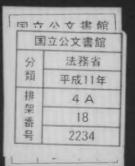


極東国際軍事裁判速記錄

(英文)

第2.616頁から 第2.947頁まで

町和21年7月29日から 昭和21年7月31日まで



法務大臣官房司法法制調查部 1969

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Monday, 29 July, 1946

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

The Tribunal met, pursuant to adjournment, at

9 0930.

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

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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session and ready to hear any matter brought before it.

THE PRESIDENT: Until I announce otherwise, it is to be taken that at the commencement of each session all the accused are present except OKAWA, and that OKAWA is represented by counsel.

Does any counsel desire to mention any matter?

MR. UZAWA: Mr. President, if the Court

please, Dr. TAKAYANAGI, chief defense counsel for the

defendant SHIGEMITSU, Mamoru, has resigned, and Mr.

YANAI, Tsuneo has taken his place.

The chief defense counsel for the defendant SUZUKI, Teiichi, counsel HASEGAWA, has resigned and his associate, Dr. TAKAYANAGI has taken his place.

MR. SUTTON: May it please the Tribunal, the prosecution desires to call as its next witness Hsu, G. J., a citizen of the Republic of China, who has some knowledge of the English language but desires to testify in his native language, Chinese.

THE PRESIDENT: Mr. Levin.

MR. LEVIN: Mr. President, would'nt it be wise, and I suggest the advisability of first examining the witness in English and see if he can testify satisfactorily in the English language. If he cannot, then he

might proceed in Chinese.

THE PRESIDENT: We think that he should be examined in his own language if he wishes.

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G. J. H S U, called as a witness on behalf of the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

MR. SUTTON: May it please the Tribunal, we desire to offer International Prosecution document 2118, and ask that it be marked as an exhibit in this case.

DEPUTY CLERK OF THE COURT: Prosecution docu-

ment No. 2778 will receive exhibit No. 209.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 209 for identification.)

BY MR. SUTTON:

- Q What is your name?
- A My name is Hsu -Chieh-chun.
- Q Where do you live?
- A I am living at No. 473 Kiangse Road, Shanghai.
- Q You have before you exhibit No. 209. Will you please state whether or not you signed that paper?

THE PRESIDENT: Well, he did not have it before him, did he? Better ask him again.

(Whereupon, a document was handed to the witness.)

Q You have before you exhibit No. 209. Will you

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| please | state | whether | or | not | you | signed | that | paper |

- Yes, they were signed by me.
- Are the facts stated therein true and correct?
- They were all true.

MR. SUFTON: I desire tocread the paper into the record.

THE PRESIDENT: Better tender it first. It is only for identification so far.

MR. SUTTON: We offer in evidence exhibit No. 209 and ask to be allowed to read it into the record.

THE PRESIDENT: Admitted.

(Whereupon, prosecution's exhibit

No. 209 was received in evidence.)

MR. SUTTON: (Reading)

"I, G. J. Esu, a citizen of the Republic of China now residing at Shanghai, China, make the following statement:

"I am thirty-three years old and I am General Manager of the Oriental Development Corporation. The principal office of this corporation was formerly at Kumming in Yunnan Province. I have been connected with this company, which deals with textiles, since 1938. I was in Yunnan Province from 1939 until February, 1946, except for a portion of this time that I was in Burma.

"In May, 1942, I was traveling on the Burma-Yunnan highway when a bridge was bombed, stopping treffic. Over 300 vehicles, trucks and cars, most of them filled with Chinese refugees from Burma, could not get across the Salween River. This group dispersed and tried to cross at other points. I was with a group of about seventy, all civilians. The Japanese troops seized this group, and had them sit down in rows and took from each of us our watches, pens and money. They took from me my fountain pen and over 20,000 rupees.

The Japanese officers divided us into two groups, about half, something over thirty, in each group. One group was marched off into the mountains. The remainder of us were required to remain seated beside the river. We were seated almost in a circle. A Japanese officer ordered a machine gun to be placed at the opening in the circle, and open fire on our group. I bent forward on the ground just as the firing started and remained motionless. The men on either side of me were killed and their bodies fell on me. Their blood was on my clothes. I remained among their bodies from around noon until about six o'clock in the evening. Some Chinese civilians who

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to carry loads came through and I joined these laborers. About thrity civilians of our group were killed. There were two other survivors beside myself who joined the same group of laborers, and began working with them carrying lumber and taking it to the river bank and doing other work during that night, and the next day I saw over 1,000 bodies, mostly civilians, along the road. I carried water from the river up to the officers quarters the next day. The Chinese soldiers' bodies appeared to have been stabbed with bayonets. The bodies of the civilians were usually in rows or groups. They had been shot.

"In the afternoon of that day I saw four Japanese soldiers take two women into the hills and when the women came back they were both crying. They told me that they had been raped.

"On the third day I managed to escape along with some local men who knew the roads in that vicinity.

"In witness whereof I have herewith set my hand and seal this 18th day of June 1946."

(Signed) "G. J. Hsu."

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MR. SUTTON: Defense may cross-examine the witness. MR. BROOKS: No cross-examination, if the Court please. (Whereupon, the witness was excused.) MR. SUTTON: The prosecution desires to call as its next witness, Dr. M. S. Bates.

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MINER SEARLE BATES, called as a witness on behalf of the prosecution, being first
duly sworn, testified as follows:
DIRECT EXAMINATION

BY MR. SUTTON:

- Q Dr. Bates, will you please state your full name?
 - A Miner Searle Bates.
 - Q When and where were you born?
 - A At Newark, Ohio; May 28, 1897.
 - Q Where did you receive your education?
- A At Hiram College, Hiram, Ohio; at Oxford University in England; and in later years graduate work in history at Yale and Harvard universities.
 - Q Where is your residence?
 - A At Nanking, China.
 - Q How long have you been a resident of China?
 - A Since 1920.
 - Q What is your business in China?
 - A Professor of history in the University of

Nanking.

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- Q Were you connected with any of the committees which were organized in the late fall of 1937 at Nanking?
- A Yes. I was a member, a founding member, of the International Committee for Safety Zone in Nanking.

Q Will you please tell when this committee was forrud, and its function?

A This committee was set up in the last days of November, 1937, anticipating the attack of the Japanese Army upon Nanking.

Following the example of the international committee organized by Father Jacquinot, a French priest in Shanghai, which was of considerable help to a large body of Chinese civilians there, we attempted in Nanking to do something similar in our very different conditions.

This committee was organized at first with a Danish chairman, with German, British, and American members. But because foreign governments withdrew almost all of their nationals from the city, there were at the time of the Japanese attack only Germans and Americans remaining upon it.

The chairman was a distinguished German merchant, Mr. John Raabe. This committee was assisted to
get into touch with the Chinese and Japanese commanding
officers through the communications and good officers of
the American, German, and British embassies. The
purpose was to provide a refuge in a small, noncombatant zone where civilians might escape the dangers
of the fighting and actual attack.

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Q Who was the secretary of this committee? A Professor Lewis Smythe, professor of sociology

Q Did this committee make reports from time to time?

A The committee expected that its chief duties would be to provide housing and if necessary some food during a period of a few days or possibly of a few weeks when the city was under siege and when Chinese civilian authority might have disappeared but Japanese military authority would not yet have been established.

The actual event was very different, because the Japanese attack and seizure of the city was swift. But then the troubles began. The treatment of civilians was so bad that the chairman and secretary of the committee went regularly to any Japanese officials who could be reached and soon began to prepare daily reports of the serious injuries to civilians that occurred within the safety zone. Over a period of several weeks a total of several hundred cases, many of them compound cases, involving groups and large numbers of individuals, were thus reported in writing and orally to Japanese officials. They were later published under the editorship of Professor Shu-hsi Hsu, of Nanking University, by the British firm of Kelly and Walsh, in Shanghai, in

the year 1939 or 1940.

Q By whom were most of these reports in writing that were made -- change the question. Just disregard the question. I will change it, please.

Whose signature appeared to most of these reports that were made in writing by the International Committee for the Nanking Safety Zone to the Japanese authorities?

A Most of them were signed by Professor Smythe, as Secretary, though part of them were also signed by Mr. Raabe, as Chairman.

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Q Was there any resistance on the part of the Chinese troops or any resistance on the part of the Chinese people against the Japanese forces in the city of Nanking after December 13, 1937?

A Greatly to the disappointment of the Chinese population, and to the surprise of the small group of foreign residents, there was no resistance of any kind within the city. In the many conferences which Mr. Raabe, Professor Smythe, and I had with Japanese officials on the matter of atrocities, we found that the Japanese officials never in any way alleged that there was resistance or gave any such excuse for the attacks upon civilians. One case only, about ten days after the entrance in the city, involved a single sailor on the river.

Q Did you conclude your answer?

A The answer to that question?

MR. McManus: Mr. President, Members of the Tribunal, may I point out at this time that, in lieu of an objection to this testimony, that — to call the Court's attention that no conspiracy has been established as yet. Not one of these accused has been tied in in any way to a conspiracy charge so far. So, in view of that, if your Honor pleases, how do these atrocity stories affect the accused? I ask your

Honors, should not here me facie can that the trial. there is evidence spiracy point, i

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Honors, and I think that such testimony as this should not be permitted until the time that one of these men -- or at least a semblance of a primafacie case is established.

THE PRESIDENT: We are all of the opinion that the link can be established at any stage of the trial. Of course, if it isn't established, why, there is no case in conspiracy. But the order of evidence isn't that you must give evidence of a conspiracy first.

We have already given a decision on this point, if my recollection serves me rightly.

MR. McMANUS: Thank you, your Honor.

THE PRESIDENT: The objection is overruled.

Q What was the conduct of the Japanese soldiers toward the civilians after the Japanese were in control of the city of Nanking?

A The question is so big, I don't know where to begin. I can only say that I, myself, observed a whole series of shootings of individual civilians without any provocation or apparent reason whatsoever; that one Chinese was taken from my own house and killed. From my next door neighbor's house two men, who rose up in anxiety when soldiers seized and raped their wives, were taken, shot at the edge of

the pond by my house, and thrown into it. The bodies of civilians lay on the streets and alleys in the vicinity of my own house for many days after the Japanese entry. The total spread of this killing was so extensive that no one can give a complete picture of it. We can only say that we did our best to find out, in checking up carefully upon the safety zone and adjoining areas.

Professor Smythe and I concluded, as a result of our investigations and observations and

Professor Smythe and I concluded, as a result of our investigations and observations and checking of burials, that twelve thousand civilians, men, women and children, were killed inside the walls within our own sure knowledge. There were many others killed within the city outside our knowledge whose numbers we have no way of checking, and also there were large numbers killed immediately outside the city, of civilians. This is quite apart from the killing of tens of thousands of men who were Chinese soldiers or had been Chinese soldiers.

Q What were the circumstances under which the former soldiers or alleged soldiers were killed?

A Large parties of Chinese soldiers laid down their arms, surrendered, immediately outside the walls of the city and there, within the first seventytwo hours, were cut down by machine gun fire, mostly

upon the bank of the Yangtze River.

We of the International Committee hired laborers to carry out the burials of more than thirty thousand of these soldiers. That was done as a work relief project inspected and directed by us. The number of bodies carried away in the river, and the number of bodies buried in other ways, we cannot count.

Within the safety zone a very serious problem was caused by the fact that the Japanese officers expected to find within the city a very large number of Chinese soldiers. When they did not discover the soldiers, they insisted that they were in hiding within the zone and that we were responsible for concealing them. On that theory, Japanese military officers and non-commissioned officers were sent among the refugees in the safety zone day after day for about three weeks attempting to discover and seize former soldiers. It was their common practice to require all able-bodied men in a certain section of the zone, or in a certain refugee camp, to line up for inspection and then to be seized if they had callouses upon their hands or the marks of wearing a hat showing on the skin of the forehead.

I was present throughout several of these

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iately in large groups at the edges of the city.

In some cases a peculiar form of treachery was practiced to persuade men to a dmit that they had been soldiers. Using the proclamation issued by General MATSUI before the Japanese Army took Nanking, and distributed widely by airplane, the proclamation which declared that the Japanese Army had only good will for peaceful citizens of China and would do no harm to those who did not resist the Imperial Army, Japanese officers tried to persuade many Chinese to come forward as voluntary workers for military labor corps. In some cases these Japanese officers urged Chinese men to come forward, saying, "If you have previously been a Chinese soldier, or if you have ever worked as a carrier or laborer in the Chinese

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Army, that will all now be forgotten and forgiven if you will join this labor corps." In that way, in one afternoon, two hundred men were secured from the premises of the University of Nanking and were promptly marched away and executed that evening along with other bodies of men secured from other parts of the safety zone.

Q What was the conduct of the Japanese soldiers toward the women in the city of Nanking?

A That was one of the roughest and saddest parts of the whole picture. Again, in the homes of

A That was one of the roughest and saddest parts of the whole picture. Again, in the homes of my three nearest neighbors, women were raped, including wives of University tenchers. On five different occasions, which I can detail for you if desired, I, myself, came upon soldiers in the act of rape and pulled them a way from the women.

The safety zone case reports, to which we have previously referred, and my own records of what occurred among the thirty thousand refugees on the various grounds and in the building of the University of Nanking, hold a total of many hundreds of cases of rape about which exact details were furnished to the Japanese authorities at the time. One month after the occupation, Mr. Raabe, the Chairman of the International Committee, reported to the German authorities

that he and his colleagues believed that not less than twenty thousand cases of rape had occurred. A little earlier I estimated, very much more cautiously and on the basis of the safety zone reports alone, some eight thousand cases.

Every day and every night there were large numbers of different gangs of soldiers, usually fifteen or twenty in a group, who went about through the city, chiefly in the safety zone because that's where almost all the people were, and went into the houses seeking women. In two cases, which I remember all too clearly because I nearly lost my life in each of them, officers participated in this seizing and raping of women on the University property. The raping was frequent daytime as well as night and occurred along the roadside in many cases.

On the grounds of the Nanking Theological Seminary, under the eyes of one of my own friends, a Chinese woman was raped in rapid succession by seventeen Japanese soldiers. I do not care to repeat the occasional cases of sadistic and abnormal behavior in connection with the raping, but I do want to mention that on the grounds of the University alone a little girl of nine and a grandmother of seventy-six were raped.

Q What was the conduct of the Japanese soldiers with regard to the personal property of Chinese civilians in the City of Nanking?

A From the very hour of entry, the soldiers took anything, at any time, from any place.

THE PRESIDENT: The witness must not hold back anything because he thinks it is too horrible to tell us.

THE WITNESS: I hardly know how to respond to
that invitation; but, unless I am questioned, I believe I
will let it go because my own personal knowledge does not
include great number of the sadistic cases.

In the first days of the occupation the soldiers, whom we roughly guessed to be about fifty thousand in number, took a great deal of bedding, cooking utensils and food from the refugees. Practically every building in the city was entered many, many times by these roving gangs of soldiers throughout the first six or seven weeks of the occupation. In some cases the looting was well organized and systematic, using fleets of army trucks under the direction of officers. The vaults in the banks, including the personal safe deposit boxes of German officials and residents, were cut open with acetylene torches. On one occasion I observed a supply column, two-thirds of a mile long, loaded with

high-grade redwood and blackwood furniture.

After some months a few foreign residents were given the opportunity to recover pianos taken from their own houses, and they were led to a place where more than two hundred pianos were in one storage hall.

The foreign embassies were broken into and suffered robbery, including the German Embassy and the personal property of the Ambassador. Practically all commercial property of any noticeable value was taken.

Q What was the conduct of the Japanese soldiers toward the real estate, the buildings in the City of Nanking after they were in complete control of that city?

A On the very night of the entry the Japanese forces placed adequate and effective guards upon the Sun Yat-Sen tomb and upon the government and party buildings. With the exception of one or two minor fires, apparently started by drunken soldiers, there was no burning until the Japanese troops had been in the city five or six days. Beginning, I believe, on the 19th or 20th of December, burning was carried on regularly for six weeks. In some cases the burning followed the lcating of a line of stores, but in most instances we could not see any reason or pattern in it.

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At no time was there a general conflagration, but the definite firing of certain groups of buildings each day. Sometimes gasoline was used, but more commonly chemical strips, of which I secured samples.

The other major problem in regard to real property was the seizure of private property in order to supply incoming Japanese residents. I leave aside the taking of buildings for military purposes and effices, and refer only to the fact that during 1938 and part of 1939 any Japanese merchant coming to Nanking would receive a commercial and a residential property taken from the Chinese by the gendermerie or the special service. I have again and again seen in the streets outside their house a Chinese family put out on twelve hours'notice. These included some dozens of my own friends of many years.

Q Were the buildings of the Russian Embassy burned by Japanese soldiers?

A Yes, they were burned at the beginning of 1938, Also, just to illustrate the range of burning, the Y. M. C. A. building, two important church buildings, the two chief German commercial properties with the Swastika flying upon them, were among those burned.

Q Did you personally make to the Japanese authorities reports as to the conduct of the soldiers

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in the City of Nanking?

A Yes. On four or five occasions I accompanied Mr. Raabe and Dr. Smythe in their interviews with the officials in the Japanese Embassy, who were sent there by the Gaimusho in an effort to provide cushions between this little group of foreign residents and the Japanese military. Furthermore, because the University of Nanking was immediately adjoining the Japanese Embassy, and because it was a very large and important test case of American property with the American flag, and this large number of refugees, it was agreed between Mr. Raabe and myself that I should make supplementary reports on behalf of the University. Almost daily for the first three weeks I went to the Embassy with a typed report or letter covering the preceding day, and frequently had also a conversation with the officials regarding it. These officials were Mr. T. FUKUI, who had the rank of consul, a certain Mr. TANAKA, viceconsul, Mr. Toyoyasu FUKUDA. The latter is now secretary to the Premier YOSHIDA. These men were honestly trying to do what little they could in a very bad situation, but they themselves were terrified by the military and they could do nothing except forward these communications through Shanghai to Tokyo.

THE PRESIDENT: We recess now for fifteen minutes.

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(Whereupon, at 1045, a recess was taken until 1112, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: Mr. Sutton.

BY MR. SUTTON (Continued):

Q I believe you had not completed your answer to the last question.

A I should like to read a few sentences from these daily typewritten reports given to the officers in the Japanese Embassy. I will do this from my own notes made last month from the carbon copies of the originals. These copies are on file in the American Embassy at Nanking. The originals are in my own baggage which I believe to be on board ship between the United States and China at this time.

MR. MCMANUS: Mr. President, I think the witness is capable of testifying himself without offering any notes, particularly cories. He said he has the originals, are not here, and he is very capable of testifying himself. I don't see why any notes should be offered to the Court.

THE PRESIDENT: Well, if the strict rules of evidence applied, he would have to refresh his memory

if he needed to do so, from notes made at the time.

But they don't apply, and substantially your position is not affected. There is no reason why, if he needs to refresh his memory, he should not use these copied notes that he made from the original. The objection is overruled.

MR. McMANUS: Mr. President, if the witness uses these notes, may we examine them?

THE PRESIDENT: The Tribunal will allow you to peruse the notes if you have any doubt about them.

THE WITNESS: If the Court pleases, my purpose is only to state with a little more accuracy exactly what I reported to the Japanese officers in the Japanese Embassy.

A (Continuing): In the letter of December 16th I complained of many cases of abduction of women from the University's properties and of the rape of thirty women in one University building the previous night.

In the letter of December 17th, besides detailing the specific cases by rote, the reign of terror and brutality continues in the plain view of your buildings and among your own neighbors.

In the letter of December 18th I reported that on the previous night rape had occurred in six different buildings of the University of Nanking. For three days

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and three nights many of the thousands of women on our property had not been able to sleep and, in the hysterical fear that was developing, violent incidents might occur. I reported the saying common among the Chinese that where the Japanese Army is, no house or person is safe.

In a letter of December 21st, I complained that many hundreds of refugees had been taken away for forced labor. My own house had just been looted for the fourth time by Japanese soldiers and, indeed, every University house was being regularly entered. I also reported that for the second time the American flag had been torn down from the American school and trampled by Japanese soldiers who issued a threat of death to anyone who would put up the flag again.

I may say in passing, this was not in this particular letter, that the American flag was torn down six times from the University of Nanking and six times we put it up again.

THE PRESIDENT: That is not evidence of any war crime.

A (Continuing): On Christmas Day I reported that in one building of the University about ten cases per day of rape and abduction were continually occurring.

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On the 27th of December, after a long list of individual cases, I wrote: "Shameful disorder continues and we see no serious efforts to stop it. The soldiers every day injure hundreds of persons most seriously. Does not the Japanese Army care for its reputation."

THE PRESIDENT: He is not refreshing his memory from his notes. He is just reading them.

THE WITNESS: These are sufficient to show the nature of the reports and the way in which they were clearly or even strongly stated.

THE PRUSIDENT: This sort of thing is only provoking the defense which I am saving time by anticipating it.

Q How long did the conduct on the part of the Japanese soldiers which you have detailed continue following the fall of the City of Nanking on December 13th, 1937?

A The terror was intense for two and one-half to three weeks. It was serious to a total of six to seven weeks.

Q What measures did the Japanese military authorities take to control the troops?

A We were assured by the civil officials in the Embassy that on several occasions strong orders

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We saw no significant results of such orders until the coming of some kind of high military deputation about the fifth or sixth of February. At that time, as slightly indicated in the newspapers and more fully by foreign diplomats and by a Japanese friend who accompanied the deputation, I learned that a high military officer called together a large body of lower officers and non-commissioned officers, telling them very severely that they must better their conduct for the sake of the name of the Army.

Prior to that time we saw and heard of no instance of effective discipline or penalty inflicted upon soldiers who were seen by high officers in the very act of murder and rape. On three or four occasions, Mr. Raabe and other members of the committee were in the presence of high officers when they saw the shooting or bayoneting of a civilian or an act of rape. In each case the soldier was required to give an extra salute to the officer and an oral reprimand was administered but the name of the soldier was not taken nor was there any other indication of discipline. It was impossible for us neutral observers to report the names of individual criminals because there was no name or number worn upon the outside of the uniform

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and, during the first weeks of the occupation, there was not even an indication of the unit to which a soldier belonged.

The several officers in the Embassy declared that one great reason for difficulty was the small number of military police or gendarmes available which, at the moment of occupation, they declared to be seventeen in number. After, three days after the entry, the civil officials secured from high officers of the gendarmerie certain small posters or proclamations to be put up at the entrance to foreign property 12 ordering all soldiers to keep away. Not only did the soldiers daily disregard these proclamations from the gendarmerie headquarters but they also frequently tore them down. I took several of these torn proclamations to the Japanese Embassy for transmission to the gendarmerie. After February sixth or seventh there was a noticeable improvement in the situation and, although many serious cases occurred between then and summer, they were no longer of a mass and wholesale character.

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Q Who was the commanding general of the Japanese forces at the time of the capture of the City of Nanking during the remainder of December, 1937, and January, 1938?

A We were not aware of any one local commander at Nanking, since each detachment or butai seemed to be independent. However, the official proclamations and the general statements of the newspapers, including the Japanese newspapers, indicated that General Iwane MATSUI was in command for the Shanghaj-Nanking region.

Q Were the Chinese allowed to conduct private business following the occupation of the City of Nanking by the Japanese soldiers?

A There was no general prohibition of Chinese private business, although as a matter of fact so many of the business men lost their commercial property by looting and burning and lost their store buildings by confiscation for the use of Japanese merchants that there were dealt very heavy blows at the beginning. Then monopolies and exclusive controls were set up which reserved transportation, banking, the wholesale trade in rice, cotton, metals, and building materials for Japanese concerns.

MR. McMANUS: Mr. President, may I enter an objection at this time as to the relevancy of this particular type of testimony, and also an objection on the ground that the testimony now is becoming repetitious, and I am requesting the Court to permit me to make that objection.

THE PRESIDENT: I take the evidence to be

THE PRESIDENT: I take the evidence to be directed to the provisions of The Hague Convention, requiring belligerents to respect property rights. It rests with the prosecution, of course, to establish the connection between the accused and this conduct which is testified to. I fail to notice any repetitious evidence here. The objections are overruled.

caused by the pressure put upon many Chinese business men to accept Japanese partners. In many cases this was done by the direct instruction of the gendarmerie or the special service. In other cases it was done by the threat that the Chinese business man could not receive permits, or carry on his business freely unless there was a Japanese whose name could be used to secure such permission. Among my friends were many such business men who were required to admit Japanese partners, men

who invested no capital but were given influence of control and a share of the profits in return for that power to get permits from the controlling military authorities. The controls were employed in a way desperately injurious, not only to Chinese business men but also to producers and consumers as well. For example, on behalf of the International Relief Committee, I tried during a period of three months 8 9 to purchase rice outside of the City of Nanking for 10 the use of that committee. At that time the price 11 of rice within the city was held by the monopoly 12 at 18 to 22 dollars per picul. In producing areas 13 40 miles west on the Yangtze River the price was 14 held by the monopoly to 8 and 9 dollars per picul. 15 At the same time the monopoly was transferring rice 16 to Shanghai to be sold at 35 dollars per picul and 17 to Chinan in Shangteng to be sold at 45 dollars 18 per picul. Our committee applied to the food con-19 trol office of the municipal government for per-20 mission to make these purchases in the producing 21 area and so save half the cost of rice to be dis-22 tributed in relief work. We met with the standard 23 reply of those years, "this matter can be done 24 only through the colonel of the special service," 25

and then we tried to approach him through the

Japanese Embassy. The civil authorities approved our efforts and tried to assist this relief enterprise, but they could not persuade the military monopoly to give up its profits even for that purpose. I have given this case merely because it shows from my own experience the typical situation of the working of the controls.

Q Did you have occasion to report these facts to the Japanese authorities?

A I reported them in full in the course of three months of conversations and letters over this effort to secure permits to buy rice outside the city. The other more general facts regarding the monopolies in the list of commodities and enterprises which I previously named were reported in an economic survey that I undertook on behalf of the International Relief Committee. I sent that report to the Japanese Consul General and later published it within the occupied areas.

Q Have you had occasion, Dr. Bates, to make special studies in connection with the opium and narcotic problem in the occupied area?

A Yes. My attention was drawn to the startling developments in the use of opium and Heroin while carrying on relief work in the Summer

and Autumn of 1938. We found that many poor refugees were being approached by peddlers who urged the use of opium, saying, "if you take this your stomach won't hurt you any more." Slightly later but similarly Heroin was peddled with the statement, "if you take a little of this you won't be so tired and you will feel as if you could jump over mountains." In a short time the rapidly expanding trade in narcotics became a public enterprise, set up outwardly by the puppet government. When public stores, that is, government stores, were opened and when advertisements of opium dens began to appear in the one newspaper of Nanking, the official newspaper, I then decided the matter must be investigated. 15 Q Were your investigations made on your own behalf or on behalf of the United States Government? 17

A The United States Government had no connection with them in any way and did not know about them until after the reports were published.

Q What was the situation in Nanking with regard to the sale of opium and narcotics prior to the Japanese occupation in December, 1937?

A There was no open and notorious sale or use of opium for some ten years before the Incident of 1937. Opium was used in back rooms, chiefly by

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older men of the gentry and merchant types, but there
was no open parading of it before young people, and
indeed, in my residence there from 1920 to 1937 I
never saw opium or learned to recognize its odor
or appearance.

THE PRESIDENT: We will adjourn now until
half past one.

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

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AFTER NOON SESSION

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

MINER SEARLE BATES, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

DIRECT EXAMINATION (Continued)

THE PRESIDENT: Captain Brooks.

that this questioning he is developing on the opium is only -- the evidence that the witness is giving is only cumulative and could be objected to on that ground. And I think that it would be quite possible to eliminate a lot of this matter on the opium situation if, and I feel that the Tribunal could take judicial notice that opium is an old and great evil in China, and that the Chinese people are inclined to fall into the habit of using it more than any other important group.

THE PRESIDENT: Well, you do not suggest that
we could take judicial notice that the Japanese have
greatly increased the sale of opium and have sold opium
quite openly? I am not saying that is the fact but it
is the evidence.

MR. BROOKS: I believe that the Court could go
further and say that the potential demand there is

enormous for the sale of opium, and in the past hundreds
of years various private and official elements, Chinese
and foreign, have at times supplied and developed the
narcotic trade. If the Tribunal can take such notice,
and since previous witnesses have testified along these
lines, I think that any further testimony is objectionable as only being cumulative.

THE PRESIDENT: The evidence only becomes cumuplative in that sense when quite a number of witnesses
will necessarily testify to the same thing. The objection
is overruled.

12 BY MR. SUTTON:

Q Dr. Bates, you may continue your answer.

A Investigation of the narcotic business was not easy because it was done -- although it was done by open sale yet the information as to their management and finances were kept well behind the scenes, and naturally there were no clear or honest official reports.

In the Autumn of 1938, in November of 1938, I,
with the help of several old friends under my direction,
visited several of the opium stores and a considerable
number of the opium dens. We also secured copies of the
regulations which the official monopoly made for the use
of dealers under it, and tax slips and tax reports which
they made to the monopoly. At that time the regular

, system provided for 175 licensed smoking dens and for , 30 stores which distributed to and through those dens. The official sales were set at 6,000 ounces per day. which figure the dealers reported to be exceeded because the demand from the country districts outside Nanking 6 was so great. The sales price was eleven Chinese dollars 7 per ounce which worked out then, in the 6,000 ounces per 8 day, at almost exactly two million dollars per month. A Chinese agent in the Special Service reported 10 to us that the sales of Heroin under the direction of 11 the Special Service reached three million dollars per 12 month at that same period. Although the figures of the 13 narcotic section of the municipal police were much higher, 14 my investigation concluded conservatively that fifty 15 thousand persons were using Heroin, one-eighth of the 16 population at that time. The increase of robbery by 17 hundreds upon hundreds of Heroin addicts became a serious 18 matter for everyone, including the University of Nanking. The officials connected with the opium monopoly 20 attempted to pull the Heroin users to the use of opium 21 by arresting and prosecuting them in the courts. I transmitted the completed report to the Japan-25 ese Consul General, asking for any comments or correc-24 tions in matters of fact; and then some ten days later 25 L jublished it in Shanghai without any objection or

protest from the authorities then or at a later time. By the following Auturn the system had become well developed and established. We inquired again. This time we were able to see for a brief time, brief period, the book of the chief inspector of the 175 6 licensed dens, and we were also able to get the statement 7 of the girl who sliced in portions the 3,000 ounces per 8 day sold at that time within the city walls of Nanking. 9 The figures of the consumption and revenue secured in 10 this way agreed very closely with the figures in a report of the Ministry of Finance of the puppet government then 12 called the Reformed Government. The unpublished mimeo-13 graphed financial statement of that government showed in 14 the Auturn of 1939 a monthly income of three million dol-15 lars, made up of a so-called tax of three dollars on each 16 of one million ounces of opium. The financial officers 17 complained continually that there were many sales outside 18 the official system. These one million ounces were used 19 in the portions of three provinces which were controlled 20 by the Reformed Government.at that time. In the Summer of '39, 1939, I visited Tokyo and 22 was taken by friends to talk with the opium expert of the 23 Gaimusho. This man, Mr. Haga, had just returned from a

24 two months' inspection tour in Central China. He told

25 me that he was greatly distressed at the terrible

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addiction that he saw in Hankow and other cities of the Yangtze Valley. When I asked him if there was any "No, the generals told me that so long as the war continues, there is no hope of anything better because no other good source of revenue has been found for the

In the report made to the Japanese officials 9 and subsequently published I wrote, "The revenue of three million dollars from opium is the main support of the Reformed Government and is declared by Japanese and 12 Chinese officials to be indispensable for the maintenance of any government in this area under present supervision and circumstances." The retail price at that time for opium was twenty-two dollars per ounce, which covered eight dollars paid for the basic supply at Dairen. two dollars to other Japanese interests for transportation, the so-called three-dollar tax, and left nine dollars' margin for profit, in which the Special Service and the gendarmerie shared.

The gendarmerie complained of this accusation 22 and tried to get me to withdraw it, and at the same time 23 to give the names of those from whom I got the informa-24 tion. When I replied that I would gladly make and pub-25 lish any demonstrated correction of fact but could not

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 make any other changes, they dropped the matter.

Over a period of many decades missionaries in China had been active in educational and even when necessary in political work against opium. In the ten years preceding the Japanese War these efforts had become much less necessary and less important. But in the summer of 1940 the great deterioration of the situation caused the editors of the China Christian Yearbook, which is the publication of the National Christian Council of China, to ask me to prepare a report on the narcotic problem in China as a whole. I sent to some forty friends in various parts of China copies of the reports that I prepared in Nanking and a set of questions which I hoped they would attempt to answer by investigations in their own localities regarding narcotics. Despite the censorship and accompanying anxieties more than half of these persons replied with considerable care,

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For example, Professor Sailer, head of the Sociology Department of Yenshing University, reported that in Peking there were, in the Spring of 1940, more than 600 licensed opium shops and that there were even more people using Heroin than opium.

Bishop Gilman of Hankow found in that city that there were 340 licensed dens and 120 hotels licensed to supply opium for a population of only 400,000.

MR. BROOKS: I want to object on the basis that the witness is reading testimony -- been sitting there continuously looking down, reading this testimony. He is not refreshing his mind; he is just reading into the record phrases. We don't know whether it was prepared for him or how he got it. But, if he wants to testify in answer to the question, he should answer the question directly; and, if he has to refresh his memory, he should refresh his memory and then testify.

THE PRESIDENT: There is no objection to him reading from his notes to a limited extent so far as his notes contain statements of fact. This morning he was reading things which were not statements of fact, such things as questions to himself.

The objection is overruled.

A (Continuing) To make the facts clear, I'd

simply like to say that I am not reading from any prepared text, that I have notes of these figures which I will gladly show to the Court in demonstration. If that is objectionable, I, of course, accept the Court's ruling.

Bishop Gilman very strongly emphasized the terrible contrast between the pre-war days of severe suppression of opium sales and consumption with the wide-open, well-advertised, well published trade of 1940. I will not trouble you with similar figures from several provincial capitals and other important cities but will mention simply Canton where in the city proper, which at that time had only 500,000 people, there were 852 registered dens beside some 300, Unregistered as found by Dr. Thompson, Superintendent of the Canton Hospital.

The situation throughout the occupied areas was one of open sale of opium in government shops or licensed shops and the aggressive peddling of Heroin. In some cases there was attractive advertising of opium. In some cases Japanese soldiers used opium as payment for prostitutes and for labor engaged on military supply dumps. The general testimony of dealers and of officials was that the opium came almost entirely from Dairen although in the year 1939

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there were some large shipments brought from Iran.

Heroin dealers reported that their supplies came largely from Tientsin and secondarily from Dairen. Throughout the occupied areas there was no real effort at suppression. The only apparent restriction or control was the effort to force irregular buying into the channels that would produce revenue.

This 1940 general report was published in the China Christian Yearbook, 1938-39. It was also reprinted in the monthly magazine, the Chinese Recorder, published in Shanghai.

Q When did you leave China following the occupation of Nanking by the Japanese troops?

A I left in May, 1941.

Q And when did you return to China?

A I returned to Nanking in October, 1945, after going earlier to Chengte in West China where the University of Nanking was carrying on.

MR. SUTTON: The defense may cross-examine the witness.

CROSS-EXAMINATION

BY MR. LOGAN:

Q Mr. Bates, you testified this morning in substance that you submitted reports and complaints

to three officers of the Japanese Consul at Nanking, but they were terrified, and they were not able to do anything about them except to send them to Tokyo. Now, will you state, in answer to this question, yes or no, if pessible: Do you know of your own knowledge that they were sent to Tokyo by the Japanese Consulate's office? A Yes. Q Who in the Japanese Consulate's office in

Nanking sent these messages?

