

THE TOKYO WAR CRIMES TRIAL, 1946-1948:

THE CASE FOR THE DEFENSE

by  
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## ABSTRACT

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Between April 29, 1946 and November 12, 1948 the International Military Tribunal for the Far East convened in Tokyo to try twenty-eight Japanese prewar and wartime leaders accused of war crimes. Eleven Allied countries formed the Tribunal. The International Military Tribunal for the Far East sentenced seven Japanese to death, sixteen to life imprisonment terms and two to terms of seven and sixteen years imprisonment.

The primary problem with the Tokyo War Crimes Trial was the nature of the charges against the Japanese accused. Some of the defendants were certainly guilty of the alleged violations of the laws of war. The accused, however, were tried not only on conventional war crimes charges, as recognized by international law, but on ex post facto counts which were unnecessary to attain convictions. The charges of Crimes against Peace and Crimes against Humanity had no basis in international law. The outcome and historical judgment of the trial would appear far different

had the Japanese been tried only on conventional war crimes charges.

Whether one believes the defendants innocent or guilty of war crimes, the International Military Tribunal for the Far East proceedings were hardly a model of impartiality. The rules of trial procedure, the nature of the evidence and the court's bias in favor of the prosecution precluded a fair trial by American standards. The Tokyo Tribunal, for example, admitted hearsay evidence, permitted leading questions and required testimony by affidavit which prevented cross-examination of the witnesses. If defeated American war leaders had faced trial on the Tokyo standard, the outcry would have been enormous.

To Cynthia Neal

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## CHAPTER ONE

### WORLD WAR II AND JAPANESE WAR CRIMES

(1941-1945)

We should string them up and cut little pieces off them--one piece at a time.

Put them in a tank and suffocate them.

Torture them to a slow and awful death.

-Typical American responses on the postwar punishment of Japanese leaders (Gallup poll, December 1944).

The actions of Japanese troops during World War II offended the moral sensibilities of the American people. The surprise attack on Pearl Harbor, the Bataan "death march," the execution of American aviators, banzai charges, Kamikaze attacks and the seemingly suicidal nature of Japanese resistance made a lasting impression on Americans. Indeed, even after the horrors of the Nazi concentration camp system were revealed, the American public considered the Japanese "more cruel at heart" than the Germans. The lengthy list of Japanese wartime atrocities and the corresponding negative American public opinion did not augur well for Japanese awaiting trial on war crimes charges.<sup>1</sup>

The Japanese attack on Pearl Harbor and the quick

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<sup>1</sup>George H. Gallup, The Gallup Poll (New York, 1972), volume one, p. 509. Dr. Gallup noted that the majority of Americans, of all educational levels, regarded the Japanese people as "considerably less civilized than the German people."



conquest of large areas of the Pacific and Asia badly shook the confidence of the American people. The Pearl Harbor raid, without formal warning, upset the American concept of "fair play." Early in 1942, weeks after the Hawaii surprise attack, six out of ten Americans surveyed favored concentrating our main military thrust against the Japanese. The fall of Bataan on April 8, 1942, and the May 6 American surrender at Corregidor marked the low point of the Pacific War. Except for General James H. Doolittle's daring April 18 daylight bombing raid on Tokyo, Americans had little to cheer about.

During 1942, the image of the "sneaky Jap" gained wide credence in the United States. A July poll indicated that most Americans characterized Japanese as "treacherous, sly, cruel [or] warlike." Wartime Hollywood movies portrayed Japanese soldiers as brutal savages. An Office of War Information (OWI) study on wartime movies confirmed this negative image. Hollywood movies depicted Japanese troops who routinely violated rules of warfare and who delighted in cruelty. The German soldier received a more favorable image. The OWI report failed to find a single Hollywood film where Germans relished barbaric actions.<sup>2</sup>

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<sup>2</sup>For early 1942 poll, see Thomas A. Bailey, The Man in the Street: The Impact of American Public Opinion on Foreign Policy (New York, 1948), pp. 142-143. By June, however, most Americans considered Germany to be the chief U.S. enemy. See The Gallup Poll, volume one, pp. 338-339. For Doolittle B-25 raid, see, for example, Los Angeles Times, April 18, 1942, pp. 1, 3; New York Times, April 18, 1942, pp. 1, 3; and Washington Post, April 18, 1942, p. 1. For July poll, see Hadley

Beginning in late 1941, President Franklin Delano Roosevelt and other Allied World leaders made both unilateral and joint pronouncements on Axis war crimes and postwar punishment for war criminals. Almost all declarations dealt with Nazi rather than Japanese war crimes. On October 25, 1941, Roosevelt and British Prime Minister Winston Churchill issued a joint statement protesting the Nazi executions of countless innocent hostages. The following January, nine European governments in exile signed a declaration in London at St. James Palace. Norway, Luxemburg, Yugoslavia, Netherlands, Poland, Czechoslovakia, Belgium, Greece and the French National Committee pledged themselves to punish "through the channels of organized justice" those found guilty of war crimes "whatever their nationality."<sup>3</sup>

On August 21, 1942, Roosevelt released a war crimes statement to the press. After citing the January St. James

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Cantrill, ed., Public Opinion, 1935-1946 (Princeton, 1951), p. 501. For OWI study, see Gregory D. Black and Clayton R. Kappes, "OWI Goes to the Movies," Foreign Service Journal 51 (August 1974): 44-59. For more on American opinion, see Roger Daniels, Concentration Camps USA: Japanese-Americans and World War II (New York, 1972), pp. 26-41 and Shelia K. Johnson, American Attitudes Towards Japan, 1941-1975 (Washington, D.C., 1975), pp. 14-31.

<sup>3</sup>For October 1941 declaration, see U.S. Dept. of State, Bulletin, volume 5, No. 122 (October 25, 1941), p. 317. For January 13 St. James Declaration, see New York Times, January 14, 1942, p. 6 and Washington Post, Jan. 14, 1942, p. 3. The United States, Britain, China, Russia, India, the Union of South Africa, New Zealand, Canada and Australia sent observers to the London meeting.

Palace Declaration, the Chief Executive promised that Asian and European invaders who have committed war crimes would eventually "have to stand in courts of law" for their actions. On October 7, Roosevelt called for the establishment of a United Nations War Crimes Commission (UNWCC) which would determine responsibility for those guilty of war crimes "through the collection and assessment of all available evidence." The President vowed that just and swift punishment awaited the "ring leaders" who had committed those horrible acts which had "violated every tenet of the Christian faith." That same day British Lord Chancellor Viscount Simon commented in the House of Lords that the Allies did not intend to punish the Germans as a nation, but only their leaders.<sup>4</sup>

Throughout 1942, the U.S. Department of State made extensive diplomatic protests to the Japanese government through the Swiss Minister in Tokyo regarding treatment of American nationals in Japanese custody. Although Japan had signed the 1929 Geneva International Convention Relative to the Treatment of Prisoners of War, Japan did not ratify it. On February 4, 1942, however, the Japanese government agreed to apply the "mutatis mutandis" provision of the Geneva Convention to American prisoners of war under its control.

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<sup>4</sup>For the FDR August 1942 statement, see New York Times, August 22, 1942, pp. 1, 4 and Bulletin, vol. 7, No. 165 (Aug. 22, 1942), pp. 709-710. For UNWCC plans, see New York Times, October 8, 1942, pp. 1, 11 and Bulletin, vol. 7, No. 172 (October 10, 1942), p. 797. For Simon's remarks, see New York Times, October 8, 1942, p. 11.

Japan still refused to permit International Red Cross visits to most American camps, spurned U.S. requests for the names of the sick, wounded and dead, and turned down American petitions for repatriation of the seriously ill and wounded prisoners of war.

By late 1942, State Department representatives began lodging protests against specific cases of gross mistreatment of American prisoners under Japanese control. The first U.S. protest of Japanese atrocities came on November 17. On December 12, Secretary of State Cordell Hull lodged "a most emphatic protest" with the Japanese Government regarding the "inhumane and uncivilized treatment accorded American nationals" interned by the Empire of Japan. Hulls' extended note cited cases of torture, neglect, physical violence and solitary confinement resulting in the deaths of American citizens.<sup>5</sup>

The year 1943 was a hopeful year for the Allied cause. As the military situation improved, the level of planning for the postwar trial of Axis war criminals grew. On January 24, during the Casablanca Conference, Churchill and Roosevelt called for the Unconditional Surrender of Japan. On February 19, Viscount Simon elaborated on postwar punishment

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<sup>5</sup>For the text of the Geneva POW agreement, see U.S. Dept. of State, Diplomatic Papers, Foreign Relations of the United States, 1929, volume I (Wash., D.C., 1943), pp. 336-367. For "mutatis mutandis" agreement, see FRUS, 1942, volume one (Wash., D.C., 1960), p. 796 and Osaka Mainichi, January 12, 1947, p. 1. For 1942 diplomatic protests, see FRUS, 1942, volume I, pp. 792-857 and Bulletin, volume 10, No. 241 (Feb. 5, 1944), pp. 146-148. For 1942 Hull protest, see FRUS, 1942, vol. I, pp. 832-839 and Bulletin, vol. 10, No. 241, pp. 147-148.

of Axis war criminals. The British Lord Chancellor vowed that enemy countries would surrender their war criminals for trials by military tribunal. Simon reminded England of the "fiasco" after World War I when Kaiser Wilhelm II fled to Belgium and escaped trial. "Nobody is likely to repeat this mistake," he concluded. In March Congress passed a joint resolution which amounted to a warning to Nazi war criminals. Citing the mass murder of European Jews and Poles, Congress condemned those "brutal and indefensible outrages." Senate Joint Resolution #9 vowed that those guilty either "directly or indirectly," would be held responsible and "punished in a matter commensurate" with the crimes committed.<sup>6</sup>

Throughout the course of the war, a small but strident group of Americans, backed by followers in Congress, urged that the United States direct its main military effort against Japan rather than Germany. The strength of this "Asia first" or "get Hirohito first" group seemed to grow and recede in proportion to the revelations of Japanese atrocities. A February 1942 poll noted that 42 percent of Americans favored aiming their armed forces towards defeating Japan while 26 percent advocated concentrating our

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<sup>6</sup> For Simon, see New York Times, February 19, 1943, p. 10; for Senate Joint Resolution #9, passed by the Senate on March 9 and ratified by the House of Representative on March 11, see the Congressional Record, 78th Congress, first session, volume 89, part 2, p. 1723.

military power towards defeating Germany. Sixteen percent of Americans wanted the United States to steer all its military power against Japan alone. That group recommended blasting those "little yellow devils" out of the Pacific Ocean and "the hell with what happens in Europe." World War I hero Sergeant Alvin C. York reportedly urged that the United States first destroy the "Japs" and then finish off the Germans. A March poll asked the American people where they would position a large number of airplanes to do the most military good. The top two answers were Australia and the Philippines. A February 1943 poll indicated that 53 percent of Americans considered Japan to be the United States' chief enemy versus a figure of 25 percent back in June 1942. Congressional members such as John M. Costello of California, John E. Rankin of Mississippi and Kentucky Senator A. B. "Happy" Chandler pressed for a stronger American military front in the Pacific. Rankin termed the Japanese "savage apes" who are "our permanent enemy in the world."<sup>7</sup>

The April 1943 disclosure of the Japanese executions of three captured American aviators caused a sensation in the United States. In October of the previous year, the U.S. government had learned from Japanese radio broadcasts of the

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<sup>7</sup>For February 1942 poll, see "The Fortune Survey," *Fortune*, February 1942, pp. 97-98. For Sgt. York, see Bailey, *The Man in the Street*, p. 142. For March 1942 poll, see *Cantril, Public Opinion, 1935-1946*, p. 1068. For February 1943 poll, see *The Gallup Poll*, vol. one, p. 370. June 1942 poll is on p. 338. And for Congressional comment, see *Congressional Record*, 78th Congress, first session, vol. 89, part one, pp. 429-431.



"capture, trial and severe punishment" of downed American fliers. On October 29 and November 28, the State Department, through the Swiss Ministry, asked the Japanese Government for official verification and details of the trial of American airmen. On February 23 the United States received a reply from Masayuki Tani, the Japanese Minister for Foreign Affairs. The Japanese Government admitted to the capture and trial of two bombardier crews from the Doolittle Tokyo raid. The Tani answer alleged that those B-25 fliers confessed to intentionally bombing civilian targets such as schools and hospitals. The Tani note contended that those U.S. airmen machine-gunned helpless school children, "deliberately mowing them down although recognizing them as such." A Japanese court sentenced eight of the aviators to death but commuted five of those sentences.

On April 12, Cordell Hull sent a reply to the Tani dispatch. After cataloguing numerous examples of Japanese brutalities and repeated violations of the Geneva Convention, the American secretary of state warned the Japanese Government that the United States would hold "personally and officially responsible" those Japanese officials who have descended "to such acts of barbarity and manifestations of depravity as to murder in cold blood" American fliers. He gave notice that America would punish all future Japanese cruelties. On April 21, Roosevelt made public the shocking news of the Doolittle flier executions. The chief executive promised that those Japanese Government officers who had

committed those "diabolical crimes" would be held "personally and officially responsible" by the U.S. Government. Japanese radio broadcasts replied to Roosevelt's message with the promise of a "one-way ticket to hell" for all American aviators captured in the future.

The Japanese killings of American airmen stunned the U.S. public. For many, Japan had reached a new moral low. An April poll indicated that 8 percent of Americans felt that Japan would be easier than Germany to get along with after the war, while 67 percent felt it would be easier to exist with Germany. One correspondent summarized popular feelings best when he commented that the Japanese slaying placed them "on par with the Mongols." The Japanese atrocities aroused the American people to new patriotic heights. In Washington, D.C., for example, the city reported its biggest war bond selling day since Pearl Harbor.<sup>8</sup>

Members of Congress lashed out against the Japanese executions. In late April, several congressmen recommended that the United States, perhaps in retaliation for the

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<sup>8</sup>For Tani note and Hull response, see FRUS, 1943, volume III (Washington, D.C., 1963), pp. 956-966, 980-982 and Bulletin, Volume 8, number 200 (April 24, 1943), pp. 337-339. For FDR speech and American reaction to flier executions, see Bulletin, p. 337; Washington Star, April 21, 1943, pp. 1,5; L.A. Times, April 22, 1943, pp. 1,4; N.Y. Times, April 22, 1943, pp. 1,3 and Washington Post, April 22, 1943, pp. 1,3. For Japanese radio broadcasts, see L.A. Times, April 22, p. 5 and Washington Star, April 22, pp. 1,16. For April 1943 poll, see The Gallup Poll, volume one, pp. 388-389; for Mongol quote, see L.A. Times, April 23, 1943, p. 2; and for record bond sales, see Washington Post, April 23, 1943, pp. 1, 3, 4.



Doolittle deaths, direct its military power principally against Japan. The "Asia-first" movement gained new strength from the publication of the murder of the airmen. Florida Congressman Robert L. F. Sikes demanded "swift, sure retribution" for those "inhuman monsters." Claiming there was "no place for mad dogs," he recommended that the Allies deny world trade and commerce to Japan after the cessation of hostilities. Massachusetts Congresswoman Edith Nourse Rogers urged that "Japan as a nation should be annihilated." Representative Rankin argued that the United States must act now and not wait until Australia was captured and "her white women and children murdered by these ruthless barbarians." He called Japan the gravest threat to white civilization "in any quarter of the globe."

During the summer of 1943, Britain and the United States made formal appointments to the United Nations War Crimes Commission (UNWCC). On June 29, Roosevelt appointed Herbert C. Pell as American representative to the UNWCC. Pell had served as U.S. Minister to Portugal from 1937-1941 and briefly as U.S. Minister to Hungary. In July the English Government named Sir Cecil Hurst as the British delegate. Hurst had served as judge of the Permanent Court of International Justice since 1929. Altogether, fifteen countries sent delegates. The Soviet Union refused to nominate an envoy after their proposal for voting representatives from each Soviet Socialist Republic met with Allied disfavor.<sup>9</sup>

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<sup>9</sup>For Congressional comments on Doolittle execution,

Throughout 1943, State Department protests against improper treatment of prisoners of war continued unabated. The Japanese government still refused either to permit Red Cross visits to all prison camps or to forward the names of American civilians and soldiers held in their camps. When Japan persisted in denying proper medical treatment for some American prisoners of war, the State Department repeated its earlier protests for adequate shelter, proper clothing, sufficient food and mail privileges for those incarcerated in Japanese camps.

On July 30, Roosevelt warned neutral countries against harboring Axis war criminals. The president repeated his earlier pledges to prosecute enemy war criminals, reminding neutral nations that one day "Hitler and his gang and Tojo and his gang" would attempt asylum abroad. The chief executive cautioned any neutral state against granting refuge to war criminals in their attempt "to escape their just deserts."

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see Congressional Record, 78th Congress, first session, volume 89, part 3, pp. 3701-3702, 3704, 3712, 3775; volume 89, part 10, p. A2024; volume 89, part 11, p. A4171; second session, volume 90, part 1, p. 874; Washington Post, April 22, 1943, p. 3; and L.A. Times, April 22, 1943, p. 4. For "Asia-first" pressure, see Washington Post, April 22, 1943, pp. 1, 3. For UNWCC appointments, see N.Y. Times, June 30, 1943, p. 16 and July 10, p. 6. For activities of the UNWCC, see United Nations War Crimes Commission, History of the United Nations War Crimes Commission (London, 1948) and FRUS, 1943, volume I, pp. 422-423. The following states sent representatives to the UNWCC: Australia, Belgium, Canada, China, Czechoslovakia, Greece, India, Luxemburg, Netherlands, New Zealand, Poland, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, U.S.A., Yugoslavia and the French Committee of National Liberation.

In late October Allied foreign ministers gathered for a Tripartite Conference in Moscow. On November 1, Britain, the United States and Russia issued a "Declaration of German Atrocities." England, the United States, and the U.S.S.R. vowed to punish the "Hitlerite forces" for war crimes and mass executions. Lists of Nazi war criminals would be compiled "in all possible detail." The three power declaration stated that their proclamation would not "prejudice" the case of other war criminals "whose offenses have no particular geographical localisation."

Late in November, Chiang Kai-shek, Churchill and Roosevelt conferred in Cairo, Egypt. On December 1, the three world leaders released a press communique on Allied postwar plans for Japan. Declaring it their intention to "restrain and punish the aggression of Japan," Britain, China, and the United States listed the territory Japan would relinquish after the war. Japan would forfeit all Pacific islands seized since 1914 and all the territory it had "stolen from China," such as Formosa and Manchuria. The Cairo Declaration ended by pledging again to secure the unconditional surrender of Japan. 1943 ended with no specific Allied statement on the punishment of Japanese war criminals.<sup>10</sup>

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<sup>10</sup>For State Department protests, see FRUS, 1943, volume I, pp. 953-1012 and Bulletin, volume 10, number 241, pp. 148-150. For Roosevelt address, see N.Y. Times, July 31, 1943, pp. 1, 3 and Bulletin, volume 9, number 214 (July 31, 1943), p. 62. For Declaration of German atrocities and Tripartite Conference, see FRUS, 1943, volume I, pp. 768-769; Bulletin, volume 9, number 228, pp. 310-311; N.Y. Times, November 2, 1943, p. 14; L.A. Times, November 2, 1943, pp. 1,4;

The United Nations War Crimes Commission produced little tangible results. On January 18, 1944, the commission held its first official London Meeting. The UNWCC had congregated the previous October for an unofficial meeting at the British Foreign Office, but the late arrival of U.S. delegate Herbert Pell delayed the commencement of official sessions. For the remainder of the war, the UNWCC became a case center of information on Axis war criminals. The commission had no power to prosecute or try war criminals. Furthermore, diversity of opinion plagued the UNWCC and the meager results of the much-touted organization drew public censure. U.S. representative Pell and British delegate Sir Cecil Hurst resigned in frustration.<sup>11</sup>

The year 1944 brought yet more details of Japanese atrocities. In April 1943, three Americans escaped from Japanese prison camps in the Southern Philippines. In July, Air Corps Captain William E. Dyess, Navy Lieutenant Commander Melvin H. McCoy and Artillery Corps Major Stephen M. Mellnik reached General Douglas MacArthur's Australian headquarters. In Brisbane, the three survivors revealed

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and Washington Post, November 2, 1943, pp. 1, 2. For Cairo Declaration, see FRUS, 1943, The Conferences at Cairo and Tehran (Washington, D.C., 1961), pp. 448-449; L.A. Times, December 2, 1943, pp. 1, 7; and Washington Post, December 2, 1943, pp. 1, 2.

<sup>11</sup>FRUS, 1943, volume I, pp. 420-424; UNWCC, History of the United Nations War Crimes Commission, p. 120; FRUS, 1945, The Conferences at Malta and Yalta (Washington, D.C., 1955), pp. 403-404; and N.Y. Times, January 27, 1945, pp. 1, 5.

first-hand details of the horrible conditions in Japanese prison camps and the unsettling details of the Bataan "death march." Captain Dyess had participated in the eighty-five mile march from Balanga, the capital of Bataan, to Camp O'Donnell, a former Philippine Army post in central Luzon. Lt. Commander McCoy and Major Mellnik had been captured on Corregidor and spent over a year in Japanese prison camps. On January 27, 1944, the U.S. War Department released an atrocities report based on the testimony of the three escapees. The War Department had withheld the news for six months for fear of Japanese retaliations against the remaining American prisoners.

On January 28, the American press gave the War Department report banner headlines. Details of the Bataan "death march" shocked the American people even more than the executions of the Doolittle raiders. The report disclosed that in April 1942 Japanese forces had pushed sixty-five thousand American and Filipino prisoners on a nine-day horror trek, many without food, water or medical attention. Japanese soldiers stabbed or shot prisoners who collapsed under the blazing sun. At bayonet point, Japanese troops forced Americans and Filipinos to bury Filipinos alive who were too tired or ill to continue the journey. Some fifty-six hundred men perished. Stories of Japanese prison camps, where torture, starvation and mistreatment seemed routine, filled the pages of American newspapers. Many Americans agreed with New Hampshire Senator Styles Bridges when he remarked

that "the Japs are savages and torture for enjoyment."<sup>12</sup>

Congressional reaction to the "march of death" equalled public indignation. New Mexico Senator Carl A. Hatch termed the "death march" a tale of brutality "unequalled in the annals of history of civilized men." Chairman Andrew J. May of the House Military Affairs Committee suggested that the U.S. fleet be immediately dispatched to Japan and "blow it into hades." Missouri Senator Bennett Champ Clark demanded that the United States "bomb Japan out of existence" and "hang the Mikado." Alabama Senator Lister Hill proposed that America "gut the heart of Japan with fire." Senate Majority Leader Alben W. Barkley, referring to that "pagan outfit which calls itself the government in Japan," pleaded for harsh postwar punishment for those "brutes and beasts in the forms of men." The Kentucky Senator pointed out that the United States had heard a great deal about punishing Nazi war criminals, and wondered why America had failed to act on Japanese war criminals. Georgia Senator Richard B. Russell declared that the United States must exact retribution for

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<sup>12</sup>For background on three survivors, see W. Post, January 28, 1944, pp. 1,4 and Stanley K. Falk, Bataan: The March of Death (N.Y., 1962), pp. 205-206. For press and popular reaction, see L.A. Times, January 28, 1944, pp. 1,2, January 29, pp. 1-5; N.Y. Times, January 28, 1944, pp. 1,6; W. Post, January 28, 1944, pp. 1,4, January 29, pp. 1,2; Falk, Bataan: The March of Death, pp. 143-200, 203-211; and John Frederick Hanson, "The Trial of Lieutenant General Masaharu Homma" (Ph.D. dissertation, Mississippi State University, August 1977). The director of the Rivers, Arizona relocation center, where many Japanese had sons serving in the Pacific, declared that if the Japanese soldiers who committed those atrocities fell into the hands of Japanese-Americans, "they will be treated worse" than if the Americans caught them. See Falk, p. 208.

