers who will take such steps as he deems proper to effectuate the surrender terms.

"The Emperor will be required to authorize and ensure the signature by the Government of Japan and the Japanese Imperial General Headquarters of the

surrender terms necessary to carry out the provisions of the Potsdam Declaration, and shall issue his commands to all the Japanese military, naval and air authorities and to all the forces under their control wherever located to cease active operations and to surrender their arms, and to issue such other orders as the Supreme Commander may require to give effect to the surrender terms.

"Immediately upon the surrender the Japanese Government shall transport prisoners of war and civilian internees to places of safety, as directed, where they can quickly be placed aboard Allied transports.

"The ultimate form of government of Japan shall, in accordance with the Potsdam Declaration, be established by the freely expressed will of the Japanese people.

"The armed forces of the Allied Powers will remain in Japan until the purposes set forth in the Potsdam declaration are achieved."

Accept, Sir, the renewed assurances of my highest consideration.

Mr. Max Grassli
Chargé d'Affaires ad Interim of
Switzerland

ANNEX NO. A-1-c
JUDGMENT
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

FINAL JAPANESE ACCEPTANCE

LEGATION DE SUISSE
WASHINGTON, D.C.

August 14, 1945

Sir:

I have the honor to refer to your note of August 11, in which you requested me to transmit to my Government the reply of the Governments of the United States, the United Kingdom, the Union of Soviet Socialist Republics and China to the message from the Japanese Government which was communicated in my note of August 10.

At 20.10 today (Swiss Time) the Japanese Minister to Switzerland conveyed the following written statement to the Swiss Government for transmission to the four Allied Governments:

"Communication of the Japanese Government of August 14, 1945, addressed to the Governments of the United States, Great Britain, the Soviet Union, and China:

"With reference to the Japanese Government's note of August 10 regarding their acceptance of the provisions of the Potsdam Declaration and the reply of the Governments of the United States, Great Britain, the Soviet Union, and China sent by American Secretary of State Eyrnes under the date of August 11,

the Japanese Government have the honor to communicate to the Governments of the four powers as follows:

"1. His Majesty the Emperor has issued an Imperial rescript regarding Japan's acceptance of the provisions of the Potsdam Declaration.

"2. His Majesty the Emperor is prepared to authorize and ensure the signature by his Government and the Imperial General Headquarters of the necessary terms for carrying out the provisions of the Potsdam Declaration. His Majesty is also prepared to issue his commands to all the military, naval and air authorities of Japan and all the forces under their control wherever located to cease active operations, to surrender arms and to issue such other orders as may be required by the Supreme Commander of the Allied Forces for the execution of the above-mentioned terms."

Accept, Sir, the renewed assurances of my highest consideration.

Grossli
Charge d'Affaires ad interim
of Switzerland

Mr. Max Grossli
Charge d'Affaires ad Interim of
Switzerland.

ANNEX NO. A-2

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

INSTRUMENT OF SURRENDER

We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions set forth in the declaration issued by the heads of the Governments of the United States, China and Great Britain on 26 July 1945 at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four powers are hereafter referred to as the Allied Powers.

We hereby proclaim the unconditional surrender to the Allied Powers of the Japanese Imperial General Headquarters and of all Japanese armed forces and all armed forces under Japanese control wherever situated.

We hereby command all Japanese forces wherever situated and the Japanese people to cease hostilities forthwith, to preserve and save from damage all ships, aircraft, and military and civil property and to comply with all requirements which may be imposed by the Supreme Commander for the Allied Powers or by agencies of the Japanese Government at his direction.

We hereby command the Japanese Imperial General Headquarters to issue at once orders to the Commanders of all Japanese forces and all forces under

Japanese control wherever situated to surrender unconditionally themselves and all forces under their control.

We hereby command all civil, military and naval officials to obey and enforce all proclamations, orders and directives deemed by the Supreme Commander for the Allied Powers to be proper to effectuate this surrender and issued by him or under his authority and we direct all such officials to remain at their posts and to continue to perform their non-combatant duties unless specifically relieved by him or under his authority.

We hereby undertake for the Emperor, the Japanese Government and their successors to carry out the provisions of the Potsdam Declaration in good faith, and to issue whatever orders and take whatever action may be required by the Supreme Commander for the Allied Powers or by any other designated representative of the Allied Powers for the purpose of giving effect to that Declaration.

We hereby command the Japanese Imperial Government and the Japanese Imperial General Headquarters at once to liberate all allied prisoners of war and civilian internees now under Japanese control and to provide for their protection, care, maintenance and immediate transportation to places as directed.

The authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander for the Allied Powers who will take such steps as he deems proper to effectuate

these terms of surrender.

Signed at Tokyo Bay, Japan, at 0904 on the
Second day of September, 1945.

Memoru Shigemitsu
By Command and in behalf of the
Emperor of Japan and the Japanese
Government

Yoshijiro Umezu
By Command and in behalf of the
Japanese Imperial General
Headquarters

Accepted at Tokyo Bay, Japan at 0908 on the
Second day of September, 1945 for the United States,
Republic of China, United Kingdom and the Union of
Soviet Socialist Republics, and in the interests of
the other United Nations at war with Japan.

Douglas MacArthur
Supreme Commander for the Allied Powers

C. W. Nimitz
United States Representative

Hsu Yung-Cheng
Republic of China Representative

Bruce Fraser
United Kingdom Representative

Lieutenant General K. Derevyanko
Union of Soviet Socialist Republics
Representative

T. G. Blamey
Commonwealth of Australia Representative

L. Moore Cosgrane
Dominion of Canada Representative

Le Clare
Provisional Government of the French
Republic Representative

C. E. I. Helfrich
Kingdom of the Netherlands
Representative

Leonard W. Isitt
Dominion of New Zealand Representative

PROCLAMATION BY THE EMPEROR OF JAPAN

Accepting the terms set forth in the Declaration issued by the heads of the Governments of the United States, Great Britain and China on July 26, 1945 at Potsdam and subsequently adhered to by the Union of Soviet Socialist Republics, I have commanded the Japanese Imperial Government and the Japanese Imperial General Headquarters to sign on my behalf the instrument of surrender presented by the Supreme Commander for the Allied Powers and to issue General Orders to the Military and Naval forces in accordance with the direction of the Supreme Commander for the Allied Powers. I command all my people forthwith to cease hostilities, to lay down their arms and faithfully to carry out all the provisions of the instrument of surrender and the General Orders issued by the Japanese Imperial General Headquarters thereunder.

ANNEX NO. A-3.

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST.

MOSCOW CONFERENCE AGREEMENT

The Foreign Ministers of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America met in Moscow from December 16 to December 26, 1945 in accord with the decision of the Crimea Conference confirmed at the Berlin Conference that there should be periodic consultation between them. At the meetings of the 3 Foreign Ministers discussions took place on an informal and exploratory basis and agreement was reached on the following questions.

5. The Supreme Commander shall issue all Orders for the implementation of the Terms of Surrender, the Occupations and control of Japan and Directives supplementary thereto. In all cases action will be carried out under and through the Supreme Commander who is the sole Executive authority for the Allied Powers in Japan. He will consult and advise with the Council in advance of the issuance of Orders on matters of substance, the exigencies of the situation permitting his decisions upon these matters shall be controlling.

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

SPECIAL PROCLAMATION

ESTABLISHMENT OF AN INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

WHEREAS, the United States and the Nations allied therewith in opposing the illegal wars of aggression of the Axis Nations, have from time to time made declarations of their intentions that war criminals should be brought to justice;

WHEREAS, the Governments of the Allied Powers at war with Japan on the 26th July 1945 at Potsdam, declared as one of the terms of surrender that stern justice shall be meted out to all war criminals including those who have visited cruelties upon our prisoners;

WHEREAS, by the Instrument of Surrender of Japan executed at Tokyo Bay, Japan, on the 2nd September 1945, the signatories for Japan, by command of and in behalf of the Emperor and the Japanese Government accepted the terms set forth in such Declaration at Potsdam;

WHEREAS, by such Instrument of Surrender, the authority of the Emperor and the Japanese Government to rule the state of Japan is made subject to the Supreme Commander for the Allied Powers, who is authorized to take such steps as he deems proper to effectuate the terms of surrender;

WHEREAS, the undersigned has been designated by the Allied Powers as Supreme Commander for the Allied Powers to carry into effect the general surrender of the Japanese armed forces;

WHEREAS, the Governments of the United States, Great Britain and Russia at the Moscow Conference, 26th December 1945, having considered the effectuation by Japan of the Terms of Surrender, with the concurrence of China have agreed that the Supreme Commander shall issue all Orders for the implementation of the Terms of Surrender.

NOW, THEREFORE, I, Douglas MacArthur, as Supreme Commander for the Allied Powers, by virtue of the authority so conferred upon me, in order to implement the Terms of Surrender which requires the meting out of stern justice to war criminals, do order and provide as follows:

ARTICLE 1. There shall be established an International Military Tribunal for the Far East for the trial of those persons charged individually, or as members of organizations, or in both capacities, with offenses which include crimes against peace.

ARTICLE 2. The Constitution, jurisdiction and functions of this Tribunal are those set forth in the Charter of the International Military Tribunal for the Far East, approved by me this day.

ARTICLE 3. Nothing in this Order shall prejudice the jurisdiction of any other international, national or occupation court, commission or other tribunal established or to be established in Japan

or in any territory of a United Nation with which Japan has been at war, for the trial of war criminals.

Given under my hand at Tokyo, this 19th day of January, 1946.

/s/ Douglas MacArthur
DOUGL. S. MACARTHUR
General of the Army, United States Army
Supreme Commander for the Allied Powers

ANNEX NO. A-5

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

CHARTER

OF THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

SECTION I

CONSTITUTION OF TRIBUNAL

ARTICLE 1. Tribunal Established. The International Military Tribunal for the Far East is hereby established for the just and prompt trial and punishment of the major war criminals in the Far East. The permanent seat of the Tribunal is in Tokyo.

ARTICLE 2. Members. The Tribunal shall consist of not less than six members nor more than eleven members, appointed by the Supreme Commander for the Allied Powers from the names submitted by the Signatories to the Instrument of Surrender, India, and the Commonwealth of the Philippines.

ARTICLE 3. Officers and Secretariat.

a. President. The Supreme Commander for the Allied Powers shall appoint a Member to be President of the Tribunal.

b. Secretariat.

- (1) The Secretariat of the Tribunal shall be composed of a General Secretary to be appointed by the Supreme Commander for the Allied Powers and such assistant secre-

taries, clerks, interpreters, and other personnel as may be necessary.

- (2) The General Secretary shall organize and direct the work of the Secretariat.
- (3) The Secretariat shall receive all documents addressed to the Tribunal, maintain the records of the Tribunal, provide necessary clerical services to the Tribunal and its members, and perform such other duties as may be designated by the Tribunal.

ARTICLE 4. Convening and Quorum, Voting, and Absence.

a. Convening and Quorum. When as many as six members of the Tribunal are present, they may convene the Tribunal in formal session. The presence of a majority of all members shall be necessary to constitute a quorum.

b. Voting. All decisions and judgments of this Tribunal, including convictions and sentences, shall be by a majority vote of those members of the Tribunal present. In case the votes are evenly divided, the vote of the President shall be decisive.

c. Absence. If a member at any time is absent and afterwards is able to be present, he shall take part in all subsequent proceedings; unless he declares in open court that he is dis-

qualified by reason of insufficient familiarity with the proceedings which took place in his absence.

SECTION II

JURISDICTION AND GENERAL PROVISIONS

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

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

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

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

formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan.

ARTICLE 6. Responsibility of Accused. Neither the official position, at any time, of an accused, nor the fact that an accused acted pursuant to order of his government or of a superior shall, of itself, be sufficient to free such accused from responsibility for any crime with which he is charged, but such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

ARTICLE 7. Rules of Procedure. The Tribunal may draft and amend rules of procedure consistent with the fundamental provisions of this Charter.

ARTICLE 8. Counsel.

a. Chief of Counsel. The Chief of Counsel designated by the Supreme Commander for the Allied Powers is responsible for the investigation and prosecution of charges against war criminals within the jurisdiction of this Tribunal and will render such legal assistance to the Supreme Commander as is appropriate.

b. Associate Counsel. Any United Nation with which Japan has been at war may appoint an Associate Counsel to assist the Chief of Counsel.

SECTION III

FAIR TRIAL FOR ACCUSED

ARTICLE 9. Procedure for Fair Trial. In order

to ensure fair trial for the accused the following procedure shall be followed:

a. Indictment. The indictment shall consist of a plain, concise, and adequate statement of each offense charged. Each accused shall be furnished, in adequate time for defense, a copy of the indictment, including any amendment, and of this Charter, in a language understood by the accused.

b. Language. The trial and related proceedings shall be conducted in English and in the language of the accused. Translations of documents and other papers shall be provided as needed and requested.

c. Counsel for Accused. Each accused shall have the right to be represented by counsel of his own selection, subject to the disapproval of such counsel at any time by the Tribunal. The accused shall file with the General Secretary of the Tribunal the name of his counsel. If an accused is not represented by counsel and in open court requests the appointment of counsel, the Tribunal shall designate counsel for him. In the absence of such request the Tribunal may appoint counsel for an accused if in its judgment such appointment is necessary to provide for a fair trial.

d. Evidence for Defense. An accused shall have the right, through himself or through his counsel (but not through both), to conduct his defense, including the right to examine any witness, subject to such reasonable restrictions as the Tribunal may determine.

e. Production of Evidence for the Defense. An accused may apply in writing to the Tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located. It shall also state the facts proposed to be proved by the witness or the document and the relevancy of such facts to the defense. If the Tribunal grants the application the Tribunal shall be given such aid in obtaining production of the evidence as the circumstances require.

ARTICLE 10. Applications and Motions before Trial. All motions, applications, or other requests addressed to the Tribunal prior to the commencement of trial shall be made in writing and filed with the General Secretary of the Tribunal for action by the Tribunal.

SECTION IV

POWERS OF TRIBUNAL AND CONDUCT OF TRIAL

ARTICLE 11. Powers. The Tribunal shall have the power:

- a. To summon witnesses to the trial, to require them to attend and testify, and to question them.
- b. To interrogate each accused and to permit comment on his refusal to answer any question.
- c. To require the production of documents and other evidentiary material.
- d. To require of each witness an oath, affirmation, or such declaration as is customary in

the country of the witness, and to administer oaths.

e. To appoint officers for the carrying out of any task designated by the Tribunal, including the power to have evidence taken on commission.