A I do not know which one of these three men I named took the actual responsibility for sending messages. Mr. FUKUI was the Consul in charge.

Q Did you see the messages?

A I did not see the messages. If you want to know my reasons --

Q No, I don't.

A All right.

MR. SUTTON: If it please the Court, I respectfully submit that the witness has a right to complete his answer. And the fact that counsel for the defense does not wish to hear it does not deny that right.

MR. LOGAN: I am sure, if the Tribunal please, if anything is left unanswered, it can be

drawn out in redirect by the prosecution if they see fit. THE PRESIDENT: We agree with you, Mr. Logan. Proceed. Q So, Mr. Bates, not having seen the messages, I assume you do not know of your own knowledge to whom they were sent in Tokyo, is that right? A I have seen telegrams sent by Mr. Grew, the Ambassador in Tokyo, to the American Embassy in Nanking, which referred to these reports in great detail and referred to conversations in which they had been discussed between Mr. Grew and officials of the Gaimusho, including Mr. HIROTA. 14 MR. LOGAN: I ask that the answer be stricken and that the reporter be directed to read my question. 17 THE WITNESS: I should be glad to give you some more evidence from Japanese sources on that. 19 MR. LOGAN: If your Honor please, I ask this witness be directed not to give -- to volunteer 21 statements. 22 THE PRESIDENT: His answer will stand. He

must, of course, confine his answer to the question.

MR. LOGAN: I ask that the previous question

But he may add any explanation.

be answered. I don't think he has answered it, your Honor. He has given another explanation to it. THE PRESIDENT: We will get it to save time. (Whereupon, the last question was read by the official court reporter as follows:) "Q So, Mr. Bates, not having seen the messages, I assume you do not know of your own knowledge to whom they were sent in Tokyo, is that right?" A I know they were sent to the Gaimusho in Tokyo; I do not know to what individual other than the statement I gave you from Mr. Grew. I have other evidence that they were sent to the Gaimusho. Q Let me see if I understand you, Mr. Bates. Not having seen these messages, the testimony that you have with regard to them is hearsay, comes from somebody else, isn't that so? 18 A Yes. MR. LOGAN: That is all. CROSS-EXAMINATION (Continued) 21 BY CAPTAIN KLEIMAN: Q Doctor, on these reports that you say you 23 saw, wherein your efer to Mr. Grew, was the Privy 24 Council ever mentioned?

A The messages I saw, which were strictly

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limited to the question of what was happening in Nanking in January and February of 1938, referred to the conversations of Mr. Grew with Mr. HIROTA and, I believe, Mr. YOSHIZAWA at the Gaimusho. I do not recall that other persons were mentioned. Q Doctor, did you hear my question? A I thought so. THE PRESIDENT: How would he know whether the Privy Council was consulted? Q How long have you been in China, Doctor? A How long have I been in China? With the exception of furloughs -- normal furloughs in the United States;, I was there from 1920 to 1941 and from 1945 until a few weeks ago. Q And at the University in China, did you 16 teach history? A I did. Q And are you acquainted with political divisions of Japanese Government, Doctor? THE PRESIDENT: You must confine your cross-examination to matters arising in chief. The

22 mere statement that he was a historian doesn't intro-

25 I am asking preliminary questions to show the unwill-

CAPTAIN KLEIMAN: If it please the Tribunal,

23 duce any matter of the kind to which you refer.

ingness of this witness to present the entire truth.

We want all those facts out. Whether it hurts or

not, we want all the facts out.

THE PRESIDENT: Do not argue with me that

THE PRESIDENT: Do not argue with me that way. I said that he has not testified really as to any Japanese political divisions. He is a professor of history. I called him a historian. Perhaps that's a wrong term. But the questions you ask don't arise out of the examination in chief.

CAPTAIN KLEIMAN: Mr. President, I wonder if it's possible to take up that question again with respect to confining ourselves to testimony in chief. This witness, I understand, has been here for a time awaiting time to testify. Now, he may have some information which might be of aid to the defense. In order for me to secure this witness, I would have to go to China, bring him here at great expense, and then --

THE PRESIDENT: You interpret that. Translate that, please.

I told you what the Tribunal's decision was, and I showed how you are infringing it, and you have not shown that you did not infringe it in your question.

You must accept the Tribunal's decision.

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We are not going to alter that to meet this particular case.

CAPTAIN KLEIMAN: We will abide by the Tribunal's decision. The only request I made was, your Honor, so that we can save time when the defense is to put in its testimony. Two questions now may lead to two answers which may save us two or three days when the defense puts in its testimony.

THE PRESIDENT: I have told you what the decision is. I have told you that it excludes those questions, and why. You have given me no answer that suggested the Tribunal is wrong in excluding the questions. You must obey the Tribunal's decision.

CAPTAIN KLEIMAN: Is it the Tribunal's decision that we may not ask questions, aside from what was brought out by examination in chief, for the purpose of attacking credibility of the witness? I'm not saying that I attempted to do that with this witness; I just want to know the ruling so that we can abide by that ruling in the future, may it please the Court.

THE PRESIDENT: You appear to be the only counsel who misunderstands the Tribunal's decision.

That decision does prevent you from examining outside

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the scope of the examination in chief in order to test credibility.

CAPTAIN KLEIMAN: I'm sorry, your Honor.

This practice is so different from the practice
that we have in the United States, I've had difficulty in understanding the ruling. I'm sorry, sir.

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THE PRESIDENT: It so happens that it is the practice of the United States and the practice of its highest courts.

CAPTAIN KLEIMAN: If it please the Tribunal, we are, in the States, permitted to ask a witness questions not brought out on direct examination, but we are bound by his answers; he becomes our witness. We cannot impeach him. This is what I wanted to do with this witness.

THE PRESIDENT: There is a limit to this Tribunal's patience, Captain Kleiman.

CAPTAIN KLEIMAN: All right, No further questions.

MR. SAMMONJI: I am Shohei SAMMONJI, counsel for the defendant, KOISO. With your kind permission, I wish to put a few questions.

CROSS-EXAMINATION (Continued)

BY MR. SAMMONJI:

Q The witness seems to be greatly familiar with the economic situation in China. Do you know the -- how prices were during the period 1930 to 1939?

A I am sorry I didn't get that word. Do I know what?

Q This is my question: Which was higher, prices in Nanking before December, 1937, or prices in Nanking

after 1937, during the years 1938 and 1939?

A I would not know how to answer that

A I would not know how to answer that. I do not claim to be an economic expert. I reported the conditions which I found affecting the life of the people, as I was doing the work of the International Relief Committee in Nanking from 1937 to '41.

Q If you have been investigating the standard of living -- living conditions of the general public -- I should think you ought to have a great deal of interest in the question of prices.

A What is the question?

THE PRESIDENT: There is no question; there is a statement.

Q You seem to be an expert on opium. Have you ever investigated the areas where opium is produced in the world?

A I am sorry I haven't had such wide privileges of travel. I have done some general reading on the subject.

THE PRESIDENT: That question is beyond the scope of the examination in chief.

Q Have you ever investigated which was greater: the consumption of opium and Herbin before December, 1937, and that in Nanking, and after December, 1937?

A Before 1937 there was no consumption that

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could readily be measured or investigated. There was very little, and as I said, confined to back rooms without open, public sale.

Q Then, have you ever investigated the complete -- the total of opium and Heroin smoked by Chinese in all parts of China before -- for the whole of China -- before December, 1937, and the prices thereof?

A No, I have not; because there was no local problem which loomed up as conspicuous; my attention was not brought to opium in any grievous manner until the Spring and Summer of 1938.

Q But in your testimony you have stated that opium was imported from Dairen and from Tientsin, and that before December, 1937, opium was secretly smoked; so that you seem to have carried on your investigations quite extensively. Then do you know -- if you know where this opium came from -- do you not know also where it was produced?

A That question is not clear to me.

THE PRESIDENT: He said where it came from.

THE WITNESS: Before 1937 or after 1937?

Q What I want to ask is that in 1937 and after 1937 where did this opium come from, and where was it produced?

A As for after 1937, I have already given that

in direct testimony; that my investigation -- the reports from dealers -- regularly brought the statement that the opium came from Dairen with the exception of fairly important shipments which came in 1939 from Iran. Before 1937 I do not have such detailed knowledge, because I did not go into investigation. I only know what were the general statements at that time -- that there was opium imported from various sources, that there was also opium produced in China, particularly in the far western provinces near the Tibetan frontier. From missionary friends in various parts of East China I learned that areas formerly producing opium had ceased to do so. It should be added that under the Japanese occupation in various provinces, such as northern Anhui; Honan, and Shanghsi provinces, that opium growing was begun locally once more where it had been stamped out over a period of many years. This locally grown opium was usually sold outside the official system. and Heroin in the world?

Q Are you aware that China is the country where opium -- with the greatest consumption of opium

A I think probably that is true, but I should like to see it specified with dates, and I myself do not have such comparative knowledge.

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| Q Since the Opium War to the present day. |
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| A From the Opium War to the present day? |
| Q Yes. |
| A. Yes, I think that is probably true. |
| Q Well, there is much opium as you have |
| , there is much opium consumed in all China. Do |
| know there is much opium growing in China, but |
| o opium that comes from foreign sources, do you |
| from what country was the greatest source of |
| country is the greatest source of opium, from |
| country opium is imported, what country produces |
| m, and what country imported opium the most? |
| A At what time? |
| Q Since the Opium War to the present date? |
| A That would have to be broken up .into several |
| erent periods, and would be a subject only for a |
| t expert. I can give general statements, but |
| are not of specific knowledge. |
| THE PRESIDENT: We will recess now for fifteen |
| tes. |

(Whereupon, at 1445, a recess was taken

until 1506, after which the proceedings were re-

sumed as follows:)

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

Q Mr. Witness, in regard to the last question, I request that you would answer even in general terms.

THE WITNESS: Mr. President, I wonder just where this gets us. I have not testified in regard to conditions in verying countries around the world nor on conditions since the Opium War. I am willing to start on what little I know on this, but I have in no way posed as an historian of opium on a world-wide scale.

THE PRESIDENT: The witness rerely testified as to conditions in and about Nanking. That does not authorize cross-examination as to conditions in other parts of the world relating to opium nor do I think it justifies questions dealing with the opium trade right back to the Opium War.

MR. SAMMONJI: Then I will go into another question.

Q Mr. Witness, you said earlier that after the Japanese Army entered Nanking in 1937 the Japanese sold opium officially. Was not this selling of opium officially to supervise the illicit trade in opium and also to treat opium patients?

THE MCNITOR: Correction: Instead of

"Japanese sold opium," it should read: "Opium was sold in open market." "Japanese" should be deleted.

A There was no remedial action of any kind in hospitals or treatment of addicts which I ever saw on the part of the public system in Nanking after the entry of the Japanese. Not only in the general situation of the few years before 1937, but in the first few weeks and months after the Japanese came in, there was no apparent trade and no widespread consumption of opium. Then within a period of a few months the large system of public supply and sales, which I described, was built up.

Q Mr. Witness, as far as the illicit buying of opium is concerned and also the selling of opium on open market, do you not think that the selling, buying of opium illicitly proves far more fascinating to these opium addicts?

I think it was very largely a matter of price and that if opium could be secured illicitly below the price of the official system, people, addicts were very glad to get it that way. So far as I can interpret the situation, so far as I saw the situation, the public sale was greater than the illicit sale, but illicit sale never disappeared. The enormous

scale of the official trade as reported did not leave room for a very big illicit trade. Q Do you not know that in all Chinese families above the middle class they have medical dispensary for opium drinking? Do you not know that in all

Chinese families above the middle class they have a room which is suitable for drinking opium -- smoking

opium?

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THE MONITOR: "Provided for smoking opium."

A I do not know that. It is quite contrary to my experience and accuaintance of twenty-five years in Nanking.

Q Then I shall ask another question. Do you not know that when a person first smokes opium, he does not become an immediate addict and it takes some time before he becomes an addict to the opium, for a time, say, around one year? At first when a person first smokes opium, he encounters physiological discomfort.

A Well, that is an interesting observation. What is the question?

THE PRESIDENT: That type of cross-examination is useless.

> MR. BROOKS: No further questioning. THE PRESIDENT: That will do, Professor.

Unless you wish to re-examine, do you, Mr. Sutton?

MR. SUTTON: No further examination.

(Whereupon, the witness was excused.)

MR. SUTTON: The prosecution has asked to

call as its next witness, Mr. Peter J. Lawless.

MARSHAL OF THE COURT: Mr. President, the

witness is in court and will now be sworn.

DIRECT

PETER J. LAWLESS, called as a witness on behalf of the prosecution, being first duly sworn, testified as follows: DIRECT EXAMINATION BY MR. SUTTON: Q What is your full name? A Peter J. Lawless. Q And where do you live? A In Peking, China. Q Of what country are you a citizen? A England. 11 Q How long have you lived in China? 12 A Nearly thirty-six years. 13 O There have you lived in China during that 14 period and what, if any, official positions have you 15 held? 16 A I have been an inspector of police in the 17 Tientsin British Municipal Council since October, 1912; and from July, 1938 to the time I was arrested at the beginning -- at the end of 1941, I was Chief of 20 Police and Secretary to the Diplomatic Mission of the Diplomatic Quarter in Peking. 22 23

Q What was the population of the British Concession in Tientsin around 1930?

A About forty-five to fifty thousand.

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Q Did you have occasion in your official capacity to make raids on opium dens in the British Concession at Tientsin?

DIRECT

A Yes.

Q Whom did you arrest on these raids and what disposition was made of the persons arrested?

A Both Chinese and Koreans and after a rest they were questioned in the Municipal Police Court and then handed over to their own nationals which would be the Consular Police in the Japanese Concession.

Q If Chinese nationals were apprehended, by whom were they tried?

A If Chinese nationals were arrested, they were sent to their own Court in the Tientsin City.

Q Did you have occasion to arrest Japanese nationals and what disposition was made of those cases?

A On very few occasions were Japanese, the actual Japanese national arrested. If he was, he was handed over to his Consular Court.

? What disposition was made of the Koreans that were arrested?

A They were treated as Japanese subjects and handed over to the Consular Court as well.

Q Did you ascertain in your official capacity

where the opium and narcotics were being secured which
you found in these raids in the British Concession?

A Yes. After arrest the men were questioned,
documentary statements taken, and they always said:
"We bought it in the Japanese Concession."

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Q Did you make report to the Japanese officials giving them this information which had come to you in your official capacity?

A Yes. All documentary evidence was sent, a copy being sent to the British Consulate and a copy being sent at the same time as the prisoner was sent to the court.

Q What action, if any, was taken by the Japanese authorities with regard to the Koreans' and Japanese nationals which you arrested and turned over to them?

A Officially we were never informed and on no occasion were we called as witnesses.

Q Did you have occasion to arrest the same violators for the same offense at subsequent times?

A Yes, on various occasions.

Q Was there any change in the situation about 1935 and, if so, what?

A Yes, there was a big change by the influx of Koreans and Japanese coming into the British Concession to live. Before that time there were not too many living in the Concession.

Q In what business were these Koreans and Japanese engaged who came into the British Concession?

A The Koreans as itinerant tradesmen. The Japanese, though, came in as small merchants.

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Q What was the situation with regard to opium and narcotics following 1935 in the British Concession in Tientsin?

A There was a great increase in the trade, and

A There was a great increase in the trade, and very noticeable because we had to make two and three raids a day. May I correct that last statement? I said by day; it should have been by night.

Q How was this opium and narcotics trade conducted?

A I can hardly follow that question. I don't know what you mean.

Q Who were the persons whom your investigation disclosed dealt in opium and narcotics in the British Concession in Tientsin following 1935?

A Chinese and Koreans.

Q Where did they sell the opium and narcotics and in what manner?

A The opium was sold in dens in the different streets, the poorer class of streets. There would be so many pipes in a house and the man who was an addict would go to this house to have his smoke.

The narcotics, such as morphia and Heroin, was mostly dealt with on the Bund. May I explain, the Bund means walk where all the shipping of Tientsin comes into.

Q In what form were the narcotics distributed

to the customers?

A Taking narcotics to mean morphia and Heroin.
the Koreans invariably -- the Koreans of the poorer
class used to go about among the poorer class of
Chinese on the Bund or on the walks and give them
an injection from hypodermic needles.

- Q Were these needles sterilized?
- A No, on no occasion.
- 9 Q Did you arrest the violators from time to time?
 - A Yes.

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? Was the punishment, if any, administered by the Japanese authorities to whom you delivered them, such as to prevent them from returning to the same business?

MR. McMANUS: If your Honor please, I would like to object to the form of the question. Also on the ground it is leading, and further on the ground of the materiality of this particular phase. I would like to know what this has to do with the war crime here.

THE PRESIDENT: Well, I think the question is a bit clumsy. I think he might have asked were they punished, what is the effect of the punishment, but there is nothing in it really. The materiality

has already been considered. It is alleged that this is a type of warfare, really, or preparation for it by making the Chinese drug addicts. The objection is overruled. A No. They invariably returned. The punishment didn't fit the crime, in our experience. Q Did you have occasion to make raids on any narcotic factories in the British Concession? A Yes. Q By whom were they being operated? A Chinese and Koreans. Q What was the production rate of these factories? A Some of the largest factories would turn out as much as fifty or sixty pounds of morphia per week, and perhaps two or three pounds of Heroin. Q Did you ascertain from the operators of these factories where they secured the opium? A Yes, and the answer was invariably from the Japanese Concession. Q Did you report from time to time to the Japanese authorities the situation with regard to their nationals dealing in opium and narcotics in the British Concession?

Q What response did you get from them?

Yes.

A We were told that the man would be punished and the serious cases would be deported. What type of punishment, if any, was meted out by the Japanese authorities? A That we never knew. Q Did they deport the persons whom you reported to them as being engaged in the opium and narcotic business in the British Concession? A They may have done on some occasions, but others invariably got back into the Concessions and continued their trade. Q When did the Japanese occupy Tientsin? A In 1937. Q What was the situation with regard to opium and narcotics in Tientsin after that city was occupied by the Japanese Army in 1937? A There was a noticeable increase, a great increase, but we police officers had more to do with the protection of the Concession than we did with the 20 actual arresting of narcotic dealers. Q When did you take over the duties of chief of police in the diplomatic quarter in Peiping? A In July, 1938. Q What was the situation with regard to opium

and narcotics in Peiping at that time?

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A From my observations in Peking, other than the diplomatic quarter it was very bad.

Q What was the situation thereafter in the diplomatic quarter?

A At times it was bad but we were strong enough to hold it down. May I qualify that state-ment by saying what I mean by saying we were strong enough, we didn't let them get too far ahead with their narcotic factories.

- Q Were attempts made to operate narcotic factories in the diplomatic section in Peiping?
 - Yes.
 - (By whom were these factories operated?
 - A Mostly Koreans.
- Q Did you have occasion to raid these factories from time to time?
 - A Yes.
- Q What did you do with the persons arrested if they were Koreans?
- A Handed them over to the consular police in the diplomatic quarter with statements of their crime.
- Q And what authorities handled the case after you handed them over to the consular police?
- A The Japanese consular authorities, consular police authorities.

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Q Did you learn the disposition of these cases? That will take rather a long answer because as Secretary of the Diplomatic Commission and as Chief of Police I had to report to all the embassies and legations what was occurring from a police point of view in the Legation quarter. Also at the meetings of the Diplomatic Commission, which consisted of three embassy officials, one being British, one being 8 9 American, and one being Japanese, two civilian members -- the committee consisting of five men -- and 10 11 at these meetings these cases were invariably reported 12 very strongly to the Japanese member who promised 13 that he would inquire into the case and, if possible, 14 report at the next meeting of the Commission. At 15 the next meeting of the Commission if the case had 16 not been reported back the question was again asked 17 and we never got very satisfactory results from any 13 of the answers to our questions from our Japanese 19 member. 20

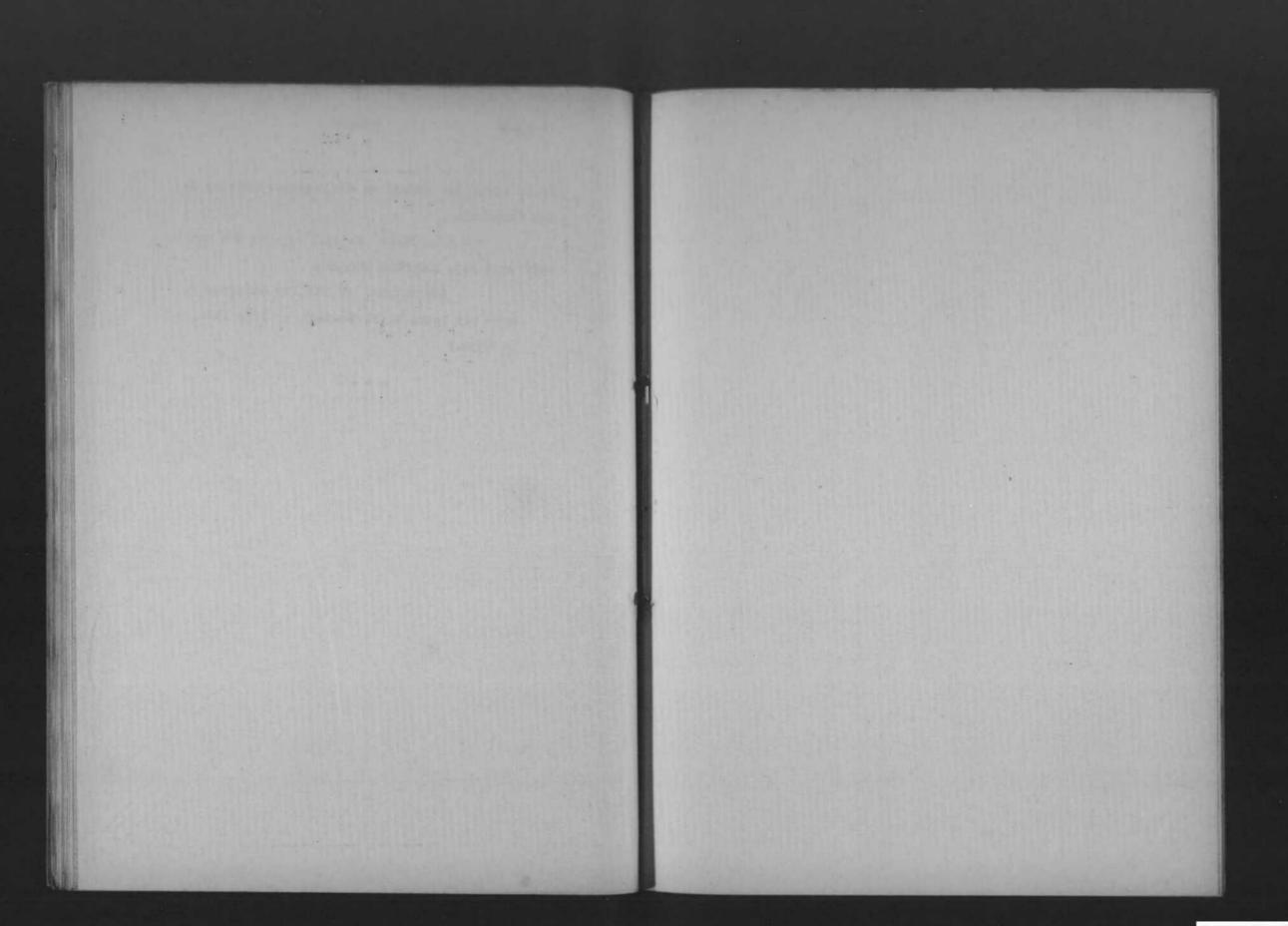
Q Did you report to the Japanese authorities specific cases that had come to your attention?

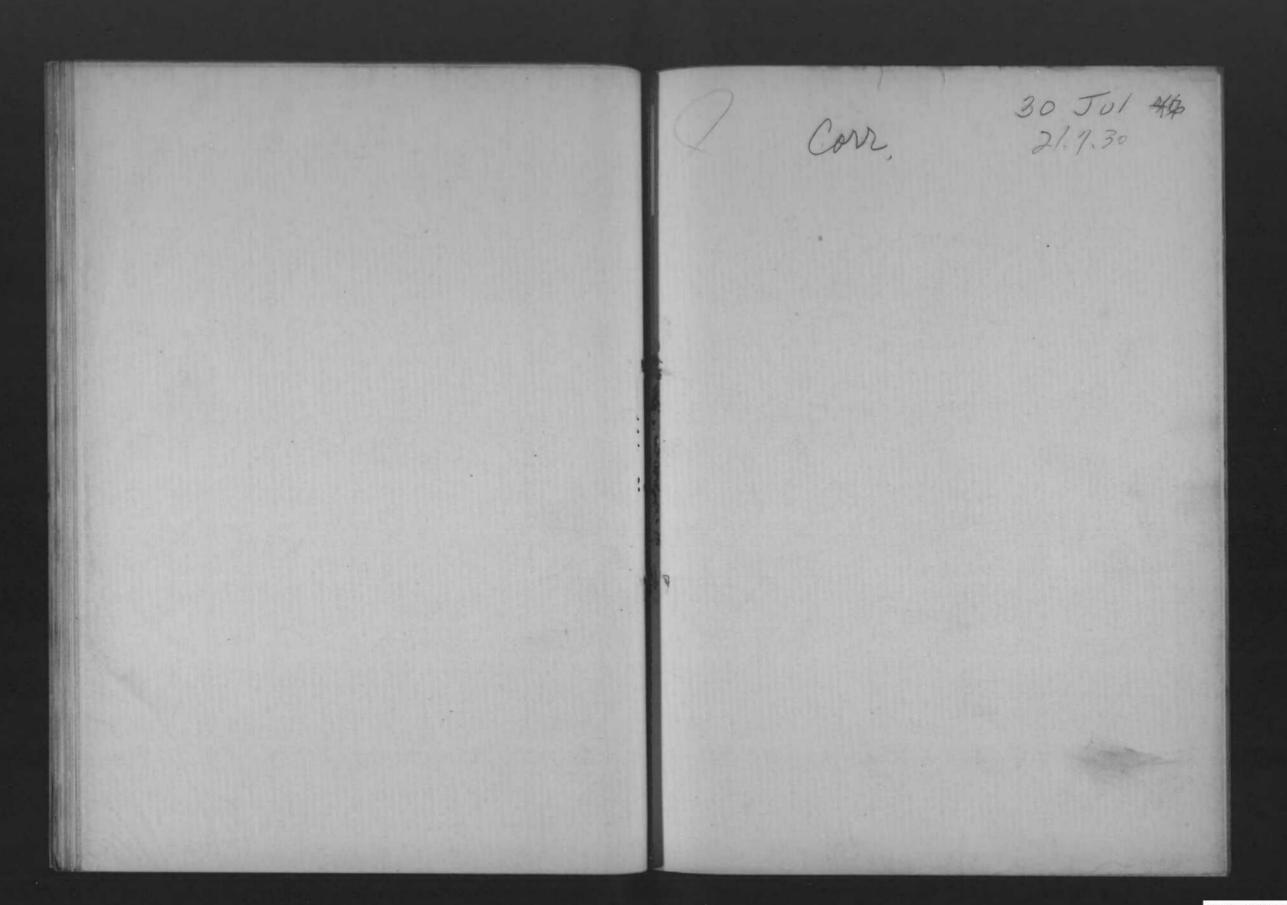
A Yes. When we made an arrest, the man or men were handed over to the consular police of the Japanese Embassy and a circular letter from me, as Secretary, to all embassies and legations which

would reach the member in the Japanese Embassy in the Commission.

THE PRESIDENT: We will adjourn now until , half past nine tomorrow morning.

(Whereupon, at 1600, an adjournment was taken until Tuesday, 30 July 1946, at 0930.)





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Tuesday, 30 July, 1946

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

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The Tribunal met, pursuant to adjournment, at

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Appearances:

0930.

For the Tribunal, same as before.

For the Prosecution Section, same as before.

For the Defense Section, same as before with the exception that Dr. TAKAYANAGI, Kenzo replaced Mr. HASEGAWA, Nutokichi as Counsel for the Accused SUZUKI, Teiichi and Mr. YANAI, Tsuneo replaced Dr. TAKAYANAGI, Kenzo as Counsel for the Accused SHIGEMITSU, Mamoru.

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

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

THE PRESIDENT: Does counsel desire to mention any matter?

MR. HOZUMI: Counsel MIYAKE, Shotaro, for the defendant, UMEZU, Yoshijiro, has resigned and has been succeeded to by Mr. MIYATA, Mitsuo.

THE PRESIDENT: Mr. Sutton.
MR. SUTTON: May it please the Tribunal.

PETER J. LAWLESS, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

DIRECT EXAMINATION (Continued)

BY MR. SUTTON:

Q Mr. Lawless, at the time of the adjournment on yesterday, you were stating the action taken by you with regard to Koreans and Japanese nationals arrested in the diplomatic quarter in Peiping. You may continue your answer.

A In my statement yesterday I was giving the constitution of the diplomatic commission as being one British, one American, one Japanese of the Embassy Staff of the different Embassies. In addition to these three members, there were two civilian members elected by rate payers of the Legation, quarter. To these members, when they met once a month, I, as secretary, reported all matters pertaining to police activities. Two cases bearing on the subject on which I am giving evidence are rather outstanding. In one case I reported the arrest of Koreans and Chinese for attempting and using the Legation quarter for making morphia. This case was brought before the commission and reported to them, and present at the meeting was the Japanese member of the commission. On the arrest of these various people

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they were handed over to the consular police. At the meeting, when the case was brought up, the Japanese member said: "Yes, I have heard of that, and I am making inquiries. I will make a report during the next meeting." When asked at the next meeting by the chairman of the commission whether anything had been done he said: "We are still making inquiries." Before the next meeting we had occasion to arrest three Koreans for manufacturing morphia in the Legation quarter. With the paraphernalia and the Koreans we handed them over to the consular police in the Legation quarter. This case was also reported by me by memo, circular letter, and verbally to the five members of the commission. When at the next meeting the Japanese member was asked what action had been taken, he said: "We are still making inquiries." That meant to say that for the first case it was nearly three months while the inquiries were going on. For the second case, which happened about four days before the commission meeting, there was hardly time for him to have made very many inquiries. About three days after the meeting -- two or three days -- we arrested the same three Koreans, which had been arrested with their paraphernalia in the second case, again working in the Legation quarter. I took it into my own hands

to go around to the Japanese Embassy and see the Japanese member and tell him what had occurred. He said he would make further inquiries, and this was the answer I got and also the commission at every meeting that was held. Q After Peiping was occupied by the Japanese troops, what was the situation in that city with regard to the sale of opium? A From personal observation in the city, morphia and opium -- opium more especially -- was being sold openly. Morphia could be bought in any amount in the smaller initongs or smaller rooms in the back parts of the east and west city. In the Legation quarter things were not so active as regards morphia and opium, except small sales. There was no manufacturing.

Q How was opium transported in the city?

A In rather large quantities by motor car and by Japanese military truck.

Q How long did the conditions which you have described as to the sale of opium and narcotics in Peiping continue?

A Up to my knowledge as a police officer, it continued very strongly up to the time of my arrest on the 8th of December.

THE PRESIDENT: In what year was he arrested?

国立公文書館 アジア歴史資料センター

| 1 | Q When were you arrested or interned? |
|----|---|
| 2 | A On the 8th of December, 1941, I was arrested |
| 3 | and put in confinement for one month in the American |
| 4 | Embassy. |
| 5 | Q When were you released from internment? |
| 6 | A I was released from the American Embassy on |
| 7 | the 8th of January, 1941. After that I was interned |
| 8 | in the British Embassy until the 29th of March, 1943. |
| 9 | THE PRESIDENT: I suppose he means January, |
| 10 | 1942. I wish he would use the correct dates. |
| 11 | Q Where were you following March 29, 1943? |
| 12 | A We were sent to a concentration camp in |
| 13 | Shangtung near Tsingtao, a place called Weihsien. |
| 14 | Q When did you return to Peiping? |
| 15 | A On the 17th of October, 1945. |
| 16 | Q And have you resided in Peiping since |
| 17 | October 17, 1945? |
| 18 | A Yes. |
| 19 | MR. SUTTON: The defense may cross-examine |
| 20 | the witness. |
| 21 | THE PRESIDENT: Dr. KIYOSE. |
| 22 | DR. KIYOSE: No cross-examination, Mr. Presi- |
| 23 | dent. |
| 24 | (Whereupon, the witness was |
| 25 | America 1 |

MR. SUTTON: May it please the Tribunal, that concludes the testimony of the witnesses brought here from China on the 12th of June, whose testimony was put on out of the usual order. The other witnesses on these phases of the case will appear at the regular time.

The case for the prosecution will now be continued by Mr. Hyder.

THE PRESIDENT: As you know, Mr. Sutton, the question of recalling Professor Bates was mentioned today before me in chambers. You proposed to tender certain documents which came into existence in the safety zone of Nanking, and Professor Bates is believed by the defense to have been associated with them. Those documents have not been put to him. Will Professor Bates remain in Tokyo for, say a fortnight?

MR. SUTTON: My understanding is that Doctor Bates left this morning for Nanking.

THE PRESIDENT: Very well.

Mr. Hyder.

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MR. HYDER: With permission we continue in the presentation of the Manchurian aggression. For the record and the convenience of the Tribunal, we left off at page 2284 of the record, July 10.

The prosecution next offers in evidence document No. 1871B, being section 5, pages 19 to 20

of Court Exhibit 192, an official Chinese document.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Document 1871B will be
Exhibit No. 210.

(Whereupon, prosecution's Exhibit No. 210 was received in evidence.)

MR. FURNESS: If the Court please, might

I ask the prosecution whether this is a document prepared for this trial, or whether or not it was a document
which was filed in the files of the Chinese government?

MR. HYDER: This document was not prepared for this trial. It is an official Chinese document.

MR. FURNESS: I have examined the certificate, which is on file with the Clerk of the Court. It states that the document is dated Merch 25, 1946, and, as I understand it, was prepared at the request of the prosecution. I am not certain about it because I am not certain what this certificate means. It further appears, which I am certain is an error, that the certificate states that it is an enemy document which had been captured or obtained by military forces acting under the Supreme Commender for the Allied Forces, and "that such document has been centinuously in my custody since such delivery." Signed "E. E. Danly," who, I understand, is the head of the document section of the

prosecution. My point is that it is obviously a document prepared by a prosecutor nation for use in this trial, and that it should so appear of record. We object to it on that ground.

THE PRESIDENT: Did you say "prosecutor nation"?

MR. FURNESS: Yes, sir.

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THE PRESIDENT: Did you mean the United States or China or Japan?

MR. FURNESS: China, sir. I mean China, sir. From the date it is obvious that it has been prepared, and is not a document which was simply found in the files, and, therefore, --

THE PRESIDENT: Are you talking about Exhibit 210? It is supposed to be an excerpt from the Japan Year Book. No such argument could be raised about this document, we have two now, Exhibit 210, because it is an excerpt from the Japan Year Book 1937.

MR. FURNESS: I think, sir, that you have the wrong document. They are referring, as I understand it, to document 1871B which is an excerpt from document 1871.

THE PRESIDENT: I am speaking of the only document handed to me. If there is another document, I would like to have it.

MR. HYDER: 1871B, the prosecution document, is the one that has been offered.