"every drop of blood from the veins of American prisoners." He remarked that the American Indian, with his "scalping knife" and "fiery stake" was a "chivalrous cavalier" compared to the "bestial Japs."

As with the news of the Doolittle executions, Americans responded with a new determination to pursue the unconditional surrender of Japan. The grim details united Americans in a firm resolve to eradicate Japanese militarism forever. Record war bond sales occurred all over the United States. Ohio Senator Harold H. Burton affirmed that the atrocity news made Americans more determined than ever to win the war like "nothing else could have done." Senator Russell commented that those war crimes had only increased the fighting spirit of American troops. Other congressmen renewed their demands for more U.S. forces in the Pacific. New Mexico Senator Dennis Chavez concluded that even now it was not too late for American military strategists to "get busy in the Pacific." Representative Claire E. Hoffman of Michigan pointed out that those crimes should cause us now, without any further delay, "to provide MacArthur with more supplies and troops."

On January 31, the State Department released a detailed atrocities report to the press. The report contained a record of all official U.S. protests to Japan regarding treatment of American prisoners of war dating back to January 1942. The State Department again reminded Japan of its February 1942 commitment to uphold the Geneva Convention "as far as



adaptable" to American prisoners and civilian internees. The Department of State repeated its pledge that the United States would hold "personally and officially responsible" the Japanese who perpetrated those uncivilized and inhumane acts. On February 11, the State Department made public two notes of protest sent to Japan on January 27. Those dispatches, written by Cordell Hull, emphasized the long overdue need of the Japanese Government to bring its treatment of prisoners of war "into conformity with the standards recognized by civilized nations." The secretary of state denounced Japan's "callous failure" to provide minimum life necessities and catalogued numerous violations of the Geneva Convention.<sup>13</sup>

On March 24, Roosevelt issued another warning to Axis war criminals. The President's comments dealt chiefly with the systematic German executions of European Jews. He also discussed the torture and murder of civilian populations by the Nazis and Japanese. The chief executive reflected on the cruel Japanese killing "of our gallant American soldiers and fliers." Roosevelt promised that the United Nations would apprehend the guilty and prosecute them

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<sup>13</sup>For Congressional reaction, see Congressional Record, 78th Congress, second session, volume 90, part one, pp. 860, 869-875; volume 90, part 8, pp. A509, A551-A552; and W. Post, January 29, 1944, pp. 1,2. For war bond sales, see W. Post, January 29, 1944, pp. 1,3 and Falk, Bataan: The March of Death, p. 210. For January 31 report, see Bulletin, volume 10, no. 241 (February 5, 1944), pp. 145-151. For Hull notes, see Bulletin, volume 10, number 242 (February 12, 1944), pp. 168-175. For 1944 State Dept. protests, see FRUS, 1944, volume V (Washington, D.C., 1965), pp. 917-1014.



"in order that justice be done."

In May the United Nations War Crimes Commission established a Far Eastern and Pacific Subcommittee to concentrate on Japanese war crimes. Eleven Allied nations sent representatives to the Pacific subcommittee which met in Chungking, China. On November 29 the commission held its first meeting. Like the UNWCC, the Chungking subcommittee lacked the power to prosecute or try war crimes suspects but only gathered evidence of war crimes. The subcommittee then drew up lists of war criminals to be submitted to the Allied governments after the conclusion of hostilities.

The continued 1944 revelations of Japanese atrocities kept American public opinion in a vengeful mood. A June survey revealed that 62 percent of Americans polled believed that the Japanese people would always want to go to war. An August survey showed that most Americans favored compelling Japan to pay for the cost of the war. A December 20 poll revealed that while 33 percent of Americans advocated destroying Japan as a political entity, 13 percent favored killing all the Japanese people. A December 23 survey found that 88 percent of Americans favored postwar punishment of Japanese leaders. Very few Americans suggested that the United States "treat them fairly" or "handle them under international law." Typical comments were: "Take them to Pearl Harbor and sink them, kill them like rats, [and] kill them, but be sure to torture them first, the way they tortured

our boys."<sup>14</sup>

As late as 1945, American postwar planning for the punishment of Axis war criminals concentrated almost solely on Germans. On January 21, 1945 Green H. Hackworth, legal adviser to the Secretary of State, submitted a memorandum to Roosevelt for the trial and punishment of Nazis. Hackworth's legal brief, later used at the Yalta Conference, outlined potential statutory difficulties for German war crime trials. Hackworth pointed out that the sheer number and unprecedented scale of Nazi war crimes created a situation "without parallel in the administration of criminal justice." In addition, many prewar German atrocities, despite their obvious immorality, constituted "neither 'war crimes' in the technical sense, nor offenses against international law." He recommended a trial of the principal Nazi leaders by international military tribunal or court, for that "would require no enabling legislation or treaty."

Britain proposed a different form of punishment for the Nazis. Where the United States advocated a trial by international military tribunal, England favored execution

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<sup>14</sup>For FDR warning, see N.Y. Times, March 25, 1944, pp. 1,4. For Pacific Subcommittee, see UNWCC, History of the United Nations War Crimes Commission, pp. 129-131. Eleven nations accepted the UNWCC invitation to participate in the Chungking Subcommittee: Australia, Belgium, China, Czechoslovakia, France, India, Luxemburg, Netherlands, Poland, Britain, and the United States. For June 1944 poll, see Public Opinion Quarterly, volume 8, number 4 (Winter 1944-1945), p. 510; for August survey, see p. 536. For December surveys, see The Gallup Poll, volume one, pp. 477-478 and Public Opinion Quarterly, p. 530.

without trial for Hitler and the top German leaders. British motives for this seemingly harsh recommendation centered on the fear of a protracted trial. British leaders feared that a lengthy trial would tire the public and result in a feeling of sympathy for the Germans. A public trial would draw criticism as a "put-up job" by the Allies "to justify a punishment they have already resolved on."

In early February 1945, Churchill, Roosevelt and Stalin gathered in the Russia Crimea for the Yalta Conference. In December 1943, at the Tehran Conference, Stalin had promised to enter the Pacific War once Germany surrendered. On February 11, 1945, Stalin, in return for territorial concessions, promised to enter the war against Japan "two or three months" after the defeat of Germany. On April 5, one week before the death of Franklin Roosevelt, Russia gave Japan official notice of the Soviet intention not to renew its 1941 Neutrality Pact with Japan.<sup>15</sup>

On May 2 President Harry S. Truman appointed Supreme Court Associate Justice Robert H. Jackson as U.S. Chief of Counsel for the prosecution of European Axis leaders indicted for war crimes. Truman ordered Jackson not only to prepare

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<sup>15</sup>For Hackworth memo, see FRUS, 1945, the Conferences at Malta and Yalta, (Washington, D.C., 1955), pp. 402-408. For 1945 British views, see U.S. Dept. of State, Report of Robert H. Jackson U.S. Representative to the International Conference on Military Trials, London, 1945 (Washington, D.C., 1949), pp. 18-20. For Stalin Yalta agreement, see FRUS, 1945, Conferences at Malta and Yalta, p. 984. For Russian April 1945 notification of intent not to renew Pact, see Bulletin, volume 12, number 305 (April 29, 1945), pp. 811-812. For 1944 State Department planning on Japanese war criminals, see Diplomatic Branch, Record Group 59, Harley Notter file, Box no. 109, CAC-105 (March 24, 1944). For 1945 State Department planning, see Record Group 59, Notter file Box no. 119, Records of the Policy and Planning Committee, Document PR-20 (July 20, 1945).

legal counts but to prosecute war crimes charges against those individuals whom the United Nations agreed to try before an international military tribunal. The new president also instructed the chief prosecutor to include for trial the principal accomplices of the Nazis. When Germany surrendered on May 7, Jackson's immense task began in earnest. In June chief prosecutor Jackson issued a progress report to President Truman. On June 7, the chief executive released the Jackson Report to the American public. Allied governments accepted that report as the official U.S. position on prosecution of war criminals. Jackson, a former attorney general under Franklin D. Roosevelt, reiterated the American position of trial by military court. The U.S. chief of counsel branded the defense argument that a head of state was immune from criminal culpability as an outdated doctrine, "a relic of the doctrine of divine right of Kings." He stated that the defense of following superior orders would also be rejected. The Supreme Court justice declared that the United States would consider the waging of aggressive war a criminal offense. The former attorney general added that the American legal position would not be "complicated or obscured by sterile legalisms" evolved during the late nineteenth and early twentieth century "to make war respectable." On June 26 Jackson joined British, French and Soviet representatives in London for an international conference to draw up final details for a four power agreement providing for a charter for the trial of Nazi war

criminals.

With the capitulation of Germany in May 1945, American attention centered on Japan. Public opinion continued to hold the Japanese in very low esteem. Even after the revelations of the German concentration camps, 82 percent of Americans considered the Japanese "more cruel at heart" than the Germans. A June poll revealed that 33 percent, the largest percentage of the sample, advocated the death sentence for Japanese Emperor Hirohito. The same survey indicated that only 53 percent of the American people questioned knew the name of the Japanese Emperor while 5 percent of the respondees thought Hideki Tojo was the Emperor.<sup>16</sup>

In mid-July, leaders of the United States, the U.S.S.R. and England met at Potsdam, Germany. On July 26, British Prime Minister Clement Atlee and President Truman, with the assent of the Republic of China, issued a surrender ultimatum to Japan. That allied ultimatum, the Potsdam Declaration, listed surrender terms. If Japanese resistance continued,

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<sup>16</sup>For Jackson's Report to Truman, see Report of Robert H. Jackson U.S. Representative to the International Conference on Military Trials, London, 1945, pp. 42-54; for the London Conference, see pp. 71-428. For June 10 poll on Japanese cruelty, see The Gallup Poll, volume one, p. 509. For June 29 Hirohito survey, see pp. 511-512 of The Gallup Poll and p. 392 of Cantril, Public Opinion, 1935-1946, polls #17, 18. Twenty percent of Americans favored exile or life imprisonment for Hirohito. Seventeen percent answered "let court decide his fate." Other responses on the name of the Emperor: Hari-Kari, Yokohama, Fujiyama, Chiang Kai-shek and Tito. In 1944, only half of American citizens polled could give a reasonable explanation of the policy of unconditional surrender. See Bailey, The Man in the Street, p. 132.

the alternative would be "prompt and utter destruction." The Potsdam Declaration promised that "stern justice" would be administered to all Japanese war criminals "including those who visited cruelties upon our prisoners." The Declaration noted that the Allied occupation of Japan would establish a government "in accordance with the freely established will of the Japanese people." The Potsdam terms made no mention of the Japanese Imperial Institution.

U.S. diplomatic protests to Japan increased towards the end of the war. From January 1942 to January 1944, the State Department had sent eighty-nine official protests to Japan. From February 1944 until August 1945, the Department transmitted 150 dispatches. The American recapture of large areas of the Pacific occasioned the release of Allied prisoners of war with new horror tales to confirm previous reports. Secretary of State Edward R. Stettinius, Jr., and Acting Secretary of State Joseph C. Grew lodged repeated protests with Japan for its utter neglect of the 1929 Geneva Convention. On August 1, 1945, the State Department confirmed the Japanese habit of locating prisoner of war and civilian camps near aerial military targets.<sup>17</sup>

On the morning of August 6, the American B-29 bomber

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<sup>17</sup>For Potsdam Declaration, see FRUS, 1945, The Conference of Berlin (Washington, D.C., 1960), volume two, p. 1474 and Bulletin, volume 13, number 318 (July 29, 1945), pp. 137-138. For 1945 State Dept. protests, see FRUS, 1945, volume VI (Washington, D.C., 1969), pp. 316-407 and Bulletin, volume 13, number 324 (September 9, 1945), pp. 343-357. For placing of camps near bombing targets, see Bulletin, volume 13, number 319 (August 5, 1945), pp. 176-177.

Enola Gay dropped the first atomic bomb on Hiroshima. Two days later, the Soviet Union declared war on Japan. Ignoring its Neutrality Pact with Japan, the U.S.S.R. invaded Manchuria and easily pushed back the once strong Kwangtung Army. Technically, the U.S.S.R. attack violated its Neutrality Pact with Japan, not due to expire until April 1946.

On August 8, the London Conference on Military Trials for Nazi war criminals concluded. Britain, France, the United States and the U.S.S.R. issued a charter for the establishment of an International Military Tribunal at Nuremberg (IMT) to try Germans accused of war crimes. The four Allies listed three types of war crimes: Crimes against Peace, Crimes against Humanity, and conventional war crimes. The first two charges were new laws and had no legal basis in international law. Crimes against Peace charged a conspiracy for the planning, preparation and waging of aggressive war. The IMT Charter, however, failed to define aggressive war. Crimes against Humanity involved the murder or enslavement of civilian populations "before or during the war."

The IMT charter outlined the rules of evidence and trial procedure. The Nuremberg charter disallowed the defense of superior orders and declared that individuals rather than nations would be criminally responsible for acts of state. The Nuremberg Tribunal could admit "any evidence which it deems to have probative value." U.S. Chief Prosecutor Jackson described the IMT Charter as a landmark code "defining crimes



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against the international community." He also termed the Charter a "transition in international law."

Despite the August 8 Allied resolution, legal disagreements marred the London International Conference on Military Trials. Britain, France, the United States and Russia frequently disagreed over the exact meaning of aggressive war, conspiracy and the precise definition of war crimes. Robert Jackson wrote that the four countries represented the "maximum divergence in legal concepts and tradition likely to be found among occidental nations." For example, Professor André Gros, UNWCC member and assistant to the French IMT delegate Judge Robert Falco, objected to the British and American position that a war of aggression was a crime and therefore the individuals who directed the war could be criminally liable for the acts of their government. Gros argued that if a country committed a crime by initiating a war of aggression, that does not transmit individual legal responsibility to the officers of the state. He concluded that though it would be morally and politically desirable to have such an act considered a crime, "it is not international law" but "ex post facto legislation." Soviet representative General I. T. Nikitchenko argued that the real task of the Nuremberg Court should be to determine the individual guilt of each Nazi leader and deliver the commensurate punishment. Nikitchenko, the vice president of the Soviet Supreme Court, alleged that the proof that Nazi



leaders were war criminals "has already been established."<sup>18</sup>

On August 9, the American B-29 bomber Bock's Car dropped the second atomic bomb on Nagasaki. On August 10, the Japanese Government offered to accept the Potsdam Declaration with the proviso that it would not prejudice "the prerogatives of His Majesty as a Sovereign Ruler." On August 11, Secretary of State James F. Byrnes repeated the U.S. position that the ultimate form of the Japanese Government would be decided by the Japanese people themselves. On August 14, World War II ended when Japan surrendered to the terms of the Potsdam Declaration. The Pacific War had lasted five years, but the trial of Japanese war criminals would continue for six more years.<sup>19</sup>

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<sup>18</sup>For Jackson's comments, see Jackson Report, pp. v-xii. For IMT Agreement and Charter, see pp. 420-428. For Gros' comments, see pp. 297, 335; Nikitachenko's comment is on p. 303.

<sup>19</sup>For the sequence of surrender statements, see FRUS, 1945, volume VI, pp. 627, 631-632, 662-663.

## CHAPTER TWO

### PREPARATIONS FOR TRIAL (AUGUST 14, 1945-APRIL 29, 1946)

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

-Article 13a of the Tokyo Charter, April 26, 1946.

Nearly ten months passed before the Tokyo War Crimes Trial began. From August 14, 1945 to April 29, 1946, ten Allied countries undertook measures to bring Japanese war criminals to justice. During those months, the Allies apprehended war crimes suspects, prepared legal cases against them and created legal machinery for the trial. Those pretrial preparations placed the defense panel at a disadvantage with the prosecution section. The prosecution had more time to prepare its case, more lawyers and translators to assist it and more funds than the defense.

American memories of Japanese atrocities remained strong after the war ended. The American people expected severe treatment for Japan and its war crimes suspects. When an August 1945 poll asked Americans how the Japanese people should be treated after the war, 67 percent of those surveyed felt the United States should "control strictly, punish war criminals" or "treat with extreme harshness."

Another survey indicated that 85 percent of Americans approved the use of the atomic bomb against Japan.

Even after the war, the volume and scope of Japanese atrocities continued to be well-publicized. In the weeks after the war, Allied newspapers carried daily headlines of yet more brutalities. Stories of torture, starvation, medical mistreatment, sexual mutilation and cannibalism peppered the Allied press. On September 18, Senator Richard B. Russell introduced Senate Joint Resolution 94, declaring it to be American policy that Emperor Hirohito be indicted as a war criminal. A September 19 poll showed that 61 percent of Americans felt that U.S. treatment of Japan was "not tough enough." An October 3 survey revealed that 64 percent of Americans considered it necessary "to police the Japanese people many years." A November follow-up poll on the atomic bomb showed that 24 percent of Americans would have tried to "wipe out" as many Japanese cities as possible "before they had a chance to surrender."<sup>1</sup>

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<sup>1</sup>For the August polls, see George H. Gallup, The Gallup Poll (New York, 1972), volume one, pp. 521-522. For a sample of atrocity stories, see Los Angeles Times, August 25, 1945, p. 1, August 30, p. 2 and August 31, pp. 1,2; New York Times, September 1, 1945, pp. 1,3; L.A. Times, September 3, 1945, pp. 1,5,6; Washington Star, September 4, 1945, p. 4, September 5, pp. 1,5 and September 10, pp. 1,5; and London Times, September 12, 1945, p. 4 and September 14, p. 4. For Senate Joint Resolution 94, see Congressional Record, 79th Congress, first session, volume 91, part 7, p. 8680. For September and October surveys, see Hadley Cantril, ed., Public Opinion, 1935-1946 (Princeton, 1951), p. 457. For the November survey, see Thomas A. Bailey, The Man in the Street: The Impact of American Public Opinion on Foreign Policy (New York, 1948), p. 194 and "The Fortune Survey," Fortune, December 1945, p. 305.

On August 14, 1945, President Harry S. Truman appointed General Douglas MacArthur as the Supreme Commander for the Allied Powers (SCAP). Britain, China, the United States and the U.S.S.R. had agreed to the American designation of a supreme commander to govern occupied Japan. Truman told MacArthur that the authority of the Japanese emperor and government would be subject to the rule of SCAP. The chief executive ordered MacArthur to carry out the surrender terms. Truman ordered SCAP to require Hirohito to issue an Imperial Rescript authorizing official Japanese representatives to sign the peace terms. On September 2, former Foreign Minister Mamoru Shigemitsu and former General Yoshijiro Umezu signed the Instrument of Surrender in Tokyo Bay aboard the U.S. battleship Missouri.

General MacArthur established basic rules for the apprehension of Japanese war crimes suspects. The Supreme Commander instructed SCAP legal personnel to give all suspects a "thorough screening" before ordering their arrest in order to reduce the possibility of acquittals once trials began. Some suspects such as Prince Konoye Fumimaro, leader of the three different Japanese Cabinets from 1937-1941, committed suicide rather than face war crimes charges. By mid-December, SCAP had arrested some two thousand suspects on war crimes charges.<sup>2</sup>

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<sup>2</sup>For Truman's SCAP order, see U.S. Department of State, Diplomatic Papers, Foreign Relations of the United States, 1945, volume VI (Washington, D.C., 1969), pp. 647-650. For surrender terms, see SCAP, Government Section, Political

On September 11, SCAP officially began a four month "round-up" of Japanese war crimes suspects. Former Prime Minister Hideki Tojo headed the Allied roster. MacArthur's headquarters ordered Major Paul Kraus and his contingent to seize the most prominent war criminal on their list. At 4:00 p.m., a group of American jeeps halted outside a simple, single-story home about eight miles from the center of Tokyo. As numerous newsmen congregated outside, Hideki Tojo, the wartime leader of Japan, was "skillfully concealed" inside his terra-cotta home. Brushing aside four blue-coated Japanese policemen assigned to protect Tojo from possible assassination, the American soldiers entered the ex-Premier's home.

Inside, the "would-be Napoleon of the Orient" awaited his fate. Through the aid of an interpreter, Major Kraus asked a house servant to produce Tojo immediately. The servant bowed and departed to converse with Tojo's confidential secretary, a former secret police member. The secretary promised to inform Japan's wartime leader. At 4:10 p.m., the house servant reappeared to ask the American

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Reorientation of Japan, September 1945-September 1948  
 (Washington, D.C., 1949), volume two, pp. 419-420; Imperial Rescript is on p. 416. For apprehension of war crimes suspects, see New York Times, September 12, 1945, pp. 1, 2, 3; Osaka Mainichi, September 15, 1945, p. 1, September 16, p. 1; Nippon Times (Tokyo) November 7, 1945, p. 1, November 10, p. 1, November 20, p. 1; November 23, p. 1, November 24, p. 1, November 25, p. 1; U.S. Army Pacific Stars and Stripes (Tokyo), December 4, 1945, p. 1, December 5, p. 1, December 7, p. 1, December 17, p. 1; and N.Y. Times, December 6, 1945, p. 3.

major "what the fuss was all about" and whether Kraus had the proper authority. "Tell the yellow b----- we've waited long enough. Bring him out," demanded Kraus. Thoroughly angry, the San Francisco major ordered Tojo's immediate arrest. At 4:12 p.m. Tojo suddenly opened his sitting room window. His black eyes "snapped" as he surveyed the situation. When a photographer's bulb popped, the former general slammed the window. "Tell him to quit fooling around," Kraus reminded the house servant. Again, the "shaven-headed one-time terror of Asia" appeared at the window. Tojo repeated his request: did the American major have the proper authority? Kraus informed Tojo that they were taking him to Yokohama. Tojo nodded and closed the window. One reporter quipped that it was "beginning to look like a Romeo and Juliet balcony scene."

Suddenly a pistol shot broke the silence. Major Kraus and New York Times reporter George E. Jones stormed into Tojo's study and found him holding an American .32 caliber Colt automatic in his right hand, smoke still curling from the revolver's muzzle which was aimed in the direction of the American intruders. "Don't shoot," shouted Kraus as Tojo buckled and fell to the floor, clutching his chest with his left hand. Reporters led the stampede to the door. Flashbulbs twinkled in the plainly furnished room Tojo had selected for the "inexpert denouement." Even "Heinrich Himmler had done it better," joked the New York Times.

Despite careful preparations, the war leader's suicide attempt had failed. Weeks earlier, a doctor had made a charcoal mark over Tojo's heart, but despite all this, the bullet missed the vital spot. At 5:15 p.m., a Japanese doctor arrived and "against the former Premier's protest" placed bandages over his wound. At 6:24 p.m., U.S. Army doctor Captain James B. Johnson, Jr., arrived to save Tojo's life with American blood plasma. Ironically, Tojo had taken the American Colt revolver from a captured U.S. flier.<sup>3</sup>

On September 22, MacArthur received an important U.S. Joint Chiefs of Staff (JCS) directive regarding punishment of war criminals. This order outlined the types of war crimes to be prosecuted and authorized SCAP to establish special international military courts. The definition of war crimes closely followed the Nuremburg precedent. In addition to conventional war crimes, Japanese could be held liable for Crimes against Peace and Crimes against Humanity. The memorandum directed SCAP to establish a prosecuting agency under MacArthur's command to effectuate the trial and punishment of war criminals. Finally, the JCS ordered MacArthur to withhold action against Hirohito "pending receipt

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<sup>3</sup>For lively descriptions of Tojo suicide attempt, see N.Y. Times, September 11, 1945, pp. 1, 2 and September 12, pp. 1, 2; London Times, September 12, 1945, p. 4; Clark Gould Lee, One Last Look Around (New York, 1947), pp. 92-113; and Robert J. C. Butow, Tojo and the Coming of the War (Stanford, 1969), pp. 449-469.

of a special directive concerning his treatment."

