

March 5 - 1947

Paul Caudle

I N D E X
of
WITNESSES

<u>Defense' Witnesses</u>	<u>Page</u>
MITARAI, Tatsuo (resumed)	17761
Direct by Mr. S. OKAMOTO (cont'd)	17761
MORNING RECESS	17776
NOON RECESS	17794
Cross by Mr. Tavenner	17802
AFTERNOON RECESS	17819

I N D E X
of
EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
Not Numbered	2345		Document entitled "Additional Notes to the 1931 Diary of Marquis KIDO"	17820	
Not Numbered	2346		Document in Japanese hand- writing (produced by Witness MITARAI) re the resignation of the HIRANUMA Cabinet	17836	

1 Wednesday, 5 March 1947

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4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -
12 Appearances:

13 For the Tribunal, same as before with the
14 exception of: MAJOR GENERAL MYRON C. CRAMER, Member
15 from the United States of America now sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -
19 The Accused:

20 All present except OKAWA, Shumei, who is
21 represented by his counsel.

22 - - -
23 (English to Japanese and Japanese
24 to English interpretation was made by the
25 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: Mr. Freeman.

4 MR. FREEMAN: Mr. President and Members of
5 the Tribunal, as his American counsel I have been
6 requested by the accused SATO to inform the Court that
7 Chikao FUJISAWA, former attorney of record for the
8 accused SATO is no longer representing him from and
9 after February 28, 1947, and request the record so
10 show this fact.

11 THE PRESIDENT: The accused has full liberty
12 to change his counsel but the notification comes
13 rather late.

14 Mr. OKAMOTO.

15
16 T A T S U O M I T A R A I, called as a witness on
17 behalf of the defense, resumed the stand and
18 testified through Japanese interpreters as follows:

19 DIRECT EXAMINATION

20 BY MR. S. OKAMOTO (Continued):

21 Q I am continuing to interrogate the witness.
22 When did the TANAKA Cabinet fall?

23 A In June, 1929 -- in July 1929.

24 Q What were the reasons for its fall?

25 MR. TAVENNER: If your Honor please.

WITARAI

DIRECT

1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: The question elicits an
3 opinion or conclusion of the witness. We object to
4 the introduction on the ground the opinion and conclu-
5 sion of the witness is no more entitled to weight than
6 if it were a journalistic article which has been ruled
7 upon many times by the Court.

8 THE PRESIDENT: If the evidence be relevant
9 and material how else would it be proved and who is
10 more qualified to prove it than this man? Where
11 would we get the facts upon which to base an opinion
12 on such a matter?

13 MR. TAVENNER: As to the first question of
14 how to prove it, I submit that the proper method
15 would be to testify as to the occurrences and events
16 and leave it to the Tribunal to draw its conclusions
17 and inferences as to the meaning of the testimony
18 and not permit the witness to do so.

19 THE PRESIDENT: Where do we get the facts?
20 Who gives the facts on which we base an opinion of
21 facts leading to the downfall of a cabinet and
22 explaining the reason for its downfall? The facts
23 might take days to relate. Are we to have them all
24 related so we may form an opinion on a comparatively
25 minor issue?

MITARAI

DIRECT

1 MR. TAVENNER: As to the question of how the
2 Tribunal is to get the facts, that is, from what source,
3 WAKAMATSU himself has testified before the Tribunal
4 on that subject. This witness is not a specially
5 qualified witness on the subject; certainly no more
6 so than any newspaper writer or journalist.

7 THE PRESIDENT: We have testimony relating
8 to one cabinet. This man is going to testify to the
9 downfall of a number of cabinets and we are, under
10 the Charter, allowed to receive such things as reports
11 of investigators showing that to some extent we may
12 receive opinion evidence and in this case we have no
13 practical alternative, assuming, of course, the evidence
14 is at all material and I do not share the view that
15 it is. Where the prosecution has alleged that a
16 certain cabinet was brought about by the alleged
17 conspirators or the accused for the purposes of what
18 is charged against them, it ought to be sufficient for
19 the defense to meet that particular case. Unless
20 the prosecution in any case have proved the downfall
21 of a cabinet was brought about by events covered by
22 the Indictment we must assume that the downfall was
23 not associated with those events.

24 MR. S. OKAMOTO: Mr. President, has this
25 objection been overruled?

MITARAI

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1 THE PRESIDENT: I want to hear whatever argu-
2 ment you have in support of your question.

3 MR. S. OKAKOTO: If it is desired to ascertain
4 the reasons for the downfall or ascertain the facts
5 concerning the downfall of sixteen cabinets by means
6 of direct testimony it would be necessary to call
7 every one of the cabinet members of those cabinets to
8 this stand. The present situation in which the defense
9 finds itself does not permit of such a course. There-
10 fore, we have decided to call this witness who was
11 most familiar with the circumstances, with the
12 political situation concerning these various cabinets,
13 and therefore we are firmly convinced that under the
14 circumstances this witness is the best possible witness
15 on this question. Furthermore, concerning his testi-
16 mony I would like to state that he is not going to
17 give merely his own opinions as the prosecution has
18 said. We intend that he will testify to those facts
19 based on investigations which he made at the time and
20 in as brief and direct a manner as possible.

21 THE PRESIDENT: How is this material. As
22 far as I recollect, the prosecution are alleging
23 that only one cabinet was affected by acts alleged
24 in the course of carrying out the conspiracy.

25 Mr. Smith.

MITARAI

DIRECT

1 MR. SMITH: If your Honor please, a large
2 number of counsel representing individual defendants
3 are interested in this question.

4 THE PRESIDENT: We will hear only one counsel
5 on this nevertheless. Do not waste our time, Mr.
6 Smith.

7 MR. SMITH: I take an exception to the ruling
8 of the Court.

9 THE PRESIDENT: That is sufficient now. We
10 ask you to leave the lectern while we hear what Mr.
11 OKAMOTO has to say.

12 MR. SMITH: I merely wanted to say I would
13 like to be heard, your Honor, instead of overruling
14 this objection.

15 MR. S. OKAMOTO: May I make a few remarks
16 on this question of materiality? In Mr. Logan's
17 opening statement he has recognized the materiality
18 of this and has stated briefly the reasons for the
19 fall of each cabinet. In a word, I wish to make it
20 clear that there was no political basis upon which the
21 alleged conspiracy could have been formed, and I be-
22 lieve that one of the most important questions in
23 determining whether there was a conspiracy or not is
24 this matter of whether any cabinet was overthrown by
25 the pressure of the army. I believe that after the

MITARAI

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1 witness has given his testimony, this point will be
2 still more apparent.

3 THE PRESIDENT: Well, we allow you to continue
4 to question the witness on the assumption that he will
5 adduce facts as well as opinions and that we will be
6 able to select the facts if we so wish and disregard
7 the opinions. We are not yet clear as to the material-
8 ity of what you propose to adduce. The objections are
9 overruled. Mr. Smith, no doubt, does not want his
10 exception now.

11 BY MR. S. OKAMOTO (Continued):

12 Q (Continuing) Mr. Witness, please answer.

13 A The TANAKA Cabinet had committed many polit-
14 ical blunders besides being guilty of political cor-
15 ruption and was already rather shaky when, in 1928,
16 Chang Tso Lin was killed by a bomb explosion in Man-
17 churia.

18 Correction: The TANAKA Cabinet committed a
19 serious blunder in trying to dispose of this Chang
20 Tso Lin incident. The statement which the TANAKA
21 Cabinet made at the time of its resignation made it
22 clear that it resigned because it felt it had not ful-
23 filled its responsibilities towards the Emperor.

24 Q When did the HAMAGUCHI Cabinet fall?

25 A In April, 1931.

MITARAI

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Q Please tell us the reasons for its downfall.

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A On November 17 of the previous year Premier HAMAGUCHI was shot by one, SAGOYA, Tomeo, a member of the Aikokusha. His wounds becoming more serious, by April he was unable to discharge his duties as Premier and, therefore, resigned.

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Q Were military or naval men connected with SAGOYA's act?

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A After an inquiry into SAGOYA's motives as well as his background, made by the Court which was trying him at the time, it was found that he acted solely on his own because of anger at the result of the London Naval Conference and that no military or naval officers were connected in any way with this act.

15

16

Q When did the next cabinet, the WAKATSUKI Cabinet fall?

17

A December, 1931.

18

Q Please tell us the reasons for this fall.

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A The WAKATSUKI Cabinet was a continuation of the HAMAGUCHI Cabinet and continued the policies of the previous cabinet; but, by the end of the year its policies were coming to a complete standstill, both domestic and external.

24

THE MONITOR: Foreign.

25

A (Continuing) Thereupon, Home Minister ADACHI

MITARAI

DIRECT

1 proposed a coalition cabinet with the Seiyukai, but
2 all the other cabinet members opposed such a move.
3 The Seiyukai was then the opposition party. There-
4 upon, the cabinet was forced to resign because of
5 internal dissension. This course is clearly set forth
6 in the statement which the cabinet gave out upon its
7 resignation.

8 Q Tell us about the INUKAI Cabinet -- the next
9 cabinet and its downfall.

10 A The INUKAI Cabinet fell in May, 1932.

11 Q What are the reasons for its fall?

12 A Premier INUKAI was assassinated on the 15th
13 of May in an incident which was provoked by the out-
14 break of a few naval officers, military cadets and young
15 farmers.