CLERK OF THE COURT: There has been an error.

Document No. 1777 was handed to the Clerk and was
marked "Exhibit No. 210." We will now mark Document
No. 1871B "No. 210."

MR. FURNESS: Could I read the certificate, sir?

THE PRESIDENT: Well, let the Judges see the copies first. They will know what you are talking about then, Major Furness.

There is no certificate on the face of the copies.

MR. FURNESS: The basic document, sir, is the volume, 1871, document -- I don't know the certificate number. Can you tell me, Mr. Hyder?

MR. HYDER: The basic document is Court Exhibit No. 192. There is a certificate attached to the original.

MR. FURNESS: Which is signed by the Chinese Prosecutor T. C. Liu.

THE PRESIDENT: You had better read it be-

MR. FURNESS: Dated March 25, 1946. It is dated March 25, 1946, and is signed by the -- and is headed "General Headquarters, Supreme Commander for the Allied Powers, International Prosecution Section."

"Certificate. I, T. C. Liu, hereby certify that I am associated with the International Prosecution Section, General Headquarters, Supreme Commander for the Allied Fowers, and that the attached document, consisting of 123 pages and described as follows: A Hendwritten copy entitled 'Summary of Japanese War Crimes in China

" 'from September 18, 1931 to August 1937,' prepared by the Ministry of Foreign Affairs with the Seal of Ministry of Foreign Affairs, Republic of China and dated ______, was obtained by me on the date above set forth in my capacity and in the conduct of my official business, and in the following manner:

To wit, on request of the Ministry of Foreign Affairs, Republic of China, at Chungking, China, on March 25, 1946. (Signed) T. C. Liu, Assistant to the Chinese Prosecutor, International Prosecution Section."

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The second certificate states Mr. Danly's official position as Chief of the Document Division of the International Prosecution Section, and states that he has had possession of the document -- has "possession, custody and control of original or copies of captured enemy documents obtained by said Section." It states further that it was delivered to him by Mr. Liu "as being an original or copy of an enemy forces acting under the Supreme Commander for the Allied Forces and such document has been continuously in my custody since such delivery."

THE PRESIDENT: Is there any explanation of that certificate, Mr. Hyder?

MR. HYDER: The original document was secured

by Mr. Liu from the Chinese Foreign Office. It was not prepared at the request of the prosecution. He simply asked for a copy and they gave him a copy. The first certificate shows that. The second is merely a certificate of custody of Mr. Danly who received it from Mr. Liu.

THE PRESIDENT: Does the certificate refer to captured documents?

MR. HYDER: The certificate of custody of Mr. Danly does refer to captured documents. I would like to point out, if I may, that under the Charter, Article 13c(1), an official document is admissible without proof of its issuance or signature if it appears to the Tribunal to have been issued by any officer, department or agency of the government. Also --

THE PRESIDENT: Mr. Hyder, do observe that light.

This document will go into the record as a captured document if that certificate stands.

IR. HYDER: It will, your Honor? It was a form certificate for custody of Mr. Danly that was used in this case. It is not a captured enemy document though. It is admissible, we submit, aside from its certificate of authenticity.

THE PRESIDENT: Now I think, Major Furness, wa have sufficiently identified this document and its source. I think we must accept it for whatever probative value it has.

MR. FURNESS: I would like to point out to the Court that, while possibly under the rules of the Charter it may accept it, it is not required to do so. It is mandatorious within the discretion of the Court. Furthermore, I think it should appear when this document was prepared in order that the Court may, if it receives it, determine its probative value. I don't see how it can under the first certificate. In other words, if it was prepared in the very 1946, after it was determined to prosecute war crimes, it would be in the nature of an argument and would have far less probative value than if it was merely found in the official files of the Chinese Government.

THE PRESIDENT: The question of whether any document or any other evidence has any probative value or not will have to be considered when we come to review the whole of the evidence. There may be rare exceptions but I cannot say this is one of them.

The representations of the defense will always be kept in mind when we are considering such document or

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evidence.

MR. FURNESS: I would like to point out again that, even if we eliminate the second certificate which is obviously in error, that the first certificate is not the certificate of the Chinese Government. It is the certificate of the Chinese prosecutor.

MR. HYDER: If the Tribunal please, it is -THE PRESIDENT: Well, I don't know that
you have made any objection really, Major Furness?

MR. FURNESS: Yes, I have, sir. I have
objected to the admission of the document.

THE PRESIDENT: The objection is overruled. Yes, Mr. Hyder.

MR. HYDER: I should like to read excerpts that are offered, if I may.

"Since 1933, Japan attempted urgently to have Hopei, Chahar, and other provinces in North China under her domination."

Skipping down to the next sentence.

"Therefore, they indulged in persistent conspiracies, attempting to oust the political power of the Chinese National Government from Hopei and Chahar. The Japanese utilized every opportunity to put up pretexts and difficulties against the Chinese Government.

"They practically forced Mr. Hwang and General Ho to resign from their respective posts.

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"During this period, the Japanese Army and diplomats openly declared that the political structure in North China did not satisfy the wishes of the Japanese-Repeatedly they instigated the local authorities in North China to proclaim autonomy. Being loval, the local authorities managed to evade all these Japanese proposed plots. The Japanese became so impatient that they finally resorted to underhand measures. On 20 October 1935, a Chinese traitor by the name of Wu in Hsiang-Ho Hsien, Eastern Hopei province, bribed many local bad elements and started a riot, on the pretext of demanding autonomy. Hopei Frovincial authorities moved calmly to meet the situation and settled the instigated riot in a few days. Japanese, having failed to attain their objective, became even more impatient and grew anxious. By threat and bribery they induced Ying, Ju-Keng, then Administrative Commissioner to cable the National Government on 15 November 1935 asking for autonomy. On 24 November 1935, the Preparatory Committee for Autonomy in the War Zone 1 was organized. On 25 November 1935, the so-called *Eastern Hopei Anti-Comintern Autonomous Council' was set up, proclaiming dissension

and independence from the National Government. The 22 Hsiens in the War Zone were forcibly and unlawfully taken over by this puppet organization. Thus, all military and political affairs there came under sole Japanese domination. Moreover, resources, industries, maritime custom revenues, and salt revenues in the said zone, also fell into Japanese hands. It became the Japanese base of operation for narcotic traffics, smuggling, and instigations of bandits and traitors. The Chinese National Government and local authorities in North China negotiated with Japanese more than once, demending for its abolition. Nothing resulted from these negotiations."

The prosecution next introduces in evidence IPS Document No. 1777. This is the Japan Year Book for 1937. The portion offered in evidence appears on Page 211 and is two paragraphs in length.

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CLERK OF THE COURT: Document No. 1777 will receive Exhibit Number 211.

THE PRESIDENT: Admitted on the same terms.

Mr. Bowman, don't call out the number before
I admit it. Sometimes, when you call that number out,
I am otherwise engaged.

(Thereupon, prosecution's exhibit
No. 211 was received in evidence.)

MR. HYDER (Reading): "Towards the close of November, 1935, an independent government was established with the demilitarized zone as the centre, which was named as the East Hopei Anti-Comintern Autonomous Council. Mr. Yin Ju-keng, special administrative inspector of the Lwanchow-Shanhai-kwan area of the zone, became its chairman. In December, the Committee was renamed as the East Hopei Anti-Communist Autonomous Government and appointed Mr. Vin as its chairman.

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"The Kuomintang Government despatched its
War Winister, General Hc Ying-ch'in to the north. As
a result of his conference with General Sung Cheh-yuan
and General Han Fu-chu the Hopei-Chahar Political Council
was established as an organ to manage the administration
of North China. General Sung Cheh-yuan was appointed
as its chairman and assumed the office on December 18,
1935. This institution, while being under the supervision of the Kuomintang Government, is a new political
organ which has in its hand the power to negotiate with
Japan and Manchoukuo for the maintenance of amicable
relations with them. The domain over which the power
of this political organ will be exercised comprises
Hopei and Chahar Provinces, and Shantung, Suiyuan and
Shansi Provinces are governed by Han Fu-chu and Yen

"Hsi-shan respectively." The prosecution next offers in evidence IPS Document No. 724B. This is a cable, No. 409, despatched on May 7, 1936 by Ambassador UEDA to Foreign Minister ARITA. We offer the entire text. THE PRESIDENT: Admitted on the usual terms. CLERK OF THE COURT: Document No. 724B will be marked Exhibit No. 212. (Whereupon, prosecution's exhibit No. 212 was received in evidence.) MR. HYDER (Reading): "According to top 12 secret military unofficial reports, the Inner Mongol-15 ian policy recently made steady progress, and Prince 14 Te, together with LI Shou-hsin, CHUO Tepachapu, WU Hao-15 ling and TANAKA, Hisahi, Japanese Special Service Chief. 16 met at West Wuchumuhsin with the representatives of 17 Mengchenhuf, Hsilinkuolemeng, Tsakharmeng, Ulanchapmeng, 18 Tumotechi, Alashan, Koshimouchi, Ikochaomeng, Tsinghai 19 and Outer Mongolia and held the so-called State-Founding 20 Conference from the 21st to the 26th of last month. 21 Chief matters adorted at the Conference were reported 22 as follows: "1. The plan to found the Mongolian State by 24 amalgamating Mongolia and both Inner and Outer Tsinghai 25 (excluding Ssumeng which belongs to Manchukuo.)

"2. The plan to adopt a monarchy (But a Committee system will be adopted for the time being.).

"3. The plan to found a Mongolian Congress.

"4. The plan to organize a military government.

"5. The plan to conclude a mutual assistance agreement with Kanchukuo."

Skipping the next paragraph.

"The Military Government was reported to have removed to Tehwa on the first of this month and to have begun business under the direction of a Japanese advisor. (The copy of the unofficial military report on this matter will be sent through Culture Section Chief, Miyazaki who will reach Tokyo about the middle of this month. The complete copy of the aforesaid matter could not be sent, being objected to by the Japanese Army because of its relations with the Central Army. I beg you to understand this point.)

"The staff-officer, TANAKA Ryukichi unofficially
informed me that the mutual assistance agreement was
expected to be concluded with Manchukuo about the end
of this month and that one or two members of this embassy
staff and one of the Foreign Ministry could accompany
them, if the Ministry so desired. Your instructions
are awaited for.

"We must pay due regard to how international

"relations will be affected by the conclusion of the said agreement, but the military policy, as you know, has been carried on with such absolute secrecy that there seemed to be no newspaper which had an article hitting the mark about the State-Founding Conference except the North China Daily News in North China, which gave a very brief account in its issue of April 22nd and the Shanghai Jiji in Shanghai area, which gave a very vague account in its issue of April 30th. The Army, however, intends to go so far as to recognize the independence of Inner Mongolia, which I hope you will bear in mind."

Mrs. Llewellyn will continue for the prosecution.

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THE PRESIDENT: Mrs. Llewellyn.

MRS. LLEWELLYN: May it please the Tribunal, the prosecution offers document No. 1871-E. This is a portion of court exhibit No. 192, introduced this morning. The prosecution offers this document to prove that Japanese sirplanes appeared far beyond the demilitarized zone in violation of the limited right granted by Article 2 of the TANGKU Truce.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Document No. 1871-E will receive exhibit No. 213.

(Whereupon, the document above referred to was marked prosecution's exhibit
No. 213 in evidence.)

MRS. LLEWELLYN: The portion offered consists of about five paragraphs, and I ask permission of the Court to read those paragraphs:

"Beginning in the summer of 1935,
Japanese military planes flew frequently and lended around Peiping and Tientsin. On 3 August 1935,
having received reports to that effect, the Chinese
Ministry of Foreign Affairs made its first protest
to the Japanese Embessy. It demanded the cessation
of such flights. The Japanese replied that they had

to refer it to the Japanese Foreign Office in Tokyo.

After this preliminary negotiation, these illegal
flights of Japanese planes did not decrease at all,
on the contrary, they were extended to many other
areas -- even to the interior provinces such as
Shanshi, Suiyuen and Shensi.

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"The Chinese Ministry of Foreign Affairs again protested and demanded immediate cessetion of such flights. The protest stated in substance that these illegal flights of Japanese airplanes in North China would very easily cause misunderstanding. Not only Chinese laws were being ignored, but Chinese sovereignty was also infringed. China had repeatedly been tolerant in view of the fact that many issues in North China had not been settled at that time. Now North China had become peaceful. Therefore, diplomatic relation between Japan and China should be promptly conducted on a normal basis. In order to avoid any bad effect upon the readjustment of Sino-Japanese relations, Japan was hereby demanded to take proper measures to stop such illegal actions, Consequently the Japanese Government replied that the flight undertaken by Japanese airplanes in Peiping and Tientsin were based upon the provisions under Article 2 of the TANGKU TRUCE. The Chinese Ministry

of Foreign Affairs retorted that such contention on the part of the Japanese Government was apparently a false application since Article 2 in the said truce served a limited purpose of observation during the evacuation of troops only. Moreover, the area to which this provision could be applied was also clearly defined (See text of the TANGKU TRUCE attached below). Therefore, the Japanese false application of the said provision could not be tolerated by the Chinese Government, and again asked that the Japanese government should immediately stop them. Even after this retort, these illegal flights of Japanese airplanes still continued. The Chinese Ministry of Foreign Affairs, based upon its fixed policy, continued to negotiate and to demand their cessation. The Japanese Government, being unable to argue on that pretext, found yet another excuse. It replied that the issue in question could be naturally solved, after the aviation problem between Japan and China in North China had been settled.

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"The Chinese Ministry of Foreign Affairs immediately retorted that the issue of aviation liaison between Japan and China in North China was a problem altogether different in nature from these illegal flights. They were distinctly two issues

which had no connection between them and which should not be mixed. The demand to have these flights stopped was again made. Moreover, the Chinese Ministry of Foreign Affairs instructed the Chinese Embassy in Japan to protest to the Japanese Foreign Office. HIROTA, the Japanese Foreign Minister, replied that such flights were based upon the interpretation of the TANGKU TRUCE. It took time to take proper measures. After which the area over which the Japanese airplanes made their illegal flights continued to expend and extended to the provinces of Shantung. Kengsu and Ningsha. Occasionally they even flew over the Province of Kiangsu, but during these flights over Kiangsu, they flew very high and their destination was uncertain. The case was different in Peiping. Tientsin, Tsingtao and Tsinan. Not only did they make frequent trips, but also they took pessengers and postal mails and used the Chinese air fields by force.

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"According to the statistics of responsible governmental institutions, from June 1935 to April 1937 the Japanese planes had made 761 illegal flights—they were only those of which we kept records. The Chinese Ministry of Foreign Affairs had lodged with the Japanese 13 written protests, not to count those

"After November 1935, the Japanese Government failed to reply to the Chinese protests at all."

which were made orally.

MR. FURNESS: If the Court please, I
don't want to again object, because we have been
overruled. I would like to renew my request to
the prosecution to give us the date this document
was prepared and the circumstances under which it
was prepared. It need not be given to us now, but
it may be given us tomorrow morning, or some reasonabe time is sufficient.

THE PRESIDENT: Well, I would advise you
give it tomorrow morning. Mrs. Llewellyn will have
an opportunity in the meantime to look into the
facts.

MRS. LLEWELLYN: Mr. President, we would be very glad to do that.

The prosecution next introduces document No. 1791 for identification only.

THE PRESIDENT: Admitted, subject to the usual terms.

CLERK OF THE COURT: Document No. 1791 will receive exhibit No. 214.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 214 in evidence.)

MRS. LLEWELLYN: This is a Protocol of Mutual Assistance between the Union of Soviet

Socialist Republics and the Mongolian People's Republic, dated 12 March 1936. We offer this document to prove that it was negotiated by Russia and Mongolia as a wedge or safeguard against the Japanese program of aggression and domination upon the mainland of Asia.

MR. FURNESS: May I ask whether it is offered as proof of aggression against China, against Russia, or against the Mongolian People's Republic?

MRS. LLEWELLYN: It is offered generally to show that it was used as a wedge or safeguard against the expansion toward the west by Japan.

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MR. FURNESS: The phase now in proof is aggression against China. We object to it on the grounds that this is not relevant to any proof of aggression against China. We do not understand from this that the Protocol was entered into in order to protect China.

MRS. LLEWELLYN: The Japanese Army had been pursuing a course towards the west and had occupied Manchuria and was moving into Chahar, Suiyuan and Jehol, and this Protocol is offered to show that Russia and Mongolia agreed that it should not extend further.

MR. FURNESS: I submit again, sir, that

so far as this phase of the case is concerned, it has no relevancy whatsoever. It may have relevancy later in the case, but aggression against China --

THE PRESIDENT: The prosecution claims that it is relevant. Its relevancy may not be apparent to the defense yet and may not be apparent even to all the Members of the Court, but it may appear later as you suggest, Mr. Furness. If it does not appear we must reject it. The objection is overruled.

Yes, Mrs. Llewellyn.

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MRS. LLEWELLYN: May I say to the Court --

THE PRESIDENT: You may read it.

MRS. LLEWELLYN: This is a Protocol of Mutual Assistance Between the Union of Soviet Socialist Republics and the Mongolien People's Republic.

(Reading:) "The Governments of the Union of Soviet Socialist Republics and the Mongolian People's Republic

"Relying upon the relations of unchanging friendship which have existed between their countries since 1921, when, with the support of the Red Army, the territory of the Mongolian People's Republic was liberated from the White Guard detachments

which were in contact with the military forces which had invaded the territory of the Union of Soviet Socialist Republics.

"Guided by the desire to maintain peace in the Far East and to contribute to the further strengthening of the friendly relations existing between them.

"Have decided to confirm in the form of the present Protocol the Gentlemen's Agreement existing between them since 27 November 1934, which provides for mutual support with all means in averting and preventing the threat of a military attack, and for rendering each other aid and support in the event of an attack by any third party on the Union of Soviet Socialist Republics or the Mongolian People's Republic, /and/ for which purpose to sign the present Protocol.

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"ARTICLE 1.

"In the event of a threatened attack on the territory of the Union of Soviet Socialist Republics or the Mongolian People's Republic on the part of a third power, the Governments of the Union of Soviet Socialist Republics and the Mongolian People's Republic obligate themselves to confer immediately on the situation created and

to take all such measures as may be required for the defense of the security of their territories. "ARTICLE 2.

"In case of military attack on one of the Contracting Parties, the Governments of the Union of Soviet Socialist Republics and the Mongolian People's Republic obligate themselves to render each other every possible assistance, including military.

"ARTICLE 3.

"The Governments of the Union of Soviet Socialist Republics and the Mongolian People's Republic deem it self-evident that the troops of either of the Parties found in the territory of the other Party by mutual agreement in fulfill-ment of the obligations laid down in Article I or Article II will be withdrawn from the said territory immediately after the passing of the need for them as was the case with regard to the withdrawal of Soviet troops from the territory of the Mongolian People's Republic in 1925.

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"ARTICLE 4.

"The present Protocol was drawn up in two copies in the Russian and Mongolian languages, both texts having equal validity. It enters into force at moment of signing and will remain in force

for ten years from that moment.
"Signed in the City of

"Signed in the City of Ulan-Bator-Khoto, 12 March in the year one thousand nine hundred and thirty-six.

(Signatures follow)"

THE PRESIDENT: We will recess now for fifteen minutes.

(Whereupon, at 1050 a recess was taken until 1105, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: Mr. Hyder.

MR. HYDER: The prosecution next offers in evidence IPS document No. 1634-B. This is a dispatch entitled "Gist of Plans for Dealing with North China," prepared January 13, 1936; from the accused, Foreign Minister HIROTA to Ambassador Ariyoshi in China, under date of January 21, 1936.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Document No. 1634-B

will receive exhibit No. 215.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 215 for identification, and was received in evidence.)

MR. HYDER: We offer this document to prove that in January, 1936, the Japazese Government continued to assist the Autonomous Movement setting up a specific program for the establishment of self-government in the five provinces, Sui-yuan, Santung, Shan-si, Hopei and Chahar in Morth China.

We next introduce IPS document No. 1634-C.

This is a decision of the Prime Minister, Foreign

Minister, Finance, War and Navy Ministers on the basic

principle of national policy decided August 7, 1936.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Document No. 1634-C

will receive exhibit No. 216.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 216 for identification, and was received in evidence.)

THE PRESIDENT: Why don't you read each document as it is tendered, Mr. Hyder?

MR. HYDER: If the Court please, we will read it if the Tribunal would prefer.

THE PRESIDENT: Why do you distinguish between one and another? Some you read and some you do not. What is the reason?

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MR. HYDER: In the hope that it might expedite the trial if the Tribunal might read it at its convenience.

THE PRESIDENT: When you do not read a document you suggest, really, that it is not so material after all.

MR. HYDER: We seriously urge that it is very
material. With your permission, I would like to go
back and read excerpts from 1634-B if the Tribunal
desires.

THE PRESIDENT: You must have some reason for reading one document or part of a document and not another document or any part of it. Can you give us the reason in a few words?

MR. HYDER: We thought that it might expedite this phase, that the Court might read it at its convenience.

THE PRESIDENT: Expedition cannot be the reason because otherwise you would not read any of them.

MR. HYDER: Some of it is cumulative. We should like, if we may, to read excerpts.

THE PRESIDENT: It is not a matter of what the Tribunal likes or what I like. What is your reason? Can you give it to me?

MR. HYDER: To a certain extent these documents are cumulative of testimony heretofore introduced. That being true, we thought that it would
expedite the trial to offer the document with the Court
reading it at its convenience.

THE PRESIDENT: We want you to read the mat-21 ters you consider important.

MR. HYDER: I should like to read certain excerpts from IPS document 1634B Court exhibit No. 215.

(Reading). "We have already informed you by telegram of an outline of the plans for dealing with

North China' which was drawn up by the army. Attached hereto, we send you a full text of the above-mentioned plans.

"Copies sent to Peiping," and so forth.

"Instruction to the commander of the stationary troops in China. 'Gist of plans for dealing with North China.' 13 January 1936. Policy:

"The principal objects to be borne in mind in dealing with North China area, are to assist the Chinese people in realizing a self-government in North China by themselves, and thus to let the people enjoy their lives and jobs peacefully; also to let them adjust their relations with Japan and Manchoukuo, and thus promote the mutual welfare of these three nations. In order to realize the above objects, we are determined to give support and guidance to the new political organization and thus expand and strengthen its functions.

"Gist of the plans:

"1. Territorially speaking, the five provinces of North China will be made the object of the abovementioned self-government; but we must be careful not to be too eager to enlarge in self-government area; on the contrary, we should first aim at a gradual realization of self-government in the Hopeh and Chahar provinces as well as in Peiping and Tientsin cities in

accordance with the points given in paragraph 2 and others of this letter, and thus, we should aim at inducing the remaining three provinces to join the two voluntarily. Our advice and guidance to the Hopeh-Chahar political council should be given through Mr. Sung che Yuan for the time being, and self-government movements by the people should be encouraged in so far as they remain fair and just, and should make use of them in gradually realizing an actual self-government among the people of these two provinces, thus laying firmly the foundation of the self-government for the five provinces in North China.

"With regard to the East Hopen self-government, we should uphold its independency as long as the self-government function of the Hopen-Chahar political council remains unsatisfactory, but when the self-government in the Hopen and Chahar Provinces is established to such a degree as will generally justify our confidence in it, we should induce the East Hopen self-government to merge into the Hopen-Chahar political council at the earliest opportunity as possible."

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Skipping to the second paragraph under 3:

"In giving guidances this time, we are to
take no such measures as might be misunderstood (by
the world) that Japan is going to set up an independent

an expansion of Manchoukuo; accordingly, appointments of Japanese advisers should be confined to various committees within the (Hopeh-Chahar) political council and to the 29th Army, and their members should be restricted to the smallest possible number; moreover, those personnel and material which are necessary for public utilities and exploitation of industries, etc., inclusive of advisers mentioned above, should be sought from Japan proper as far as possible."

Skipping to 4:

"Operations towards Inner Mongolia should, of
course, be continued on the line pursued hitherto;
but those measures which might become obstacles to the
strengthening of self-governing power of the HopehChahar political council and an expansion of selfgovernment in Shan-si and Sui-yuan provinces, should
be held back for the time being and the southward expansion of Mongolian influence should be kept under proper
control; consequently our operations in Inner Mongolia
should generally be confined to the areas north of the
Great Wall of China, and should not be allowed to extend
into the area belonging to East Sui-yuan and Sumong
villages.

"5. The management of North China would be the

duty of the commander of the Japanese stationary troops in China, and as a rule, he should execute this duty by direct contact with the Hopeh-Chahar and East Hopeh governments; in doing so, he should aim at giving advices and guidances informally.

stationary forces should not assume a leading part,
but should guide it from aside. However, for the convenience of assisting the Hopeh-Chahar political council, for the time being we are going to establish in
Peiping a provisional organization which would be
placed under the supervision of the commander of the
Japanese stationary troops in China (concerning problems of the self-government organizations as well as
of controlling advisers, etc.)

"The Kwantung Army and various organizations
in North China should cooperate in these operations.

Besides, each military attache in China should act in
concert with these operations, especially the military
attaches to the Japanese Embassy and those residing in
Nanking should try, from time to time, to convince the
Nanking Government of the necessity of granting selfgovernment to the North China area, and at the same time
should try to get the approval of the Nanking Government for the six items pertaining to self-governing

power for North China area, or at least, get the Nanking Government's promise that they will carry out no maneuvers which will disturb the self-government in North China.

"6. In carrying out 'these plans,' the various military organizations mentioned above, should keep close contact with the officials of the Foreign Office and the Navy stationed in China, as and when the occasion may require."

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I would like to read certain excerpts of IPS document 1634-C, which has been admitted into evidence as Court exhibit No. 216, entitled "Basic Principle of National Policy, 7 August, 1936, Decided by Prime Minister, Foreign Minister, Finance Minister, War Minister and Navy Minister.

"In view of the situation in and out of the Empire, the fundamental national policy to be established by the Empire is to secure the position of the Empire on the East Asia Continent by dint of diplomatic policy and national defense, mutually dependent on each other, as well as to advance and develop the Empire toward the South Seas. The basic principles are as follows:"

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Skipping to 2: "We should replete our national defense and military preparations, which are necessary to secure peace for the nation, protect its development, and to ensure the position of the Empire, which should be a stabilizing power in East Asia.

"3. The fundamental principles of our continental policy are as follows: a sound development and accomplishment of Manchoukuo; intensification of national defense of Japan and Manchoukuo in order to eradicate the Soviet menace in the north

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and at the same time to prepare against Britain and America; and realization of a close cooperation among Japan, Menchoukuo and China for our economic development. In carrying out these policies, we should be careful to have friendly relations with other countries."

I would like to point out that the Premier at that time was HIROTA, Koki, and the Navy Minister at that time was NAGANO, Osami, both accused in this case.

We next offer in evidence IPS document No. 1634-D. This is a decision of the Ministries concerned, dated August 11, 1936; on "The second administrative policy toward North China."

THE PRESIDENT: Admitted on the usual terms.

'CLURK OF THE COURT: Document No. 1634-D will receive exhibit No. 217.

(Whereupon, prosecution's exhibit
No. 217 was received in evidence.)

MR. HYDER: I would like to read two excerpts from this document.

"The main purpose of our administrative policy toward North China" —

MR. BROOKS: If the Tribunal please, I have

been studying these excerpts from the Foreign Ministry file. Since they are excerpts, we do not have the whole picture or idea or plan before us. And, since we are reading -- allowing the prosecution to read excerpts from these excerpts, it still further distorts this plan and ideas.

In my mind, I think that it should be objected to, that if he's going to put this whole excerpt, and the Court is going to allow that to go in, that the whole part of it should be read so that the defendants have a chance to hear it, because they can't have a chance to know what is in there, and we don't have any opportunity to get these papers, to read them, and the time to do it, if it were possible.

THE PRESIDENT: There is something I want to say, Captain Brooks. I suppose they really extract from a document only what they think is useful, and we would expect them to read to us everything that is useful. Nevertheless, if that would greatly protract the proceedings, we may have to be satisfied to hear a limited reading of the excerpts.

MR. BROOKS: Should we consider, if the Tribunal please, anything that is not read into the record as really evidence against the defendants

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here, if they do not get the opportunity to hear these things that are being offered in evidence?

As I understand the practice, on consulting the record, anything that is read into the record is admissible against the defendants and is permitted to come in; but, if it's offered in evidence, and only excerpts are read, that the remaining portion which the defendants have not heard — and they have not been given the opportunity to consult with counsel on those matters. And in this case, if these things are not read, the defendants can't hear it and say "That is not true" and call those little points to our attention that are so important in straightening out the apparently wrong idea that I believe has been given in a number of cases.

THE PRESIDENT: Of course, if the whole extract is supplied to you, then you know not only what is read but what is not read, and the part not read can be tendered by the defense later.

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We should rely upon the good judgment of the prosecution. I have been thinking really of the convenience of the Tribunal. We would like to have in the record all that is really material, but that may protract the proceedings unduly.

MR. BROOKS: If the Court please, would the Tribunal consider a ruling that only that matter that is read into the record could be considered as in evidence against these defendants?

THE PRESIDENT: This question was raised in Germany, but I believe they changed their view about it. I never dared to shut out evidence that wasn't read into the record. There may be some material stuff not read in.

MR. BROOKS: We would like to have a little time to give the Court a full explanation of this proposition. However, I think that it does work a hardship on the defense attorneys, and also on the defendants, in trying to prepare a case because that means that everything must be reviewed; if it's only a paragraph or two, everything must be reviewed; and a book, if it's put in evidence, regardless of whether it is a thousand pages -- and right now the text is getting into an unheard of quantity for reading that we must read and explain and discuss with our defendants.

THE PRESIDENT: What support have you got from the other defendants on this issue?

MR. BROOKS: I would like also to point out to the Court that on a matter of this type,

where we have so much evidence to review, it is important that the burden not be placed on the defense to scan this. I am not criticizing them by saying they are not being fair, but I am saying that, from a different point of view and a different attitude, something they do not consider material, we consider very material and would be explained.

MR. LOGAN: If the Tribunal please, I think we have stated our policy with regard to this on several occasions, and I can think of a no more concrete example of what we have been talking about for the past days than this document 1634-C, prosecution's exhibit 216, which has just been offered in evidence.

The prosecution has offered this document and read three paragraphs from it. The three paragraphs which they have read create an impression with regard to military aggression. They have omitted paragraphs one and three which show an entirely different purpose.

We have consistently asked for the right to
read excerpts on the prosecution's case from a document which they have not read. In other words, they
read certain excerpts from a document. We've asked
for the right to read other excerpts which tend

to explain or contradict the matters which the prosecution has read. We contend that this same principle applies to affidavits, confessions or declarations of the accused, and documents, and the purpose of it is that, if the prosecution intends to read any part of a document, that they should read the entire document so the accused will know the matters of which they are being charged. That, I think, in general, is our position in this matter.

THE PRESIDENT: The Court will consider the matter, and for that purpose we will adjourn now until half past one.

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(Whereupon, at 1145, a recess was taken.)

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AFTERNOON SESSION

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

THE PRESIDENT: The decision of the Court on the matter reserved before lunch is to this effect:

The prosecution may read so much of an excerpt as they think fit. As the whole of the excerpt is in evidence, it will be for the defense, if they see fit when they are presenting their case later on, to read so much of the balance of the excerpt as they think fit. They may, of course, also refer to it when addressing. The defense are already supplied with a copy of the whole of the excerpt and will not be at any disadvantage because the whole of the excerpt is not read by the prosecution.

Our decision on this point is in accord with what it would be if we were trying our own nationals. We are following the practice in our national courts.

The objection is overruled.

MR. LOGAN: If it please the Tribunal, may we ask for a further clarification, not with respect to the ruling you have made, but something in addition which we think is important. When a document has been offered in evidence, and the prosecution only reads

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excerpts from it, are we correct in our understanding that the only portion of that document which is considered a part of the record is the excerpt which has been read?

THE PRESIDENT: The whole of the evidence is part of the record, and the evidence includes the documents tendered in evidence.

MR. LOGAN: If the Tribunal please, that is the proceeding, as we understand it, in our country, but here we have a special situation. The Charter provides that the accused should be confronted with documents and evidence in their own language.

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THE PRESIDENT: You get a translation of every word and every document so far as the document is tendered against you. That is all the Charter requires, and it is enough.

MR. LOGAN: May I respectfully refer the Tribunal to the rulings at Nuernberg with respect to that. I think they are applicable here.

THE PRESIDENT: It cannot be that at Nuernberg the Court orders the defense to be supplied with documents which are not tendered in evidence.

MR. LOGAN: My argument is based on a little different ground, if it please the Tribunal. Where a document is offered in evidence, and only excerpts

are read, the accused do not know what is contained in those documents which have not been read.

THE PRESIDENT: The whole of every document is made available for examination by you in the office of the General Secretary. You are really asking us to depart from our rules. We may do so: we reserve the right in the rules themselves; but what justification is there here for that? This matter has already been fully argued.

MR. LOGAN: I do not recall, if the Tribunal please, this point being raised before. What I am arguing for, is that a document is only considered part of the record when it is read into the record.

I do not recall the Tribunal having passed on that.

Now, under Rule 6(b), as it was originally, it was required that the prosecution furnish copies of the complete documents. There have been exceptions - - -

THE PRESIDENT: You are confusing the record with the transcript of what is spoken in court; they are two distinct things.

It is the Court's duty to consider every part
of a document which is tendered in evidence; that is,
so far as it is tendered in evidence, whether the
contents of the document are read in court or not.

MR. LOGAN: That, if it please the Tribunal,

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these exceptions that have been made to Rule 6(b) we are not furnished with a complete Japanese translation of an English document, or an English translation of a Japanese document; and when that whole document is offered in evidence our contention is that it is not part of the record; that only that part which has been read by the prosecution is part of the record, and that is the decision of the Nuernberg cases. They hold specifically there that only that part which is read in the court will form part of the record.

THE PRESIDENT: Unless I am mistaken, that rule no longer obtains at Nuernberg. They have altered it.

15 MR. LOGAN: Well, may we ask that it be
16 followed here, if the Tribunal please, in the interest
17 of the accused, because they certainly do not know
18 what is in these documents that are filed down in the
19 Secretariat's office, and they should --

THE PRESIDENT: The decision we gave this afternoon is quite inconsistent with your application that we should treat as evidence only what is spoken in court. That is what it amounts to.

Dr. KIYOSE.

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DR. KIYOSE: In connection with this problem,

there are a few points regarding which we have some doubts and would like to make some inquiries. Accord-3 | ing to Rule 6(b), evidence to be presented -- every copy of evidence or every extract of evidence to be submitted -- presented to the Tribunal should be 6 properly marked, either by the defense or the prose-7 cution. Thus, we should like to have the matter 8 clarified by this Tribunal -- whether this present 9 rule is now in application or whether only the spoken 10 words become a part of the record. MR. BROOKS: If the Tribunal please, there 12 1s --THE PRESIDENT: Wait until I answer him. I have already given the answer in what I 15 said to Mr. Logan. Dr. KIYOSE evidently was not 16 listening. MR. BROOKS: If the Tribunal please, I 18 believe there is a misapprehension on what my request 19 for a ruling was intended to cover, not only by some of my associate counsel, but also, with great respect, 21 I believe on the part of some of the Members of the 22 Court. THE PRESIDENT: I am the only Member of the 24 Court you heard; so it must be on my part. MR. BROOKS: Well, not necessarily, Mr. President.