In November SCAP began plans for the Tokyo War Crimes Trial. On the tenth, Supreme Commander MacArthur appointed Joseph Berry Keenan to advise his legal staff for the forthcoming trial. Joseph Keenan had served from 1933-1939 as an assistant to the U.S. Attorney General. He was best known as the "gang-busting" attorney who convicted George R. "Machine Gun" Kelly and other notorious 1930's criminals. Keenan wrote the Lindbergh kidnapping law while in charge of the U.S. Department of Justice's Criminal Division. On November 14, the War Department notified SCAP that Keenan would have jurisdiction over Japanese suspects who had committed war crimes against more than one Allied country. On the following day Keenan, after conferring with Truman, promised "swift action" against all suspects. A few days later, Truman formally appointed Joseph Keenan as U.S. Chief of Counsel for the prosecution of Japanese war crimes suspects.<sup>4</sup>

In December, Chief Prosecutor Keenan undertook his duties. At a Washington, D.C. press conference on December 1,

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<sup>4</sup>For JCS order, see FRUS, 1945, volume VI, pp. 932-936. For Keenan appointments, see N.Y. Times, November 10, 1945, p. 7, November 16, p. 5, November 25, p. 3; and U.S. Department of State, Bulletin, volume 13, number 336 (December 2, 1945), pp. 898-899. For Keenan background, see Robert M. Donihi interview at Andrew's Air Force Base, Camp Springs, Maryland, October 14, 1978; Washington Post, December 9, 1954, p. 22; and FRUS, 1946, volume VIII (Washington, D.C., 1971), p. 389. Donihi served as a war crimes prosecutor at both Tokyo and Nuremburg.



Keenan promised that approximately one hundred Japanese would be tried for war crimes before an international court at Tokyo. He indicated that the prosecution would follow the Nuremburg pattern, but he would not comment on whether Hirohito would be tried as a war criminal. On December 8, SCAP established the International Prosecution Section (IPS) to prosecute legal charges against Japanese suspects. Keenan became Chief of Section and Chief of Counsel for the International Prosecution Section. A few days later IPS Chief of Counsel Keenan arrived in Tokyo.

Joseph Keenan's investigative staff contained many Federal Bureau of Investigation (FBI) agents and former agents. Lieutenant Colonel Benjamin Sackett, former head of the New York FBI office, headed the investigation section. The chief and the executive officer of the prosecution's research division were both FBI veterans. Other high-level FBI assistants included Harold "Pop" Nathan and Roy Morgan, the man who helped track down John Dillinger. Morgan, a ten year FBI veteran, had arrived in Japan in the fall of 1945 to begin the collection of evidence to be used against Japanese war crimes suspects. The IPS investigative staff adopted FBI methods of interrogation and examination. The prosecution section equated Japanese leaders with 1930 American gangsters. Very few members of the prosecution spoke Japanese. Most had no knowledge of Japan, Japanese politics, or Japanese culture.<sup>5</sup>

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<sup>5</sup>For Keenan press conference, see N.Y. Times, December 1,

On January 19, 1946, Supreme Commander MacArthur issued General Order #1, establishing the International Military Tribunal for the Far East (IMTFE). MacArthur created the Tokyo Tribunal for the "just and prompt" prosecution of the major Japanese war criminals. MacArthur, as Supreme Commander for the Allied Powers, possessed the power to form the special court. Unlike the Nuremburg War Crimes Trial, which was established by international agreement in London on August 8, 1945, the Tokyo War Crimes Trial derived its authority from one individual. General Order #1 contained the IMTFE charter. The seventeen-article charter closely resembled the Nuremburg Charter. The Tokyo Charter provided for a nine member court to be drawn from the nine signatory powers of the September 1945 Instrument of Surrender. MacArthur would select judges from candidates submitted by Australia, Canada, China, France, Great Britain, the Netherlands, the United States, the U.S.S.R. and New Zealand. Chief Prosecutor Keenan retained sole charge of the IPS case, but any United Nation with which Japan had been at war could designate an associate prosecutor to assist him.

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1945, p. 2 and Pacific Stars and Stripes, December 2, 1945, p. 1. For Keenan's staff, see Stars and Stripes, January 10, 1946, p. 1, April 11, p. 1 and November 14, 1948, p. 14; David N. Sutton, Jr., "The Trial of Tojo: The Most Important Trial in All History?" American Bar Association Journal 36 (February 1950):95; Solis Herowitz, "The Tokyo Trial," International Conciliation 465:(November 1950) 494; and Saburo Shiroyama, War Criminal: The Life and Death of Hirota Koki (New York, 1977), pp. 229-230.

The IMTFE Charter outlined the jurisdiction and powers of the court, defined the types of war crimes to be prosecuted and established defense provisions for the accused. The three types of war crimes followed the Nuremburg precedent. Article 5 described the offenses "for which there shall be individual responsibility." The Tribunal claimed jurisdiction over Conventional War Crimes, Crimes against Peace, and Crimes against Humanity. Article 6 stated that the official governmental position of the accused or the claim of following superior orders would not exempt a defendant from criminal culpability. Article 9 stated that the indictment should contain a "plain, concise and adequate statement of each offense charged." The trial proceedings would be conducted in English and Japanese. Each accused would be represented by a lawyer of his choice, but if one had no counsel, the Court would appoint an attorney for him. Each defendant had the right to examine any witness called by the prosecution.<sup>6</sup>

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<sup>6</sup>Supreme Commander for the Allied Powers, International Military Tribunal for the Far East Established at Tokyo, January 19, 1946 (Washington, D.C., 1947), pp. 3-10. Crimes against Peace were defined as the "planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements, or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing." Crimes against Humanity was defined as "murder, extermination, enslavement, deportation and other inhumane acts committed before or during the war, or persecution on political or racial grounds...whether or not in violation of the domestic law of the country where perpetrated..." Conventional War Crimes were defined as "violations of the laws or customs of war."

The Charter also established rules for the conduct of the trial. Article 12a instructed the Tribunal to confine itself to "an expeditious hearing of the issues." Article 12b advised the court to take "strict measures" to prohibit any procedure that would result in "any unreasonable delay" and to exclude "irrelevant issues and statements of any kind whatsoever." Article 13 described the nature of court evidence. The Tribunal would not be restricted by "technical rules of evidence" and could admit any evidence "which it deems to have probative value." Decisions on the admissibility of evidence depended upon the daily composition of the Court. A majority vote of all judges present determined Tribunal decisions. The court president's vote settled a tie. Article 17 provided for a final review by SCAP of the Tribunal's judgment and sentence.<sup>7</sup>

The possibility of criminal sanctions against Emperor Hirohito remained uncertain. Virtually every Allied power, including the United States, demanded his trial as a war criminal. On January 25, MacArthur expressed his views on the Imperial Institution to U.S. Army Chief of Staff General Dwight David Eisenhower. MacArthur could find no "specific and tangible evidence" to link Hirohito with the political decisions leading to World War II. He pointed out to Eisenhower that all Japanese revered the emperor as the symbol of the nation. SCAP strongly recommended that Hirohito be retained in order to effectuate a smooth American

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<sup>7</sup>Ibid.

occupation. He warned that the emperor's indictment would cause a violent upheaval, "the repercussions of which cannot be overestimated." MacArthur predicted a Japanese "vendetta for revenge" which would require at least one million troops to be stationed in Japan "for an indefinite number of years."<sup>8</sup>

In mid-February, more trial details became public. The prosecuting nations planned to present a single, unified case against Tojo and other leading suspects. That procedure differed from Nuremburg where each Allied nation presented its case individually. SCAP also reduced the number of trial defendants to expedite the court proceedings. Twenty to thirty defendants, instead of the one hundred originally promised by Chief Prosecutor Keenan, would be tried before the Tokyo Tribunal. On February 19, MacArthur released the names of the nine member Court bench. He appointed Sir William Flood Webb, the chief justice of the

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<sup>8</sup>For SCAP memo to Eisenhower, see FRUS, 1946, volume VIII, pp. 395-397. For a sample of Allied opinion on Hirohito as a war criminal, see the following:

1) Australia - Cantril, ed., Public Opinion, 1935-1946, p. 392; Portland Oregonian, August 13, 1945, p. 2; and Washington Post, August 15, 1945, p. 5.

2) Canada - Cantril, p. 1022.

3) China - N.Y. Times, August 12, 1945, p. 26; Baltimore Evening Sun, August 13, 1945, p. 2; and St. Louis Post-Dispatch, August 14, 1945, p. 31.

4) England - Cantril, p. 392 and Washington Star, August 12, 1945, p. 2.

5) The Philippines - Atlanta Constitution, August 11, 1945, p. 2; N.Y. Times, August 12, 1945, p. 6; and U.S. Army Stars and Stripes (Tokyo), December 23, 1945, p. 1.

6) Korea - N.Y. Times, August 11, 1945, p. 7 and L.A. Times, August 11, 1945, p. 7.

7) New Zealand - Stars and Stripes, January 18, 1946, p. 1.

Supreme Court of Queensland, Australia, as the Tribunal president. Webb had served for two years during the war as Australian commissioner for the United Nations War Crimes Commission. During this time he investigated Japanese atrocities in New Guinea and Papua.

Eight other judges joined Webb on the bench. MacArthur designed John P. Higgins of the Massachusetts Superior Judicial Court as the American judge. SCAP named Edward Stuart McDougall of the Court of the King's Bench in Montreal, Quebec, as the Canadian justice. The Chinese judge was Ju-Ao Mei, the acting chairman of the Foreign Affairs Committee, Legislative Yuan. Erima Harvey Northcroft of the New Zealand Supreme Court served as the New Zealand jurist. MacArthur also picked Lord Patrick, the Judge of Court of Session in Edinburgh, Scotland, as the member from the United Kingdom of Great Britain and Northern Ireland. Bernard Victor A. Roling, Judge in Utrecht Court and Law Professor at Utrecht University, served as the bench representative from the Netherlands. The Russian judge was Major General Ivan Michayevich Zaryanov of the Military Collegium of the Supreme Court of the Soviet Union. French judge M. Henri Reimburger, the former Legal Advisor to the Overseas Ministry, rounded out the nine member court.<sup>9</sup>

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<sup>9</sup> Pacific Stars and Stripes, February 15, 1946, p. 1; Horowitz, "The Tokyo Trial," International Conciliation, pp. 495-497; Nippon Times (Tokyo), February 20, 1946, p. 1;

SCAP confined virtually all suspects in Tokyo's Sugamo Prison which the Japanese referred to as "the Nest of the Wild Duck." During World War II the series of three story concrete buildings held nearly four thousand captives, twelve inmates packed into each 15 by 15 foot cell. By American standards, Sugamo housed a maximum of eighteen hundred prisoners with only three inmates in each cell. In Sugamo Prison, members of the International Prosecution Section conducted their interrogations of Japanese defendants.

During February and March, the Sugamo war crime suspects engaged Japanese defense counsel. The major or class "A" war criminals chose some of Japan's leading attorneys to represent them. For example, Marquis Koichi Kido, Lord Keeper of the Privy Seal from 1940-1945, selected Shigetaka Hozumi, the English-speaking son of Japan's eminent constitutional lawyer Yatsuka Hozumi. General Iwane Matsui, former president of the Greater East Asia Development Society and commander at the "rape of Nanking," picked seventy-five year old Dr. Somei Uzawa, president of Meiji University and one of Japan's premier lawyers. Hideki Tojo selected Dr. Ichiro Kiyose, eight time member of the House of Representatives. Dr. Kiyose, past president of

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Stars and Stripes, February 20, 1946, p. 1; and Osaka Mainichi, February 21, 1946, p. 1. George F. Blewett, Tojo's American defense counsel, claimed in 1950 that the Tokyo bench consisted of judges from "second-grade courts." See Blewett, "Victor's Injustice: The Tokyo War Crimes Trial," American Perspective 4 (Summer 1950):282. For more information on the Tokyo judges, see Appendix E of this thesis.



the Tokyo Bar Association, had defended Japanese naval officers in the May 15, 1932 Young Officer's incident. Mamoru Shigemitsu, the wooden-legged former foreign minister and career diplomat, chose Dr. Kenzo Takayanagi, English speaking professor of Anglo-American Law at Tokyo Imperial University. Despite having designated counsel of their choice, class "A" war crimes suspects could not meet with their attorneys. Only Allied prosecutors and IPS legal personnel had access to Sugamo.<sup>10</sup>

Japanese and western legal traditions differed. In Japanese courts the judge conducted the trial, and defense attorneys were heard only in a final plea. Japanese lawyers knew little of Anglo-American law or western courtroom techniques. Accordingly, Saburo Ohta of the Japanese Government's Central Liaison office, acting on behalf of leading Japanese suspects, petitioned the Tokyo Tribunal to provide British and American attorneys to assist Japanese defense counsel. The court judges approved Ohta's request. New Zealand justice Erima Harvey Northcroft sent General

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<sup>10</sup> For Sugamo descriptions, see Nippon Times, November 24, 1945, p. 1; L.A. Times, November 13, 1948, p. 2; and Yoshio Kodama, Sugamo Diary (Tokyo, 1960). For IPS Sugamo interrogations, see International Military Tribunal for the Far East, War Crimes, Interrogations of Japanese Prisoners, Tokyo, 1946-1947, 4 reels, Microform Reading Room, Library of Congress, Washington, D.C. For Japanese defense counsel, see Pacific Stars and Stripes, February 15, 1946, p. 1; Nippon Times, February 24, 1946, p. 1, March 10, p. 2; and the Oriental Economist, Tokyo War Crimes Trial: International Military Tribunal for the Far East (Tokyo, 1946), volume I, pp. 75-82.



MacArthur a request to provide "at least one American lawyer" for each defendant. On February 21, SCAP requested the U.S. Judge Advocate General's Department in Washington, D.C. to furnish "fifteen to twenty" attorneys to act as a panel "from which might be drawn by selection or by Court appointment counsel for defendants charged." Still, some of the accused lacked any counsel whatsoever. In early March the Tokyo Tribunal filed a request with the Japan Lawyer's Association to recommend suitable attorneys for the forthcoming trial. In nominating candidates for the Tokyo War Crimes Trial, the association stressed criminal law experience, personality and physical strength rather than "linguistic ability or knowledge of American, British and international laws." On March 19, SCAP agreed to the IMTFE's request to increase to twenty-five the number of American counsel who would go to Tokyo.<sup>11</sup>

On April 5, the IMTFE General Secretary established the International Defense Panel (IDP). The Tribunal secretary envisioned this panel as the counterpart to the International Prosecution Section (IPS) established in December 1945. Unfortunately, the IDP failed to receive

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<sup>11</sup>For Ohta, Northcroft and MacArthur, see Records of Allied Operational and Occupation Headquarters, World War II (Record Group 331) (SCAP), Box 411, File 000.5-2, letters of Judge Northcroft to Douglas MacArthur and SCAP reply, Washington National Record Center, Suitland, Maryland. For Japan Lawyer's Association, see Nippon Times, March 16, 1946, p. 2. For an April 9, 1946 dispatch to the Secretary of State, see FRUS, 1946, volume VIII, p. 429. See also April 3, 1946, Thomas L. Blakemore memo on defense counsel preparations in RG 59, Document 740.00119 Control (Japan) 4-946.

the logistical support that SCAP provided the prosecution. The IPS had more personnel, lawyers, translators and funds than the IDP. On April 22, the general secretary announced the appointment of Beverly Mosby Coleman as chief of defense counsel and head of IDP. For the previous four months, Navy Captain Coleman had served as president of a U.S. Army war crimes court in Yokohama.

On April 25, Tribunal president Webb released the Rules of Procedure for the Tokyo War Crimes Trial. The Australian chief judge promulgated court rules in accordance with Article 7 of the IMTFE charter, which stated that the Tribunal could "draft and amend" courtroom rules of procedure consistent with the charter. Article 9 of the Tokyo Trial Rules of Procedure, however, permitted the Court to modify, amend or depart "at any time" from these rules "in the interest of a fair and expeditious trial."<sup>12</sup>

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<sup>12</sup>For IPS advantage, see Valentine B. Deale, interview at his office, Washington, D.C., February 5, 1979; Beverly M. Coleman, interview at the Metropolitan Club, Washington, D.C., May 22, 1979; Coleman telephone conversation, July 31, 1979; and Deale letter to the N.Y. Times, December 19, 1948, p. 8E. An abbreviated version of the Deale letter to the editor appeared in the W. Post, December 23, 1948, p. 17. For IDP and Coleman, see Nippon Times, March 5, 1946, p. 1; N.Y. Times, April 11, 1946, p. 12; Pacific Stars and Stripes, April 22, 1946, p. 1; and Solis Horowitz, "The Tokyo Trial," International Conciliation, pp. 491-493. For April 25 Rules of Procedure, see Paul Chung-tseng, "Judicial Administration of the Laws of War: Procedures in War Crimes Trials" (Ph.D. dissertation, Law, Yale University, 1955), volume two, Appendix 9, pp. 37-41.

On April 26, SCAP amended the IMTFE charter first promulgated on January 19. The slightly revised court charter incorporated recommendations of the Far Eastern Commission and provision for the addition of two court justices. The new charter expanded the bench from nine to eleven members, and thereby provided representation for India and the Philippines. The United States had originally opposed the addition of judges from these two countries but fear of a "virtually all-white" tribunal led the State Department to reconsider and approve the two additions.<sup>13</sup>

The Tokyo War Crimes Trial began in the War Ministry Building where Premier Hideki Tojo and his Cabinet had once drawn up their war plans. The black painted granite building stood on Ichigaya Hill behind the Emperor's palace. Nearly five hundred Japanese laborers had worked twenty-four hours a day for three months to refurnish the three story structure chosen by Chief Prosecutor Keenan. Japanese workers dug enormous parking lots behind the building to accommodate a large number of automobiles and motorcycles. The entire interior of the building was rewired, scrubbed, painted and redecorated. SCAP installed telephone

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<sup>13</sup>For the amended Charter, see SCAP, IMTFE Established at Tokyo, January 19, 1946, pp. 11-16. For the U.S. and the addition of two justices, see FRUS, 1946, volume VIII, pp. 383, 390, 393-394, 418-420. For April 3, 1946, FEC recommendations, see Far Eastern Commissions, Activities of the Far Eastern Commission, Report by the Secretary General February 26, 1946-July 10, 1947 (Washington, D.C., 1947), pp. 27-29, 97-100 and George Blakeslee, Far Eastern Commission: A Study in International Cooperation, 1945-1952 (Washington, D.C., 1953), p. 196.

lines and a new heating system, "the militarists" having removed the radiators as part of a wartime measure to provide scrap iron.

The courtroom was located in a poorly ventilated auditorium where students of the Imperial Japanese Army War College had once studied training films. A long, polished bench for the eleven judges dominated the 90 by 115 foot room. The bench was elevated so high that it appeared "overpowering." Colorful maps hung from the wall near the bench. When a special handle was turned, various world maps would appear marking the wartime advances of Japanese forces. Behind the bench stood the eleven flags of the Allied nations "symbolizing the judgment of the world." Twenty feet away, facing the court bench, stood the prisoner's dock, an ordinary, three-tiered compartment. Members of the defense and prosecution sat at separate tables between the accused and the Tribunal podium. The witness box, elevated slightly and nearly level with the judges' bench, stood to the left of the Tribunal podium facing the court and the defendants. The speaker's lectern was near the defense and prosecution tables. Official court reporters worked directly in front of the bench. Seats for Allied dignitaries and special visitors were located on a stage at the south end of the auditorium. Official observers sat in comfortable theater seats while the Japanese spectators were limited to the two hundred seats in a "cramped" balcony overlooking the defendants'

box. Seats for two hundred reporters were situated at the north end of the auditorium. In addition, court officials set up two press rooms for the convenience of the media.

The remodeled courtroom carried the latest innovations. The Special Allied Construction Corps installed sound absorbent tiles in the curved ceiling, hung heavy drapes from the two-story high windows and completely carpeted the main floor. Engineers erected six large four-lamp sets of Klieg lights from the ceiling, fifty feet above the courtroom. The Klieg lighting system, "which puts daylight to shame," obviated the need for camera flash bulbs. Three daises for press and motion picture cameramen were located on the courtroom floor. The balcony contained two booths for radio broadcast and motion picture or newsreel technicians.

By the fifth week of the trial, the courtroom contained special language translation equipment. All seats had earphones and switches for simultaneous translation. Allied personnel, prisoners and spectators could follow the proceedings in English, Japanese or Russian. Court translators, "looking like aquarium inhabitants," sat inside glass-enclosed booths. Court engineers mounted three red lights at strategic locations to warn a speaker if he spoke faster than the court interpreters could translate. Engineers mounted these warning lights on the speaker's box, the witness box and near the seat of Tribunal president Webb.

The Tokyo Tribunal took elaborate courtroom security

precautions. The court appointed Lieutenant Colonel Aubrey S. Kenworthy as provost marshal in charge of all trial security measures. Kenworthy, a Nebraska native, instructed special court personnel to search all visitors, Allied or Japanese, before entering the courtroom. Kenworthy instructed Lieutenant Charles Hughes, the attendance control officer, to insure that all visitors were seated five minutes prior to court convening. All visitors had to remain in the courtroom while the Tribunal was in session. Kenworthy forbade all smoking and unofficial picture taking. Brigadier General C. S. Ferring assigned 190 military police to Kenworthy as Tokyo trial guards. Ferring, Tokyo provost marshal, "handpicked" the special detail on the basis of intelligence and physical appearance. All guards had to be over 5 feet 10 inches tall to qualify.

The second floor of the renovated War Ministry Building contained the Allied judges' chambers. The jurists' offices were located on either side of the former office of Premier Tojo. The court selected Tojo's office with its bright red carpet as the Tribunal conference room. The justices gathered there before entering the courtroom. The third floor housed the offices of the International Prosecution Section. Japanese defense counsel had rooms on the first floor while American counsel had offices on the second floor.<sup>14</sup>

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<sup>14</sup>For courtroom descriptions and M.P. selection, see Pacific Stars and Stripes, February 17, 1946, p. 1, May 4, p. 1

On April 29, more than eight months after the end of the Pacific War, Chief Prosecutor Joseph B. Keenan lodged the Allied indictment against twenty-eight class "A" Japanese war crimes suspects. At 11:00 a.m., the International Military Tribunal for the Far East held its first session, this one in private, in Tojo's former office. The fifty-five count indictment, covering the years 1928-1945, charged the Japanese military and political leaders with Crimes against Peace, Crimes against Humanity and Conventional War Crimes. The indictment described a Japan "dominated and directed by a criminal militaristic clique" bent on the "domination and exploitation" of East Asia, Southeast Asia and the Pacific using methods similar "to those established by Hitler and the Nazi Party in Germany." The IPS indictment made no mention or reference to the culpability of Emperor Hirohito.<sup>15</sup>

The first thirty-six counts of the indictment dealt with Crimes against Peace. Counts 1 to 4 charged the Japanese with conspiring to secure the military, political

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and November 14, 1948, p. 10; Nippon Times, March 20, 1946, p. 1 and March 23, p. 3; Osaka Mainichi, March 24, 1946, p. 1 and April 18, p. 1; William Sebald with Russel Brines, With MacArthur In Japan (New York, 1965), pp. 152-153; and GHQ, SCAP, Allied Translator and Interpreter Section (ATIS), Press Translations and Summaries, November 1945-August 1949, 75 reels, reel 13, Press Translations and Summary No. 14-26, Political and Editorial Series and Reel 14, No. 27-43.

<sup>15</sup> International Military Tribunal for the Far East, Judgment of the International Military Tribunal for the Far East (Tokyo: The Tribunal, 1948), Annex #A-6, pp. 29-32 and Pacific Stars and Stripes, April 30, 1946, pp. 1, 4.



and economic control of Asia by waging "wars of aggression." Count 5 charged the accused with conspiring with Germany and Italy for the purpose of gaining "complete domination of the entire world." Counts 6 to 17 charged that these twenty-eight defendants "planned and prepared aggressive war" against the eleven prosecuting Allied countries. Counts 18 to 26 charged the accused with initiating aggressive war against eight Allied states. Counts 27 to 36 charged the defendants with waging aggressive war against nine Allied powers.