ARTICLE 12. Conduct of Trial. The Tribunal shall:

a. Confine the trial strictly to an expeditious hearing of the issues raised by the charges.

b. Take strict measures to prevent any action which would cause any unreasonable delay and rule out irrelevant issues and statements of any kind whatsoever.

c. Provide for the maintenance of order at the trial and deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any accused or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

d. Determine the mental and physical capacity of any accused to proceed to trial.

ARTICLE 13. Evidence.

a. Admissibility. The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value. All purported admissions or statements of the accused are admissible.

b. Relevance. The Tribunal may require to be informed of the nature of any evidence before

it is offered in order to rule upon the relevance.

c. Specific evidence admissible. In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

- (1) A document, regardless of its security classification and without proof of its issuance or signature, which appears to the Tribunal to have been signed or issued by any officer, department, agency or member of the armed forces of any government.
- (2) A report which appears to the Tribunal to have been signed or issued by the International Red Cross or a member thereof, or by a doctor of medicine or any medical service personnel, or by an investigator or intelligence officer, or by any other person who appears to the Tribunal to have personal knowledge of the matters contained in the report.
- (3) An affidavit, deposition or other signed statement.
- (4) A diary, letter or other document, including sworn or unsworn statements, which appear to the Tribunal to contain information relating to the charge.

- (5) A copy of a document of other secondary evidence of its contents, if the original is not immediately available.

d. Judicial Notice. The Tribunal shall neither require proof of facts of common knowledge, nor of the authenticity of official government documents and reports of any nation or of the proceedings, records, and findings of military or other agencies of any of the United Nations.

e. Records, Exhibits, and Documents. The transcript of the proceedings, and exhibits and documents submitted to the Tribunal, will be filed with the General Secretary of the Tribunal and will constitute part of the Record.

ARTICLE 14. Place of Trial. The first trial will be held at Tokyo, and any subsequent trials will be held at such places as the Tribunal decides.

ARTICLE 15. Course of Trial Proceedings. The proceedings at the Trial will take the following course:

a. The indictment will be read in court unless the reading is waived by all accused.

b. The Tribunal will ask each accused whether he pleads "guilty" or "not guilty".

c. The prosecution and each accused (by counsel only, if represented) may make a concise opening statement.

d. The prosecution and defense may offer evidence, and the admissibility of the same shall be determined by the Tribunal.

e. The prosecution and each accused (by counsel only, if represented) may examine each witness and each accused who gives testimony.

f. Accused (by counsel only, if represented) may address the Tribunal.

g. The prosecution may address the Tribunal.

h. The Tribunal will deliver judgment and pronounce sentence.

SECTION V

JUDGMENT AND SENTENCE

ARTICLE 16. Penalty. The Tribunal shall have the power to impose upon an accused, on conviction, death, or such other punishment as shall be determined by it to be just.

ARTICLE 17. Judgment and Review. The Judgment will be announced in open court and will give the reasons on which it is based. The record of the trial will be transmitted directly to the Supreme Commander for the Allied Powers for his action. Sentence will be carried out in accordance with the Order of the Supreme Commander for the Allied Powers who may at any time reduce or otherwise alter the sentence, except to increase its severity.

By command of General MacARTHUR:

RICHARD J. MARSHALL
Major General, General-Staff Corps,
Chief of Staff.

OFFICIAL:

/s/ B. H. Fitch
B. H. FITCH
Brigadier General, AGD,
Adjutant General,

ANNEX NO. A-6

JUDGMENT

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

INDICTMENT

THE UNITED STATES OF AMERICA, THE REPUBLIC OF CHINA, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, THE UNION OF SOVIET SOCIALIST REPUBLICS, THE COMMONWEALTH OF AUSTRALIA, CANADA, THE REPUBLIC OF FRANCE, THE KINGDOM OF THE NETHERLANDS, NEW ZEALAND, INDIA, AND THE COMMONWEALTH OF THE PHILIPPINES.

- AGAINST -

ARAKI, Sadao; DCHIHARA, Kenji; HASHIMOTO, Kingoro; HATA, Shunroku; HIRANUMA, Kiichiro; HIROTA, Koki; HOSHIKAWA, Naoki; ITAGAKI, Seishiro; KAYA, Okinori; KIDO, Koichi; KIMURA, Heitaro; KOJIMA, Kuniaki; MATSUI, Iwane; MATSUOKA, Yosuke; MINAMI, Jiro; MUTO, Akira; NAGANO, Osami; OKA, Takasumi; OKAWA, Shumei; OSHIMA, Hiroshi; SATO, Kenryo; SHIGEMITSU, Mamoru; SHIMADA, Shigetaro; SHIRATORI, Toshio; SUZUKI, Teiichi; TOGO, Shigenori; TOJO, Hideki; UMEZU, Yoshihiro.

Defendants.

INDICTMENT

In the years hereinafter referred to in this Indictment the internal and foreign policies of Japan were dominated and directed by a criminal militaristic clique, and such policies were the cause of serious world troubles, aggressive wars, and great

damage to the interests of peace-loving peoples, as well as the interests of the Japanese people themselves.

The mind of the Japanese people was systematically poisoned with harmful ideas of the alleged racial superiority of Japan over other peoples of Asia and even of the whole world. Such parliamentary institutions as existed in Japan were used as implements for widespread aggression, and a system similar to those then established by Hitler and the Nazi party in Germany and by the Fascist party in Italy was introduced. The economic and financial resources of Japan were to a large extent mobilized for war aims, to the detriment of the welfare of the Japanese people.

A conspiracy between the defendants, joined in by the rulers of other aggressive countries, namely, Nazi Germany and Fascist Italy, was entered into. The main objects of this conspiracy was to secure the domination and exploitation by the aggressive States of the rest of the world, and to this end to commit, or encourage the commission of crimes against peace, war crimes, and crimes against humanity as defined in the Charter of this Tribunal, thus threatening and injuring the basic principles of liberty and respect for the human personality.

In the promotion and accomplishment of that scheme, these defendants, taking advantage of their power and their official positions and their own personal prestige and influence, intended to and did plan, prepare, initiate, or wage aggressive war

against the United States of America, the Republic of China, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Commonwealth of Australia, Canada, the Republic of France, the Kingdom of the Netherlands, New Zealand, India, the Commonwealth of the Philippines, and other peaceful nations, in violation of international law, as well as in violation of sacred treaty commitments, obligations and assurances; such plan contemplated and carried out the violation of recognized customs and conventions of war by murdering, maiming and ill-treating prisoners of war, civilian internees, and persons on the high seas, denying them adequate food, shelter, clothing, medical care, or other appropriate attention, forcing them to labour under inhumane conditions, and subjecting them to indignities; exploit to Japan's benefit the manpower and economic resources of the vanquished nations, plundering public and private property, wantonly destroying cities and villages beyond any justification of military necessity; perpetrate mass murder, rape, pillage, brigandage, torture, and other barbaric cruelties upon the helpless civilian population of the overrun countries; increase the influence and control of the military and naval groups over Japanese government officials and agencies; psychologically prepare Japanese public opinion for aggressive warfare by establishing so-called Assistance Societies, teaching nationalistic policies of expansion, disseminating war propaganda, and exercising strict

control over the press and radio; set up "puppet" governments in conquered countries; conclude military alliances with Germany and Italy to enhance by military might Japan's programme of expansion.

Therefore, the above named Nations by their undersigned representatives, duly appointed to represent their respective Governments in the investigation of the charges against and the prosecution of the Major War Criminals, pursuant to the Potsdam Declaration of the 20th July, 1945, and the Instrument of Surrender of the 2nd September, 1945, and the Charter of the Tribunal, hereby accuse as guilty, in the respects hereinafter set forth, of Crimes against Peace, War Crimes, and Crimes against Humanity, and of Common Plans or Conspiracies to commit these Crimes, all as defined in the Charter of the Tribunal, and accordingly name as Defendants in this cause and as indicted on the Counts hereinafter set out in which their names respectively appear, all the above-named individuals.

GROUP ONE: CRIMES AGAINST PEACE.

The following counts charge Crimes against Peace, being acts for which it is charged that the persons named and each of them are individually responsible in accordance with Article 5 and particularly Article 5(a) and (b) of the Charter of the International Military Tribunal for the Far East, and in accordance with International Law, or either of them.

COUNT 1.

All the Defendants together with divers other persons, between the 1st January, 1928 and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was that Japan should secure the military, naval, political and economic domination of East Asia and of the Pacific and Indian Oceans, and of all countries and islands therein and bordering thereon and for that purpose should alone or in combination with other countries having similar objects, or who could be induced or coerced to join therein, wage declared or undeclared war or wars of aggression, and war or wars in violation of international law, treaties, agreements and assurances, against any country or countries which might oppose that purpose.

The whole of the Particulars in Appendix A, of the Treaty Articles in Appendix B, and of the Assurances in Appendix C, relate to this Count.

COUNT 2.

All the Defendants together with divers other persons, between the 1st January, 1928 and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was that Japan should secure the military, naval, political and economic domination of the provinces of Liaoning, Kirin, Heilungkiang and Jehol, being parts of the Republic of China, either directly or by establishing a separate state under the control of Japan, and for that purpose should wage declared or undeclared war or wars of aggression, and war or wars in violation of international law, treaties, agreements and assurances, against the Republic of China.

The whole of the Particulars in Appendix A, the following Treaty Articles in Appendix B: Nos. 1 to 6 inclusive, 8 to 14 inclusive, 22 to 30 inclusive 32 to 35 inclusive; and the following Assurances in Appendix C: Nos. 1 to 8 inclusive, relate to this Count.

COUNT 3.

All the Defendants together with divers other persons, between the 1st January, 1928 and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was that Japan should secure the military, naval, political and economic domination of the Republic of China, either directly or by establishing a separate state or states under the control of Japan, and for that purpose should wage declared or undeclared war or

wars of aggression, and war or wars in violation of international law, treaties, agreements and assurances, against the Republic of China.

The whole of the Particulars in Appendix 4, and the same Treaty Articles and Assurances as in Count 2, relate to this Count.

COUNT 4.

All the Defendants together with divers other persons, between the 1st January, 1928 and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was that Japan should secure the military, naval, political and economic domination of East Asia and of the Pacific and Indian Oceans, and of all countries and islands therein or bordering thereon, and for that purpose should alone or in combination with other countries having similar objects, or who could be induced or coerced to join therein, wage declared or undeclared war or wars of aggression, and war or wars in violation of international law, treaties, agreements and assurances against the United States of America, the British Commonwealth of Nations (which expression wherever used in this Indictment includes the United Kingdom of Great Britain and Northern Ireland, the Commonwealth of Australia, Canada, New Zealand, South Africa, India, Burma, the

Malay States, and all other parts of the British Empire not separately represented in the League of Nations), the Republic of France, the Kingdom of the Netherlands, the Republic of China, the Republic of Portugal, the Kingdom of Thailand, the Commonwealth of the Philippines, and the Union of Soviet Socialist Republics, or such of them as might oppose that purpose.

The whole of the Particulars in Appendix A, and of the Treaty Articles in Appendix B and of the Assurances in Appendix C, relate to this Count.

COUNT 5.

All the Defendants together with divers other persons, between the 1st January, 1928 and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by an person in execution of such plan.

The object of such plan or conspiracy was that Germany, Italy and Japan should secure the military, naval, political and economic domination of the whole world, each having special domination in its own sphere, the sphere of Japan covering East Asia, the Pacific and Indian Oceans and all countries and islands therein or bordering thereon, and for that purpose should mutually assist one another to wage declared or undeclared war or wars of aggression, and war or wars in violation of international law, treaties, agreements and assurances; against any

countries which might oppose that purpose, and particularly against the United States of America, the British Commonwealth of Nations, the Republic of France, the Kingdom of the Netherlands, the Republic of China, the Republic of Portugal, the Kingdom of Thailand, the Commonwealth of the Philippines, and the Union of Soviet Socialist Republics.

The whole of the Particulars in Appendix A, and of the Treaty Articles in Appendix B, and of the Assurances in Appendix C, relate to this Count.

COUNT 6.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of China.

The following Sections of the Particulars in Appendix A, Nos. 1 to 6 inclusive, and the same Treaty Articles and Assurances as in Count 2, relate to this Count.

COUNT 7.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the United States of America.

The following Sections of the Particulars in Appendix A, Nos. 3, 4, 5, 6, 7, 9 and 10; the following Treaty Articles in Appendix B, Nos. 1 to 10

inclusive, 17 to 19 inclusive, 22 to 35 inclusive and 37; and the whole of the Assurances in Appendix C, relate to this Count.

COUNT 8.

All the Defendants between the 1st January 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the United Kingdom of Great Britain and Northern Ireland and all parts of the British Commonwealth of Nations not the subject of separate counts in this Indictment.

The following Sections of the Particulars in Appendix A, Nos. 3, 4, 5, 6, 7, 9 and 10; and the following Treaty Articles in Appendix B, Nos. 1, 2, 5, 10 to 19 inclusive, 22 to 30 inclusive, 32 to 35 inclusive, 37 and 38; and the whole of the Assurances in Appendix C, relate to this Count.

COUNT 9.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Commonwealth of Australia.

The same Sections of the Particulars in Appendix A, and the same Treaty Articles and Assurances as in Count 8, relate to this Count.

COUNT 10.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against New Zealand.

The same Sections of the Particulars in Appendix Z, and the same Treaty Articles and Assurances as in Count 8, relate to this Count.

COUNT 11.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against Canada.

The same Sections of the Particulars in Appendix A, and the same Treaty Articles and Assurances as in Count 8, relate to this Count.

COUNT 12.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against India.

The same Sections of the Particulars in Appendix A, and the same Treaty Articles and Assurances as in Count 8, relate to this Count.

COUNT 13.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Commonwealth of the Philippines.

The same Sections of the Particulars in Appendix A, and the same Treaty Articles and Assurances as in Count 7, relate to this Count.

COUNT 14.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Kingdom of the Netherlands.

The following Sections of the Particulars in Appendix A, Nos. 3, 4, 5, 6, 7, 9 and 10; the following Treaty Articles in Appendix B, Nos. 1 to 5 inclusive, 10 to 18 inclusive, 20, 22 to 30 inclusive, 32 to 35 inclusive, 37 and 38; and the following Assurances in Appendix C, Nos. 10 to 15 inclusive, relate to this Count.

COUNT 15.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of France.

The following Sections of the Particulars in

Appendix A, Nos. 2, 3, 4, 5, 6, 7, 9 and 10; the following Treaty Articles in Appendix B, Nos. 1 to 5 inclusive, 10 to 19 inclusive, 22 to 30 inclusive, and 32 to 38 inclusive; and the following Assurances in Appendix C, Nos. 14 and 15, relate to this Count.

COUNT 16.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances against the Kingdom of Thailand.