16 THE MONITOR: And this incident is known as
17 "5-15 Incident."

18 Q Was there any connection between this inci-
19 dent and the superior -- higher strata of the army
20 or the navy?

21 A The highest ranking officer among them was
22 a lieutenant, senior grade.

23 Q As the result of investigations conducted by
24 army and navy court martials, it was established that
25 there were no higher officers -- there were no other

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1 co-conspirators connected with them.

2 Correction on the previous statement: As
3 a result of investigations conducted by military and
4 naval court martials as well as ordinary courts --

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1 THE PRESIDENT: A colleague suggests
2 shortening the cross-examination by asking one ques-
3 tion: Did any cabinets fall because of military
4 pressure; if so, which?

5 THE WITNESS: Should I answer now?

6 THE PRESIDENT: Yes.

7 THE WITNESS: I believe that I am supposed
8 to answer questions by the counsel. I have not yet
9 received a direct question from the President. Should
10 I answer?

11 THE PRESIDENT: I expected counsel to ask
12 you. The question is not mine; it is that of a
13 colleague. But I will put it.

14 Did any of the cabinets fall through military
15 pressure? If so, which cabinets were they?

16 THE WITNESS: May I inquire whether, by
17 "military pressure" is meant by direct military action
18 or by political pressure brought to bear by the army?

19 THE PRESIDENT: No such refinement is
20 intended. Were the military responsible for the down-
21 fall of any cabinet, no matter what means they
22 employed? We don't suggest direct violent assault.

23 THE WITNESS: There is no cabinet which fell
24 directly as the result of political pressure brought
25 to bear upon it by the army. But there are cabinets,

MITARAI

DIRECT

1 as I have just stated, which fell not as the result
2 of action by the army, but as the result of action by
3 military or by naval personnel.

4 THE PRESIDENT: What cabinets were they, and
5 what were the circumstances?

6 THE WITNESS: The INUKAI Cabinet is one
7 example, and it fell as the result of action by
8 military and naval men.

9 Correction: It fell because the Prime Minister
10 was assassinated by the action of military and naval
11 men.

12 Later, the OKADA Cabinet also fell because of
13 the action of military and naval men. However, I
14 would like to point out that there is a distinct dif-
15 ference between the action of the army and between that
16 of individual military or naval men.

17 Even though a few servicemen should commit
18 a certain action, it does not necessarily follow that
19 that was the action of the army or the navy as a whole.
20

21 I believe I have answered the President's
22 question.

23 THE PRESIDENT: That will do for the time
24 being.

25 Q Please tell us the time and the circumstances
of the downfall of the SAITO Cabinet.

MITARAI

DIRECT

1 A It was in July of 1934.

2 THE PRESIDENT: Well, you are not adopting
3 my colleague's suggestion. You are still going on
4 to asking about each cabinet. Subject to any objections,
5 you may do so.

6 Q There were certain members of the cabinet,
7 the SAITO Cabinet, as well as those in high government
8 posts, who were concerned in a scandal and were pub-
9 licly indicted.

10 MR. TAVENNER: If your Honor please, it is
11 quite apparent from the answer that this matter is
12 entirely irrelevant to the issues involved, and for
13 that reason I make the additional objection.

14 THE PRESIDENT: Well, I have a question to
15 ask you. Will the prosecution make clear what cabinets
16 they say fell because of the action of the accused
17 in carrying out their alleged offenses?
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1 MR. TAVENNER: The WAKATSUKI Cabinet fell,
2 according to the testimony of that individual, as the
3 result of army pressure.

4 The testimony introduced in regard to the
5 INUKAI Cabinet is that there was extreme military
6 pressure due to the position that that cabinet took
7 in opposition to the military aims in Manchuria.

8 The evidence that the prosecution has intro-
9 duced in regard to the HIROTA Cabinet shows the
10 existence of a political difference between the army
11 and the political parties based primarily upon the
12 army's views toward expansion in China.

13 The prosecution's evidence shows that military
14 influence was used in the HIRANUMA Cabinet to accom-
15 plish the purposes of the army or else bring about
16 the fall of the cabinet.

17 As to the YONAI Cabinet, the prosecution's
18 evidence shows that there was criticism on the part
19 of the army based upon its view that the YONAI Cabinet
20 was not strong enough to put over the military alliance
21 with Germany and Italy, and for that reason a new
22 cabinet should be formed.

23 The fall of the Third KONOYE Cabinet in Octo-
24 ber 1941 was influenced by the decisions of the War
25 Minister. In addition to those matters there have been

MITARAI

DIRECT

1 numerous instances shown in evidence in which the army
2 influenced the constitution of new cabinets through
3 the principle of requiring the recommendation of the
4 three military chiefs before a War Minister could be
5 appointed. A striking illustration of that is the
6 failure of UGAKI to be able to establish a cabinet
7 to succeed that of HIROTA's.

8 THE PRESIDENT: That is very helpful, Mr.
9 Tavenner. Cross-examination should be confined to
10 those matters referred to by Mr. Tavenner. I mean
11 examination in chief. I made a mistake in using the
12 term cross-examination; examination in chief.

13 Mr. Smith.

14 MR. SMITH: On behalf of Mr. HIROTA, if the
15 Court please, I want to take an exception to the undue
16 interference of the Tribunal with the ordinary examina-
17 tion of the witness.

18 THE PRESIDENT: Will you repeat what Mr.
19 Smith said? I was reading a note from a colleague,
20 and I always give those notes priority. I could not
21 listen to Mr. Smith and read that.

22 (Whereupon, the statement by
23 Mr. Smith was read by the official court
24 reporter.)

25 THE PRESIDENT: You will use respectful terms

MITARAI

DIRECT

1 here, Mr. Smith. You will not speak of undue inter-
2 ference by the Tribunal. You will withdraw that
3 or you will leave this Court as counsel; and you will
4 apologize.

5 MR. SMITH: I would like to explain to the
6 Tribunal I have been trying cases for twenty years
7 and using that language--

8 THE PRESIDENT: You will withdraw that offen-
9 sive expression "undue interference by the Tribunal."
10 I will not listen to another word from you until you
11 do. And you will apologize for using the expression,
12 and if you fail to do so I shall submit to my col-
13 leagues that they cancel your authority to appear for
14 the accused.

15 You can always submit that the Court should
16 allow counsel to proceed as he proposed, but you are
17 not authorized to use offensive expressions to the
18 Court in making your submission. That is the differ-
19 ence.

20 MR. SMITH: I had no intention of offending
21 the Court or using offensive language, and I do not
22 understand the nature of the impertinence to which
23 your Honor refers.

24 THE PRESIDENT: I ask you again to withdraw
25

MITAKAI

DIRECT

1 the offensive expression "undue interference by the
2 Tribunal."

3 MR. SMITH: Well, I decline to do that, your
4 Honor.

5 THE PRESIDENT: The Court will recess to
6 consider the position. We will recess for fifteen
7 minutes.

8 (Whereupon, at 1025 a recess
9 was taken until 1100, after which the pro-
10 ceedings were resumed as follows:)

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

3 THE PRESIDENT: Mr. Smith.

4 The Tribunal has decided to exclude Mr.
5 Smith from all further proceedings before it until
6 such time as a full withdrawal of the remarks which
7 the Tribunal considers offensive and an apology for
8 making them is tendered to the Tribunal by him.

9 MR. SMITH: May I say to your Honor, most
10 respectfully, I have no intention of changing my
11 position and see no reason to change it, so I will
12 assume I have been permanently excluded from defend-
13 ing Mr. HIROTA in this trial; and I would like an
14 exception on behalf of my client if it is the last
15 one I am permitted to take in this case.

16 THE PRESIDENT: The accused HIROTA is ably
17 defended by Japanese counsel and maybe by other
18 American counsel; I am not sure. Nothing has
19 happened except that we shall no longer have the
20 assistance of Mr. Smith.

21 Doctor UZAWA.

22 DR. UZAWA: We have received the Court's
23 decision, your Honor. We Japanese counsel have
24 nothing to add or to say with respect to the
25 decision just handed down by the President. As for

MIRATAI

1 us, we have done our best all through this trial to
2 cooperate with the proceedings, and now this unex-
3 pected incident has occurred. Inasmuch as this ques-
4 tion of Mr. Smith has arisen quite suddenly, and
5 inasmuch as we Japanese counsel have to consider
6 the important matter of carrying out our duties as
7 counsel for the accused, we would like to request
8 the Court for a brief recess in order that we may be
9 permitted to confer among ourselves as to our
10 future course.

11 THE PRESIDENT: Your future course is not
12 affected by the individual conduct of any single
13 counsel. The use of an offensive expression by
14 an American counsel or a Japanese counsel can have
15 no proper bearing on the conduct of other counsel
16 except as a warning to others who are likely to
17 offend similarly, and there are none such. The only
18 question now is whether accused HIROTA decides to
19 have American counsel in the place of Mr. Smith.
20 If he does we shall do all in our power to assist
21 him to get that American counsel.

22 Will you please tell me, Doctor UZAWA,
23 why Japanese counsel want to confer about this
24 matter?

25 DR. UZAWA: It is difficult for we Japanese

MIRATAI

1 counsel to speak of such a thing, but, in our feel-
2 ing, it seems as if there have been more restric-
3 tions placed upon the defense case than was in the
4 case of the prosecution in presenting evidence.

5 THE PRESIDENT: Mr. Smith could have made
6 his submissions in respectful language. He could
7 have withdrawn the offensive language and apologized,
8 and he would have been here now. No restrictions
9 have been placed on Japanese defense counsel other
10 than those required for a proper trial.