I agree that, as the Court has stated thus far, everything that is put in by the prosecution is in here in the proceedings, is before the public, and the defense can bring in other things equally as valuable to put in in defense. But that is still not inconsistent with the point I have in mind. I wish to have made public, not only those things that the prosecution and defense consider important -and made into this proceeding and into this record in open court -- the statements for and against each point raised. Now, these matters that are of such importance to pass judgment upon will be in that record; and they should all be in there. They should be brought out in this dourt before these defendants so that they can answer them. They should be brought out before the public, and for the knowledge of the people of the world to know upon what basis the Court passed judgment. There should not be left anything in the record filed here, if that is what the Court is discussing. When I talked about the record before, I meant these records of proceedings, and I think that everything that is of sufficient importance for conviction or for defense material can be brought out.

THE PRESIDENT: The things you are asking are 25 not necessary in the interests of a fair trial of the

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Japanese. You are asking us to do things for these Japanese accused that are not done for our own nationals accused of crime, not in any court among the Allied Powers. You must accept the Court's decision. We will not hear you further.

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MR. HROOKS: I have asked the Court that reason because before I was not allowed to complete it. The Court had recessed before I was allowed to give this completely.

THE PRESIDENT: Mr. Hyder.

MR. HYDER: With the permission of the Court, in compliance with the ruling, I should like to read excerpts of I. P. S. document No. 1634D, now in evidence as Court Exhibit 217. (Reading):

"The main purpose of our administrative policy toward North China --

THE PRESIDENT: Where are you reading from? MR. HYDER: 1634D, Court Exhibit No. 217.

THE PRESIDENT: Yes, read, Mr. Hyder.

MR. HYDER: (Reading)

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21 "The main purpose of our administrative
22 policy toward North China is to assist the people in
23 North China in procuring perfect independence in
24 administration and to set up anti-communistic and
25 pro-Japanese and pro-Manchurian area and to secure

necessary materials for our national defense, as well as to improve the facilities of transportation against the possible invasion of Soviet Russia, and for making North China a base for the cooperation of Japan, Manchukuo and China as well as for mutual aid.

"II. For this purpose, we should guide the local political powers and make the Nanking Government recognize the characteristic feature of North China so that the Nanking Government may not only hinder the self-administration of North China, but also may afford a special and comprehensive power of self-government.

"The gist of the policy.

"I. Contents of self-government.

making the North China Government exercise its power
over the finance, industries and transportation of
North China and in making North China free from the
anti-Japanese interference of the Nanking Government by
our taking political and economic policy, aiming at the
cooperation and the mutual aids of Japan, Manchukuo and
China as well as by the promotion of the happiness of
the people in North China. We should strictly avoid
such acts as would be suspected of disapproving China's
territorial right of North China or of bringing about
an independent country free from the Nanking Government

or of making North China an extension of Manchukuo.

"II. Scope for self-government."

"Five provinces in North China should finally be put under self-government."

Skipping to III:

"Guidance of Hopeh and Chahar political powers.

"Our fair and square attitude is required for the guidance of the political powers of these two provinces. We should improve the governmental system and purge and innovate the personnels of the governments. We should also try to abolish the financial, economic and military administration of the Chinese

drawing the people's heart to Japan."

Skipping to the next paragraph:

military cliques, thus brightening the whole area and

"IV. Guidance of the East Hopeh Autonomy Government.

"In guiding the East Hopeh Autonomy Government, an advice should be given to the government so
that the internal administration may be reformed, and
that the reforms may serve as example for the Hopeh
and the Chahar Government to follow."

Skipping to VI:

"The purpose of our economic development in
North China is to create an inseparable connection

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between China and Japan based on the mutual economic interest promoted by the civilians' free investment and also to make it contribute toward the preservation of friendly relations between Japan and North China, both in time of war or peace. Iron, coal and salt existing in the province should be utilized for our national defense and for the promotion of our transportation facilities and electric power."

MR. FURNESS: At this time the defense would
like to call attention to a very important error in
translation. In sixth line, paragraph one, it says:
"against the possible invasion of Soviet Russia." I
am advised by my Japanese counsel that this should read:
"against the possible invasion by Soviet Russia." I
wish to call it to the attention of the Tribunal.

THE PRESIDENT: I take it your purpose,
Major Furness, is to correct an error which would
otherwise appear on the face of the transcript of
the proceedings here.

MR. FURNESS: That is correct, sir.

THE PRESIDENT: Well, that is sufficient.

14 But in order to make sure that it is a mistake, I

15 hope you consulted our Language Section first.

MR. FURNESS: I regret that I did not, but it is a simple matter to consult them now and to consult the arbiters, the monitor.

THE PRESIDENT: It is a serious matter to interrupt the proceedings of this Tribunal without just cause. You should have made a reference first to the Language Section and there may have been no need to interrupt us.

MR. FURNESS: I respectfully submit, sir, if
the error is there and is important, it is important

to call it to the Court's attention whatever the time. THE PRESIDENT: You should have consulted the Language Section first, Major Furness. MR. FURNESS: Shall I bring it up then tomorrow morning after they have had a chance to check THE PRESIDENT: Yes. MR. HYDER: The prosecution next offers in evidence IPS Document No. 1634F. It is marked "Item 10 THE PRESIDENT: Admitted on the usual terms. 11 MR. HYDER: I would like to read two short 12 excerpts from them, if I may. 13 14 THE PRESIDENT: What is the number? 15 CLERK OF THE COURT: Document No. 1634F will be marked "Exhibit No. 218." 17 (Whereupon, prosecution's exhibit No. 18 218 was received in evidence.) 19 MR. HYDER: This is decision of the Minis-20 tries concerned, dated February 20, 1937 and "The 21 Third Administrative Policy toward North China." 22 "The object in view. 1. -- " 23 MR. BROOKS: If the Court please. All we 24 have got is two lines. I thought this was bottom on excorpts. Apparently there has been a mistake. We

have not got any printing on it.

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MR. HYDER: If the Court please, there is two.

THE PRESIDENT: That sort of thing can be rectified without interrupting the proceedings of the Tribunal. Captain Brooks could have approached Mr. Darsey. I am getting apprehensive about all these interruptions -- unnecessary interruptions.

MR. BROOKS: If the Court please, we want to put on a defense here of some kind and I cannot do it without the papers, and we have a right to have them served on us, and that is what I am objecting for.

MR. HYDER: These documents were delivered to the defense. Our record so shows.

THE PRESIDENT: It appears they are trying to force on the attention of the Tribunal every petty little difficulty which could be straightened out by a reference to the prosecutors without coming to the Court.

MR. HYDER: The document is three pages in length. There is one short paragraph on Page 1 and two full pages. I will begin with "The Third Administrative Policy toward North China. February 20, 1937."

(Reading): "The object in view. 1. The

"principal object of administrating North China is to complete our aim of making Manchukuo quite pro-Japanese and pro-anti-comintern, procuring defense materials, enforcing transportation, preparing the defense against U.S.S.R. and establishing the concert between Japan, Manchukuo and China.

"2. To complete the above object, we do our best for the economic policy in North China, aid in secret the government of North China and make the Nanking Government recognize the speciality of North China and aid the concert between Japan, Manchukuo and China.

"Principles. 1. Attitude toward Administrating
North China. The measures which we took for North
China made the foreign powers think that we were
aggressive in China. So we must abstain from all
the actions as give other powers misunderstanding of
our intention. We should do our best for the culture
of the people in North China."

Skipping to paragraph five.

"Object of developing economy. We welcome
the investment of private capitals, and by the
extension of our rights and interests in North China
we establish the close friendship between Japan and
China. By thus establishing the friendship not only

"in time of peace but in time of war we may procure the materials for munition industries."

We next offer in evidence IPS Document No. 1634-G. These are titled "Plans for Guiding North China (Decided by the Foreign, Finance, War and Naval Ministers)", dated April 16, 1937.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Document No. 1634-G

will receive Exhibit No. 219.

(Whereupon, prosecution's exhibit No.
219 was received in evidence.)

MR. HYDER: I would like to read two excerpts if I may.

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(Reading): "Plans for Guiding North China (Decided by the Foreign, Finance, War and Naval Ministers) 16 April 1937. General Policy. 1. The essence of the guidance of North China is to make the said area virtually a firm anti-Communistic pro-Manchu Japanese region, and also contribute to the acquisition of communicational facilities, thus partly preparing against the Red threat and partly forming a foundation for realizing the unity and mutual aid of Japan, Manchukuo and China.

"2. In order to attain the above aims, for the present our first and main efforts will be in carrying

"out economical measures with the North China populace as object. When carrying out the above measures, besides internal guidance of the North China regime, the Nanking regime must be guided through policy applied to it to recognize the special position of North China, and to voluntarily cooperate to the policies of Sino-Manchu-Japanese unity and mutual aid.

"Important Principles. 1. Attitude in guiding
North China. It cannot be denied that our policy towards
North China what with the geographical peculiarities
of the region, has not infrequently in the past given
'the erroneous impression to China and other powers that
our Empire has the intentions of enlarging the truce
zone, advancing the frontier of Manchukuo or else
realizing the independence of North China. So in our
future policy towards North China, together with strict
precautions against actions which may arouse such unnecessary misinterpretations, it is vitally important
to attend solely to the execution of cultural and economic measures having as main objects secure and facile
life and work for the North China populace, thus contributing to the achievement of our expected aims."

Skipping to Paragraph Five.

"General lines for economical development. The aims of economical development of North China is,

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"together with promoting our interests which advocates the free advance of civilian capital, to invite Chinese capital also, thus constructing as inseparable Sino-Japanese situation based on the economical profits of Chinese and Japanese in accord, and to contribute to the maintenance of North China's pro-Japanese attitude both in peacetime and in war. Especially the development of those military resources vital to national defence (iron, coal, salt, etc.) and the establishments of communications, electricity, etc., connected to this shall be speedily realized, by special capital if necessary."

Judge McKenzie will continue for the prosecution.

THE PRESIDENT: Mr. McKenzie.

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I was on the floor last, the Tribunal had asked for some maps. I had the maps which were attached to the Lytton Report photostatted and, by agreement with defense counsel, I had selected the nine maps I thought most important, had them processed and distributed to the Tribunal before their introduction in evidence. I also talked with those defense counsel available and asked them about the number of copies that they would accept, in view of the scarcity of the photostatic paper, and

it was suggested by counsel, though they thought five sets would be adequate, although they advised me they could not speak for all of defense counsel. When they were served on defense counsel, they then requested that the balance of the maps, the other five that did not pertain to Manchuria, should be served upon them. I have had those processed and I now desire to offer in evidence a complete set of the fourteen maps attached to the Lytton Report.

THE PRESIDENT: Admitted on the usual terms.

DR. KIYOSE: Regarding these maps, Mr. President, none of Japanese counsel have seen a single copy. We do not necessarily wish to raise any objection but we would think it would be more advisable to stay the matter until tomorrow.

CLERK OF THE COURT: These maps will be marked Exhibit No. 220.

(Whereupon, prosecution's exhibit No.

220 wgs received in evidence.)

MR. MCKENZIE: And may I advise the Tribunal that I attached to the original the two receipts from defense counsel for five sets of each, the first nine and the second five.

THE PRESIDENT: I think you should make an endeavor to give Dr. Kiyose a set of those maps, Mr.

McKenzie.

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DR. KIYOSE: We do not wish to interrupt the proceedings, your Honor, but before these maps are offered in evidence, we should like to be given an opportunity to see them over. We wish that you would advise accordingly.

THE MONITOR: "So that they could provide other evidence in its place."

THE PRESIDENT: Well, that would involve a waste of time. If later Dr. KIYOSE can point out anything wrong in the maps, we will, of course, act on that.

DR. KIYOSE: Mr. President, I have received a copy of these maps but others of my Japanese counsel numbering over twenty have not received any. I do not think it would be proper to continue the proceedings until all of them have copies.

THE PRESIDENT: The proceedings will continue.

As I said before, in Germany they get only two copies of these things. That is to say, the defense get only two copies.

MR. MCKENZIE: If the Tribunal please, I desire now, as we enter a new phase of the Manchurian aggression, to refer again to the Lytton Report on Page 88 and to read and paraphrase Chapter Six, Part One.

This deals with stages of the formation of the new state and paragraph one deals with the chaotic conditions resulting from Japanese occupation of Mukden.

Beginning with the second paragraph, I desire to read that, the first two paragraphs on Page 89 and the first three sentences of the third paragraph.

(Reading)

"The immediate necessity was the organization of a municipal government and the restoration of the ordinary civic life of the city. This was undertaken by the Japanese and carried through quickly end efficiently. Colonel Doihara was installed as Mayor of Mukden, and within three days normal civil administration was restored. Several hundred police and most of the prison warders were brought back with the help of General Tsang Shih-yi, the Civil Governor of the Province, and the public utility services were restored. An Emergency Committee, with a majority of Japanese members, helped Colonel Doihara, who held his post for one month. On October 20th, the reins of municipal government were restored to a qualified Chinese body, with Dr. Chao Hsin-po (a lawyer who had studied for eleven years in Japan and was a Doctor of Law of Tokyo University) as Mayor.

"The next problem was to re-organise the provincial administration in each of the Three Provinces. This task was more difficult in Liaoning than in either of the other two, because Mukden was the centre of this provincial administration; most of the influential men had fled, and for a time a Chinese provincial administration continued to be

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carried on at Chinchow. It was three months, therefore, before the re-organisation was completely accomplished. Lieutenant-General Tsang Shih-yi, the existing President of the Liaoning Provincial Government, was first approached on September 20th and invited to organise a Provincial Government, independent of the Chinese Central Government. This he refused to do. He was then put under arrest and released on December 15th.

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"After General Tsang Shih-yi had refused to help in the establishment of an independent Government, another influential Chinese official, Mr. Yuan Chin-kai, was approached. He was a former provincial governor and a Vice-President of the North-Eastern Political Committee. The Japanese military authorities invited him and eight other Chinese residents to form a "Committee for the Maintenance of Peace and Order". This Committee was declared to have been formed on September 24th. The Japanese Press at once acclaimed it as the first step in a separatist movement, but Mr. Yuan Chin-kai publicly disclaimed any such intention on October 5th. The Committee, he said, had "been brought into being to preserve peace and order efter the breakdown of the former administration. It assisted, moreover, in relieving

refugees, in restoring the money market, and it attended to some other matters, solely for the sake of preventing unnecessary hardship. It had, however, no intention of organising a Provincial Government

"On October 19th, the Committee opened the Board of Finance, and Japanese advisers were appointed to assist the Chinese functionaries. The Director of the Board of Finance had to obtain the approval of the military authorities before giving effect to the Board's decisions. In the districts, the tax collectors' offices were controlled by the Japanese gendarmerie or other agencies."

Passing now to the third from the last paragraph on the page:

"On October 21st, the Board of Industry was opened by the Committee, whose name was now changed to that of "Liaoning Province Self-Government Office". The consent of the Japanese military authorities was sought and obtained and a number of Japanese advisers were appointed. Before issuing any orders, the Director was required to obtain the approval of the Japanese military authorities.

"Lastly, the Lizoning Self-Government Office organised a new North-Eastern Communications

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Committee, which gradually assumed control of various railways, not only in Liaoning Province, but also in Kirin and Heilungkiang. This Committee was separated from the Liaoning Self-Government Office on November 1st.

"On November 7th, the Liaoning Province
Self-Government Office transformed itself into the
Liaoning Provincial Government ad interim, which
issued a declaration by which it severed its relations with the former North-Eastern Government and
with the Central Government at Nanking. It requested the local governments in Liaoning to abide by the
decrees it had issued, and announced that henceforth it would exercise the authority of a Provincial Government. On November 10th, a public opening
ceremony took place.

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"Simultaneously with the transformation of the Self-Government Office into the Liaoning Provincial Government ad interim, a Supreme Advisory Board was inaugurated under the chairmanship of Mr. Yu Chung-han, who had been Vice-Director of the Peace and Order Maintenance Committee. Mr. Yu announced the objects of this Board as: the maintenance of order, the improvement of administration by the suppression of bad taxes, the reduction of taxation,

and the improvement of the organisation of production and sale. The Board was, furthermore, to direct and supervise the acting Provincial Government, and to foster the development of local self-government in accordance with the traditions of local communities and with modern needs. It comprised sections dealing with general affairs, investigation, protocol, guidance, supervision, and an Institute for Training in Self-Government. Nearly all the important functionaries were Japanese.

"On November 20th, the name of the Province was changed to that of Fengtien, which had been its name before its union with Nationalist China in 1928, and, on December 15th, Mr. Yuan Chin-kai was replaced by General Tsang Shih-yi, who was released from his confinement and installed as Governor of Fengtien Province.

"The task of establishing a provincial Government in the province of Kirin was far easier. On the 23rd, the Commander of the 2nd Division, Major-General Tamon, had an interview with Lieutenant-General Hsi Hsia, the acting head of the provincial administration in the absence of General Chang Tso-hsiang, and invited him to assume the chairmanship of the Provincial Government. After this interview,

General Hsi Hsia summoned the various Government organisations and public associations to a meeting on September 25th, which was also attended by Japanese military officers. No opposition was expressed to the idea of establishing a new provisional government, and a proclamation to that effect was published on September 30th. The Organic Law of the new Provincial Government of Kirin was subsequently announced. The committee system of government was abolished, and Governor Hsi Hsie took full responsibility for the conduct of government. Some days leter, the principal officials of the new Government were appointed by hin and some Japanese functionaries were added later. The chief of the Bureau of General Affairs was a Japanese. In the districts also, some administrative re-organisation and change of personnel took place. Out of forty-three districts, fifteen were re-organised, which involved the dismissal of 19 the Chinese District Officers. In ten others, the 20 District Officers were retained after declaring their allegiance to General Hsi Hsia. The others still 22 remeined under Chinese military leaders loyal to the old regime, or kept aloof from the contending factions.

"The Chief Administrator of the Special

District, Lieutenent-General Chang Ching-hui, was friendly to the Japanese. He had no military force behind him, whereas the old regime could still dispose of considerable forces both in Kirin and Heilungkieng, as well as the railway guards in the Special District itself. On September 27th, he summoned a conference in his office at Harbin to discuss the organisation of the Emergency Committee of the Special District. This Committee was formed with General Chang as Chairman and eight other members, amongst whom were General "ang Juihwa and Ceneral Ting Chao, who later, in January 1932, became the leader of the "anti-Kirin" forces, in opposition to General Hsi Hsia. On November 5th, the anti-Kirin Army, under the command of the Generals of Chang Tso-hsiang, established a new Kirin Provincial Government at Harbin. After General Chang Ching-hui had been appointed, on January 1st, 1932, Governor of Heilungkiang, he declared in that capacity the independence of the Province on January 7th. On January 29th, General Ting Chao took possession of the office of the Chief Administrator and placed General Chang under restraint in his own house. The latter regained his liberty when the Japanese forces came north and occupied Harbin on February 5th, after

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defeating General Ting Chao. From that time onwards, the Japanese influence made itself increasingly felt in the Special District.

"In Heilungkiang Province, a more complicated situation had arisen owing to the conflict between General Chang Hai-peng and General Ma Chan-shan, which was described in the last chapter. After the occupation of Tsitsihar by the Japanese on November 19th, a Self-Government association of the usual type was established, end this Association, which was said to represent the will of the people, invited General Chang Ching-hui, of the Special District, to act concurrently as Governor of Heilungkiang. As the situation around Harbin was still unsettled, and no definite agreement with General Ma had been reached, this invitation was not accepted until early in January 1932. Even then General Ma's attitude was ambiguous for some time. He co-operated with General Ting Chao until the latter's defeat in February, and then came to terms with the Japanese, accepting the Governorship of Heilungkiang out of General Chang's hands, and subsequently co-operated with the other Governors in the establishment of the new State. A Self-Government Guiding Committee was established at Tsitsihar on January 25th, and the same form of Provincial

Government as in the other Provinces was gradually established.

"The Province of Jehol has hitherto kept aloof from the political changes which have taken place in Manchuria. Jehol is part of Inner Mongolia. Over 3,000,000 Chinese settlers now live in the Province and they are gradually pushing out to the north the nomadic Mongols, who still live under their traditional tribal or Banner system."

Passing now to the last third of that paragraph:

"General Tang Ju-lin, the Governor of the Province, is reported to have assumed full responsibility for his Province on September 29th, and to have kept in touch with his colleagues in Manchuria. At the inauguration of "Manchukuo" on March 9th, Jehol was included in the new State. In fact, however, no decisive step was taken by the Government of the Province. The latest events in this Province were referred to at the end of chapter IV.

"The local self-governing administrations thus established in all the Provinces were subsequently combined into a separate and independent "State". To understand the ease with which this

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was accomplished and the amount of evidence which it has been possible to bring forward of Chinese support for it when it was accomplished, it is necessary to consider the peculiar feature of Chinese organised life which in some circumstances is a strength and in others a weakness. As has been already stated in Chapter I, the community obligations recognised by the Chinese are rather to the family. to a locality, or to persons, then to the State. Petriotism as it is understood in the West is only beginning to be felt. Guilds, associations, leagues, armies, are all accustomed to follow certain individual leaders. If, therefore, the support of a particular leader can be secured by persuasion or coercion, the support of his adherents over the 16 whole area of his influence follows as a matter of course. The foregoing narrative of events shows how successfully this Chinese characteristic was utilised in the organisation of the Provincial Governments, end the agency of the same few individuals was used 21 to complete the final stage. 22

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"The chief agency in bringing about independence was the Self-Government Guiding Board, which had its central office in Mukden. By reliable witnesses, it was stated to the Commission to have

been organised, and in large part officered, by Japanese, although its chief was a Chinese, and to have functioned as an organ of the Fourth Department of the Kwantung Army Headquarters. Its main purpose was to foster the independence movement. Under the direction and supervision of this Central Board. local self-government executive committees were formed in the districts of Fengtien Province. To those various districts, as occasion demanded, the Central Board sent out members from its large and experienced staff of inspectors, directors and lecturers, many of whom were Japanese. It utilised also a newspaper, which it edited and published.

"The nature of the instructions given by the Central Board is apparent from the proclamation which it issued as early as January 7th, under date of January 1st. The proclamation stated that the North-East was faced with the need for developing, 19 without delay, a great popular movement for the 20 establishment of a new independent State in Manchu-21 ria and Mongolia. It described the development of its work in various districts in Fengtien Province, and outlined its plan for the extension of its ac-24 tivities to the remaining districts and even to the 25 other Provinces. It then appealed to the people of

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the North-East to overthrow Marshal Chang Hsuehliang, to join the Self-Government Association, to
co-operate in setting up a clean administration and
improving the living conditions of the people, and
it ended with the words: "Organisations of the
North-East, Unite! Towards the new State! Towards
Independence!" Of this proclemation, fifty thousand
copies were distributed.

"As early as January also, the Chief of

"As early as January also, the Chief of
the Self-Government Guiding Board, Mr. Yu Chunghan, was already making plans, together with Governor Tsang Shih-yi, for the new State which, it was
reported, was to be established on February 10th.
But the Harbin outbreak of January 29th and General
Ma's ambiguous attitude during the conflict with
Ting Chao appear to have been the main reasons for
the temporary postponement of further preparations
at that time.

"Later, after Ting Chao's defeat, negotiations between Lieutenant-General Chang Ching-hui and General Ma had brought about, on February 14th, a settlement according to which General Ma was to become Governor of Heilungkiang. The meeting at which the foundation of the new State was to be arranged was held on February 16th and 17th at Mukden. The

Governors of the Three Provinces and the Special District were present in person, as well as Dr. Chao Hsin-po, who had played a prominent part in all the preparatory work.

"At a meeting of these five men, it was decided that a new State should be established, that a North-Eastern Administrative Council should be organised which would exercise temporarily the supreme authority over the Provinces and the Special District, and, finally, that this Supreme Council should, without delay, make all necessary preparations for the founding of the new State. On the second day of the Conference, two Mongol Princes attended, one representing the Barga District (Hulunbuir) in Western Heilungkiang, the other, Prince Chiwang of the Cherim Leagues, representing practically all Banners, who respect this Prince more than any other leader.

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"The Supreme Administrative Council was constitued the same day. Its members were Lieutenant-General Chang Ching-hui, Chairman of the Council, the Governors of Fengtien, Kirin, Heilungkiang and Jehol, and Prince Chiwang and Prince Ling Sheng for the Mongolian districts. The first decisions of the Council were: to adopt the republican system for the new 'State'; to respect the autonomy of the constituting Provinces; to give the title of 'Regent' to the Chief Executive, and to issue a Declaration of Independence, to be signed by the Governors of the four Provinces and the Special District, by Prince Chiwang for all the Banners, and by Prince Kueifu for Hulunbuir in Heilungkiang. The Commanderin-Chief of the Kwentung Army gave that night an official dinner in honour of the 'Heads of the new State', whom he congretulated on their success and assured of his assistance in case of need.

"The Declaration of Independence was
published on February 18th. It referred to the
ardent wishes of the people to have permanent
peace and to the duty of the Governors, who were
said to have been chosen by the people, to fulfil
those wishes. The Declaration referred to the
necessity for the establishment of a new State,

and claimed that the North-Eastern Administrative

Council had been constituted for this purpose. Now

that relations with the Kuomintang and the Government
at Nanking had been severed, the people were promised
the enjoyment of good government. This Declaration
was sent by circular wire to all places in Manchuria.

Governor Ma and Governor Hsi Hsia then returned to
their respective provincial capitals, but they
designated representatives to meet Governor Tsang
Shih-yi, Governor Chang Ching-hui, and Mayor Chao
Hsin-po for the purpose of working out the details
of the plan.

"In a subsequent meeting held by this group, on February 19th, it was decided to establish a Republic, to lay down the principle of the separation of powers in the Constitution, and to ask the former Emperor Hsuan-Tung to become the Chief Executive. In the following days, it was decided that the capital should be Changchun; the new era of government was to be styled 'Tatung' (Great Harmony), and the design of the national flag was fixed. Notification of the decisions taken was sent, on February 25th, to all provincial governments, including Jehol, as well as to the Mongol administrative offices of Hulunbuir and of

the Cherim, Chaota and Chosatu Leagues. The lastnamed Leagues are established in Jehol. They could, therefore, as already stated, take no steps against the wishes of the Chairman of the Government of that Province.

"After the Declaration of Independence and the announcement of the plans for the new State, the Self-Government Guiding Board took the leading part in organising popular manifestations of support. It was instrumental in forming societies for the 'Acceleration of the Foundation of the New State'. It instructed its branches in the various districts throughout Fengtien, the Self-Government Executive Committees, to do everything possible to strengthen and hasten the independence movement. In consequence, the new 'Acceleration Societies' sprang up rapidly, centring around the Self-Government Executive Committees.

"From February 20th onwards, these newlyformed 'Acceleration Societies' became active.

Posters were prepared, slogans printed, books
and pamphlets issued, a North-Eastern Civilisation
Half-Monthly was edited and red scrolls were distributed. Leaflets were sent by post to various
prominent citizens asking them to help the propa-

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opposite the

Executive Committees in the districts summoned meetings of popular representatives, such as members of the local gentry, and the chairmen and prominent members of commercial, agricultural, industrial and educational associations. In addition, mass meetings were organised and parades or processions were conducted through the principal streets of the district capitals. Resolutions expressing the wishes either of the people in general or of special groups were passed at conferences of prominent local men and at the mass meetings, in which it was claimed many thousands of persons took part. These resolutions were naturally sent to the Self-Government Guiding Board at Mukden.

"After the Acceleration Societies and the Self-Government Executive Committees had been active in various districts of Fengtien, a provincial convention was organised at Mukden to give concrete evidence of the general desire of the people for the establishment of the State. Accordingly, on February 28th, a meeting was held in which about

600 persons took part, including all the district officers of the Province and the representatives of the joy of the 16,000,000 inhabitants of Fengtien Province at the downfall of the old oppressive military caste and the dawn of a new era. As far as Fengtien was concerned, the movement had thus been brought to a conclusion.

"The movement in Kirin Province in favour of a new State was also organised and directed. While in the Conference at Mukden on February 16th, Governor Hsi Hsia sent a circular telegram to his District Officers asking them to enlighten him as to public opinion in regard to the policy to be followed by the new State. The District Officers were enjoined to give adequate guidance to the various guilds and associations in their districts. In direct response to the telegram, independence movements sprang up everywhere. On February 20th, the Kirin Provincial Government created the State Foundation Committee, which was to guide the various organisations in conducting their independence campaigns. On February 24th, the People's Association at Changchun held a mass

meeting in which about 4,000 persons are reported to have taken part. They demanded the acceleration of the foundation of the new State. Similar meetings were held in other districts and also in Harbin. On February 25th, the mass meeting for the whole Province was held at the city of Kirin. About ten thousand persons were reported to have been present. A declaration was duly issued similar to that passed at Mukden on February 28th.

"In Heilungkiang Province, the Mukden Self-Government Guidance Board played an important part. On January 7th, after General Chang Ching-hui had accepted the governorship of Heilungkiang, he declared the Province to be independent.

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"The Board lent its assistance in conducting the acceleration movement in Heilungkiang. Four directing officers, two of whom were Japanese, were despatched from Mukden to Tsitsihar. Two days after their arrival, on February 22nd, they convened a meeting in the reception hall of the Government House, in which a large number of associations were represented. It was a Pan-Heilungkiang Conference, which was to decide upon the methods of preparing for the establishment of the State. It was resolved to hold a mass demonstration on February 24th."

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DEPUTY MARSHAL OF THE COURT: The Tribunal is now resumed.

MR. McKENZIE: If the Tribunal please:

(Reading:) "Many thousands of persons took part in the mass demonstration at Tsitsihar, which was covered with posters, scrolls, streamers and pennants in commemoration of the event. The Japanese artillery fired 101 guns in honour of the day. Japanese planes circled overhead, dropping down leaflets. A declaration was promptly issued which favoured a republic form of government, with a responsible Cabinet and a President as the head of the State. All powers were to be concentrated in the Central Government, and the provincial governments were to be abolished, leaving districts and municipalities as the units of local government.

"By the end of February, Fengtien, Kirin,
Heilungkiang and the Special District had passed the
stages of district and provincial declarations. The
Mongol Banners had also given their allegiance to the
new State, since it was known that it would mark off
special autonomous Mongol districts and would in other
ways guarantee the rights of the Mongol inhabitants.
The Mohammedans had already, at a meeting on February
15th, at Mukden, pledged their allegiance. The

majority of the small number of unassimilated Manchus were also in favour of the new State as soon as it had become known that their former Emperor would probably be offered the post of Chief Executive.

"After the districts and provinces had given formal support to the plan of a new State, the Self-Government Guiding Board took the lead in convening an All-Manchuria Convention, which was held at Mukden on Feburary 29th. There were present official delegates from the provinces, the districts of Fengtien Province and the Mongol territories, and, in addition, many others, including representatives of various groups, such as the Koreans in Kirin Province and the Special District, and the branches of the Youth League of Manchuria and Mongolia: altogether over 700 persons.

"Speeches were delivered and a declaration and resolution were unanimously approved, the former denouncing the previous regime, the latter welcoming the new State. A second resolution was also adopted designating as the provisional President of the new State the former Emperor Hsuan Tung, now known by his personal name as Mr. Henry Pu-yi.

"The North-Eastern Administrative Council met at once in urgent session and elected six delegates

to proceed to Port Arthur, to convey their invitation to the former Emperor at Port Arthur, where he had been residing since he left Tientsin in the previous November. Mr. Pu-yi at first declined it, but on March 4th a second delegation comprising twenty-nine delegates obtained his consent to accept the post for one year only. Then the Administrative Council elected its chairman, Lieutenant-General Chang Chinghui, and nine others, to be the Reception Committee. On March 5th, the Committee went to Port Arthur and was received in audience. In response to its request, the former Emperor, on March 6th, left Port Arthur for Tangkangtze, and after two days began, on the 8th, to receive homage as the Regent of 'Manchukuo'.

"The inauguration ceremonies were held at the new capital, Changchun, on March 9th. Mr. Pu-yi, as Regent, made a declaration in which he promised to found the policy of the new State upon the basis of 'morality, benevolence and love'. On the 10th, the principal members of the Government were appointed; the members of the Cabinet, the Presidents of the Board of Legislation and the Board of Control; the President and Vice-President and Councillors of the Privy Council, the Governors of the Provinces and of the Special District, the Commanders of the Defence

Forces of the Provinces, and some other high officials.

"Prior to the arrival of the Regent, a number of laws and regulations, on which Dr. Shao Hsin-po had been working for some time, had been made ready for adoption and promulgation. They came into force on March 9th, simultaneously with the law regulating the organisation of the Government, while the laws which theretofore had been in effect, in so far as they were not in conflict with the new laws, or with the fundamental policy of the State, were provisionally adopted by special ordinance of the same date.

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24 25 A notice regarding the establishment of 'Manchukuo' was issued by telegram on March 12th to the foreign Powers. The declared purpose of this notice was to communicate to the foreign Powers the fundamental object of the formation of 'Manchukuo' and its principles of foreign policy; and to request that they recognise it as a new State.

http://www.incar.go.jp

"This narrative of the stages by which the 'State of Manchukuo' was created has been compiled from all the sources of information available." And then follows a list of sources used.

"The measures of civil administration taken by the Japanese military authorities between September 18th and the establishment of the 'Manchukuo Government', notably the control of the Banks, the administration of the public utility services and the management of the railways, indicated that, from the commencement of the operation, objects more permanent than the requirements of a temporary military occupation were being pursued."

Passing now to the middle of the paragraph: "When they were allowed to re-open, Japanese 15 were appointed as advisers, experts, or secretaries to 16 officials, usually with administrative powers."

Passing now to "Railways":

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"As regards railways, the measures taken by the Japanese authorities from the outset of the period of military occupation were designed to settle definitely, in a manner favourable to Japanese interests. some of the questions which had long been in dispute 23 between the Chinese and Japanese railways, and which 24 have been described in Chapter III. The following 25 measures were promptly taken," One and four seemingly

are the most important.

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"1. All the Chinese-owned railways north of the Great Wall, and the monies standing to their credit in banks in Manchuria, were seized.

"4. A staff of Japanese technical advisers was installed in various departments of the railways."

Passing now to the top of page 97:

"During the period between September 18th, when the North-Eastern Communications Committee ceased to function, and the date of the creation of the 'Manchukuo Ministry of Communications', the Japanese authorities assumed entire responsibility for the administration of the railways.

"Measures of a similar kind, which went beyond those which were necessary for the protection of the lives and property of their nationals, were taken by the Japanese in respect of the public electricity supplies at Mukden and Antung. Also, in the period between September 18th and the establishment of 'Manchukuo', the Japanese authorities made changes in the administration and management of the Chinese Government telephone, telegraph and wireless services which would ensure their intimate co-ordination with the Japanese telephone and telegraph services in Manchuria."

Conclusions: "Since September 18th, 1931, the

activities of the Japanese military authorities, in civil as well as in military matters, were marked by essentially political considerations. The progressive military occupation of the Three Eastern Provinces removed in succession from the control of the Chinese authorities the towns of Tsitsihar, Chinchow and Harbin, finally all the important towns of Manchuria; and following each occupation, the civil administration was re-organised. It is clear that the Independence Movement, which had never been heard of in Manchuria before September 1931, was only made possible by the presence of the Japanese troops.

"A group of Japanese civil and military officials, both active and retired, who were in close
touch with the new political movement in Japan to which
reference was made in Chapter IV, conceived, organised
and carried through this movement, as a solution to the
situation in Manchuria as it existed after the events
of September 18th.