Counts 37 to 52 charged the accused with murder and conspiring to murder members of the Allied armed forces, civilians and prisoners of war. Count 39 charged the accused with murder at Pearl Harbor. Count 44 charged the defendants with "conspiring to murder on a wholesale scale" Allied prisoners and civilian internees. Counts 45 to 52 charged the accused with the murder of disarmed Allied soldiers and civilians in China, Mongolia and the Soviet Union.

Counts 53, 54 and 55 dealt with Conventional War Crimes and Crimes against Humanity. Counts 53 and 54 charged the accused with "having conspired to order, authorize or permit" Japanese regional commanders or local camp officials to "frequently and habitually" commit breaches of the laws and customs of war. Count 55 charged the defendants with "having recklessly disregarded their legal duty" to insure the observance of the laws and customs



of war.<sup>16</sup>

The IPS Indictment listed twenty-eight individual Japanese as being criminally responsible for leading Japan into World War II. The Indictment charged eighteen military men and ten civilians with war crimes. Ten of the twenty-eight defendants were over sixty-five years of age. The oldest defendant, Kiichiro Hiranuma, was eighty-one, and the youngest defendant, Akira Muto, was fifty-three. Twenty-seven of the twenty-eight defendants had held a government office or military position. Shumei Okawa, member of the East Asia Institute of the South Manchuria Railway and accomplice in the 1932 murder of Prime Minister Inukai, held no official position. Some of the accused such as Hideki Tojo and Shigenori Togo had served in more than three different government posts.

The Japanese defendants had served in a wide range of government positions. The Allied indictment named five war ministers: Generals Jiro Minami, Sadao Araki, Seishiro Itagaki, Shunroku Hata and Hideki Tojo; four prime ministers: Koki Hirota, Kiichiro Hiranuma, General Hideki Tojo and General Kuniaki Koiso; four foreign ministers: Koki Hirota, Yosuke Matsuoka, Shigenori Togo and Mamoru

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<sup>16</sup>IMTFE, Judgment of the IMTFE, pp. 7-12. For the reasons behind the IPS selection of these particular 28 men, see Solis Horowitz, "The Tokyo Trial," International Conciliation, pp. 495-501. Horowitz, a prosecution member, wrote that "no person was to be included as a defendant unless the evidence against him was so strong as to render negligible the chances for acquittal."

Shigemitsu; four ambassadors: Hiroshi Oshima, Toshio Shiratori, Mamoru Shigemitsu and Shigenori Togo; three ministers without portfolio: Kiichiro Hiranuma, Naoki Hoshino and Teiichi Suzuki; three home ministers: Kiichiro Hiranuma, Marquis Koichi Kido and Hideki Tojo; two navy ministers: Admirals Osami Nagano and Shigetaro Shimada; Education Ministers Sadao Araki and Koichi Kido; Army chiefs of staff Generals Hideki Tojo and Yoshijiro Umezu; two presidents of the Planning Board, Naoki Hoshino and Teiichi Suzuki; two overseas ministers: Kuniaki Koiso and Shigenori Togo; and Greater East Asia ministers Mamoru Shigemitsu and Shigenori Togo. Finance Minister Okinori Kaya; "rape of Nanking" Colonel Kingoro Hashimoto; Vice War Minister Heitaro Kimura; Privy Council President Kiichiro Hiranuma; Army theatre commanders Kenji Dohihara, Kenryo Sato and Akina Muto; Vice Navy Minister Takasumi Oka; and Lord Keeper of the Privy Seal Koichi Kido completed the Allied Indictment.<sup>17</sup>

On April 29, U.S. Chief of Defense Counsel Beverly M. Coleman filed a petition with the Tokyo Tribunal. Stressing that only then had the names of the accused become known to the defense panel, Captain Coleman requested a temporary postponement of the trial. Coleman's plea emphasized

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<sup>17</sup> Modern Military Branch, World War II war crimes, IMTFF, Record Group 238, Court Papers, Box No. 88, paper #1, National Archives, Washington, D.C. or IMTFF, Judgment, Annex #A-6, pp. 29-130. For complete biographical information on the twenty-eight defendants, see Appendix B of this thesis.

that the defense panel lacked proper logistical support and needed more time to prepare its case in order to insure a proper defense. Coleman stated that many of the defendants still lacked American counsel and argued that the defense case should not be prejudiced by court decisions "made under hurried circumstances previous to the appointment" of individual counsel.

The Coleman petition detailed defense handicaps that required additional time to rectify. It pointed out that the defense team was seriously understaffed since only six of a projected thirty American defense lawyers had arrived in Tokyo. Only three of a planned fifteen legal secretaries were then serving. Secondly, he cited Sugamo Prison regulations which had "severely restricted" communication between the accused and their counsel. For example, Japanese and American attorneys had not yet been permitted to interview their clients.

After reading the petition into the trial record, President Webb summoned Coleman before the Tribunal. Before ruling on the defense motion, the chief judge refused to acknowledge Coleman's standing as Chief of Defense Counsel. Seven days earlier, the court Secretariat had officially appointed Coleman. President Webb reasoned, however, that the Tribunal could not recognize Coleman's standing unless he spoke "for an individual Japanese with his concurrence." Coleman tried to point out, to no avail, that he technically represented no accused that day because the prosecution had

just then lodged the official indictment. After Coleman left the room, Webb scheduled the courtroom arraignment of the twenty-eight defendants for May 3.<sup>18</sup>

On May 1, Japanese defendants conferred with their counsel for the first time. At 10:45 a.m., Yutaka Sugawara entered Sugamo Prison to become the first defense attorney to visit his client. Sugawara met 69 year old Baron Sadao Araki in the family reception room. There defense lawyers met with their clients for thirty to sixty minutes. Tadayoshi Tsukazaki, counsel for Kenji Dohihara, complained that he had insufficient time to fully confer with his 63 year old client.

The defense rushed to prepare for the May 3 Tribunal opening. The indictment, which took the prosecutors eight months to prepare, had just become public. While the prosecution had months to prepare its case, the defense had only a matter of days. The prosecution had interrogated most of the defendants long before defense counsel represented them. For example, IPS interviewed Hideki Tojo fifty-one times before acting chief of American defense counsel Valentine B. Deale visited him. As of April 29, six defendants had no individual counsel. In addition, only six American lawyers represented the entire twenty-eight accused. Not until late

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<sup>18</sup>For Coleman petition, see RG238, Court Papers, Box No. 88, Paper #5 and International Military Tribunal for the Far East, Tokyo War Crimes Trial, Proceedings (Tokyo: The Tribunal, May 3, 1946-April 16, 1948) (818 sessions), pp. 5-12.

May would twenty more American defense attorneys arrive in Tokyo. The IDP lacked the planned coordination and administrative organization of the IPS. The defense panel badly needed more time to study the indictment, set up an office structure capable of handling legal paperwork, seek out witnesses, and gather evidence. Language difficulties between American and Japanese counsel exacerbated the situation. The New York Times aptly remarked that the defense section was "still in the paper stage."<sup>19</sup>

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<sup>19</sup>For first Sugamo visits, see Nippon Times, May 3, 1946, p. 1; Tokyo Shimbun, May 3, 1946 and Mainichi Shimbun. The last two papers are cited in ATIS, Press Translations and Summaries, Numbers 14-26, Reel 13, Political Series 711, item 2 and Political Series 716, item 3. For IPS advantage over IDP, see Valentine B. Deale, interview at his office, Washington, D.C., February 5, 1979; Deale letter to N.Y. Times, December 19, 1948, p. 8E; Beverly M. Coleman, interview at the Metropolitan Club, Washington, D.C., May 22, 1979; Coleman, telephone conversation, July 31, 1979; Nippon Times, March 16, 1946, p. 2; May 2, p. 3 and May 4, p. 1. For N.Y. Times comment see April 11, 1946, p. 12.

### CHAPTER THREE

#### INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST:

#### THE FIRST THREE MONTHS (MAY 3, 1946-JULY 31, 1946)

Here we are to give the accused a fair trial and without waste of time--a fair trial. It does not follow that we have to take all those technicalities and take all those meticulously worked out things that apply in national courts. Why, the rules of evidence do not apply here.

-Justice William Flood Webb, May 1946.

The Tokyo War Crimes Trial lasted over two and one-half years. Between June 3, 1946 and January 24, 1947, the prosecution presented its case. The first three months of the proceedings set the pace for the entire trial. Language disputes, technical bickering, clashes between defense counsel and the tribunal bench, and uncertainty over rules of trial procedure and court evidence plagued the international trial. Defense difficulties mounted due to inadequate SCAP support and an insufficient number of American attorneys. Not until September 9, 1946 was each Japanese defendant represented by his own American lawyer.

Friday, May 3, 1946, was a cloudy day. At 7:55 a.m., a large, olive-drab bus, windows covered with blue shades, backed through the gates of Tokyo's Sugamo Prison. Moments later, twenty-six men accused of Crimes against Peace and Humanity paraded out, "their faces passive." They savored

brief moments of sunlight before entering the dark interior of the bus. At 8:05 a.m. the bus lumbered through the prison gates and sped past a silent crowd of three hundred Japanese, composed mainly of school children. Flanked by a fleet of white Military Police jeeps, the bus crept along the streets of Tokyo towards the War Ministry Building on Ichigaya Hill.

At 8:20 a.m. ,the bus stopped at the War Ministry Building, site of the International Military Tribunal for the Far East (IMTFE). Lieutenant Colonel Aubrey Kenworthy, provost marshal of the IMTFE, motioned the photographers to approach. Members of the press individually entered the bus to take pictures of the solemn passengers. Minutes later, the former leaders of Japan filed out slowly. Fifty-nine year old Mamoru Shigemitsu, career diplomat and signer of the surrender terms, stepped down without aid despite his wooden leg. Kenworthy had to help weak, sickly Yosuke Matsuoka, sixty-six year old graduate of Oregon University and foreign minister who concluded the April 1941 Russo-Japanese Neutrality Pact with Stalin. Photographers crowded closer when ex-Prime Minister Hideki Tojo alighted. Tojo, however, did not notice the onrush. The sixty-two year old former premier did not betray his thoughts as he walked now as a prisoner in the building where his word once had been law.

A crack detachment of heavily armed American M.P.s lined the accused up in three files. The tall, husky

American soldiers stood in stark contrast to the shrunken old men accused of being war criminals. The special M.P.s were proud of their unique role in the trial. One New Orleans private quipped that he would "trade the whole show" for a glimpse of his five year old daughter. Kenworthy gestured to his guards, and the twenty-six accused shuffled through the side door. By 9:00 a.m. a long line of anxious Japanese spectators had gathered for the 10:30 a.m. court opening. American M.P.s, one a woman, closely checked each court admission pass.

By 10:00 a.m., the remodeled courtroom reached its seating capacity. The Klieg lights "suggested a Hollywood premier." Three hundred Allied spectators, mostly women, were seated on the eastern half of the balcony. On the western half, two hundred Japanese sat calmly. About sixty distinguished Allied leaders sat on the south side of the stage. Among the special dignitaries was U.S. Lieutenant General Robert Eichelberger, Commanding General of the Eighth Army, and George Acheson, General MacArthur's political advisor. Two hundred Allied and Japanese correspondents waited anxiously to tell the whole world about the epochal event about to begin. The late arrival of two of the defendants delayed the court opening for forty-five minutes. Sixty-one year old General Seishiro Itagaki, the World War II Commander-in-Chief of the Japanese army in Korea, and fifty-eight year old General Heitaro Kimura, vice minister of War during the first two years of the war,



still had not reached Tokyo's Atsugi airdrome from Bangkok, Siam. Tribunal members decided to initiate the proceedings without them.

At 11:13 a.m., a bell signalling the opening of the trial broke an oppressive silence that reigned over the courtroom. Two M.P.s closed the massive wooden doors to the courtroom entrance which they were guarding. Chief Prosecutor Joseph B. Keenan, "his face a little strained," as described by Tokyo Shimbun, led the members of the prosecution through a door at the rear of the courtroom. The defendants entered next. Carrying ribboned copies of the indictment, they shuffled into court "like schoolboys carrying their primers to class." As the suspects filed into the prisoner's box, some found it difficult to believe that these were the wartime leaders who had once "fondled dreams of an empire for Japan." A few wore western dress but most appeared in Japanese high-collared blouses. "None were dapper," wrote one correspondent, "it's hard to attain any degree of sartorial elegance in a prison."

Gallery members strained to view the men who had once held Japan's destiny in their hands. Bald and heavy-set Lieutenant General Kenryo Sato, wearing a khaki military uniform without decorations, led the procession. Okinori Kaya, fifty-seven year old former minister of finance, surveyed the courtroom like a curious schoolboy. A surly General Teiichi Suzuki, minister without portfolio from 1941-1943, bristled, his face revealing a sullen grimace.

Thin, bespectacled fifty-six year old Colonel Kingoro Hashimoto, leader of a field artillery regiment at the "rape of Nanking" looked like a "harassed bank clerk" according to the Pacific Stars and Stripes. Former War Minister Baron Sadao Araki sported a walrus mustache. Wearing gold-rimmed glasses, short and fat General Yoshijiro Umezu, the sixty-four year old, former commander of the Kwantang Army in Manchuria, looked, according to the Ashai Shimbun, like the "master of a flourishing shop." Lieutenant General Hiroshi Oshima, former ambassador to Nazi Germany, acted haughtily. The sixty year old diplomat looked more like a "dandy" with his white pocket handkerchief, flashy bow tie and black-ribbed pince-nez. Former War Minister Tojo picked his nose unconcernedly and flirted with an American stenographer. Four white-helmeted American M.P.s and a detail officer accompanied the defendants and guided them to their assigned seats in the prisoner's dock. After seating the twenty-six accused, the four M.P.s stood guard behind the prisoners' box. One soldier stood on each side of the booth. At 11:20 a.m., Captain Donald S. Van Meter, marshal of the Tribunal, ordered the court to rise. Nine black-robed Allied judges solemnly entered the courtroom. The flag of each Allied country was positioned in the order the jurists sat. At 11:22 a.m., Marshal Van Meter, in a voice that echoed throughout the courtroom, announced that the International Military

Tribunal for the Far East was now officially in session.<sup>1</sup>

Court President Sir William Flood Webb opened the proceedings with a special statement. Webb, a large, florid man with the "bold nose of a Wellington," possessed, by mutual agreement of his colleagues, the only microphone on the bench. The chief judge announced in his fine Australian drawl that "there has been no more important criminal trial in all history." He went on to say that prior to gathering for the initial session, tribunal members had signed a "joint affirmation" to deliver justice "according to law, without fear, favor or affection." Sir William reminded his audience that it would be incumbent upon the prosecution "to establish guilt beyond reasonable doubt."

Webb's prefatory remarks dealt with the two official trial languages, English and Japanese. Noting that the use of two languages made it certain that the trial would be lengthy, he proposed to meet with the prosecution and defense sections to find ways to shorten the proceedings. He hoped to reduce the trial's length by the admission of documents and facts "as to which there can be no real contest."

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<sup>1</sup>For descriptions of the May 3 session, see New York Times, May 3, 1946, pp. 1, 10; U.S. Army Pacific Stars and Stripes (Tokyo), May 4, 1946, pp. 1,4; Nippon Times (Tokyo), May 4, 1946, pp. 1,2; Osaka Mainichi, May 4, 1946, pp. 1,2; Newsweek, May 13, 1946, p. 50; Time, May 20, 1946, p. 24; The Oriental Economist, Tokyo War Crimes Trial: International Military Tribunal for the Far East (Tokyo, 1946), volume one, pp. 43-48; Asahi Shimbun, May 4, 1946; Tokyo Shimbun, May 4, 1946; Mainichi Shimbun, May 6, 1946; and Yomimuri Shimbun, May 6, 1946. The last four newspapers are located in GHQ, SCAP, Allied Translator and Interpreter Service (ATIS), Press Translations and Summaries, Reel 13, Number 14-26.

Promising "a fair and prompt trial," Webb concluded that the trial would be conducted with the "utmost expedition consistent with justice to the accused." Before noon recess, the Tribunal completed opening day matters.<sup>2</sup>

Also on the first day Chief Prosecutor Joseph Keenan introduced his associate counsels. Keenan, whom Time magazine described as resembling W. C. Fields, brought forward the ten associate prosecutors. Afterwards, Court Marshal Van Meter, with bright red hair, swore in the court's interpreters, translators and language arbiters in fluent Japanese. Eight Japanese interpreters anchored a fifteen member language section. Takani Oka, a twenty-three year old second year student at Rikkyo University, was the youngest interpreter. Fifty-seven year old Toshio Shimauchi, described by the Tokyo Shimbun as able to "put an American to shame when it comes to correct English," topped off the list. Although English and Japanese were the official trial languages, the court called upon the language section to translate documents and statements into English, Japanese, Chinese, Annamese, Dutch, French, German, Italian, Malayan, Russian, Spanish, Swedish, Burmese, Marshallese, Mongolian, Tho and Solomon Islands dialects.

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<sup>2</sup>For Webb descriptions, see Pacific Stars and Stripes, November 10, 1948, p. 10; Newsweek, May 13, 1946, p. 50; David Bergamini, Japan's Imperial Conspiracy (New York, 1971), pp. 176-177; and William Sebald with Russell Brines, With MacArthur in Japan (New York, 1965), p. 156. For Webb's opening comments, see International Military Tribunal for the Far East, Tokyo War Crimes Trial, Proceedings (Tokyo: The Tribunal, 3 May 1946-16 April 1948), pp. 21-22.

Despite competent interpreters and modern translation facilities, Japanese language translations consistently delayed the trial's pace. The nuances and formality levels of Japanese proved formidable even to the Japanese themselves. Baron Kiichiro Hiranuma, the eighty-four year old former chief justice of Japan and eldest of the accused, spoke a classical Japanese which a native speaker could not readily understand. Literal translation was often impossible. The head of the prosecution language section estimated that it required at least eight hours to prepare a working translation of a single page of Japanese material.

The courtroom examination of Japanese witnesses caused further delays in the proceedings. The vagueness of their responses irritated both prosecution and defense counsel. Major Moore, the IMTFE language arbiter, alleged that it was "an established fact" that an Oriental "when pressed will dodge the issue." Prosecution attorney David N. Sutton, Jr. insinuated that Orientals were "masters of evasion" on the witness stand. IPS attorney Solis Horowitz charged that a Japanese witness was "discursive" and would frequently evade questions. Horowitz further asserted that a Japanese witness gave a "monumental amount of unimportant detail" and often gave his responses "according to what he believes the examiner desires him to say." Indeed, during direct examination of Japanese witnesses, the speed of the trial slumped to one-fifth of its normal pace.<sup>3</sup>

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<sup>3</sup>For Keenen as W. C. Fields, see Time, May 20, 1946, p. 24.

To compound matters, two of the judges did not understand either of the official trial languages. Soviet Justice Major General I. M. Zaryanov understood neither Japanese nor English and had to bring his own translators and interpreters to Tokyo. French judge Henri Bernard, who replaced French jurist M. Henri Reimburger on April 5, was equally deficient and also brought a translation staff.<sup>4</sup>

For title and description of ten Associate Counsel, see IMTFE, Proceedings, pp. 23-25. For Captain Van Meter, see Nippon Times, May 4, 1946, p. 2. For court interpreters, see Tokyo Shimbun, May 16, 1946, ATIS, Reel 13, Political Series 773, item 4. For wide variety of languages, see Pacific Stars and Stripes, November 14, 1948, p. 10. For Hiranuma and classical Japanese, see William Sebald with Russell Brines, With MacArthur in Japan, p. 160. For the impossibility of literal translation, see International Military Tribunal for the Far East, Judgment of the International Military Tribunal for the Far East (Tokyo: The Tribunal, November 12, 1948), p. 17. For examination of Japanese witnesses, see IMTFE, Proceedings, p. 4300; David N. Sutton, "The Trial of Tojo: The Most Important in All History?" American Bar Association Journal 36 (February 1950):95; and Solis Horowitz, "The Tokyo Trial," International Conciliation 465 (November 1950):492 (footnote 26), 538-539,

<sup>4</sup>For judges' language handicap, see account by Tojo's defense lawyer George F. Blewett, "Victor's Injustice: The Tokyo War Crimes Trial," American Perspective 3 (Summer 1950): 282; and Catholic University Law Professor Gordon Ireland, "Uncommon Law in Martial Tokyo," Year Book of World Affairs (London, 1950), pp. 59, 86-87 and "Ex Post Facto From Rome to Tokyo," Temple Law Quarterly 21 (July 1947): 49-50, footnote 91. Prosecution attorneys Solis Horowitz, David Nelson Sutton and H. A. Hauxhurst claim that only the Russian judge was handicapped by language ability. See Solis Horowitz, "The Tokyo Trial," International Conciliation, p. 488; D. N. Sutton, Jr., "The Trial of Tojo: The Most Important Trial in All History?" American Bar Association Journal, p. 96; and H. W. Hauxhurst, "Forum on War Crimes Trials," American Bar Association, Proceedings of the Sections of International and Comparative Law, Seattle Meeting, September 6-7, 1948 (Chicago, 1949), p. 31. See defense counsel George A. Furness version in Richard H. Minear, Victor's Justice: The Tokyo War Crimes Trial (Princeton, 1971), p. 82, footnote 18. James T. C. Liu, assistant to Chinese Associate Prosecutor Judge Che-Chen Hsiang, mistakenly

After the noon recess, the twenty-eight defendants returned to the courtroom. Former War Minister Seishiro Itagaki and Vice War Minister Heitaro Kimura took their places in the prisoners' dock. The rest of the day's session revolved around the reading of the indictment. At 2:45 p.m., Dr. Kenzo Takayanagi, Law Professor at Tokyo Imperial University and conversant in both English and Japanese, objected to the "obvious errors and inaccuracies of a substantial character" in the Japanese text of the indictment. Major Moore, the court language arbiter, admitted to "typographical errors" in the translation, but insisted that those mistakes would not essentially alter the meaning of the indictment. Webb agreed and, overruling Professor Takayanagi, directed Marshal Van Meter to continue reading.

The erratic behavior of sixty-one year old defendant Shumei Okawa highlighted the afternoon session. Dr. Okawa, friend of Colonel Komoto Daisaku, the man who had planned the murder of Chinese General Chang Tso-lin in 1928, "added color to an otherwise routine proceedings." Author during the 1930s of numerous books and articles advocating the expulsion of the white race from Asia, the cadaverous Okawa fidgeted nervously and wiggled and swayed in his chair "like a school boy." Finally the former Director

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claims that all eleven judges understood English and Japanese, see Liu, "The Tokyo Trial: Source Materials," Far Eastern Survey 18 (July 28, 1948):168.



of the East Asia Research Institute of the South Manchuria Railway removed his coat and unbuttoned his gray pajama top underneath. Lieutenant Colonel A. S. Kenworthy quickly reached around Okawa's neck and fastened his pajama top. Moments later "the self-appointed star performer of the proceedings," jumped from his seat and slapped the bald head of Tojo, who sat directly in front of Okawa. M.P.'s quickly restrained Okawa as Tojo smiled with obvious embarrassment. Okawa grinned heartily as President Webb called a recess at 3:35 p.m.

