

Sept 19

I N D E X
Of
WITNESSES

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Wild, Cyril Hew Dalrymple (resumed)	5829
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I N D E X
Of
EXHIBITS

<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
477		Excerpt from Interrogation of General OSHIMA, Hiroshi, dated 1 February 1946		5913
478		Excerpt from Interrogation of General OSHIMA, Hiroshi, dated 1 February 1946		5917

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Thursday, 19 September, 1946.

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

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Appearances:

- For the Tribunal, same as before.
- For the Prosecution Section, same as before.
- For the Defense Section, same as before.

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(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1. **MARSHAL OF THE COURT:** The International
2. Military Tribunal for the Far East is now in session.

3. **THE PRESIDENT:** Major Furness.

4. C Y R I L H E W D A L R Y M P L E W I L D,
5. called as a witness on behalf of the prosecution,
6. resumed the stand and testified as follows:
7.

8. CROSS-EXAMINATION (Continued)

9. BY MR. FURNESS:

10. Q Colonel Wild, do you know of any provision
11. in any convention or treaty requiring the segregation
12. of officers from enlisted men while held as prisoners
13. of war?

14. A I have an idea that it is at least recom-
15. mended in one of the conventions, but I have not re-
16. ferred to them for a long time past.

17. Q I have not been able to find any such pro-
18. vision, and I assume that you do not know which con-
19. vention or which paragraph of any convention, is that
20. correct?

21. A Yes, your assumption is correct.

22. Q You testified that among the Chinese who were
23. fighting for you were a Straits Settlements Volunteer
24. Corps and a Malay States Volunteer Corps?

25. A Yes, the Chinese formed companies

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1 of their own within those forces.

2 Q And you also testified that there was a
3 battalion of Chinese raised by your own corps head-
4 quarters?

5 A I did.

6 Q Were both the volunteer corps and that bat-
7 talion disbanded prior to the surrender of the British
8 forces?

9 A They were.

10 Q Now, the Malay States Volunteer Corps con-
11 sisted of men coming from the states to the north of
12 Singapore Island, did they not?

13 A Correct.

14 Q And as you retreated through those states,
15 were the men who came from those states disbanded in
16 the course of your retreat?

17 A The Asiatic elements were given the option of
18 continuing to serve or of handing over their weapons,
19 be demobilized, and returning to their homes. That
20 was done for fear of what the Japanese would do to
21 them if they captured them, or of what they would do
22 to their families if they continued to serve with us.
23 Those fears, unfortunately, proved only too well
24 grounded.

25 Q And members of those volunteer corps coming

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1 from Federated Malay States north of Singapore Island
2 were disbanded in the course of retreat, were they
3 not?

4 A Before we retreated from any individual state,
5 such as Pahang. The Pahang volunteers were
6 given the option that I have described. In the case
7 of Pahang, this option was put to the volunteers on
8 parade by my own corps commander. Those who elected
9 to return to their homes were disarmed and handed in
10 their uniforms at that parade. This was done in par-
11 ticular on account of reports which had reached us
12 of the treatment of the dependents of the Kedah
13 Volunteer Force in the north by the Japanese. There
14 was never any suggestion whatever of leaving any of
15 these men behind as guerillas. They went home as
16 peaceful citizens.

17 Q But they did remain behind the Japanese lines,
18 did they not?

19 A Those who elected to stay, did so.

20 Q And they wore no uniform or distinctive badge
21 which would identify them as soldiers?

22 A No, their uniforms were taken from them.

23 Q Not only the Penang Volunteer Force, but the
24 forces of the other states were disbanded in the same
25 way, were they not?

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1 A Not the, so far as I know, the Straits
2 Settlements Volunteer Force which included Penang
3 and Malacca. But I believe the Federated Malay States
4 Volunteer Forces were given this option in the case
5 of every state.

6 Q The duties of these volunteer corps were
7 chiefly outpost scouting and harassing of enemy com-
8 munication lines, were they not?

9 A Not the volunteer forces. They were, as I
10 have already stated, like British territorial bat-
11 talions. They were trained and fought as such.

12 Q Those were the duties, however, of the bat-
13 talion which was raised by your own corps headquarters?

14 A Largely so, yes.

15 Q Which was also disbanded prior to surrender?

16 A I gather it was, sir.

17 Q You testified that as far as giving informa-
18 tion was concerned -- sorry, I am reading a question.
19 Strike that out.

20 You testified that because the sympathy of
21 the local population was, with a few exceptions, on
22 the side of the defending troops, that it was probably
23 a fact that information was from time to time conveyed
24 to the British forces by local residents.

25 A I remember that.

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CROSS

1 Q It is also true, is it not, that such local
2 residents destroyed bridges, roads and other lines of
3 communication?

4 A I never heard of any such incident, and I
5 do not believe that any such occurred. There was
6 never a suggestion of that having happened in any
7 information which reached my corps headquarters.

8 Q You will agree, however, that the Japanese
9 forces whose communications were being cut might
10 have information not available to you, would you not?

11 A Your question assumes that they were cut. I
12 have no information, as I say, that they were.

13 Q You were not behind the Japanese lines, were
14 you?

15 A No, I was not. I agree that if their communi-
16 cations had been cut they would have been more likely
17 to know about it than I would.

18 Q Now, as to this Siam-Burma Railroad. That
19 railroad furnished a connection, did it not, between
20 the Bay of Bengal and Gulf of Siam?

21 A Yes.

22 Q And through connecting lines it furnished a
23 line of communication between the two great cities of
24 Bangkok and Moulmein?

25 A Moulmein is not much of a city, but it does

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23 line of communication between the two great cities of
24 Bangkok and Moulmein?

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1 connect the two.

2 Q It connects Burma and Siam, does it not?

3 A That is correct.

4 Q And it will be of great value in peace time,
5 will it not?

6 A That is a most debatable point. I think it
7 will be kept open but it is not absolutely certain.
8 When it was being built the Siamese had two objections
9 to it. One was that they didn't want it, and the
10 other that the Japanese were making them pay for it.

11 Q The decision as to whether it will be kept
12 open or not will depend somewhat on the decision of
13 the value of Singapore as a base, will it not?

14 A I am not well up on my imperial geography
15 at present, but I don't think it would have any con-
16 nection with that.

17 Q You will agree, however, that such a railroad
18 across -- which is equivalent to a connection across
19 the Kra Isthmus should be of great economic value in
20 peace time, won't you?

21 A I do not know whether the economic value
22 of it will be such as to make it worthwhile maintain-
23 ing it in that extraordinarily difficult and unpleasant
24 belt of country. It is a problem which we frequently
25 debated when we were building it and never arrived at

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1 a satisfactory conclusion, and my own impression is
2 that the point has not yet been decided.

3 Q How far was it from any fighting in Burma
4 or Siam or elsewhere?

5 A I have no map in front of me at the moment,
6 but I suppose when we finished cleaning up Burma the
7 fighting came fairly near the end of it. It was, of
8 course, an obvious target for Allied bombings, and
9 as a result of the Japanese keeping the prisoners of
10 war in huts at important railway junctions, there was
11 very heavy loss of life among the prisoners of war.
12 That is a matter for the war crimes courts in Singa-
13 pore at present.

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Q That would be true, would it not, of almost any part of the world occupied by the Japanese, including Tokyo?

A I agree that in many places they tended to put their prisoners close to military targets.

Q How far was it from any ground fighting at the time that the railroad was under construction?

A Whatever the distance is from the railway to the outer camp; I cannot say how far that is without a map.

Q You have testified at different times that during the early part of captivity the food was adequate although lacking in vitamin content --

A I did.

Q (Continuing) and that it later became inadequate, particularly toward the end of the war.

A I think my expression was "grossly inadequate."

Q And that coincides, did it not, with the cutting of the Japanese lines of communication by the British and American air forces and navy -- naval forces?

A That process was certainly increasing steadily as the war went on.

Q And that would also affect the forwarding

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1 of correspondence and the forwarding of information
2 with regard to prisoners of war.

3 A Yes. I gather -- in fact, I know for a fact
4 that air transport was increasingly used.

5 Q You testified that due to the fact that
6 cards for each prisoner of war were forwarded direct
7 to Tokyo, administration of prisoners of war came
8 direct from Tokyo to the Prisoner of War Administra-
9 tion in Malaya.

10 THE WITNESS: Would you mind reading that
11 question? I missed the first part.

12 (Whereupon, the last question was
13 read by the official court reporter.)

14 Q (Continuing) Is it not a fact, however,
15 that the Administration was under the South Area
16 Army, Field Marshal TERAUCHI?

17 A In answer to your first remark, I don't re-
18 call saying that because the postcards were forwarded
19 to Tokyo -- I understand your meaning. You mean the
20 personal cards.

21 Q Yes.

22 A Yes.

23 Q I did not mean the postcards; I meant the
24 prisoner of war cards which, one was held by the
25 prisoner of war and one forwarded to Tokyo.

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1 A I find that most difficult to believe for the
2 moment because, in captivity I heard the Japanese my-
3 self so often refer to Tokyo as a branch office would
4 refer to its head office, and I never once heard a
5 Japanese give the impression that the late Count
6 TERAUCHI's headquarters at Saigon were their head
7 office until, as I mentioned yesterday, Colonel
8 NAGATOMO said that the documents in Siam went both
9 to Count TERAUCHI's headquarters and to Tokyo. Also,
10 on occasions, Japanese officers went from the Changi
11 POW Administration -- went by air to Tokyo on duty
12 and returned. They belonged entirely to the POW
13 organization, no other unit.

14 Q Does it not also so appear in prosecution's
15 exhibits No. 473 and 474 which are the two reports
16 which have been introduced into evidence?

17 A The passage is not in my mind.

18 Q Well, they speak for themselves.

19 On this correspondence, I mean personal
20 correspondence of prisoners of war, the regulations
21 were published, were they not?

22 A No. I received the instructions verbally
23 in about August, '42 from the Japanese officer who
24 handed me the first batch of postcards at River
25 Valley Road Camp. He told me then that the regula-

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1 tions were that we should be allowed to write every
2 three months as much as we could get onto a post-
3 card. He announced it to the troops immediately, and
4 it cheered them up a lot. In fact, no one got more
5 than another four postcards to write during the next
6 three years.

7 Q You know, however, there was no incoming
8 mail being deliberately withheld, do you?

9 A There is a considerable mass of written
10 material to the effect that that was done, in the
11 form of affidavits, but not -- I do not propose to
12 quote it here largely because, in the places where
13 I was, although there were the most intolerable de-
14 lays, I always thought that they were due more to
15 stupidity than malice. However, I did, as I say,
16 discover two sacks of untouched mail under a pile
17 of rubbish at the end of the war.

18 Q As a prisoner of war, you did not expect
19 to have any direct official communication with your
20 government, did you?

21 A I don't see why not at all. I think it is
22 quite reasonable in those circumstances. Correspond-
23 ence on questions of rank, and so on, were permissible
24 between officers and the war office in Europe.

25 Q Direct from you to the War Office?

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1 A Yes, indeed, subject, as I said, to offering
2 the document for the strictest Japanese censorship.

3 MR. FURNESS: No further cross-examination
4 by the defense.

5 THE PRESIDENT: Mr. Comyns Carr.

6 - - -

7 REDIRECT EXAMINATION

8 BY MR. COMYNS CARR:

9 Q You were asked about the cars on the railway
10 up to Banpong and back again, and a comparison was
11 suggested between them and the 40-man trucks in
12 France. Would you just explain that and the accommo-
13 dation in the cars in which you traveled?

14 A Well, the railway system on which we traveled
15 is one meter gauge. The French gauge, if I remember
16 rightly, is about four feet eight inches, half as wide
17 again. I have, of course, seen photographs of the
18 French vehicle described, and that, I mentioned, is
19 quite considerable. Our rice cars were the smallest
20 form of rolling stock used on the Federated Malay
21 States Railways.