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"With this object, they made use of the names and actions of certain Chinese individuals, and took advantage of certain minorities among the inhabitants, who had grievances against the former administration.

"It is also clear that the Japanese General Staff realised from the start, or at least in a short

time, the use which could be made of such an autonomy movement. In consequence, they provided assistance and gave direction to the organisers of the movement. The evidence received from all sources has satisfied the Commission that, while there were a number of factors which contributed to the creation of "Manchukuo", the two which, in combination, were most effective, and without which, in our judgment, the new State could not have been formed, were the presence of Japanese troops and the activities of Japanese officials, both civil and military.

"For this reason, the present regime cannot be considered to have been called into existence by a genuine and spontaneous independence movement."

I would now like to read the conclusions on page 111.

"Such are the opinions of the local population
conveyed to us during our tour in Manchuria. After
careful study of the evidence presented to us in public
and private interviews, in letters and written statements,
we have come to the conclusion that there is no general
Chinese support for the 'Manchukuo Government', which
is regarded by the local Chinese as an instrument of the
Japanese."

If the Tribunal please, I desire at this time

to read from the admissions of ARAKI, Sadao, numbered 10007 at one time, 2256 at another, and which bears exhibit No. 187-I, having already been introduced in evidence but not having been read.

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MR. McMANUS: Mr. President, if your Honor pleases, I can readily understand testimony being read into the record and offered under these circumstances. 8 However, concerning the statement of the accused, I 9 realize that your Honor has ruled on my original objec-10 tion but I would like to add one fact to that for what-11 ever reconsideration your Honor might tender it. I would 12 just like to add to the original objection and call to 13 the Tribunal's attention that there is not any witness here through whom this statement of the accused is being offered, and it deprives me of the opportunity of crossexamination for the purpose of noting mistakes and possibly translation difficulties and interpretation difficulties that the accused ARAKI has informed me he had 19 with the interpreters.

For this reason I should like to offer this additional objection and ask the Court to consider it.

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MR. McKENZIE: I believe these matters were all covered in the prior argument, if the Court please, and this exhibit has already been admitted in evidence.

THE PRESIDENT: Well, in an ordinary court that

objection would be sustained because the person who heard the admissions would have to be called. But here a different rule operates. We have already given our decision. This evidence must be received for whatever probative value it has.

MR. LOGAN: If the Tribunal please, may we have a ruling with respect to the effect of the admissions or declarations of one of the accused made after the completion of conspiracy, whether or not this Tribunal is taking that testimony on a conspiracy count as against all the other accused except the one who has made the admissions?

THE PRESIDENT: Ordinarily it would be evidence only against the accused who made the admission. I have no doubt about that. I am not prepared to decide the other question without -- or, rather, I am not prepared to state the decision of the Tribunal without consulting all of them. I do not know to what extent they will be prepared to accept ARAKI's statement as evidence against all of them. But we must hear it as evidence against ARAKI. Whether it will be extended to other accused remains to be determined.

DR. KIYOSE: Before the recess I asked your

Henor concerning rule No. 6b. It reads that when a copy,

taken a transcript of evidence, is used it should be literally

used, literally quoted. I think probably that it was
a mistake on the part of the interpreters, but, however,
my understanding was that your Honor said that Dr. Kiyose
must have understood through my answer given to Mr. Logan.
However, I should like to ask you again concerning this
point.

What I wish to ask is, firstly, whether there is rule stipulating marking of the certain parts of the document to be tendered beforehand, before it is presented to the Court. That was in connection with excerpts read from Lytton Report. I should like to ask this again because I could not understand it from your answer given to Mr. Logan. In case of a document or a report of any king tendered by us, would it be necessary to mark the parts, the portions, which we wish to quote?

THE PRESIDENT: The correct thing for me to do is to invite you to read the decision I made when you get the transcript tonight or tomorrow morning, and also to read the rules, more particularly 6b.

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THE PRESIDENT: The correct thing for me to do is to invite you to read the decision I gave when you get the transcript tonight or tomorrow morning, and also to read the rules, more particularly 6(b).

MR. McKENZIE: May I then read exhibit 187-I.

"EXCERPTS FROM INTERROGATION OF ARAKI, SADAO.

"(Interrogation of ARAKI, Sadao (File No. 58), 21 February, pages 1-2)

"The Cabinet meeting of February or March 1932 was called by the Premier to form the Administration Committee to set up the independent state of Manchoukuo. A request was transmitted from the Kwan tung Army to myself asking that a government be set up to govern the state. I in turn transmitted it to the Premier. The report from the Kwantung Army stated that it was advisable to set up Henry Pu-Yi as head of the Manchoukuo Government. The Commander in Chief (HONJO) of the Kwantung Army sent this request. I had the power to refuse or to over-rule it if I wished to be irresponsible. I would be irresponsible, because I would have to have a better substitute method if I refused the request. I do not think my suggestion of pacification of Manchuria in

December 1931 tied my hands on this request. I thought the request of the Kwantung Army would settle the Manchurian matter to the interest of all parties concerned. The proposal in the Cabinet was to carry out the request of the Kwantung Army -- set up Henry Pu-Yi as governor of Manchoukuo.

"There was already an Administration Committee formed before March 30 by the Kwantung Army. The civil population was administered by various civil governors and the four provinces were placed under one administrator, most of these men being formerly the administrators of that area. This was from the latter part of 1931 to March 1932. The various provincial governors submitted their plans to the Kwantung Army and these were passed upon by the Kwantung Army. The Commander-in-Chief of this army conceived and authorized this, and it was necessary only to make a report to the Tokyo government in these matters. I only gave sanction to him to the effect that if the Manchurian Incident was settled peaceably, there was no need for him to make any special request on minor matters.

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"Various Japanese government officials
were sent to help in the organization of the Manchurian government since Manchuria did not know how

and correct?

to set up a well functioning government, not having had experience in the past. This was discussed in the Cabinet meeting. Various problems were brought up by the Department concerned. For instance, financial matters were brought up by TAKAHASHI." I desire to call the witness KASAGI, Ryomei. This is a Japanese national who does not speak English. I therefore desire to offer his affidavit. The document is 1854. THE PRESIDENT: Are you tendering the 10 affidavit? RYOMEI KASAGI, called as a witness on 13 behalf of the prosecution, being first duly 14 sworn, testified as follows: DIRECT EXAMINATION BY MR. MCKENZIE: Q Will you state your full name, please. A KASAGI, Ryomei. Q Will you examine the document in the Japan-21 ese language shown you by the Page. Is that your signature on that document? A Yes. Q Are the statements contained therein true

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Q Will you examine the English document. Is that your signature on that document? A Yes. THE PRESIDENT: Does he read English? MR. McKENZIE: No, your Honor. I desire to offer the IPS document, No. 1854, in the Japanese language with the English translation attached. THE PRESIDENT: Admitted. CLERK OF THE COURT: Document No. 1854 will receive exhibit No. 221. (Whereupon, prosecution's exhibit No. 221 was received in evidence.) MR. McKENZIE: Might I state to the Tribunal that this document had been processed, before your ruling had been made with reference to an affidavit, by the translator or interpreter. There is attached to the original, but not on the copies, an affidavit by the translator.

May I call the Tribunal's attention to two errors in the English translation: One is the spelling of Dairen which should be D-a-i-r-e-n in each instance; and in the next to the last line of the third from the last paragraph, where it says "Home

Minister," it should be "Prime Minister." They have all been corrected on the copies delivered to the Court but not those distributed to counsel.

"I, KASAGI, Ryomei, make oath and say as follows:

"I was born in 1892 in Tochigi-Ken Prefecture, Ashio. After attending elementary and middle schools, I entered the Imperial University, from which I graduated in 1919.

"Shortly after graduating I entered the employ of the Manchurian Iron Works, and was assigned to their branch in the Marunouchi Building in Tokyo in the Finance Investigation office. I was employed in this capacity from 1919 to 1929.

My superior officers in charge of the department in which I worked were Dr. OKAWA, Shumei, and NAGAO, head of the office.

"Dr. Okawa organized the Gyo Chi Sha in about 1923 and was the leader of this organization of which I became a member. Because I disagreed with some of its principles I resigned in 1928, but the organization was still in existence when I left Tokyo in 1929.

"The Gyo Chi Sha was a nationalistic organization that was organized to study and try to improve the relationship between Japan and the other countries in Asia and to reform the government in Japan, also to promote the idea that Japan was des-

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tined to be the leader of East Asia, and that the members should do all that they could to foster and develop the advancement of Japan's prestige and influence.

"Dr. OKAWA made some speeches before this organization advocating these principles, and on one occasion at least, stated that Japan should help India obtain its independence.

"One of the most influential members of the organization was Professor KANOKOGI, Kazunobu.

"Since I desired a promotion and wanted to leave Tokyo, I was sent to Dairen, Manchuria, to work for the South Manchuria Railway Company, which was one of the principal owners of the Machurian Iron Works. My work in Dairen, however, was largely with the South Manchuria Railway where I was in charge of Personnel which dealt with the employment, welfare and pension provisions for the entire railway system.

"In May 1930, I organized and was head of the Tu Ho Kri, which was an organization composed of about thirty or forty Japanese members, largely men who were employed by the South Manchuria Railway Company. One exception was NAKANO, Koitsu, a Japanese lawyer who then had offices in Dairen and

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Mukden.

"Immediately after September 18, 1931, when the Manchurian Incident began, NAKANO, Koitsu, was directed by the political division of the Kwantung Army to join the Self-Government Guiding Board which was organized in the latter part of September to foster, coordinate and direct the activities of various groups urging the independence of Liaoning Province, and later on, all the provinces of Manchuria and Jehol, to declare their independence from China. The principal object of this organization was to aid in developing and directing this Independence Movement. The head of the organization was Yu Chung-Han, a Chinese. There were several other Chinese in the organization, but 90 percent of the members and all those in the most responsible positions were Japanese.

"About the middle of October NAKANO,
Koitsu called me at Dairen and asked me to come to
Mukden and work with him in the Self-Government
Guiding Board. I spoke to the members of our organization already set up, and I was appointed chief
liaison man at the headquarters in Mukden. We were
working in thirteen or fourteen prefectures of
Liaoning or Fengtien Province at first, and I was

responsible for eight of them. We had two or three representatives working in each prefecture, most of whom were Japanese, and I maintained contact with them and directed their efforts. I talked to the Prefectural Governors and government workers outlining to them the conditions in other prefectures and showing them how much better it would be for the country if they were to have a stable, organized government that would work to promote the interests of the people, and that in order to do this it was necessary for them to seek independence from China. There was no definite plan at first as to the form this independence should take, but later on it was decided to form a separate state with a Regent or Emperor at the head.

"At the time I left the South Manchuria
Railway I borrowed five hundred yen from a lcan
association operated by the company to finance me
in my work, particularly in renting a house in which
to have the workers of the Self-Government Guiding
Board live. In November of 1931 I received about
twenty-thousand yen from the South Manchurian Railway
representing money coming to me basel on my years
of service, and I then paid back the loan.

"There were eight principal departments or

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divisions in the Self-Government Guiding Board, as follows: 1. Advisory, having both Chinese and Japanese members.

- 2. General Affairs, controlled entirely by the Japanese.
- 3. Guidance.
- 4. Censorship.
- 5. Liaison.
- 6. Propaganda.
- 7. Training and Education.
- 8. Finance.

"There were approximately one-hundred and twenty members on the committee, about twenty from the Yu Ho Kai and the balance from the Manchu Seinen Rommei (Manchu Young Men's Association). Out of the members, approximately fifteen were Chinese or

"I believe the money to support this organization came from the Kwantung Army, as we operated in close cooperation with it, and all of our policies and activities had to be approved by it. Colonel ITAGAKI, Seishiro was in charge of this division. Colonel ISHIHARA, Kanji, was in charge of Tactics and Strategy, and Colonel DOIHARA, Kenji, was in

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charge of Special Services or Espionage Division in Mukden. Much of the information we received as to which Chinese would be friendly to our plans came from Colonel DOIHARA's Division.

"Early in January, 1932, the Self-Government Guiding Board issued a proclamation stating that the North Eastern Provinces were faced with the need for developing at once a great popular movement for the establishment of a new independent state in Manchuria and Mongolia, and it appealed to the people of these provinces to overthrow Marshal Chang Hseuliang, to join the Self-Government Guiding Association and to cooperate in setting up a new administration to improve the living conditions of the people.

"On February 18, 1932, a Declaration of Independence was published, declaring that the relations with the Koumintang and the government at Nanking had been severed by the North Eastern Provinces, to wit: Fengtien, Heilungkiang, Kirin and Jehol; that a new state should be established. The Self-Government Guiding Board played an important part in organizing Independence Movements in various provinces, which resulted in the setting up of a new state which was called Manchukuo, and

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Henry Pu-Yi was installed as Regent on March 9, 1932.

"Shortly after this action the Self Govern-

ment Guiding Board was abolished and I went to Changchun with SAKATA, Shuichi to help establish the Shi Sei Kyoku, which was a branch of the new government under the direction of the Prime Minister and had to do with the cultural, spiritual and educational development of the new government.

"After three or four months this department was abolished and the government worked through the Kyowa Kai, or Concordia Societies, which carried on the work of developing a nationalist spirit among the Manchurians.

"After leaving Changchum I returned to
Dalren, where I stayed for nearly a year, and the
Kwantung Army became displeased with my activities
and I was forced to leave Dairen and come to Tokyo.
Here I established a printing house and published
a magazine known as Daiasia, or Greater Asia. I
continued in this work until May 1945 and am now
unemployed."

Signed "KASAGI, Ryomei", with the acknowledgement of the officer and the certificate.

You may cross-examine.

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MR. OHARA: I am OHARA, counsel for the defendant OKAWA, Shumei.

CROSS-EXAMINATION

BY MR. OHARA:

Q You have stated that you have signed your affidavit in Japanese; is that correct?

A Yes.

Q Have you read it through?

A Yes.

Q You found a number of mistakes in it?

A Not many, I don't think.

Q You have stated that you were a member of the Gyo Chi Sha; is that correct?

A Yes.

Q You have stated that OKAWA, Shumei founded the Gyo Chi Sha in 1923, but was it not founded in 1925 instead of 1923? Was that not a mistake?

A It happened such a long time ago that it is not clear in my memory. I don't recall definitely whether it was 1925.

Q In your affidavit you state that you have separated from OKAWA because you could not agree with him on several points -- with his principles -- with several of his principles.

A Yes.

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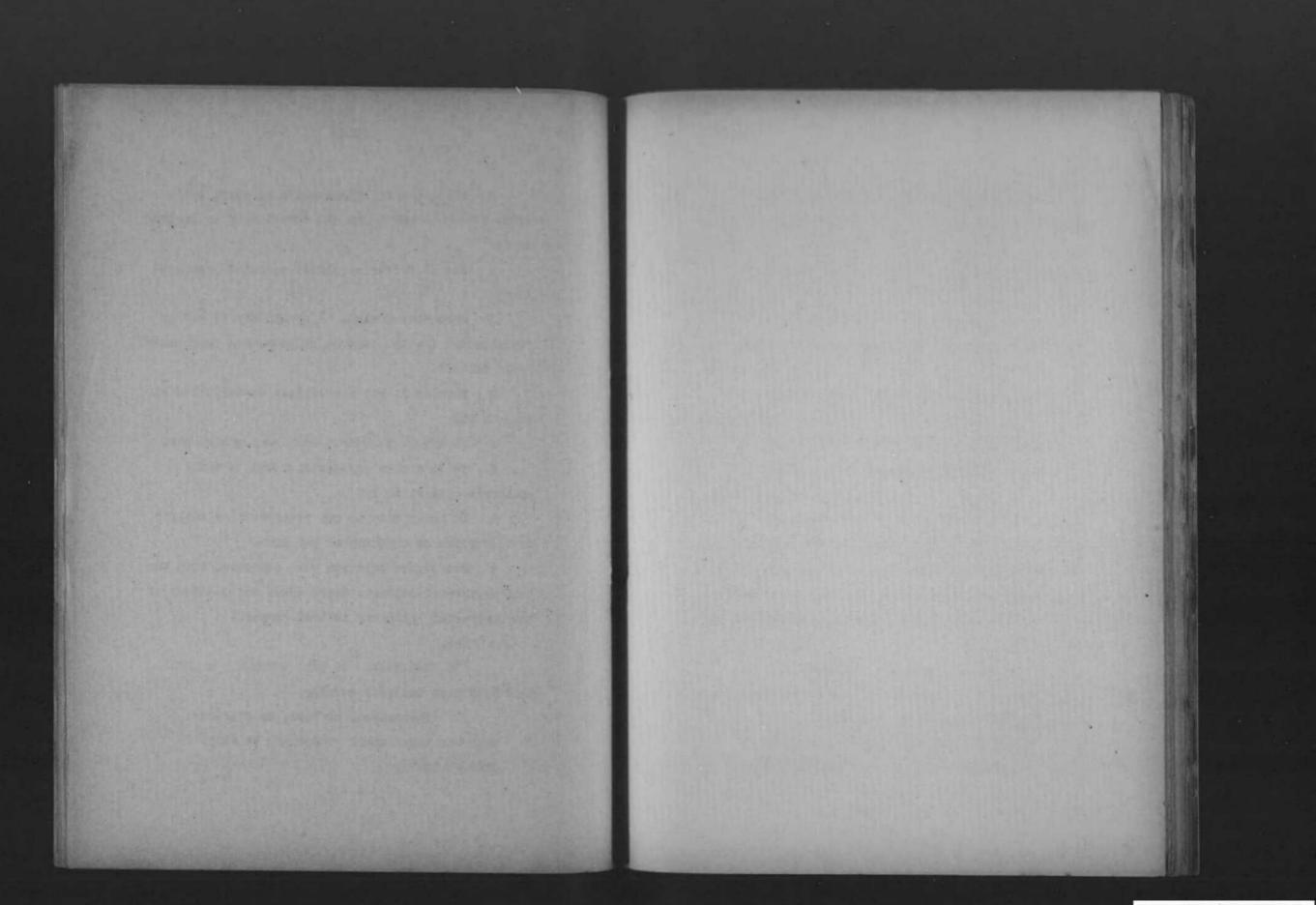
- Q Was it not in connection with the public sale of a governmental forest in Hokkaido?
 - A No. It was not about that.
- Q Concerning the guiding principles of the Gyo Chi Sha, you state that Japan is destined to be the leader of East Asia.
 - A Yes.
- Q This leader of East Asia does not mean to say that Japan intends to become the leader of East Asia but Japan intends to help the weaker nations in East Asia, doesn't it?
- A I don't know how the word "leader" or "to lead" sounds. But none of us had any idea that we were to become the leader.
- Q Not only -- it was not in your intention to conquer East Asia, but also it was not the intention of the Gyo Chi Sha to conquer East Asia. Are you aware of that fact?

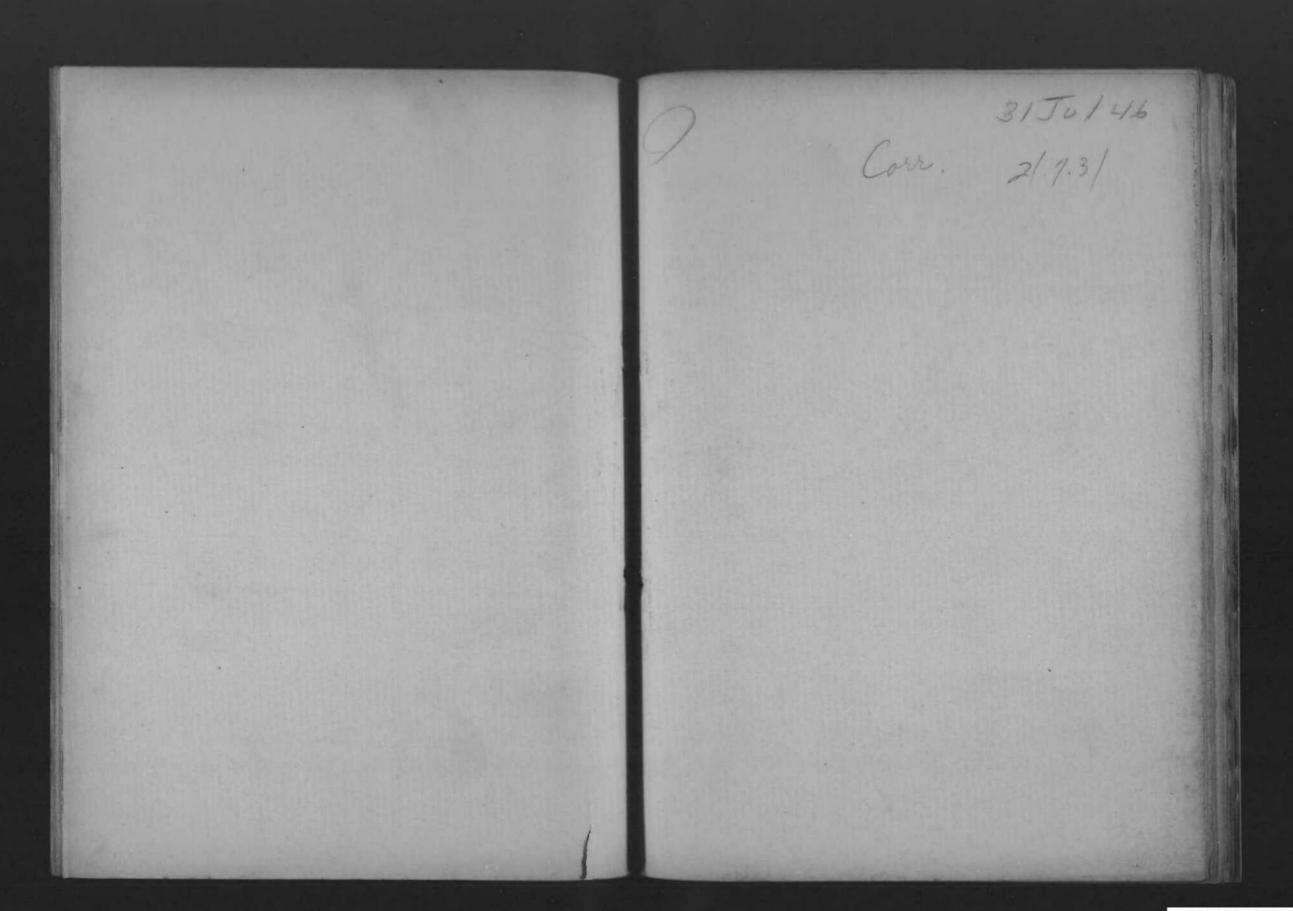
THE MONITOR: Slight correction there. Conquer East Asia and to control.

- A Yes, of course, as you stated.
- Q You state that you were a member of the Yu Ho Kai consisting of the employees of the South Man-churian Railway since about May, 1930; is that correct?

1946 at 0930.)

A It is not an organization as such, but a group formed around me on the occasion of my arrival there. Was it merely -- simply a social organization? A More than social. I should say it was an organization for the purpose of promoting friendship among friends. Q Then it is not a political organization at all, is it? 11 A It had no political character whatsoever. 12 Q It is not an organization with a fixed 13 principle either, is it? 14 A It never drew up any prospectus or outline of activities or anything of the kind. 16 Q You stated that you were connected with the Self Government Guidance Board after the outbreak of the Manchurian Incident; is that correct? 19 A Yes. THE PRESIDENT: We will adjourn now until half past nine tomorrow morning. 22 (Whereupon, at 1600, an adjourn-23 ment was taken until Wednesday, 31 July,





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Wednesday, 31 July, 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.

Appearances:

For the Tribunal, same as before. For the Prosecution Section, same as before. For the Defense Section, same as before with the exception that MIYAKE, Shotaro is replaced by MIYATA, Mitsuo as Counsel for the Accused UMEZU, Yoshijiro.

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

ldberg & Barto

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.
THE FRESIDENT: Does counsel desire to
mention any matter?

MR. LEVIN: Mr. President. THE PRESIDENT: Mr. Levin.

MR. LEVIN: You will recell that yesterday
you made inquiry from Mr. Sutton as to whether or
not Dr. Bates had left Tokyo. On behalf of all defense
counsel, both Japanese and American, it is requested
that no witness be permitted to leave Tokyo unless
he has -- he is expressly dismissed by the Court.

THE PRESIDENT: It is understood that they
would be examined when they were here, that they
could leave Tokyo immediately after they had given
their evidence.

17 IR. LEVIN: Well, we are in this situation
18 in view of the ruling of the Court, of the Tribunal
19 rather, that these witnesses may not be examined on
20 new matter, that it may be we shall be unable to have
21 them when we desire them.

THE PRESIDENT: If it be necessary in the interests of a fair trial, I have no doubt the Tribunal will direct that he be brought back.

And as I am reminded, he could be examined

in China on commission or by way of interrogatories.

Both parties would have leave to administer interrogatories. I should say all parties.

MR. LEVIN: The request is made particularly in view of the fact that Dr. Bates was excused and an application was made for the use of a document or book from which he had testified which had not been offered in evidence and which it is now proposed to be used. And now the Doctor is no longer here. I would like further to suggest that there may be certain witnesses who might come from the United States and elsewhere whom it would be almost impossible to get at a future date.

THE PRESIDENT: At present we are not able to say that you have been prejudiced by the return of Dr. Bates to China because your position will be protected by the Court, not only in his case but others, if necessary.

Major Furness.

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MR. FURNESS: Yesterday, if the Tribunal please, I questioned the translation of exhibit No. 117. The prosecution, after conference with the Language Section and the monitors, agrees that the sixth line of that should read "against the possible invasion by Soviet Russia" rather than "against the

possible invasion of Soviet Russia." I should have said "Exhibit Number 217."

I also ask the prosecution to inform the defense of the date and circumstances of preparation and delivery of the document called "Summary of Japanese War Crimes in China from 18 September 1931 to 13 August 1937" issued by the Ministry of Foreign Affairs, Republic of China, marked for identification as Exhibit 192. This entire exhibit is not in evidence but excerpts are from time to time being offered; and I now ask again whether that information is available to us.

THE PRESIDENT: Mrs. Llewellyn.

MRS. LLEWELLYN: May it please the Tribunal, an attempt has been made this morning to procure the information requested yesterday and we expect to have it later in the day.

THE PRESIDENT: The information will be made available to you later, Major Furness.

ER. FURNESS: Thank you.

THE PRESIDENT: (to MR. OHARA): You are continuing your cross-examination.

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RYONEI KASAGI, called as a witness on
behalf of the prosecution, resumed the stand
and testified as follows:

BY MR. OHARA (Continued):

Q You have said that when you became connected
with the Self-Government Guiding Board, the organization of that Board had already been established.

A That is so.

THE PRESIDENT: Don't ask him things he has already said and you don't want to contest.

Q Who made this Board?

A According to my imagination, I am of the opinion that Mr. Yu Chung-han also took part in the formation of this organization.

THE L'ONITOR: Correction: "According to my assumption" instead of "imagination."

Q Who gave this Board its name?

A That I do not know.

Was not the purpose, the main purpose of this Board the maintenance of peace and order?

A Since this took place directly after chaotic conditions occurred there, I am inclined to think that peace and order were the primary things that were in the mind of those who formulated this policy.

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Q Did Manchurians and Japanese concur in this opinion? In this policy, rather, did they give a concurring opinion?

A Of course they gathered there since they were agreed on this policy.

Q What was the reason for the concurrence of Manchurians in this policy?

A I have not heard of that.

Q Have you ever heard that the reason for this was that since it was after the chaotic situation resulting from the incident, they wished to maintain the general living standards of the people?

A I have not heard such a thing.

Q I believe that Japanese living in the Railway Zone also agreed with the policies of this Board. What was their reason for so doing?

A Since the situation was so chaotic, I believe they were under the impression that, first of all, peace and order must be established.

Q Then, according to your affidavit, you say that this Self-Government Guiding Board sent two or three members to guide policies in various prefectures. What did these members do?

A Before the establishment of the Empire, they were advisors. However, they too assumed their posts

in order to bring about peace and order.

Q You say they were in the position of advisors. Would you tell us in more detail their exact functions?

A They were asked to give advice on the question of the establishment of the Empire in general, -- drawing up the constitution.

THE MONITOR: In regard to the administration of various hsiens or prefectures, they were consulted.

You say that most of the people working in
these capacities were Japanese and that all those in
responsible rositions were Japanese. But, were not
Manchurians and Koreans included in this organization
in any way?

A Of course among those who were in the Guiding
Board there were Japanese, Koreans and other nationalities. However, since the situation was chaotic, it
was not possible to fulfil the original plan and it
became very difficult to get to put proper men in
proper places.

THE MONITOR: Correction: "The original
plan on the part of the Guiding Board was to gather
together nameless and capable youth leaders from among
many races and try to coordinate their activities but
because of the chaotic conditions, they were not able

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to gather many leaders and Japanese and constitute the majority of the leaders."

"Nemeless" should be corrected to read "unknown."

- Q You say that among these people many from the Manchurian Youth -- Young Pen's Association entered, is that so?
 - A That is true.

THE PRESIDENT: Don't ask him a question like that again. Don't ask him to repeat an answer.

MR. OHARA: I have used those words because they were in the affidavit.

- Q What kind of organization is this Manchurian Young Men's Association? It is a political association or is it an association with various principles, and what were the principles and constitution of this and platform of this association?
- A I believe this organization existed for quite a long time, had existed for quite a long time, and I do not know the details of this organization.
- Do you know that this was an association made -- composed principally of members, of employees of the South Manchurian Railway and that it was not a political organization?
- A It was not an organization composed mainly of the employees of the South Fanchurian Railway. It

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was an organization the members of which were mostly from the Japanese residents in Manchuria. However, as for the members occupying executive positions in that organization, I believe they were, many of them were from the South Manchurian Railway Company.

Q Anyway, then you admit that it is not a

Q Anyway, then you admit that it is not a political organization?

A I believe I can say so.

Q You say that the guiding, the leaders of this organization were about a hundred and fifty in number. Among these hundred and fifty were there any who came from the GYOCHI SHA or the JIMMU KAI?

MR. McKENZIE: I submit, if the Court please, the figures in the affidavit are one hundred to one hundred and twenty, not one hundred and fifty.

I believe that figure of one hundred and twenty-eight does not mean that there were only one hundred and twenty executive posts. What that figure denotes is that there were one hundred and twenty in the headquarters of that organization. To the best of my recollection, I believe there were two or three from the GYCCHI SHA.

THE MONITOR: "And JIMU KAI."

A (Continuing) I want to make a correction there. What I mean to say is that there were two or

three who were formerly students under Mr. OKAWA.

© Do you mean that they were simply -- that they simply had been taught by Dr. OKAWA, that they were not necessarily members of the GYOCHI SHA or the JIMMU KAI?

A On that point my knowledge is not exact.

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Q Your affidavit says that this organization worked for Manchurian independence and tried to create an atmosphere in which such independence would be achieved. Is that so? Did it work for such purpose?

A On this point I wish to make a few remarks here. In our opinion, we would like to look upon this movement as the movement which criginated on the arrival of Mr. Henry Pu-yi. Mr. Henry Pu-yi was a highly virtuous man and he had very high qualifications as a man.

MONITOR: Correction: Mr. Pu-yi was a man of noble character, instead of "virtuous."

INTERPRETER: And Manchuria was his birthplace.

MONITOR: Correction: Manchuria was his ancestors' home country.

A (Continuing) As a result I believe there were many Manchurians who respected Mr. Henry Pu-yi for this reason, and among the residents I was told that there was not a few who had the picture of Mr. Pu-yi on the walls of their homes. For these reasons I believe it was only natural that the movement started to establish an independent nation, with such a man as the central figure. Naturally, the

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opinions and the wishes of the Japanese were also respected and this movement took shape for these reasons. Among the young men who took part in this movement, and whom I knew well, I believe there were none who resorted to violent action to bring about their ends.

MONITOR: Correction: there were none who carried out propaganda work or resorted to violence.

WITNESS: Although it was very short, the remarks I have made describe the situation then.

Q Do you know whether many Manchurians agreed with this and whether movements supporting this policy sprang up in various districts?

A At the headquarters of the Guidance Board we received such information.

Q Did not Manchurians fear that whenever civil war occurred in China it would spread to Manchuria?

A There were such fears, and the atmosphere then was extremely tense.

MONITOR: Correction: the atmosphere then was very gloomy.

Q Then was the work of the Self-Government Bureau to participate in the movements arising in various districts and to help out the livelihood of Manchurians?

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A Of course, inasmuch as the question of the livelihood of the people was a very important one, this matter was taken into due consideration.

Q Then you state in your affidavit that this Board carried out propaganda fostering an atmosphere favorable to independence, but do you not rather mean that this Board helped an independent movement that had already spontaneously broken out?

A As I have said before, with the lofty character of Mr. Henry Pu-yi as the central figure such a movement gradually took shape.

Concerning such movements, do you know that there were no such mass movements in China?

A I believe there were such wishes among the masses at that time.

Q You say that later the Self-Government Guiding Board was merged in the Shiseikyoku. What work did you do in the Shiseikyoku?

A At that time this Shiseikyoku, the Municipal Government Bureau had no definite organization, but gradually --

MONITOR: The Shiseikyoku was abolished even before the organization of the office took shape, and I was given an official notice that I would be appointed as chief of that bureau. However, I declined

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and recommended a Manchurian instead. Correction:
Shiseikyoku remained Shiseikyoku, and will you strike
out municipal administration, please?

Q It seems that you have worked in various capacities in this Self-Government Guidance Bureau. Did you work in order to make Manchuria a puppet government of the Japanese?

A The young people whom we knew of were not the type of people who would take advantage or make use of or abuse the character of a person.

Q Then what was the idea of these people?
What kind of a country did they intend to establish
in Manchuria?

A There was the hope that a country bringing together the five races in peaceful harmony be established.

MR. McKENZIE: I object to the form of the question, if the Court please. It seems to be entirely irrelevant to the issues being tried here.

THE PRESIDENT: What I think he is trying to ask is whether these young people worked in the interest of Japan or in the interest of the people of Manchuria. Such a question would be relevant.

MR. McKENZIE: It was my understanding as to what government did they intend to set up, was

what I objected to.

Please give me your answer.

A I meant to say that they hoped to establish a country bringing together the five races in peaceful harmony.

Q Yes, I know that. This phrase of harmony of the five races is understandable to Japanese, but it is difficult for foreigners to comprehend what this phrase means. Therefore, as the President has just stated, I wish to ascertain whether these young people were working solely for Japan or whether they went to Manchuria really with the idea of becoming a part of that land. Would you clarify this point?

A Of course, being Japanese, they did think of the welfare of Japan also. However, these young people whom we knew went to Manchuria with the express purpose of fulfilling their mission there, and at the risk of their lives.

MONITOR: Correction: These young people that we knew went to Manchuria with the idea of spending their entire lives in Manchuria.

Q Then may I understand your definition of five races living together in harmony as the following, namely, that the five races living in

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Manchuria should live in equality, each not infringing upon the other's rights, and thus establish a fine and ideal state there?

A Of course, and in the writings or pamphlets distributed by the organization, this point, namely, the respect of other people's rights, et cetera, was emphasized.

MONITOR: Correction: Of course it is correct, and in the pamphlets published by the Guiding Board there was a proclamation concerning mutual respect and mutual love.

THE PRESIDENT: I think the cross-examination is becoming repetitive now.

Q Then in your affidavit you say that after leaving Changchun you returned to Dairen and that you were forced to leave Dairen. What do you mean by having been forced to leave Dairen?