11 I put the point clearly so you will be
12 under no misapprehension. The question for you to
13 decide is whether you Japanese counsel desire this
14 Court to be insulted or whether you do not. This
15 Court was insulted by Mr. Smith. He made no apology
16 for the insult, and you apparently suggest that
17 Japanese counsel might support him in his conduct.
18 Mr. Smith could be here at this minute if he with-
19 drew his language -- if he withdrew his remark and
20 apologized for it. Do not try to confound the issue.

21 DR. UZAWA: I understand, your Honor. I
22 have no idea whatsoever of trying to confound the
23 issue. As to the Tribunal, we Japanese counsel
24 only hold the deepest respect, and Japanese counsel
25 must have the highest respect for this Tribunal.

MIRATAI

1 THE PRESIDENT: There is no occasion for
2 any adjournment at this moment to enable Japanese
3 counsel to confer. We will proceed with the trial.

4 DR. UZAWA: Then, we shall consult among
5 each other during the regular recess, and I presume
6 that there might be something to report to this
7 Court as a result of such consultation.

8 THE PRESIDENT: There is no occasion to
9 report anything. We would like to know now whether
10 the accused HIROTA desires American counsel. His
11 Japanese counsel can come to the lectern and tell
12 us that.

13 DR. UZAWA: There are some points, your
14 Honor, which require consultation among Japanese
15 counsel, and whether we have anything to report to
16 your Honor as a result of it or not I don't know.
17 However, inasmuch as I do not desire to take up
18 this Court's time, I shall leave this lectern. I
19 reserve the right, however, to report.

20 MR. HANAI: Counsel HANAI for the accused
21 HIROTA.

22 THE PRESIDENT: Do you speak English?

23 MR. HANAI: I can.

24 THE PRESIDENT: Do you understand it at all?
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Mr. HANAI: I do a little.

You have just spoken, your Honor, with respect to whether or not the accused HIROTA desires an American counsel. Inasmuch as this development was rather sudden, I have not had the opportunity of asking the accused HIROTA, to get his ideas or desires on the matter. There are two associate Japanese counsel cooperating with me in the defense of the accused, and we should like to confer among each other as quickly as possible and let the Court know of our desire.

THE PRESIDENT: Well, pending your coming to a decision, the trial will proceed, and the defense of the accused HIROTA will be in capable Japanese hands.

MIRATAI

DIRECT

1 MR. BROOKS: Mr. President, Members of the
2 Tribunal, I would like for just two or three minutes
3 to express a view on the situation that is before
4 the Court and I think will solve the situation
5 entirely if a study of the record is made. In the
6 first place, a close study of the record will show
7 that Mr. Smith did not make an objection to the
8 Court.

9 THE PRESIDENT: This is out of order. We
10 cannot hear you on Mr. Smith's case.

11 Will Mr. OKAMOTO please come to the lectern
12 and continue his examination in chief?

13 MR. BROOKS: I want to make this on my own
14 behalf because it deals with exceptions, taking of
15 exceptions in rhetorical language and I think that
16 is a misunderstanding before the Court.

17 THE PRESIDENT: Your conduct is not in
18 question, and I will not hear another word from you
19 of this kind. When your conduct comes in question,
20 and I hope it never will, Captain Brooks, we shall
21 deal with it.

22 MR. BROOKS: May I ask the Court then to
23 be heard in Chambers on this matter for an explanation?
24

25 THE PRESIDENT: That is a proper attitude which
I appreciate.

MIRATAI

DIRECT

1 MR. LOGAN: Mr. President, may I as American
2 Chairman of Division One make a few statements with
3 respect to the testimony of this witness, why we are
4 asking the questions we are.

5 THE PRESIDENT: Mr. Logan, I may assure
6 you that we are going to allow Mr. OKAMOTO to proceed
7 as he intended.

8 MR. LOGAN: Thank you.

9 THE PRESIDENT: That is to say, to deal with
10 all the cabinets individually.

11 MR. S. OKAMOTO: Mr. President, I have certain
12 doubts about the proceedings that have just occurred
13 and I should like to put a question about them. The
14 Prosecutor came before this lectern and presented an
15 objection as to the causes of the SAITO Cabinet's
16 downfall. I believe that my explanation as to that
17 matter has not yet been heard.

18 THE PRESIDENT: I just announced, and you
19 apparently did not hear it, that we are not going
20 to interfere with your examination in chief. So
21 proceed to question the witness as you intended;
22 that is to say, deal with all the cabinets, if you
23 wish, specifically.

24 MR. S. OKAMOTO: At this time, in order to
25 enable the Tribunal to understand more fully, I should

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1 like to present the purpose of my interrogation;
2 that is, its relevancy.

3 THE PRESIDENT: I invite you to state it.
4 I have done so before. I invite you to do so.

5 MR. S. OKAMOTO: As the prosecution has
6 said --

7 THE MONITOR: No.

8 MR. S. OKAMOTO: I shall explain all the
9 reasons for the downfall of all sixteen cabinets
10 not only as the prosecution has stated, those who
11 fell because of pressure from the military, and this
12 will help make clear the internal situation in Japan.
13 Then, after having examined in chief, I shall make an
14 explanation as to relevancy. I have changed my
15 manner of proceeding on the desires of my colleagues.
16

17 Please read the record on what the witness
18 has said about the causes of the downfall of the
19 SAITO Cabinet.

20 THE INTERPRETER: The Japanese reporter has
21 changed.

22 THE JAPANESE COURT REPORTER: If it is
23 necessary, we shall call the one who took the report.

24 THE PRESIDENT: I understand from Lord
25 Patrick that what he said was this: Some public
officials and some members of the Cabinet were indicted

MIRATAI

DIRECT

1 for scandal in office.

2 BY MR. S. OKAMOTO (Continued):

3 Q Does that cover all your answer?

4 A No, I have more to say.

5 Q Please continue.

6 THE WITNESS: Before continuing I have a
7 request to make of the President. May I be permitted
8 to say a few words, sir?

9 THE PRESIDENT: Just answer questions.
10 Answer a question when I put it. At present I have
11 not put one. Have you anything to add about your
12 evidence as to the indictments for scandal in office
13 of cabinet ministers in the SAITO Government?

14 THE WITNESS: Yes, I have a few words to
15 add, but before doing so I would like to make a few
16 remarks by way of explanation if I may be permitted
17 to say so.

18 THE PRESIDENT: Make your explanation follow
19 your answer. That is always allowed.

20 THE WITNESS: Yes, it is relevant, sir.

21 With respect to my statement the prosecution
22 argued and gave the impression as if there were some
23 falsehood with respect to my statements in connection
24 with the WAKATSUKI Cabinet. The prosecution said in
25 refuting my statement with respect to the cause of

MIRATAI

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1 the fall of the WAKATSUKI Cabinet by saying that
2 Baron WAKATSUKI, himself, in this Court in his testi-
3 mony said that the downfall was caused as a result
4 of the Manchurian Incident. I do not know about Baron
5 WAKATSUKI's testimony before this Tribunal, but my
6 statements are based upon official documents and facts.
7 Hence, any remark to the effect that I was -- or
8 creating the impression that I was telling a false-
9 hood reflects upon my honor. If necessary, and if
10 permitted, your Honor, I should be very glad to read
11 the statement expressing -- the official statement
12 expressing the reason for the fall of the WAKATSUKI
13 Cabinet issued by that Cabinet at the time of its
14 resignation.

15 THE PRESIDENT: We invite you to read it.
16 It should be most helpful.

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1 THE WITNESS: (Reading)

2 "Home Minister ADACHI had different opinions
3 and views with respect to the organization of the Cabinet
4 and proposed that the then Cabinet in cooperation --
5 that the party then in power should cooperate with
6 another party in order to meet the situation. After
7 deep consideration and thorough consideration of ADACHI's
8 proposal I came to the conclusion that this was
9 impossible of realization. I brought this matter
10 before the full Cabinet council for discussion and
11 all Cabinet members agreed with me with the exception
12 of Home Minister ADACHI. Hence, Home Minister ADACHI
13 was asked to reflect upon his position, to reconsider
14 his position, but he would not consent. There was no
15 alternative before the Cabinet except to ask Mr. ADACHI
16 to resign, but because Mr. ADACHI refused to resign or
17 to submit his resignation, and it being impossible to
18 meet the situation under such circumstances, the Cabinet
19 had no alternative but to resign. Thus the individual
20 resignations of the Cabinet members has been collected
21 and has been tendered before His Majesty."

22 This is a statement giving the reasons for the
23 fall of the Cabinet presided over by Baron "AKATSUKI
24 himself as Prime Minister, giving the reason for the
25 resignation en bloc of the Cabinet and which were published

MITARAI

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1 before the Japanese nation. So long as this statement is
2 not a falsehood I state emphatically that my statement
3 before this Court is based upon truth. However, the
4 remark made by the prosecution a little while ago,
5 gave the impression that I was telling a falsehood.
6 Inasmuch as I have appeared before this Tribunal and
7 swore -- and took an oath before this Tribunal to tell
8 the whole truth and nothing but the truth, such state-
9 ments reflects upon my honor and I should like to leave
10 this matter in the good judgment of the President of
11 the Tribunal.