22 Now, we sat on a steel floor where, I think,
23 they had straw in those French ones. I know of no
24 journey in France which could take four days and four
25 nights. Actually, with twenty-seven in a box car,

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REDIRECT

1 you can all sit down cross-legged; but, if a third
2 of the men wanted to lie down, the other two-thirds
3 really had to stand up.

4 Q Did you have any break for rest during the
5 journey?

6 A Yes, very occasionally we were allowed to
7 get out and stand on the track.

8 Q For how long?

9 A Sometimes for a few minutes, sometimes for
10 as much as an hour. It depended on how quickly the
11 train could get along. Of course, traveling fifty-
12 seven to a box car, as I did once, you all had to
13 stand up -- we all had to stand up, and it was really
14 difficult to breath owing, I mean, to the pressure of
15 other men's bodies on one's chest.

16 Q Now, with regard to the Burma-Siam railway
17 after it was finished, you have told us what went up
18 towards Burma. What, if anything, was in the trucks
19 which came back?

20 A Piles of engineering stores and tools.

21 Q Now, the last matter: You were asked about
22 courtesies extended to the wife of a general officer
23 or to a general officer as the result of the illness
24 of his wife. First it was suggested that it was
25 General Percival and then that it was some other

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1 officer. I think you must tell us the real facts
2 about that, please, Colonel Wild.

3 A The lady in question was Lady Heath, the
4 wife of my own corps commander. She was a very
5 brave woman. I've seen her under shellfire. She
6 refused to leave Singapore while it was besieged or
7 before. She was doing some welfare work, and I think
8 that both she and perhaps the corps commander, too,
9 hoped that, if they survived the fall of the city,
10 the Japanese might leave them together.

11 Q Where was she placed after the fall of the
12 city?

13 A In Changi Jail. The General was in Changi
14 Camp.

15 Q Did you succeed in obtaining any interviews
16 with her while she was in the jail?

17 A Yes, I did. She was the lady I mentioned
18 having seen twice in Changi Jail.

19 Q What was her state of health?

20 A When I saw her, she was partially recovered
21 from a very dangerous illness.

22 Q Had she been in Changi Jail all the time?

23 A No, she was sent to the hospital in about
24 June or July, 1942 where she gave birth to a child.
25 The child was dead; and, in the opinion of the gyne-

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1 cologist, his life would have been saved if two pots
2 of marmite would have been given to her shortly be-
3 fore birth.

4 Q Had she been adequately fed in Changi Jail?

5 A Not in the way in which I would have ex-
6 pected somebody in her condition to be looked after.

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1 Q After your release did you see Sir Lewis
2 and Lady Heath again?

3 A Yes, I did, but I saw him as well just after
4 this episode had taken place at Changi.

5 Q What was his own state of health at that
6 time?

7 A He was suffering from dysentery, amoebic
8 dysentery, and he was none the better for the treat-
9 ment which he had had in Fort Canning as I described
10 previously from Major HAYASHI.

11 Q Later was he sent out of Malaya?

12 A Yes. He missed the boat with the other
13 general officers on account of his illness and he went
14 to Formosa later in the year, in October or November.

15 Q And where did his wife remain?

16 A She remained in the hospital for sometime
17 and then she was put in a convent for a little while
18 during her illness and then returned to Changi Prison.
19 She was back in Changi Prison certainly by the be-
20 ginning of 1943.

21 Q Now, did you see them both after the war
22 after your release?

23 A Yes, I did.

24 Q Did he show you anything at that time or was
25 it at the earlier time you saw him that he showed you

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REDIRECT

1 a document?

2 A It was on the earlier occasion, in August,
3 1942, that he showed me a newspaper.

4 Q Yes. What newspaper was it?

5 A It was the official Japanese propaganda
6 newspaper in English called the "Singapore Shimbun."

7 Q What particular part of the newspaper did
8 he show you?

9 A He showed me an item at the left of the
10 page about two-thirds of a column long. I remember
11 the look of it to this day.

12 Q What did it purport to be?

13 A It purported to be a letter of thanks from
14 General Heath to the commander of the Japanese forces.
15 It was couched in the most fulsome terms, remarking
16 among other things that no other nation in the world
17 could have matched the Bushido of the Japanese Army
18 in the treatment which they had given to Lady Heath.

19 Q And what did General Heath say about that
20 letter?

21 A He mentioned first what he thought about
22 the way she had, in fact, been treated. Then he
23 pointed at this passage and said to me, "I have
24 learned a good deal about Japanese Bushido during the
25 last few months. This is a bare-faced forgery and

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1 I could not have believed that any army in the world
2 would have stooped to such baseness."

3 MR. COMYNS CARR: That is all I have to
4 ask the witness, your Honor.

5 The document, prosecution No. 1810, which
6 was put in in the course of the witness' evidence,
7 exhibit, I think, 473 is it not -- 473, was referred
8 to the Language Section for dispute on translation
9 and it turns out that there were certain corrections
10 to be made and also that a portion of it has been
11 inadvertently omitted. When the corrections are
12 completed I shall ask leave to substitute a correct
13 copy -- translation -- for the translation which is
14 at present before the Tribunal.

15 THE PRESIDENT: Major Furness.

16 MR. FURNESS: I suppose that can be done
17 but since the witness has testified from the copy
18 which has been submitted, I suppose also it might
19 affect his testimony.

20 THE PRESIDENT: If it does we shall take
21 appropriate steps to protect the interests of the
22 defense.

23 The witness may go on the usual terms.

24 (Whereupon, the witness was excused.)

25 Mr. Chief Prosecutor.

1 MR. KEENAN: May it please the Court, so
2 that the Court may be apprized, the defense counsel
3 have been supplied with a schedule of proof of the
4 prosecution to the termination of the prosecution's
5 case. We deem it proper with the permission of the
6 Court to advise defense counsel as well as the Court
7 that the evidence with reference to the invasion of
8 China and the planning and initiating of aggressive
9 warfare in that phase has been substantially com-
10 pleted; and we now proceed to that phase having to
11 do with the relations of Japan, Germany and Italy,
12 which will be presented to the Tribunal under the
13 direction of Honorable Frank Tavenner, United States
14 Attorney from the Western District of Virginia, now
15 on leave from the Department of Justice, with his
16 associates, Mr. Hyde and Mr. McKinney, from the
17 Department of Justice, likewise on leave.

18 THE PRESIDENT: Mr. Logan.

19 MR. LOGAN: In view of the fact that it is
20 near time for recess, may we adjourn a few minutes
21 early, your Honor, so that the defense may get their
22 appropriate papers relating to this phase?

23 THE PRESIDENT: We will recess now for fifteen
24 minutes.

25 (Whereupon, at 1042, a recess

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1 was taken until 1100, after which the
2 proceedings were resumed as follows:)

3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: Mr. Tavenner.

6 MR. TAVENNER: Mr. President and Members of
7 the Tribunal:

8 (Reading):

9 "The subject of this phase of the case is
10 collaboration between Japan, Germany and Italy.
11 Evidence will be introduced to prove that the accused
12 planned, prepared, initiated and waged wars of
13 aggression and wars in violation of international
14 law, treaties, agreements or assurances, and that
15 they participated as leaders, organizers, instigators
16 or accomplices in the formulation and execution of
17 a common plan or conspiracy for this accomplishment
18 as charged in Counts 1 to 36 inclusive of the indict-
19 ment. The evidence introduced will also substantiate
20 charges set forth in the remaining counts of the
21 indictment.

22 "For the purpose of proving that the accused
23 participated in the formulation and execution of
24 the common plan or conspiracy charged, and for the
25 purpose of demonstrating the effective and indis-

1 pensable contribution made by leaders in Germany
2 and Italy in the attainment of the objects of the
3 conspiracy, we shall introduce evidence, much of
4 which has hitherto been secret, regarding clandestine
5 negotiations for the conclusion of various treaties
6 and collaboration between the participating powers
7 under these treaties. This evidence will show that
8 in spite of the distrust that each Axis power had
9 for the others and occasional differences that
10 arose among them by reason of immediate conflicting
11 interests, Japan, on the one hand, sought and ob-
12 tained from the alliance with her Axis partners
13 tremendous military strength and political bargaining
14 power, and that Germany and Italy, on the other hand,
15 likewise profited substantially thereby. The manner
16 in which this military strength and political
17 bargaining power was used in furtherance of the
18 objects of the conspiracy will unfold as the evidence
19 progresses. This evidence will prove both the fact
20 of conspiracy and that the accused were parties to
21 it.

22 "The evidence relating to various treaties
23 and agreements and the subdivisions thereof will
24 disclose the following facts:
25

I.

"THE ANTI-COMINTERN PACT AND SECRET
AGREEMENT

"As shown in earlier phases of the case, the Kwantung Army in the early part of 1936 was restrained in its westward advance from Manchuria into Mongolia by the danger of war with the Soviet Union. Japan's expansion from Manchuria into the remainder of China also was checked temporarily as the result of the refusal of Chinese war lords in North China to desert the National Chinese Government. Confronted with this situation, Japan entered into negotiations for a military alliance with Germany, a totalitarian power then engaged in a program of military preparedness for aggressive war in Europe.

"Negotiations, begun in June 1935, the date of the so-called HO-UMEZU Agreement referred to in a previous phase of the case, were conducted through military channels because of the fact that the subject of negotiations was a strictly military matter and because no treaty of this type could have been made without the approval of the Japanese Army. In April 1936, shortly after the conclusion of the Mongolian-Union of Soviet Socialist Republics Pact

1 of Mutual Assistance, the General Staff of the
2 Japanese Army transferred the conduct of the
3 negotiations from the accused Colonel OSHIMA,
4 Hiroshi, then Military Attache to Germany, to
5 the Foreign Ministry.

6 "The pact was concluded on 25 November
7 1936, and on its face was directed against the
8 activities of the Communist Internationale. A
9 supplemental protocol provided for the estab-
10 lishment of a permanent committee for the purpose
11 of facilitating close collaboration in matters
12 concerning the exchange of information regarding
13 the activities of the Communist Internationale
14 and the defensive measures to be taken against
15 it. At the time of the conclusion of this pact,
16 a secret agreement was entered into between Japan
17 and Germany in which it was provided that in case
18 one of the signatories was attacked, or was threat-
19 ened with an unprovoked attack by the Soviet Union
20 the other party to the pact was not to take any
21 action which would provide effective relief to
22 the Soviet Union, and the signatories would hold
23 an immediate conference to formulate measures to
24 be taken for the protection of their common interests.

25 "Japan proclaimed to the world that the

~~Japanese-German agreement simply provided for co-~~

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operation between the two countries against the Communist Internationale and was not directed toward any particular country although in truth and in fact the Anti-Comintern Pact was directed against the Union of Soviet Socialist Republics and all democratic nations. It was designed and intended to strengthen the hand of Japan in China, to create the impression in all countries that the signatories constituted a united front, and to afford an excuse for continued military aggression.

"The accused, Premier HIROTA, Koki; Navy Minister MACANO, Osami; Director of the Foreign Europe-Asia Bureau TOGO, Shigenori; and President of the Council HIRANUMA, Kiichiro were present at the meeting of the Privy Council which approved the pact. The accused MATSUOKA, Yosuke, then an official of the South Manchurian Railway, admitted in 1940 that he was one of those responsible for the conclusion of the pact.

"A few weeks after the extension of the Japanese-Chinese war at the Marco Polo Bridge on 7 July 1937, Germany strongly protested to Japan that the Anti-Comintern Pact did not include the objective of fighting communism in the territory

1 of third states and expressed disapproval of Japan's
2 action in carrying on radio propaganda in the German
3 language directed toward Germany in which Japan
4 was attempting to picture the war against China
5 as a fight against Communism, intending thereby
6 to force upon Germany the necessity of taking sides.
7 Germany denied that the contractual relationship
8 by reason of the Anti-Comintern Pact obligated
9 her to approve or assist morally the Japanese
10 aggression in China and refused to enter into
11 negotiations regarding German delivery of arma-
12 ments to China and the withdrawal of military
13 advisers from that country.