During the recess Kenworthy permitted cameramen to photograph the prisoners. When one attempted to get a close-up of Okawa, the latter quickly rose up and slapped Tojo's "shining dome" yet another time. The chief judge called for order as the prisoners were removed from the courtroom. Okawa babbled as he was led out. When the trial resumed at 4:00 p.m., Kenworthy seated Okawa out of reach of Tojo. The former propagandist wept through most of the last forty minutes of the proceedings.<sup>5</sup>

During the next day's session, Captain Van Meter

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<sup>5</sup>For Takayanagi and Indictment errors, see IMTFE, Proceedings, pp. 30-31. For descriptions of Okawa's antics, see Pacific Stars and Stripes, May 4, 1946, pp. 1, 4; Los Angeles Times, May 4, 1946, pp. 1, 2; and Life, May 27, 1946, pp. 47-50. Okawa told reporters that "I must kill Tojo." Okawa stated that he was in excellent health because he took "nourishment from air," adding "give me a cigarette." Okawa then eagerly reenacted his Tojo head slap for press photographers "while flashbulbs boomed." See Nippon Times, May 5, 1946, p. 2.



completed reading aloud the fifty-five count indictment. Captain Coleman, chief of counsel for the defense, then asked permission to present "the situation relating to counsel for the defense." Coleman reported that only twenty-two of the twenty-eight defendants had individual Japanese counsel. President Webb halted Coleman's discussion and declared that Japanese defense counsel must introduce themselves to the Court. Dr. Ichiro Kiyose, Tojo's white-haired lawyer, presented them. The Tribunal president, however, refused Coleman's request to introduce the six American defense lawyers. Sir William claimed that the Americans had no standing until nominated by an accused. Dr. Shumei Okawa was absent from the court, pending psychiatric examination.

On May 6, the fourth day of court, the Tribunal entertained defense challenges and took the pleas of the defendants. The Monday session opened with each judge finding on his chair a pamphlet entitled "Japan's Record and World Security." Webb stated that the presence of the anti-Japanese booklets was "most improper" and the Court would not be influenced "in the slightest" by that action. The defense section's first objection, dealing with language errors in the indictment, caused "much oral dueling" on the courtroom floor. Kenzo Takayanagi, defense counsel for Mamoru Shigemitsu, and professor of Anglo-American law at Tokyo Imperial University, repeated his earlier objection regarding the substantial difference between the English

and Japanese texts of the indictment and argued that because it was a crucial document the mistakes should be "rectified beforehand." Chief Prosecutor Keenan objected to these "dilatory proceedings" of the defense and remarked that the indictment translation was provided merely "for the convenience of the defendants." Lieutenant Colonel Franklin E. N. Warren, American counsel for Kenji Dohihara and Yosuke Matsuoka, objected to the IPS leader's statements. Warren, Executive Officer to the Pacific Theatre Air Judge Advocate General, pointed out that there were so many errors that some defendants could not understand the "legal import of the document presented to them." He added that the prosecution section had been on active organization for several months while the "defense is new."

Dr. Ichiro Kiyose, counsel for Tojo, echoed Warren's concerns. Clutching a copy of the IMTFE Charter, Kiyose cited Article 9b which provided that the trial be conducted in English and Japanese. Challenging Keenan's statement that the indictment translation had been provided "for the convenience of the defendants," Kiyose asked the Tribunal to consider Japanese, along with English, as an official trial language. Although President Webb conceded Kiyose's point, he did not delay the proceedings to correct the indictment. Later in the day he ordered the court language arbiter to summarize statements rather than translate them. Sir William stated that if the Tribunal were to wait "until every word" was translated, the trial would "go on for

years."<sup>6</sup>

The second defense objection dealt with the propriety of Sir William Webb presiding over the Tribunal. When Dr. Kiyose challenged the chief judge, he created a minor sensation. The marshal of the court had to call the court to order because of the noise among the spectators. Kiyose, the deputy chief of counsel for the defense, contended that "from the standpoint of justice and fairness" it was improper for Webb to conduct the trial. Pounding the table, Kiyose argued that Sir William's wartime atrocities investigations would "influence the decisions taken here." After withdrawing to consider Kiyose's motion, acting court president Erima H. Northcroft announced that the Tribunal did not possess the authority to unseat anyone appointed by the Supreme Commander for the Allied Powers (SCAP). Webb took no part in the court decision and after the Tribunal finding he stated that prior to accepting his appointment as court president he had "seriously considered" what effects his World War II atrocities report might have on the trial proceedings. He concluded, however, that the "best legal opinion" in Australia had confirmed his eligibility.

After the Kiyose challenge, the Tribunal heard the individual pleas from the defendants. Twenty-seven of the twenty-eight pleaded innocent to all charges. Only sickly

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<sup>6</sup>For May 4 comments, see IMTFE, Proceedings, pp. 75-80. For May 6 discussion, see Proceedings, pp. 86-92, 109-110 and the Nippon Times, May 7, 1946, pp. 1, 3.

Yosuke Matsuoka, former Oregon houseboy and League of Nations delegate, made his plea in English. Some of the individual responses "were barked out like military commands." Shumei Okawa, the twenty-eighth defendant, was still absent from court, pending an examination by Dr. Yushi Uchimura, director of Matsuzawa Hospital, Japan's foremost mental institution.<sup>7</sup>

The defense requested additional time to prepare its case. Noting that the "setting of the arraignment was exceedingly early," Dr. Kiyose asked for two months to examine the evidence. Captain Coleman pointed out that "numerous defendants, as well as their personal Japanese attorneys" were still awaiting the arrival of the American counsel. Lieutenant Colonel Warren argued that only on the previous afternoon were any individual American counsel officially selected by the Japanese defendants. Warren reiterated the marked advantage of the prosecution section which had "many months preparation with an adequate staff." Warren, who

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<sup>7</sup> For Northcroft's dismissal of Kiyose petition, see Modern Military Branch, World War II War Crimes (IMTFE), Record Group 238, Court Papers, Box No. 88, Item #43, National Archives, Washington, D.C.; IMTFE, Proceedings, pp. 92-98 and Nippon Times, May 7, 1946, pp. 1, 3. For Webb's comments on his eligibility, see Proceedings, p. 98 and RG238, Proceedings in Chambers, Box No. 77, volume I, p. 24. For individual pleas, see IMTFE, Proceedings, pp. 100-104; Pacific Stars and Stripes, May 7, 1946, p. 1; and Nippon Times, May 7, 1946, pp. 1, 3. Dr. Uchimura, a professor of psychiatry at Tokyo Imperial University, found Okawa suffering from a "...maniac state due to general paralysis, a syphilitic disease of the brain..." For Uchimura's report on Okawa's mental condition, see RG238, Court Papers, Box No. 88, item #66 (12 pp.).

specialized in labor and criminal law, noted that newly arriving American defense counsel lacked even desks. Webb, however, insisted there was ample time to construct a suitable defense. The court then recessed until May 13 when the Tribunal would consider the defense motion regarding the jurisdiction of the IMTFE. President Webb set June 3 as the opening day of the prosecution's case.

During the week-long recess, the International Defense Panel (IDP) attempted to coordinate its cases. At a May 9 meeting at the Gaimusho Building, the defense section established three divisions: general affairs, liaison, and investigation sections. The defense lawyers also created a research office with political, diplomatic, army and navy sections to prepare at least minimal cases for the accused. The IDP members appointed seventy-five year old Dr. Somei Uzawa as chief of the Japanese Defense Counsel. To increase their meager trial funds, each counsel would contribute 1000 yen while each defendant had to give 10,000 yen. The money would be used to hire translators and clerical staff. Despite this, an acute shortage of funds hampered the defense case throughout the long trial.<sup>8</sup>

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<sup>8</sup>For Kiyose, Coleman, Warren and Webb remarks, see IMTFE, Proceedings, pp. 112-117. For Coleman petition requesting additional time, see RG238, Court Papers, Box No. 88, item #30. For IDP preparations, see Nippon Times, May 11, 1946, p. 1. Japanese counsel petitioned their government for extra money but received only office space for some attorneys. See Nippon Keizai Shimbun, June 2, 1946, ATIS, Press Translations and Summaries, Numbers 27-43, Political Series 837, item 4. For IDP lack of sufficient money, see Pacific Stars and Stripes, June 30, 1946, p. 1; Nippon Times, May 7, 1956,

On Monday, May 13, the Tribunal entertained defense motions regarding IMTFE's jurisdiction. Ichiro Kiyose, clad in military boots, delivered a trenchant ninety minute presentation. He argued that the Court had no authority to try the defendants for Crimes against Peace and Humanity because during the war the Allies had made no pronouncements concerning the postwar trial of Japanese war criminals on those two novel charges. Dr. Kiyose argued that international law contained "no mention of planning a war as a war crime," and that Crimes against Peace and Crimes against Humanity were ex post facto laws violating a fundamental principle of law. In other words, an individual could not be indicted for an offense that was not criminal at the time of its commission. Tojo's lawyer contended that Japan had surrendered, not unconditionally, but to the Potsdam terms, which contained no mention of Crimes against Peace and Humanity. Kiyose referred to Article 5 of the Potsdam Declaration: "Following are our terms. We will not deviate from them."

On May 14, the defense continued to challenge the Tribunal. U.S. Army Captain George A. Furness, who had defended Japanese Lieutenant General Masaharu Homma before a war crimes trial in Manila, attacked the vindictive composition of the IMTFE. Furness, American counsel for Mamoru Shigemitsu, pointed out that the Tribunal contained

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p. 3; and Courtney Browne, Tojo: The Last Banzai (N.Y., 1967), p. 226.

only victor nations. Since no neutral country justice sat on the bench, he questioned the fairness of a court composed of "nations who are parties plaintiff, nations who are accusers."<sup>9</sup>

Major Ben Bruce Blakeney, counsel for Yoshijiro Umezu, challenged the Tribunal's definition of war crimes. Blakeney, an Oklahoman who had been World War II Chief of the Japanese Section and POW Interrogation Division of the Air Intelligence School, argued that war, however abhorrent, could not of itself be considered a criminal offense. In his view the concept of war and indeed the "very existence of the entire body of international law on the subject of war" implied the legal right to use force, and no legal precedents existed to charge the defendants with planning, waging or initiating a war of aggression. Blakeney claimed that the accused must be charged with "crimes or offenses legally recognized." Blakeney's address also touched on the Allied use of the atomic bomb. Major Blakeney, one of three American defense lawyers who spoke Japanese fluently, addressed the court's attention to Article 39 of the indictment, charging the defendants with murder at Pearl Harbor. Blakeney contended that if the December 7, 1941 killing of

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<sup>9</sup>For Kiyose motion, see IMTFE, Proceedings, pp. 120-190; Pacific Stars and Stripes, May 14, 1946, p. 1; Nippon Times, May 14, 1946, pp. 1, 2; L.A. Times, May 14, 1946, p. 5, and Osaka Mainichi, May 15, 1946, p. 1. Other defense motions can be found in RG238, Proceedings in Chambers, Box No. 77, volume I, pp. 1-9 and Court Papers, Box No. 88, item #31. For Furness comments, see IMTFE, Proceedings, pp. 196-201.



Admiral Kidd and four thousand other Americans was murder, "we know the name of the very man" who dropped the atomic bomb at Hiroshima and the identity of the chief of staff who planned it.

Following Blakeney's remarks, a translation dispute erupted. Commenting on the translation and interpretation difficulties, Major Moore, the court language arbiter, stated that a literal translation of Blakeney's comments into Japanese would be impossible. The Arbiter reminded the Tribunal of the "inherent difficulties" of the Japanese language which "speaks in an opposite way" from English. Naval Ensign D. P. Horstein, head of the court's Language Division, supported Arbiter Moore's position. Horstein argued that without a full and complete translation staff, "neither of which is available to the Tribunal or the defense," it would take several days to translate Blakeney's speech. President Webb then redirected Horstein and Moore to summarize the statements rather than translate them.<sup>10</sup>

George Yamaoka, a New York city attorney and the only Nisei defense attorney, who was American counsel for both Okinari Kaya and Shigenori Togo, also challenged the Tribunal's

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<sup>10</sup> For Blakeney remarks, see IMTFE, Proceedings, pp. 201-220; Stars and Stripes, May 15, 1946, p. 1; L.A. Times, May 15, 1946, p. 7; Asahi Shimbun, May 15, 1946, ATIS, May 17, 1946, Press Translations and Summaries, Numbers 14-26, Political Series 773, item #4. Language disputes became so routine that Webb established a Language Arbitration Board on November 5. See Proceedings, p. 10474 and RG238, Court Papers, Box No. 88, item #61.



interpretation of war crimes. Yamaoka, whose father Otataka Yamaoka had served as a member of the Japanese Parliament, attacked the wide scope of the indictment which covered the years 1928-1945. Yamaoka reemphasized that Crimes against Peace and Humanity were ex post facto laws and ridiculed the doctrine of conspiracy. Conspiracy, he insisted, was only a misdemeanor under common law and nonexistent as a felony in international law.

Chief Prosecutor Keenan scoffed at the defense arguments. Keenan stated that the Tribunal was not making any new law but only enforcing "valid, existing and just precepts of law." He argued that it would be necessary to send a rocket ship to Mars to find neutral justices to sit on the Tokyo bench. According to Keenan, the real test of the impartiality of the court would be answered by history. Addressing Blakeney's earlier remarks on the atomic bomb, Keenan stated that "we make no more apology" for its use than does a "decent, innocent citizen" who employs force "to prevent his life from being taken by an outlaw."<sup>11</sup>

On May 15, the Tribunal continued to hear defense motions. Captain Samuel J. Kleiman, American counsel for Kiichiro Hiranuma, issued a defense motion requesting the prosecution to provide the accused with a "plain, concise" indictment as provided by Article 9a of the IMTFE Charter. Kleiman, a New York city criminal lawyer, argued that the

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<sup>11</sup>IMTFE, Proceedings, pp. 220A-240.

indictment was vaguely worded and inexpertly drawn up. He pointed out that the indictment should be based not on allegations or opinion but on "facts, documents and legal evidence." Citing legal precepts dating back to the days of the Magna Charta, Kleiman asked the prosecution for a "bill of particulars concerning each offense alleged."

Two days later, President Webb announced the Tribunal's decisions on all defense motions. During a seven minute session, Webb rejected all defense motions for "reasons to be given later." The court president set aside defense petitions regarding Tribunal jurisdiction and types of war crimes alleged. He gave no ruling on the motion for a bill of particulars. Before adjourning until June 3, Webb introduced Judge Radha Binod Pal of India, the tenth member of the court. In 1937, Pal, then of the Calcutta High Court, had been joint president of the International Congress of Competitive Law held at Hague. Webb also announced that two of the Japanese defendants were still ill and absent from court. Shumei Okawa was suffering from paresis. Yosuke Matsuoka was terminally ill with tuberculosis and died on June 27.<sup>12</sup>

During the three week recess, the defense section filed six more petitions. On May 24, Captain Coleman

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<sup>12</sup>For Kleiman requests, see IMTFE, Proceedings, pp. 307-313; RG238, Court Papers, Box No. 88, No. 54; and Proceedings in Chambers, Box No. 77, "Motion for a Bill of Particulars," pp. 37-42, 47, 59-60. For Tribunal decision on defense motions, see IMTFE, Proceedings, pp. 318-319 and Nippon Times, May 18, 1946, p. 1.

requested a continuance of the case. He catalogued the defense handicaps and asked for more time to enable counsel "to adequately prepare for trial." Charging that the prosecution had six months to prepare its case and "hundreds of assistants, investigators and expert personnel" to assist it, Coleman asked for more time for newly-arriving American defense attorneys. He pointed out that sixteen American lawyers had just arrived in Tokyo. They needed time to become "reasonably conversant" with the case, a "monumental" task.

On June 3, the actual trial began. Following the introduction of twelve new American defense attorneys, the defense team filed more motions. Floyd J. Mattice, American counsel for Iwane Matsui, addressed the Court as spokesman for the newly arrived lawyers. Mattice, a former special assistant U.S. Attorney-General, spoke in support of the earlier motion for additional time. Mattice argued that the offices for the newly-arrived counsel were not yet ready. He also noted that defense stenographers and secretaries had just been introduced. Captain Coleman reminded the Tribunal that five defendants still lacked American counsel. Major Blakeney, counsel for Yoshihiro Umezu, filed a motion for specific findings of fact. Upon completion of the proceedings, Blakeney asked the court "to give not only its reasons for its judgment" but to state "the exact matters of fact" which led the Tribunal to reach its final verdict. Webb dismissed the Blakeney

request as "almost contemptuous," but he did grant the defense a ten day continuance effective after June 4.<sup>13</sup>

On June 4, Chief Prosecutor Keenan delivered a four hour opening address. In his fifteen-thousand-word statement, Keenan averred that the purpose of the Tokyo trial was to "confirm the already recognized rule" that individual leaders who plan aggressive warfare are "common felons" and deserve only the punishment delivered to all "murderers, brigands, pirates and plunderers." Keenan alleged that the defendants had conspired with the accused at Nuremburg "to dominate the world." He claimed that the Japanese leaders had followed the Nazi pattern in waging aggressive war, especially in their "habitual tactics of terrorism, ruthlessness and savage brutality." He went on to say that prisoner of war atrocities "were the planned results" of a national Japanese policy. Keenan, "his red cheeks even more flushed than usual," argued that the IMTFE Charter created no new law or novel war crimes charges and that conspiracy was an offense "well-recognized by most civilized nations." Prior to Keenan's address,

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<sup>13</sup>For defense motions, see RG238, Court Papers, Box No. 88, No. 79; Proceedings in Chambers, Box No. 77, volume I, May 25, 1946; and Nippon Times, May 30, 1946, p. 1. For a list of U.S. defense counsel, see Osaka Mainichi, June 2, 1946, pp. 1,2 and Appendix C of this thesis. For June 3, see IMTFE, Proceedings, pp. 325-326, 332-341; L.A. Times, June 3, 1946, p. 1; Pacific Stars and Stripes, June 4, 1946, pp. 1,2; Tokyo Shimbun, June 4, 1946, ATIS, June 6, 1946, Press Translations and Summaries, Numbers 27-43, Reel 14, Political Series 842, item #3; and The Oriental Economist, June 8, 1946, p. 366.

Webb had ordered the two ill defendants, Matsuoka and Okawa, to be placed in Tokyo Imperial Hospital, but he denied defense motions to have their names stricken from the indictment.

On June 5, MacArthur announced the name of the eleventh court justice. Delfin Jaranilla, member of the Philippine Supreme Court and former Philippine Attorney-General, became the last judge to be formally appointed. On June 11, David F. Smith, counsel for Hirota Koki, submitted a motion to the court requesting the disqualification of the Philippine jurist. Smith, like Jaranilla, a graduate of Georgetown University Law School, stated that "personal bias and prejudice" would influence Jaranilla's judicial decisions at the trial. While President Webb had investigated Japanese atrocities in New Guinea and Papua, Jaranilla had witnessed them firsthand. The Philippine member had spent World War II in a Japanese POW camp after surviving the Bataan "death march." Webb, however, rejected Smith's motion to disqualify Jaranilla. On June 13, Jaranilla joined his colleagues on the bench.<sup>14</sup>

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<sup>14</sup>For Keenan address, see IMTFE, Proceedings, pp. 383-475; RG238, Court Papers, Box No. 89, No. 120; and Asahi Shimbun, June 5, 1946, ATIS, June 7, 1946, Reel 14, Political Series 849, item #3. For details on Matsuoka and Okawa, see Proceedings, pp. 376-378; Stars and Stripes, June 5, 1946, p. 1; and Nippon Times, June 5, 1946, p. 1. In reply to Keenan's address, Tojo told the press, through Dr. Kiyose, that the Pacific War was a defensive war for Japan. See Asahi Shimbun, June 26, 1946, ATSI, June 28, 1946, Press Translations and Summaries, No. 44-60, Reel 15, Political series 930, item #3. For Jaranilla disqualification motion, see RG238, Court Papers, Box No. 89, No. 141; Proceedings

The glare of Klieg lights and the summer heat soon began to make both spectators and trial participants visibly uncomfortable. Some of the judges wore dark glasses to block out the blinding white lights and Webb soon ordered court personnel to dim them. The court president remarked that one judge would refuse to sit on the bench if the lighting maintained its present intensity. The poorly-ventilated courtroom granted no relief from the Tokyo summer, and participants fanned themselves incessantly. Black-robed judges sweltered on the bench. Only Soviet judge I. M. Zaryanov looked cool in a summer uniform.

On June 17, Captain Coleman, Lieutenant Valentine B. Deale, Norris H. Allen, John W. Guider, Joseph F. Hynes and C. Talbot Young resigned. They had already criticized the "detached" attitude of Supreme Commander MacArthur and the Tribunal's failure to ensure adequate logistical support for the defense. In a May 31 memorandum to SCAP, the six lawyers had argued that the defense section would be of "such a low order of competence, industry and propriety" as to "preclude" a fair trial for the accused. MacArthur took the position that SCAP was responsible only "to make attorneys available." President Webb thought the defense situation was not a court responsibility but an American concern. Only the U.S. judge John P. Higgins expressed

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in Chambers, Box No. 77, volume I, pp. 20-24; and Nippon Times, June 12, 1946, p. 1. For Webb on Tribunal composition, see IMTFE, Proceedings, p. 491.

concern over the plight of the defense team. With the resignation of Chief of Counsel Coleman, the Tribunal ordered the IMTFF General Secretary to abolish IDP. The defense section now lacked Tribunal sanction or support.

The six resigning lawyers pointed out the immense difficulties for Japanese defense attorneys. They argued that the Japanese were "thoroughly unacquainted" with Anglo-American legal procedure, and simply did not understand "what it meant to make a real defense for their clients." The Japanese idea of the role of a criminal defense counsel was "to put flowers gracefully on his client's grave." The six American attorneys emphasized that the burden of the defense would lie with the American lawyers, most of whom had only recently arrived in Tokyo.<sup>15</sup>

Japanese newspapers echoed this concern for the courtroom responsibility of the Japanese lawyers. The Asahi Shimbun lamented the dismal trial performance of Japanese counsel. The Tokyo Shimbun remarked that Japanese

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<sup>15</sup>For heat and lights, see IMTFF, Proceedings, p. 1087; Christian Science Monitor (Boston), June 4, 1946, p. 1; Osaka Mainichi, June 15, 1946, p. 1; and Mainichi Shimbun, June 24, 1946, ATIS, June 25, 1946, Reel 15, Political Series 918, item #3. For more examples of Court complaints about heat and Klieg lights, see Proceedings, pp. 1172, 1184, 1185, 1288, 2262-2263, 2287, 2365. For defense resignations, see Valentine B. Deale, letter to the N.Y. Times, December 19, 1948, p. 8E; Valentine B. Deale, interview at his office, Washington, D.C., February 5, 1979; Beverly M. Coleman, interview at the Metropolitan Club, Washington, D.C., April 22, 1979; Beverly M. Coleman, telephone conversation, July 31, 1979; Stars and Stripes, June 18, 1946, p. 1; Nippon Times, June 18, 1946, p. 1; and Solis Horowitz, "The Tokyo Trial," p. 526.



attorneys presented a "poor showing" in comparison to the prosecution. Tokyo Jiji pointed out that the shrewd, legal cross-examination techniques and tactics of American defense lawyers were "still foreign to Japanese counsel." The Tokyo Shimbun noted that Japanese attorneys "lacked dignity" and made "irrelevant speeches."<sup>16</sup>

Verbal clashes punctuated the Tuesday, June 18 proceedings. President Webb chided the defense for its "wholly useless" cross-examination. The Australian justice reminded Lieutenant Colonel Franklin Warren, counsel for Kenji Dohihara, that the Court was not bound by the strict rules of evidence. He remarked that the court must rely on its "own sound judgment." Webb reminded Captain Samuel J. Kleiman, counsel for Kiichiro Hiranuma, that if the defense insisted on having "every 'i' dotted and every 't' crossed in this case," the trial would never end.