12 THE PRESIDENT: I have nothing to add. Please
13 proceed to question him.

14 Q Please tell me the time and the reasons for
15 the fall of the OKADA Cabinet.

16 A To add a few more words with respect to the cause
17 of the fall of the SAITO Cabinet, I must say that because
18 the events which took place in his time were of a nature
19 that I have described the SAITO Cabinet itself did not
20 announce publicly the reason why it fell. However,
21 the members of the Cabinet Press Club were asked or
22 instructed by the various newspapers to inquire into the
23 true reason for the resignation of the SAITO Cabinet,
24 and in the statement giving the reasons for the real --
25 the real reasons for the resignation of the SAITO Cabinet,

MITARAI

DIRECT

1 the Chief Secretary of the Cabinet stated as I have
2 already described to this Tribunal.

3 Q Then, explain to us the time and reasons
4 for the fall of the OKADA Cabinet.

5 A If my memory serves me right the OKADA
6 Cabinet resigned officially on the 8th of March, 1936,
7 but the real date of its fall was February 26 of that
8 year.

9 Q The reasons then.

10 A 20 some odd young army officers falsely
11 leading men under their command, started a rebellion.

12 THE MONITOR: A thousand men -- about a thousand
13 men.

14 A (Continuing): For several days this rebellion
15 created quite a commotion and confusion in the City
16 of Tokyo. The OKADA Cabinet fell taking the respon-
17 sibility for this uprising.

18 Q Is there any connection between the acts of
19 these young officers and the upper circles of the Navy
20 and the Army?

21 A The highest ranking officer who took part
22 in this uprising was an army captain and the fact that
23 there were no connections whatsoever between these officers
24 and higher levels in the army or navy was later made
25 clear at courts martial and other trials which were

MITARAI

DIRECT

1 held subsequently. I must point out especially
2 that one army general was suspected for having--for
3 complicity in this incident, but after a full trial
4 it was discovered that he had no connection whatsoever
5 with the actions of these younger officers.

6 Q What is the name of that general?

7 A MAZAKI, Jinzaburo.

8 Q Please tell us the date and the reasons for
9 the fall of the HIROTA Cabinet?

10 A The Cabinet fell in January, 1937. To give
11 the reason: A very violent debate took place in the
12 House of Representatives between a member of the House
13 of Representatives and the War Minister. As a result
14 of this heated debate, a strong conflict in opposition
15 was created between the Government and the Diet. There
16 were members of the Cabinet who were in favor of dissolution
17 of the Cabinet -- dissolution of the Diet, and some
18 in opposition of such a measure and the Cabinet was
19 forced to resign because of disunity of views within
20 the Cabinet.

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1 Q Who was this member of the House of
2 Representatives?

3 A HAMADA, Kunimatsu of the Seiyukai political
4 party.

5 Q Who was the Minister of War at the time?

6 A TERAUCHI, Juichi.

7 Q Next tell us when the HAYASHI cabinet fell.

8 A June 1937.

9 Q Please tell us the reasons for its fall.

10 A The HAYASHI cabinet succeeded in passing the
11 budget and other important bills through the Diet
12 through cooperation with the various parties repre-
13 sented in the House of Representatives. However, on
14 the last day of the Diet the cabinet ordered a dis-
15 solution of the Diet. As a result of this move on
16 the part of the government the strong opposition grew
17 up between the government and the Diet, and as a result
18 of the general election which followed, out of 466
19 seats in the Diet the opposition took over 400 seats.

20 THE MONITOR: 400 and ten odd seats.

21 Thus the opposition party just before the
22 convening of the next session of the Diet held a mass
23 rally calling for the resignation en bloc of the
24 HAYASHI government. That event took place on the
25 25th of May and the cabinet tendered its official

MITARAI

DIRECT

1 resignation on the 31st of May. The cabinet clearly
2 indicated that reason in its statement made public
3 with regard to its resignation.

4 Q Please tell us next the date and the reasons
5 for the fall of the first KONOYE cabinet.

6 A It fell in January 1939. As to the reason
7 for the resignation of the first KONOYE cabinet, I
8 refer to the statement issued by the cabinet announcing
9 its resignation. That statement said that in order to
10 meet the new situation there must be installed a new
11 cabinet with new ideas and new concepts, and with
12 such renovation to meet the newly developing situation.
13 I think that the cause of the KONOYE cabinet's downfall--
14 resignation--was as expressed in its statement.

15 Q Can you give us some more details, such as
16 its policy, as not having been able to carry out its
17 policy?

18 A That is a little difficult but I might also
19 include in my explanation what he personally told us
20 as members of the press with respect to his reasons
21 for resigning. The China Incident at that time showed
22 every tendency of being protracted and one of the im-
23 portant issues confronting the nation and the government
24 then was to bring about a speedy conclusion. Another
25 reason was that a proposal was presented by the German

MITARAI

DIRECT

1 government to Japan with regard to the reinforcement
2 of the Anti-Comintern Pact and in the light of the
3 changing international situation there was the prob-
4 lem of settling this proposal in the light of the
5 changing international situation, and it was KONOYE's
6 view at that time that in order to handle this situa-
7 tion a new cabinet composed of new men with new ideas
8 and with new strength should take over.

9 Q When did the HIRANUMA cabinet fall?

10 A I think it was July 1939; it may have been
11 August. My memory is not quite sure.

12 Q Please tell us the reasons therefor.

13 A The reason for its resignation is clearly
14 expressed in the statement issued by that cabinet at
15 the time of its resignation. According to that state-
16 ment HIRANUMA stated that he was resigning because of
17 the changing European diplomatic situation which has
18 become exceedingly complex, strange and perplexing,
19 and that he was unable to foresee that his government --
20 that his government was unable to foresee these develop-
21 ments and therefore had no excuse to offer to His
22 Majesty and therefore decided to resign.

23 Q Have you got this declaration with you?

24 A I have.

25 Q Can you read it to us, to be more precise

MITARAI

DIRECT

1 about this matter?

2 A "Because of the conclusion of the German-
3 Soviet non-aggression pact, the situation in the
4 European world has become extremely strange, complex
5 and perplexing. In view of this sudden -- of this
6 new development we will have to abandon some of the
7 plans that we had been following, and we have come
8 to the point where another new policy must be adopted.
9 This new development has been quite different and
10 contrary to what I have hitherto been reporting to
11 His Majesty, the Emperor, and I have caused great
12 concern to the mind of His Majesty. I cannot but
13 feel trepidation for the anxiety I have caused His
14 Majesty in the light of my responsibility to
15 assist His Majesty in government. Therefore, for
16 me to remain in office under such a situation and
17 condition any longer would invite the criticism that
18 I am, as a subject of His Majesty, basking in the
19 Imperial graces."

20 Q Next, when did the ABE cabinet fall?

21 A January 1940.

22 THE PRESIDENT: We will recess until half-
23 past one.

24 (Whereupon, at 1200, a recess was
25 taken.)

AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330, Justice Delfin Jaranilla, Member from the Common-
5 wealth of the Philippines, not sitting.

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

9 THE PRESIDENT: Mr. OKAMOTO.

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10
11 T A T S U O M I T A R A I, recalled as a witness
12 on behalf of the defense, resumed the stand
13 and testified through Japanese interpreters as
14 follows:

DIRECT EXAMINATION

15
16 BY MR. S. OKAMOTO (Continued):

17 Q When did the ABE Cabinet resign, Mr. Witness?

18 A January, 1940.

19 Q What was the reason for its resignation?

20 A According to the statement issued by the
21 cabinet, in view of the serious situation, it feared
22 that it was unable to prosecute the national policy.
23 To elaborate on the meaning of the reason given by
24 the cabinet at the time of its resignation, I would
25 express it this way:

MITARAI

DIRECT

1 Because of the repeated failures in the
2 prosecution of various national policies, the ABE
3 Cabinet invited the anger and indignation of the
4 members of the House of Representatives. On the
5 first day of the session of the Diet, over 280 mem-
6 bers of the House of Representatives met in the Diet
7 Building and passed a resolution to the effect that
8 the Cabinet should make up its mind and resign. And,
9 therefore, it is interpreted that the ABE Cabinet re-
10 signed because it did not see any prospects of weather-
11 ing the session of the House of Representatives har-
12 moniously and smoothly.

13 Q When did the YONAI Cabinet fall?

14 A August, 1940.

15 Q What was the reason for its collapse?

16 A According to the statement issued by that
17 cabinet at the time of its resignation, it was be-
18 cause the Minister of War submitted his resignation
19 from the cabinet.

20 Q When did the second KONOYE Cabinet resign?

21 A July, 1941.

22 Q What was the reason of its resignation?

23 A According to the statement issued by the
24 cabinet, the KONOYE Cabinet resigned because, in view
25 of the new situation then confronting the nation, and

MITARAI

DIRECT

1 in view of the necessity for the country to pursue an
2 active diplomatic policy, it was necessary to bring
3 about a reinforcement of the internal national struc-
4 ture and at the same time to renovate and strengthen
5 the government organization. By a study of the situa-
6 tion prevailing before and after the resignation of
7 the cabinet, this can be said: that, in order to render
8 smooth and effective Japan's negotiations with the
9 United States, it was necessary for the KONOYE
10 Cabinet to bring about the resignation of the then
11 Foreign Minister, Mr. MATSUOKA, Yosuke and, in order
12 to do so, to effect a reorganization, a reshuffle of
13 the cabinet.

14 Q How was it when the TOJO Cabinet fell?

15 THE MONITOR: When was it that the TOJO
16 Cabinet fell?

17 A August, 1944. The statement issued by the
18 cabinet at the time of its resignation was rather
19 long, but the gist of it was to the effect that, in
20 view of the decisive war situation which the nation
21 was then confronting, it was necessary for the cabinet
22 to strengthen its cabinet personnel. But, in view of
23 the fact that the TOJO Cabinet failed to effect this
24 reinforcement, it chose to resign.