14 "When the siege of Shanghai resulted in
15 extended major military and naval operations with-
16 out bringing to an end the regime of CHIANG KAI-SHEK,
17 as shown in a previous phase of the case, Japan,
18 in November 1937, made demands upon China as the
19 price of peace. Germany served in the capacity
20 of 'letter carrier' between the two powers, but
21 by separate negotiations endeavored to persuade
22 Japan to alter her policy with respect to military
23 aggression in China. The aggressive policy of the
24 Japanese Government was dominated and directed by
25 the Army. The accused TOGO, Shigenori, Japanese

1 Ambassador to Germany, announced that the Japanese
2 Government was determined to carry on the war to
3 its bitter end.

4 "While CHIANG KAI-SHEK was considering
5 the Japanese proposals, the 'Rape of Nanking'
6 occurred. Japanese demands increased and further
7 severe military action was threatened. The accused
8 Premier HIROTA refused a Chinese request for
9 clarification of terms with the reply that the
10 military insisted upon an immediate and clear answer.
11 On 16 January 1938, negotiations were terminated
12 with the threat of continued military action.
13 Germany expressed conviction that Japan would
14 bear responsibility to the world for breaking off
15 the discussions.

16 "On 26 January 1938, the accused Ambassador
17 TOGO declared to Reich Foreign Minister VON NEURATH
18 that the Japanese Government could no longer recognize
19 CHIANG KAI-SHEK as the representative of the Chinese
20 people, and that Japan would now try to negotiate
21 concerning peace with new Chinese governments in
22 Peiping and Shanghai. When it was called to his
23 attention that a big and not yet pacified area,
24 of China remained unpacified, Ambassador TOGO
25 replied that Japan was 'prepared for everything'

1 and 'would know how to carry the burden of a pro-
2 longed state of war.' Ambassador TOGO also asserted
3 that the moment would soon come when 'we would have
4 to start talking about German cooperation with Japan
5 in the new China which is to be constructed.'

6 "With the unsuccessful close of German
7 efforts to bring the Sino-Japanese conflict to an
8 end, a new chapter of the war began. Germany, be-
9 lieving that Japan would emerge from the conflict
10 as the military victor, considered it necessary
11 to re-orient her policy toward the China conflict
12 and to re-examine German-Japanese relations. On
13 4 February 1938 Chancellor HITLER assumed supreme
14 command of the military and naval forces of Germany
15 and shortly thereafter Germany withdrew her military
16 advisers from China, stopped delivery of war materials
17 to China, and recognized the so-called State of
18 Manchukuo.

19 "In line with the provisions of the protocol
20 to the Anti-Comintern Pact, the German Army and
21 the Japanese Army in September or October 1938
22 agreed to furnish each other with intelligence
23 about the Russian military. This resulted in the
24 undertaking of long range projects aimed at the dis-

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1 integration of Russia, the preliminary steps of
2 which were the use of white Russians in propaganda
3 and subversive activities in Russia, Afghanistan
4 and Roumania, in which the accused OSHIMA, Military
5 Attache, played an important part.

6 "Subsequently Italy, Manchukuo, Hungary
7 and Spain were admitted as participants to the pact
8 and on 25 November 1941 the pact was renewed for an
9 additional period of five years with Bulgaria, Den-
10 mark, Finland, Croatia, Roumania, Slovakia, and the
11 puppet regime of Nanking as participants.

12 "At a meeting of the Privy Council on
13 22 February 1939, at which the accused HIRANUMA,
14 Premier, and General ITAGAKI, Seishiro, Minister
15 of War, were present, it was declared that the
16 signatories were not stopping at the mere exchange
17 of information, and that a general policy had been
18 adopted with regard to further methods of colla-
19 boration in economic and financial relations.
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II.

"THE TRI-PARTITE PACT

"A. Negotiations for a Tri-Partite Military Alliance

"Shortly after the re-orientation of Germany's policy with respect to the Sino-Japanese conflict and German-Japanese relations VON RIBBENTROP, then German Foreign Minister, proposed a German-Japanese military alliance aimed at the entire world. The accused General OSHIMA, who had by this time become Ambassador to Germany, and the accused SHIRATORI, Toshio, Ambassador to Italy, were sent to Rome for the purpose of inducing MUSSOLINI to unite in the proposed alliance and early in January 1939 MUSSOLINI indicated his approval.

"Ambassadors OSHIMA and SHIRATORI desired a military alliance without reservations. To this the Army in Japan was prepared to agree but the Navy was not entirely in favor of such an alliance. After holding numerous meetings, the HIRANUMA Cabinet reached a compromise which contemplated that there should be reserved to each of the signatories the right to determine whether an emergency had occurred which required the treaty to be put into operation. For the purpose of fully acquainting the Japanese

1 Ambassadors OSHIMA and SHIRATORI with this compromise
2 proposal and for the purpose of advising them as to
3 the limits beyond which they should not go, the ITO
4 Commission was sent to Berlin and Rome.

5 "Ambassadors OSHIMA and SHIRATORI refused
6 to follow the directions delivered by the ITO Commis-
7 sion. SHIRATORI previously had secretly advised
8 Italy not to accept the anticipated compromise pro-
9 posal. The Ambassadors refused to communicate with
10 Germany and Italy through official channels and wired
11 the Japanese Foreign Office to accept the pact of
12 alliance without reservation, asserting that unless
13 this was done they would resign, which action they
14 averred would bring about the fall of the Cabinet.
15 As a result of this action, the Foreign Ministry by
16 wire to Ambassador OSHIMA modified its position to a
17 mere declaration that Japan did not want to give more
18 than non-military aid if the country concerned was
19 one other than Russia. On 4 May 1939, Premier
20 HIRANUMA, in a declaration addressed to HITLER, stated
21 that Japan was firmly and steadfastly resolved to furn-
22 ish military aid to Germany and Italy even if one of
23 these two powers were attacked by a power other than
24 Russia, but that such support, in view of Japan's ex-
25 isting situation, could not be given until a change

1 of circumstances make it possible. While the negotia-
2 tions were still being conducted Germany and the Soviet
3 Union concluded a non-aggression pact on 23 August 1939,
4 which Japan considered constituted a violation of the
5 secret agreement attached to the Anti-Comintern Pact.
6 Repercussions in Japan were so great that the HIRANUMA
7 Cabinet immediately fell.

8 "B. Conclusion of the Tri-Partite Pact

9 "Both Japan and Germany continued with their
10 respective plans for aggression. Japan's interest in
11 the area south of China and in the Pacific was shown
12 by the seizure and occupation of Hainan Island off
13 the coast of Indo-China on 11 February 1939 and the
14 Spratley Islands southeast of Indo-China on 31 March
15 1939, and in September 1939 Ambassador OSHIMA expressed
16 the view to HITLER that Japan, especially the Navy,
17 was ready for an advance in Southeast Asia, which
18 action he had proposed.

19 "In March 1940 there was an apparent stif-
20 fening of political attitude by the Japanese on the
21 one hand and England and America on the other, arising
22 out of protests against the establishment of the WANG
23 CHING WEI Government in China. The accused War
24 Minister HATA, Shunroku along with the Navy Minister
25 and Army spokesmen in the Diet indicated the attitude

1 of the Japanese Government by strong language to the
2 effect that Japan's progress in China could not be
3 stopped by the Nine Power Treaty which they considered
4 obsolete. In opposition to the YONAI-ARITA Govern-
5 ment's effort to reach an agreement with Britain and
6 America, Germany endeavored to excite Japan's feeling
7 against America by influencing the press and leading
8 political personalities and by representing that a
9 conflict between America and Japan in the long run
10 was inevitable. Former Ambassadors OSHIMA and SHIRA-
11 TORI, who had resigned upon the failure to conclude
12 the Tri-Partite military alliance, worked in confi-
13 dential cooperation with the German Embassy in this
14 program, and the German Ambassador was directed by
15 RIBBENTROP to keep in close touch with these two
16 collaborators.

17 "After Germany's invasion of the Netherlands,
18 Japan demonstrated concern regarding Germany's in-
19 ter .ons with respect to the Netherlands East Indies.
20 On 19 June 1940, two days after the fall of France,
21 Japan expressed similar concern regarding French Indo-
22 China and requested Germany to accord Japan a free
23 hand in these areas. The German Ambassador to Japan
24 recommended to his government the annexation of French
25 Indo-China by Japan on the grounds that it would in-

1 crease the chance for an early end of the China con-
2 flict. that it would intensify the differences between
3 Japan and the Anglo-Saxon powers to such an extent
4 that the danger of an agreement would be eliminated
5 for a long time, and that it would result in a severe
6 blow to the YONAI Cabinet and probably bring about
7 its replacement by a more pro-German cabinet if the
8 government should fail to act in this matter.

9 "On the same day, 19 June 1940, negotiations
10 for a Japanese-German alliance were renewed by KURUSU,
11 Japanese Ambassador to Germany. He represented that
12 by close cooperation between Japan and Germany in the
13 development of heavy industry Japan would gain 'free-
14 dom of action towards the United States' and that if
15 economic circles in Japan could see Germany's great
16 industrial development and realize that Germany had
17 overtaken the United States in many fields, they would
18 gladly switch over to Germany. He further represented
19 that he and the accused TOGO, then Ambassador to
20 Russia, were feverishly working for the improvement
21 of Japanese-Russian relations and it had become more
22 and more clear in Japan that the future of the nation
23 lay in the south, wherefore the enemy in the north
24 must be made a friend. This alleged attitude of
25 friendship toward the Soviet Union was at most tempor-

ary in character, as will be demonstrated in a later
phase of the case.

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2 "On 24 June 1940, the accused General MUTO,
3 Akira of the War Ministry informed the German Military
4 Attache that Japan was greatly interested in Indo-
5 China in connection with the China conflict and the
6 accused General KOISO, Kuniaki, Minister of Overseas
7 Affairs, inquired of the German Ambassador as to what
8 Germany's attitude would be with regard to military
9 activity of Japan in Indo-China and in parts of the
10 Netherlands East Indies. The German Ambassador refer-
11 red to the prior declaration that Germany was not
12 interested in the question of Dutch East Indies and
13 added that Germany would have no objection against
14 Japanese action in Indo-China upon the condition that
15 Japan obligate herself to tie up America in the Paci-
16 fic area, for instance by a promise to attack the
17 Philippines or Hawaii in case of an American parti-
18 cipation in a war against Germany."
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"On 8 July 1940 Ambassadors SATO and KURUSU in a conference with Foreign Minister RIBBENTROP and Consul General STAEMER, renewing discussions for close cooperation between Japan and Germany, drew a parallel between the New Order being brought into existence in Europe through German action and the efforts that Japan had made over the past three years to construct a New Order in the Far East and the South Seas. Ambassador SATO pointed out that Japan had facilitated Germany's task of creating a New Order in Europe by drawing the attention of English, French and American governments to herself since the beginning of the war in China and had tied up the American fleet in the Pacific Ocean for that period. He represented that Japan was putting forth strong endeavors to finish the Chinese war 'in order to have free hands,' and in this connection he said that public opinion in Japan had become extraordinarily nervous in respect to Indo-China and the Dutch East Indies. Japan, he said, had been trying to orient her policy in one direction since the outbreak of the Manchurian conflict but time and again had been forced somewhat to moderate this new orientation. In reply to Ambassador SATO's report, the Foreign Minister indicated concern that Germany had begun to foster an ambition in the South Seas

1 to take the French and Dutch East Asiatic colonies under
2 its influence.