During the Tuesday session, Australian Associate Prosecutor Alan James Mansfield requested the right to substitute signed affidavits for the direct testimony and cross-examination of witnesses. Mansfield argued that the actual courtroom examination of prosecution witnesses

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<sup>16</sup> Asahi Shimbun, May 15, 1946, ATIS, May 17, 1946, Press Translations and Summaries, No. 14-26, Reel 13, Political Series 769, item #3; Tokyo Shimbun, June 4, 1946, ATIS, June 6, 1946, No. 27-43, Reel 14, Political Series 847, item #2; Tokyo Jiji, June 20, 1946, ATIS, June 24, 1946, No. 44-60, Reel 15, Political Series 907, item #2; and Tokyo Shimbun, July 8, 1946, ATIS, July 11, 1946, No. 61-74, Reel 16, Political Series 980, item #2.



would be extremely protracted, possibly lasting until 1948. He estimated that it would require three hundred sixty more court sessions just to hear the courtroom testimony of all the prosecution witnesses. Court President Webb approved Mansfield's request but noted that the Tribunal was granting a "big concession here, perhaps not without grave misgivings." Webb pointed out that the prosecution deponents in most cases gave evidence in response to leading questions.

The defense attorneys bitterly protested this decision. Captain Alfred W. Brooks, counsel for Kuniaki Koiso, reminded the Tribunal of the fundamental right to be confronted by one's accused. Brooks referred to the important courtroom observations of the witness. He cited the "elusive and incommunicable evidence of a witness's deportment while testifying." Dr. Kiyose declared there would be a great gap between the testimony of a witness in court and on paper.<sup>17</sup>

On June 18, Chief Prosecutor Keenan held a press conference in Washington, D.C. Keenan announced that it would be a "distinct mistake" to indict Emperor Hirohito for World War II war crimes. Hirohito, he said, was just a "figurehead and a fraud" perpetrated on the Japanese people, and the imperial institution had been "used as an

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<sup>17</sup>For Tribunal clashes with defense and court admission of affidavits, see IMTFE, Proceedings, pp. 858, 884, 916-917, 922-923, 925-928, 935, 987, 1320-1322, 1400-1401, 1846-1853, 4451-4455, 4549; Stars and Stripes, June 19, 1946, p. 1; and Nippon Times, June 19, 1946, p. 1 and June 20, p. 1.

instrument of the warlords." Remarking on the "wrangle" among the American defense section, Keenan stated that the six resignations, which included the chief of counsel for defense, would not delay the case. He claimed that there was "not the slightest trace of friction" among the prosecuting nations and concluded that the trial would be over in three months.

On June 20, President Webb permitted the prosecution to translate only excerpts, rather than entire documents to be admitted as evidence. Previously, the Tribunal had required that all publications tendered as prosecution evidence would be translated in their entirety and made available to the defense. The chief judge ruled that the defense must translate the parts which they intended to question. Prosecution attorney Valentine C. Hammack complained to the court that the translation situation was "impossible." Hammack, a former special assistant to the U.S. attorney-general, alleged that the problem was so serious that the prosecution could not translate "half the documents that we need." He stated that it was physically impossible for IPS to continue to translate entire documents for the defense as well.

William Logan, Jr., counsel for Koichi Kido, vigorously protested Webb's ruling. Logan pointed out that to expect the defense to translate the entire document on its own would be unfair. Logan stated that the defense had almost twenty translators while the prosecution had over two hundred.

He stressed that the defense lacked money with which to obtain additional translators. The court president turned a deaf ear to Logan's pleas. Prior to adjournment, the court clerk, in a reserved and official tone, announced that boxer Joe Louis had just defeated Billy Conn in the eighth round.<sup>18</sup>

On June 28, prosecution attorney Navy Commander Bentley M. McMullin resigned. McMullin charged that prosecution of the Japanese war crimes suspects had succumbed to "mal-administration, neglect and inefficiency." He alleged that Keenan and his principal aides had selected IPS personnel "on the run." He characterized prosecution efforts as a "series of spasmodic and frenzied efforts, first in one direction and then another." Keenan countered that McMullin had resigned because he had failed to receive a promotion.

By the end of June, the Tokyo War Crimes Trial, according to the Pacific Stars and Stripes, had slipped to a "second rate show." Japanese spectator interest waned as the slow pace of the boring proceedings failed to sustain their attention. Legal wranglings, technical disputes and

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<sup>18</sup>For Keenan press conference, see N.Y. Times, June 18, 1946, pp. 1, 13; L.A. Times, June 18, 1946, p. 7; Stars and Stripes, June 19, 1946, p. 1; and Nippon Times, June 19, 1946, pp. 1, 2. For admission of excerpts and defense translation problems, see IMTFE, Proceedings, pp. 1066-1072, 2730, 2732, 2734; Stars and Stripes, June 21, 1946, p. 1; and Nippon Times, June 24, 1946, p. 1. As of December 30, 1946, IPS had 150 translators to the defense's 50. See Proceedings, pp. 13886, 13888-13889.

the "monotonous introduction of unrevealing documents and affidavits" dominated the trial. Fifty percent of the Tribunal's time was spent haggling over rules of procedure. The Japanese press criticized the dullness of the proceedings. Few of the defendants showed enough courage "to stir up a good hate." Chief Prosecutor Keenan told the press that the Japanese people were "apathetic" towards the trial but had not shown any resentment. When a Tokyo Newsweek correspondent showed a picture of each trial defendant to twenty-two Japanese selected at random, most could identify only two of the accused.<sup>19</sup>

On July 3, three of the defendants, Kingoro Hashimoto, Okinari Kaya and Hideki Tojo, still had no American lawyers. Three American attorneys each represented two defendants. For this reason, President Webb asked the defense team whether it desired additional American lawyers, and offered

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<sup>19</sup>For McMullin resignation, see Pacific Stars and Stripes, June 29, 1946, p. 1. For Japanese interest in the trial, see London Times, April 30, 1946, p. 3; Nihon Keizai, May 4, 1946, ATIS, Press Translations and Summaries, No. 14-26, Reel 13, Editorial Series 888, item #2, Mimpo, June 14, 1946, ATIS, No. 44-60, Reel 15, Political Series 884, item #1; Osaka Mainichi, June 17, 1946, p. 2; Stars and Stripes, June 30, 1946, p. 1; Newsweek, July 1, 1946, p. 38, Robert J. C. Butow, Tojo and the Coming of the War (Princeton, 1961), pp. 491-492; and Fred T. Rogers, "The Tokyo Trial of Hirota Koki" (M.A. Thesis, Stanford University, June 1953), pp. 114-115. For the 50% figure, see Lawrence W. Wadsworth, Jr., "A Short History of the Tokyo War Crimes Trial with Special Reference to Some Aspects of Procedures" (Ph.D. dissertation, American University, 1955), p. 139.

to inform MacArthur of the need. Several defense lawyers asked Webb to provide the full complement of thirty-one American defense attorneys. The Tribunal president agreed to forward a copy of the day's proceedings to SCAP.

On July 11, President Webb sent Supreme Commander MacArthur a letter requesting additional money for Japanese defense lawyers. Webb informed SCAP of the "miserable plight" of Japanese attorneys who received "no payment for their services." On July 19, MacArthur promised more financial assistance. The Japanese government, he wrote, would underwrite some of the defense counsel's court expenses. Each principal Japanese counsel would receive eighteen hundred yen per month, while assistants would receive fifteen hundred yen per month. Defense counsel would also be given one hundred yen per day for travel and meal expenses if they resided outside of Tokyo.<sup>20</sup>

Trial rules of evidence and procedure continued to hamper the defense case. The IMTFE Charter permitted the court to receive any evidence that it considered to have "probative value." In addition to allowing prosecution evidence by deposition and excerpt, the Tribunal permitted leading questions, hearsay evidence and the testimony of

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<sup>20</sup>For July 3, see IMTFE, Proceedings, pp. 1838-1841; Records of Allied Operational and Occupation Headquarters, World War II (SCAP) Record Group 331, Box 411, File 000.5-2, June 30 letter of Colonel John B. Cooley to Sir William, Washington National Record Center, Suitland, Maryland; and Osaka Mainichi, July 4, 1946, p. 1. For July 11, see RG331, SCAP, Box 411, File 000.5-2, July 19 letter of SCAP to Webb.

dead individuals. President Webb frequently reminded defense counsel that the court was not bound by the rules of evidence. Dr. Kiyose angrily complained that the court rules were consistently interpreted in favor of the prosecution.

On July 12, the U.S. court member John P. Higgins resigned from the bench. Ostensibly, Higgins resigned because of an urgent need to return to his Massachusetts judicial duties. Chief Prosecutor Keenan had opposed the appointment of Higgins from the start. Keenan preferred other U.S. candidates and considered Higgins an inferior judge. Justice Higgins had learned of Keenan's adverse opinion only after he accepted the appointment to the Tokyo bench. Higgins, however, remained a gentleman and waited for the appropriate excuse to withdraw; the death of a Massachusetts judge and resulting state vacancy provided just such a pretext.<sup>21</sup>

During mid-July, SCAP installed air-conditioning equipment in the Tokyo courtroom. On July 10, Webb had

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<sup>21</sup>For questionable types of evidence, see IMTFE, Proceedings, pp. 1849-1850, 1854, 2002, 2018, 2032-2033, 2324, 5685, 6441-6443, 11009 and Stars and Stripes, July 4, 1946, p. 1. For Higgins resignation, see IMTFE, Proceedings, p. 2286; N.Y. Times, June 21, 1946, p. 11; Stars and Stripes, June 23, 1946, p. 1; N.Y. Times, June 26, 1946, p. 12, Osaka Mainichi, July 16, 1946, p. 1; Robert M. Donihi letter to John Pritchard, November 16, 1977, copy given to author; Robert M. Donihi, interview at Andrew's Air Force Base, Camp Springs, Maryland, October 14, 1978. Donihi was a prosecutor at both Nuremburg and Tokyo. Keenan preferred Dean Ezra Pound of Harvard, Judge Tom Alred of Texas or Judge Gibson of California.



adjourned the proceedings because of the excessive court-room heat. The court resumed briefly on July 15 to reveal the resignation of Justice Higgins. Forty minutes later the Tribunal adjourned again when the air-conditioning equipment failed to operate.

The proceedings resumed on the twenty-second with an American replacement for Judge John Higgins. Major General Myron C. Cramer became the new U.S. representative. Cramer had formerly served as U.S. Army judge advocate general. Owen Cunningham, counsel for Hiroshi Oshima, challenged the eligibility of Justice Cramer. Cunningham, former president of the Des Moines College of Law, contended that there was no provision in the IMTFE Charter for an additional appointment. He pointed out that Myron C. Cramer's military position and rank was incompatible with an impartial hearing for Japanese accused of war crimes. The counsel for the former Japanese ambassador to Nazi Germany stressed that the new jurist had been absent when a "substantial part of the valid testimony was given." Cunningham moved that the Court declare a mistrial and appoint a new Tribunal. After withdrawing for one hour to consider Cunningham's motion, the Court upheld the appointment of Judge Cramer.<sup>22</sup>

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<sup>22</sup>For air-conditioning mishap, see IMTFE, Proceedings, pp. 2262-2263, 2267, 2294 and Osaka Mainichi, July 11, 1946, p. 1, July 16, p. 1, and July 19, p. 1. For Cramer seating, see Proceedings, pp. 2342-2346, 2351-2352, 2361; RG238, Court Papers, Box No. 90, Numbers 302, 304; Osaka Mainichi, July 24, 1946, p. 1; and U.S. Department of State, Diplomatic Papers,

On July 30, President Webb clarified the Tribunal ruling on the probative value of evidence. The defense team had objected to the introduction of a prosecution document on the grounds that it had no probative value because the date of the document was uncertain. In overruling the objections, the chief judge declared that the question of whether any evidence had probative value would be ultimately decided by the Tribunal "when we come to review the whole of the evidence."

As the trial progressed, Tribunal clashes with defense counsel became more frequent. In June, for example, Webb had objected to the defense counsel's "prolixity in stating objections." Later, on July 9, Major George Furness, counsel for Mamoru Shigemitsu, protested Webb's interpretation of aggressive warfare. The court president reproached Furness for being "very impertinent." He warned Furness that "we will deal with you if necessary." On July 15, Lawrence J. McManus, counsel for Sadao Araki, disapproved of the prosecution's use of the term "massacre at Naha." McManus, formerly of the Justice Department's Criminal Division, stated that no massacre had yet been proved. Webb chided McManus for being "unduly sensitive," and also rebuked Captain Alfred W. Brooks, counsel for Koichi Kido, for "simply wasting time" with his objections.

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Foreign Relations of the United States, 1946, volume VIII (Washington, D.C., 1971), pp. 440-441, 442-444. Such an appointment, Cramer replacing Higgins, would have resulted in a mistrial in the United States.



Webb told Brooks that his attitude was so "utterly unreasonable that it is difficult to control in the ordinary way." Abuse became so regular that several defense attorneys resigned.<sup>23</sup>

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<sup>23</sup>For Webb on value of evidence, see IMTFE, Proceedings, p. 2700. For clashes with counsel, see Proceedings, pp. 1401, 2155, 2289-2290, 2512. For the resignation of counsel due to abuse, see John Alan Appleman, Military Tribunals and International Crimes (Indianapolis, 1954), p. 244. For 1946 Webb clashes with defense, see Proceedings, pp. 3414, 3509, 3688, 3700, 3895, 3913, 3914, 4044, 4219, 4473-4474, 4480-4490, 4495, 4590-4592, 4608, 7822-7825, 7835-7837, 7936, 8693, 11081-11084, 12345-12348. For 1947 examples, see pp. 17548, 18062-18063, 18408-18409, 19927-19929, 20480-20484, 21326, 22508-22509, 25419. For 1948 examples, see pp. 37367-37369, 38480, 38730, 39937-38939, 43459-43463, 43471.

## CHAPTER FOUR

### THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST:

#### THE CASE FOR THE DEFENSE

We are not bound by the rules of evidence, by any rules of procedure, but we do get the best evidence that we can in all circumstances.

-Justice William Flood Webb, September 1947.

In January 1947 the prosecution completed its case. On January 3, the Japanese defense counsel, foreseeing the conclusion of prosecution evidence, broadcast a radio appeal. Citing a "lack of funds, communications, lodging and food," the Japanese attorneys requested help from their government and people. The radio plea, which was also printed in one Tokyo newspaper, referred to the small defense staff that was causing "the greatest difficulties." Dr. Somei Uzawa, seventy-six year old chief of Japanese counsel, stated that Japanese lawyers needed aid in order to prove that circumstances forced Japan to go to war. On January 5, another trial defendant died. Sixty-seven year old Admiral Osami Nagano, former Commander-in-Chief of the Japanese Combined Fleet, succumbed to pneumonia at American Field Hospital Number 361.<sup>1</sup>

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<sup>1</sup>For radio request, see U.S. Army Pacific Stars and Stripes (Tokyo), January 4, 1947, p. 1. The Japanese attorneys issued the appeal without the knowledge of American defense

On January 24, 1947, the International Prosecution Section (IPS) finished presenting its evidence. Prosecution evidence stressed that the defendants had illegally seized control of the Japanese government to further their plans or conspiracy to wage wars of aggression against various Allied countries. The IPS alleged the accused had not only violated existing international law but also customary or nonstatutory law which had long ago declared the criminality of aggressive war. The prosecution, for example, pointed out that the 1928 Pact of Paris banned aggressive warfare as illegal. IPS evidence catalogued the numerous treaties and international agreements Japan had violated. Evidence of atrocities formed a large part of the prosecution case. IPS alleged that the large number of crimes proved a common plan to mistreat and abuse Allied prisoners of war and civilian internees. A parade of prosecution eyewitnesses graphically recounted devious and despicable Japanese atrocities.<sup>2</sup>

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counsel. For Nagano's death, see International Military Tribunal for the Far East, Tokyo War Crimes Trial, Proceedings (Tokyo: The Tribunal, 3 May 1946-16 April 1948), p. 14304; Modern Military Branch, World War II War Crimes (IMTFE), Record Group 238, Court Papers, Box No. 93, item #634, National Archives, Washington, D.C.; and Stars and Stripes, January 7, 1947, p. 1 and January 8, p. 1.

<sup>2</sup>For a summary of IPS evidence and case in chief, see IMTFE Proceedings, pp. 383-475, 38948-42076; Solis Horowitz, "The Tokyo Trial," International Conciliation 465 (November 1950): 503-525; and Joseph B. Keenan and Brendan F. Brown, Crimes Against International Law (Washington, D.C., 1950).

On January 27, the defense section opened its case. While prosecution attorneys had taken 160 trial days to submit testimony, the defense required 190 court days to tender its evidence. The defense team divided its case into six divisions: General Problems, Manchuria and Manchukuo, China, The Soviet Union, The Pacific War, and Individual Cases. The defense section began its case by filing a series of motions. The first defense petition dealt with the jurisdiction of Supreme Commander Douglas MacArthur. David F. Smith, counsel for Hirota Koki, unsuccessfully attempted to introduce the MacArthur motion. Court President Webb refused to permit the document to be entered as evidence or even copied into the trial record. He decreed that it was "not necessary in the interests of justice" to challenge the authority of SCAP, and dismissed the motion as "political harangue."

On January 27 and 28, the defense introduced individual motions to dismiss the indictment charges. Lawrence McManus, counsel for Sadao Araki, introduced the first individual defense motion. McManus, former attorney for the Anti-Trust and Criminal Division of the U.S. Department of Justice, challenged the theory of conspiracy. He stated that the prosecution had failed to actually establish proof of any conspiracy, and pointed out that fifteen different cabinets had ruled Japan from 1928-1945. McManus argued that those frequent cabinet changes proved a lack of consensus, as opposed to a common plan or conspiracy to usurp national

power. He also noted that the Allies had declared Crimes Against Peace and Humanity after the cessation of hostilities. McManus stressed that those two war crimes "were not in existence at the time of their alleged commission."<sup>3</sup>

On January 29, David Smith read the defense motion on behalf of all the accused to dismiss the charges in the IPS Indictment. The General Motion to Dismiss contended that prosecution evidence had failed to offer "even a scintilla of proof" that any of the defendants had engaged a conspiracy to plan, wage or initiate aggressive war. The petition stated that the April 1946 Tribunal Charter embodied ex post facto legislation. Smith pointed out that retroactive legislation was contrary to the practice of all civilized nations "since time immemorial." He argued that individual government officials could not be held criminally liable for acts of the Japanese State. Finally, he emphasized that the indictment was so vaguely worded "as to amount to a mere dragnet and snare."

On February 3, President Webb announced the Tribunal decision. After "due and mature consideration," the Tokyo Court rejected all defense motions to dismiss because said petitions were not "well-founded." The Tribunal, however,

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<sup>3</sup>For court statistics, see Osaka Mainichi, January 26, 1947, p. 1. For Smith and McManus motions, see IMTFE, Proceedings, pp. 16262-16272, 16275, 16300; Pacific Stars and Stripes, January 28, 1947, p. 1; and Osaka Mainichi, January 28, 1947, p. 1. For 25 individual motions to dismiss, see Record Group 238, Court Papers, Box No. 93, Numbers 651, 655, 661, 664, 668-671, 673, 675, 678-679, 683-698, 701, 703.

granted the defense a three week recess to further prepare its case. The defense also received additional logistical support. IPS agreed to share some of its document processing facilities with the defense.<sup>4</sup>

Throughout the proceedings, Webb had taken exception to the trial coverage by two Tokyo newspapers. The Nippon Times on June 24, 1946 had questioned the court president's attitude towards the defense counsel, and had cited the Australian justice's "asperity." The U.S. Army Pacific Stars and Stripes had also aggravated the tribunal president. Webb charged that the trial coverage by the U.S. Army paper had belittled the tribunal in Japanese eyes, and he accused it of "gross misrepresentations," "lying misrepresentations," "serious inaccuracies," and "gross contempt of this court." Finally, in February 1947, Webb summoned Arthur Brackman of the United Press and editor Captain Taylor of the Stars and Stripes before the bench to explain the paper's conduct. Webb ultimately appealed to MacArthur for protection from that "wretched publication." After March 24, the court president stopped issuing a daily complimentary copy of the Tribunal proceedings to the press.<sup>5</sup>

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<sup>4</sup>For General Motion to Dismiss, see IMTFE, Proceedings, pp. 16662-16712, 16997-16998; RG238, Court Papers, Box No. 94, Number 700, and Osaka Mainichi, February 4, 1947, p. 1. The defense had originally requested a thirty-day recess on December 30, 1946. See Proceedings, pp. 13878-13893. For February 3, 1947, IPS sharing agreement, see RG238, Proceedings in Chambers, Box No. 78, volume IV, February 3, 1947, pp. 4-9.

<sup>5</sup>For Webb on Nippon Times, see IMTFE, Proceedings, pp. 1287-1288, 2365, 8773, 40707. For his remarks on Stars and

On February 24, the defense presented its opening statement. Dr. Ichiro Kiyose, Tojo's counsel and deputy chief of the defense, delivered part one of the opening address. Kiyose argued that some Allied countries had violated international law during the war. He mentioned that Russia had attacked Finland in 1939 without a formal declaration of hostilities, and claimed that the August 1945 Soviet invasion of Manchuria was "clearly in violation" of the 1941 Russo-Japanese Neutrality Pact. Dr. Kiyose reiterated the defense contention that the tenet of conspiracy had no basis in international law. He asserted that the doctrine of conspiracy existed only in Anglo-American jurisprudence. Kiyose further declared that war was an act of countries, not of individuals. He averred that international law "imparts no responsibility to individuals in official positions for the act of the state." Kiyose added that even the United Nations, "the latest pronouncement of international law," made no mention of such a doctrine. He went on to stress the wartime differences between Nazi Germany and Imperial Japan. Challenging the prosecution contention that Japanese atrocities were similar to those committed by Germany, he claimed there

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Stripes, see IMTFE, Proceedings, pp. 10579-10580, 1700-17003, 20573-20574, 21282, 21933, 25392; RG238, Court Papers, Box No. 93, Number 704; San Francisco Chronicle, February 24, 1947, p. 4; Pacific Stars and Stripes, February 24, 1947, p. 1; Osaka Mainichi, February 25, 1947, pp. 1, 2; Stars and Stripes, March 25, 1947, p. 4; and New York Times, May 14, 1947, p. 20.



existed "no taint of racial superiority" in Japan as in Germany. There existed no Hitler, Nazi organization, or master race plan in Japan.

Dr. Kiyose claimed that Japan fought a war of self-defense. He catalogued prewar U.S. economic pressure on Japan, such as the July 1939 American abrogation of the 1911 Treaty of Commerce and Navigation, the July 1940 American embargo on scrap iron, and the August embargo on aviation gasoline. He also mentioned the U.S. economic assistance to Chiang Kai-shek from 1937-1941, and referred to the American volunteer P-40 fighter pilots who fought in China against the Japanese before the official outbreak of World War II. Kiyose argued that even the prosecution evidence admitted that the United States had aided China "to a degree unprecedented between nonbelligerent powers."

The defense section scheduled Professor Kenzo Takayanagi, counsel for Teiichi Suzuki, to deliver part two of its opening statement. President Webb refused, however, to permit the Tokyo University Professor of English Law to read his thirty-five page address. Webb conceded its possible value, but argued that it was not the proper time to deliver the speech and that there was no provision in the charter for an additional opening oration.<sup>6</sup>

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<sup>6</sup>For Kiyose speech, see IMTFE, Proceedings, pp. 17012-17028, 17032-17103. For Takayanagi incident, see pp. 17108-17111, 17114-17115 and Osaka Mainichi, February 26, 1947, p. 1. For text of Takayanagi address, see International Military Tribunal for the Far East, Rejected Defense Documents, 1946-1948, (six reels), Law Library, Library of Congress

Decisions on the admission of evidence depended upon the daily composition of the Tribunal. A majority vote of all judges present determined the court's decision with six members constituting a quorum. The president's vote settled ties. Tribunal absenteeism increased markedly as the trial dragged on. Several judges were absent for months at a time. Understandably, the defense protested their long absences. Defense lawyers argued that Tribunal findings, favorable or unfavorable to the defense, rested entirely upon who was present on a given day. Even President Webb admitted to Major Ben Bruce Blakeney that "...I would be deceiving you if I said decisions did not turn on how the Court was constituted from time to time." The Tokyo charter, unlike the Nuremburg one, failed to provide for alternate justices.