25 The factual background which describes the

MITARAI

DIRECT

1 circumstances leading to the fall of the TOJO Cabinet
2 may be put thusly:

3 The military situation was then very much
4 unfavorable to Japan, and the public sentiment had
5 been alienated from the TOJO Government. In the light
6 of these facts, over twenty leading members of the
7 Imperial Rule Political Assistance -- Assistance
8 Political Society, who were members of the House of
9 Representatives, submitted a resolution demanding the
10 resignation of the TOJO Cabinet to the Lord Keeper of
11 the Privy Seal. Simultaneously, a large number of
12 members of the Imperial Rule Assistance Political
13 Society in the Diet also passed a resolution to the
14 same effect expressing non-confidence in the TOJO
15 Cabinet.

16 I might point out the fact that this resolu-
17 tion was tendered to General ABE, President of the
18 Imperial Rule Assistance Political Society, and to
19 the Prime Minister, General TOJO.

20 Q I overlooked the third cabinet -- KONOYE
21 Cabinet which preceded the TOJO Cabinet. When did
22 the third KONOYE Cabinet collapse and what was the
23 cause of its collapse?
24

25 A That was in October, 1941. According to the
cabinet announcement issued at the time of the resig-

MITARAI

DIRECT

1 nation, in order to surmount the critical national
2 situation, there was not a unity of views within the
3 cabinet. If necessary, I should be very glad to read
4 the statement of that cabinet.

5 Q I shall not require you to do so.

6 When did the KOISO Cabinet resign?

7 A That was in April, 1944 -- '45.

8 Q What was the cause?

9 A According to its announcement, in view of
10 the very decisive war stage on which the country had
11 entered upon, an even stronger cabinet was necessary
12 to handle the situation.

13 Q In accordance with a wish expressed by one
14 of my colleagues, I should like you to read the
15 statement issued by the third KONOYE Cabinet at the
16 time of its resignation.

17 MR. TAVENNER: I merely desire to call to
18 the Tribunal's attention that that has been read in
19 evidence as a prosecution's exhibit. My only purpose
20 in objecting is that it is in evidence once and that
21 it is a needless repetition. The exhibit No. is 1152.

22 MR. S. OKAMOTO: In order to impress upon the
23 Court accurate facts, I should like to read it with
24 the permission of the Court at this opportunity.

25 THE MONITOR: I should like to have the

MITARAI

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witness read it.

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THE PRESIDENT: There is no need to do it.

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We do not want to hear it twice. Objection upheld.

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1 Q Now, Mr. Witness, can you classify in simple
2 words reasons for which those sixteen cabinets fell,
3 the reasons of the fall of those sixteen cabinets of
4 which you have testified?

5 THE PRESIDENT: There is no need for that
6 either.

7 MR. S. OKAMOTO: I conclude my leading exam-
8 ination now. I should like to explain to the Court
9 at this opportunity my idea about the relevancy of
10 this testimony. Then I should like to have Mr. Logan
11 who is in charge of the first phase to add some words
12 about that matter.

13 THE PRESIDENT: You have said enough about
14 it. I don't know what Mr. Logan has to say. He may
15 have something useful to add.

16 MR. S. OKAMOTO: I don't think I have said
17 enough about the question of relevancy myself.

18 THE PRESIDENT: I beg to differ from you.
19 We will hear Mr. Logan.

20 MR. LOGAN: I have nothing to say, your
21 Honor. It was taken care of.

22 MR. S. OKAMOTO: This is all I have to say,
23 and the prosecution may cross-examine the witness.
24 Perhaps one of the defense counsel may be permitted
25 to cross-examine him before the prosecution.

MITARAI

CROSS

THE MONITOR: To examine him.

1 THE PRESIDENT: I don't think he said anything
2 hostile to the defense or any defendant.

3 Mr. Tavenner.
4

5
6 CROSS-EXAMINATION

7 BY MR. TAVENNER:

8 Q Mr. MITARAI, I understand that you have
9 specialized in the study of political history and
10 that you have written articles on the inside story of
11 political circles, is that correct?

12 A Yes.

13 Q In your testimony regarding the WAKATSUKI
14 Cabinet were you endeavoring to testify regarding
15 the inside story of political circles or were you
16 merely confining your testimony to the official declar-
17 ation of the cabinet at the time of its fall?

18 A Both.

19 Q You have stated that the cabinet fell because
20 of a disagreement regarding a coalition in the cabinet
21 or the formation of a coalition cabinet. Is that all
22 you have to state as to the cause of the fall of the
23 WAKATSUKI Cabinet?

24 A With respect to certain developments, they
25 may arise out of one cause and they may arise out of

MITARAI

CROSS

1 many causes, and it is normal that a cabinet would
2 decide upon its own fate because of various -- an
3 accumulation of various reasons, indirect reasons and
4 also direct reasons.

5 Q Are you intending to state that there are
6 reasons other than the one assigned by you for the fall
7 of the WAKATSUKI Cabinet?

8 A No. The reason is that the fall of the
9 WAKATSUKI Cabinet was brought about -- the reason
10 which I stated as bringing about the fall of the
11 WAKATSUKI Cabinet was the direct and foremost reason.

12 Q Will you state what other reason occurs to
13 you as to why the cabinet fell?

14 A It is going to take quite a long time. Will
15 that be all right?

16 Q Can you state briefly the subject of any
17 other cause without going into details?

18 A I will try. First of all, the personnel
19 matters in the cabinet had come to a dead end.
20 Secondly, the economic policy of the government also
21 was faced -- had come to a dead end. With respect
22 especially to this second reason I might state that
23 the gold reserves in the country had already come --
24 the gold reserves of the country was then almost nil.
25 As a result of this a very serious depression set in;

MITARAI

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1 the people were in lack of food and industries were
2 almost on the point of bankruptcy. The cabinet had
3 come to the point where it had to effect a change in
4 policy. The diplomatic question was also in a serious
5 state following the outbreak of the Manchurian Incident
6 and the cabinet had come to the point where the cabinet
7 alone could not settle the situation then prevailing.
8 There was disunity of views and opinions within the
9 cabinet and even division of opinions within the support-
10 ing party to such an extent that the cabinet under such
11 a situation or under such conditions could not long
12 continue in office -- could no longer continue in
13 office. There were various other reasons which brought
14 about the fall of the WAKATSUKI Cabinet but the fore-
15 most reason is that it had lost its power to survive
16 inasmuch as there was within the cabinet itself opposi-
17 tion to the idea of forming a coalition with the
18 opposition party, and this was the foremost and the
19 most direct cause of the collapse of the WAKATSUKI
20 Cabinet.

21 THE MONITOR: Addition: after the coalition
22 with opposing party as proposed by the Home Minister.

23 Q I notice that you left until the last the
24 naming of the Manchurian Incident as one of the causes
25 for the fall of this cabinet, and you failed to mention

MITARI

CROSS

1 it in your examination in chief. Is that because you
2 feel it is of relative unimportance? Correction:
3 relatively unimportant?

4 A No. My last reason was in my estimation the
5 foremost internal reason which brought about the
6 collapse of the WAKATSUKI Cabinet and it was then
7 thereafter that I mentioned the Manchurian Incident.
8 The fact that I mention one before the other does not
9 mean that it is more important than the other. During
10 the course of the direct examination I didn't mention
11 it because I just gave the final -- the conclusion
12 which -- the final conclusion which brought about the
13 fall of the cabinet of which this was one factor, and
14 the statement from the cabinet, issued at that time,
15 represented the final conclusion of all the factors
16 involved.

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1 Q However, you admit now that the Manchurian
2 Incident was the main cause of the fall of the
3 WAKATSUKI Cabinet? Is that true?

4 MR. LOGAN: If the Tribunal please, we object
5 to that question as it is assuming something that the
6 witness has never testified to.

7 A You have made a very great misinterpretation
8 of my testimony. I do not recall ever having testified
9 to that effect.

10 THE PRESIDENT: He didn't say it was a main
11 cause, Mr. Tavenner.

12 Q Did you contend that it was a principal cause?

13 MR. LOGAN: I object to that, too, your Honor.
14 It is not a question of what the witness has contended.
15 It is a question what he has testified to. And he has
16 made no such contention here.

17 THE PRESIDENT: Don't assume he said things
18 that he didn't say, Mr. Tavenner. Of course, my
19 construction may be wrong, but I don't think he said
20 either of those things.

21 MR. TAVENNER: Possibly I misunderstood the
22 witness' answer. I will now ask him that.

23 Q Do you consider the Manchurian Incident one
24 of the principal causes for the fall of the WAKATSUKI
25 Cabinet?

MITARAI

CROSS

1 A I do not.

2 Q Do you consider that the attempt to form
3 a coalition government arose from the disregarding
4 the Manchurian Incident?

5 A Yes, that might be one of the very minor reasons
6 which brought about the fall of the cabinet. But the
7 foremost, direct cause which brought about the collapse
8 of the WAKATSUKI Cabinet was the fact that the nation
9 was on the brink of national bankruptcy and the
10 situation then required a complete change in economic
11 policy.

12 Q Then, according to your view, the Manchurian
13 Incident was merely a minor -- had merely a minor
14 influence upon the fall of the cabinet?