3 "So strong was the desire for the conclusion
4 of the military alliance between Japan, Germany and
5 Italy that a joint conference of the Japanese Army,
6 Navy and Foreign Office officials was held on 12 July
7 1940 for the purpose of intensifying efforts to procure
8 such a pact and a tentative draft thereof was presented
9 at this conference. The conference reconvened on
10 16 July 1940 for the purpose of obtaining the opinions
11 of the Army and Navy and the adoption of a unified policy
12 with regard to the draft of the proposed pact. In the
13 discussion which followed, grave concern was expressed
14 over the possibility that Germany at the close of the
15 war would take over politically Indo-China and the
16 Netherlands East Indies, which action on the part of
17 Germany, it was resolved, should be firmly opposed.

18 "The Japanese conception of 'political leader-
19 ship' in its strictest sense in the establishment
20 of the New Order in East Asia was considered to be
21 'occupation.' Although the view was expressed that
22 Japan was not thinking of 'occupation' at the present,
23 it was declared that 'it is necessary that the whole
24 country conspire and unite on the point of political
25 leadership and make Germany recognize as strong a
political leadership as possible.'

1 "With regard to the obligation to check Britain
2 in East Asia and thereby hasten her surrender, it was
3 asserted that this could be fulfilled by the secret
4 instigation of independence movements in India and Burma
5 and the adoption of a strong policy towards Hong Kong,
6 Shanghai and Tientsin. A further step by striking
7 England through an attack upon Singapore was also dis-
8 cussed.

9 "The question was posed as to whether it would
10 be advisable to take 'joint action with Germany against
11 America after the establishment of the New Order in
12 East Asia a few years hence,' and the possibility of
13 taking joint action with Germany against America in
14 South America was discussed.

15 "It was considered that Italy should be a
16 party to the coalition in the same manner as Germany
17 because of the possibility of an Italian advance into
18 Iran and India, which would bring her in conflict with
19 Russian interests. The opinion of the conferees was
20 unified on these matters and the necessity for immedi-
21 ate execution of their plans was expressed.

22 "After several attempts to bring about the
23 downfall of the YONAI Cabinet had proved unsuccessful,
24 the military resorted to the device of having the War
25 Minister resign. General HATA, War Minister, tendered
his resignation to Premier YONAI on 16 July 1940. The

1 three chief military officers were unwilling to recom-
2 mend a successor without which the cabinet was power-
3 less to fill the vacancy. Therefore, Premier YONAI
4 was left no other alternative than to tender to the
5 Emperor a general resignation of his cabinet, which
6 action he took on the same day that General HATA re-
7 signed as War Minister. The Army considered that delay
8 in the negotiations with Germany and Italy would be
9 fatal to Japan, that the YONAI Cabinet 'was not feasible
10 in carrying out satisfactorily the foreign policy,'
11 and that a cabinet change was necessary to face the
12 grave international situation.

13 "MATSUOKA was appointed Foreign Minister.
14 The retiring War Minister, General HATA, secretly
15 recommended to the Emperor the appointment of the
16 accused TOJO, Hideki as War Minister prior to Prince
17 KONOYE's acceptance of TOJO for that post. SHIRATORI
18 declined appointment as Vice-Foreign Minister, but
19 he let it be known that he was being considered for
20 appointment as permanent adviser to the Foreign
21 Ministry, in which capacity he expected to exercise a
22 far-reaching influence in the new government. The
23 Manchurian group in the new government was further
24 strengthened by the appointment to the Vice-Foreign
25 Minister post of OHASHI, a former member of the

1 Manchurian State Council, and an adherent of the German
2 course of Japanese foreign policy.

3 "In a meeting on 26 July 1940 the new cabinet
4 outlined Japan's basic national policy. The fundamental
5 aim of the basic policy was determined to lie 'in the
6 establishment of world peace in accordance with the
7 lofty idea of Hakko Ichiu, on which the Empire is
8 founded. First of all, it is directed toward the con-
9 sturction of a New Order of Greater East Asia built
10 upon a firm solidarity of Japan, Manchukuo and China,
11 with this Empire as the center. We will therefore
12 speedily secure for herself an unshakable national
13 structure such as conforms to the new world situations
14 and march forward toward the realization of the nation-
15 al policy by mobilizing the total strength of the nation.'
16 It was further determined that armaments should be so
17 increased as 'to insure the execution of national
18 policy on the basis of a state structure for national
19 defense through manifestations of the nation's total
20 strength.' The educational system was recognized as
21 having been renovated in full accord with the funda-
22 mental principle of the national policy. Establish-
23 ment of an economic self-sufficiency policy making
24 Japan, Manchukuo and China as a single unit and embrac-
25 ing the whole of Greater East Asia and the establishment

1 of a land development plan aimed at the development
2 of the co-ordinated national strength of Japan,
3 Manchukuo, and China were among the projects planned.

4 "On 1 August 1940 Ambassador KURUSU was still
5 pursuing the quest for Japanese-German cooperation.
6 and sought an expression of German attitude regarding
7 the Dutch and French colonies in the East. Ambassadors
8 KURUSU desired to know in what way RIBBENTROP wanted
9 Japan to cooperate, and especially to know if and at
10 what time Germany desired the Japanese weight to be
11 thrown 'on the scale of the present conflict.' He
12 expressed the hope that Japan be made a part of the
13 New Order and that after the war Japan would not be
14 forgotten in the new apportionment of the world. With
15 regard to the New Order in the so-called Greater East
16 Asia area, KURUSU assented that Japan did not intend
17 conquest, oppression or exploitation in these areas
18 and expected nothing of the sort from any third power.
19 On the same day these views were expressed by Foreign
20 Minister MATSUOKA to the German Ambassador and both
21 KURUSU and MATSUOKA sought to be informed of Germany's
22 attitude on these matters.

23 "The strengthening of Japan's foreign policy
24 with regard to Japanese -German coalition immediately
25 became apparent. War Minister TOJO entered upon a

1 program by which he sought to promote anit-British
2 feeling among the Japanese. Foreign Minister MATSUOKA,
3 having made a demand on the Republic of France for
4 consent to the use of certain Indo-China territory
5 and facilities in connection with the war against China,
6 requested the German Government to support the Japanese
7 demands by 'influencing the French Government.' On
8 23 August 1940, Foreign Minister MATSUOKA announced
9 the recall of numerous ambassadors, ministers, council-
10 lers and consuls and declared to the press that this
11 action had become necessary in order to make 'secure'
12 the new foreign policy introduced by him. The new
13 government formed a commission of twenty-four leading
14 persons consisting mostly of followers of the policy
15 of collaboration with the Axis powers, with the aim of
16 planning suitable action for the adjustment of state
17 affairs on an authoritarian basis. On this commission
18 SHIRATORI was appointed the representative for foreign
19 political matters.

19 "A Four Minister Conference attended by Prime
20 Minister KONOYE, Foreign Minister MATSUOKA, War Minister
21 TOJO and the Navy Minister was held in early September
22 1940, at which time it was determined that the time was
23 now ripe 'for speedy initiation of conversations' for
24 the strengthening of collaboration among Japan, Germany
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1 and Italy. The basic principle was declared to be the
2 making of a fundamental agreement among the three
3 countries in order that they shall mutually cooperate
4 'by all possible means' in the establishment of a New
5 Order in Europe and Asia. Inasmuch as the proposed
6 agreement contemplated that the three countries would
7 cooperate 'by all possible means' for the construction
8 of the respective New Orders, Japan, it was stated,
9 should be resolved, if need be, 'to take any action,
10 including recourse to armed force.' It was also
11 asserted that in the event Germany might not immediate-
12 ly require Japanese armed cooperation against Britain,
13 Japan's main objective would be the United States. It
14 was recognized that unless Japan was resolved on the
15 employment of armed force, it would be impossible for
16 Japan to carry on any useful talks with Germany. It
17 was determined that Japan should take steps, as the
18 situation might require, in order to eliminate the
19 political and economic interests of Britain in East
20 Asia, including the South Seas. Concerning the pos-
21 sible use of armed force against Britain and the
22 United States, Japan was to make decisions independent-
23 ly, and in the event the 'China Incident had been
24 settled,' Japan, it was said, would 'use armed force
25 by taking as favorable an opportunity as may be

1 afforded by the situation prevailing at home and
2 abroad.' In the event the 'China Incident' has not
3 been settled Japan's guiding principle was to be to
4 take action within limits short of war, although it
5 was further asserted that if 'the development of the
6 international situation permits of no further delay
7 Japan will resort to armed force.'

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1 "In the atmosphere of these conferences
2 and in the light of all proper inferences to be
3 drawn from the extended negotiations, STAHRER, Spe-
4 cial Envoy of VON RIBBENTROP, arrived in Tokyo in
5 early September 1940 to prepare the stage for the
6 conclusion of a pact which was described by MATSUOKA
7 as the most important document in the history of the
8 Japanese Empire. STAHRER, in a secret conference
9 with MATSUOKA, asserted that Germany of that juncture
10 did not look for Japan's military assistance with
11 England, and hardly thought that she and the United
12 States would come to blows in the near future, but
13 asserted the belief that 'war between Japan and the
14 United States cannot eventually be avoided.' The
15 importance of being thoroughly prepared effectively
16 to meet an emergency at any moment was stressed, to
17 which end Germany promised to restrain the United
18 States in the Atlantic and furnish Japan with as much
19 war equipment, planes, tanks and war tools as she
20 could reasonably spare. Germany recognized Japan's
21 leadership in East Asia and agreed to cooperate in
22 such areas to further Japan's aims.

23 "In the Privy Council Meetings which fol-
24 lowed, attended by the accused, Foreign Minister
25 MATSUOKA; War Minister TOJO; Chief of the Planning

1 Board HOSHINO, Naoki; and Director of Military
2 Affairs Bureau of the War Department Major General
3 MUTO, the discussions fully developed the spirit in
4 which the pact was concluded and may be turned to as
5 a pro forma statement of events that were expected
6 to occur.

7 "MATSUOKA asserted that Japan had such
8 strength she could tip the balance of the world as
9 she liked; that Japanese supremacy in 'Greater East
10 Asia' in the building of the 'New Order' meant for
11 the time being French Indo-China, Thailand, Burma,
12 the Strait Settlements, and such Oceanic islands as
13 the Netherlands East Indies, New Guinea, New Caledonia
14 and others, and that it would gradually extend to
15 include Australia, New Zealand and other territories
16 and that Japan expected the cooperation of Germany
17 and Italy in the 'economic exploitation' of these
18 areas. With regard to the United States, MATSUOKA
19 declared that Japan would enter into a military
20 alliance with Germany and Italy with America as the
21 objective; that preparation for the eventuality of
22 United States participation in the war should consist
23 of strengthening the international situation by the
24 conclusion of the pact and taking diplomatic, economic
25 and military measures for the purpose of procuring

1 necessary natural resources for national defense from
2 the South Seas and other places; and that the pro-
3 posed alliance with Germany would put Japan in a
4 position to be able to manipulate to her interest
5 the twenty millions of German-descent Americans who
6 were considered to hold an influential position in
7 the United States.

8 "War Minister TOJO asserted that 'as far
9 as our Army is concerned, only a part of its whole
10 strength would be enough to engage in the event of
11 war with America' and that on this ground there was
12 no cause for concern; that it was necessary to strive
13 in bringing the 'China Incident' to an end promptly
14 so that preparation for a worse crisis could be made;
15 that there was a sufficient supply of war materials
16 on hand to cover requirements for a fairly extended
17 period, and that regardless of whether the war lasted
18 for a short or a long period, in his opinion 'there
19 will be no alternative other than to strive for a
20 way out of the desperate situation.'

21 "Navy Minister OIKAWA asserted that pre-
22 paration of ships for field operations already had
23 been completed; that war materials, heavy oil in par-
24 ticular, were sufficient in amount to cover operations
25 for a fairly long period; that in the event of whole-

1 sale fleet to fleet clashes the present stock of
2 oil would not be exhausted in the course of a half to
3 one year, and that in the event the war is drawn out
4 over a long period the frequency of battles would
5 automatically drop; that no concern was felt in
6 regard to the manpower problem as the Navy personnel
7 is by its very nature limited in its size; that he
8 was confident of winning a short war, and that as to
9 Japan's future plans he expected to take measures to
10 increase war strength by improving as far as possible
11 the inner structure of Japan's forces.