A At first, perhaps I didn't express myself very clearly. What I wanted to say was that although I was not forcefully ejected from Dairen, I had to leave Dairen because there were certain misunderstandings about me and my actions.

Q You seem to have been very intimate with Dr. OKAWA. What were your opinions -- how did your opinions compare with Dr. OKAWA's regarding the

establishment of the Manchurian state? Were they in agreement with Dr. OKAWA's views, or were they in wide divergence?

A After I left the Gyo Chi Sha I had very

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A After I left the Gyo Chi Sha I had very few occasions on which to meet Dr. OKAWA, and therefore I was not able to exchange ideas on such a question.

(Whereupon, Mr. OHTA, Kinjiro, approached the lecturn.).

THE PRESIDENT: I will ask counsel not to repeat questions already put.

LR. OHTA: I am OHTA, Kinjiro, counsel for the defendant DOKIHARA, Kenji. I wish to conduct a brief cross-examination.

CROSS-EXAMINATION (Continued)

BY MR. OHTA:

Q Was not DOHIHARA chief of the Special Service detachment in Mukden only, and was not in control of all Special Service activities in Harbin and in all Manchuria?

A Concerning military organization, I have not much knowledge. However, I believe Mr. DOHIHARA was in command of the Special Service unit detachment at Mukden.

Q My question was, was he chief solely of the

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Mukden detachment and had no connection with other detachments?

- A That is what I think.
- Q What was DOHIHARA's attitude and policy towards Manchurian officials and the Manchurian people at large?
 - A I have not much knowledge on such things.
- Q But since you yourself have stayed in Manchuria a long time, and since you say in your affidavit that you did receive all kinds of information from DOHIHARA, would you not know even a little of DOHIHARA's attitude towards Manchurian officials and the people?

A I met Mr. DOHIHARA only once after I withdrew from that Board and when I made mention of him in my affidavit I was merely trying to say that a message was received from the organization of which Mr. DOHIHARA was the then head.

MONITOR: Correction: my reference to the receiving of information was that I received various information from the Special Service organ itself, of which DOHIHARA was the chief.

THE PRESIDENT: Mr. Levin.

MR. LEVIN: No further cross-examination, your Honor.

AND THE LIGHT SEA LEVEL.

(Whereupon, the witness was excused.)

MR. McKENZIE: If the Tribunal please,

I desire to turn the further prosecution over to Mr.

Darsey at this time.

THE PRESIDENT: Mr. Darsey.

MR. DARSEY: Mr. President, we offer IPS document 1415 B, which is Minutes of the Cabinet Conference Meeting. The document relates particularly to foreign relations with the foundation of the new Manchuria-Longol State.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Document No. 1415 B

will receive exhibit No. 222.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 222 in evidence.)

MR. DARSEY: May I read certain excerpts therefrom, beginning with paragraph No. 1 on page 1.

(Reading) "(1) Towards the new state,

IT Empire should render all sorts of aids as much
as possible in proper ways, instead of giving the
recognition based on International Public Laws for
the time being, and lead her to fulfill the substantial conditions for an independent state step by
step, and try to give the chance of her being

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recognized internationally.

"(2) As to the relations between the new state and our Empire, or the third countries, we make her take the ways of respecting already provided treaties, and let her declare the plan of keeping with the Open-door and Equal Opportunity principles so as she can avoid the intervention of powers.

"(3) The seizure of the customs houses and salt-tax collecting organs by the new state should be dealt with the consideration not to bring about troubles in foreign relations, deliberating such points as those that the international interests or the organs above said are complicated and especially DAIDEN customs being located in the area of our government, the approval of its seizure will exert an extremely unfavorable influence upon our Empire's foreign relations."

THE PRESIDENT: That should be Dairen and not "Daiden".

MR. DARSEY: Dairen is correct.

(Reading) "(4) We should make as much efforts to establish factual contact with the new state by unofficial ways as possible, (the procedures of private law contract may be taken as principle,

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and especially that of local agreement between our despatched officials and the new state or her officials may be carried out), and try for the realization and enlargement of our interests as well as for the formation of actually accomplished status.

- "(5) Regarding our seizure of real military power, we should try to establish accomplished status according to the right of subjugating bandits and the policy of protecting Empire subjects which were recognized by the Læague Council.
- "(6) Regarding our grasp of real power on foreign and home affairs, we should let her appoint small number of Japanese as the officials or councillors at first which may be enlarged gradually later.
- "(7) As soon as the policies of our government are decided as described above, we should inform our despatched officials of the matter and make them take their best efforts to lead the new state."

Skipping to the bottom of page 2, beginning with the First Plan. (Reading) "First Plan. The Customs organization in Manchuria may reserve its present system but aside from the security for foreign loans, the income from maritime customs throughout Manchuria including DAIREN, should be seized by the

new state. A conference should be held with the Customs General to approve this plan.

"Although the plan may be extremely difficult because of the relations between Nanking
Government and the new state, if this negotiation can
be concluded, the latter would be able to get all the
excesses of custom duty of Dairen which corresponds
to almost half of all the excesses in the Manchuria
customs. Moreover, it would bring about advantageous
results in foreign relations concerning the problem
of preserving the Chinese custom system.

"Second Plan. Seize all Manchuria customs except that of Dairen but the income allotted as security of foreign debts should be sent to the Customs General or deposited in a bank in view of respecting foreign security rights.

"The plan of establishing new custom stations on the border of the Kwantung Leased Territory must not be carried out, as it will bring about the problem of duplex taxation for the goods passing through Dairen and consequently it may impose considerable damage to Port Dairen and to South Manchurian Railway and may cause unfavorable results concerning other problems. In place of this plan, the income allotted as security for foreign loans of

all customs in Manchuria except that of Dairen, would not be sent to the Customs General or deposited in the bank but would be taken by the new government to balance the income of the Dairen custom, since the excess income of Dairen should be the income of the new state.

"Furthermore, in case the custom-stations are seized, foreigners employed by the custom offices who want to remain on the post shall be employed after selection and should be re-employed after breaking off with the Nanking government completely. (Pension, etc. must be considered.) However, if the Nanking Government opposes the seizure of customs by the new state and dismiss Japanese officials (approximately 200) employed in the custom stations in China proper, the new state can consider dismissing the foreigners in the Manchurian customs and replace them with Japanese.

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Skipping to page 5, beginning with:

"The Appointment of Japanese Officials by the New State.

"On this subject, we should adhere to the conception that the foundation of the New ManchuriaMongol State was the will of 30,000,000 people in NorthEastern China, and it is necessary, for the future
development of the new country, to impress foreign
powers that Japan is not manoeuvering behind the new
state.

"The appointment of too many Japanese to prominent positions as officials or councillors from the beginning of the foundation of the new state may stimulate the claim that the new state is nothing but a proctorate of Japan. Theoretical explanations can deny this but at any rate, realistically, it may impress otherwise.

"And as to the control of the new state by Japan, it can be carried out with military power for the time being. It would be to the benefit of the new state in her future foreign relations to increase the number, formal capacity, and authority of the Japanese in the new government organizations gradually.

"Therefore: The appointment of Japanese
"To prominent positions of the new state

organization should be limited to as few as possible at first, without hampering the administration of the state. And thus we should not make it appear that important government posts of the new state are exclusively filled by Japanese. (It will be a worthy plan to employ suitable foreigners other than Japanese as officials or councillors of the new state.)

"Japanese government officials who want to become officials of the new state should be appointed after resigning from their previous government offices and jobs."

MR. BROCKS: If the Tribunal please-THE PRESIDENT: Captain Brooks.

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MR. BROOKS: The defense would like to know as to the date of this document. It does not appear here. I don't think it shows on the original when this was written. Also the source. I think it is very material in consideration of this Court to know the source of it, and if it was used, if it was discussed and not put in and adopted.

I think those things are very apparent that they should be asked. And the time element especially is of special importance for it to be considered as relevant material to be considered by this Court.

MR. DARSEY: I purposely had processed and

served on counsel for the defense, document No. 1415-A, which gives the date of March 1, 1932. This document which has been offered has integrity in and of itself and is not dependent upon any other document for its true meaning, full meaning and significance. We did not offer 1415-A in evidence because we did not desire to encumber the record with needless documentary evidence.

THE PRESIDENT: Where did you get the document? There is no certificate on it, Mr. Darsey. It might shorten the proceedings by telling us where you got it.

MR. DARSEY: The certificate of authenticity attached to the original shows the source as being Foreign Ministry, Japanese Foreign Ministry.

THE PRESIDENT: Although the document was not acted upon, of course, it is evidence in reading the minds of Japanese authorities. I should say that even if it were not acted upon it would have that purpose.

MR. BROOKS: I feel that this other document that is discussed here, 1415-A, should be placed in evidence. I thought it would surely be put in. And I think the Court should know what is being discussed and what time. Even though it may have been a plan proposed by someone and had been considered by certain ones, we ought to know who and in what connection it has to

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do with these defendants. Just because they are Japanese it does not mean they are guilty of the thoughts of other Japanese, and they are named individually and their trial is conducted towards individuals and toward individual punishment. For that reason, the evidence should be directed toward it.

THE FRESIDENT: The document is clearly admissible because of its contents and that certificate. The objection is overruled.

MR. DARSEY: We offer in evidence next IPS document No. 1415-C. The document is: Minutes of the Cabinet Council meeting relating to Manchukuo.

MR. LEVIN: May we inquire the date of that document, please?

MR. DARSEY: Document shows on its face to be dated April 11, 1932.

We have offered the document in evidence.

THE PRESIDENT: Admitted subject to the usual

DEPUTY CLERK OF THE COURT: Presecution:

document No. 1415-C will receive exhibit No. 223.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 223 for identification, and was received in evidence.)

MR. DARSEY: I desire to read excerpts beginning with the numbered paragraph in the middle of page 1.
THE PRESIDENT: Wait until all the judges
have their copies, Mr. Darsey.

MR. DARSEY: I am sorry.

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"In order to solidify the foundation of the state by establishing the financial and economic policies for the new state and to enhance its international confidence, and furthermore, to realize a single self-sufficient economic unit comprising Japan and Manchukuo by effecting a rational control over the industries of the two countries, authoritative leaders are required. Concerning the above, it will be properly executed through the following two measures after taking into consideration the demands of the new state and its missions towards the Empire and all other situations:

"The new state shall employ authoritative advisers from our country and make them the highest advisers in connection with financial, economic and general political problems.

"The new state shall appoint competent Japanese nationals to the leading posts in the Privy Council, the Central Bank, and other organs of the new state.

"As regards the railroads and other means of

transportation of the new state, we shall hold real power of management thereof in view of the national defense and economic requirements of the Empire and the new state. And as one of the concrete measures for carrying the above into effect, one shall abide by the Principles for Dealing with the Railroads, Harbors and Rivers of Manchukuo mentioned in the other papers."

I next offer IPS document No. 1415-E, also minutes of the Cabinet Council meeting under date of May 3, 1932.

THE PRESIDENT: Admitted on the usual terms.

DEPUTY CLERK OF THE COURT: Prosecution document No. 1415-E will receive exhibit No. 224.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 224 for identification, and was received in evidence.)

MR. DARSEY: I desire to read certain excerpts beginning with the top of page 1.

THE PRESIDENT: Mr. Darsey, wait until all the judges get copies.

MR. DARSEY: (Reading) "The General Principle of the Policy Concerning Construction of the KIRIN-TUNGHUA Railway Extension Line. (Cabinet Decision, May 3, 1932)

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"And Concurrently, the Policy in Management of the TIEN-TU Railway.

"Route Lines.

"Route lines to be adopted shall run from TUNGHUA via CHU-TZU-KIA to NANYANG in KOREA: and another shall branch off at CHIAO-YANG-CHUN passing through LUNG-CHIN-TSUEN and ending at SHAM-SAN-PHON in KOREA.

"Management and the Construction Plan of the TIEN-TU Railway.

"In order to construct the aforementioned lines, the present TIEN-TU Railway shall be purchased by the State of MANCHUKUO at a fair price, and the funds needed for this purpose shall be credited by the South Manchurian Railway Co. Moreover, the liabilities of this railway against the Savings Department of the Finance Ministry, TOTAKU (The Oriental Development Co.) and others, shall be borne by the South Manchurian Co. Purchase expenses shall be dealt as a loan made to the State of MANCHUKUO by the South Manchurian Railway Co.

"The reconstruction of the TIEN-TU Railway and the new line construction project are to be undertaken by the South Manchurian Railway Co. Reconstruction and construction expenses shall be treated as a loan made to the State of MANCHUKUO by the South Manchurian Railway Co."

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Skipping to paragraph 4:

"Form of Management.

"The management of both lines shall be entrusted to South Manchurian Railway Co. by the State of MANCHUKUO."

Skipping to paragraph 6 on page 2:

"Management of Termini Facilities and Con-

"The South Manchurian Railway Co. shall manage the connecting lines in KOREA (TOL-MEN Line, CHEN-WEI Line and the SHUENKEE-RASHIN Line), and its termini facilities."

I next offer IPS document No. 1415-F.

THE PRESIDENT: This is a convenient break.

We will recess now for fifteen minutes.

(Whereupon, at 1045 a recess
was taken until 1105, after which the proceedings were resumed as follows:)

MARSHALL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: Mr. Darsey.

MR. DARSEY: Before the recess I tendered IPS document No. 1415-F.

THE PRESIDENT: You did not explain it. What is it?

MR. DARSEY: Minutes of the Cabinet conference meeting dealing with the development of aviation in Mancheukuo.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 1415-F will receive exhibit No. 225.

(Whereupon, prosecution's exhibit
No. 225 was received in evidence.)

MR. DARSEY: I desire to read the first page of the document. Has it been distributed, Mr. Clerk?

CLERK OF THE COURT: Yes.

MR. DARSEY: (Reading)

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"Imperial government, recognizing the urgent necessity of acquiring aviation rights in Manchuria and Mongolia, decided in the Cabinet conference of 18th November 1930, to open negotiations with the Chinese authorities concerning this matter. With this decision, we repeatedly negotiated with the Chang Hsueh-liang regime concerning the organization of an aviation company under joint management of Japan and Manchuria, but it could not be realized and the matter was left untouched till the Manchurian Incident broke out last September. After the outbreak of the Incident, the Imperial Government decided in the Cabinet conference of 11th November last year to make the Japan Air Transportation Company temporarily open the regular Changchung-Dairen-Mukden sir route and the Soeul-Pinghslang-Mukden route, on the pretext of military communication and for the purpose of establishing the foundation for acquiring aviation rights in Manchuria and Mongolia and at the same time insuring communications between Kwantung Army units. Since, then, according to the above decision, we have been meeting the immediate demands under the pretext of military air service, but today when the surrounding situations have developed favorably for us with

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the establishment of Manchukuo, we believe it is important that we turn the above military air service into a standing business organ and give it permanency. Furthermore, it is needless to mention that the management of aviation in Manchuria and Mongolia should be carried out in the best possible way with a view of contributing to the execution of the Imperial aviation policy, namely, the accomplishment of European-Asiatic air line, the development of industries and the preparation of acquiring aviation rights in China proper. etc. However, at the same time, considering the special positions of end situations in Manchuria and Mongolia, it shall be our greatest object to let the plan meet the demand of national defense. Therefore, while it is absolutely necessary for the above business organ to be administrated under the perfect leadership and supervision of the Imperial Government, on the other hand, in view of our relations toward both Manchukuo and other nations, it will be proper for us to make this organ a joint company of Japanese and Manchurians, a corporation in Manchukuo and the substantial leadership and supervision in our hands. Moreover, from its original mission, the aviation business will be expected to expand in the future, but as it is necessary to realize it as easily and

specdily as possible, we shall at this time, open business with subsidies supplied for the time being by the Manchurian Government and the South Manchurian Railway Company, and expect to take the following steps.

"Organization Program.

"The fundamental policy for the institution and management of the aviation enterprise in Manchuria is to meet the demand of national defense of our Empire and, at the same time, to contribute to the advance of our nation's aviation enterprise and the economical development of Manchukuo."

"Regarding the recent dispatch of a part of the Chosen Army to Chienteo, I understand the main objective lies in the protection of Januarese residents there. Accordingly, I believe it favorable for the unification of our Manchurian policy that the general administrative functions in Chientao be conducted by the Manchukuo Government under the guidance of the Kwantung Army, since Chientao at present has already become a territory of Manchukuo. But, in view of the historical relations between the Government-General of Chosen and the said district as well as of the peculiarities of the said district, the Kwantung Army is ready to pay full respect to their opinions and afford conveniences to them.

"I believe you have no objections that the execution of our policies regarding the whole of Manchukuo, under these circumstances, should, insofer as it involves negotiations with Manchukuo, be left chiefly to the Kwantung army for unified and joint execution according to the measures decided upon in the recent Cabinet Council. In view of the recent conduct of Japanese Government offices and various other representing organs in Manchukuo, however, I fear that unless we make it thoroughgoing,

confusion might arise. I seek your opinion about this matter.

"A cipher telegran addressed to the Commanderin-chief of the Kwantung Army from the War Minister in reply to the previous nessage.

"In reply to your telegrams 'Ken-Sen' No.323 & 334, I agree in principle to your opinion regarding unification in the execution of our Manchurian policies as well as to the policy of the Army under your command regarding the Chientao question. Considering the actual state of affairs in that area as well as its historical relations, however, I hope you will keep in contact and cooperate with the various organs concerned. Regarding matters relating to the Supreme Command, instructions will be issued by the Chief of the Army General Staff."

The remainder of the document are the details of the organization.

We next offer IPS document No. 607 which is "A Message Addressed to the War Minister from the Commander-in-Chief of the Kwantung Army," and the answer to that, too.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 607 will receive exhibit No. 226.

(Whereupon, prosecution's exhibit No. 226 was received in evidence.)

MR. DARSEY: I desire to read the document.

"A Message Addressed to the War Minister from the

Commander-in-Chief of the Kwantung Army," dated

April 3, 1932.

MR. LEVIN: Mr. President.

THE PRESIDENT: Mr. Levin.

MR. LEVIN: It appears that there is a reference to the telegrams No. 323 and 334. We would like, in view of these telegrams, as I -- the telegram 323 is here, and reference is made to 334. We would like to have the prosecution produce telegrams 334 if it is available.

THE PRESIDENT: It rests entirely with the prosecution to produce them, or let the defense do so.

MR. DARSEY: Prosecution would also like to have the telegram. We have so far been unable to locate it.

We next offer IPS document No. 613 which is a telegram "From the Chief of Staff of the Kwantung Army to the Vice-Minister of War."

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 613 will receive exhibit No. 227.

(Whereupon, prosecution's exhibit No. 613 was received in evidence.)

MR. DARSEY: I would like to read the

document.

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"In view of the present situation of Manchukuo, it is very natural and a matter of urgent necessity that Manchukuo should take over at this time the custom houses, including that at DAIREN. We consider it a matter of urgent necessity to thoroughly abide by the great policy of supporting Manchukuo, to adopt the undermentioned Manchukuan opinions to give tacit consent to its exforcement and to consistently give her strong support.

"Furthermore, we must keep this matter absolutely secret until its enforcement by Manchukuo.

Kindly note that the Governor of Kwantung Leased

Territory, acting Consul-General Morishima and

Director Fukumoto of the Dairen Customs House,

fully understand this.

"Particulars:

"1. Manchukuo's finance is now confronted with a great difficulty in realizing the revenues of 64 million yuan which had been originally estimated at the time of the founding of the State, on account of difficulties in maintaining peace and order. Since this amount included custom revenues of 19 million yuan and Opium Monopoly revenues of about 10 million yuan, Manchukuo would find herself in a sad plight with estimated expenditures of 93 million yuan, unless

these two items are speedily dealt with so as to raise revenues.

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"Accordingly, we have decided to take over all the custom houses in Manchukuo, including that of DAIREN, under the policy of guaranteeing treatment and positions to their personnel, and of collecting the customs revenues (marginal quotation in red ink: The part securing foreign loans to be untouched) except that part which secures foreign loans. Above 10 all, the amount of revenues of the DAIREN customhouse constitutes about one-half of the total 12 customs revenues of (marginal notation in red ink: 13 the increase in revenues resulting from the seizure 14 of DAIREN custom house is 7 million Liang) whole 15 Manchukuo (24 million Haikuanlian) and is expected 16 to exceed by as much as 7 million Liang that part 17 of the customs revenues about 5 million Lieng which 18 secures the foreign loans for which Manchukuo holds 19 herself responsible. Accordingly, even if Manchukuo 20 acquire the customs revenues of all the custom houses, 21 except that of DAIREN, she would be able to obtain 22 annually only 7 million Lieng (four letters are 23 illegible), which would be unbearable to her. There-24 fore it is intended to take over the DAIREN custom 25 house at all costs. However, if during this course

the Nanking Government should give in so as to agree to the First Draft which was agreed upon by the United Conference of the Five Provinces sometime ago, we are ready to give consent to it.

custom-house is to have its personnel betray China by joining Menchukup. If the Chinese side should despatch new personnel and attempt to collect the customs separately and further attempt to shut down all the custom houses in Menchukup, we shall be obliged to bring the Chinese endeavor in DAIREN to naught through" -- Word blotted out. What is the word? -- "intimidation by collecting customs at Wafang-tien, etc. At the same time we intend to oppose it, through arrangements made beforehand by appointing simultaneously new personnel for all the custom houses in Manchukup, including that at DAIREN.

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"3. We hope that in case the Japanese Covernment would maintain a friendly attitude by giving tacit consent to Manchukuo's management of the customs business in Dairen, and that she would not interfere with Manchukuo's management of the customs as the result of protests from China.

"We believe that Japan and Manchukuo

will not be placed in a disadvantageous situation internationaly even in the case of connivance, the reasons being as follows:

"The first draft, which Manchukuo intends to accept with great forebearance, preserves what Maize calls 'customs integrity.' And as it is rumored that Nanking is purposely opposing it and obstructing a compromise in spite of no objections on the part of Maize, Manchukuo's present resolution is an unavoidable last resort. The fault is entirely on the other side.

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"If Japan does not give support, Manchukuo will be obliged to begin collecting customs at Wafangtien without taking into consideration the demage to DAIREN. Accordingly, not withstanding the provisional agreement pertaining to the DAIREN Customs, Japan will be obliged from the standpoint of self-defense to give tacit consent to Manchukuo's actions in DAIREN. Moreover, at the present time when Japan has de facto recognized and supporting Menchukuo, Japan should be able to regard the DAIREN custom house as belonging to Manchukuo. Furthermore, 23 in case the personnel of the custom houses pledge fidelity to Manchukuo, it is doubtful whether it can 25 be said that Japan is violating the Customs Agreement,

even if she should give tacit consent to Manchukuo's actions.

"Public opinion will interpret as a matter of course that Japan, which has de facto recognized and is supporting Manchukuo, should assist in the seizure of the DAIREN customs which are absolutely necessary from the financial standpoint of Manchukuo.

"Manchukuo's financial position does not permit her to wait for the departure of the Far Eastern Enquiry Commission of the League of Nations. Not only that, there is no need for Manchukuo to feel, in the least, constrained toward the League in taking urgently necessary financial measures, which are only natural. It is rather advantageous to take this emergency action during the stay of the League's Enquiry Commission in order to display the independence of Manchukuo, and to indicate the firm resolution of Japan and Manchukuo in respect to the Manchurain problem.

"4. In short, Manchukuo thinks that
China is continuing to illegally collect customs
because the DAIREN custom house happens to be located in the Kwantung Leased Territory, in spite of
the fact that the DAIREN custom house, like the other
custom houses in Manchuria, should properly belong

Manchukuo. If Japan should formally recognize
Manchukuo at once, and deliver the above mentioned
custom house to her, there should be no problem.
However, if the recognition of Manchukuo be delayed
under certain circumstances, it would be necessary
for her to give a great deal of support to Manchukuo.
(Not be be shown to others.)"

THE PRESIDENT: It is noted that the telegram was despatched and received on June 4, 1932.

It is just as well to have the dates of these documents in the record, Mr. Darsey.

MR. DARSEY: We next offer IPS document
No. 645 which is a "Telegram Despatched from the War
Minister to the Commander-in-Chief of the Kwantung
Army," dated June 10, 1932.

THE PRESIDENT: Admitted on the usual terms.

MR. McMANUS: Mr. President, may I inquire
at this time whether the matter contained in parentheses, just before paragraph one, was contained in
the original document?

THE PRESIDENT: What does it matter if it went to the Commander of the Kwantung Army? Why raise these trifles, Mr. McManus? We haven't enough time to waste on those things.

MR. McMANUS: If your Honor pleases, my client, General ARAKI, was War Minister at the time. He was directly involved. And, if this has not been contained in the original document, why, it is merely speculation on the part of the prosecutor as to whom this document was sent, and I would like to object to it on that ground and further on the ground that it has not been or is not sufficiently identified.

THE PRESIDENT: Was your client Chief of
Staff of the Kwantung Army at that date?

MR. McMANUS: I beg your pardon, your
Honor?

THE PRESIDENT: He wants that correction
which is quite unnecessary for his purposes.

MR. McMANUS: No, he was not.

MR. DARSEY: I desire to read the document.

CLERK OF THE COURT: Just a minute, please.

Prosecution's document No. 645 will receive exhibit
No. 228.

(Whereupon, prosecution's exhibit

No. 228 was received in evidence.)

MR. DARSEY: "We understand your views relating to official recognition of Manchukuo, especially your awkward position in connection with the guidance of Manchukuo, but as to the time of official recognition, it has a very delicate bearing on various 6 circles at home and abroad, and therefore we are now 7 determined and ready to effect the recognition when-8 ever opportunity offers.

"As regards unification of various organs in 10 Manchuria, we, taking into consideration the state of affairs relative to the founding of Manchukuo and various conditions at home and abroad emanating therefrom, especially relations with Soviet Russia, are planning to establish a coordinating organ with the Army as its center, among other things aiming at the industrial development of Manchuria to meet with requirements for the speedy stabilization of Manchukuo and national defense. Consequently, it is not of such nature as to set up another government organ over Manchukuo. For avoiding any misunderstanding which may occur in the future among the important people of Manchukuo as a result of the carrying out of this plan, your every endeavor is requested to convince them.

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"It is still premature to discuss such

questions as administrative rights in the South Manchurian Railway zone and the question of the Kwantung Leased Territory. Should such underlying motive by any chance leak out at home or abroad, and especially in foreign countries, it would be extremely disadvantageous from the point of view of the direction of Manchukuo. Therefore, we hope that you will be very circumspect even in the study of the matter in your own office."

Judge McKenzie will continue.

THE PRESIDENT: Judge McKenzie.

MR. McKENZIE: If the Tribunal please, I desire to refer once agair, and for the last time, I believe, to the Lytton Report.

I desire to read small portions from Part II, beginning at the bottom of page 97.

"Part II - The Present Government of
'Manchukuo': . 'Manchukuo' is governed in accordance
with an Organic Law and a Guarantee Law of Civil
Rights. The Organic Law prescribes the fundamental
organization of the governmental organs. It was promulgated by Ordinance No. 1 issued on March 9th, the
first year of Tatung (1932).

"The Regent is head of the State. All executive power is vested in him, and he has also the

authority to overrule the Legislative Council. He is assisted by a Privy Council, which is to advise him upon important affairs."

Then is described "The Executive Department," the last sentence in that paragraph, the top of page 98. "Executive power is thus largely concentrated in the hands of the Premier and the Regent. The legislative power is vested in the Legislative Council."

Then it states that "At present, however, no law has yet been passed for the organisation of the Council."

And the end of the paragraph: "So long as the Legislative Council is not organised, the Premier's position is predominant."

国立公文書館 アジア歴史 資料センター Japan Center for Asian Historical Records http://www.incene.go.pp l

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Then it deals with the Judicial Department and the Supervisory Department.

"The Supervisory Council supervises the conduct of officials and audits their accounts."

Then provinces and special districts.

"For purposes of local government, 'Manchukuo'

is divided into five provinces and two special dis
tricts," naming them.

9 Passing to the last sentence in that para-10 graph:

"Although the Commission made several requests to be shown a map of the area claimed to be included in the 'State of Manchukuo,' this was not provided, but a letter was received giving the boundaries of the 'State' as follows:

by the Great Wall, and the Mongol Lougues and Banners in the same comprise Hulinbuir and the Leagues of Cherim, Chaota and Chosatu and their Banners.

"At the head of the provinces are Civil
Governors. But since it is desired to concentrate executive
power in the Central Government, they are to be
given no authority over either troops or finance."

Passing now to page 99, the first three paragraphs:

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"In the 'Government of Manchukuo,' Japanese officials are prominent, and Japanese advisers are attached to all important Departments. Although the Premier and his Ministers are all Chinese, the heads of the various Boards of General Affairs, which, in the organization of the new State, exercise the greatest measure of actual power, are Japanese. At first they were designated as advisers, but more recently those holding the most important posts have been made full Government officials on the same basis as the Chinese. In the Central Government alone, not including those in local governments or in the War Office and the military forces or in Government enterprises, nearly 200 Japanese are 'Manchukuo' officials.

"Japanese control the Board of General Affairs and the Legislation and Advisory Bureaux, which in practice constitute a Premier's Office, the General Affairs Department in the Ministries and in the Provincial Governments, and the Self-Government Directing Committees in the Districts, and the police departments in the Provinces of Fengtien, Kirin, and Heilung-kiang. In most bureaux, moreover, there are Japanese advisers, counsellors and secretaries.

"There are also many Japanese in the railway offices and in the Central Bank. In the Supervisory

Council, Japanese hold the posts of Chief of the Bureau of General Affairs, Chi f of the Control Bureau, and Chief of the Auditing Board. In the Legislative council, the C i f Secretary is a Japanese. Finally, some of the most important officials of the Regent are Japanese, including the Chief of the Office of Internal Affairs and the Commander of the Regent's bodyguard."

Then it deals with the aims of the government, and in next to the last paragraph:

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"The policy of the Self-Government Guiding Board, the chief agency in the creation of the new Government, was continued by the Advisory Bureau, which had superseded it."

Next follows a description in detail of the new government; plans and laws with reference to taxation, education, justice, and police; the army and the methods for handling the banks and currency, public utilities, Salt Gabelle, postal administration, and customs revenue.

And in conclusion I should like to read the comments on pages 105 and 106:

"Having thus described the organization of the 'Manchukuo Government,' its programme, and some of the measures it has taken to affirm its independence

from China, we must state our conclusions regarding its operation and its principal characteristics.

"The programme of this 'Government' contains a number of liberal reforms the application of which would be desirable, not only in Manchuria, but also in the rest of China; in fact, many of these reforms figure equally in the programme of the Chinese Government. In their interviews with the Commission, the representatives of this 'Government' claimed that, with the help of the Japanese, they would be able to establish peace and order within a reasonable time and would thereafter be able to maintain it permanently. They expressed the belief that they would be able to secure the support of the people in time by assuring them an honest and efficient administration, security from bandit raids, lower taxation as the result of reduced military expenditure, currency reform, improved communications and popular political representation.

But, after making every allowance for the short time which has hitherto been at the disposal of the 'Manchukuo Government' for carrying out its policy, and after paying due regard to the steps already taken, there is no indication that this 'Government' will in fact be able to carry out many of its reforms. To mention but one example: there

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seem to be serious obstacles in the way of the realization of their budgetary and currency reforms. A thorough programme of reforms, orderly conditions and economic prosperity could not be realized in the conditions of insecurity and disturbance which existed in 1932.

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"As regards the 'Government' and the public services, although the titular heads of the Departments are Chinese residents in Manchuria, the main political and administrative power rests in the hands of Japanese officials and advisers. The political and administrative organization of the 'Government' is such as to give to these officials and advisers opportunities, not merely of giving technical advice. but also of actually controlling and directing the administration. They are doubtless not under the orders of the Tokyo Government, and their policy has not always coincided with the official policy either of the Japanese Government or of the Headquarters of the Kwantung Army. But in the case of all-important problems, these officials and advisers, some of whom were able to act more or less independently in the first days of the new organization, have been constrained more and more to follow the direction of Japanese official authority. This authority, in fact

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by reason of the occupation of the country by its troops, by the dependence of the 'Manchukuo Government' on those troops for the maintenance of its authority both internally and externally, in consequence, too, of the more and more important role entrusted to the South Manchurian Railway Company in the management of the railways under the jurisdiction of the 'Manchukuo Government,' and finally by the presence of its consuls, as liaison agents, in the most important urban centres, possesses in every contingency the means of exercising an irresistible pressure. The liaison between the 'Manchukuo Government' and Japanese official authority is still further emphasised by the recent appointment of a special ambassador, not officially accredited, but resident in the capital of Manchuria, exercising in his capacity of Governor-General of the Kwantung Leased Territory a control over the South Manchurian Railway Company and concentrating in the same office the authority of a diplomatic representative, the head of the Consular Service, and Commander-in-chief of the Army of Occupation.

"The relations between 'Manchukuo' and Japan have hitherto been somewhat difficult to define, but the latest information in the possession of the

Commission indicates that it is the intention of the Japanese Government to define them before long. A letter dated August 27th,1932, addressed to the Commission by the Japanese Assessor, states that the Special Ambassador, General Muto, 'left Tokyo on August 20th for Manchuria. On arrival he will commemco negotiations for the conclusion of a fundamental treaty concerning the establishment of friendly relations between Japan and Manchuria. The Government of Japan regards the conclusion of this treaty as a formal recognition of 'Manchukuo.'"

I now desire, if the Court please, to read from Exhibit 59, which was a basic document heretofore offered in evidence, and it is offered for the purpose of proving that the Assembly of the League of Nations condemned Japan's action in Manchuria. I desire to read portions and omit certain portions of this report.

Beginning at the beginning:

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"The following report was adopted by the Assembly on February 24th, 1933.

"REPORT

"The Assembly, in view of the failure of the efforts which, under Article 15, paragraph 3, of the Covenant, it was its duty to make with a view

to effecting a settlement of the dispute submitted for its consideration under paragraph 9 of the said article, adopts, in virtue of paragraph 4 of that article, the following report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

"Events in the Far East. Adoption of the first eight chapters of the Report of the Commission of Enquiry. Plan of the Report.

"PART I.

"The underlying causes of the dispute between China and Japan are of considerable complexity. The Commission of Enquiry sent by the Council to study the situation on the spot expresses the view that the 'issues involved in this conflict are not as simple as they are often represented to be. They are, on the contrary, exceedingly complicated, and only an intimate knowledge of all the facts, as well as of their historical background, should entitle: anyone to express a definite opinion upon them.'

"The first eight chapters of the report of the Commission of Enquiry present a balanced, impartial and detailed statement of the historical background of the dispute and of the main facts in so far as they relate to events in Manchuria. It

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would be both impracticable and superfluous either to summarise or to recepitulate the report of the Commission of Enquiry, which has been published separately; after examining the observations communicated by the Chinese and Japanese Governments, the Assembly adopts as part of its own report the first eight chapters of the report of the Commission of Enquiry.

"It is necessary, however, to complete the statement of the Commission of Enquiry by describing the measures taken by the Council and the Assembly in connection with the various phases of the dispute, as well as certain events which do not appear in the report of the Commission, more particularly those relating to the origin of the hostilities which occurred at Shanghai at the beginning of 1932. In regard to these events, the Assembly adopts as part of its own report the reports addressed to it by the Consular Commission of Enquiry. These reports have been published separately. The story of what happened in Manchuria since the beginning of September 1932 must also be related, since the report of the Commission of Enquiry does not go beyond that date.

"This brief historical summary of the development of the dispute will be found in Part II of

the present report. It should be read in connection with the nerrative of events given in the report of the Commission of Enquiry.