The following Sections of the Particulars in Appendix A, Nos. 2, 3, 4, 5, 6, 7, 9 and 10; and the following Treaty Articles in Appendix B, Nos. 3, 4, 5, 10 and 32 to 38 inclusive, relate to this Count.

COUNT 17.

All the Defendants between the 1st January, 1928 and the 2nd September, 1945, planned and prepared a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Union of Soviet Socialist Republics.

The following Sections of the Particulars in Appendix A, Nos. 1 to 8 inclusive, and the following Treaty Articles in Appendix B, Nos. 1 to 5 inclusive 10 to 18 inclusive, 32 to 35 inclusive, 39 to 47 inclusive and Assurance No. 13 in Appendix C, relate to this Count.

COUNT 18.

The Defendants ARAKI, DOHARA, HASHIMOTO, HIRANUMA, ITAGAKI, KAIICHI, MINAMI, OKUMA, SWIGEMITSU, TOJO and UMEZU, on or about the 18th September, 1931, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of China.

Section 1 of the Particulars in Appendix A; and the following Treaty Articles in Appendix B, Nos. 1 to 5 inclusive, 11 to 14 inclusive, 22, 23, 25, 30, 40 to 43 inclusive, relate to this Count.

COUNT 19.

The Defendants ARAKI, DOHARA, HASHIMOTO, HATA, HIRANUMA, HIRATA, HOSHINO, ITAGAKI, KAWA, KIDO, MATSUI, MUTO, SUZUKI, TOJO and UMEZU, on or about the 7th July, 1937, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of China.

Section 2 of the Particulars in Appendix A; the same Treaty Articles as in Count 18 and the following Assurances in Appendix C, Nos. 3, 4 and 5, relate to this Count.

COUNT 20.

The Defendants DOHARA, HIRANUMA, HIRATA, HOSHINO, KAWA, KIDO, KIMURA, MUTO, NAGANO, OKA, OSHIMA, SATO, SHIMADA, SUZUKI, TOJO and TOJO, on or about the 7th December, 1941, initiated a war of aggression and a war in violation of international

law, treaties, agreements and assurances, against the United States of America.

Section 9 of the Particulars in Appendix A, the following Treaty Articles in Appendix B, Nos. 1 to 9 inclusive, 19, 22 to 30 inclusive, 33, 34 and 37; and the whole of the Assurances in Appendix C, relate to this Count.

COUNT 21.

The same Defendants as in Count 20 on or about the 7th December, 1941, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Commonwealth of the Philippines.

The same Particulars, Treaty Articles and Assurances as in Count 20, relate to this Count.

COUNT 22.

The same Defendants as in Count 20, on or about the 7th December, 1941, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the British Commonwealth of Nations.

Section 9 of the Particulars in Appendix A, the following Treaty Articles in Appendix B, Nos. 1 to 5 inclusive, 19, 22 to 30 inclusive, 33 and 37; and the whole of the Assurances in Appendix C, relate to this Count.

COUNT 23.

The Defendants ARAKI, DOHICHIKI, NISHIMURA,

HIROTA, HOSHINO, ITAKAKI, KIDO, MATSUOKA, MUTO, NACANO, SHIGEMITSU and TOJO, on or about the 22nd September, 1940, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of France.

The same Particulars, Treaty Articles and Assurances as in Count 15, relate to this Count.

COUNT 24.

The same Defendants as in Count 20 on or about the 7th December, 1941, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Kingdom of Thailand.

Section 7 of the Particulars in Appendix A, and the following Treaty Articles in Appendix B, Nos. 1 to 5 inclusive, 33, 34, 36, 37 and 38, relate to this Count.

COUNT 25.

The Defendants ARAKI, DOHIHARA, HATA, HIRANUMA, HIROTA, HOSHINO, ITAKAKI, KIDO, MATSUOKA, MATSUI, SHIGEMITSU, and SUZUKI, during July and August, 1938, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances by attacking the Union of Soviet Socialist Republics in the area of Lake Khasan.

The same Particulars, Treaty Articles and Assurances as in Count 17, relate to this Count.

COUNT 26.

The Defendants ARAKI, DOHIMARA, HATA, HIRANUMA, ITAGAKI, KIDO, KOISO, MATSUI, MATSUOKA, NOTO, SUZUKI, TCGO, TOJO and UMEZU, during the summer of 1939, initiated a war of aggression and a war in violation of international law, treaties, agreements and assurances, by attacking the territory of the Mongolian People's Republic in the area of the Khaikhin-Gol River.

The same Particulars, Treaty Articles and Assurances as in Count 17, relate to this Count.

COUNT 27.

All the Defendants between the 18th September, 1931 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances against the Republic of China,

The same Particulars, Treaty Articles and Assurances as in Count 2, relate to this Count.

COUNT 28.

All the Defendants between the 7th July, 1937 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of China.

The same Particulars, Treaty Articles and Assurances as in Count 2, relate to this Count.

COUNT 29.

All the Defendants between the 7th December, 1941 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances against the United States of America.

The following Sections of the Particulars in Appendix A, Nos. 4 to 10 inclusive; and the same Treaty Articles and Assurances as in Count 20, relate to this Count.

COUNT 30.

All the Defendants between the 7th December, 1941 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Commonwealth of the Philippines.

The same Particulars, Treaty Articles and Assurances as in Count 29, relate to this Count.

COUNT 31.

All the Defendants between the 7th December, 1941 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the British Commonwealth of Nations.

The following Sections of the Particulars in Appendix A, Nos. 4 to 10 inclusive; and the same Treaty Articles and Assurances as in Count 22, relate to this Count.

COUNT 32.

All the Defendants between the 7th December, 1941 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Kingdom of the Netherlands.

The same Particulars, Treaty Articles and Assurances as in Count 14, relate to this Count.

COUNT 33.

The Defendants ARAMI, DONIHARA, HIRANUMA, HIROTA, HOSOFINO, ITAGAKI, KIDO, MATSUOKA, MUTO, NAGANO, SHIGEMITSU and TOJO, on and after the 22nd September, 1940, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of France.

The same Particulars, Treaty Articles and Assurances as in Count 15, relate to this Count.

COUNT 34.

All the Defendants between the 7th December, 1941 and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Kingdom of Thailand.

The same Particulars and Treaty Articles as in Count 24, relate to this Count.

COUNT 35.

The same Defendants as in Count 25, during the

summer of 1938, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances against the Union of Soviet Socialist Republics.

The same Particulars, Treaty Articles and Assurances as in Count 17, relate to this Count.

COUNT 36.

The same Defendants as in Count 26, during the summer of 1939, waged a war of aggression in violation of international law, treaties, agreements and assurances against the Mongolian People's Republic and the Union of Soviet Socialist Republics.

The same Particulars, Treaty Articles and Assurances as in Count 17, relate to this Count.

GROUP TWO: MURDER.

The following Counts charge the crimes of murder, and conspiracy to murder, being acts for which it is charged that the persons named and each of them are individually responsible, being at the same time Crimes against Peace, Conventional War Crimes, and Crimes against Humanity, contrary to all the paragraphs of Article 5 of the said Charter, to International Law, and to the domestic laws of all the countries where committed, including Japan, or to one or more of them.

COUNT 37.

The Defendants DOHHEI, HIRANUMA, HIROTA,

HOSHINO, KAYA, KIDO, KIMURA, MUTO, NAGANO, OKA, OSHIMA, SATO, SHIMADA, SUZUKI, TOGO and TOJIC, together with divers other persons between the 1st June, 1940 and the 8th December 1941, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was unlawfully to kill and murder the persons described below, by initiating unlawful hostilities against the United States of America, the Commonwealth of the Philippines, the British Commonwealth of Nations, the Kingdom of the Netherlands and the Kingdom of Thailand, and unlawfully ordering, causing and permitting the armed forces of Japan to attack the territory, ships and airplanes of the said nations or some of them at times when Japan would be at peace with the said nations.

The persons intended to be killed and murdered were all such persons, both members of the armed forces of the said nations and civilians, as might happen to be in the places at the times of such attacks.

The said hostilities and attacks were unlawful because they were breaches of Treaty Article 5 in Appendix E, and the accused and the said armed forces of Japan could not therefore, acquire the rights of lawful belligerents.

The accused and each of them intended that such

hostilities should be initiated in breach of such Treaty Article, or were reckless whether such Treaty Article would be violated or not.

COUNT 38.

The Defendants DCHIHARA, FIRANUMA, HIROTA, HOSHINO, KAWA, FIDO, FIDURA, MATSUCKA, MIJIO, NAGANO, OKA, OSHIMA, SATO, SHIMADA, SUZUKI, TOGO and TOJO, together with divers other persons between the 1st June, 1940 and the 8th December, 1941, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was unlawfully to kill and murder the persons described below, by initiating unlawful hostilities against the United States of America, the Commonwealth of the Philippines, the British Commonwealth of Nations, the Kingdom of the Netherlands and the Kingdom of Thailand, and unlawfully ordering, causing and permitting the armed forces of Japan to attack the territory, ships and airplanes of the said nations or some of them.

The persons intended to be killed and murdered were all such persons, both members of the armed forces of the said nations and civilians, as might happen to be in the places at the times of such attacks.

The said hostilities and attacks were unlawful

because they were breaches of Treaty Articles 6, 7, 19, 33, 34, and 36 in Appendix B and the accused and the said armed forces of Japan could not therefore, acquire the rights of lawful belligerents.

The accused and each of them intended that such hostilities should be initiated in breach of such Treaty Articles, or were reckless whether such Treaty Articles or any of them would be violated or not.

COUNT 39.

The same Defendants as in Count 38, under the circumstances alleged in Counts 37 and 38, by ordering, causing and permitting the armed forces of Japan to attack the territory, ships and airplanes of the United States of America, with which nation Japan was then at peace, at Pearl Harbour, Territory of Hawaii, on the 7th December, 1941, at about 0755 hours (Pearl Harbour time), unlawfully killed and murdered Admiral Kidd and about 4,000 other members of the naval and military forces of the United States of America and certain civilians whose names and number are at present unknown.

COUNT 40.

The same Defendants as in Count 38, under the circumstances alleged in Counts 37 and 38, by ordering, causing and permitting the armed forces of Japan to attack the territory and airplanes of the British Commonwealth of Nations, with which nations Japan was then at peace, at Kota Bahru, Kelantan, on the 8th December, 1941, at about 0025 hours

(Singapore time), unlawfully killed and murdered certain members of the armed forces of the British Commonwealth of Nations whose names and number are at present unknown.

COUNT 41.

The same Defendants as in Count 38, under the circumstances alleged in Counts 37 and 38, by ordering, causing and permitting the armed forces of Japan to attack the territory, ships and airplanes of the British Commonwealth of Nations, with which nations Japan was then at peace, at Hong Kong, on the 8th December, 1941, at about 0800 hours (Hong Kong time), unlawfully killed and murdered certain members of the armed forces of the British Commonwealth of Nations, whose names and number are at present unknown.

COUNT 42.

The same Defendants as in Count 38, under the circumstances alleged in Counts 37 and 38, by ordering, causing and permitting the armed forces of Japan to attack H.M.S. PETREL, a ship of the British Commonwealth of Nations, with which nations Japan was then at peace, at Shanghai on the 8th December, 1941, at about 0300 hours (Shanghai time), unlawfully killed and murdered three members of the naval forces of the British Commonwealth of Nations, whose names are at present unknown.

COUNT 43.

The same Defendants as in Count 38, under the circumstances alleged in Counts 37 and 38, by ordering, causing and permitting the armed forces of Japan to attack the territory of the Commonwealth of the Philippines, with which nation Japan was then at peace, at Davao, on the 8th December, 1941, at about 1000 hours (Manila time), unlawfully killed and murdered certain members of the armed forces of the United States of America and of the armed forces and civilians of the Commonwealth of the Philippines, whose names and number are at present unknown.

COUNT 44.

All the Defendants together with divers other persons between the 18th September, 1931 and the 2nd September, 1945, participated as leaders, organizers, instigators or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was to procure and permit the murder on a wholesale scale of prisoners of war, members of the armed forces of countries opposed to Japan who might lay down their arms, and civilians, who might be in the power of Japan on land or sea, in territories occupied by Japan, and crews of ships destroyed by Japanese forces, in ruthless pursuit of victory in the unlawful wars in which Japan was, or would, during the said period be engaged.

COUNT 45.

The Defendants ARAKI, HASHIMOTO, HATA, HIRANUMA, FURUTA, ITAGAKI, KAWA, KIDO, MATSUI, MUTO, SUZUKI and UMEZU, on the 12th December, 1937, and succeeding days, by unlawfully ordering, causing and permitting the armed forces of Japan to attack the City of Nanking in breach of the Treaty Articles mentioned in Count 2 hereof and to slaughter the inhabitants contrary to international law, unlawfully killed and murdered many thousands of civilians and disarmed soldiers of the Republic of China, whose names and number are at present unknown.

COUNT 46.

The same Defendants as in Count 45, on the 21st October, 1938, and succeeding days, by unlawfully ordering, causing and permitting the armed forces of Japan to attack the City of Canton in breach of the Treaty Articles mentioned in Count 2 hereof and to slaughter the inhabitants contrary to international law, unlawfully killed and murdered large numbers of civilians and disarmed soldiers of the Republic of China, whose names and number are at present unknown.

COUNT 47.

The same Defendants as in Count 45, prior to the 27th October, 1938, and on succeeding days, by unlawfully ordering, causing and permitting the armed forces of Japan to attack the City of Hankow in breach of the Treaty Articles mentioned in Count 2

hereof and to slaughter the inhabitants, contrary to international law, unlawfully killed and murdered large numbers of civilians and disarmed soldiers of the Republic of China, whose names and number are at present unknown.

COUNT 48.

The Defendants HATA, KIDC, ICISO, SATC, SHIGE-HITSU, TONO and UMEZU, prior to the 18th June, 1944, and on succeeding days, by unlawfully ordering, causing and permitting the armed forces of Japan to attack the City of Changsha in breach of the Treaty Articles mentioned in Count 2 hereof and to slaughter the inhabitants contrary to international law, unlawfully killed and murdered many thousands of civilians and disarmed soldiers of the Republic of China, whose names and number are at present unknown.

COUNT 49.

The Same Defendants as in Count 48, prior to the 8th August, 1944, and on succeeding days, by unlawfully ordering, causing and permitting the armed forces of Japan to attack the City of Hengyang in the Province of Hunan in breach of the Treaty Articles mentioned in Count 2 hereof and to slaughter the inhabitants contrary to international law, unlawfully killed and murdered large numbers of civilians and disarmed soldiers of the Republic of China, whose names and number are at present unknown.

COUNT 50.