12 "Chief of the Planning Board HOSHINO reported
13 that a great deal had been accomplished in storing up
14 a supply of fuel oils, gasoline for aeroplanes in
15 particular; that in the event of a long term war steps
16 would be taken for procuring necessary materials
17 from the Dutch East Indies, Sakhalin and elsewhere,
18 and that in the mobilization program as to materials
19 the center of gravity was laid on the items for
20 military purposes.

21 "Councillor ARIMA made the statement that if
22 Japanese-American hostilities were at all events un-
23 avoidable it might be best to avail of the present
24 opportunity and Chairman of the Committee SUZUKI
25 expressed the view that Japan must be resolved to

1 anticipate a Japanese-American war as inevitable.

2 "With unprecedented speed the pact was con-
3 cluded on 27 September 1940. By its provisions Japan,
4 Germany and Italy attempted to apportion the world by
5 establishing areas in which the leadership of the
6 respective powers was recognized. Each pledged full
7 cooperation in the establishment of leadership within
8 the sphere of the others, and political, economic and
9 military aid was pledged in the event of an attack
10 against any one of the signatories by a nation not
11 then involved in the European war or in the war with
12 China. It was provided that the terms of the pact did
13 not in any way affect the political status which
14 existed between each of the signatories and the Soviet
15 Union. This pact in its essence contained the ultimate
16 development of the plot of the aggressive powers
17 directed toward the division of the world and the
18 establishment of the so-called 'New Order,' which
19 had for its purpose the extinguishment of democracy
20 throughout the world and the subjugation of all the
21 nations by the aggressive states. Letters were
22 secretly exchanged providing for consultation among
23 the signatories for the purpose of determining whether
24 action or a chain of actions would constitute an
25 attack within the meaning of the pact. By these

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1 secret communications, Germany also agreed to turn
2 over to Japan the Mandated Islands at the conclusion
3 of the war, and to use its best offices in introducing
4 the Soviet Union as a participant in the pact. The
5 objects sought to be accomplished under the provisions
6 of this pact and the action subsequently taken in
7 furtherance thereof will be shown to be in violation
8 of specific treaty obligations.

9 "In an article entitled 'The Tri-Partite
10 Pact and the World of Tomorrow,' published in December
11 1940, SHIRATORI stated that the character of the New
12 Order to be created under the leadership of the
13 Three Powers was to be considered in the light of the
14 fact that the Three Powers had discarded the ideologies
15 of individualism and democracy and had adopted the
16 totalitarian point of view. In Japan, he asserted,
17 the nation had revolted against the so-called evils
18 of liberalistic civilization and its dissatisfaction
19 had found expression in the form of the Manchurian
20 Incident of 1931. This incident was a challenge ex-
21 ternally to unjust conditions long forced upon man-
22 kind by the democratic powers, and internally to all
23 alien ideas and thoughts grafted upon the Japanese
24 people. The characteristics of this movement in Japan,
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1 he stated, had become more accentuated in the current
2 China affair, the ultimate object of which, in con-
3 sonance with the classic expression Hakko Ichiu
4 adopted as a national slogan, was the establishment
5 of a New Order in East Asia. Unless the present wars
6 were considered in the light of these statements, it
7 was said, the real nature of the new world order of
8 tomorrow which is to be established through Japanese-
9 German-Italian cooperation could not be understood.

10 "In addition to the original signatories to
11 the Tri-Partite Pact, the following countries joined
12 on the dates indicated: Hungary, 20 November 1940;
13 Roumania, 23 November 1940; Slovakia, 24 December
14 1940; Bulgaria, 1 March 1941; and Croatia, 15 June
15 1941."

16 THE PRESIDENT: We will adjourn until half
17 past one.

18 (Whereupon, at 1200, a recess was
19 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Yes?

MR. TAVENNER: If it please the Tribunal, the next subdivision of the topic of Tri-Partite Pact is under the heading: "C. Collaboration between Japan, Germany and Italy under the Provisions of the Tri-Partite Pact.

"Evidence will be introduced under this subject showing that the accused, acting through their leaders and in full collaboration with their Axis partners, unified the government and nation behind the Tri-Partite Pact, and by their declarations and conduct put into motion forces designed to accomplish the objects of the conspiracy charged in the indictment.

"In the period that followed the conclusion of the Tri-Partite Pact, SHIRATORI continued to play an indispensable part in promoting pro-German relations in Japan. Under his leadership, activist circles in Japan, as early as January 1941, demanded an attack on Singapore as the key British position in the west

1 Pacific Ocean. In November 1940, Ambassador KURUSU
2 had declared that Sino-Japanese and Russo-Japanese
3 agreements were required as a prerequisite for a
4 Japanese advance through the region south of China,
5 including Siam, without the use of which Singapore
6 could not be successfully attacked. The evidence will
7 show that such an attack was designed to give Japan a
8 free hand in establishing her Greater East Asia policy
9 in China and in the Pacific and Indian Oceans in con-
10 formity with the purposes set forth in the Tri-Partite
11 Pact. The capture of Singapore by Japan will also be
12 shown as the fulfillment of Japan's desire to aid
13 Germany in bringing the war against England to a speedy
14 close. It was considered that a sudden attack by Japan
15 upon Singapore without a declaration of war would con-
16 stitute a blow that would prevent the United States from
17 effectively interfering.

18 "The German Ambassador to Japan made a report
19 on 31 January 1941 to his government of the result of
20 a two-day research with the attaches of the armed
21 forces, in which it was concluded that the chances of
22 success of an attack by Japan against Singapore were
23 favorable; that it would have to be carried out in
24 steps by occupying Saigon and the Malayan Peninsula,
25 and that if the American Pacific Ocean fleet should

1 attempt to interfere from Hawaii it would easily be
2 detected on the overly long approaches and annihilated.
3 Japan, with the assistance of Germany, resorted to the
4 crafty device of using her position of so-called
5 mediator in the French Indo-China-Thailand border dis-
6 pute to improve her situation with those two countries
7 and obtain bases therein to serve as a springboard for
8 an attack on Singapore.

9 "Foreign Minister MATSUOKA determined upon
10 an official visit to Berlin and, after expressing in-
11 tention to obtain wide authority from his Cabinet and
12 particularly from War Minister TOJO, he advised the
13 German Ambassador of the principal questions he desired
14 to discuss, including a Japanese attack on Singapore.
15 Ambassador OSHIMA was also advised by MATSUOKA of the
16 important questions to be discussed.

17 "On 22 February 1941, in a conference with the
18 Secretary of State of the Reich Foreign Ministry, Am-
19 bassador OSHIMA expressed the view that Singapore must
20 be seized in grand style from the sea and from the
21 land, but that it was first necessary to take Hong
22 Kong. On the following day an extended conference was
23 held between Ambassador OSHIMA and Foreign Minister
24 Ribbentrop, in which Von Ribbentrop voiced the opinion
25 that the decisive blow against England should be a

1 Japanese attack on Singapore, which would eliminate
2 England's key position in East Asia and which would
3 secure a position in that area which Japan could win
4 only by war. The suggestion was made that the occu-
5 pation of Singapore must take place with lightning
6 speed, without a declaration of war in order to con-
7 tribute to a speedy termination of hostilities. Ambas-
8 sador OSHIMA represented that preparations for the occu-
9 pation of Singapore would be complete by the end of
10 May; that military preparations must be made against
11 England and America; that the moment for occupation of
12 Singapore must be coordinated with operations in Europe;
13 and that the occupation of Hong Kong and the Philip-
14 pines had been provided for in case of need.

15 "A few days after the OSHIMA conference, Rib-
16 bentrop directed the German Ambassador in Japan to
17 work with all the means at his command to the end that
18 Japan take possession of Singapore by surprise as soon
19 as possible. This was followed on 3 March 1941 by the
20 High Command of the Armed Forces, Fuehrer Headquarters
21 issuing directive number 24 concerning collaboration
22 with Japan, in which it was stated that the aim of
23 the cooperation based on the Three Power Pact must
24 be to bring Japan as soon as possible to active opera-
25 tions in the Far East, and that the conquest of

1 Singapore, England's key position in the Far East,
2 would mean a decisive success for the three Axis powers.
3 The importance of the question was again emphasized
4 when on 18 March 1941 General Jodl, in a report to
5 Hitler, stated that Japan must take steps as soon as
6 possible to eliminate Singapore, since the opportunity
7 would never again be as favorable.

8 "Events were moving swiftly in Japan. On 25
9 March 1941, Chief of the Japanese Navy General Staff,
10 Admiral KONDO, reported that the Navy was vigorously
11 preparing for an attack on Singapore, and Chief of
12 the Japanese General Staff, General SUGIYAMA, reported
13 that the Army was also making preparations for an
14 attack.

15 "Foreign Minister MATSUOKA arrived in Berlin
16 in the latter part of March 1941, and between 27 March
17 and 5 April 1941 conferred with Hitler, Ribbentrop,
18 Goering, Funk and others on matters relating to joint
19 military and economic cooperation of the Tripartite
20 Powers. Although declaring he could not accept the
21 obligation at the moment to act for the Japanese nation,
22 MATSUOKA stated in a conference with Hitler that Japan
23 would act decisively when she has the feeling that she
24 would otherwise lose a chance which might only return
25 after a thousand years; that Japan would advance

1 regardless of the condition of her preparations;
2 that he had personally held the view that Japan
3 should attack Singapore and put an end to British
4 influence in that area; and that it was only a mat-
5 ter of time until Japan would attack.

6 "Japanese concern over German intentions
7 with regard to political domination and control of
8 the Netherlands East Indies and French Indo-China has
9 been referred to in a previous section of this opening
10 statement. In his conference with Hitler, MATSUOKA
11 took the occasion to state that although Japan ex-
12 pected to keep before her the motto of 'No conquest,
13 no oppression, no exploitation,' Japan would proceed
14 by force, if necessary, in establishing the New Order
15 according to the principle of the preamble to the
16 Tripartite Pact, and would have to lead with a strong
17 hand the nations affected by this New Order.

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1 "In a conference on 29 March 1941 with the
2 Reich Foreign Minister VON RIBBENTROP, after discussing
3 in detail general plans relating to Singapore and trade
4 relations between Japan and Germany, MATSUOKA pointed
5 out that he was doing everything he could to reassure
6 the English about Singapore; that he acted as if Japan
7 had no intention at all regarding this key position
8 of England in the East; and that he assumed this atti-
9 tude not only in order to reassure the British but
10 also in order to fool the pro-British and pro-American
11 elements in Japan until one day he would suddenly open
12 the attack on Singapore. He took the position that a
13 sudden attack against Singapore would unite the
14 entire Japanese nation with one blow.

15 "In a conference on 4 April 1941, MATSUOKA
16 secured from HITLER a promise to place at the dis-
17 posal of the Japanese technical information and in-
18 ventions which were needed by Japan, including
19 especially that acquired by Germany's experience in
20 sub-marine warfare.

21 "On 5 April 1941, MATSUOKA repeated in a
22 conference with VON RIBBENTROP that he had long been
23 of the opinion that every nation was offered an oppor-
24 tunity only once in a thousand years and that Japan
25 was confronting such an opportunity and would have to

1 assume the risk connected with it. She would have to
2 act decisively at the right moment, he said, in order
3 to take advantage of this unique condition of affairs.
4 Finally, he requested RIBBENTROP to assist the Tri-
5 Partite Powers Commissions, and especially the Economic
6 Commission, in the performance of their functions.