"Part III describes the chief characteristics of the dispute and the conclusions drawn by the Assembly from the essential facts.

"Part IV contains the recommendations which the Assembly deems to be just and proper in regard to the dispute.

"PART II.

"DEVELOPMENT OF THE DISPUTE BEFORE THE LEAGUE OF NATIONS.

1. Summery of the Development of the Dispute.

"The decisions of the Council and of the Assembly in the long period which has elapsed since the dispute was first brought before the League of Nations were determined by the evolution of the conflict in the Far East.

"At the outset, the incidents with which the Council was called upon to deal when the dispute was submitted to it by China under Article II occurred at Mukden and in some other places in Manchuria; the Council received repeated assurances from Japan that she had no territorial designs in Manchuria and that she would withdraw her troops within the South

Manchurian Railway zone, subject to the sole condition that the safety of the lives and property of Japanese nationals were assured. Such was the purport of the resolution of September 30th and of the draft resolution of October 24th, 1931. The latter, which was agreed to by all the Members of the Council except Japan, enabled the Council once again to secure pledges from the Japanese delegation.

"After the rejection of this draft resolution, Japan's insistence on the need of a settlement of the fundamental questions which divided the two countries led the Council, without prejudice to the execution of the undertakings embodied in the resolution of September 30th, to put forward measures with a view to a final and fundamental solution by the two parties of the cuestions at issue between them. On December 10th, 1931, the Council, acting on a proposal made by Japan, decided to appoint a Commission of five members with instructions to make an enquiry on the spot and to report to the Council on "any circumstance which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them upon which peace depends."

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"Between December and March, however, there

was a considerable change for the worse in the situation in the Far East. Japanese troops completed the occupation of South Manchuria and began to occupy North Manchuria. Outside Manchuria a severe conflict involving Chinese and Japanese regular forces, was begun and carried on at Shanghai. At the same time, the reorganisation of the civil administration in those parts of Manchuria occupied by the Japanese troops resulted in the formation of an "independent State" styled "Manchukuo", which did not recognise Chinese sovereignty. The Council was henceforth asked by China to deal with the dispute, not only under Article II, but also under Articles 10 and 15 of the Covenant. On February 19th, 1932, as the result of a request by China submitted under the terms of Article 15, paragraph 9, the Council referred the dispute to the Assembly.

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"From Jenuary onwards, pending the receipt of the report of the Commission of Enquiry, without which the substance of the dispute could not be thoroughly examined, the chief concern of the Council, and subsequently of the Assembly, was to do everything in its power to stop hostilities and prevent an aggrevation of the situation, while preserving the rights of the parties and the principles of

the Covenant from suffering prejudice by reason of any fait accompli. The Assembly by its resolution of March 11th, defined the attitude of the League of Nations towards the dispute. It declared that, pending a settlement in conformity with the Covenant, it was incumbent upon the Members of the League not to recognise any situation, treaty, or agreement which might be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris.

"The hostilities at Shanghai were brought to an end, but fighting continued in Manchuria between Japanese forces or forces of the "Manchukuo" Government and irregular Chinese forces. In September 1932, some days after the signing at Peiping of the report of the Commission of Enquiry, there was a further fundamental change in the situation: the Japanese Government recognised the "Manchukuo" Government.

"The report of the Commission of Enquiry could not reach Geneva before the end of September -- namely, after the expiry of the time-limit of six months laid down in the Covenant for the report of the assembly under article 15. The Assembly, therefore with the assent of the parties, decided on July 1st to extend the time-limit for as long as might be

strictly necessary, on the understanding that such extension should not constitute a precedent. The Commission of Enquiry was thus able to complete its report on the spot, the parties to submit their observations on the report, and the Council and Assembly to examine all the material thus collected.

"The examination of this material and the exchanges of views with the parties continued from the middle of November 1932 to the beginning of February 1933. After the discussions by the Council, the Assembly endeavoured, but without success, to bring about a settlement of the dispute by negotiation between the parties under paragraph 3 of Article 15, on the basis of the information and conclusions contained in the report of the Commission of Enquiry. It has therefore adopted the present report in conformity with paragraph 4 of that article.

"Section 2. Origin of the Dispute before the League of Nations. -- Events of September 18th - 19th, 1931, in South Manchuria. -- First Discussions of the Council."

While this summary is brief and instructive, the events referred to have been covered in Exhibit 57 of the Lytton Report, including the resolutions of September 30 and December 10, 1931; so I shall omit Sections 2 to 9, inclusive. Sections 7 and 8 deal with Shanghai, and will rpobably be referred to by Colonel Morrow.

Beginning with Section 10 on page 9: "Discussions of the Assembly. -- Resolution of March 11th. -- Decisions regarding the Time-limit for the Preparation of the Report under Article 15.

"Meanwhile the Assembly, continuing its examination of the dispute at Geneva, adopted, on March 11th, 1932, after a full discussion, the following resolution:"

This resolution was referred to and the contents briefly stated on page 2 of the present report, and is already in evidence as basic document, Exhibit No. 56; and by reference hereto I desire to include it in the record.

I desire to call particular attention and read two paragraphs from the resolution, however.

Paragraph 4 on page 9:

"'Considering that the principles governing international relations and the peaceful settlement

of disputes between Members of the League above referred to are in full harmony with the Pact of Paris,
which is one of the corner-stones of the peace organization of the world and under Article 2 of which "the
High Contracting Parties agree that the settlement or
solution of all disputes or conflicts of whatever
nature and whatever origin they may be, which may
arise among them shall never be sought except by
pacific means"; "

At this time, if the Tribunal please, may I refer to the fact that the Pact of Paris is also already in evidence as a basic document, being Exhibit No. 32, and by reference hereto to include it in the record at this point. The other portion of this resolution I desire to read is the first line of Section 3, and the fourth paragraph:

"The Assembly,

"Decides to set up a Committee of nineteen members -- namely, the President of the Assembly, who will act as Chairman of the Committee, the Members of the Council other than the parties to the dispute and six other Members to be elected by secret ballot.

"This Committee, exercising its functions on behalf of and under the supervision of the Assembly, shall be instructed:"

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And then follows the instructions to the Committee to use further efforts to settle the dispute.

Section 11, "The organization of 'Manchukuo' -Recognition of 'Manchukuo' by Japan," has already been
covered in the Lytton Report.

Passing now to Section 12, "Consideration by the Council of the Report of the Commission of Enquiry."

THE PRESIDENT: This is a convenient break.

We will adjourn now until half past one.

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(Whereupon, at 1200, a recess was taken until 1330, at which time the proceedings were resumed as follows:)

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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.

MR. COLE: Mr. President, my name is Cole, and I am American counsel for the accused Akira MUTO. I should like to refer briefly to an excerpt from the Lytton Report reed this morning by Mr. McKenzie. On Page 106, approximately five lines from the bottom of the page, there is a reference to General MUTO. Without intending to testify, I should like respectfully to point out to the Tribunal that that is not the accused General Akira MUTO but General Shingi MUTO who is referred to.

THE PRESIDENT: I think you can trust the Court to notice the distinction in the prenomen. Judge McKenzie.

MR. McKENZIE: Continuing now where we left off at noon with paragraph twelve on page eleven: "12. Consideration by the Council of the Report of the Commission of Enquiry.

"The report of the Commission of Enquiry was signed at Peiping on September 4th, 1932, and was communicated to the two Governments and to the Men-

Government asked for a minimum period of six weeks

In which to communicate its observations upon it to
the Council, and the Council decided on September

24th to begin its consideration of the report at
latest on November 21st.

"On this occasion, the President of the Council (the representative of the Irish Free State. Mr. de Valera) expressed regret -- with which the Special Committee of the Assembly at its public meeting on October 1st associated itself -- that, before even the publication of the Commission's report, Japan, not only by recognising but also by signing a treaty with what was known as the "Manchukuo" Government, had taken steps which could not but be regarded as calculated to prejudice the settlement of the dispute. "For almost'a year," Mr. de Valera said, "the Council in its collective capacity and the individual Governments which composed it had scrupulously refrained from uttering any word of judgment on the merits of this grave dispute on the grounds that a Commission had been set up to investigate the dispute in all its bearings and that, until that Commission hed reported, and its report had been considered by the organs of the League, the whole

question was still to be regarded as sub judice."

"The Council, at meetings held from November 21st to 28th, 1932, considered the report of the Commission and the observations of the parties. In reply to a question by the President, Lord Lytton stated on behalf of the Commission of Enquiry, that the letter did not wish to add anything to its report.

"As regards the recommendations contained
in the report, the Council noted that it was not able
to find in the declarations of the Chinese and Japanese representatives any measure of agreement between
the parties which would enable it usefully to engage
in a discussion and to submit observations or suggestions
to the Assembly.

"In these circumstances, the Council merely transmitted to the Assembly the report of the Commission of Enquiry, the observations of the parties and the Minutes of its meetings.

"13. Discussion of the Report of the Commission of Enquiry by the Assembly. -- Attempt to Negotiate a Settlement.

"The Assembly met on December 6th, 1932.
After a general discussion it adopted, on Pecember
9th, the following resolution:

'The Assembly,

'Having received the report of the Commission of Enquiry set up under the resolution adopted on December 10th, 1931, by the Council, together with the observations of the parties and the Minutes of the Council meetings held from November 21st to 28th, 1932;

'In view of the discussions which took place et its meetings from December 6th to 9th, 1932:

'Requests the Special Committee appointed under its resolution of Merch 11th, 1932:

- '(1) To study the report of the Commission of Enquiry, the observations of the perties and the opinions and suggestions expressed in the Assembly, in whatever form they were submitted;
- '(2) To draw up proposals with a view to the settlement of the dispute brought before it under the Council resolution dated February 19th, 1932;
- '(3) To submit these proposals to the Assembly at the earliest possible moment.'

"The Special Committee of Nineteen drew up two draft resolutions and a statement of reasons indicating generally the basis on which it thought it possible to continue its endeavours to effect a settlement of the dispute."

Then follows a draft of the two resolutions.

But, inasmuch as neither one proved satisfactory, I shall merely refer to them end not read them. Passing now to the large print in the first paragraph of the second column on Page 13.

"On December 15th, the two draft resolutions and the statement of reasons were submitted to the parties. The Chinese and Japanese delegations proposed amendments and the President of the Committee and the Secretary-General were authorised to enter into conversations with them. On December 20th, the Committee decided to adjourn until January 16th, 1933, at latest, in order to enable the conversations to continue.

"14. Japanese Military Operations at Shanhaikwan within the Great Wall.

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"Early in January 1933 occurred the serious incidents at Shanhaikwan. Situated at the extremity of the Great Well, halfway between Peiping and Mukden, this city has always been regarded as of great strategic importance. It is on the route followed by invaders who, coming from Menchuria, wish to penetrate into what is now the province of Hopei. Moreover, from Hopei is the easiest route into Jehol, a province which Japan regards as forming part of "Manchukuo". It was from the north of Hopei that, according to

Japanese communications, Marshal Chang Hsueh-lieng was sending considerable forces into Jehol and that, according to Chinese Communications, the Japanese Army intended to begin large-scale operations in Jehol.

"A Japanese communication of December 29th,
1932, reported that during the last few days the mobilisation of Chinese troops directed against Jehol
was especially marked. The Japanese delegation further stated on January 4th, 1933, that the Japanese
authorities at Peiping had vainly endeavoured to
persuade General Chang to stop this movement of forces,
and that in these circumstances of "tension and anxiety"
an incident had occurred at Shanhaikwan on the night
of January 1st-2nd.

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"Units of the Japanese army of Kwantung passed the Great "all and the town was attacked. It was occupied on January 3rd.

"The Chinese Government asserts that, during this operation, thousands of peaceful citizens were slaughtered. It addressed a protest on January 11th to the Powers signatories of the Protocol of 1901 against the unlawful advantage taken by Japan of a special privilege claimed under the Protocol. It declared that it could not assume any responsibility

for a situation resulting from the exercise by Chinese defensive forces of their legitimate right to resist the aggressive acts of the Japanese troops. "15. Failure of the Procedure for Negotiating a

"The Committee of Nineteen met again on January 16th, 1933. It noted that, though the conversations with the representatives of the parties concerning the draft resolutions and the statement of reasons framed by it had continued, no new proposal had been received apart from the amendments submitted in December by the Chinese and Japanese delegations. The Jopanese delegation, however, had stated that it was in communication with its Government regarding new proposals which would be submitted within forty-eight hours.

"The Committee received these proposals on January 18th. It noted that they differed in several fundamental points from those which it bad communicated to the parties on December 15th. As, however, the Japanese delegation, when submitting the new proposels of its Government, had specially emphasised that the latter attached great importance to the stipulation that the body to be appointed for the settlement of the dispute should include only Members

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of the League, the Committee of Nineteen felt that. if this were the only objection raised by Japan to the texts which had been communicated, it should not be impossible to settle the question in consultation with the perties. It therefore asked for supplementary information, particularly on the point whether, if this difficulty were overcome, Japan would be prepared to accept the draft resolution No. 1 of December 15th. The Cormittee thought it should ewait the Japanese reply on this point before continuing its conversations with the Chinese delegation, whose proposels did not differ so fundamentally as those of Japan from the texts communicated to the two parties.

"On January 21st, the Committee noted that the effects of the statements made by the Japanese delegate to its Chairman and to the Secretary-General was that the Japanese Government was not prepared to accept draft resolution No. 1, even if the provision that non-Member States be invited to participate in the negotiations for a settlement were eliminated from the draft.

"The Japanese delegation, in making these statements, had submitted new proposals on behalf of its Government.

"The Committee, after examining these pro-

posels, together with the amendments submitted by the Chinese delegation to the Committee's texts of December 15th, could do no more than note that it was impossible to frame a draft resolution acceptable to the two parties. The importance attached by the Chinese delegation and by the Committee itself to the participation of the United States of America and of the Union of Soviet Socialist Republics in the negotietion of a settlement made it impossible to eliminate at the sole request of Japan the provision concerning the invitation to those States, if the Committee must at the same time modify in the sense of the Japanese proposals the other provisions of draft resolution No. 1.

"The Committee further noted that, even if it agreed to transform the statement of reasons into a declaration made by the Chairman on behalf of the Committee, to which the parties would be free to submit reservations, the Japanese Government did not accept the text established by the Committee on December 15th, but asked, in its new proposals, that important amendments to the text should be made which the Committee could not accept.

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"In view of this situation, the Committee of Nineteen noted that, after endeavouring to prepare,

in accordance with the mission entrusted to it, the settlement of the dispute in agreement with the parties, it appeared to it to be impossible to submit proposals to that effect to the Assembly.

"The Committee, therefore, in execution of the task entrusted to it under Part III (paragraph 5) of the resolution of March 11th, 1932, has prepared the present draft report as contemplated in article 15, paragraph 4, of the Covenant.

"In deciding to begin the preparation of this draft report, the Committee did not fail to point out that the assembly was alone competent to apply, after the failure of the negotiations, the provisions of article 15, paragraph 4. The Committee therefore remained at the disposal of the parties for any further proposals they night desire to communicate to it.

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"On February 8th, the Japanese representative submitted to the Committee further emendments to the test prepared on December 15th. On February 9th, the Committee, after considering these amendments, decmed it desirable to ask for further information in regard thereto, in particular whether the Japanese Government accepted as one of the bases for the comtemplated conciliation Principle 7 in Chapter IX of the report of

the Commission of Enquiry regarding the establishment in Manchuria of a large measure of autonomy consistent with the sovereignty and administrative integrity of China. This question was submitted to the Japanese delegation in a letter of the same date.

"The Japanese Government replied on February 14th that it was convinced that the maintenance and recognition of the independence of "Manchukuo" were the only guarantee of peace in the Far East, and that the whole question would eventually be solved between Japan and China on that basis. In reply to this communication the Committee, to its deep regret, felt bound to hold that the Japanese proposals put forward on February 8th did not afford an acceptable bosis for conciliation. It added that it was, of course, willing to examine up to the date of the final meeting of the Assembly any further proposals which the Japanese Government might wish to make, but that it was sure that the Japanese delegation would realise that any aggravation of the existing situation must render more difficult, if not indeed frustrate, further efforts at conciliation.

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"On the same date the Committee adopted the draft of the present report."

Referring to Part III I desire to read the

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first two sections and the first sentence in section three.

"PART III.

"CHIEF CHARACTERISTICS OF THE DISPUTE.

"It will be seen from this review that for more than sixteen months the Council or Assembly has continuously tried to find a solution for the Sino-Japanese dispute. Numerous resolutions have been adopted based on various articles of the Covenant and other international agreements. The complexity. to which reference has already been made, of the historical background of the events; the special legal situation of Manchuria, where Japan, as will be noted later, exercised within Chinese territory extensive rights; finally, the involved and delicate relations existing in fact between the Chinese and Japanese authorities in certain parts of Manchuria justified and rendered necessary the prolonged efforts of negotiation and enquiry made by the League. However, the hopes entertained by the Council and the Assembly of an improvement in the situation, arising from the deplarations of the parties and the resolutions adopted with their participation, were disappointed. The situation, on the contrary, tended to grow constantly worse. In Manchuria, or other parts of the territory

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of a Member of the League, military operations, which the report of the Commission of Enquiry has described as "war in disguise," continued and still continue.

"Heving considered the principal features of the dispute, the Assembly has reached, in particular, the following conclusions and noted the following facts:

"1. The dispute between China and Japan which is submitted to the Assembly originated in Manchuria, which China and foreign Powers have always regarded as an integral part of China under Chinese sovereignty. In its observations on the report of the Commission of Enquiry, the Japanese Government contests the argument that the rights conferred on Russia and subsequently acquired by Japan 'in the extremely limited area known as the Southern Manchuria Railway zone' conflict with Chinese sovereignty. 'They were, on the contrary, derived from the sovereignty of China.'

"The rights conferred by China on Russia and subsequently on Japan derive from the sovereignty of China. Under the Treaty of Pekin in 1905, 'the Imperial Chinese Government consented to all the transfers and assignments made by Russia to Japan' under the Treaty of Portsmouth. In 1915, it was to

Chin that Japan addressed demands for the extension of her rights in Manchuria and it was with the Government of the Chinese Republic that, following on these demands, the Treaty of May 25th, 1915, was concluded concerning South Manchuria and Eastern Inner Mongolia. At the Washington Conference, the Japanese delegation stated, on February 2nd, 1922, that Japan renounced certain preferential rights in South Manchuria and Eastern Inner Mongolia and explained that, 'in coming to this decision, Japan had been guided by a spirit of fairness and moderation, having always in view China's sovereign rights and the principle of equal opportunity.' The Nine-Power Treaty, concluded at the Teshington Conference, applies to Manchuria as to every other part of China. Finally, during the first phase of the present conflict, Japan never argued that Manchuria was not an integral part of China.

"2. Past experience shows that those who control Manchuria exercise a considerable influence on the affairs of the rest of China -- at least of North China -- and possess unquestionable strategic and political advantages. To cut off these provinces from the rest of China cannot but create a serious irredentist problem likely to endanger peace.

"3. The assembly, in noting these facts, is not unmindful of the tradition of autonomy existing in Manchuria."

Passing now to the last two sentences of the first paragraph on Page 17.

"Through all its wars and periods of 'independence,' Manchuria remained an integral part of
China. Further, since 1928, Marshal Chang Hauehliang has recognised the authority of the Chinese
National Government.

"4. During the quarter of a century ending in September 1931, the political and economic
ties uniting Manchuria with the rest of China grew
stronger, while, at the same time, the interests of
Japan in Manchuria did not cease to develop."

Passing now to paragraph five.

"5. Before September 18th, 1931, each of the two parties had legitimate grievances against the other in Manchuria, Japan taking advantage of rights open to question and the Chinese authorities putting obstancles in the way of the exercise of rights which could not be contested. During the period immediately preceding the events of September 18th, various efforts were made to settle the questions outstanding between the two parties by the normal method of diplomatic

negotiations and pacific means, and these means had not been exhausted. Nevertheless, the tension between Chinese and Japanese in Manchuria increased, and a movement of opinion in Japan advocated the settlement of all outstanding questions -- if necessary, by force."

Passing now to paragraph eight.

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"8. The object of the provisions of the Covenant of the League of Nations regarding the settlement of disputes is to prevent the tension between nations becoming such that a rupture appears to be inevitable. The Commission of Enquiry found that each of the issues between Chine and Japan was in itself capable of settlement by arbitral procedure. It is precisely because the accumulation of these issues increased the tension between the two nations that it was incumbent on the nation which regarded itself as injured to draw the attention of the League of Nations to the situation when diplomatic negotiations were unduly protracted.

Article 12 of the Covenent contains formal obligations as regards the pacific settlement of disputes.

"9. Without excluding the possibility that, on the night of September 18th - 19th, 1931, the

tivities of the Japanese military authorities, in civil as well as in military matters, have been marked by essentially political considerations. The progressive military occupation of the Three Eastern Provinces removed in succession all the important towns in Manchuria from the control of the Chinese authorities, and, following each occupation, the civil administration was reorganised. A group of Japanese civil and military officials conceived, organised, and carried through the Manchurian independence movement as a solution to the situation in Manchuria as it existed after the events of September 18th, and, with this object, made use of the names and actions of certain Chinese individuals and took advantage of

certain minorities and native communities that had grievences against the Chinese administration. This movement, which repidly received assistance and direction from the Japanese General Staff, could only be carried through owing to the presence of the Japanese troops. It cannot be considered as a spontaneous and genuine independence movement.

"ll. The main political and administrative power in the 'Government' of 'Manchukuo,' the result of the novement described in the previous paragraph, rests in the hands of Japanese officials and advisers, who are in a position actually to direct and control the edministration; in general, the Chinese in Manchuria, who, as already mentioned form the vast majority of the population, do not support this 'Government' and regard it as an instrument of the Japanese. It should also be noted that, after the Commission of Enquiry completed its report and before the report was considered by the Council and the assembly, 'Manchukuo' was recognised by Japan. It has not been recognised by any other State, the Members of the League in particular being of opinion that such recognition was incompatible with the spirit of the resolution of March 11th, 1932.

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"The situation which led up to the events of September 18th, 1931, presents certain special features. It was subsequently aggravated by the development of the Japanese military operations, the creation of the 'Menchukuo Government' and the recognition of that 'Government' by Japan. Undoubtedly the present case is not that of a country which has declared war on another country without previously exhausting the opportunities for conciliation provided in the Covenant of the League of Nations; neither is it a simple case of the violation of the frontier of one country by the armed forces of a neighbouring country, because in Menchuria, as shown by the circunstances noted above, there are nany features without an exact parallel in other parts of the world. It is, however, indisputable that, without any declaration of war, a large part of Chinese territory has been forcibly seized and occupied by Japanese troops and that, in consequence of this operation. it has been separated from and declared independent of the rest of China.

"The Council, in its resolution of September 30th, 1931, noted the declaration of the Japanese representative that his Government would continue, as rapidly as possible, the withdrawal of its troops,

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which had already been begun, into the reilway zone in proportion as the safety of the lives and property of Japanese nationals were effectively ensured, and that it hoped to carry out this intention in full as speedily as might be. Further, in its resolution of December 10th, 1931, the Council, reaffirming its resolution of September 30th, noted the undertaking of the two parties to adopt all measures necessary to avoid any further aggrevation of the situation and to refrain from any initiative which might lead to further fighting and loss of life.

It should be pointed out in connection with these events that, under article 10 of the Covenant, the Members of the League undertake to respect the territorial integrity and existing political independence of all Members of the League.

"Lastly, under Article 12 of the Covenant, the Members of the League agree that, if there should srise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to enquiry by the Council.

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"Thile at the origin of the state of tension that existed before September 18th, 1931, certain

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responsibilities would appear to lie on one side and the other, no question of Chinese responsibility can erise for the development of events since September 18th, 1931. 24

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"Statement of the Recommendations.

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"This part sets forth the recommendations which the Assembly deems just and proper in regard to the dispute.

"Section I.

"The recommendations of the Assembly take into account the very special circumstances of this case and are based on the following principles, conditions and considerations:

"(a) The settlement of the dispute should observe the provisions of the Covenant of the League, the Pact of Paris, and the Nine-Power Treaty of Washington."

Then follows quotations from the applicable sections of those documents which are already in evidence.

Passing now to the last paragraph on page 19:

(Reading) "The Assembly has stated its

opinion that the principles governing international
relations and the peaceful settlement of disputes
between Members of the League above referred to are
in full harmony with the Pact of Paris. Pending the
steps which it might ultimately take for the settlement of the dispute which had been referred to it,
It has proclaimed the binding nature of the principles

and provisions referred to above and declared that it was incumbent upon the Members of the League not to recognise any situation, treaty or agreement which might be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris.

"Lastly, the Assembly has affirmed that it is contrary to the spirit of the Convenant that the settlement of the Sino-Japanese dispute should be sought under the stress of Military pressure on the part of either party, and has recalled the resolutions adopted by the Council on September 30th and December 10th, 1931, in agreement with the parties.

"In order that a lasting understanding may
be established between China and Japan on the basis
of respect for the international undertakings mentioned
above, the settlement of the dispute must conform to
the principles and conditions laid down by the
Commission of Enquiry in the following terms."

And then are listed the terms which the Assembly thought would furnish a fair basis for the settlement of the dispute.

Passing now to Section II on page 21:

(Reading) "The provisions of this section constitute the recommendations of the Assembly under

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Article 15, paragraph 4, of the Covenant.

"Having defined the principles, conditions and considerations applicable to the settlement of the dispute,

"THE ASSEMBLY RECOMMENDS AS FOLLOWS:

"1. Whereas the sovereignty over Manchuria belongs to China,

"A. Considering that the presence of
Japanese troops outside the zone of the South Manchuria
Railway and their operations outside this zone are
incompatible with the legal principles which should
govern the settlement of the dispute, and that it is
necessary to establish as soon as possible a situation
consistent with these principles,

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"The Assembly recommends the evacuation of these troops. In view of the special circumstances of the case, the first object of the negotiations recommended hereinafter should be to organise this evacuation and to determine the methods, stages and time-limits thereof.

"B. Having regard to the local conditions special to Manchuria, the particular rights and interests possessed by Japan therein, and the rights and interests of third States,

"The Assembly recommends the establishment

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in Manchuria, within a reasonable period, of an organisation under the sovereignty of, and compatible with
the administrative integrity of, China. This organisation should provide a wide measure of autonomy,
should be in harmony with local conditions and should
take accout of the multilateral treaties in force,
the particular rights and interests of Japan, the
rights and interests of third States, and, in general,
the principles and conditions reproduced in Section I
(c) above; the determination of the respective powers
of and relations between the Chinese Central Government
and the local authorities should be made the subject
of a Declaration by the Chinese Government having the
force of an international undertaking.

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"Whereas, in addition to the questions dealt with in the two recommendations LA and LB, the report of the Commission of Enquiry mentions in the principles and conditions for a settlement of the dispute set out in Section I (c) above certain other questions affecting the good understanding between China and Japan, on which peace in the Far East depends,

"The Assembly recommends the parties to settle these questions on the basis of the said principles and conditions.

"Whereas the negotiations necessary for

giving effect to the foregoing recommendations should be carried on by means of a suitable organ,

"The Assembly recommends the opening of negotiations between the two parties in accordance with the method specified hereinafter.

"Each of the parties is invited to inform the Secretary-General whether it accepts, so far as it is concerned, the recommendations of the Assembly, subject to the sole condition that the other party also accepts them.

"The negotiations between the parties should take place with the assistance of a Committee set up by the Assembly as follows."

And then follows a plan for setting up the Committee and defining its powers.

Passing now to Section III on page 22:

(Reading) "In view of the special circumstances of the case, the recommendations made do not provide for a mere return to the status quo existing before September, 1931. They likewise exclude the maintenance and recognition of the existing regime in Manchuria, such maintenance and recognition being incompatible with the fundamental principles of existing international obligations and with the good understanding between the two countries on which peace in

1 the Far East depends.

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"It follows that, in adopting the present 3 report, the Members of the League intend to abstain, particularly as regards the existing regime in Manchuria, from any act which might prejudice or delay the carrying out of the recommendations of the said report. They will continue not to recognise this regime either de jure or de facto. They intend to abstain from taking any isolated action with regard to the situation in Manchuria and to continue to concert their action among themselves as well as with the interested States not members of the League. As regards the Members of the League who are signatories of the Nine-Power Treaty, it may be recalled that, in accordance with the provisions of that Treaty: 'Whenever a situation arises which, in the opinion of any one of them, involves the application of the stipulations of the present Treaty and renders desirable discussion of such application, there shall be full and frank communication between the contracting Powers concerned.'

"In order to facilitate as far as possible the establishment in the Far East of a situation in conformity with the recommendations of the present 25 report, the Secretary-General is instructed to communicate a copy of this report to the States non-members

of the League who are signatories of the Pact of Paris or of the Nine-Power Treaty, informing them of the Assembly's hope that they will associate themselves with the views expressed in the report, and that they will, if necessary, concert their action and their attitude with the Members of the League."

I now desire, if the Tribunal please, to present and read from exhibit No. 65, which is a document already in evidence, being Japan's notification of withdrawal from the League of Nations. This document is offered to prove Japan's withdrawal from the League of Nations was because whe was dissatisfied with the Lytton Report and the action taken by the League. For the information of defense counsel, it was formerly IPS document No. 237. I desire to read the last two paragraphs, beginning at the bottom of page 1.

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(Reading) "JAPAN'S NOTICE OF WITHDRAWAL FROM LEAGUE. 27 March 1933.

"However, the majority of the Members of the League evinced in the course of its deliberations during the past seventeen months a failure either to grasp these realities or else to face them and take them into proper account. Moreover, it has frequently been made manifest in these deliberations that there

exist serious differences of opinion between Japan and these Powers concerning the application and even the interpretation of various international engagements and obligations including the Covenant of the League and the principles of International Law. As a result, the Report adopted by the Assembly at the special session of 24 February last, entirely misapprehending the spirit of Japan, pervaded as it is by no other desire than the maintenance of peace in the Orient, contains gross errors both in the ascertainment of facts and in the conclusions deduced. In asserting that the action of the Japanese army at the time of the Incident of 18 September and subsequently did not fall within the just limits of self-defence, the heport assigned no reasons and came to an arbitrary conclusion, and in ignoring alike the state of tension which preceeded, and the various aggravations which succeeded, the Incident -- for all of which the full responsibility is incumbent upon China -- the Report creates a source of fresh conflict in the political arena of the Orient. By refusing to acknowledge the actual circumstances that led to the foundation of Manchukuo, and by attempting to challenge the position taken up by Japan in recognizing the new State, it cuts away the ground for the stabilization

of the Far Eastern situation. Nor can the terms laid down in its recommendations — as was fully explained in the Statement issued by this Government on 25 February last — ever be of any possible service in securing enduring peace in these regions.

"The conclusion must be that in seeking a solution of the question the majority of the League have attached greater importance to upholding inapplicable formulas than to the real task of assuring peace, and higher value to the vindication of academic theses than to the eradication of the sources of future conflict. For these reasons, and because of the profound differences of opinion existing between Japen and the majority of the League in their interpretation of the Covenant and of other treaties, the Japanese Government have been led to realize the existence of an irreconcilable divergence of views, dividing Japan and the League on policies of peace, and especially as regards the fundamental principles to be followed in the establishment of a durable peace in the Far East. The Japanese Government, believing that in these circumstances there remains no room for further cooperation, hereby give notice, in accordance with the provisions of Article 1, Paragraph 3, of the Covenant, of the intention of Japan to withdraw from the

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1 League of Nations." If the Tribunal please, I desire to turn 3 over the further prosecution to Mr. Sackett. 13.

THE PRESIDENT: Mr. Sackett.

MR. SACKETT: If the Court please, the interrogations of the accused ARAKI on February 13 and March 8 of this year are already marked for identification as exhibit Nos. 187 E and H respectively. I desire to offer in evidence at this time IPS document 1008, which contains excerpts from these interrogations.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 1008 will receive exhibit No. 229.

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(Whereupon, the document above referred to was marked prosecution's exhibit No. 229 in evidence.)

MR. McMANUS: Has the Tribunal decided yet whether these are admissible against ARAKI or against the other accused as well?

THE PRESIDENT: The Tribunal has not yet decided that question and may not decide it until it is considering the whole of the evidence.

MR. FURNESS: Then I would like to enter the objection of the defendant SHIGFMITSU to the admission of these documents.

MR. SACKETT: I shall read this document.

THE PRESIDENT: We take it that each of the

accused other than ARAKI objects to the admission of the evidence as against him.

MR. McMANUS: Of course, Mr. President, I would like it understood that the defendant ARAKI also objects to the admission of this document on the grounds heretofore stated. I would like to renew it at this time.

THE PRESIDENT: Mr. McManus' objection was made on another ground and overruled.

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MONITOR: Interpreting the words for counsel KIYOSE, all the accused object.

MR. LOGAN: If the Tribunal please, may we respectfully ask for a ruling on the admissibility of this interrogation of each individual accused with respect to all the others earlier than at the conclusion of all the evidence, because it will mean that each accused will have to prepare his defense, based on the assumption that all these interrogations may be used against him, whereas if the Tribunal rules that the interrogations of one accused are not in evidence as against the others, it will eliminate all that work?

THE PRESIDENT: I can give no undertaking, but I am prepared to put the matter to my colleagues at a convenient time.

MR. SACKETT: (Reading)

"Q Did you agree with the Foreign Minister that Manchuria should be recognized as an independent state?

"A Yes. The government at that time was in order, and since it would be best to recognize their independence while there was order in the government, I thought it best to grant them independence.

"A Since the Manchirian Government proclaimed themselves independent, I thought it best that they be so. At the conference of the Big Three (Foreign, Navy, and Army Ministers) when discussiong recognition of Manchuria as an independent state, I suggested that we exchange ambassadors since Manchuria was an independent state.

"Q After the Foreign, Navy, and War Ministers had agreed to recognize Manchuria, who proposed it to the Cabinet?

"A The Foreign Minister.

"Q Was it discussed in the meeting thoroughly?

"A The discussion was as to when Manchuria should receive recognition -- now or later.

"Q Who suggested that Manchuria should be recognized immediately as an independent state?

"A The Kwantung headquarters put in a request

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that we recognize immediately. "Q That came to you? "A It must have, and also to the Foreign Minister. "Q But you agreed with the Cabinet in its decision to recognize Manchuria as independent on September 15th? "A Yes. "Q Were all the Cabinet Members there? 10 "A Yes. "Q Didall agree? "A Yes. 13 "Q You set the date of September 15th as the 14 date to formally recognize Manchuria? 15 "A Yes. The date of agreement was in August. "Q Did the Cabinet at this meeting discuss the 17 superiority of Japan's rights in Manchuria in commercial and economic ventures? 19 "A At that time we must have discussed superiority rights of Japan in commercial and economic enter-21 prises. 22 "Q Did you at this Cabinet meeting discuss 23 the terms or contents of the treaty to be made be-24 tween Japan and Manchuria? 25 "A We discussed the contents of the treaty.

I do not remember the contents. "Q You did approve the contents of the treaty later to be made between Japan and Manchuria? "Q That was at this Cabinet meeting? "A Yes. "Q Do you recall when the treaty was negotiated; was it very shortly thereafter? "A I think it might have been on September 15th. I am not sure. 01 11 "Q The terms or contents of the treaty between 12 Japan and Manchuria were the same as agreed in the 13 Cabinet in its meeting in August? 14 15 "Q This was the same Cabinet meeting as that in which it was agreed to recognize the independence of Manchuria? 18 "A Yes. "Q Do you recall who drew up the terms of the 20 treaty? 21 "A I think it was drawn up in the Foreign 22 Office. 23 "Q Did you have any suggestions? "A I do not remember whether I did or not. The treaty was drawn up after the Foreign, Navy, and

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War Ministers discussed it.