The same Defendants as in Count 48, prior to the 10th November, 1944, and on succeeding days, by unlawfully ordering, causing and permitting the armed forces of Japan to attack the Cities of Kweilin and Liuchow in the Province of Kwangsi in breach of the Treaty Articles mentioned in Count 2 hereof and to slaughter the inhabitants contrary to international law, unlawfully killed and murdered large numbers of civilians and disarmed soldiers of the Republic of China, whose names and number are at present unknown.

COUNT 51.

The Defendants ARAKI, DCHIHARA, HATA, HIRANUMA, ITAGAKI, KIDO, KICISO, MATSUI, MATSUKA, MUTO, SUZUKI, TOGO, TOJO and UMEZU, by ordering, causing and permitting the armed forces of Japan to attack the territories of Mongolia and the Union of Soviet Socialist Republics, with which nations Japan was then at peace, in the region of the Khalkhin-Gol River in the summer of 1939, unlawfully killed and murdered certain members of the armed forces of Mongolia and the Union of Soviet Socialist Republics, whose names and number are at present unknown.

COUNT 52.

The Defendants ARAKI, DCHIHARA, HATA, HIRANUMA, HIROTA, HOSHINO, ITAGAKI, KIDO, MATSUKA, MATSUI, SHIGEMITSU, SUZUKI and TOJO, by ordering, causing and permitting the armed forces of Japan to attack

the territory of the Union of Soviet Socialist Republics, with which nation Japan was then at peace, (in the region of Lake Khasan in the months of July and August 1938) unlawfully killed and murdered certain members of the armed forces of the Union of Soviet Socialist Republics, whose names and number are at present unknown.

GROUP THREE: CONVENTIONAL WAR CRIMES AND
CRIMES AGAINST HUMANITY.

The following Counts charge conventional War Crimes and Crimes against Humanity, being acts for which it is charged that the persons named and each of them are individually responsible, in accordance with Article 5 and particularly Article 5 (b) and (c) of the Charter of the International Military Tribunal for the Far East, and in accordance with International Law, or either of them.

COUNT 53.

The Defendants, DOHEIARA, WATA, HOSHINO, ITAGAKI, KAYA, HIEDO, HIJURA, HIGASHI, NUTC, NAGANO, OKA, OSHIMA, SATO, SHIGEMITSU, SHIMADA, SUZUKI, TOJO, TOJO and UMEZU, together with divers other persons, between the 7th December, 1941 and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by themselves or by any person in execution of such plan.

The object of such plan or conspiracy was to order, authorize and permit the Commanders-in-Chief

of the several Japanese naval and military forces in each of the several theatres of war in which Japan was then engaged, and the officials of the Japanese War Ministry, and the persons in charge of each of the camps and labour units for prisoners of war and civilian internees in territories of or occupied by Japan and the military and civil police of Japan, and their respective subordinates frequently and habitually to commit the breaches of the Laws and Customs of War, as contained in and proved by the Conventions, assurances and practices referred to in Appendix D, against the armed forces of the countries hereinafter named and against many thousands of prisoners of war and civilians then in the power of Japan belonging to the United States of America, the British Commonwealth of Nations, the Republic of France, the Kingdom of the Netherlands, the Commonwealth of the Philippines, the Republic of China, the Republic of Portugal and the Union of Soviet Socialist Republics, and that the Government of Japan should abstain from taking adequate steps in accordance with the said Conventions and assurances and Laws and customs of War, in order to secure observance and prevent breaches thereof.

In the case of the Republic of China, the said plan or conspiracy began on the 18th September, 1931, and the following Defendants participated therein in addition to those above-named: ARAKI, HASHIMOTO, HIRANUMA, HIROTA, MATSUI, MATSUOKA, MIYAMOTO.

COUNT 54.

The Defendants DOHJHARA, HATA, HOSHINO, ITAGAKI, KAYA, KIDO, KIMURA, KOISC, MUTO, NAGANO, OKA, OSHIMA, SATO, SHIGEMITSU, SHIMADA, SUZUKI, TOGO, TOJO and UMEZU, between the 7th December, 1941 and the 2nd September, 1945, ordered, authorized and permitted the same persons as mentioned in Count 53 to commit the offences therein mentioned and thereby violated the laws of War.

In the case of the Republic of China the said orders, authorities and permissions were given in a period beginning on the 18th September, 1931, and the following Defendants were responsible for the same in addition to those named above: ARAKI, FASHIMOTO, HIRANUMA, HIROTA, MATSUI, MATSUOKA, MIYAMAI.

COUNT 55.

• The Defendants DOHJHARA, HATA, HOSHINO, ITAGAKI, KAYA, KIDO, KIMURA, KOISC, MUTO, NAGANO, OKA, OSHIMA, SATO, SHIGEMITSU, SHIMADA, SUZUKI, TOGO, TOJO and UMEZU, between the 7th December, 1941 and the 2nd September, 1945, being by virtue of their respective offices responsible for securing the observance of the said Conventions and assurances and the Laws and Customs of War in respect of the armed forces in the countries hereinafter named and in respect of many thousands of prisoners of war and civilians then in the power of Japan belonging to the United States of America, the British Commonwealth of Nations, the Republic of France, the Kingdom of the Nether-

lands, the Commonwealth of the Philippines, the Republic of China, the Republic of Portugal and the Union of Soviet Socialist Republics, deliberately and recklessly disregarded their legal duty to take adequate steps to secure the observance and prevent breaches thereof, and thereby violated the laws of war.

In the case of the Republic of China, the said offence began on the 18th September, 1931, and the following Defendants were responsible for the same in addition to those named above: ARAKI, HASHIMOTO, HIRANUMA, HIROTA, MATSUI, MATSUOKA, MINAMI.

Wherefore, this Indictment is lodged with the Tribunal, and the charges herein made against the above-named Defendants are hereby presented to the Tribunal.

Joseph B. Keenan

Chief of Counsel, acting on behalf of the United States of America.

Hsiang Che-Chun

Associate Counsel, acting on behalf of the Republic of China.

A. S. Comyns Carr

Associate Counsel, acting on behalf of the United Kingdom of Great Britain and Northern Ireland.

S. A. Golunsky

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A. J. Mansfield.

Associate Counsel, acting on behalf of the
Commonwealth of Australia.

H. G. Molen

Associate Counsel, acting on behalf of
Canada.

Robert Oneto

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Republic of France.

W. G. F. Boegerhoff Mulder

Associate Counsel, acting on behalf of the
Kingdom of the Netherlands.

R. H. Quilliam

Associate Counsel, acting on behalf of
New Zealand.

P. P. Govinda Menon,

A. S. Comyns Carr

Associate Counsel, acting on behalf of
India.

Pedro Lopez

Associate Counsel, acting on behalf of the
Commonwealth of the Philippines.

APPENDIX A.

Summarized Particulars showing the principal Matters and Events upon which the Prosecution will rely in support of the several Counts of the Indictment in Group One.

SECTION 1.

MILITARY AGGRESSION IN MANCHURIA.

From January 1st, 1928, onwards there was a plot in the Japanese Army, and particularly in the Kwantun Army, supported by certain civilians, to create an incident in Manchuria, which should form a pretext for Japan to conquer, occupy and exploit that Country as the first step in a scheme of domination which later extended to other parts of China to the territory of the Union of Soviet Socialist Republics, and ultimately to a wider field, aiming to make Japan a dominant power in the World.

The major events in the execution of it were:

About 18th September, 1931: Following a long period of infiltration and consequent friction, Japanese troops blew up a portion of the South Manchurian Railway, falsely accused Chinese troops of doing so, attacked them, and thereafter progressively and rapidly carried out a Military occupation of the Chinese provinces of Liaoning, Kirin, Heilungkiang and Jehol (the north-eastern provinces.)

About 3rd January, 1932: Japanese forces occupied Chinchow in spite of assurance given by their Foreign Office to the United States on 24th November, 1931, that they would not do so.

Beginning about 18th January, 1932, Japanese naval, and later military forces, attacked the Chinese in Shanghai.

About 28th to 29th January, 1932: Japanese bombed Chepei at 12:15 a.m.

About 1st February, 1932: Japanese warships shelled Nanjing.

During 1932, Japan set up a separate puppet Government in the said Provinces and on 15th September, 1932, officially recognized it.

The Japanese Government which came into power on 13th December, 1931, and all subsequent Japanese Governments adopted, supported and continued this aggression and its gradual extension over other parts of China.

Japan delivered no declaration of War against China, made no effort to settle the alleged dispute by pacific means, or by mediation or arbitration, rejected on 5th February, 1932, an offer of mediation by the United States, Great Britain and France, refused to adopt the report and recommendations of the Lytton Commission appointed by the League of Nations of which Japan and China were members, or the resolutions of the League, and on 27th March, 1933, resigned from the League.

On 18th April, 1934, Japan announced her absolute opposition to any foreign interference in China other than her own.

On 1st March, 1934, Japan caused Henry Pu Yi to be installed as the nominal ruler of the so-called State of Manchukuo. Nevertheless large Japanese

armies continued down to the 2nd September, 1945, to be maintained in these territories, using them as a base for further aggression, and to control, together with Japanese civilian officials, the whole Government, industry and finance thereof.

SECTION 2.

MILITARY AGGRESSION IN THE REST OF CHINA.

Japanese aggression against China entered a new phase on July 7th, 1937, when her army invaded China south of the Great Wall, and her government adopted, supported and continued the aggression. All subsequent Japanese Governments did the same.

Subsequent major events in this phase were:

About 19th to 25th September, 1937, Japanese forces bombed Nanking and Canton, and deliberately killed large numbers of civilians.

About 13th December, 1937, Japanese forces captured Nanking, slaughtered many thousands of civilians and committed other outrages.

During 1940, Japan set up a separate puppet Government in those parts of China (other than the four north-eastern provinces above-mentioned) which she then occupied, claiming to be the "National Government of the Republic of China", and about 30th November, 1940, officially recognized it.

Again Japan delivered no declaration of war on China, made no attempt to settle the alleged dispute by pacific means, or by mediation or arbitration, refused on 25th September, 1937, to participate in the Far Eastern Advisory Committee of the League of

Nations, refused on 27th October and again on 12th November, 1937, to attend the Conference held at Brussels of the other signatories to the Nine-Power Treaty of 6th February, 1922, or to discuss its application, refused on 22nd September, 1938, to sit with the League of Nations to mediate her dispute with China, and on 4th November, 1938, declared that the said Nine-Power Treaty was obsolete.

Japan continued her military aggression in China by capturing, among other cities, Hankow on the 27th October, 1938; Chongshu on the 18th June, 1944; Hengyang on the 8th August, Kweilin on the 10th November and Liuchow on the 11th November of the same year; and deliberately killed large numbers of civilians and committed other outrages in each of the cities afore-mentioned.

SECTION 3.

ECONOMIC AGGRESSION IN CHINA AND GREATER EAST ASIA.

During the period covered by this Indictment, Japan established a general superiority of rights in favour of her own nationals, which effectively created monopolies in commercial, industrial and financial enterprises, first in Manchuria and later in other parts of China which came under her domination; and exploited those regions not only for the enrichment of Japan and those of her nationals participating in those enterprises, but as part of a scheme to weaken the resistance of China, to exclude other Nations and nationals, and to provide funds and munitions for further aggression.

This plan, as was the intention of some at least of its originators, both on its economic and military side, gradually came to embrace similar designs on the remainder of East Asia and Oceania.

Later it was officially expanded into the "Greater East Asia Co-Prosperity Scheme" (a title designed to cover up a scheme for complete Japanese domination of those areas) and Japan declared that this was the ultimate purpose of the military campaign.

The same organizations as are mentioned in Section 4 hereof were used for the above purposes.

SECTION 4.

METHODS OF CORRUPTION AND COERCION IN CHINA AND OTHER OCCUPIED TERRITORIES.

During the whole period covered by this Indictment, successive Japanese Governments, through their military and naval commanders and civilian agents in China and other territories which they had occupied or designed to occupy, pursued a systematic policy of weakening the native inhabitants will to resist by atrocities and cruelties, by force and threats of force, by bribery and corruption, by intrigue amongst local politicians and generals, by directly and indirectly encouraging increased production and importation of opium and other narcotics and by promoting the sale and consumption of such drugs among such people. The Japanese Government secretly provided large sums of money, which, together with profits from the government-sponsored traffic

in opium and other narcotics and other trading activities in such areas, were used by agents of the Japanese government for all the above-mentioned purposes. At the same time, the Japanese Government was actively participating in the proceedings of the League of Nations Committee on Traffic in Opium and other Dangerous Drugs and, despite her secret activities above-mentioned, professed to the world to be co-operating fully with other member nations in the enforcement of treaties governing traffic in opium and other narcotics to which she was a party.

This participation in and sponsorship of illicit traffic in narcotics was effected through a number of Japanese governmental organizations such as the Manchurian Affairs Board, the China Affairs Board and the Southern Region Affairs Board, which were combined in 1942 to form the Greater East Asia Ministry, and numerous subsidiary organizations and trading companies in the various occupied and so-called independent (puppet) countries which were operated or supervised by senior officers or civilian appointees of the Army and the Navy.

Further, revenue from the above-mentioned traffic in opium and other narcotics was used to finance the preparation for and waging of the wars of aggression set forth in this Indictment and to establish and finance the puppet governments set up by the Japanese Government in the various occupied territories.

SECTION 5.

GENERAL PREPARATION FOR WAR.

With a view to future wars of aggression, and in order to prevent other nations from interference in her war of aggression already in progress against China, Japan from 1st January, 1932, onwards strengthened her naval, military, productive and financial preparations for war. In particular, but without limiting the above allegations:

(e) NAVAL:

About 29th December, 1934, she denounced the Washington Naval Treaty after an unsuccessful attempt to persuade the other Signatories to agree to a common upper limit of global naval tonnage for her own obvious advantage.

About 23rd June, 1936, she refused to adhere to the London Naval Treaty.

On or about 12th February, 1938, she refused to reveal her naval building plans on request by the United States, Britain and France.

At all times she secretly increased her naval strength.

At all times and especially throughout 1941, she made secret naval plans for the surprise attacks which ultimately took place on December 7th-8th, 1941, on Pearl Harbour, Singapore, Hong Kong, Malaya and Shanghai, and for similar attacks on other places in the Pacific and Indian Oceans and

and on the territory of the Union of Soviet Socialist Republics.

(b) MILITARY:

Japan continually and progressively increased the size of her army not only as required for her war of aggression against China, but to a larger extent for the purpose of other wars of aggression. On the 6th April, 1939, she passed a general Mobilization Law and thereafter put it into effect.

(c) NAVAL AND MILITARY:

Japan continually and progressively fortified the islands for which she held a mandate from the League of Nations.