7 "The commissions formed under the provisions
8 of the Tri-Partite pact included in their membership
9 the accused, MATSUOKA, Yosuke; OSHIMA, Hiroshi; TOGO,
10 Shigenori; MUTO, Akira; OKA, Takasumi; and SATO,
11 Kenryo.

12 "On 24 May 1941 a report was made by the
13 German Military Attache in Tokyo to the German Foreign
14 Intelligence Office that Japan acknowledged her treaty
15 obligations in event the United States entered the
16 war, but that hostilities would not be opened immedi-
17 ately. He added, however, that Japanese preparations
18 for attack on Singapore and Manila stand.

19 "On 22 June 1941 Germany invaded Russia.
20 RIBBENTROP reiterated the great importance from the
21 standpoint of Japanese interests of a drive toward
22 the south in the direction of Singapore, but advised
23 that in view of her present unpreparedness for this
24 action, Japan would solve her Russian question by
25 joining Germany in the war against Russia. After the

1 anticipated swift downfall of Soviet Russia, he said,
2 Japan, safe in the rear, would be free to make a drive
3 in the south.

4 "At the important Imperial conference of
5 2 July 1941 a resolution was adopted which had the
6 effect of postponing definite action on Germany's
7 request that an attack be made on the Soviet Union
8 from the East. At the same time a renewal of deter-
9 mination was voiced to establish the so-called 'Greater
10 East Asia Co-Prosperity Sphere,' regardless of any
11 change in the international situation. For the
12 accomplishment of this, it was determined to continue
13 the disposition of the so-called Chinese incident and
14 to accelerate the southward advance. A decision was
15 reached to make preparations for a war with Britain
16 and the United States and all measures, especially those
17 relating to the execution of military and naval plans,
18 were referred for definite decisions. The stabilis-
19 ing plan for the southern advance was to be accomplished
20 by the execution of 'schemes against French Indo-China
21 and Thailand,' which will be demonstrated in later
22 phases of the case. It was also announced that should
23 the conditions of the German-Soviet war progress favor-
24 ably to Japan, Japan would 'execute arms to solve the
25 northern problems, thereby securing stability in the
northern regions.'

1 "The events between 2 July 1941 and the attack
2 on Pearl Harbor, although based in a large measure
3 upon Japanese, German and Italian collaboration, appear
4 more properly to belong in the phases of presentation
5 of evidence relating to French Indo-China, Thailand,
6 the Netherlands East Indies, the British Commonwealth
7 of Nations and the United States, wherefore reference
8 will be made in this phase of the case only to those
9 matters within this period which affect the No Separ-
10 ate Peace Pact of 11 December 1941.

11 "Cultural and Trade Agreements between Japan,
12 Germany and Italy.

13 "The evidence will show that cultural and trade
14 agreements paralleled political and military collab-
15 oration between the Axis powers. Within the framework
16 of the Anti-Comintern Pact, and in furtherance of its
17 spirit, cultural treaties were concluded between Germany
18 and Japan on 25 November 1938 and Italy and Japan on
19 23 March 1939. These treaties provided for systematic
20 promotion of cultural relations in the fields of
21 science, fine arts, music, literature, motion pictures,
22 radio broadcasts, child and youth movements, sports,
23 and so forth. The result sought to be obtained was
24 alleged to be the **strengthening** of the ties of friend-
25 ship between the nations concerned.

1 "Commercial arrangements were made through-
2 out the entire period of Japanese-German collaboration
3 but these are too numerous and of too detailed a
4 character to justify an extensive description in this
5 opening statement. Raw materials intended for use in
6 military operations in Europe were made available to
7 Germany by Japan from the Netherlands East Indies,
8 French Indo-China and China. Special trade consider-
9 ations over other nations were given Germany in China.
10 In this connection Japan insisted that 'North China'
11 as used in a commercial agreement should be changed
12 to 'China,' for the reason that Japan intended to
13 dominate and control commerce and trade in all of
14 China.

15 "The No Separate Peace Pact and the Military
16 Agreement Between Japan, Germany and Italy.

17 "When the Tri-Partite Pact was concluded on
18 27 September 1940, MATSUOKA in reply to a question
19 stated that an agreement would be negotiated between
20 the three powers for a 'No Separate Peace Pact' in the
21 event of hostilities.

22 "In the latter part of November 1941, Germany
23 was informed of the state of negotiations between
24 Japan and the United States and of the fact that
25 hostilities between Japan and the United States were

1 imminent. On 29 November 1941, Ribbentrop advised
2 that it was essential that Japan effect the New Order
3 in East Asia without losing the existing opportunity.
4 'There never has been and probably never will be,' he
5 said, 'a time when closer cooperation under the Tri-
6 Partite Pact is so important. If Japan hesitates at
7 this time, and Germany goes ahead and establishes her
8 European New Order, all the military might of Britain
9 and the United States will be concentrated against
10 Japan.' He further stated: 'Should Japan become
11 engaged in a war against the United States, Germany,
12 of course, would join the war immediately. There is
13 absolutely no possibility of Germany's entering into
14 a separate peace with the United States under such
15 circumstances. The Fuehrer is determined on that
16 point.'

17 "Between the 1st and 3rd of December 1941,
18 Ambassador OSHIMA received a telegram from Tokyo stat-
19 ing that the Japanese Government desired Germany's
20 participation in the event of a United States-Japanese
21 conflict and further that the Japanese Government de-
22 sired that a no separate peace pact be signed. The
23 Japanese Ambassador to Italy, invoking the provisions
24 of the Tri-Partite Pact, on 3 December 1941, called
25 upon Italy to declare war upon the United States after

1 the opening of hostilities. Mussolini advised that
2 if Japan should declare war on the United States and
3 Great Britain, Italy would immediately do likewise.

4 Both Ribbentrop and Mussolini agreed prior to 7 December
5 1941 to enter into a treaty by which Japan, Germany
6 and Italy would not conclude a peace treaty separately.
7 Such a treaty was formally concluded on 11 December
8 1941, to remain in force as long as the Tri-Partite
9 Pact of 27 September 1940.

10 "On 14 December 1941, at a reception given
11 by Hitler to Ambassador OSHIMA, at which Hitler
12 presented OSHIMA with the Grand Cross of the Order of
13 Merit of the German Eagle in gold, Hitler declared that
14 Japan had taken the right course in attacking without
15 wasting time in declaring war. He commented that he
16 had used this system and that he expected to use it
17 in the future.

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1 "On 18 January 1942 the Japanese, German
2 and Italian armed forces concluded a military agree-
3 ment in the spirit of the Tri-Partite Pact of 27
4 September 1940, and provided for operational coor-
5 dination among them. The world was divided into
6 zones for military operations. Japan was assigned
7 the waters eastward from about 70 degrees, east longi-
8 tude to the west coast of the American continent, as
9 well as the continent and islands situated in these
10 waters and also the Asiatic continent east of 70
11 degrees, east longitude. Germany and Italy were
12 assigned the waters westward from about 70 degrees,
13 east longitude to the east coast of the American
14 continent, as well as the continent and islands
15 situated in these waters, and also the Near East,
16 the Middle East and Europe westward from about 70
17 degrees east longitude. General operational plans
18 were outlined, and the main points of military coop-
19 eration were specified.

20 "The evidence relating to collaboration
21 among Japan, Germany, and Italy and the conduct and
22 declarations of the accused in connection therewith
23 will now be offered to prove the common plan of
24 conspiracy to wage wars of aggression as charged
25 in the indictment and the manner and method by which

1 the conspiracy was to be executed. Mr. G. Osmond
2 Hyde, Special Assistant to the Attorney General
3 of the United States, and Mr. Worth McKinney, Assi-
4 stant United States Attorney for the Western District
5 of North Carolina, will assist in the presentation
6 of this evidence."
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1 THE PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: If the Tribunal please, Mr.
3 Cunningham for Mr. OSHIMA.

4 In view of the statements contained in the
5 opening statement of the prosecutor, just read, out-
6 lining the facts which the prosecution proposes to
7 prove, I feel it timely at this time to present to
8 the Tribunal the following proposition of law.

9 THE PRESIDENT: We will entertain no propo-
10 sition of law except in support of a motion or an
11 objection.

12 MR. CUNNINGHAM: I reword the last sentence
13 to read as follows: I submit the following objection
14 to evidence.

15 Comes now the defendant OSHIMA, Hiroshi,
16 through his counsel and submits to the Tribunal for
17 its consideration his objection to the introduction
18 of any evidence in support of the Indictment or any
19 of its counts, or of any crime charged therein
20 against him on account of acts committed in his ca-
21 pacity as a member of the Ambassadorial suite, or as
22 Ambassador, and states in support of this objection
23 the following reasons:

24 One: The defendant, at the time of the acts
25 alleged in the Indictment, was either an Ambassador

1 or a member of an Ambassadorial suite, and his acts
2 were privileged under the diplomatic immunity rule
3 of international law; and it is an inviolable rule
4 of the law of nations.

5 Two: That any process issued against the
6 defendant by any nation or group of nations complain-
7 ing of acts performed by the defendant in his official
8 capacity as Ambassador or member of the suite is null
9 and void according to the law of nations.

10 Three: That under the extra-territoriality
11 rule, the personal representative theory, the natur-
12 alist law doctrine, or the established rule of im-
13 munity, the defendant is exempt from punishment or
14 criminal responsibility for his acts by virtue of
15 this established principle of diplomatic immunity.

16 Four: Immunity is a vested right which
17 attaches at the time of appointment and survives the
18 assignment.

19 Five: The Ambassador represents the person
20 of the sovereign, and any insult, or violence, or
21 arrest, or deterrence of the right of embassy which
22 belongs to all sovereigns is regarded then as a hos-
23 tile act against that sovereign and is punishable in
24 itself as a violation of international law.

25

THE MONITOR: Will the reporter please read

1 the last statement?

2 (Whereupon, the fifth reason was
3 read by the official court reporter.)

4 MR. CUNNINGHAM: "And is punishable under
5 municipal law" I said, I believe.

6 Six: The law of both international law and
7 the law of nations affords to the Ambassador and mem-
8 bers of the Ambassadorial suite as great a privilege
9 from process as it does the sovereign he represents.

10 Now, if the Tribunal please, this is a funda-
11 mental principle of international law, and it is, I
12 believe, sound basis for an objection to any evidence
13 against the defendant in this case.

14 I see the Members of the Tribunal digesting
15 the Charter for the provision, and I anticipate that
16 the question will arise which takes precedence: the
17 provision in the Charter or the principle of inter-
18 national law which is already established in every
19 country of the world.

20 Of course, if the Tribunal please, I take
21 the position that not one nation or any group of
22 nations outside of a United Nations Organization can
23 speak and change the established rule of international
24 law; and I do not give the Charter the authority, or
25 concede in any manner that it has the authority to

1 vary, or alter, or amend, or modify the established
2 rules of international law. The only recognition
3 which the Charter can possibly have in this Tribunal
4 is a matter declaratory of international law where
5 it is silent heretofore.

6 THE MONITOR: Will the reporter please read
7 the last statement?

8 (Whereupon, the last paragraph of
9 Mr. Cunningham's statement was read by the
10 official court reporter.)

11 THE MONITOR: Will you read the last sen-
12 tence once more again, slowly?

13 (Whereupon, the **sentence** referred
14 to was read by the official court reporter
15 as follows:)

16 "The only recognition which the Charter can
17 possibly have in this Tribunal is a matter declaratory
18 of international law where it is silent heretofore."
19

20 MR. CUNNINGHAM: You can change that to:
21 On matters of international law where it was silent
22 before.

23 If the Tribunal please, I have gone to great
24 lengths in preparing a brief and memorandum upon the
25 legal authorities in this proposition, but I will
submit it to the Court as a separate document; and

1 at this time I should like to entertain any question
2 which the Court might have concerning this proposi-
3 tion or objection.