"Q Was it drawn up in the Cabinet meeting?

"A I do not remember. I think afterwards.

"Q It was not drawn up in the Cabinet meeting in August - it was drawn up after the Cabinet had agreed on the contents of the treaty?

"A Yes.

"Q The treaty as drawn up, did not vary any from what was agreed upon at the Cabinet meeting in August?

"A No.

"Q And that was the same treaty that was negotiated later with Manchuria?

"A Yes.

"Q General, were you responsible for the plan of the Independent State of Manchukuo?

"A The Japanese Government recognized the independence of Manchuria. Therefore as a member of the Cabinet I was responsible for it. The date was 15 September 1932."

MR. SACKETT: The prosecution next desires to offer in evidence IPS document No. 621. This is a covering letter from the Chief of Staff of the Kwantung Army to the Vice War Minister, attached to which is an outline for guiding Manchukuo.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 621 will receive exhibit No. 230.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 230 in evidence.)

MR. SACKETT: (Reading) "KWAN-SAN-MAN Message No. 381. 3 November 1932.

"To: Vice Minister of War, YANAGIGAWA, Heisuke
"From: Chief of Staff, Kwantung Army, KOISO,

Kuniaki.

"Subject: Forwarding of Outline for Guiding MANCHUKUO.

"Since we have now obtained a concrete program pertaining to the subject which we have previously been studying and working on, we are forwarding it as seen in the separate volume.

"The Principle of Leading Manchukuo.

"The Staff Section of the Kwantung Army.

This draft is a compilation of the Kwantung Army's opinion towards the draft drawn by the Second Section of the General Staff Headquarters, and NAGATA, Chief of the Second Section who was in Manchukuo at that time, attended this conference.

"(1) Policy.

"1. Mancukuo shall be supported and developed

as an independent state which shall adapt herself to our national policy and realize co-prosperity and harmony between Japan and Manchukuo.

"2. The policy of Manchukuo in the future shall nominally be a constitutional empire, but substantially it shall be autocratic. The participation of the people in the legislature shall be carried out by those who are selected by the Government.

"3. The establishment of the institutions and improvement in the various departments of the state of blanchukuo shall be performed as moderately as possible.

"(2) The gist.

"1. The administration shall be backed for the time being by inner leadership of the commander of the Japanese Kwantung Army and shall be carried out with officials of Japanese lineage as its leaders. However, it must be provided that the officials of Manchukuoan lineage shall outwardly assume charge of the administration as much as possible, while officials of Japanese lineage must satisfy themselves by controlling its substance. In order to have the aforesaid substance completed, the administrator shall be a kind as in accordance to the people's will, but the political authority of the king shall

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not be recognized.

"2. Even when an organ of administration by civilians is to be established by Imperial ordinance, with aims of accomplishing the national policy of the Japanese Empire towards Manchukuo, it shall be provided that the commander of the Kwantung Army shall hold 7 |concurrently the position of the chief of the organ.

"3. In order to put the officials of 9 Japanese lineage completely and substantially under the 10 control of the commander of the Army, the rights on 11 the personal affairs held by the commander of the Army 12 at present, shall be permanently maintained, shall be 13 executed strictly and properly. For the sake of making the activities of the officials of Japanese lineage advantageous, the central Government including the respective ministries shall establish the principle of centralizing administration in the General Affairs Office; at the same time it shall appoint promising officials to this office. It is necessary that due attention be given in leading the Manchukuoan officials of Japanese ancestry since, in future, their circle might be inclined to be absorbed and involved in political plots characteristic of the Chinese, and finally in losing the ability of accomplishing the whole national policy of the Empire.

"4. The guiding spirit in the establishment of Manchukuo shall be based upon the principle of racial harmony with its objective in practical moral, which is in the attaining of wealth; security in livelihood; moral cultivation and good household.

Education is to be carried out according to the above principle, with emphasis being placed in vocational education, especially in the promotion of Vocational education below the secondary schools.

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"5. Economically, co-prosperity and co-existence, in the true sense of the words, shall be the basic principle and each race shall be given opportunities to find their proper places. In regard to the economic system of Manchukuo the good conventions and customs inheritant from the past shall be respected, and with the addition of the national control to the present condition of economics trending towards and developing into capitalism, it shall be guided in a proper way. In the future, the system accompanying accomplishment of a unit for an economic 'bloc' between Japan and Manchukuo 12 shall be kept according to the race coordinative to 13 Japan and Manchukuo.

"6. Armament shall be aimed in maintaining public peace and order within the country and, shall be only limited to a degree deemed necessary. Especially, 17 the army's individualistic and private characteristics 18 shall be dispensed with and the essence of a central-19 ized command shall be realized.

"7. Diplomatically, although her attitude 21 towards China shall be non-interference in principle, 22 she shall adopt an anti-Chinese principle according to 23 the circumstances, and her attitude towards the Soviet and the U.S.A. shall be the same as towards Japan. For 25 the time being, she shall advocate the Open Door Policy

and the policy of Equality in Opportunity and shall welcome foreign investment as long as there is no danger in her national defense.

"8. In regard to the adjustment of relations between Japan and Manchukuo, the following must be borne in mind:

"A. Joint defense of both countries shall be perfected.

"B. In order to realize the economy of Japan and Manchukuo into a single 'bloc', we must realize industrially the idea of 'Fit industry for suitable locality' both in Japan and Manchukuo with aim of abolishing the mutual customs barriers. However, the national defence industry shall be met with the demand of the above article 'A'.

"C. The economy of Japan and Manchukuo shall aim in the realization of the self-sufficing of both countries under the principle of co-prosperity and co-existence; and at the same time must attempt advance towards the scale of world industry.

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"9. Although in principle, centralization of powers is to be effected internally, it shall be possible to omit or legislate articles according to circumstances, and thus, the tradition of local autonomy shall be respected as much as permissible. Home administration

aims chiefly at security in living and comfortable work under the principle of agriculture and it shall never be permitted in imitating wantonly, higher culture.

"10. According to the peculiarities connected with the establishment of Manchukuo, and in view of the situation, internally as well as externally, substantial realization of racial harmony, together with adjustments and repletion of the inspection system throughout the country shall be effected, and under the direction of the army, preventive measures shall be taken against political and ideological movements for national destruction which may arise from the inside or outside of the country.

"ll. For some time, political parties and political bodies shall not be permitted to exist and we do not welcome the rise of political ideas among the people but rather that we lead the general situation skillfully according to the principle of "Let the people follow blindly."

"12. The participation of officials of Japanese lineage in administration shall not necessarily be effected by their numbers; in short, its principle is that the Japanese should occupy the key positions in the administration. Therefore, besides the aforementioned principle to centralize the General Affairs Office. We must lead the trend in political affairs through control

of the Office of State Councillor by the Japanese officials. Although the number in officials of Japanese lineage in offices under the prefectural government are to be limited to the minimum as in accordance to the present system, we shall utilize the inspection system as of Article 10 to keep watch, occasionally over local tendencies. Participation by the Japanese in the fields of industry shall be most welcomed due to its field being different from that of the administration as mentioned above, and the principle of 'a right man in the right place' shall be fairly adopted.

"We shall attach special importance to immigration in the industrial fields besides those of agriculture according to the principle of 'fit industry for suitable locality,' as mentioned in 'B' of 8.

"13. Racial struggle between Japan and Manchukuo is to be expected. Therefore, we must never
hesitate to wield military power in case of necessity,
although every effort must be made to prevent this conflict; and for this purpose the aforementioned occupying of politically important posts, advocating economical co-prosperity and co-existence, and the establishing of the inspection system should be made.

"14. Present day Manchukuo must be lead by emphasis laid in the maintenance and restoration of

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public peace by the use of military and political powers, and all departments in administration must be concentrated and united to this single point."

MR. SACKETT: Mrw. Llewellyn will proceed from this point.

MR. BROOKS: I wish to enter an objection, if the Court please.

. THE PRESIDENT: Captain Brooks.

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MR. BROOKS: On this exhibit placed in evidence there appears the date of the message, 3 November 1932, and it says, "Forwarding of an Outline for Guiding Manchukuo." The prosecution has attached to that, excerpts from a War Minister's Confidential Record concerning Manchurian Affairs, dated December 8, 1923. I think the date is supposed to be 1932.

MR. FROOKS: On checking the original?

MR. FROOKS: On checking the original I think it shows yet a different date. And I think that that should be corrected and it is proper to object on behalf of General KOISO that this is not the outline forwarded and there has been some apparent error and I do not wish the Court to be misled through error, not intentionally but through error.

MR. SACKETT: If the Court please, I can explain that very simply if I am given opportunity.

THE PRESIDENT: Well, explain it and save time.

MR. SACKETT: The explanation is this, if

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where it came from. This document is a complete document, and I am confident that the attached report is the one referred to. The item -- the first three lines on page 1 of the report do not appear on the report. It is some translator's statement that that is the volume where these papers are filed in the War Ministry. In other words, it will not be found, this item "Excerpts from a War Minister's Confidential Record Concerning Manchurian Affairs" will not be found on the document. That is the translator's statement of where it came from. I did not even read it.

THE PRESIDENT: We will only waste time if we discuss the matter now. Mr. Sackett, you should go into this matter and ascertain what is the fact.

MR. EROOKS: The only comment I have, your Honor, is that it would be impossible for a man on the third of November to send something that was only prepared a month later. It would be impossible for him to have forwarded it at that time.

THE PRESIDENT: You should be able to clear it up during the next recess.

MR. SACKETT: If the Court please, I would like to say that I have investigated this matter very thoroughly and I am prepared to say it is an integral document. I have already investigated it and I am

sure it is.

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THE PRESIDENT: I am not clear about the position.

MR. SACKETT: I shall be glad to make a further report to the Court if it desires.

THE PRESIDENT: Well, make a further report. But go into the matter again. Here is a date, 8 December 1923. That can hardly be correct.

Has the document a date? If so, what date does it bear?

MR. SACKETT: If the Court please, the date 1923 is a typographical error. The date is December 8, 1932.

THE PRESIDENT: We will take that as being the fact until the contrary appears.

MR. SACKETT: In the War Ministry's office there is a large collection of various documents. The collection is called "Confidential Record Concerning Manchurian Affairs, dated December 8, 1923." Among that collection is a particular document, being document 621, with a covering letter which is dated November 3, 1932. That is this particular document. The reference at the top of the second page is to the filing system and not this particular document.

THE PRESIDENT: As two of my colleagues point

out to me obviously it is so, that the telegram could not have preceded the document itself. The telegram refers to the document. But according to the date you now give, Mr. Sackett, the document did not come into existence for a month after the telegram.

I think this is a matter that should be straightened out by Major Moore and the chief Japanese counsel for the defense, Dr. KIYOSE, during the recess.

We will recess now for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

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MARSHALL OF THE COURT: The Tribunal is now resumed.

MR. SACKETT: If the Court please, I think Major Moore is prepared to make a statement with reference to the document.

THE PRESIDENT: Major Moore, Chief of the Language Section.

LANGUAGE ARBITER (Major Moore): The section of the document which bears the date 8 December, 1932 should be at the head of the document. It seems to have been a date for collection of documents.

Immediately following that comes the section which is dated the 3rd of November, 1932. Following that comes the words "The Principle of Leading Manchukuo," the date, 27 October, 1932, Staff Section, Kwantung Army.

This, Mr. President, should reconcile the dates.

MR. BROOKS: The prosecutor has just told me that this December 8, 1932 was never on that part Major Moore just talked about. If the Tribunal please, I will try, if possible, to straighten out and find out what the accurate date is and raise this question at a later time. And, in order to have assistance in doing that, I would ask the prosecution if, in the first paragraph there where it says "This

draft is a compilation of the Kwantung Army's opinion towords the draft drawn by the Second Section of the General Staff Headquarters," and so forth, if they have that draft drawn by the Second Section of the General Staff, if they would make it available or tell me where I could get it, I would be glad to study that and try to arrive at whether this is proper evidence to be presented in Court, and present an objection against its being presented.

THE PRESIDENT: Major Moore's explanation appears satisfactory.

Mrs. Llewellyn.

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MRS. LIEWELLYN: May it please the Tribunal, Mr. President, answering the inquiry made yesterday by defense counsel regarding a Court exhibit No. 192, namely, one, the date of the preparation of the summary, and, two, the circumstances under which it was prepared, the prosecution desires to state that the Chinese Associate Counsel advises that the summaries were prepared on various dates following the happening of the event, between September 18, 1931 and August 13, 1937.

The Chinese Foreign Office prepared these summaries for official use. A compilation of the summaries was supplied early in April, 1946 to the

International Prosecution Section pursuant to our request. We are advised that they were prepared for general use and not for use in this case.

The summaries were bound into a volume on the cover of which is the official seal of the Foreign Office.

MR. FURNESS: I will study the volume with that in mind. I have inspected it already. It appeared to be one continuous volume, not separate things prepared at different times. There is no doubt whatever that it is a series of summaries, practically argument, referring to messages, and I think it would be much better to file the documents on which it is bases rather than submit summaries to this Court.

I would like to point out, too, that to merely say that it was prepared for official use or general use gives us very little information. It must have been prepared for some specific use, I should think.

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THE PRESIDENT: Well, if the defense desires to tender the documents that are summarized, I am sure the Tribunal will give every assistance in its power.

MR. FURNESS: I believe, sir, that the

prosecution would find it much easier to obtain them than we would.

THE PRESIDENT: Mrs. Llewellyn.

MRS. LLEWELLYN: May I proceed?

THE PRESIDENT: Yes.

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MRS. LLEWELLYN: The prosecution offers in evidence its document 1014-C. This is a Cabinet decision of 9 December, 1932 concerning "Matters Relating to the Telegraph and Telephone Enterprises in Manchuria."

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 1014-C is given exhibit No. 231.

(Whereupon, prosecution's exhibit

No. 231 was received in evidence.)

MRS. LLEWELLYN: We offer this document to prove that Japan planned to dominate Manchuria by deciding at Cabinet meetings in Tokyo to control the communication system of that country.

"The fundamental policy of wire, wireless, telegraph, telephone, and broadcasting enterprises in Manchuria lies in its coincidence with the carrying out of national policy, especially with demands of national defense as well as in contributing to cultural and economic development of Manchuria. In

order to accomplish these purposes, a treaty relating to the establishment of a Japanese-Manchurian joint enterprise under both Japanese and Manchurian supervision, and which will establish and operate the wire, wireless telegraph, telephone and broadcasting work in Kwantung Province, the Manchurian Railway zone, and Manchuria shall be concluded between Ambassador Plenipotentiary MUTO, and delegates of the Manchurian Government."

Dropping now to paragraph 4, I would like to point out:

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"The Japanese and Manchurian governments shall supervise the company's business.

"Note: Supervision of the Japanese Government with regard to the company shall be done by the Governor-general of Kwantung province in general application. It is the same in the following:

"The approval of both governments is necessary to change the company's contract, the flotation of company loans, the altering of the decision of charges, the disposal of profits, the decision relating to the affiliation and dissolution, the business scheme of each business year, the concluding of a contract with other communi-

cating companies, and the transfer or establishment of mortgages on the property. It is also necessary to obtain the approval of the government concerned regarding nomination or release of directors.

"The Japanese and Manchurian governments may give necessary orders relating to the company's business, and may cancel the decision of the company or dismiss a member of the staff when the decision or the activity of the member violates the present treaty, the ordinances of both the governments, or the contract of the company and also when it mars public interests or disobeys the orders of the supervising authorities."

Dropping to paragraph 11:

"The military authorities of both governments may give necessary military orders concerning the business of the company and may also take necessary steps regarding the institution of the company.

"The purport relating to the present item, and the preceding fourth, fifth and sixth items are prescribed in (a) the annexed paper of the secret official exchange document, and (b) the necessary matters concerning the secret official exchange documents will be prescribed in the secret command relating to the company of both the governments.

"Matters in addition to the ripulations of the present treaty will be independently decided.

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"Stipulations relating to the present article will be prescribed in a separate official exchange document according to the contents of the Japanese commercial law and accessory ordinances."

Now, pointing out to the Tribunal what the annexed document should contain:

"The Japanese and the Manchurian governments' business supervision, commands, and approval relating to the company mentioned in the present treaty shall be executed after being discussed by the supervising authorities appointed by the two

governments, when opinions differ, it will be executed according to the opinion of the Japanese supervising authorities.

"The highest military organs of Japan stationed in Manchuria and the highest military organs of Manchuria, may give instructions to the company regarding its business, when necessary, from a military standpoint, and may at any time dispatch to the said company a necessary number of men and inspect the communicating organs, the execution of business, etc.

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"The highest military organs of Japan stationed in Manchuria, and the highest military organs of Manchuria shall possess the rights to employ preferentially all personnel belonging to the said company, to practice supervision and inspection when necessary from the viewpoint of national defense or the maintenance of public order, and to demand the carrying out of necessary institutions from the military standpoint, or to carry out such necessary measures by themselves.

"In accordance with the preceding two articles, the highest military organs of Manchuria must obtain previously, approval of the highest military organs of Japan stationed in Manchuria when intending

to indicate an inspection or to make demands of the said company."

I should like to make a correction in this last paragraph. Line 7 should read "may give instructions" instead of "may make suggestions."

The prosecution desires to introduce in evidence document No. 2411.

MR. BROOKS: If the Tribunal please, on checking the original file here, there is no date given on it whatsoever -- on the one that is put in evidence. We have a date here -- shows July, 1939. I think the prosecution should not insert into the record of proceedings dates that are not shown on the evidence that are placed in here without giving us some explanation or the authority for it.

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MR. COLE: Mr. President, here is another instance in the current exhibit in which a MUTO is mentioned but without any other name being shown. I think the biographical data already in evidence will show that this a different MUTO from the one accused.

MRS. LLEWELLYN: The prosecution anticipated this query from the defense; and, in order not to testify, we obtained a certificate from the Foreign Office which I should like to introduce as the next document.

THE PRESIDENT: Will you tender that exhibit, Mrs. Llewellyn? Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 2411 will receive exhibit No. 232.

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(Whereupon, prosecution's exhibit

No. 232 was received in evidence.)

MRS. LLEWELLYN: The certificate reads as

follows:

"I, SHIMODA, hereby certify that the document marked IPS document 1014C and entitled 'Telegraph
and Telephone in Manchuria' is the decision of the
Cabinet made on 9 December, 1932, and that Agreement
on the establishment of the Japan Manchukuo Joint
Communications Company was concluded between Japan
and Manchukuo and signed by Nobuyoshi Muto, Japanese
Ambassador and Hsieh Chieh Shin, Minister for the
Foreign Affairs of Manchukuo at Hsin-ching on 26
March, 1933."

Signed "T. Shimoda"

The prosecution desires to introduce in

21 evidence document No. 1014-D. This is a Cabinet

22 decision dated 8 August, 1933. We offer this docu
23 ment to prove that Japan planned to dominate and con
24 trol Manchuria by formulating a guiding policy to
25 wards that country.

THE PRESIDENT: Admitted on the usual terms. CLERK OF THE :COURT: Prosecution's document No. 1014-D is given exhibit No. 233. (Whereupon, prosecution's exhibit No. 233 was received in evidence.) MRS. LLEWELLYN: The copies furnished to the Tribunal have been corrected so far as the word "directing" which has been changed to the word "guiding" is concerned. The copies furnished to the defense have not been so corrected. 19

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"Summary of the Guiding Policy towards Man-

"The fundamental policy of the Japanese Empire of guiding Manchuria is based upon the spirit of the Japanese-Manchurian Protocol and it is to develop Manchuria into an independent nation possessing indivisible relations with the Japanese Empire.

"Essential Points.

"l. Japan's guiding policy towards Manchuria will endeavor to harmonize the race and to make them enjoy life and duty in accordance with the characteristics of Manchurian society and in respecting the dignities of independence and old customs, thus giving light and contentment to high and low, officials or civilians, so that all people will strive to complete the great task of founding an empire. During this period, it is of course necessary to maintain consistently the latent activities of the Japanese Empire's guiding powers.

"2. Although positive guidance is operated in matters relating to Manchuria's fundamental constitution, national defense, public order and foreign policy, basic matters important in carrying out Japanese-Manchurian economics, and in important internal affairs concerning the establishment of the foundation of the empire, other matters are entrusted to the liberal

activities of the authorities of Manchuria.

"3. Directions towards Manchuria shall be executed substantially by Japanese officials under the jurisdiction of the commander of the Kwantung Army and the Ambassador of Japan residing in Manchuria according to the system now in effect. As Japanese officials must be the nucleus in the execution of national affairs, the selection and nomination of the officials must be appropriate, and every possible measure must be made in order to convince them of the present guiding policy, as well as to provide them with a center of their activities and to maintain the present system centered on the general affairs department so as to facilitate the administration.

"4. Although Manchuria has a constitutional monarchy as its ultimate aim, she will maintain the present system for the time being, and the formal constitution shall be enacted after deliberate consideration.

"It shall be kept in mind that political parties, or other political organizations in Manchuria, must not exist for the time being.

"5. The Administration of Manchuria will abolish extreme centralization, and respecting traditional local autonomy will endeavor to harmonize it

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with centralism and reform of all systems will be gradually advanced.

"6. The army and navalarmament of Manchuria shall be limited to that necessary for maintenance of internal public order. Nevertheless, the necessary defense equipment and marines towards the neighboring countries shall be completed gradually when necessitated.

"7. Relative to Manchuria's maintenance of
public order, the inspective organizations must be
specially completed in accordance with the specialty
of the foundation of the empire and the internal and
external conditions of the said country, and must
strive with communication by the Kwantung Army to
ward off beforehand all internal and external movements
tending to destroy the nation. The ability of selfdefense, which is the special character of Manchurians,
must be utilized thoroughly concerning public order.

"8. The foreign policy of Manchuria is founded on the foreign policy of our Empire which is to secure the peace of the East and to uphold the noble cause to the whole world, and she must act in concert with this policy. Although the open door and the principle of equal opportunity are maintained, application is limited to matters which are not restricted

by the demands of national defense.

"9. The aim of Manchurian economy lies in the national unification of Japanese and Manchurian economies in order to establish securely the foundation of our Empire's expansion of economic powers to the whole world, and at the same time to strengthen the economic powers of Manchuria, and also it must be planned to guarantee improvement and equity of national life.

"10. Co-existence and co-prosperity of Japan and Manchuria is the spirit of Manchuria's economical development, and although those which are restricted by the demands of the national defense of our Empire are put under our power, others lie within the power of Manchuria and are adequately operated by fair and open economic activities of nationals or foreigners.

"11. As the transportation and correspondence in Manchuria has an especially close relationship to national defense and maintenance of public peace, it is placed under the power of the Japanese government and the earliest possible consolidating completion and development of all establishments is desired.

"12. The finances of Manchuria, though considering the appropriateness of the people's responsi-

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bility" -- and I correct that, please -- "must be quickly established, and at the same time fulfill the obligation of sharing the military expenses of the army stationed in Manchuria. Adequate measures may be taken on consideration of financial or other conditions in Manchuria relating to the utilization and collection of Japanese loans to China which concern Manchuria.

"13. The education of Manchurians must be directed with the object of making them conscious of the indivisible relationship with Japan, to awaken in them the pride of possessing a special mission of creating peace in the East and to cultivate the ideal of harmonizing the five races. Also, stress must be laid on labor education, and business education must be promoted.

"14. The system of laws must be quickly completed and the organization must be perfected respecting especially national characteristics and customs, concerning the juridicature of Manchuria, and to cultivate in all parts the good custom of obeying the law, as well as to establish foreign confidence so as to realize the gradual abolishment of extraterritorial jurisdiction.

"(Reference)

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"Upon deciding concrete plans based upon present essentials concerning the guiding policy towards Manchuria, it shall receive approval of the Committee of the investigation of the Executive Policy towards Manchuria and Mongolia, the Financial Investigation Committee towards Manchuria, or the Japanese and Manchurian Industrial Administrating Committee as usual when necessary, and those of especially great importance must be decided upon by cabinet meeting.

The prosecution desires to offer in evidence document No. 1014-E. This is a cabinet decision regarding Manchuria, dated 22 December, 1935.

THE FRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution No. 1014-E
is given Exhibit No. 234.

(Whereupon, prosecution's Exhibit No. 234 was received in evidence.)

MRS. LIEWELLYN: The prosecution offers this document to prove that Japan tried to dominate and control Manchuria by making preparations to enforce a Monarchic system of government in that country.

Reading:

when we contemplate upon recent internal conditions in Manchukuo, we connot deny the fact that although there is a tendency toward confidence amongst the people brought about by the perveding of the unfaltering resolutions of our empire and also by the development of the maintenance of public peace, there exists an apprehension amongst the Manchurian authorities, and the people in general, for almost two years has passed since the foundation of the nation, yet the dictatorship of the transitional period exists, and what form of government is to be adopted in the future has not yet been decided. It seems that the Manchurian

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government is considering the swift reformation to Monarchy from dictatorship as soon as possible, so as to remove such apprehensions as are based upon the forms of gove mment, and this must be recognized as an adequate measure to obtain a strong stand among other nations when Manchuria is making steady progress in the founding of the nation. But, on the other hand, there can be anticipated evils attending the enforcement of Monarchy, so on this occasion it is desirable to our Empire that. separate from the enactment of the constitution and the Imperial House Law, preparations complying with the following should be made, relating to the enforcement of Monarchy in the said country, and when preparations are completed, Manchukuo will be directed to enforce the Monarchy. "I. It must be made clear that the enforcement of Monarchy is not a restoration of the Shin regime, which was an autocracy of followers of the monarch, but the foundation of national constitution of a new Manchukuo, and all causes of hindrences to the development of the Manchurian state affairs and the execution of the actional policy must be nullified, especially to contribute to the strengthening and expension of the Japanese and Manchurian national

defense power necessary to overcome the international crisis which we may encounter before long. Accordingly, the enforcement of the Monarchy must act upon the following three essential points.

"1. When enforcing the Monarchy, the constitutional system and all other important laws must be reinvestigated, the Board of State Affairs strengthened, the council office improved and other necessary reformations must be made so that there will be no hindrance or check-up on the development of state affairs of Manchukuo and upon the execution of our national policies.

"2. Basic reform tion must be exercised upon the internal structure of the present government, especially upon the personnel, so that there will be no violation of distinction in the Imperial Court and so that the evils attending court politics may be plucked out beforehand.

Monarchy will be carried into effect, there will be no change in the policy or spirit of directing Manchukuo and that there shall be no hinderence whatever to the execution of national policies. For this reason, existing conventions and agreements between Japan and Manchukuo must be acknowledged

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by Manchukuo with the realization of the monarchy as well as to make clear the directing power of foreign policies and to arrange an exchangement of letters, the substance being that inscribed in the additional document, between the Ambassador to China Asbikeri and the Minister of State Affairs Tei.

"II. The drafting of the declaration of the momerch's accession to the throne must be directed under particular prudence and must make distinct the true meaning of the benchurian monarchy and the indivisible relationship between Japan and Manchuria as well as to take precautions to ward off possible misunderstandings and evil propaganda of other countries.

"III. Judging from our Empire's or other countries' examples and the present conditions in Manchukuo, the enectment and promulgation of the formal constitution must receive every caution, so the investigation must be continued that it may be enforced at an appropriate time in the future."

Then follows the formal letters which were to be exchanged between the two countries.

At this time I should like to ask the Tribunal whether I should read those letters, or

proceed with the next document.

THE PRESIDENT: No, do not reed them.

MRS. LIEWELLYN: The prosecution presents in evidence it's document No. 2412. This is a certificate from the Foreign Office, and we offer it to prove that the exchange of notes did take place between the Japanese ambassador and the prime minister of Manchukuo on 1 March, 1934.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 2412 received Exhibit No. 235.

(Whereupon, Prosecution's Exhibit No.

235 was received in evidence.)

MR. BROOKS: If the Tribunal please, I don't see how a certificate -- that this form of letter was adopted as the form to be used -- or apparently, as it is also here set out, there is no date set out except the official blank form of letter to be used in correspondence between various officials of the country, so that they will be courteous and proper.

THE PRESIDENT: You could not have read the certificate. It is complete on it's face and it refers to the perticular notes.

MR. BROOKS: The prosecution has the forms

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THE PRESIDENT: Objection overruled.

MRS. LLEWELLYN: Mr. President, in order to clear up any confusion as to the purport of these letters, that is the reason this document is introduced -- to show that the Japanese Government did design and plan what the future would hold for Manchukuo.

MR. FURNESS: If the Tribunal would look at these letters I think they would see that they are blank letters, blank dates, blank signstures -- almost entirely made up of blanks. Does Mrs. Llewellyn mean that they were exchanged in that form or not. If not, they are incomplete.

THE PRESIDENT: The objection has not a shred of merit.

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MRS. LLEVELLYN: The prosecution desires at this time to introduce in evidence document No. 1014F, Cabinet Decisions of 20 March 1934.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

1014F will receive Exhibit No. 236.

(Whereupon, prosecution's Exhibit No. 236 was received in evidence.)

MRS. LLEWELLYN: We offer this document to prove that Japan tried to dominate and control Manchuria by unifying and developing the principal industries of that country.

Section 4 relates to the control of important branches of heavy industry, including iron and steel, light metals, arms, and petroleum. I shall read certain portions of this document with respect to what we wish to prove:

"I. The Administration Policy.

"Based on the fundamental policy of developing Manchukuo as an independent nation possessing an
indivisible relationship with Japan, and with the spirit
of co-existence and co-prosperity, the Japanese-Manchuria Administration Policy will be established with
the stabilization and promotion of the living of the
people, establishing securely the base of Japan's world-

wide economic expansion and the strengthening of
Manchukuo's economic powers as its aims."

Dropping down to paragraph (1) under Section II, "Summary of General Administrations":

"(1) The transporation, communication and other enterprises in Manchukuo, restricted by the demands of the Japanese Empire's national defense will be anticipated of its speedy development under the power and appropriate administration of the Empire."

Turning to page 3:

"The outline is as follows:

"(1) Enterprises of the following kinds will be operated by special companies which hold a dominant position among the said business in Manchukuo; as a general rule these will be directly or indirectly under the special protection and supervision of the Empire. Though adequate administration according to this purport will be exercised, the nationality of the said company not yet established will chiefly be that of Manchukuo."

Turning to page 5, section 4:

"The Principles of Control of Classified
Branches of Industries.

"It is expected that practical measures for control of classified branches of industries should

be further discussed and promptly established. The principles of control, however, are as follows:

"(1) Traffic and Communication.

"It is not only of utmost importance for national defence as well as for maintenance of public order to arrange and strengthen traffic and communication of Manchukuo, especially internal traffic and communication facilities and those between Japan and Manchukuo, and to render their operations reasonable, but it is also quite essential for the development of Manchurian economy and for the control of economy of Japan and Manchukuo. Above all, special efforts should be made to render railway and shipping freight rates more reasonable.

- "(2) General and Mining Industries.
- " a) Iron and Steel Industry.

"It should be rapidly developed, keeping close connections and in concert with the identical industry in Japan.

" b) Light Metal Industry.

"Its rapid development should be expected keeping connections with the previously arranged plan of Japan.

" c) Petroleum Industry.

"Its rapid development should be expected.

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" d) Substitute Liquid Fuel Industry.

"Its rapid development should be expected.

" e) Automobile Industry.

"Its rapid development should be expected, keeping close connections and concert with the identical industry in Japan.

" f) Arms Industry.

"Its rapid development should be expected.

"g) Lead, Zino, Nickel, Asbestos, etc. Ore Mining Industry.

"Its rapid development should be expected.

" h) Coal Mining Industry.

"It should be developed with the object of contributing to the utility of coal to various industries, by exercising strict control of the coal mining industries of Japan and Manchukuo and by bringing about smoothness of demand and supply in both countries, as well as of increasing export of Manchurian coal to other countries.

" i) Sulphuric Ammonia Industry.

"Its rapid development should be expected, taking into consideration the agricultural demand of Japan and Manchukuo as well as the present state of progress of Japan's identical industry.

" j) Alkali Manufacturing Industry.

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"Its rapid development should be expected, in consideration of the demand of national defense and the present state of progress of Japan's identical industry.

The prosecution desires to introduce in avidence prosecution No. 887. This is the treaty of the 10 June, 1936"between Japan and Manchukuo concerning the Residence of Japanese Subjects, Taxation, etc., in Manchukuo," together with the supplemental agreement attached thereto.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution document

No. 887 will receive Exhibit No. 237.

(Whereupon, prosecution's Exhibit No. 237 was received in evidence.)

MRS. LLEWELLYN: We offer this to prove that Japan 'concluded this Treaty with Manchukuo in order that Japanese residents in Manchukuo enjoy the same privileges of life and work, as those enjoyed by Manchukuons; especially those rights relating to land.

Reading:

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"Whereas the Government of Japan, in accordance with the principle of the protocol between Japan and Manchoukuo signed on the fifteenth of September of the seventh year of Showa, have, for the purpose of furthering the healthy development of Manchoukuo and also of promoting and perpetuating the intimate and inseparable relationship now subsisting between Japan

and Manchoukuo, decided to abolish, by progressive stages, the right of extra-territoriality at present enjoyed in Manchoukuo by Japan, and to adjust and transfer the administrative rights over the South Manchuria Railway Zone; and,

"Whereas the Government of Manchoukuo, appreciating this decision by the Government of Japan have, in
return recognized the necessity of ensuring and
chancing the common prosperity of Japanese and Manchoukue
subjects within the territories of Manchoukuo;

"Now, therefore, with reference to the right of extra-territoriality and the administrative rights over the South Manchuria Railway enjoyed in Manchoukuo by Japan, the Government of Japan and Manchoukuo have agreed at the first step as follows concerning the residence of, and the enjoyment of various rights and interests by, Japanese subjects, and the application of the laws and ordinances of Manchoukuo concerning taxation, industries, etc.

"Article 1.

"Japanese subjects shall be free within the territories of Manchoukuo to reside and travel and engage in agriculture, commerce and industry, and to pursue callings and professions, whether public or private, and shall also enjoy all the rights relating

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to land.

"Japanese subjects shall not, in respect of the enjoyment of all rights and interests within the territories of Manchoukuo, be accorded less favorable treatment than that which is or may be accorded to the subjects of Manchoukuo.

"Article 2.

"Subject to the stipulation of the Supplementary Agreement to the present Treaty, Japanese subjects shall be governed within the territories of Manchoukuo by the provisions of the administrative laws and ordinances of Manchoukuo concerning taxation, industries, etc.

"The Japanese Government agrees that, subject to the stipulation of the aforesaid Agreement, the laws and ordinances of Manchoukuo mentioned in the preceding paragraph shall be in force within the South Manchuria Railway Zone on the principles of statutas relia.

"In respect of the application of present
Article, Japanese subjects shall not, under any circumstances, be accorded less favorable treatment than
that which is or may be accorded to the subjects of
Manchoukuo."

I believe the remainder of that treaty is

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unimportant. It is the supplementary agreement which
    is important.
             THE PRESIDENT: We will adjourn now until
    half past nine tomorrow morning.
                  (Whereupon, at 1600, an adjournment
         was taken until 0930, Thursday, 1 August 1946.)
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