15 A Yes.

16 Q I will read you what Mr. WAKATSUKI testified
17 to in this court, as found in exhibit 162, on that
18 point, and I will ask you whether or not you agree with
19 his statement. Referring to September 1931, this
20 statement is made:

21 "At this time it was the unanimous sense of
22 the Cabinet that these operations in Manchuria must
23 cease immediately and the aforesaid War Minister
24 MINAMI agreed to put this Cabinet policy into effect
25 with the Army at once. . . . I tried everything I

MITARAI

CROSS

1 could think of in an effort to control this situation
2 but without success. My last move was to try to form
3 a coalition Cabinet with the Seiyukai Party, hoping
4 that with the combined strength of the Monseito and
5 Seiyukai Parties I would be able to control the Army
6 in Manchuria but various Cabinet members were unwilling
7 to form such a coalition so this measure failed. . . .
8 Further, the aforesaid War Minister MINAMI had failed
9 to control the Army in Manchuria and had not carried
10 out the unanimous policy of the Cabinet in this matter,
11 therefore, I resigned as Prime Minister and my Cabinet
12 with me."

13 Do you agree with that statement?

14 A I do not.

15 Q Do you know whether Minister ADACHI was
16 connected with army groups and was using his influence
17 in this cabinet for the promotion of the army views?

18 A To the extent I know of this whole situation,
19 there was not any such effect.

20 Q Let me read you what Mr. KIDO, in his diary
21 item of November 17, 1931, says on that subject. I
22 read from page 16. This is not in evidence, but the
23 prosecution proposes to have it reproduced and served
24 upon counsel. Its present use is for cross-examination.
25

THE PRESIDENT: This question arose at

MITARAI

CROSS

1 Nuernberg, and if you are not allowed to do it your
2 surprise will be defeated in some cases.

3 MR. LOGAN: We object to the use of this
4 diary, your Honor. Do you wish me to state the grounds
5 for it?

6 THE PRESIDENT: Yes.

7 MR. LOGAN: In the first place, this is a
8 document which is not in evidence before the Court;
9 and, furthermore, I don't think it would have any
10 probative value whatsoever for the prosecution to
11 produce statements and declarations by other people
12 and ask this witness whether or not he agrees with them.
13 I think they should be confined to what is in evidence
14 already.

15 I might also point out, at that time Marquis
16 KIDO was not a member of any cabinet, and, furthermore,
17 it is an attempt of the prosecution to get something
18 into evidence on our case which they failed to do on
19 theirs.
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CROSS

1 MR. TAVENNER: We submit the defense has
2 announced a most unusual rule governing cross-
3 examination.

4 THE PRESIDENT: We allowed the defense to do
5 this.

6 MR. TAVENNER: Yes.

7 THE PRESIDENT: And there is no reason why
8 you should disclose everything that you intend to
9 cross-examine about. If you do that, as I have already
10 said and as they indicated at Nuernberg, the advantage
11 of surprise will be lost. And surprise frequently
12 plays a big part in effective cross-examination.

13 MR. LOGAN: May I also state, if the Tribunal
14 please, that before the defense were permitted to do
15 what the prosecution is intending to do here we had to
16 process our document and serve it before we were per-
17 mitted to use it.

18 THE PRESIDENT: Well, I do not think that
19 applied to Pu-Yi's letter, among other documents, did
20 it?

21 MR. TAVENNER: Certainly the defense will
22 recall that they examined on those documents first
23 and processed them later just as I have suggested
24 doing in this instance.

25 THE PRESIDENT: Major Furness.

MITARAI

CROSS

1 MR. FURNESS: If the Court please, I think
2 I can speak on authority for this because I remember
3 very well submitting certain messages to Baron
4 SHIDEHARA and the Court excluding them because I had
5 not served copies upon the prosecution. I later got
6 them into evidence after having processed the required
7 number of copies and having made the proper transla-
8 tions, and they were admitted, as I remember, upon
9 that basis, and admission refused before that was done.
10 I was not even allowed to read it or show it to the
11 witness prior to that being done.

12 I believe that the record will show that
13 Mr. Comyns Carr objected on the ground that I was
14 trying to introduce evidence on the prosecution's case
15 without having complied with the rules requiring num-
16 bers of copies and translations.

17 MR. TAVENNER: Baron SHIDEHARA was one of the
18 first witnesses in the trial of the case. It may be
19 that rule was followed at that time. It is certain
20 that the rule was changed later when we arrived at
21 the testimony relating to Henry Pu-Yi.

22 THE PRESIDENT: We did not change any rule,
23 I am sure of that.

24 We acknowledged the element of surprise.

25 MR. LOGAN: That Pu-Yi situation is entirely

MITARAI

CROSS

1 different, your Honor. There the witness was being
2 confronted with a document which it was alleged that
3 he himself had signed. That had nothing to do with
4 this situation.

5 THE PRESIDENT: Well, I am reminded in the
6 case of Baron SHIDEHARA there was an attempt to get
7 in substantive evidence, and later there was an attempt
8 to refresh the witness' memory. But here this could be
9 used by way of surprise as was Pu-Yi's letter. We
10 admitted Pu Yi's letter under the same circumstances
11 as exist here.

12 The objection is overruled.

13 BY MR. TAVENNER (Continued):

14 Q Reading from KIDO's Diary: "ADACHI has the
15 confidence of a group of army men, and has been in
16 constant contact with the army. It was reported at
17 the cabinet meeting that ADACHI acted as mediator
18 when the Foreign Minister demanded an explanation on
19 the matter of the Korean expedition from the army."

20 Mr. MITARAI, do you still contend that ADACHI
21 had no connection with the army group?

22 MR. LOGAN: If the Tribunal please, may I
23 also be permitted to point this out: Apparently this
24 is another one of those scanned, rough translations
25 that the prosecution is using. It has not been

MITARAI

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1 submitted to us or to the language section. We do not
2 know if this is exactly what Marquis KIDO said in his
3 diary. It is just complicating the entire procedure.

4 I should think, your Honor, with the exper-
5 ience we have had with the large, large number of
6 excerpts from KIDO's Diary the prosecution used which
7 had to be referred to the language section, and which
8 came back here with entirely different meanings than
9 what the prosecution presented, that they should be
10 prohibited from taking this course on cross-examination.

11 THE PRESIDENT: Well, I can only assume, or
12 we can only assume that that is a correct translation
13 until the contrary is indicated. The defense have had
14 no opportunity of testing it, of course. However,
15 let him answer the question.

16 A I know that Home Minister ADACHI had friendly
17 relations with individual army men, or military men.
18 That is not limited to Home Minister ADACHI alone;
19 other members of the cabinet also had friendly rela-
20 tions with some members of the military services.

21 Your question, Mr. Prosecutor, was whether
22 it seemed to imply that he was a member of some army
23 group or clique, that ADACHI had some relation with
24 some army clique or group; is there anything mentioned
25 in the diary to that effect?

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THE PRESIDENT: Just answer questions, please.

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Do not ask them.

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Q Do you state that there were other members
of the ministry who had the confidence of army groups?

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A I do not understand what you mean by group,
army groups, or cliques.

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1 Q You understand at this time that the army
2 in Manchuria was refusing to obey the dictates of the
3 cabinet, do you not?

4 A It is not my understanding that the cabinet
5 is empowered to give orders to armies in the field.

6 Q You understand then that War Minister
7 MINAMI was under no obligation to carry out the
8 directions of the cabinet with relation to the move-
9 ments of the army in Manchuria?

10 A I think he had the obligation of transmitting
11 the cabinet decision to the proper competent army
12 branch -- branch of the army -- to carry out the
13 policy. This is outside of my special field and so
14 I should not like to be pressed on this matter, but
15 it is the common knowledge of Japanese that the army
16 in the field is under the command of the supreme
17 command and is outside of the jurisdiction of the
18 government.

19 Q Mr. MITARAI, I believe you read into
20 evidence a part of the declaration made by the
21 cabinet at the time of its dissolution or resignation.
22 Will you produce it for our examination?

23 A If permitted by the President of the Tribunal
24 I shall be glad to present this document.
25

MR. TAVENNER: I ask for the production of

MITARAI

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1 the document from which the witness read for our
2 examination.

3 THE PRESIDENT: A Member of the Court
4 thought this morning that should have been done.
5 Let him produce it, but until the prosecution
6 questions these things, we do not.

7 MR. TAVENNER: Yes.

8 Mr. Witness, the Tribunal has ruled that
9 we are entitled to see the document from which you
10 read.

11 (Whereupon, the witness produced
12 a document.)

13 Q I would now like to ask you a few questions
14 regarding the INUKAI cabinet. You spoke of the
15 cabinet coming to an end because of the murder of
16 the Prime Minister. You have not told us anything
17 of the attitude of the Prime Minister toward the army
18 proceedings in Manchuria or the Manchurian Incident.
19 Was the army opposed to Prime Minister INUKAI?

20 A That point has never been cleared; that
21 point has never been made clear.

22 Q Do you not know that the Prime Minister was
23 opposed to the extension of the Manchurian Incident
24 and was in favor of having the Japanese army withdraw
25 from Manchuria?

MITARAI

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1 A I do.

2 Q Did you also know that for several months
3 after the Manchurian Incident took place the Prime
4 Minister recommended to the Emperor that the army
5 be withdrawn from Manchuria by an Imperial Rescript?

6 A Yes, I know of that as a report but not as
7 a fact.

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1 Q And did you also know that it was the
2 policy of the Prime Minister to oppose the recogni-
3 tion of the puppet state of Manchukuo, and that he
4 considered such recognition a violation of the
5 sovereignty of China?