Treaty Articles violated: 15, 17, 18, 31.

(d) PRODUCTIVE:

Japan continually and progressively increased her capacity for the production of munitions of war both on her own territory and in territories occupied or controlled by her, to an extent greater than was required for her war of aggression against China, for the purpose of other wars of aggression.

(e) FINANCIAL:

The finance for all the above-mentioned purposes was provided partly through the Budget by taxation, partly by loans, and partly from the profits of the exploitations

as described in Section 3 hereof, and particularly of the sale of narcotics as described in Section 4 hereof.

SECTION 6.

THE ORGANIZATION OF JAPANESE POLITICS AND PUBLIC OPINION FOR WAR.

Two provisions incorporated by ordinance or custom in the Japanese constitution gave to the militarists the opportunity of gaining control over the Governments which they seized during the period covered by this Indictment.

The first was that, not only had the Chiefs of Staff and other leaders of the Army and Navy direct access at all times to the Emperor, but they had the right to appoint and withdraw the War and Navy Ministers in any Government. Either of them could thus prevent a Government from being formed, or bring about its fall after it was formed. In May, 1936, this power was further increased by a regulation that the Army and Navy Ministers must be senior Officers on the active list. E.G., the fall of the Yonai Government on 21st July, 1940, and of the Third Konoye Government on the 16th October, 1941, were in fact brought about by the Army; in each case they were succeeded by Governments more subservient to the wishes of the Army.

The second was that, although the Diet had the right to reject a Budget, this did not give them control, because in that case the Budget of the preceding year remained in force.

During this period such free Parliamentary institutions as previously existed were gradually stamped out and a system similar to the Fascist or Nazi model introduced. This took definite shape with the formation on 12th October, 1940, of the Imperial Rule Assistance Association, and later of the Imperial Rule Assistance Political Society.

During this period a vigorous campaign of incitement to expansion was carried on, in the earlier part of the period by individual writers and speakers but gradually this came to be organized by Government agencies, which also stamped out free speech and writing by opponents of this policy. A large number of Societies, some secret, was also formed both in the Army and Navy and among civilians, with similar objects. Opposition to this policy was also crushed by assassinations of leading politicians who were not considered sufficiently friendly to it, and by fear and threats of such assassinations. The civil and especially the military police were also used to suppress opposition to the war policy.

The educational systems, civil, military and naval, were used to inculcate a spirit of totalitarianism, aggression, desire for war, cruelty and hatred of potential enemies.

SECTION 7.

COLLABORATION BETWEEN JAPAN, GERMANY AND ITALY. AGGRESSION AGAINST FRENCH INDU-CHINA AND THAILAND.

Successive Japanese Governments from early in 1936 onwards, cultivated close relations with the

totalitarian powers in Europe, Germany and Italy, which harboured similar designs in relation to the rest of the world to those of Japan in relation to the East, and the Indian and Pacific Oceans.

On November 25th, 1936, they signed the Anti-Comintern Pact with a secret Protocol and a secret Military Treaty, directed ostensibly against the Union of Soviet Socialist Republics and Communism, but actually designed also as a prelude to joint aggressive action in general.

Various countries under the domination of Axis Powers, including the puppet governments of "Manchukuo" and the Nanking Regime in China, were admitted to the Anti-Comintern Pact.

Between the 1st January, 1938 and the 23rd August, 1939, extensive negotiations were conducted between Japan, Germany and Italy, for the establishment of an economic, political and military alliance.

On 26th August, 1939, Japan through her ambassador in Washington, assured the United States of America that she had decided to abandon any further negotiations with Germany and Italy relative to closer relations under the Anti-Comintern Pact.

Negotiations between Japan and Germany for the establishment of an economic, political and military alliance were resumed in July, 1940.

Between 13th August and 22nd September, 1940, after the armistice in June, 1940, between Germany and the authority later to be known as the Vichy Government of France, subservient to Germany, and after the occupation by Germany of a large part of

France, Japan induced and coerced the general government of French Indo-China to enter into agreements with her for military and economic concessions in that country, and especially the northern part thereof. On 22nd September, 1940, notwithstanding agreements signed on the same day, Japanese troops attacked French Indo-Chinese units and were met with strong resistance.

On 27th September, 1940, Japan signed the Tri-Partite Pact with Germany and Italy.

In the early part of 1941, Japan, taking advantage of a boundary dispute raised by Thailand against French Indo-China, purported to act as mediator or arbitrator therein, but actually brought about a settlement unduly favourable to Thailand with a view to obtaining her aid in or submission to future aggression, and at the same time made further demands for military and economic concessions in French Indo-China. The said settlements were finally concluded on 6th-9th May, 1941.

Commencing in the latter part of February, 1941, Japan and Germany conducted negotiations on the subject of Joint Military Action against Singapore and the territory of other Nations.

On 1st July, 1941, Germany, Italy and all Axis Governments subservient to them in other European countries, at the request of Japan, recognized the so-called "National Government of the Republic of China".

On the 12th July, 1940, a Friendship Treaty was signed between Japan and Thailand.

From May to July, 1941, Japan further induced and coerced the general Government of French Indo-China to allow Japanese troops to land, establish naval and air bases, and generally obtain control over Southern French Indo-China. The main purpose on this occasion was to provide bases for aggression directly against the British Commonwealth of Nations and the Dutch East Indies, and indirectly against the United States of America. The said agreements were finally concluded on July 21st and 29th, 1941, on which date Japanese forces landed at Saigon, established naval and air bases and generally took control of French Indo-China.

Throughout the above-mentioned dealings with French Indo-China, Japan used the help of Germany and Italy, by coercion upon the Vichy Government, as well as direct threats of illegal force, to attain her ends.

By way of reaction to this aggression and threat of further aggression, the United States of America on July 25th, and Great Britain on July 26th, froze the assets of Japan and China under their control, and applied other economic pressure against Japan.

On 25th November, 1941, Japan renewed the Anti-Comintern Pact, with secret clauses.

On or about the 1st December, 1941, Japan invoking the Tri-Partite Pact, requested Germany and Italy to declare War on the United States after the beginning of hostilities, and that a "No separate Peace Treaty" be entered into.

On 5th December, 1941, Japan assured the United

States of America that troop movements in French Indo-China were precautionary measures.

On December 7th-8th, 1941, Japan made surprise attacks on territories of the United States of America, the British Commonwealth of Nations, and Thailand, using in the two latter cases French Indo-China bases.

On the 11th December, 1941, Japan, Germany and Italy signed a "No Separate Peace Pact".

On 18th January, 1942, a Military Convention between Japan, Germany and Italy was signed in Berlin.

From 1936 to 1945 close military, naval, economic and diplomatic co-operation and exchange of information were maintained between the above three countries. At the request of Germany, Japan from the beginning of the war on December 7th-8th, 1941, adopted the German policy of ruthless submarine warfare and the destruction of crews of ships sunk or captured.

By the threatening attitude which Japan maintained from 1939 to 1941 against the United States of America, the British Commonwealth of Nations, the Kingdom of the Netherlands and the Republic of France, and from 1939 to 1945 against the Union of Soviet Socialist Republics, and by her increasing concentration of troops in regions convenient for attacks upon them, she directly assisted Germany and Italy in their wars against those nations, even while she remained nominally neutral.

SECTION 8.

AGGRESSION AGAINST THE SOVIET UNION.

In the course of many years, Japan was continually preparing war and performing acts of aggression against the Soviet Union.

Having failed in her attempts to capture the Soviet Far East in the period between 1918-1922, Japan did not abandon the idea of capturing the Soviet areas situated east of the Lake Beykal.

Since 1928 the Japanese General Staff had been planning a war of aggression against the Union of Soviet Socialist Republics eager to take advantage of a chance to start this war.

An important step in the preparation of a war of aggression against the Union of Soviet Socialist Republics was the occupation of Manchuria in 1931, which as well as Korea was transformed into a military base for attacking the Union of Soviet Socialist Republics in a number of years. Railroads and highways were constructed in Manchuria after 1931 of strategic importance and ran towards the frontier of the Union of Soviet Socialist Republics. The strength of the Kwantung Army had been increased from two divisions in 1931 to fifteen in 1941.

A great number of new airfields, fortified areas, dumps, barracks, sea and river ports destined to serve in the war of aggression against the Union of Soviet Socialist Republics were built.

In Manchuria the war industry developed at a fast rate. Areas adjacent to the Union of Soviet Socialist Republics frontier were being colonized

by Japanese reservists with the purpose of strengthening the Kwantung Army at the moment of mobilization. Propaganda in the press, by radio, etc., was directed against the Soviet Union, was carried on so intensely. On Manchurian territory Japan organized and supported on a large scale elements from Russian emigrants hostile to the Soviet Union and prepared them for hostile acts against the Union of Soviet Socialist Republics. Japan systematically organized armed clashes on the frontier and organized acts of sabotage and terrorist acts on the Chinese Eastern Railroad. In 1932, Japan twice rejected the proposal of the Union of Soviet Socialist Republics to conclude a non-aggression pact.

In 1938, Japan without declaring war, attacked the territory of the Soviet Union at the Lake Hassen.

In 1939 Japan again, without declaration of war, attacked the territory of the Mongolian People's Republic, an ally of the Union of Soviet Socialist Republics at the Halkin-Gol River (Namanhan), and engaged the Mongolian People's Republic army and its allied Red Army. In both cases Japan pursued the aim of reconnoitring the strength of the Red Army by battle and capturing strategic positions for future war against the Union of Soviet Socialist Republics. Having been repulsed twice and having suffered heavy losses, Japan nevertheless did not stop the preparations for a surprise attack against the Union of Soviet Socialist Republics.

While preparing for the war against the Soviet

Union, Japan, during several years, carried on negotiations with Hitlerite Germany and Fascist Italy on a joint aggression. The principal stages, in this plot of aggressors, were the conclusion of the so-called Anti-Comintern Pact in 1936 and the signing of the Tri-Partite Pact of Japan, Germany and Italy in 1940, the aim of which was joint aggressive action of these countries against democratic powers, among them the Union of Soviet Socialist Republics.

In March 1941, while being in Berlin for the purpose of plotting with Hitler about a joint aggression against democratic countries, the defendant Matsuoka was informed by the German government about preparations by the latter for war against the Union of Soviet Socialist Republics. As early as the beginning of July, following a conclusion of the pact of neutrality on behalf of Japan on 13th April, 1941, after the treacherous attack of Germany against the Union of Soviet Socialist Republics, Matsuoka officially declared to the Soviet Ambassador in Tokyo that the principal basis of the Japanese foreign policy was the alliance with Germany and that in case Germany addressed Japan with a request for help, the pact of neutrality with the Union of Soviet Socialist Republics would not present an obstacle for Japan to wage war on the side of Germany. In accordance with this, the governing militarist clique in Japan in the whole course of the war between Germany and the Union of Soviet Socialist Republics was openly hostile towards the Soviet Union; maintained a selected army on the

Soviet frontiers and was an organizer of a widespread propaganda against the Soviet Union. Japan actively helped Hitlerite Germany, providing her with information regarding the Union of Soviet Socialist Republics, organized pirate attacks on Soviet merchant shipping in the Far East by closing straits, establishing prohibited zones and special limited waterways.

To render help to Germany, Japan, after Germany's attack against the Union of Soviet Socialist Republics in the summer of 1941, doubled the strength of her army in Manchuria and later on brought the strength of this army to a million men which necessitated maintaining considerable forces in the Far East by the Soviet Union instead of using them in the war against Germany.

In the same summer of 1941, Japan worked out a new plan of a surprise attack against the Union of Soviet Socialist Republics and kept the Kwantung Army fully prepared for such an attack. She was prevented from it, not by the pact of neutrality, which as it may be seen from above, Japan disregarded, but by the successes of the forces of the Union of Soviet Socialist Republics in the war against Germany.

SECTION 9.

JAPAN, THE UNITED STATES OF AMERICA, THE COMMONWEALTH OF THE PHILIPPINES AND THE BRITISH COMMONWEALTH OF NATIONS.

The whole of the other Sections of this Appendix are relevant to this Section and are not repeated here.

From 1931 until December, 1941, relations between Japan on the one hand and the United States of America and Great Britain on the other continuously deteriorated because of Japan's aggression in East Asia and duplicity in international negotiations.

The United States of America and Great Britain frequently protested that Japan's military operations were a violation of the provisions of the treaties mentioned in Count 2 hereof, and called the attention of both China and Japan to their obligations thereunder. They also declared that they would not recognize any situation in Manchuria or elsewhere brought about by violations thereof.

Japan in unequivocal terms gave assurances that she had no territorial ambitions in China, that she would respect the open door policy in China. In spite of these assurances she set up a puppet regime in Manchukuo and proceeded to close the door to the United States of America and British trade.

After the consolidation of the Manchurian position Japan continued her aggressive policy in East Asia in spite of assurances that she had no territorial ambitions south of the Great Wall.

The United States and Great Britain endeavoured to convince Japan that her best interests lay in peace, but it was clear from her actions that she intended to resort to force to gain neighbouring countries and territories.

During 1935, Japan increased her military and naval strength and undertook limited military activities to extend her domination over China. The

United States of America and Great Britain continued to draw Japan's attention to her treaty obligations but this had no effect on her military activities.

In 1936, the United States of America endeavoured to get Japan to agree to the principle of equality in commercial and industrial spheres and not to resort to force to obtain preferential rights. This was also rejected by Japan.

In 1937, Japan declared that the principles of international relationship propounded by the United States of America were consistent with her own, but qualified this by stating that the objectives could only be obtained by an understanding of the particular circumstances of the East. In 1937 Japan commenced further military aggression in China and soon thereafter the United States of America offered her good offices in the dispute and appealed to both parties to refrain from war. This offer was not accepted by Japan and the appeal had no effect. In the same year Japan refused an invitation to attend the Brussels Conference called under the provisions of the Nine-Power Treaty. On August 26th, 1937, Japanese forces attacked cars belonging to the British Embassy in China, and on December 12th attacked warships belonging to the United States of America and Great Britain on the Yangtze.

At the end of 1938 Japan proclaimed her policy of a new order in East Asia and refused to give any unconditional assurance that the open door policy in China would be maintained.

Thereafter many interferences by Japan in

Japanese controlled territories with the rights of the United States of America and British nationals took place and in July, 1939, the United States of America gave notice of termination of the 1911 commercial Treaty with Japan.

In September, 1940, after Japan's military alliance with Germany and Italy, the United States of America was forced to place limitations on the export of iron, steel and raw materials to Japan.