Throughout the trial the defense team contended that the court rejected too much of its evidence while allowing liberal admission of prosecution testimony. On March 3, Major Blakeney, counsel for both Shigenori Togo and Yoshijiro Umezu, tried to introduce documentary evidence that Japan was not the only country to violate international treaties. Referring primarily to the United States and the Soviet Union, Blakeney attempted to show that five victorious Allied countries had also committed breaches of international law. He cited the 1939-1941 Russian domination of Finland,

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(Washington, D.C.), reel 3, defense document #514.

Latvia, Estonia, Lithuania, Poland and Rumania, and alleged that American lend-lease to Britain, especially the September 1940 fifty World War I destroyer deal, clearly violated neutrality under international law. He also pointed out the American negotiations with Denmark in 1939-1941 over control of Greenland and Iceland. Webb ruled Blakeney's evidence inadmissible. The court president considered the documentary data "cumulative and irrelevant issues." He then refused Blakeney's submission of the United Nations Charter as defense evidence. On March 4, Webb rejected a Nippon Times newspaper article which discussed the military decision to use the atomic bomb. He also excluded a defense document discussing the effects of the atomic bombings on Hiroshima and Nagasaki, as well as excerpts from the diary of Joseph C. Grew, the American ambassador to Japan during the 1930s. Webb argued that Grew could testify in person. Major Blakeney pointed out, to no avail, that the defense was unable to bring the former acting secretary of state to Tokyo to testify. Six months later, the Tribunal disallowed Grew's affidavit in defense of Koki and Shigemitsu for the defense. The court president also discounted the defense's evidence relating to the American "flying Tigers" fighting squadron, the 1941 Atlantic Charter, and the 1945 Yalta Agreement.<sup>7</sup>

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<sup>7</sup>For Tribunal absenteeism, see Appendix F of this thesis. For Webb's comment on bench composition, see RG238, Proceedings in Chambers, Box No. 78, volume V, June 29, 1947, p. 25. Also see IMTFE, Proceedings, pp. 24816-24817, 25190-25191. For Blakeney evidence and Webb rejection, see Proceedings, pp. 17606-17616, 17662, 17682 and Osaka Mainichi,

On March 5, President Webb expelled an American lawyer from the trial. David Smith, counsel for Hirota Koki, protested the "undue interference of the Tribunal" with the "ordinary examination of the witnesses." Webb demanded that Smith use "respectful terms" and withdraw "that offensive expression." When Smith declined to rescind the remark, the chief judge called an adjournment. Upon resumption, Webb announced that Smith was excluded from the trial until he withdrew his comment and tendered a full apology. Meanwhile, said Webb, Hirota Koki would still be "ably defended" by his Japanese attorneys.

The defense lawyers continued to protest the repeated rejections of substantial portions of their evidence. Dr. Somei Uzawa, head of the Japanese defense counsel, contended that the Court placed more restrictions on them than on the prosecution. He pointed out that while the Tribunal permitted the prosecution to enter Allied wartime press releases as evidence, it refused to allow the defense to introduce Japanese wartime press releases into evidence. William Logan, Jr., American counsel for Koichi Kido, stated that the defense section was very alarmed by these adverse

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March 4, 1947, p. 1, March 5, p. 1. For rejected defense evidence, see IMTFE, Rejected Defense Documents, Reel 1, documents #184, 475-B, 1500-I-3, 1500 B-5; Reel 2, documents #2790-B, 2790-D; Reel 3, document #1624; Osaka Mainichi, May 30, 1947, p. 1 and November 7, 1947, p. 2. For Grew affidavit, see Rejected Defense Documents, Reel 6, document #2467; London Times, September 26, 1947, p. 3; Pacific Stars and Stripes, September 26, 1947, p. 2; and Osaka Mainichi, October 1, 1947, p. 2.

rulings. Logan claimed that Webb permitted IPS to file "their own synopsis of what they considered was evidence." President Webb answered that it was a "matter of sheer indifference to me what attitude you take or anybody takes," and that the Tribunal would not be "intimidated" by any defense counsel.<sup>8</sup>

On March 20, the defense section requested its third court recess. During this private session in judges' chambers, Major Blakeney asked for a week to organize the defense case. He cited an "imminent breakdown" in the case because of a lack of translators and clerical help. During the public proceedings on March 24, Blakeney made a formal application for a recess. Webb agreed and granted a one week adjournment. The tribunal president, however, attached one condition to the recess: all future defense witnesses would testify by affidavit rather than by direct courtroom examination. He cited the protracted defense proceedings which consumed 25 percent more time than the prosecution did in presenting its case and noted that "much time was being wasted" by "discursive" Japanese witnesses.

On March 25, the defense challenged this unfair

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<sup>8</sup>For Smith vs. Webb, see IMTFE, Proceedings, pp. 17774-17782; Pacific Stars and Stripes, March 6, 1947, p. 1; and Osaka Mainichi, March 7, 1947, p. 1. For admission of Allied press releases, see IMTFE, Proceedings, pp. 9438, 9463-9464, 9476, 9556, 9667, 10,047. For rejection of Japanese press releases, see pp. 20508, 20511, 20549, 20606, 20608, 20801, 20807, 20809, 20815, 20825. For Logan vs. Webb, see pp. 18407-18410 and Osaka Mainichi, March 16, 1947, p. 2.

ruling. Lieutenant Colonel Franklin E. N. Warren, counsel for both Kenji Dohihara and Takasumi Oka, stated that the ruling would overburden "our already overtaxed language section." Warren claimed that the decision would prejudice the right of the defendants to a just and unbiased trial. Webb answered that the use of affidavits would give an advantage to the accused, and stood by his ruling.<sup>9</sup>

During the week recess, a Japanese physician submitted an unusual plea to Dr. Kiyose. Dr. Shichiro Ishikawa, a Keio University brain surgeon, made a written application to Hideki Tojo for permission to conduct an autopsy on the ex-premier's brain. He wanted Tojo to grant this request "as a last service to Japanese medical science." Kiyose, however, rejected Ishikawa's overtures.

Tojo became the butt of many American jokes. While at Sugamo Prison, the former premier underwent dental surgery and two U.S. Navy dentists fitted him with special bridgework. The American dentists carved a miniature "Remember Pearl Harbor" on the head of Tojo's bridgework. Tokyo courtroom guard Private William Smith, a bored nineteen year old from Eureka Springs, Arkansas, plugged the

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<sup>9</sup>For Blakeney recess request, see RG238, Proceedings in Chambers, Box No. 78, volume IV, March 20, 1947, pp. 21-25 and IMTFE, Proceedings, pp. 18956-18958. For Webb comment and affidavit condition, see Osaka Mainichi, March 25, 1947, p. 2 and IMTFE, Proceedings, pp. 19045-19046. For Warren protest and Webb remark, see Proceedings, pp. 19091-19093 and Osaka Mainichi, March 27, 1947, p. 2.

former war minister's earphones with used chewing gum. The strange vernacular of Tojo's American guards baffled him. Tojo was surprised to learn that "hubba, hubba" meant not "Remember Pearl Harbor" but "hurry up."

On April 9, Webb announced a decision on Shumei Okawa. The Japanese defendant had been under medical observation since the May 1946 Tojo head-slapping incident. The chief judge revealed that the Allied case against the former propagandist would be dropped because expert medical advice indicated that Dr. Okawa, suffering from paresis, lacked the proper intellectual judgment to stand trial.<sup>10</sup>

Tribunal clashes with defense counsel continued. The court president labeled many defense objections as "enemy propaganda." On April 15, Webb accused Captain Alfred W. Brooks, counsel for both Kuniaki Koiso and Jiro Minami, of using the Tokyo Tribunal for "propaganda purposes." Brooks assured the court that he was only trying to guarantee Jiro Minami a fair trial. The Kansas City lawyer and war veteran asked the chief judge for an explanation of that propaganda

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<sup>10</sup> For Ishikawa request, see Osaka Mainichi, March 28, 1947, p. 1. For bridgework, see Pacific Stars and Stripes, December 28, 1947, p. 7. For chewing gum, see Stars and Stripes, April 4, 1948, p. 1 and April 10, p. 4. For "hubba, hubba," see Robert J. C. Butow, Tojo and Coming of the War (Stanford, 1969), p. 475. For Okawa decision, see IMTFE, Proceedings, pp. 19637-19638, 19681; Osaka Mainichi, August 25, 1946, p. 2, April 10, 1947, p. 1; and Stars and Stripes, April 10, 1947, p. 1.



charge. Webb told Brooks his attitude "was preventing a fair trial." The Australian jurist reminded the defense team that the Tribunal would not be "browbeaten by American counsel." On April 22, the court president told American defense attorneys not to indulge in "enemy propaganda." During an acrimonious debate, Webb rebuked U.S. Marine lieutenant Aristides G. Lazarus for attacking Britain, the United States, and the Soviet Union. He contended that Lazarus, the counsel for Shunroku Hata, took "sheer delight in insulting Allied countries." Lazarus had attempted to introduce defense evidence of Russian violation of international treaties and the spread of world Communism. He cited the Soviet-Finnish war, the partition of Poland in conjunction with Hitler and the "disappearance" of Lithuania, Latvia and Estonia. Lazarus also tried to enter President Harry S. Truman's March 1947 congressional remarks on the worldwide threat of Communism. On April 25, Webb upheld the prosecution's contention that defense evidence, in the form of Japanese wartime press releases, was "self-serving" and a form of propaganda.

On April 29, Webb announced the Court decision to rule inadmissible evidence relating to the existence of Communism in China or the Soviet Union. The chief judge stated that the "existence or spread" of Communism was not "relevant." The Tribunal upheld the objection of Associate Prosecutor A. S. Comyns Carr to defense evidence designed to show the effect of Chinese Communist actions on Japanese

wartime policy in China. Carr contended that such evidence had no probative value.<sup>11</sup>

On May 8, President Webb announced that the Tribunal "views with much concern" the defense section's "waste of material and time" in attempting to introduce "statements in the nature of propaganda." He stated that many defense exhibits such as Japanese newspaper excerpts or Foreign Office statements were inadmissible and lamented that Japanese affidavit witnesses tended "to express themselves at length." He claimed that this prolixity caused a "devastating effect" on the Tribunal's paper and ink supply. Webb pointed out that one hundred tons of mimeograph paper and a large amount of ink had been consumed already and declared a one day recess because of the acute paper shortage.

Count 17 of the indictment charged the accused with planning and waging a war of aggression against the Soviet Union in violation of international law and treaties. The Soviet violation of the Russo-Japanese Neutrality Pact therefore became a central part of the case for the defense. In October 1946, Russian Associate Prosecutor S. A. Golunsky offered an explanation for the Soviet invasion of Manchuria

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<sup>11</sup>For Webb vs. Brooks, see IMTFE, Proceedings, pp. 19927-19929; Stars and Stripes, April 16, 1947, p. 4; and Osaka Mainichi, April 17, 1947, p. 2. For Webb vs. Lazarus, see Proceedings, pp. 20478-20484; Stars and Stripes, April 23, 1947, pp. 1, 4; and Osaka Mainichi, April 24, 1947, pp. 1, 2. For rulings on Communism, see Proceedings, pp. 21081, 21106; Stars and Stripes, April 26, 1947, p. 4; Osaka Mainichi, April 30, 1947, p. 2, May 2, p. 2; and Stars and Stripes, May 13, 1947, p. 1.

in August 1945. Golunsky, the Director of Juridical Sciences for the U.S.S.R., declared that the Soviet Union declared war on Japan because of her solemn duty as a loyal ally.

On June 4, Major Blakeney, counsel for Togo and Umezu, attempted to introduce evidence to refute Count 17. Blakeney argued that Russia, not Japan, had planned and waged aggressive war. After withdrawing to consider Blakeney's evidence, the Tribunal rejected the defense assertion. Webb announced that evidence of the Soviet Union's entry into the Pacific War was irrelevant. On June 5, however, the court accepted the defense affidavit of Major General John R. Deane. The Tribunal admitted his affidavit after three hours of deliberation. Deane, former chief of the U.S. military mission in Moscow, testified in his affidavit about Russian military preparations against Japan "beginning in 1943."<sup>12</sup>

On June 6, Owen Cunningham, counsel for Hiroshi Oshima, offered as defense evidence a speech of former British Prime Minister Winston Churchill. Cunningham, the former President of the Des Moines College of Law, tried to enter Churchill's March 1946 "Iron Curtain" speech, delivered at Westminster College in Fulton, Missouri. Cunningham

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<sup>12</sup>For May 8, see IMTFE, Proceedings, pp. 21646, 21720-21722, 21745-21746, 21826-21827 and Osaka Mainichi, May 9, 1947, p. 1. For Count 17 and Soviet entry, see Proceedings, pp. 7282-7284, 23569-23575; Pacific Stars and Stripes, June 5, 1947, p. 1; and Osaka Mainichi, June 6, 1947, pp. 1,4.

contended that the defense exhibit would prove that the "threat of the spread of Communism in Europe" was a reality. British Associate Prosecutor A. S. Comyns Carr objected to Cunningham's "harangue." The Tribunal sustained Carr's objection and overruled admittance of excerpts from Churchill's "Iron Curtain" speech.

On June 9, the defense charged that Russia was detaining twelve defense witnesses. Major Blakeney claimed that they had been waiting thirteen months for an opportunity to cross-examine the Soviet prosecution witnesses who had testified by affidavit. The American attorney contended that the Russian witness affidavits contained "flagrantly leading questions, hearsay compounded upon hearsay, self-contradictions" and a "hodge-podge of opinion." He pleaded for the Court to produce the witnesses "imprisoned behind the Iron Curtain." Blakeney concluded that it would be impossible to rely on the affidavits, and contended that favorable defense testimony could hardly be extracted "from a man with a gun in his back." General Vasilev, the Russian assistant to S. A. Golunsky, protested Blakeney's blistering attacks on the Soviet Union. Webb politely reminded Blakeney not to be insolent. Earlier in the day the chief judge threatened to suspend Owen Cunningham and George Furness for attempting "to introduce political discussion" at the Tokyo trial.

On June 10, defense attorney William Logan, Jr., requested another six week recess for additional time to

prepare the Pacific War phase of the defense. Logan claimed that the large number of court rejections of defense documents necessitated a regrouping of defense evidence, and added that the defense's working conditions were poor because its offices lacked heat in the winter and air-conditioning in the summer. On June 11, the Tribunal granted the defense a six week adjournment to begin on June 19. Webb remarked that the Court was satisfied that the defense team was not merely trying "to avoid working in such [hot] weather."<sup>13</sup>

During the break, the Tribunal held a special in-chambers session. Members of both the prosecution and the defense were present. The court convened the private meeting to seek ways of expediting the tedious trial. It hoped to end proceedings by 1947. Major Blakeney summarized the defense position. He explained that the uncertain character of the prevailing rules of evidence had restricted presentation of the defense case and that different rules of evidence were being applied to the defense than were applied a year ago. He also argued that the liberal court reception of dubious prosecution evidence compounded the defense's difficulties. Blakeney pointed out that during 1946 defense

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<sup>13</sup>For June 6, see IMTFE, Proceedings, pp. 23759-23761 and IMTFE, Rejected Defense Documents, 1946-1948, Reel 2, document #1669. For June 9, see Proceedings, pp. 23768-23784, 23788-23793, 24563 and Osaka Mainichi, June 10, 1947, p. 1. For June 10 and recess, see Proceedings, pp. 23874-23883, 23968-23969, 24758; RG238, Court Papers, Box No. 97, number 1039, and Osaka Mainichi, June 12, 1947, p. 1, June 13, p. 2 and June 22, p. 2.

attorneys had objected "ad nauseam" to prosecution affidavits containing hearsay and witness speculation. He alleged that the Tribunal had accepted such prosecution testimony "for whatever probative value it might" contain and had never rejected a single prosecution witness or affidavit. He argued further that the exact proportion of how much probative value each prosecution exhibit contained could not be known until the court delivered its final judgment. Blakeney concluded that the acceptance of prosecution evidence, on the basis of whatever probative value it contained, created a situation whereby "we don't know to this day just what is in evidence against us and what isn't."

Webb lent a sympathetic ear to Blakeney's complaints, but answered by listing the difficulties of a prosecution involving eleven different Allied countries. The court president argued that it would be impossible to agree upon one set of rules of evidence because of varying ideas of judicial practice on the bench. Moreover, Webb added, the charter forbade the adoption of technical rules of evidence. He concluded that the Tribunal had "the fullest appreciation" of the defense's difficulties but insisted that the defense team would just "have to make the best of it."<sup>14</sup>

On August 4, the defense section opened the Pacific War phase of its case. Yoshitsugu Takahashi, counsel for

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<sup>14</sup>RG238, Proceedings in Chambers, Box No. 78, volume V, June 24, 1947, pp. 16-27.

Shigetaro Shimada, delivered the opening statement. In the final part of its case, the defense team contended that Japan had fought a war of self-defense "which jeopardized national existence." Takahashi, two-time member of the Japanese House of Representatives, outlined the economic side of the defense case. He countered the prosecution's contentions that Japan's economic development during the 1930s was designed for aggressive war. The Japanese lawyer elaborated on the reasons for Japan's industrial development by citing increasing population, the limited area of arable land and the lack of natural resources as motives for industrialization. Japan existed by importing raw materials and by exporting the finished, manufactured product. Takahashi claimed that after 1931 his country's access to the world market declined sharply. Furthermore, worldwide depression, rising tariffs and import restrictions caused economic suffering in Japan during the 1930s.

Count 53 of the indictment charged the defendants with a conspiracy to permit local Japanese military leaders to commit prisoner of war atrocities. Yoshisugu Takahashi claimed that there was no national plan or government regulation to terrorize and torture Allied internees. He alleged that Allied aerial bombing and unrestricted submarine warfare had prevented supplies from reaching prison camps, and argued that this was the "primary cause" for the suffering of Allied prisoners of war and civilian captives.



William Logan, Jr., continued the defense economic arguments. He claimed that western economic trade restrictions forced Japan "to fight for her very existence." Only a small percentage of Japan's land was arable, said Logan, and that minute area could not feed the rapidly increasing population of the most densely populated country per arable square mile in the world. He pointed out that Japan's economic growth was not geared towards aggressive war. Logan, citing 1941 Japanese iron and steel production figures, asserted that the entire annual production of the iron and steel industry amounted to less than the total monthly production of the United States.<sup>15</sup>

The Tribunal rejected all evidence purporting to show Japanese population growth. The court denied the admission of an exhibit listing population increases from 1920-1940. The Tribunal also refused a defense document comparing Japan's population growth and national density with other Allied States. When Logan appealed to the bench for a reconsideration, President Webb answered that the Tokyo Tribunal allowed only for "normal industrialization" and that Japan's economic growth was "abnormal." Noting that only six judges were present, Logan pointed out that the present composition of the court could have accounted for the bench decision on the inadmissibility of Japanese population statistics. Webb agreed but reminded Logan that

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<sup>15</sup>IMTFE, Proceedings, pp. 24763-24795.

the defense case must be continued regardless of the Tribunal's composition at the time.<sup>16</sup>

On September 5, David Smith, former American counsel for Hirota Koki, reappeared before the Tribunal. The expelled lawyer stood at the lectern and expressed "profound regret" over the March 1947 incident. President Webb proposed that Smith return on Monday, September 8 to present his plea when he hoped to have the entire bench present. A dejected Smith resigned rather than suffer further humiliation. The Washington, D.C. attorney told reporters that the Australian jurist had "backtracked" on an earlier agreement that Webb would reinstate him if he apologized before the bench. On September 25, George Yamaoka became the temporary American counsel for Hirota Koki.

The court president disagreed with both the defense and prosecution on the emperor's role in World War II. On August 5, William Logan claimed that Emperor Hirohito was

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<sup>16</sup>IMTFE, Proceedings, pp. 24803-24817 and IMTFE, Rejected Defense Documents, 1946-1948, documents #1694, 1702. On July 25, 1946, President Webb ruled that economic developments in other countries, such as American or British activity in China, could not be considered as evidence. On August 16, 1946, Webb ruled that economic aggression is a crime "if it is an adjunct of aggressive war." See Osaka Mainichi, July 26, 1946, p. 2 and August 17, p. 2. Webb later modified his trial views on prewar, anti-Japanese Allied trade restrictions. He wrote in 1971 that the United States and Britain in a situation "like Japan in 1941 might well have had recourse to war." See William Flood Webb's introduction to David Bergamini's Japan's Imperial Conspiracy (New York, 1971), p. xii.

only "following constitutional government" and did not order the Pacific War. Webb disagreed strongly. He pointed out that if a cabinet recommends that a ruler commit a crime, "and the King directs that it be committed, there is no constitutional protection." On September 26, Webb disagreed with Chief Prosecutor Joseph Keenan's contention that Hirohito was not responsible for the Pacific War. Under cross-examination by Keenan, former Premier Keisuke Okada claimed that on the eve of Pearl Harbor Hirohito still opposed going to war. "Leaning far forward on the bench," President Webb took strong exception to Okada's statement. The chief judge stated that the ex-premier's testimony concerning Hirohito's innocence was "contrary to the evidence of the prosecution." Keenan replied that all "the people responsible for this war" were in the prisoner's box, and that "if there had been anyone else, they would be in the dock too."<sup>17</sup>

On November 6 and 10, the defense team repeated its June request for Russian-held defense witnesses. President Webb asked Major General A. N. Vasilev, assistant to Soviet Associate Prosecutor S. A. Golunsky, why it was not possible to produce the witnesses. Vasilev contended that it was

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<sup>17</sup>For Smith apology, see IMTFE, Proceedings, pp. 27725-27728, 29340-29342 and Pacific Stars and Stripes, September 9, 1947, pp. 1, 4. For Webb on Hirohito, see Proceedings, pp. 24882-24884; Stars and Stripes, September 26, 1947, pp. 1, 4; and Osaka Mainichi, September 26, 1947, p. 1.

"a matter of state security." He explained to the chief judge that Russia was detaining those Japanese for future Soviet trial as war criminals. Although Webb disagreed with Vasilev and argued that the Tokyo trial exceeded a Russian trial in importance, he yielded.

On November 7, Webb announced his temporary withdrawal as court president. Australian Prime Minister Chiefley had ordered him to attend the November session of the High Court of Australia to alleviate a backlog of court cases. Owen Cunningham, counsel for Hiroshi Oshima, pointed out the repeated absences of several judges and protested that the privilege of trial absence had been "abused." He argued that the charter had "never contemplated a trial by absent judges." The Court rejected Cunningham's protest. American member Myron C. Cramer became acting-president during Webb's absence after British jurist Lord Patrick had declined to assume the high post for personal reasons. On December 16, President Webb returned to the bench.<sup>18</sup>

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<sup>18</sup>For November 6 and 10, see IMTFE, Proceedings, pp. 32566-32569, 32776-32784, 32907 and Osaka Mainichi, November 11, 1947, p. 1. For Webb recall, see RG238, Court Papers, Box No. 99, item #1389; IMTFE, Proceedings, pp. 32660-32672, 32775-32776, Pacific Stars and Stripes, November 6, 1947, p. 1, November 8, p. 1 and November 9, p. 1; and Osaka Mainichi, November 8, 1947, p. 2, November 9, p. 1, November 10, p. 1, November 11, p. 1 and December 16, p. 2. While in Brisbane, Australia, Webb expressed his reasons for the long trial. Sir William claimed that the scope of the case, covering the years 1928-1945, consumed much time. When questioned about the rules governing trial procedure, Webb declared one must allow for a certain amount of "elasticity" with eleven different nations on the bench. See Osaka Mainichi, November 16, 1947, p. 1.