4 THE PRESIDENT: Well, Mr. Cunningham, I am
5 glad you used the word "submit" in the last sentence
6 because up to that stage it appeared that you were
7 making declarations of law and not making submissions
8 under the law.

9 At an earlier stage of the proceedings we
10 indicated, if my recollection serves me rightly,
11 that points such as this might be raised in the final
12 addresses of the defense after they had given their
13 evidence.

14 MR. CUNNINGHAM: On that proposition, it
15 occurred to me that if an objection was to be made
16 to evidence, that it should be made before the evi-
17 dence was introduced, and that the objection now is
18 timely; and, if the question of law was well taken,
19 it would save considerable time in introduction of
20 evidence concerning official acts of the defendant.

21 THE PRESIDENT: That, of course, is an
22 alternative.

23 Now, although it may seem to be an extra-
24 ordinary thing that an Ambassador, guilty of a crime
25 against international law, should be beyond the reach

1 of the long arm of international law, nevertheless,
2 you will be able to argue that at the conclusion of
3 the case. However, the point taken now is not going
4 to prevent the Tribunal from hearing the evidence
5 which is offered.

6 The objection is overruled subject to your
7 right to raise this question later if my colleagues
8 are satisfied it has not already been determined.
9 In notes to me, it appears a question arises which
10 warrants that last qualification.
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1 MR. TAVENNER: If it please the Tribunal,
2 the evidence will relate first--

3 THE MONITOR: Just a moment, please. We
4 haven't finished our interpretation yet of the last
5 remark.

6 MR. TAVENNER: If it please the Tribunal,
7 the evidence will relate first to the conclusion of
8 the Anti-Comintern Pact and secret agreement and
9 transmittal of secret communications.

10 If it please the Tribunal, this subdivision
11 of our subject dealing with the Anti-Comintern Pact
12 and succeeding subdivisions dealing with efforts to
13 conclude a military alliance between Japan, Germany
14 and Italy cover the approximate period of the years
15 1936 to 1939, both inclusive. Many of the documents
16 to be introduced refer to official positions without
17 designating the holders of those positions. I desire
18 therefore to call to the Tribunal's attention that
19 from the personnel records of the accused heretofore
20 introduced in evidence, major positions of importance
21 were held by the accused during this period as follows:

22 ARAKI, Sadao, Minister of Education, May,
23 1938 to 29 August, 1939; Cabinet Councillor from 15
24 October, 1937 to 27 May, 1938.

25 HATA, Shunroku, Inspector General of the

1 Military Education and concurrently Military Council-
2 lor, the latter a Cabinet position from 26 August,
3 1937 to 14 February, 1938; Military Councillor, 15
4 December, 1938 to 25 May, 1939.

5 HIRANUMA, Kiichiro, Head of the Privy
6 Council, 13 March, 1936; Prime Minister from 5 January,
7 1939 to 29 August, 1939.

8 HIROTA, Koki, Foreign Minister to April,
9 1936; Prime Minister from April, 1936 to 1 February,
10 1937; Foreign Minister from 4 June, 1937 to 4 Jan-
11 uary, 1939, concurrently with his service as Foreign
12 Minister he was a member of the Supreme War Council;
13 President of the Planning Board from 10 June, 1937
14 to 25 October, 1937.

15 MR. CUNNINGHAM: If the Court please, I
16 would like to object to this as repetitious. The
17 documents are in evidence and this is oral testimony
18 by the counsel of the facts and certainly repetition
19 of the record.

20 THE PRESIDENT: It is helpful to the Tribunal
21 to know against whom the evidence is really offered.
22 This is an attempt to indicate that. There is nothing
23 repetitious about it in a true sense. The objection
24 is overruled.

25 MR. TAVENNER: (Continuing)

1 ITAGAKI, Seishiro, Minister of War, 5
January, 1939 to 29 August, 1939.

2 KAYA, Okinori, Councillor of the Cabinet
3 Investigation Bureau, 24 February, 1937; Minister of
4 Finance, 4 June, 1937 to 4 January, 1938.

5 KIDO, Koichi, Minister of Education, 22
6 October, 1937; Welfare Minister, 11 January, 1938
7 to 5 January, 1939.

8 KOISO, Kuniaki, Minister of Overseas Affairs,
9 7 April, 1939 to 29 August, 1939.

10 MATSUI, Iwane, Cabinet Councillor, 20 July,
11 1938 to 23 January, 1940; Member of the Committee of
12 East Asia Commission, 5 July, 1939.

13 MATSUOKA, Yosuke, Councillor of the Cabinet,
14 15 October, 1937 to 23 January, 1940.

15 THE PRESIDENT: Why mention him?

16 MR. TAVENNER: For the reason, your Honor,
17 that his acts and conduct involve all the other
18 defendants in the conspiracy.

19 THE PRESIDENT: He is one of the others now?

20 MR. TAVENNER: Yes.

21 MUTO, Akira, Director of Military Affairs
22 Bureau of the War Ministry and concurrently Chief
23 Secretary of the Supreme War Council, 30 September,
24 1939; Councillor of the Planning Board and member of
25

1 the Committee of the Cabinet Information Bureau,
2 12 October, 1939; Councillor of the Overseas Affairs
3 Bureau of the Overseas Affairs Ministry, 7 November,
4 1939.

5 OKA, Takasumi, Member of the Committee of
6 the Information Bureau of the Cabinet, 21 January,
7 1938.

8 THE PRESIDENT: We will recess now for
9 fifteen minutes.

10 (Whereupon, at 1440, a recess
11 was taken until 1500, after which the pro-
12 ceedings were resumed as follows:)

13 MR. HANAI: I am HANAI, defense counsel for
14 the defendant Koki HIROTA.

15 In the prosecutor's statement it appeared
16 that HIROTA, Koki was President of the Cabinet Planning
17 Board. This is a mistake. I respectfully ask for a
18 correction. One other correction. The prosecutor
19 has stated that HIROTA, Koki was Foreign Minister
20 until January, 1939. Mr. HIROTA was Foreign Minister
21 until May of 1938 and was, therefore, not Foreign
22 Minister in 1939. I respectfully ask that this also
23 be corrected.

24 THE PRESIDENT: Do you admit those corrections,
25 Mr. Tavenner?

1 MR. TAVENNER: If this is a misquotation from
2 the personnel records, I will, of course, be very glad
3 to correct it.

4 THE PRESIDENT: Those records should be com-
5 piled with scrupulous care.

6 MR. TAVENNER (Reading): "OKA, Takazumi,
7 member of the Committee in the Information Bureau of
8 the Cabinet, 21 January 1938. OSHIMA, Hiroshi,
9 Military Attache to Germany to 8 October, 1938 and
10 Envoy Extraordinary and Ambassador Plenipotentiary
11 in Germany 8 October 1938 to 27 December 1939. SATO,
12 Kenryo, Investigator of the Planning Office, 24 June
13 1937 to 25 October 1937, Secretary of the Planning
14 Board, 26 November 1937 to 29 July 1938 and member
15 of the Cabinet Information Board Committee prior to
16 December, 1938. SHIRATORI, Toshio, Envoy Extraord-
17 inary and Ambassador Plenipotentiary to Italy from
18 22 September 1938 to 28 August 1940. SUZUKI, Teichi,
19 Member of the Intelligence Bureau of the Cabinet,
20 28 December 1938, Councilor of the Planning Bureau,
21 30 May 1939. TOGO, Shigenori, Envoy Extraordinary
22 and Ambassador Plenipotentiary to Germany from 27
23 October 1937 to 15 October 1938. TOJO, Hideki,
24 Councilor of the Planning Board, and concurrently
25 Member of the Cabinet Board of Information, 15 June 1938.

1 UMEZU, Yoshijiro, Councilor of the Information Bureau,
2 and Councilor of the Cabinet Investigation Bureau,
3 13 July 1936, Councilor in the Planning Board, 26
4 November 1937 to 30 May 1938."

5 While Japan was consolidating her position
6 in Manchuria and North China, as shown in an earlier
7 phase of the case, the following events, of which the
8 Tribunal has taken judicial notice by its order
9 No. 400, occurred in Europe. These events are presented
10 for the purpose of showing that during the formative
11 period of Japanese-German relations, Germany and
12 Italy were engaged in a program of military preparedness
13 for aggressive action in Europe. They are as follows:

14 On 14 October 1933, Germany withdrew from
15 the Disarmament Conference; on 14 October 1933,
16 Germany resolved to withdraw from the League of
17 Nations; on 9 March 1935, foreign air attaches in
18 Berlin were informed that German air force had come
19 into existence officially as of March 1; on 16 March
20 1935, Hitler introduced compulsory military service
21 in Germany; on 7 March 1936, German troops occupied
22 the Rhineland; in 1934 Italy began preparations for
23 war against Ethiopia; on 3 October 1935 Italian armed
24 forces invaded Ethiopia; and on 11 December 1937 Italy
25 resigned from the League of Nations.

1 I offer in evidence prosecution's document
2 2156-B, an excerpt from the interrogation of the
3 accused OSHIMA, Hiroshi, for the purpose of showing
4 that at the time of the establishment of the Japanese-
5 dominated and controlled Eastern Hopeh Anti-Comintern
6 Autonomous Council in November, 1935, the Japanese
7 General Staff sent Lieutenant Colonel WAKAMATSU to
8 Berlin where he and Colonel OSHIMA, Military Attache
9 to Germany continued discussions of the Japanese-German
10 alliance which had been the subject of talks since
11 June, 1935, the date of the UMEZU-HO Agreement.

12 THE PRESIDENT: Mr. Cunningham.

13 MR. CUNNINGHAM: I wish to object to the
14 introduction of this excerpt from the statement of
15 Mr. OSHIMA and to other excerpts from the statement
16 unless the prosecution tenders in advance page 233
17 of the interrogations which shows the conditions under
18 which it was received.

19 THE PRESIDENT: Are you alleging some in-
20 ducement or threat or promise or something of that
21 sort?

22 MR. CUNNINGHAM: No, the statement was made
23 with the reservation that it should be returned to
24 Mr. OSHIMA to be corrected, and there were a great
25 many misinterpretations and mistakes in the statement

1 as they were originally taken through interpretation.
2 That is why I object to the introduction until they
3 are returned to him, and the corrections made, and
4 the true version of the interrogations represented
5 to the Court at this time.

6 THE PRESIDENT: Mr. Tavenner, what have you
7 to say?

8 MR. TAVENNER: The entire interrogation was
9 filed with the Court on the 31st day of July of this
10 year, and was certainly available for any inspection
11 had they desired to make it. There is no agreement
12 to my knowledge that the document was to be returned
13 to the accused for correction, but, of course, if
14 there are corrections to be made, we do not object to
15 his pointing them out.

16 In addition to this, your Honor, the record
17 shows a statement by the accused commending the inter-
18 preter for the very excellent and faithful job of
19 interpretation which he had done.

20 THE PRESIDENT: Has the accused ever asked
21 the prosecution for the opportunity to correct this
22 interrogation?

23 MR. TAVENNER: I understand that the witness
24 did, on one occasion, state that he would like to have
25 his interrogation to look it over.

1 THE PRESIDENT: Well, it has been on the
2 file for some time, according to you, Mr. Tavenner,
3 and the accused counsel would have known that, and
4 this is the first attempt to have any correction made --

5 MR. TAVENNER: Yes, sir.

6 THE PRESIDENT:--Although the accused did
7 express a desire to see what you had attributed to
8 him.

9 MR. TAVENNER: I may state in addition,
10 if your Honor please, that the record will show that
11 at several times during the interrogation the accused
12 asked that considerable portions be read back to him,
13 which was done without correction by him.

14 MR. CUNNINGHAM: If the Tribunal please, the
15 only reason that I suggest that page 233 be intro-
16 duced as a precedent to the introduction of these
17 pages is so we can base the corrections upon that
18 reservation which he made at the time he made the
19 statement.