In March, 1941, conversations between the Japanese ambassador in Washington and the United States Secretary of State took place in an endeavour by the United States to settle outstanding differences and to reach a peaceful settlement. While these were proceeding Japan continued at a feverish pace to prepare for war. At an Imperial Conference on 2nd July, the decision to advance southward, obviously directed against the United States of America, the Kingdom of the Netherlands and the British Commonwealth, was reached. At a further Conference on 6th September, it was decided to open hostilities against the United States of America, Great Britain and the Netherlands in case the requirements of Japan seemed unlikely to be realized by some time during the first part of October. On 1st December, a further Conference definitely decided on war. The decisions of the two last-mentioned Conferences were kept secret. On 7th-8th December, 1941, while negotiations were still proceeding, Japan made surprise attacks on territories of the United States of America at Pearl Harbour, of the British Common-

wealth of Nations at Singapore, Malaya, Hong Kong and Shanghai, of the Commonwealth of the Philippines, and of Thailand. She delivered no declaration of war, and to the British Commonwealth of Nations or to the Commonwealth of the Philippines, no document of any kind. To the United States of America she delivered, after the attack, a document which did not and was not intended to amount to a declaration of war.

She entirely disregarded all the other Treaty obligations referred to in Counts 7 and 8 hereof.

SECTION 10.

JAPAN, THE KINGDOM OF THE NETHERLANDS AND
THE REPUBLIC OF PORTUGAL.

The Netherlands East Indies and the Portuguese portion of the Island of Timor were within the area coveted by Japan and described by her as the "Greater East Asia Co-Prosperity Sphere".

In addition to the general treaties binding Japan not to attack these areas, Treaty Articles Nos. 20 and 21, refer respectively to these nations in terms. Japan also had a treaty with the Netherlands regarding the East Indies which she denounced on the 12th June, 1940, in preparation for aggression against them. At that time the homeland of the Netherlands had been recently and treacherously over-run by Japan's ally, Germany, and the Dutch Government had been compelled to seek refuge in England. Thereafter Japan endeavoured to compel that Government to agree to a new treaty on terms unduly

favocurable to Japan, but they were unwilling to do so. The preparations of Japan for a general aggressive war in the Far East included an intention to invade the Netherlands East Indies. The occupation by Japan of French Indo-China, completed in July, 1941, and the attacks upon territories of the United States of America and the British Commonwealth of Nations on the 7th-8th December, 1941, were all part of a plan which included an invasion of the Netherlands East Indies. This was specifically one of the decisions of the Japanese Imperial Conference of the 6th September, 1941. Consequently the Netherlands Government immediately after the last mentioned attacks, declared war on Japan in self-defence.

On the 11th January, 1942, Japan invaded and thereafter rapidly occupied the Netherlands East Indies.

On 19th February, 1942, Japan, without any pretence of right or of any quarrel with the Republic of Portugal, invaded Portugese Timor, and occupied it for the purpose of carrying on her aggressive war against all the allied nations.

APPENDIX B.

List of Articles of Treaties violated by Japan
and incorporated in Groups One and Two.

The Convention for the Pacific Settlement of International Disputes, signed at The Hague 29 July 1899.

The said Convention was signed and ratified by or on behalf of Japan and each of the Nations bringing the charges in this Indictment subject to certain reservations not here material.

1. Article I

"With a view to obviating, as far as possible, recourse to force in the relations between States, the Signatory Powers agree to use their best efforts to ensure the pacific settlement of international differences".

2. Article II

"In case of serious disagreement or conflict, before an appeal to arms, the Signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers".

The Convention for the Pacific Settlement of International Disputes, signed at the Hague 18 October 1907.

The said Convention was signed and ratified by or on behalf of Japan and each of the nations bringing the charges in this Indictment with the exception of the United Kingdom and the Union of Soviet Socialist Republics, subject to certain reservations not here material.

3. Article 1.

"With a view to obviating as far as possible recourse to force in the relations between States, the Contracting Powers agree to use their best efforts to ensure the pacific settlement of international differences".

4. Article 2.

"In case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers".

The Hague Convention No. III Relative to the Opening of Hostilities, signed 18 October 1907.

The said Convention was signed and ratified by or on behalf of Japan and each of the nations bringing the charge in this Indictment.

5. Article I

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

Agreement effected by exchange of notes between the United States and Japan, signed 30 November 1908, declaring their policy in the Far East.

6. "2. The Policy of both Governments, uninfluenced by any aggressive tendencies, is directed to the maintenance of the existing status quo in the region above-mentioned and to the defence of the principle of equal opportunity for commerce and industry in

China.

7. 3. They are accordingly firmly resolved reciprocally to respect the territorial possessions belonging to each other in said region.

8. 4. They are also determined to preserve the common interest of all Powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire.

9. 5. Should any event occur threatening the status quo as above described or the principle of equal opportunity as above defined, it remains for the two Governments to communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take".

The Convention and Final Protocol for the Suppression of the Abuse of Opium and other Drugs, signed at The Hague, 23 January 1912 and 9 July 1913.

10. The said Convention was signed and ratified by or on behalf of Japan and each of the nations bringing the charges in this Indictment.

The Treaty of Peace between the Allied and Associate Powers and Germany, signed at Versailles, 28 June 1919, known as the Versailles Treaty.

11. Article 10 of the Covenant of the League of Nations.

"The Members of the League undertake to respect and preserve against external aggression the territorial integrity and existing political independence of all Members of the League. In case of

any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled".

12. Article 12 of the Covenant of the League of Nations.

"The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to enquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council".

13. Article 13 of the Covenant of the League of Nations.

"The Members of the League agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

For the consideration of any such dispute, the court of arbitration to which the case is referred

shall be the court agreed on by the parties to the dispute or stipulated in any convention existing between them.

The Members of the League agree that they will carry out in full good faith any award that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such award, the Council shall propose what steps should be taken to give effect thereto."

14. Article 15 of the Covenant of the League of Nations.

"If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case, with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the

terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this

Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such a request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the Members thereof other than the Representatives of one or more of the parties to the dispute."

15. Article 22 of the Covenant of the League of Nations.

"Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory and will also secure equal opportunities

for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above-mentioned in the interests of the indigenous population."

16. Article 23 (c) of the Covenant of the League of Nations.

"Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League.....

(c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs."

The Mandate from the League of Nations pursuant to the Versailles Treaty made at Geneva 17 December 1920

17. Article 3.

"The Mandatory shall see that the slave trade is prohibited and that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration."

18. Article 4.

"The military training of the natives otherwise than for purposes of internal police and the local

defence of the territory shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory."

Treaty between the British Commonwealth of Nations, France, Japan and the United States of America relating to their Insular possessions and Insular Dominions in the Pacific Ocean, 13 December, 1921.

The said Treaty was signed and ratified by the Signatory Powers.

19. Article I.

"The High Contracting Parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the High Contracting Parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other High Contracting Parties to a joint Conference to which the whole subject will be referred for consideration and adjustment."

Identic Communication made to the Netherlands Government on 4 February 1922 on behalf of the British Commonwealth of Nations and also "mutatis mutandis" on behalf of Japan and the other Powers signatory to the Quadruple Pacific Treaty of 13 December 1921, states that:-

20. The Netherlands not being signatory to the said

Treaty, and the Netherlands possession in the region of the Pacific Ocean therefore not being included in the agreement referred to, His Britannic Majesty's Government, anxious to forestall any conclusion contrary to the spirit of the Treaty, desires to declare that it is firmly resolved to respect the rights of the Netherlands in relation to her insular possessions in the region of the Pacific Ocean.

Identical Communication made to the Portuguese Government on 6 February 1922 on behalf of the British Commonwealth of Nations and also "aut tuis autandis" on behalf of Japan and the other Powers signatory to the Quadruple Pacific Treaty of 13 December 1921, states that:-

21. The Portuguese not being signatory to the said Treaty and the Portuguese possessions in the region of the Pacific Ocean therefore not being included in the agreement referred to, His Britannic Majesty's Government, anxious to forestall any conclusion contrary to the spirit of the Treaty, desires to declare that it is firmly resolved to respect the rights of Portugal in relation to her insular possessions in the region of the Pacific Ocean.

The Treaty between the United States of America, the British Commonwealth of Nations, Belgium, China, France, Italy, Japan, the Netherlands and Portugal, concluded and signed at Washington, 6 February 1922, known as the Nine-Power Treaty.

The said Treaty was signed and ratified by or on behalf of Japan and each of the nations bringing the charges in this indictment with the exception of the

Union of Soviet Socialist Republics.

Article I.

"The Contracting Powers, other than China, agree:-

22. (1) To respect the sovereignty, the independence, and the territorial administrative integrity of China;

23. (2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable Government;

24. (3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China;

25. (4) To refrain from taking advantage of conditions in China in order to see special rights or privileges which would abridge the rights of subjects or citizens of friendly States, and from countenancing action inimical to the security of such States."

Article II.

26. "The Contracting Powers agree not to enter into any treaty, agreement, arrangement, or understanding, either with one another, or, individually or collectively, with any Power or Powers which would infringe or impair the principles stated in Article I"

Article III.

"With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China,

agree that they will not seek, nor support their respective nationals in seeking:-

27. (a) Any arrangement which might purport to establish in favour of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;

28. (b) Any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category or public enterprise, or which by reason of its scope, duration, or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

It is understood that the foregoing stipulations of this Article are not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial, or financial undertaking, or to the encouragement of invention and research.

China undertakes to be guided by the principles stated in the foregoing stipulations of this Article in dealing with applications for economic rights and privileges from the Governments and nationals of all foreign countries, whether parties to the present Treaty or not."

Article IV.

29. "The Contracting Powers agree not to support

any agreements by their respective nationals, with each other designed to create Spheres of Influence or to provide for the enjoyment of mutually exclusive opportunities in designated parts of Chinese territory."

Article VII.

30. "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 shall be full and frank communication between the Contracting Powers concerned."

Treaty between the United States and Japan, signed at Washington 11 February 1922.

The said Treaty was signed and ratified by the Signatory Powers.

Article II.

31. "The United States and its nationals shall receive all the benefits of the engagements of Japan defined in Articles 3, 4 and 5 of the aforesaid Mandate, notwithstanding the fact that the United States is not a member of the League of Nations."

The League of Nations Second Opium Conference Convention, signed at Geneva 19 February 1925.

32. The said Convention was signed and ratified by or on behalf of Japan and each of the nations bringing the charges in this Indictment, with the exception of the Union of Soviet Socialist Republics, China, and the United States of America.

Treaty between the President of the United States of

America, the President of the German Reich, His Majesty the King of the Belgians, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland, and the President of the Czechoslovak Republic, concluded and signed at Paris 27 August 1928, known as the Kellogg-Briand Pact and as the Pact of Paris.

The said Treaty was signed and ratified by the Signatory Powers.

Article I.

33. "The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies; and renounce it as an instrument of national policy in their relations with one another."

Article II.

34. "The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

Declaration of Imperial Japanese Government, 27 June 1929, concerning Article I of the Kellogg-Briand Pact of 27 August 1928.

"The Imperial Government declare that the phraseology 'in the names of their respective peoples' appearing in Article I of the Treaty for

the Renunciation of War, signed at Paris on 27 August 1928, viewed in the light of the provisions of the Imperial Constitution, is understood to be inapplicable in so far as Japan is concerned."

The Convention relating to Narcotic Drugs, signed at Geneva 13 July 1931.

35. The said Convention was signed and ratified by or on behalf of Japan with reservations recorded in the protocol of signature and each of the nations bringing the charges in this Indictment, with the exception of the Union of Soviet Socialist Republics, China, the Commonwealth of Australia and New Zealand. Treaty between Thailand and Japan concerning the continuance of friendly relations and the mutual respect of each other's territorial integrity, signed at Tokyo, 12 June 1940.

The said Treaty was signed and ratified by the Signatory Powers.

Article I.

36. "The High Contracting Parties shall mutually respect each other's territorial integrity and hereby reaffirm the constant peace and the perpetual friendship existing between them."

Convention respecting the Rights and Duties of Neutral Powers and Persons in War on Land, signed at The Hague 18 October 1907.

37. Article I.

"The territory of neutral Powers is inviolable."

38. Article II.

"Belligerents are forbidden to move troops or convoys, whether of munitions of war or of supplies,

across the territory of a neutral Power."

Treaty of Portsmouth between Russia and Japan,
signed 5 September 1905 which established:

Article II (paragraph 3).

39. It is also agreed that in order to avoid all cause of misunderstanding the two High Contracting Parties will abstain, on the Russo-Korean frontier, from taking any military measures which may menace the security of Russian or Korean territory.

Article III (Parts 1 and 2).

Japan and Russia mutually engage:

40. (1) To evacuate completely and simultaneously Manchuria except the territory affected by the lease of the Liaotung Peninsula, in conformity with the provisions of additional Article I, annexed to Treaty; and

41. (2) To restore entirely and completely to the exclusive administration of China all portions of Manchuria now in the occupation or under the control of the Japanese or Russian troops, with the exception of the territory above mentioned.

Article IV.

42. Japan and Russia reciprocally engage not to obstruct any general measures common to all countries, which China may take for the development of the commerce and industry of Manchuria.

Article VII (paragraph 1).

43. Japan and Russia engage to exhibit their respective railways in Manchuria exclusively for commercial and industrial purposes and in no wise for strategic purposes.

Article III (paragraph 2).

44. Japan and Russia mutually agree not to construct in their respective possessions on the Island of Saghalien or the adjacent islands, any fortifications or other similar military works. They also respectively engage not to take any military measures which may impede the free navigation of the Straits of L'Perouse and Tartary.

The Convention on Embodying Basic Rules of the Relations between Japan and the Union of Soviet Socialist Republics, signed 20 January 1925 in Peking.

This Convention was signed and ratified by the Signatory Powers.

Article V.

45. The High Contracting Parties solemnly affirm their desire and intention to live in peace and amity with each other, scrupulously to respect the undoubted right of a State to order its own life within its own jurisdiction in its own way, to refrain and restrain all persons in any governmental service for them, and all organizations in receipt of any financial assistance from them, from any act overt or covert liable in any way whatever to endanger the order and security in any part of the territories of Japan or the Union of Soviet Socialist Republics.

It is further agreed that neither Contracting Party shall permit the presence in the territories under its jurisdiction -- (a) of organizations or groups pretending to be the Government for any part of the territories of the other Party, or (b) of

alien subjects or citizens who may be found to be actually carrying on political activities for such organizations or groups.

The Neutrality Pact between the Union of Soviet Socialist Republics and Japan, signed 13 April 1941 in Moscow.

This pact was signed and ratified by the Signatory Powers.

Article I.

46. Both Contracting Parties engage to maintain peaceful and friendly relations between themselves and mutually respect the territorial integrity and inviolability of the other Contracting Party.