6 A That I do not know. However, I am aware
7 of the fact that Prime Minister INUKAI, long before
8 the outbreak of the Manchurian Incident, had been a
9 strong advocate of a policy of respect for China's
10 sovereignty and territorial integrity.

11 Q Did you know that the Prime Minister sent
12 a secret delegate or delegation to Nanking to talk
13 with General Chiang Kai-shek with a view to settling
14 that problem?

15 A Of course I know of that as reported by
16 persons connected with the matter, but I do not know
17 it as an official fact.

18 Q Did you know that it was the policy of the
19 INUKAI Cabinet to reduce the army budget?

20 A I do not think that such a situation existed.

21 Q Did you know that one week prior to the
22 assassination of the Premier that he delivered an
23 anti-militaristic speech at Yokohama?

24 A I do not.

25 Q Are you prepared to state without reservation

MITARAI

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1 that in your opinion the INUKAI Cabinet was opposed
2 to the army plans in Manchuria and the Manchurian
3 Incident?

4 A The manner in which that question is put
5 makes it extremely difficult for me to reply, but
6 I can say that the INUKAI Cabinet was not necessarily
7 opposed to the Manchurian Incident.

8 THE PRESIDENT: Mr. Tavenner, have you
9 many more documents upon which you propose to cross-
10 examine and which have not been processed and served?

11 MR. TAVENNER: It would be very difficult
12 to anticipate what may happen in the future as to
13 other witnesses, but I can say that we have no other
14 document in mind at the moment. As to this particular
15 document, we did not determine upon its use until in
16 the middle of the examination in chief of the present
17 witness.

18 THE PRESIDENT: We will recess for fifteen
19 minutes.

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21 (Whereupon, at 1445, a recess was
22 taken until 1500, after which the proceed-
23 ings were resumed as follows:)

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

3 MR. LOGAN: If the Tribunal please, may we
4 have that page of KIDO's Diary which the prosecu-
5 tion read marked for identification?

6 THE PRESIDENT: The whole diary is in and
7 marked for identification.

8 MR. LOGAN: But the diary is in Japanese.
9 This is in English.

10 THE PRESIDENT: Well, the English version
11 should be tendered and marked for identification.
12 It has been read into this transcript as it appears
13 in the paper in your hand, Mr. Tavenner.

14 MR. TAVENNER: I have in my hand a copy
15 of what I read. The original has been sent to our
16 processing room for processing and distribution.
17 It is agreed that we submit the copy in my hands to
18 be marked for identification.

19 CLERK OF THE COURT: Prosecution document
20 not numbered entitled "Additional notes to the 1931
21 Diary of Marquis KIDO" will receive exhibit No. 2345
22 for identification only.

23 (Whereupon, the document above referred to
24 was marked defense exhibit No. 2345 for identi-
25 fication.)

MITARAI

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1 CROSS-EXAMINATION BY MR. TAVENNER (Continued):

2 Q Mr. MITARAI, I will now ask you a few
3 questions regarding the HIROTA Cabinet.

4 You testified in chief that the resignation
5 of the Cabinet occurred because of a disagreement
6 regarding dissolution of the Diet. Is that a
7 correct statement of your testimony?

8 A You are correct.

9 Q Did you state the cause of the disagreement
10 regarding the dissolution of the Diet?

11 A No, I have not stated the cause.

12 Q Do you know the cause?

13 A Not -- I do not know well.

14 Q You do not know well?

15 A All that I do know is that on the one hand
16 there were cabinet ministers who were in favor of
17 a Diet dissolution and another group opposed to
18 Diet dissolution.

19 Q Your investigation of the inside story of
20 political circles did not extend, then, to an
21 inquiry regarding the cause of the fall of the
22 HIROTA Cabinet?

23 A Yes, there are various reports, but I do
24 not have the confidence in speaking of these under
25

MITARAI

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1 an oath.

2 Q Do you recall a speech made by War Minister
3 TERAUCHI on the day after his resignation from the
4 cabinet?

5 A I do not know of a speech, but I know that
6 a statement was issued as War Minister. It was
7 printed and distributed.

8 Q Before I ask you any questions regarding
9 that, I would like to ask if you did not make the
10 statement in your examination in chief that a vio-
11 lent debate had occurred in the Diet.

12 A I stated that there was a violent debate
13 in the Diet, but because there was no question, I
14 did not say that a War Minister's statement was
15 issued the day after the resignation.

16 Q I am asking you now about the debate in the
17 Diet and not the statement with regard to resigna-
18 tion by the War Minister. Who was the person named
19 by you who took the lead in the debate?

20 A The debate took place between member of
21 the Lower House HOMADA Kunimatsu and War Minister
22 TERAUCHI.

23 Q In your opinion did HOMADA's speech have
24 anything to do with the question of the dissolution
25 of the Diet?

MITARAI

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1 A Yes, of course.

2 Q Did it have anything to do with the
3 resignation of the Cabinet?

4 A Inasmuch as the Cabinet resigned as a result
5 of that incident, it at least is one of the main
6 causes which brought about the fall of the Cabinet.

7 Q What was the character of the debate which
8 caused this Cabinet crisis?

9 A Do you mean the contents of the speeches?

10 Q No, merely the subject matter.

11 A It was a debate which took place around
12 the question -- the proposition that a very dictator-
13 ial type of thought had recently come to prevail.

14 Q A dictatorial type of thought by what
15 group?

16 A I just have heard on two or three occa-
17 sions the word "group." I do not understand that
18 meaning very clearly.

19 Q Was it not a charge that the Army group
20 was acting in a dictatorial way and depriving the
21 people of their constitutional rights?

22 A It is a fact that a debate to that effect
23 actually took place. However, such words cannot be
24 found in the speech made by representative HOMADA.
25

MITARAI

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1 Q Do you recall whether War Minister TERAUCHI
2 in assigning the reasons for his resignation from the
3 Cabinet referred to the declarations made by the
4 political parties before the opening of the Diet
5 session?

6 A Yes, I do. I do recall it.

7 Q Do you recall the nature of that declaration
8 by the Seyukai Party made on the 20th of January, 1937?

9 A I do not remember in detail. I remember,
10 of course, in general, remember that declaration in
11 general.

12 Q Do you recall that they complained about a
13 Japan-German Pact that had been negotiated?

14 A I do not have such a recollection.

15 Q Do you recall that they complained that the
16 government had formulated many plans dogmatically
17 concluding that a semi-wartime organization is
18 necessary?

19 A Of course, such expression could have a
20 multitude of interpretations, but the word "emergency",
21 as it was then called, was not favorably accepted by
22 the political parties.

23 Q Do you recall that the political party
24 asserted that it expected to clarify these matters
25 in the Diet that was about to convene?

MITARAI

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1 A Yes.

2 Q Do you also recall that on the following
3 day, January 21st, that the Army issued a statement
4 in reply to the party declaration?

5 A I do not recall positively, but I feel
6 that there was.

7 Q Let me read to you a part of prosecution's
8 exhibit 2208.

9 "Has not a positive wholesale administrative
10 reform aimed at the existence and expansion of our
11 people with the Empire as the stabilizing power of
12 East Asia always been the very cry of our one hundred
13 million compatriots? Would not the abandonment of
14 a positive policy imply being cramped up within
15 insular Japan? Could we thereby ever fulfil the
16 Heaven-ordained mission of the YAMAMOTO race?"

17 Does that refresh your recollection?

18 A That is too much to ask. I could not posi-
19 tively remember such details.

20 Q I continue to read: "What was expected to
21 come has come. That is the collision between the
22 advocates of the status quo and the advocates of
23 the destruction of the status quo. Japan stands now
24 at the turning point where she should realize a posi-
25 tive all out administrative policy in order to overcome

MITARAI

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1 the present difficulties and tide over the existing
2 international crisis."

3 Does that not convey the meaning to you
4 that opposition existed toward the Army's plans
5 in China?

6 A It seems that you have quoted from an
7 announcement issued by the Army. Now official docu-
8 ments are written in a certain rhetorical form, and
9 if I am permitted to see the original, then perhaps
10 I might be able to recall. It is impossible for me
11 to refresh my memory on the basis of those words as
12 given through translation.

13 Q I was not asking to refresh your memory.
14 I was asking you if the language I read did not
15 mean to you that there was opposition to the Army's
16 plan in China?

17 MR. LOGAN: Since the witness has requested
18 the document, your Honor, may we have it referred to
19 him?

20 THE PRESIDENT: He says he needs the original
21 Japanese. Let him see it.

22 MR. TAVENNER: It will be necessary to call
23 upon the Clerk to produce it. It will be exhibit
24 2208.

25 THE PRESIDENT: And you did ask him whether

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1 it refreshed his memory, Mr. Tavenner.

2 Who wrote what you read?

3 MR. TAVENNER: What I read is taken from
4 Details Regarding Movements of Rightist Bodies in
5 Connection with Change of Government, Police Section,
6 Police Bureau, Home Ministry, entitled "Views
7 Expressed by Army Authorities."

8 THE PRESIDENT: Unless you are pressing for
9 an answer, we need not get that original.

10 He did not write the article.

11 BY MR. TAVENNER (Continued):

12 Q The dispute that existed between the
13 political parties in the Army, would you say was
14 the basis for the disagreement regarding the disso-
15 lution of the Diet?

16 A I cannot irresponsibly say that there was
17 opposition between the Army and the political parties
18 because there were many different views and opinions
19 within and among the political parties and the Army
20 was on its part in no position to give expression
21 to its political views.