20 THE PRESIDENT: Is this a short statement, is
21 it, page 233, is it?

22 MR. CUNNINGHAM: 233.

23 THE PRESIDENT: You had better have it read.

24 MR. CUNNINGHAM: At the end this is what he
25 says. I don't have the specific line on the other.

1 (Reading): "I thank you for the manner in
2 which zeal and integrity you have interpreted in
3 excellent Japanese for over twenty interrogations."
4 This is a hold-over from diplomatic protocol. He
5 made that remark in addition, that he suggested
6 that he thanked him. I said that is a hold-over
7 from a diplomatic protocol. The last line was
8 "interrogations," and I continue.

9 THE MONITOR: Is there any difference in
10 those two "hes"?

11 OFFICIAL COURT REPORTER: You had better
12 ask counsel there.

13 THE MONITOR (to Counsel): I don't get your
14 reference to two "hes," -- "he suggested that he
15 thank him" -- which one of "he" is the accused?

16 MR. CUNNINGHAM: Mr. OSHIMA thanked the
17 interpreter.

18 MR. TAVENNER: I move, your Honor, that the
19 statement referred to be struck from the record as
20 it was no part of the accused OSHIMA's statement.

21 THE PRESIDENT: What I am looking for, if
22 there be one, is an arrangement that this statement
23 be not used until it is perused by the accused. There
24 is no such arrangement. If there were, we might see
25 fit to respect it.

1 MR. CUNNINGHAM: If the Court please, there
2 is, and it is here. May I continue to read the
3 statement of the accused concerning the statement
4 which he made?

5 THE PRESIDENT: Read it.
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1 MR. CUNNINGHAM: (Reading) "However, the
2 things that have been discussed dealt with diplomacy
3 and treaties, and consequently there were many very
4 complicated matters which would make it very difficult
5 for anyone to interpret. Therefore, I wish to read
6 over the transcript from beginning to end and correct
7 parts that might have been necessary to change. How-
8 ever, as there does not seem to be enough time, you
9 would not accede to this. In so far as the main
10 points go, I believe there are no mistakes, but there
11 might be some small mistakes on which I wish to re-
12 tain the privilege of correcting at a later date.

13 THE PRESIDENT: Still no arrangement with
14 the prosecution is disclosed. That may be an attempt
15 to impose a condition after he has given his state-
16 ment. As it is, the position as I see it is that
17 we should admit the statement and you are always
18 able to contradict it by evidence for the defense
19 later.

20 MR. CUNNINGHAM: But I did not wish to be in
21 the position later on to try to correct the state-
22 ment and then not be able to for not objecting at
23 the time on account of the discrepancies and errors
24 in translation.

25 THE PRESIDENT: Actually the only course

1 open to us is to admit it and let you give evidence
2 to correct it later. The objection is overruled.
3 Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 2156-B will receive exhibit No. 477.

6 (Whereupon, the document above referred
7 to was marked prosecution's exhibit No. 477,
8 and received in evidence.)

9 MR. TAVENNER: (Reading)

10 "Q When did you first become acquainted with
11 RIBBENTROP?

12 "A In 1935, for the first time.

13 "Q What was the occasion for these numerous
14 meetings with RIBBENTROP in 1936?

15 "A In 1936 we concluded the Anti-Comintern
16 Pact, which was finally signed by Ambassador
17 MUSHAKOJI, but I had a good many talks on matters
18 preceding the final settlement.

19 "Q Had you ever discussed with Mr. HACK the
20 subject matter of this proposed alliance against
21 Russia with Germany?

22 "A Yes, I had discussed with him, and in
23 this regard, if you desire, I shall tell you of the
24 events leading up to this pact in detail. I shall
25 tell you all I know about this pact, including secret

1 matters pertaining to it. To start with it was in
2 the spring of 1935, in May or June, I believe, that
3 HACK came to me and said the following was RIBBEN-
4 TROP's own idea and had nothing to do with the policy
5 of the German government, but would there not be a
6 possibility of some sort of defensive alliance
7 against Russia between Germany and Japan. In this
8 regard they knew that the Japanese army had penetrated
9 into Manchuria and might have an interest in such an
10 alliance - the reason for this being that the army
11 was on the borders of the U.S.S.R.

12 "Q Did you have an idea that probably HACK
13 would carry these ideas back to RIBBENTROP?

14 "A Naturally, I thought so. However, I could
15 not definitely give any answers, unless I knew
16 exactly how GHQ felt.

17 "Q Continue with the story.

18 "A Subsequent to this RIBBENTROP said that
19 he wished to see me and I met him for the very first
20 time at HACK's home in October of that year. At
21 this meeting RIBBENTROP said that this was simply
22 his own idea and he did not know how Hitler or the
23 Government felt about it, and he said further that
24 he believed there would be some possibility of its
25 being put into effect. However, he asked me what the

1 Japanese military would think about it, and I said
2 that there was no way of knowing, so that he asked
3 me to find out exactly how they would feel, and he
4 asked me to communicate with the Japanese military
5 and find out how they would feel about it. I sub-
6 sequently sent the telegram to GHQ about the matter.
7 At this time RIBBENTROP stressed the fact that this
8 was his own personal idea and for me not to feel bad
9 about matters in case the German Government did not
10 back him up - I said the same thing in regard to my
11 own Government.

12 "Q This is the second communication to Tokyo
13 relative to this proposal?

14 "A Yes.

15 "Q Continue.

16 "A HACK was at this meeting and there were
17 just the three of us. Following this communication
18 of mine to Japan I received the reply from GHQ that
19 there was no overall opposition to the proposal, but
20 that they wished to look into matters more fully be-
21 fore they committed themselves, and in this regard
22 they would send Lt. Col. WAKAMATSU of the German
23 Division of GHQ. This officer arrived in Berlin in
24 early December 1935, I believe, although I am not
25 too sure of dates. During this interim I did not

1 have any communication with RIBBENTROP.

2 "Q Did you have any communication with your
3 own Foreign Office relative to this communication?

4 "A No. This was simply a military matter.
5 Prior to Lt. Col. WAKAMATSU's arriving in Berlin
6 HACK came to see me several times and I told him
7 that he should wait until the arrival of the above
8 mentioned officer. When he came I took the Colonel
9 to see RIBBENTROP and also General BLOMBERG and
10 WAKAMATSU told them that GHQ was in favor of a more
11 or less general treaty, but that it was his duty,
12 as this was still given only as RIBBENTROP's per-
13 sonal idea, to find out what the German Government
14 felt about it. Also WAKAMATSU stated that while the
15 Japanese Army favored it, to bring it into fruition
16 the Government would have to be consulted."

17 MR. TAVENNER: I tender in evidence prose-
18 cution's document 2156-C, an excerpt from the in-
19 terrogation of OSHIMA, for the purpose of showing,
20 one: that negotiations for the military pact were
21 conducted through military channels, and, two: that
22 the Japanese Army was strong enough to enforce its
23 will upon the Japanese Government.

24 MR. CUNNINGHAM: Objected to unless the
25 prosecution submits the parts which are omitted

1 between the lines, which gives the matter continuity
2 and completeness of thought.

3 THE PRESIDENT: As I have said before on
4 several occasions, the defense may complete the in-
5 terrogations later. The objection is overruled and
6 the document admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2156-C will receive exhibit No. 478.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 478, and received in evidence.)

12 MR. TAVENNER: (Reading)

13 "A I wish to point out to you that the Japanese
14 military and naval attaches are not under the juris-
15 diction of the ambassador, but are directly responsi-
16 ble to the respective staff headquarters in Tokyo.
17 As far as the embassy goes, they are under the am-
18 bassador, but as far as their duties go they are
19 responsible to their military superiors in Tokyo.

20 "Q Are they authorized by virtue of their
21 position as military attache to enter into negotia-
22 tions with the military of another nation, looking
23 towards a pact or a treaty or an international
24 agreement between the two nations?

25 "A Yes, if it was a strictly military matter

1 they may discuss these matters without going
2 through the ambassador. Before I go any further
3 I would like to stress here that they were sounding
4 out the opinion of the Japanese army and not that of
5 the Japanese government because if they had been that
6 would have been the ambassador's duty.

7 "Q Is it not also a fact that if Ribbentrop
8 or any one else in Germany could sell the military
9 of Japan on this idea that the military was then
10 probably in a position whereby they could persuade
11 the Foreign Office to go along with the idea?

12 "A Yes, that is one point and quite true that
13 the army had enough power to very probably sell the
14 pact to the Japanese government. The second point
15 is the one I stressed before that Ribbentrop was
16 not in an official capacity at the time. Particularly,
17 in this point, he had seen how the Japanese army had
18 taken possession of Manchuria and, therefore,
19 naturally, concluded from that that the Japanese army
20 would be in the strongest position to push a treaty
21 of this type. I would say that no treaty could
22 possibly have been made on this if the army had not
23 wished it."

24 MR. LOGAN: Before introducing this document,
25 if the Tribunal please, I understood the prosecutor

1 to say that he was introducing it for one reason to
2 show that the Japanese Government at this time was
3 completely under military control.

4 THE PRESIDENT: The document speaks for it-
5 self. It may or may not go as far as the prosecution
6 contends.

7 MR. LOGAN: I appreciate that, your Honor,
8 but what I would like to know is if that is the view
9 of this prosecutor who is conducting this phase of
10 the case, or is that the view of the entire prosecution,
11 because if so that is something new.

12 THE PRESIDENT: I take him to be speaking
13 for the Chief Prosecutor, the whole prosecution,
14 but he must, of course, answer for himself.

15 MR. LOGAN: Then, your Honor, we understand
16 that as early as 1935 it is the claim of the pro-
17 secutor the Japanese Government was completely under
18 the control of the military.

19 THE PRESIDENT: This must not develop into
20 a side argument. I understood you were going to
21 make some objection.

22 MR. SHIMANOUCI: I am SHIMANOUCI, defense
23 counsel for the accused OSHIMA. There are several
24 gross errors in the Japanese text of the interrogation
25 of OSHIMA just read. Yesterday my colleague pointed

1 out these gross mistakes to the prosecution section,
2 but these corrections have not yet been made, and
3 I would respectfully request a ruling from the Tri-
4 bunal.

5 THE PRESIDENT: You might enlighten us, Mr.
6 Tavenner. Did you undertake to make any corrections?

7 MR. TAVENNER: No errors in translations
8 were pointed out to me or any of my associates.
9 Apparently the matter to which he refers is the
10 translation from the English to the Japanese.

11 MR. SHIMANOUCI: It is the translation
12 from English to Japanese. May I point out these
13 errors before the Tribunal?

14 THE MONITOR: These gross errors.

15 THE PRESIDENT: They don't affect the ex-
16 hibit and it is a matter really for himself to
17 remedy by correcting his translation with the ex-
18 hibit itself.

19 Mr. Smith.

20 MR. SMITH: Your Honor, I would like to make
21 a point in connection with the prosecutor's statement
22 as to what he intends to prove by this last document,
23 exhibit 478, as the exhibit, the questions and
24 answers, refer to no time whatsoever, and it would
25 only be by evidence alone that you could fix the

1 time at all. That is tied in with the prosecutor's
2 statement that at this time the Japanese Army was
3 strong enough to impose its will on the civil govern-
4 ment. So I suggest, your Honor, in order that the
5 matter may be made intelligent in the record that
6 the prosecutor be required to read such additional
7 parts of the interrogation as will fix the time to
8 which the statement refers.

9 THE PRESIDENT: Well, I think at some stage
10 or other we have invited you to state the purpose
11 for which you tender the document, to state the drift
12 of the document, and apparently you are doing so now,
13 but do you really wish to show that the Japanese Army
14 was in control and not the government? Perhaps you
15 would like to consider the matter further, Mr.
16 Tavenner.

17 We will adjourn now until half past nine
18 tomorrow morning.

19 (Whereupon, at 1600, an adjournment
20 was taken until Friday, 20 September 1946 at
21 0930.)
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