Article II.

47. If one of the Contracting Parties becomes the object of military action on the part of one or several other Powers, the other Contracting Party will maintain neutrality during the whole period of the conflict.

APPENDIX C.

List of Official Assurances Violated
by Japan and Incorporated in Group One.

1. 25th September, 1931: That Japan had no territorial designs in Manchuria.
2. 25th November, 1931: That there was no truth in the report of a Japanese advance on Chinchow.
3. 22nd December, 1931: That Chinese sovereignty would be accepted and that the open door policy would be maintained.
4. 5th January, 1933: That Japan had no territorial ambitions south of the Great Wall in China.
5. 25th April, 1934: That Japan had no intention whatever of seeking special privileges in China, of encroaching upon the territorial and administrative integrity of China, or of creating difficulties for the bona fide trade of other countries with China.
6. 15th August, 1937: That Japan harboured no territorial designs on China and would spare no efforts in safeguarding foreign interest and rights in China.
7. September, 1937: That Japan had peaceful intentions and a lack of territorial designs in North China.
8. 17th February, 1939: That Japan had no territorial designs in China and that the occupation would not go beyond military necessity.
9. 25th August, 1939: That Japan had decided to abandon any further negotiations with Germany and Italy relative to closer relations under the Anti-Comintern Pact.

10. 15th April, 1940: That Japan desired status quo of the Netherlands East Indies.
11. 16th May, 1940: That Japan had no plans nor purpose to attack the Netherlands East Indies.
12. 24th March, 1941: That under no circumstances would Japan attack the United States of America, Great Britain or the Netherlands East Indies.
13. 8th July, 1941: That Japan had not so far considered the possibility of fighting the Union of Soviet Socialist Republics.
14. 10th July, 1941: That Japan contemplated no action against French Indo-China.
15. 5th December, 1941: That troop movements in French Indo-China were precautionary measures.

APPENDIX D.

Incorporated in Group Three

The Laws and Customs of War are established partly by the practice of civilized nations, and partly by Conventions and Assurances, which are either directly binding upon the parties thereto, or evidence of the established and recognized rules. The Conventions and Assurances hereinafter mentioned in any part of this Appendix will be relied upon as a whole for both purposes, only the most material Articles being quoted herein.

1. The Convention No. 4 done at The Hague on the 18th October, 1907, concerning the Laws and Customs of War on Land provides (inter alia) as follows:

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

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

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

commanders.

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

The Regulations set out in the Annex to the said Convention, which forms part thereof, deal in Section I with Belligerents and Prisoners of War, in Section II with Hostilities and in Section III with Military Authority over the Territory of the Hostile State.

Article 4 thereof in Section I provides (inter alia) as follows:

"Prisoners of War are in the power of the hostile Government, but not of the individuals or corps who capture them."

Convention No. 10 done at the same time and place concerns Maritime War.

The said Conventions were signed and ratified by or on behalf of over forty nations, including Japan and each of the nations bringing the charges in this Indictment, subject to certain reservations

not here material, and thus become part or evidence of the Laws and Customs of War.

2. The more complete code of the Laws of War contemplated by the said Convention is contained, in relation to Prisoners of War, in the International Convention relative to the Treatment of Prisoners of War, done at Geneva, on the 27th July, 1929, (hereinafter called "the Geneva Convention").

Although Japan did not ratify the said Convention, it became binding upon her for one or more of the following reasons:

(a) It was signed on the said date by or on behalf of forty-seven nations, including Japan and each of the nations bringing the charges in this Indictment, and ratified by over forty nations, and thus became part or evidence of the Laws and Customs of War.

(b) A communication dated the 29th January, 1942, signed by TOGO, Shigenori, one of the accused, as Foreign Minister on behalf of Japan, addressed to the Swiss Minister in Tokyo, contained the following statement

"Although not bound by the Convention relative to the Treatment of Prisoners of War, Japan will apply mutatis mutandis, the provisions of that Convention to American prisoners of war."

In a communication dated on or about the

30th January, 1942, addressed to the Argentine Minister in Tokyo by TOGO, Shigenori, one of the accused, as Foreign Minister on behalf of Japan, it is stated:

"The Imperial Government has not yet ratified the Convention of 27th July, 1929, regarding the treatment of prisoners of war. They are not therefore subject to the said Convention. None the less, they will apply mutatis mutandis the conditions of that Convention to English, Canadian, Australian and New Zealand prisoners of war in their power. With regard to supply of food and clothing to prisoners of war, they will consider on condition of reciprocity national and racial customs of the prisoners."

By the said communications or one of them, Japan acceded to the said Convention in accordance with Article 95 thereof, and the state of war then existing gave immediate effect to such accession.

- (c) The said communications constituted assurances to the United States of America, the United Kingdom of Great Britain and Northern Ireland, Canada, Australia and New Zealand to whose governments the said communications were intended to be, and were, repeated by the respective recipients thereof, and in each case to all nations who were at war

with Japan.

Except in the said matters there are no provisions of the said Geneva Convention to which the expression "mutatis mutandis" could properly be applied.

3. The International Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, done at Geneva on the 27th July, 1929, (known as and hereinafter called 'the Red Cross Convention') provides (inter alia) as follows:

"Article 26: The Commanders-in-Chief of belligerent armies shall arrange the details for carrying out the preceding articles, as well as for cases not provided for, in accordance with the instructions of their respective Government: and in conformity with the general principles of the present Convention."

Japan was a party to the said Convention, together with over forty other nations, which thus became part or evidence of the Laws and Customs of war. In the above-mentioned communication dated on or about the 29th January, 1942, Japan stated:

"Japan observes strictly the Geneva Convention of 27th July, 1929, relative to the Red Cross, as a state signatory of that Convention."

In a communication dated the 13th February, 1942,

signed by TCGO, Shigenori, one of the accused, as Foreign Minister on behalf of Japan, addressed to the Swiss Minister in Tokyo, contained the following statement:

"The Imperial Government will apply during the present war, on condition of reciprocity, the provisions relative to the treatment of prisoners of war of the 27th July, 1929, to enemy civilian internees, as far as applicable to them, and provided that labour will not be imposed upon them contrary to their free choice,

The said communication constituted an assurance to all the nations at war with Japan, (who in fact carried out the provisions of the said Convention as applicable to Japanese civilian internees) other than the Republic of China.

The above-mentioned assurances were repeated by the Japanese Foreign Ministry on several occasions, as recently as the 26th May, 1943.

PARTICULARS OF BREACHES

All the offences are breaches of the Laws and Customs of War, in addition to, and as proved in part by, the several Articles of the Conventions and assurances specifically mentioned.

SECTION ONE

Inhumane treatment, contrary in each case to Article 4 of the said Annex to the said Hague Conven-

tion and the whole of the said Geneva Convention and to the said assurances. In addition to the inhumane treatment alleged in Sections Two to Six hereof inclusive, which are incorporated in this Section, prisoners of war and civilian internees were murdered, beaten, tortured and otherwise ill-treated, and female prisoners were raped by members of the Japanese forces.

SECTION TWO

Illegal employment of prisoner of war labour, contrary in each case to Article 6 of the said Annex to the said Hague Convention and to Part III of the said Geneva Convention, and to the said assurances. The said employment was illegal in that:

- (a) prisoners of war were employed on work having connection and direct connection with the operations of war.
- (b) prisoners of war were employed on work for which they were physically unsuited, and on work which was unhealthy and dangerous.
- (c) the duration of daily work was excessive, and prisoners were not allowed rests of twenty-four consecutive hours in each week,
- (d) conditions of work were rendered more arduous by disciplinary measures.
- (e) prisoners were kept and compelled to work in unhealthy climates and dangerous zones, and without sufficient food, clothing or boots.

SECTION THREE

Refusal and failure to maintain prisoners of war, contrary to Article 7 of the said Annex to the said Hague Convention, and Article 4 and Part III, Articles 9 - 12 inclusive, of the said Geneva Convention, and to the said assurances.

Owing to differences of national and racial customs, the food and clothing supplied to the Japanese troops were, even when supplied to prisoners of war belonging to the white races, insufficient to maintain them. Adequate food and clothing were not supplied, either in accordance with the said Conventions or the said assurances.

The structural and sanitary condition of the camps and labour detachments failed entirely to comply with the said Articles and was extremely bad, unhealthy and inadequate.

Washing and drinking facilities were inadequate and bad.

SECTION FOUR

Excessive and illegal punishment of prisoners of war, contrary to Article 8 of the said Annex to the said Hague Convention and to Part III, Section V, Chapter 3 of the said Geneva Convention, and to the said assurances:

- (a) Prisoners of war were killed, beaten and tortured without trial or investigation of any kind, for alleged offences;
- (b) such unauthorized punishments were inflicted for alleged offences which, even if

proved, were not under the said Conventions offences at all;

- (c) collective punishments were imposed for individual alleged offences;
- (d) prisoners were sentenced to punishment more severe than imprisonment for thirty days for attempting to escape;
- (e) conditions of the trial of prisoners did not conform to those laid down in the said Chapter;
- (f) conditions of imprisonment of prisoners sentenced did not conform to those laid down in the said Chapter.

SECTION FIVE

Mistreatment of the sick and wounded, medical personnel and female nurses, contrary to Articles 3, 14, 15 and 25 of the said Geneva Convention and Articles 1, 9, 10 and 12 of the said Red Cross Convention, and to the said assurances:

- (a) Officers and soldiers who were wounded or sick, medical personnel, chaplains, and personnel of voluntary aid Societies were not respected or protected, but were murdered, ill-treated and neglected;
- (b) medical personnel, chaplains and personnel of voluntary aid Societies were wrongfully retained in Japanese hands;
- (c) female nurses were raped, murdered and ill-treated;
- (d) camps did not possess infirmaries, and

seriously sick prisoners and those requiring important surgical treatment were not admitted to military or civil institutions qualified to treat them;

- (e) monthly medical inspections were not arranged;
- (f) sick and wounded prisoners were transferred although their recovery was prejudiced by their journeys.

SECTION SIX

Humiliation of prisoners of war, and especially officers, contrary to Article 8 of the said Annex to the said Hague Convention, and Articles 2, 3, 18, 21, 22 and 27 of the said Geneva Convention, and to the said assurances:

- (a) Prisoners were deliberately kept and made to work in territories occupied by Japan, for the purpose of exposing them to the insults and curiosity of the inhabitants;
- (b) prisoners in Japan and in occupied territories, including officers, were compelled to work on menial tasks and exposed to public view;
- (c) officer prisoners were placed under the control of non-commissioned officers and private soldiers and compelled to salute them, and to work.

SECTION SEVEN

Refusal or failure to collect and transmit

information regarding prisoners of war, and replies to enquiries on the subject, contrary to Article 14 of the said Annex to the said Hague Convention and to Articles 8 and 77 of the said Geneva Convention, and to the said assurances:

Proper records were not kept, nor information supplied as required by the said Articles, and the most important of such records as were kept were deliberately destroyed.

SECTION EIGHT

Obstructions of the rights of the Protecting Powers, of Red Cross Societies, of prisoners of war and of their representatives, contrary to Article 15 of the said Annex to the said Hague Convention, and to Articles 31, 42, 44, 78 and 86 of the said Geneva Convention, and to the said assurances:

- (a) The representatives of the Protecting Power (Switzerland) were refused or not granted permission to visit camps and access to premises occupied by prisoners;
- (b) when such permission was granted they were not allowed to hold conversation with prisoners without witnesses or at all;
- (c) on such occasions conditions in camps were deceptively prepared to appear better than normal, and prisoners were threatened with punishment if they complained;
- (d) prisoners and their representatives were not allowed to make complaints as to the

nature of their work or otherwise, or to correspond freely with the military authorities or the Protecting Power;

(e) Red Cross parcels and mail were withheld.

SECTION NINE

Employing poison, contrary to the International Declaration respecting Asphyxiating Gases signed by (inter alia) Japan and China at The Hague on the 29th July, 1899, and to Article 23(a) of the said Annex to the said Hague Convention, and to Article 171 of the Treaty of Versailles:

In the wars of Japan against the Republic of China, poison gas was used. This allegation is confined to that country.

SECTION TEN

Killing enemies who, having laid down their arms or no longer having means of defence, had surrendered at discretion, contrary to Article 23(c) of the said Annex to the said Hague Convention.

SECTION ELEVEN

Destruction of enemy property, without military justification or necessity, and pillage, contrary to Articles 23(g), 28 and 47 of the said Annex to the said Hague Convention.

SECTION TWELVE

Failure to respect family honour and rights, individual life, private property and religious

convictions and worship in occupied territories, and deportation and enslavement of the inhabitants thereof, contrary to Article 46 of the said annex to the said Hague Convention and to the Laws and Customs of War:

Large numbers of the inhabitants of such territories were murdered, tortured, raped and otherwise ill-treated, arrested and interned without justification, sent to forced labour, and their property destroyed or confiscated.

SECTION THIRTEEN

Killing survivors of ships sunk by naval action and crews of captured ships, contrary to Article 16 of Hague Convention No. 10 of 1907.

SECTION FOURTEEN

Failure to respect military hospital ships, contrary to Article 1 of the last-mentioned Convention, and unlawful use of Japanese hospital ships, contrary to Articles 6 and 8 thereof.

SECTION FIFTEEN

Attacks, and especially attacks without due warning, upon neutral ships.

APPENDIX E.

Statement of Individual Responsibility for
Crimes Set Out in the Indictment.

The statements hereinafter set forth following the name of each individual Defendant constitute matters upon which the Prosecution will rely inter alia as establishing the individual responsibility of the Defendants.

It is charged against each of the Defendants that he used the power and prestige of the position which he held and his personal influence in such a manner that he promoted and carried out the offences set out in each Count of this Indictment in which his name appears.

It is charged against each of the Defendants that during the periods hereinafter set out against his name he was one of those responsible for all the acts and omissions of the various Governments of which he was a member, and of the various civil, military or naval organizations in which he held a position of authority.

It is charged against each of the Defendants, as shown by the numbers given after his name, that he was present at and concurred in the decisions taken at some of the conferences and cabinet meetings held on or about the following dates in 1941, which decisions prepared for and led to unlawful war on 7th/8th December, 1941.