22 Q Is it not a fact that the political views
23 of the Army were expressed frequently by the War
24 Minister?

25 A Yes.

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1 Q Did the War Minister express the view that
2 the Diet should be dissolved -- that the Cabinet --
3 correction -- that the Cabinet should be resigned
4 because of the disagreement over the dissolution of
5 the Diet?

6 A I don't know anything definitely as to the
7 meeting of the Cabinet Council, but it is a fact that
8 the War Minister favored the dissolution of the Diet.
9 I also understand that there were other ministers beside
10 the War Minister who advocated dissolution of the Diet.

11 Q After the dissolution of the Diet, did the War
12 Minister TERAUCHI continue to influence the -- correction --
13 did he influence the formation of a new Cabinet?

14 I would like to reframe that question.

15 After the resignation of the Cabinet, did War
16 Minister TERAUCHI influence the formation of a new
17 Cabinet?

18 MR. LOGAN: I object to that, if the Tribunal
19 please, on the ground that it is beyond the scope of
20 the direct examination and this witness has only testified
21 as to the fall of cabinets. He has not testified as
22 to the formation of new ones and we propose to show
23 that by other evidence.

24 MR. TAVENNER: If your Honor please, it cannot
25 well be a fall of the Cabinet without an arrangement

MITARAI

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1 for a new Cabinet and vice versa. It is all one and
2 the same problem.

3 MR. LOGAN: The propositions are entirely
4 different, your Honor, and we seek to treat them
5 differently in the presentation of our case, and this
6 witness has not testified to the formation of new
7 cabinets or the lack of any influence by any person
8 charged in this Indictment with respect to the formation
9 of new cabinets.

10 THE PRESIDENT: The factors that destroy one
11 cabinet generally produce the next.

12 MR. LOGAN: That is quite true, if the Tribunal
13 please, and necessarily there has to be a new cabinet,
14 but the factors in the formation of a new cabinet
15 involve facts and evidence entirely different than what
16 this witness has testified to. He hasn't said a word
17 about the formation of new cabinets. His entire
18 testimony has been directed to the fall of the old ones.

19 As I said before, we will produce other evidence
20 with respect to the formation of new cabinets. We didn't
21 intend to go into that subject with this witness.

22 MR. TAVENNER: May I --

23 THE PRESIDENT: The majority of the Court
24 think the question should be allowed. The objection
25 is overruled.

MITARAI

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1 Q Will you answer the question, please?

2 A It can be said as a fact that TERAUCHI, as
3 War Minister, has influenced -- has shown his influence
4 in the formation of the succeeding cabinet to a certain
5 extent.

6 Q You would say then that the War Minister both
7 influenced the fall of one cabinet and the creation
8 of its successor.

9 A Yes.

10 Q In what way did he influence the creation of
11 the succeeding cabinet?

12 MR. LOGAN: I must again object, if the Tribunal
13 please. This is entirely beyond the scope of this
14 witness' direct examination. It is going into a new
15 subject, a new field entirely.

16 THE PRESIDENT: The decision on the last
17 question covers this. Objection overruled.

18 Q Please answer the question.

19 A Yes, it is a fact that he exercised influence
20 both in the fall of the Cabinet and in the formation of
21 the succeeding one.

22 Q My last question was: In what manner did he
23 influence the creation or formation of the succeeding
24 Cabinet?

25 A In line with custom, the Government asked the

MITARAI

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1 War Minister in office to recommend his successor, and,
2 in the light of the situation then prevailing in the
3 Army, the War Minister would make his recommendation.
4 In that sense, he has influenced the formation of the
5 Cabinet.

6 Q Describe what the War Minister did to influence
7 the Cabinet in that regard.

8 MR. LOGAN: He has already answered that question,
9 your Honor. He said he recommended a successor.

10 THE PRESIDENT: Is that all he did?

11 THE WITNESS: It was a customary act for
12 War Ministers to recommend his successor and TERAUCHI
13 merely followed that custom in recommending his successor.

14 Q Who did he recommend?

15 A I cannot recall offhand. It was after the
16 next Cabinet -- would be the HAYASHI Cabinet, and the
17 next War Minister would be -- but I cannot recall off-
18 hand.

19 Q As a matter of fact, do you not know that
20 General UGAKI was given the Imperial Mandate on the
21 24th day of January to form a new cabinet?

22 MR. LOGAN: If the Tribunal please, that is
23 a different matter. He is talking about a War Minister
24 that he recommended as his successor. UGAKI now is the
25 one who was put up as Prime Minister. It is not the

MITARAI

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1 same situation.

2 THE PRESIDENT: It bears on cabinet breaking
3 and cabinet making. The objection is overruled.

4 MR. TAVENNER: I had not completed my question,
5 your Honor. Possibly, for the sake of clearness, I
6 should repeat it.

7 Q Is it not a fact that General UGAKI received
8 the Imperial Mandate on the 24th day of January to form
9 a new cabinet and that War Minister TERAUCHI, when
10 requested by General UGAKI to make a recommendation
11 to fill the post of Foreign Minister, did not do so --
12 of War Minister -- did not do so?

13 A In my understanding, the War Minister requested
14 War Minister TERAUCHI to recommend his successor and
15 that War -- and that the War Minister had negotiated
16 within the Army to find such a successor, but nobody
17 would respond to the invitation. That is my understanding
18 of the situation. The fact is not that War Minister
19 TERAUCHI refused the Prime Minister Designate's request,
20 but that there were no candidates who would accept the
21 post. That is the fact.

22 THE MONITOR: The first word, "War Minister,"
23 should be corrected to read "Prime Minister Designate."

24 Q And did not the War Minister TERAUCHI also
25 take the position that all other army men would refuse

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likewise?

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A That I have not heard.

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Q This failure to recommend a successor to the
 1 War Minister blocked General UGAKI's efforts to form
 2 a cabinet and resulted in the giving of an Imperial
 3 mandate to an entirely different person; isn't that
 4 true?

5 A Yes.

6 Q Was the accused UMEZU the Vice Minister of
 7 War in the HIROTA Cabinet?

8 A He was.

9 Q What position did he take in influencing the
 10 making of the new Cabinet?

11 A In my understanding, that he acted as a sub-
 12 ordinate to the War Minister by orders of the War Min-
 13 ister.

14 Q Do you recall that on the 27th of January
 15 1937 he made a public statement in regard to General
 16 UGAKI?

17 A Who do you mean by "he"?

18 Q General UMEZU.

19 A I do not remember.

20 Q Let me see if I can refresh your recollection
 21 on that, reading from exhibit 2208 of the prosecution.
 22 THE PRESIDENT: That exhibit is in Court now.
 23 You may use it if you so desire.
 24
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MITARAI

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1 BY MR. TAVENNER:

2 Q In a talk by General UMEZU on the 27th of
3 January this statement was made: "Rumor is circulating
4 among the public that General UGAKI is persistently
5 trying to continue the work of cabinet formation, even
6 by resorting to drastic measures, and because of this
7 the nation is feeling great unrest". Does that re-
8 fresh your collection in any way?

9 A No, I have no recollection, but if I may be
10 permitted to say a word on that, even if there was such
11 a statement issued that would be by orders of the War
12 Minister, because the Vice Minister had no power or
13 authority to do that on his own; he would be doing
14 that by order of the War Minister. Under the system
15 prevailing he could not act on his own.

16 Q Then you state that the remarks made by the
17 accused UMEZU were made at the direction of the then
18 War Minister?

19 A If the statement as quoted by you is true I
20 would presume that such a statement was issued, but I
21 would not be able to say positively unless I knew
22 what was in that statement, either before or after,
23 or before and after the statement just quoted. Cer-
24 tainly the Vice Minister could not act on his own; he
25 would be following instructions. I could not say defi-

MITARAI

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1 nitely the nature of that statement unless I knew the
2 text in the original.

3 Q I now desire to ask you a few questions re-
4 garding the HIRANUMA Cabinet. I believe you read in
5 evidence the declaration, or part of the declaration
6 made at the time of the resignation of the HIRANUMA
7 Cabinet. Will you please produce it for our inspection?

8 A I shall be very glad to produce it if the
9 President gives his permission.

10 THE PRESIDENT: Produce it.

11 (Whereupon witness produces a paper).

12 MR. LOGAN: The prosecution having called for
13 its production may we have it marked for identification?

14 THE PRESIDENT: It is to be marked for identi-
15 fication only.

16 MR. TAVENNER: I call for the production of
17 the document only for the purpose of inspection. I
18 have not tendered it in evidence or even tendered it
19 for identification. That was done by the **defense**.

20 CLERK OF THE COURT: The document, being a
21 page in Japanese hand-writing will be marked exhibit
22 No. 2346 for identification only.

23 (Whereupon, the document above re-
24 ferred to was marked defense exhibit No. 2346
25 for identification.)

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1 BY MR. TAVENNER:

2 Q In your examination in chief you stated that
3 the HIRANUMA Cabinet resigned because of the compli-
4 cated European situation. What complication were you
5 referring to?

6 A Such words as "complicated" or "complex" was
7 not used by me. They were words used by the HIRANUMA
8 Cabinet at the time of its resignation.

9 Q Your only testimony then as to the cause of
10 the fall of the HIRANUMA Cabinet was the official statement
11 made by the HIRANUMA Cabinet at the time of its re-
12 signation; is that correct?

13 A Yes. I testified on the basis of that state-
14 ment.

15 THE PRESIDENT: We will adjourn until half
16 past nine to-morrow morning.

17 (Whereupon, at 1600, an adjourn-
18 ment was taken until Thursday, 6 March 1947,
19 at 0930.)

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