1. 25th June, 1941 (Liaison)
2. 26th June, 1941 (Liaison)
3. 27th June, 1941 (Liaison)

4. 28th June, 1941 (Liaison)
5. 30th June, 1941 (Supreme War Council)
6. 2nd July, 1941 (Imperial)
7. 7th August, 1941 (Thought Control Council)
8. 22nd August, 1941 (Cabinet)
9. 6th September, 1941 (Imperial)
10. 17th October, 1941 (Ex-Premiers)
11. 28th November, 1941 (Liaison)
12. 29th November, 1941 (Ex-Premiers)
13. 1st December, 1941 (Imperial)
14. 1st December, 1941 (Cabinet)

ARAKI:

The Defendant ARAKI between 1928 and 1945 was, among other positions held:- Chief of General Affairs Department of the Office of Inspector General of Military Training (1931); Minister of War under Inukai and Seito (December 1931 to July 1934); a full General (1933); Member of the Supreme War Council (1934 to 1936); Member of the Cabinet Advisory Council on China (1937); Education Minister under Konoye and then under HIRAYAMA (May 1938 to August 1939); Member of the Cabinet Advisory Council (1940).

DOHIFUKA:

The Defendant DOHIFUKA between 1928 and 1945 was, among other positions held:- Commander of the Special Service Section in Manchuria (September 1931); Mayor of Mukden (September to October 1931); attached to Headquarters, Kwantung Army (1933);

Chief Adviser to the North China autonomous Government; Commander-in-Chief Japanese 5th Army Manchuria (1938 to 1940); Supreme War Councillor (1940 to 1943); Inspector General of Military Aviation (1941); full General (April 1941); Commander-in-Chief Eastern Army in Japan (1943); Commander of the 7th Area Army at Singapore (1944 to 1945); Inspector General Military Training (April 1945).

Conferences:- 5.

HASHIMOTO:

The Defendant HASHIMOTO between 1928 and 1945 was, among other positions held:- attached Army General Staff (1933); retired from Army (February 1936); author of "Declarations of HASHIMOTO Iingoro" (1936); re-entered the Army (1937); commanded an Artillery Regiment at the Rape of Nanking (1937); in command of Japanese forces which shelled the Ladybird and the Tenny (1937); author of a large number of books, articles in the magazine "Taiyo Dai Nippon" and other publications and public speeches, all advocating aggressive warfare; member of a number of societies for the instigation of army control over politics and furtherance of aggressive warfare; promoter of a number of plots designed to remove politicians and officers whom he did not consider sufficiently aggressive; a founder of the I.P.C.A. (1940); elected to the Lower House of the Diet (1942).

HATA:

The Defendant HATA between 1928 and 1945 was, among other positions held:- Divisional Commander in Manchuria (1933); Chief of Army Aviation Department (1935); Commander of the Taiwan Army (1936 to 1937); Inspector General of Military Education and Member of the Supreme War Council (August 1937); a full General (February 1937); Commander-in-Chief of the Expeditionary Force in Central China (February 1938); Member of the Supreme War Council (January 1939); War Minister under Tojo (August 1939 to January 1940); Commander-in-Chief of the Expeditionary Force in Central China (July 1940 to 1944); Field Marshall and Member of the Board of Marshals and Admirals (June 1944); Inspector General of Military Education (November 1944).

HIRANUMA:

The Defendant HIRANUMA between 1928 and 1945 was, among other positions held:- Founder of the Kokuhonsha and President from 1926 to 1936; Vice President of Privy Council (1930 to 1936); President of Privy Council (1936 to 1939); Prime Minister (January to August 1939); Minister without portfolio under Konoye and for a time Home Minister and later Vice-Premier (July 1940 to October 1941); Member of Thought Control Council (August 1941); President Privy Council (1945).

Conferences:- 1.2.3.4.6.7.8.12.

HIROTA:

The Defendant HIROTA between 1928 and 1945 was, among other positions held:- Ambassador to the Union of Soviet Socialist Republics (1930); Foreign Minister (September 1933 to July 1934) under Saito, and From July 1934 to March 1936 under Okada; Prime Minister and for a time Foreign Minister concurrently (March 1936 to February 1937); Foreign Minister under Konoye (June 1937 to May 1938); Member of the Cabinet Advisory Council (1940).

Conferences:- 10.12.

HOSEINO:

The Defendant HOSEINO between 1928 and 1945 was, among other positions held:- Chief General Affairs Bureau of the Finance Department of the Manchukuo Government (1932); Chief of General Affairs in the Finance Ministry of Manchukuo (1934); Vice Minister Finance in the Manchukuo Government (1936); Chief, General Affairs Bureau in the National Affairs Office of Manchukuo (December 1936); Chief of General Affairs in Manchukuo (July 1938); President of the Planning Board and later Minister without Portfolio under Konoye (July 1940 to April 1941); Chief Secretary and Minister of State under TOJO (October 16th, 1941 to July 1944); Adviser to Finance Ministry (December 1944).

Conferences:- 11.14.

ITOGAKI:

The Defendant ITOGAKI between 1928 and 1945 was,

among other positions held:- full Colonel, Kwantung Army (1929); Major General, Kwantung Army (1932); Vice Chief of Staff, Kwantung Army (1934); Commander 5th Division in China (March 1937); Chief of Staff, Kwantung Army (1936 to 1937); attached to Headquarters, General Staff (May 1937; War Minister under Konoye and HIRANUMA from June 1938 to August 1939 and concurrently President of the Manchurian Affairs Bureau of the Cabinet; Chief of Staff, Japanese Army in China (September 1939); full General (July 1941); Commander, Japanese Army in Korea (July 1941 to 1945); Member of Supreme War Council (1943); Commander 7th Area Army in Singapore (April 1945).

KAWA:

The Defendant KAWA between 1928 and 1945 was, among other positions held:- Chief Secretary, Finance Ministry (1934); Minister of Finance (June 1937 to May 1938) under Konoye; on the Advisory Committee, China Affairs Board (1939); President, North China Development Company (1939 to 1941); Finance Minister under TOJO (June 1941 to February 1944); Director I.R.C.S. (1944).

Conferences:- 11.12.13.14.

KIDO:

The Defendant KIDO between 1928 and 1945 was, among other positions held:- Chief Secretary to the Lord Keeper of the Privy Seal (1930); Education Minister under Konoye (1937); Welfare Minister under Konoye (1938); Home Minister under HIRANUMA (1939);

Lord Keeper of the Privy Seal (1940 to 1945); chief confidential advisor to the Emperor and presided at meetings of Ex-Premiers.

Conferences:- 10.12.

KIMURA:

The Defendant KIMURA between 1928 and 1945 was, among other positions held:- Chief of Staff, Kwantung Army (1940); Vice War Minister under Honoye and TOJO (1941 to February 1944); Member, Supreme War Council (1943); Commander in Chief Japanese Army, Burma (1944); full General (1945).

KOISO:

The Defendant KOISO between 1928 and 1945 was, among other positions held:- Director, Military Affairs Bureau of the War Ministry (1930); Vice War Minister under Inukai (1932); Chief of Staff, Kwantung Army (1932 to 1934); Commander Japanese Army, Korea (1935 to 1936); a full General (1937); Overseas Minister under HIRIYUMA (1939) and under Yonai (1940); Governor General Korea (May 1942); Prime Minister (July 1944 to April 1945).

MATSUI:

The Defendant MATSUI between 1928 and 1945 was, among other positions held:- Representative of the Japanese Army at the Geneva Conference (1931); Member of the Supreme War Council (March 1933); a full General (1933); a founder of the Greater East Asia Society (1933); Commander-in-Chief, Japanese Forces

in Central China (October 1937 to February 1938); Member of the Cabinet Advisory Council (July 1938 to January 1940); Adviser to the Asia Promotion Federation (1940); Adviser to the Greater East Asia Affairs Section of the I.R.A.A. (1943); President of the Greater East Asia Development Society (1944).

MATSUOKA:

The Defendant MATSUOKA between 1928 and 1945 was, among other positions held:- Chief Delegate to the League of Nations Assembly (1933); President of the South Manchurian Railway (1935 to 1939); Member of the Cabinet Advisory Council (1940); Foreign Minister under Konoye (July 1940 to July 1941); author of "Show Restoration" (1938) and other books and articles and public speeches advocating aggressive warfare.

Conferences:- 1.2.3.4.6.

HINAMI:

The Defendant HINAMI between 1928 and 1945 was, among other positions held:- Commander, Japanese Army, Korea (1929); War Minister under Wakatsuki (April 1931 to December 1931); Supreme War Councillor (1931 to 1934); Commander-in-Chief, Kwantung Army (1934 to 1936); Governor General of Korea (1936 to 1942); Member of the Privy Council (1942 to 1945); President of the Political Association of Great Japan (1945).

MUTO:

The Defendant MUTO between 1928 and 1945 was, among other positions held:- Instructor at the Military Staff College (1930 to 1932); Senior Officer of the Military Affairs Bureau of the War Ministry (1935 to 1936); Chief of a section of the General Staff (1937); attached Headquarters Staff, Central China Army (August 1937); Colonel, attached to Kwantung Army Headquarters; Chief of the Military Affairs Bureau (October 1939 to April 1942); commanded 2nd Guards Division in Sumatra (1943); Chief of Staff of the 14th Area Army in the Philippines under General Yamashita (October 1944).

Conferences:- 1.2.3.4.6.9.11.13.

MUGNO:

The Defendant MUGNO between 1928 and 1945 was, among other positions held:- Vice Chief, Naval General Staff (1930); Delegate to the Geneva Naval Conference (1931); Member Supreme War Council (1933); full Admiral (1934); Chief Delegate to London Naval Conference (1935); Navy Minister under HIROTA (March 1936 to February 1937); Commander-in-Chief of Combined Fleet (1937); Member of Supreme War Council (1940); Chief of Naval General Staff (April 1941 to February 1944); Supreme Naval Adviser to the Emperor from February 1944.

Conferences:- 1.2.3.4.6.9.11.13.

OKA:

The Defendant OKA between 1928 and 1945 was,

among other positions held:- on the Naval General Staff (1930); Section Chief, General and Military Affairs Bureau of the Navy (1938); Chief, General and Military Affairs Bureau of the Navy (October 1940 to August 1944); Vice Admiral (1942); Vice Navy Minister (20 July 1944) under KCISO; Commander-in-Chief Chinkai (Korea) Naval Station (September 1944 to June 1945).

Conferences:- 1.2.3.4.6.9.11.13.

OKAWA:

The Defendant OKAWA between 1928 and 1945 was, among other positions held:- Director General of the East Asia Research Institute of the South Manchurian Railway from 1926; an organizer of the Mukden Incident (September 18th, 1931); author of "A Japanese History Reader" (1935); and of books, articles and speeches advocating aggressive war for the expulsion by force of the white races from Asia.

OSHIMA:

The Defendant OSHIMA between 1928 and 1945 was, among other positions held:- Military Attache in Berlin (1936); Ambassador to Germany (October 1938 to October 1939); and again from February 1941 to April 1945.

SATO:

The Defendant SATO between 1928 and 1945 was, among other positions held:- Instructor, Army General Staff College (1935); attached to the Military Staff College (1935);

Affairs Bureau of the War Ministry; Member of the Planning Board (1937 to 1938); Chief of the Military Affairs Section of the Military Affairs Bureau of the War Ministry (February 1941 to April 1942); Major General (October 1941); Chief of Military Affairs Bureau of the War Ministry (April 1942 to December 1944); Lieutenant General (March 1945).

SHIGEMITSU:

The Defendant SHIGEMITSU between 1928 and 1945 was, among other positions held:- Minister to China (1931); Vice Foreign Minister under Saito and Okada (1933 to 1936); Ambassador to the Union of Soviet Socialist Republics (November 1936 to November 1938); Ambassador to Great Britain (1938 to June 1941); Ambassador to the Peking Puppet Government (December 1941 to April 1943); Foreign Minister under TOJO (April 1943 to July 1944) and Foreign Minister and concurrently Minister for Greater East Asia under KOISO (July 1944 to April 1945).

SHIMADA:

The Defendant SHIMADA between 1928 and 1945 was, among other positions held:- Chief of Staff, Combined Fleet (1930); Vice Chief, Naval General Staff (1935 to 1937); Commander of the Second Fleet (December 1937); Commander, China Fleet (May 1940); full Admiral (1940); Navy Minister under TOJO (October 1941); appointed to Supreme War Council (1944); Chief of Naval General Staff (February to July 1944).

Conferences:- 12.13.14.

SHIRATORI:

The Defendant SHIRATORI between 1928 and 1945 was, among other positions held:- Chief of Information Bureau of the Foreign Office (1930); Minister to Sweden, Norway, Denmark, Finland (1936); Ambassador to Italy (1939); Adviser, Japanese Foreign Office (1940); author of an article in "Contemporary Japan" pointing out the necessity of a World Conflict to establish the "New Order in Asia" (April 16, 1941); Director I.R.A.P.S. (1943).

SUZUKI:

The Defendant SUZUKI between 1928 and 1945 was, among other positions held:- Member of the Military Affairs Section of the War Ministry (1931); attached to the Bureau of Military Affairs of the War Department (1933); Official of the Investigation Bureau of the Cabinet (1935); Regimental Commander of the 14th Regiment (1936); Chief of the Political Affairs Division of the China Affairs Board (December 1938 to April 1941); acting Director General thereof in 1940; President of the Cabinet Planning Board and Minister without Portfolio (April 1941 to October 1943) under Konoye and TOJO; Cabinet Adviser (November 1943 to September 1944); Director of the I.R.A.S. (1944).

Conferences:- 6.8.9.11.13.14.

TOGO:

The Defendant TOGO between 1928 and 1945 was, among other positions held:- Ambassador to Germany

(October 1937); Ambassador to the Union of Soviet Socialist Republics (October 1938); Foreign Minister and Minister for Overseas Affairs under TOJO (October 1941 to March 1942); Foreign Minister and Minister of Greater East Asia under SUZUKI (April 1945).

Conferences:- 11.12.13.14.

TOJO:

The Defendant TOJO between 1928 and 1945 was, among other positions held;- Head of the First Section of the General Staff (1931 to 1932); Chief of the Investigation Section of the Army Communications School (1932); Commander of the Military Police of the Kwantung Army (1935); Chief of Staff, Kwantung Army (1937); Vice War Minister under Konoye (May to December 1938); Director General of Military Aviation (1938 to 1939); War Minister under Konoye (July 1940 to December 1941); full General (October 1940); Prime Minister and War Minister concurrently (December 2, 1941 to July 1944) - during which period he was also, at times, Home Minister, Minister of Munitions, and Chief of General Staff.

Conferences:-1.2.3.4.5.6.8.9.11.12.13.14.

UMEZU:

The Defendant UMEZU between 1928 and 1945 was, among other positions held;- Chief of the General Affairs Department of the War Ministry (1931); Commander of the Japanese Forces in China (1934); Vice War Minister under HIROT; Hayashi and Konoye (March 1936 to May 1938); Commander of the Kwantung Army and Ambassador to Manchukuo (1939 to 1944); full General (1940); Chief of General Staff (July 1944 to 1945).