After the completion of the Pacific War phase of the defense case, the individual defendants presented their cases. Between December 26, 1947 and January 7, 1948, Hideki Tojo's defense counsel presented his case. The expectation that Tojo would testify on his own behalf drew overflow crowds to the Tokyo courtroom. By 6:00 a.m. on December 26, over five hundred Japanese had lined up at the gates of the War Ministry Building and ticket scalpers did a brisk business. Opportunistic Japanese sold complimentary visitor passes for five hundred yen each. The gallery, which had been empty for months, was soon packed with spectators. One Japanese reporter claimed that the World War II leader was a "better drawing card" than Dorothy Lamour.

Dr. Kiyose outlined the ex-premier's defense. He reiterated the defense argument that the Japanese involvement in the Pacific War was one of self-defense forced upon Japan by Allied economic sanctions. Kiyose challenged the prosecution arguments that a "criminal militaristic clique" had controlled Japan from 1928-1945, and pronounced the prosecution charge "a fallacy of the highest degree." He noted that only duly constituted government officials, not a criminal militaristic clique, had ruled Japan. He insisted that Tojo had never authorized the atrocities committed upon Allied prisoners or civilian internees and had never given "orders for, tolerated nor connived at any inhuman acts." Tojo, "unrepentant" in a khaki Japanese army uniform, according to the Stars and Stripes, "smiled broadly" when

Dr. Kiyose completed his opening address.

On the afternoon of the twenty-sixth, before a courtroom bathed in searing white Klieg lights and whirling newsreel cameras, the bald, bespectacled Tojo blew his nose energetically and, as noted by some observers, walked to the witness stand "with the correct aplomb of a model prisoner" and the "earthly smugness of the samurai." With "contemptuous assurance" according to Life magazine, the only Axis dictator to go on trial faced his accusers.

For three days, George Blewett, the court-appointed American attorney for Tojo, read the war leader's 245 page, 64,000 word defense affidavit. The former war minister had rewritten the three pound document four times. In it, the former general declared his innocence of all Allied charges. He claimed that the war was one of self-defense decided upon "as a last resort, and by reason of urgent necessity." He ridiculed the prosecution contention that Japan had pursued an organized, consistent plan of aggression culminating in the Pacific War. He challenged the nature of Allied war crime charges, and assailed the conspiracy charge. Tojo claimed that the idea that a conspiracy could continue, despite repeated cabinet changes, over seventeen years, was "unthinkable to persons of reason and intelligence." Tojo denounced the Allied position that duly constituted government officers of a vanquished country could be individually charged as

war criminals. He admitted full responsibility for Japan's defeat in World War II and accepted full blame for the war-time loss. He also admitted his accountability in the trial and death of five Doolittle B-25 fliers but claimed that the American pilots had violated international law by bombing civilian populations. Throughout his affidavit testimony, Tojo resolutely defended Emperor Hirohito.<sup>19</sup>

On December 31, Blewett completed reading the long affidavit and the prosecution's cross-examination of Hideki Tojo began. For the next four court days, Chief Prosecutor Keenan and the former prime minister "chewed over historical facts." The "florid-faced" prosecutor relentlessly pressed the "hard-jawed dictator." The Japanese leader held his own on the witness stand. According to the Stars and Stripes he testified with the "cold assurance of a conquering samurai" and "shot back" his answers to Keenan "in a high-pitched military tone." Tojo would not let the chief prosecutor trap him.<sup>20</sup>

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<sup>19</sup> IMTFF, Proceedings, pp. 36146-36163, 36171-36488; Osaka Mainichi, December 26, 1947, pp. 1, 2; Pacific Stars and Stripes, December 27, 1947, p. 1, December 28, pp. 1, 4, 7; Time, January 5, 1948, pp. 24-25; Newsweek, January 5, 1948, p. 39; Nippon Times, January 7, 1948, p. 1; and Life, January 26, 1948, pp. 87-91

<sup>20</sup> IMTFF, Proceedings, pp. 36535-36804; Pacific Stars and Stripes, January 2, 1948, p. 1; and Nippon Times, January 1, 1948, p. 1, January 7, p. 1. Prior to Keenan's cross-examination of Tojo, Keenan edged out IPS attorney Jack Fihelly at the lectern. Fihelly, Assistant Attorney for the District of Columbia since 1924, had interrogated Tojo in Sugamo Prison months before the beginning of the Tokyo trial. Fihelly was best prepared to cross-examine Tojo and was



Keenan's initial questioning of Tojo brought Webb's interposition. Keenan, refusing to address Tojo as General, since "there is no longer any Japanese Army," asked the former war leader whether his affidavit was intended as a statement of his innocence or as a "continuation of imperialistic, militaristic propaganda" aimed at the Japanese people. The court president upheld Blewett's objection that the question was "not proper cross-examination." The flushed chief prosecutor unsuccessfully argued that the nature and content of Tojo's affidavit were an "insult to the intelligence of this Tribunal." Webb later challenged Keenan's comparison of the power of the U.S. president and Japan's emperor. Keenan "snapped back" that if it was "offensive" to discuss the authority of the American executive, then he would proceed to something else. Irritated, Webb leaned over the bench and shouted "Go immediately to something else!" Tojo snickered as the remaining Japanese accused smiled. Life magazine quipped that Keenan and Webb "seemed more concerned with perpetuating a courtroom feud" than completing in an orderly manner the lengthy proceedings.<sup>21</sup>

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scheduled to do so. President Webb denied Keenan's request that Fihelly "assist" the chief prosecutor in the IPS cross-examination of the World War II leader. To the chagrin of Fihelly, Keenan proceeded alone. See Proceedings, pp. 36533-36535; Robert M. Donihi, interview at Andrew's Air Force Base, Camp Springs, Maryland, October 14, 1978; Nippon Times, January 1, 1948, p. 1; and Life, January 26, 1948, pp. 88-89.

<sup>21</sup> IMTFE, Proceedings, pp. 36535-36555; Nippon Times, January 1, 1948, pp. 1, 2, January 3, 1948, pp. 1, 2; and

Under Keenan's cross-examination, Tojo failed to stray from his affidavit testimony. The World War II leader disagreed with the chief prosecutor's claim that wars were crimes of the highest degree. Tojo noted that all wars had a deleterious effect upon the people that was "the same for the victor as for the vanquished." Citing American economic pressure upon Japan, he insisted the Pacific War was one of self-defense. The 1940-1944 premier stated that the Emperor reluctantly consented to war because of his advice and that of the High Command. Tojo maintained that Hirohito's strong desire for peace "remained the same" on the eve of Pearl Harbor and throughout World War II. He repeated his contention that prisoner of war responsibility rested with the local theatre commanders and not the Japanese High Command.<sup>22</sup>

The defense section rested its cases on January 12, 1948. The Tokyo War Crimes Trial had now been in session for twenty-one months. In contrast, the Nuremberg War Crimes Trial had lasted only eleven months.

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Life, January 26, 1948, pp. 87-91.

<sup>22</sup>IMTFE, Proceedings, pp. 36535-36804, 37175; Pacific Stars and Stripes, January 2, 1948, p. 1, January 5, p. 1, January 6, p. 1 and January 7, p. 1; and Nippon Times, January 3, 1948, pp. 1, 2, January 7, pp. 1, 2 and January 8, pp. 1, 2. On January 11, the Stars and Stripes (p. 4) reported that Keenan was "recuperating" from his cross-examination "bout" with Tojo at a "luxurious" Japanese villa near Atami, 80 miles south of Tokyo.

## CHAPTER FIVE

### THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST:

#### JUDGMENT AND VERDICTS

Future generations of Oriental peoples--indeed the whole of mankind--who look back on this epochal judgment in a broad historical perspective might come to feel that a gross injustice had been done through ex post facto penalization of the leaders of an East Asian nation, remembering that Western statesmen and generals had never been penalized during the preceding three centuries for their aggression on Eastern lands.

-Defense attorney Professor Kenzo Takayanagi  
March 1948

On January 12, 1948, President Webb announced that the Tribunal would receive prosecution rebuttal evidence. Major George A. Furness, counsel for Mamoru Shigemitsu, unsuccessfully objected to the admission of prosecution rebuttal testimony as unfair and not provided for in the Charter. He contended that the prosecution should have delivered all its data during the initial case. Furness, who had also defended Lieutenant General Masaharu Homma on war crimes charges during 1946, reminded the court that the Tribunal had denied similar attempts to introduce new defense evidence during the individual phase of the defense case. The American attorney concluded that the "same standards should be applied to the prosecution" and that the court should reject prosecution rebuttal evidence.

On January 14, the Australian chief judge finalized the decision that the Tribunal would receive International Prosecution Section (IPS) evidence in rebuttal. Webb also declared that the court would accept new defense testimony in surrebuttal. Captain Alfred W. Brooks, counsel for both Kuniaki Koiso and Jiro Minami, argued that the court ruling amounted to a virtual "reopening" of the entire prosecution's case. William Logan, Jr., counsel for Koichi Kido, asserted that the Tribunal verdict departed from the charter. Webb refused to allow Logan to discuss the merits of the decision. Logan replied that "this is the first court I have practiced in" where a bench judgment was rendered and a defense counsel "was not permitted to state his views on it." The Tribunal president argued that the charter permitted the court to adopt any necessary measure. He remarked that rules of evidence and procedure would be "set aside if we see fit." Owen Cunningham, counsel for Hiroshi Oshima, labeled the Tribunal acceptance of IPS rebuttal evidence as illegal. Webb chastised Cunningham for indulging in "sheer offensive propaganda."<sup>1</sup>

On January 16, the trial proceedings were highlighted by the spectacle of two attorneys battling for possession

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<sup>1</sup>For rebuttal acceptance, see International Military Tribunal for the Far East, Tokyo War Crimes Trial, Proceedings (Tokyo: The Tribunal, 3 May 1946-16 April 1948), pp. 37178-37187, 37330-37336, 37367-37369; U.S. Army Pacific Stars and Stripes (Tokyo), January 13, 1948, pp. 1, 4; and Nippon Times (Tokyo), January 15, 1948, p. 1.

of the lectern microphone. Defense lawyer Alfred Brooks and Associate Prosecutor A. S. Comyns Carr engaged in a sharp debate over a language translation. The two attorneys then attempted to use the lectern microphone simultaneously. Webb threatened to adjourn if "this disorderly procedure continued," and commented that he had never witnessed such a scene in "over twenty years on the bench."

The difficulty with language translations culminated on January 28 in an opera bouffé episode. Puntsugin Chogdan, the chief of the investigations division of the State Security Department from the Mongolian People's Republic's Ministry of Home Affairs, appeared as a Soviet prosecution witness. Chogdan, described by the Pacific Stars and Stripes as "a slant-eyed son of the steppes," looked "resplendent" in a new Red Army uniform with a row of large, glittering medals on his left breast. The 1939 Soviet border guard, who according to Stars and Stripes, was a "living replica of illustrations usually found in books about the famed Mongol warlord Genghis Khan," spoke only modern Mongolian. No one in the court translation section understood any Mongolian at all. President Webb finally decided to tape a sound track of Chogdan's testimony for a later check.<sup>2</sup>

That same day, the defense section requested its fifth

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<sup>2</sup>For lectern exhibition, see IMTFE, Proceedings, pp. 37519-37520 and Pacific Stars and Stripes, January 16, 1948, p. 1. For Chogan episode, see Proceedings, pp. 38394-38401 and Stars and Stripes, January 28, 1948, p. 4.

trial recess. Dr. Somei Uzawa requested a ten day adjournment in order to prepare surrebuttal evidence. Owen Cunningham supported the chief of Japanese counsel's plea. Cunningham pointed out that it would take a reasonable period of time to prepare surrebuttal testimony. Webb declared that the Tribunal would announce later its decision on a ten day intermission. On January 30, the defense section opened its surrebuttal evidence.

On February 3, the court granted the defense team a five day recess. Owen Cunningham, counsel for Hiroshi Oshima, stated that the defense section was awaiting the arrival of new evidence from Washington, D.C. William Logan, Jr. alleged that the defense panel was approaching a "breakdown." After withdrawing to consider the defense request, the Tribunal consented to a recess until February 9. President Webb reminded the defense team that "no Court has ever heard a defense more fully."<sup>3</sup>

On February 10, the defense team completed its surrebuttal evidence. George Yamaoka, counsel for Hirota Koki and Shigenori Togo, read a defense supplement to the January 1947 general motion to dismiss all IPS charges. The Yamaoka addendum reiterated the contention that the terms of the Potsdam Declaration and the IMTFE Charter failed to provide the Tribunal with jurisdiction over Crimes against Peace and Crimes against Humanity. Chief

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<sup>3</sup>For recess request, see IMTFE, Proceedings, pp. 38386-38387, 38435-38443, 38729-38731, 38745.

Prosecutor Joseph Keenan termed the defense motion "frivolous and offensive," but Webb permitted Yamaoka to file the motion as a matter of record.<sup>4</sup>

Between February 11 and March 2, the prosecution delivered its final summation and closing arguments. On February 11, Keenan delivered a seventy-five hundred word IPS summary. The chief prosecutor asked the court to impose the "sternest punishment known to the law" on the defendants. Labeling the Japanese accused as outlaws, Keenan alleged that the prisoners in the dock had conducted wars of aggression that resulted in the premeditated murder of millions of people. He added that the defendants had made a divine "figurehead of their ruler, [using him] as the occasion required for their evil purposes," and argued that the defense team had failed to produce one scrap of evidence to justify any actions as self-defense. Keenan alleged that the Tribunal had been "exacting in its own requirements" in insuring the Japanese defendants a fair trial and contended that the court had expressed great tolerance "in permitting vituperation and insolent comments." Outside the courtroom the chief prosecutor told reporters he was asking the Tribunal "for a liberal employment of manila rope."<sup>5</sup>

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<sup>4</sup>IMTFE, Proceedings, pp. 38942-38947.

<sup>5</sup>IMTFE, Proceedings, pp. 38948-42076 and Pacific Stars



On March 2, the defense team began its final summary and closing arguments. Dr. Somei Uzawa, six time member of the House of Representatives since 1908 and former member of the House of Peers from 1928-1937, delivered the introductory statement. The chief of all Japanese defense counsel began by thanking the Tribunal for the invaluable assistance of the American defense lawyers. Dr. Uzawa then again challenged the prosecution contention that aggressive war was a crime under international law. He alleged that no world law could be found which defined aggressive war.<sup>6</sup>

On March 3 and 4 the defense attorneys delivered their principal closing argument. Professor Kenzo Takayanagi, English Law Professor at Tokyo University, read the summation. Takayangi, counsel for Teiichi Suzuki, alleged that the defendants had committed no criminal offense "known to the established law of nations." He pointed out that the Tribunal charter and the court's definition of war crimes differed markedly from international law. Takayanagi argued that war crimes were violations of recognized rules of military conduct committed during wartime. He reiterated that Crimes against Peace and Crimes against Humanity were not conventional war crimes but Allied ex post facto legislation. The Japanese attorney declared that the British

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and Stripes, February 12, 1948, pp. 1, 4.

<sup>6</sup>IMTFE, Proceedings, pp. 42076-42110.

Parliament and American constitution had banned retroactive legislation. He alleged that ex post facto legislation was "sheer lynch law in the guise of justice." He emphasized the difference between the German and the Japanese surrenders and pointed out that the Allies had controlled Germany at the time of the May 7, 1945 capitulation. Japan, however, had remained unoccupied prior to its surrender on August 14 and had been quite capable of offering "strenuous armed resistance for some time to come." Takayanagi insisted that the Japanese government had surrendered to the conditions of the Potsdam Declaration and that the terms of that declaration contained no mention of war crimes such as Crimes against Peace and Humanity.

As for the charge of conspiracy, said Takayanagi, no international law listed conspiracy as an international crime and the concept of criminal conspiracy was a "peculiar product of English legal history." Unlike the accused at Nuremberg, he argued, the Japanese defendants were not a united, concerted band because fifteen different cabinets had ruled Japan from 1928-1945 and a serious division of opinion, not a common plan of conspiracy, had marked those ministries. The Japanese lawyer noted further that if the prosecution could prove a conspiracy in Japan then the "gradual expansion of the original thirteen American states into the great American Republic" could be considered the result of a common plan of conspiracy. He asked the court to consider its verdict within the confines of established

international law and argued that the death penalty would convert "a plain son of Yamato" into a national martyr and dampen Japanese enthusiasm for the new constitution. Also, he warned, a death verdict on the basis of ex post facto charges would leave the Japanese with a negative impression of western justice: "one law for the victors and another law for the vanquished."<sup>7</sup>

The issue of Emperor Hirohito surfaced again on March 12. Aristides G. Lazarus, counsel for Shunroku Hata, attacked the prosecution for its failure to produce Hirohito as a court witness. The former Marine lieutenant alleged that IPS lacked the "moral courage" and the "requisite respect for the Tribunal" to place the emperor on the witness stand and contended that it would forever be "a source of wonder" that the "one man who could have told us so much so succinctly" had failed to make an appearance. The court president later demanded an apology from Lazarus. Webb felt that Lazarus had been impolite to the prosecution attorneys. Lazarus countered that he had not been insulting at all. The chief judge accused him of indulging in "pure propaganda" and trying to antagonize the Tribunal." Lazarus apologized but requested that Webb also withdraw his comment

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<sup>7</sup> For Takayanagi speech, see pp. 42111-4285, IMTFE, Proceedings. Also see Nippon Times, March 30, 1946, p. 4, March 31, p. 4 and June 16, p. 4, for Takayanagi's comments on conspiracy and international law. For eventual enshrinement of the "plain son[s] of Yamato," see Washington Post, April 21, 1979, p. 3.

that Lazarus had acted in a treasonous manner. When Webb declined to apologize, Lazarus promised that when the trial was over, "I shall seek remedy."<sup>8</sup>

On April 16, after being in session for two years, the Tribunal recessed to consider the evidence. The defense lawyers contended that the veritable mountain of evidence made it physically impossible to read all the testimony" even in leisure or spare time." The Court had heard nine million words of evidence. The transcript of the proceedings alone exceeded 48,400 pages. The Tribunal had also admitted 4,336 exhibits, received the testimony of 779 witnesses by affidavit, and heard the evidence of 419 courtroom witnesses. Nevertheless, Webb assured reporters that each judge would "personally consider every word of evidence."<sup>9</sup>

On May 25, SCAP's personnel section abruptly dismissed nine American defense lawyers. Brigadier General W. A.

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<sup>8</sup>IMTFE, Proceedings, pp. 43459-43464, 43469-43471 and Pacific Stars and Stripes, March 13, 1948, p. 1.

<sup>9</sup>For trial statistics, see International Military Tribunal for the Far East, Judgment of the International Military Tribunal for the Far East (Tokyo: The Tribunal, November 12, 1948), p. 13. For defense comments on amount of evidence, see IMTFE, Proceedings, pp. 7836-7837, 29732-29733, 34361. For Webb comment, see New York Times, July 3, 1948, p. 5. An officer in the IPS documents division stated he needed "bulldozers rather than filing clerks" to handle the immense number of prosecution documents. He noted: "At first I listed all incoming documents. Then they came in so fast that I listed only incoming bags. Then crates of bags; now I just list the rooms they're in." Time, February 3, 1947, p. 25.

Beiderlinden, Assistant Chief of Staff G-1, GHQ, SCAP, stated that the defense attorneys were being released because their mission had been completed. Terming it strictly a "personnel matter," Beiderlinden pointed out that the defendants were "adequately represented." Ben Bruce Blakeney, chief of the American defense counsel, was not consulted in advance before receiving his "blue slip." The fired defense counsel met with Colonel Larry Bunker, Douglas MacArthur's aide, to protest their expulsion, and charged SCAP with "improper interference." The defense committee alleged that each defendant was entitled to American legal counsel until the Tribunal's final judgment. On May 26, SCAP reversed itself and reinstated the discharged lawyers. "In order that there may be not the slightest charge of injustice to the accused," Brigadier General Beiderlinden announced that all American attorneys would remain until the Court's final adjudication.<sup>10</sup>

By late summer, the Tribunal reached a verdict. On July 27, the IMTFE General Secretary announced that the translation of the first chapter of the court's judgment would begin on August 2. Twenty-six Japanese civilians and nine American Department of the Army civilians volunteered to translate the epochal judgment. The Tribunal confined the thirty-five translators in the luxurious home of Kenzo

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<sup>10</sup>New York Times, May 25, 1948, p. 16; Pacific Stars and Stripes, May 26, 1948, p. 4, May 27, p. 1; N.Y. Times, May 27, 1948, p. 13 and Nippon Times, May 28, 1948, p. 2.

Hattori, eminent Japanese watch and clock manufacturer. American military police maintained a twenty-four hour guard around the barbed-wire enclosed house. The Tokyo provost marshal explained the strict security regulations as designed to prevent disclosures.<sup>11</sup>

During the fall of 1948, three Tokyo trial attorneys delivered speeches about the International Military Tribunal for the Far East (IMTFE). On September 6, IPS lawyer H. A. Hauxhurst and defense counsel Owen Cunningham gave addresses before the Seattle, Washington meeting of the American Bar Association. Hauxhurst's talk favorably compared the Tokyo War Crimes Trial with the Nuremberg trial. Cunningham delivered a blistering speech condemning the trial's unfairness. He pointed out that the Tribunal had admitted hearsay evidence "to the fourth degree," eliminated all "affirmative defenses," and abused defense lawyers while favoring the prosecution. Cunningham contended that the court had applied two rules of evidence--a generous set for the prosecution and a very strict set of rules for the defense. The American attorney alleged that the prosecution could bring witnesses from all parts of the world while the defense "could not bring a German ambassador across the China Sea." On October 13, as a result of this devastating critique, the Tribunal barred Cunningham from further trial

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<sup>11</sup> London Times, July 28, 1948, p. 3; Nippon Times, July 28, 1948, p. 2; and N.Y. Times, July 28, 1948, p. 19.

proceedings. On November 3, British Associate Prosecutor A. S. Comyns Carr delivered a basically favorable address on the IMTFE before the London Grotius Society. Carr, in one subtle jab at President Webb, asked why the Emperor's absence could possibly "have any bearing" on the IPS case.<sup>12</sup>

Between November 4 and 12, the Tribunal delivered its majority judgment.. Eight of the eleven justices approved. Two of the eight assenting judges filed separate but concurring opinions. Three jurists filed dissenting opinions. The defense counsel unsuccessfully petitioned the Tribunal to read the dissenting judgments in open court. President Webb, following the Nuremberg precedent, barred any reading of dissenting verdicts in open court.<sup>13</sup>

For seven straight days Webb read the twelve hundred page majority in open court. Speaking in a firm and steady voice, President Webb, according to the Stars and Stripes,

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<sup>12</sup>For Hauxhurst and Cunningham addresses, see "Forum on War Crime Trials," Proceedings of the Section of International and Comparative Law, American Bar Association (Chicago, 1949), pp. 30-38. A slightly different version of Cunningham's speech appears in Modern Military Branch, World War II War Crimes (IMTFE), Record Group 238, Court Papers, Box No. 102, item #1714, National Archives (Washington, D.C.). For Cunningham exclusion, see Nippon Times, October 16, 1948, p. 1 and November 7, p. 1. For Carr address, see "The Judgment of the International Military Tribunal for the Far East," Transactions of the Grotius Society 34 (1948):141-151.

<sup>13</sup>RG238, Court Papers, Box No. 102, item #1723; Nippon Times, November 9, 1948, pp. 1, 2, November 11, p. 1; Pacific Stars and Stripes, November 11, 1948, p. 1; and the London Times, November 13, 1948, p. 4.



sounded like a "History professor with an Oxonian accent" delivering a classroom lecture. The Japanese accused truly resembled tired old men. The appearance of the elderly defendants belied the common but erroneous western belief that "all Japanese look alike." Lieutenant General Jiro Minami, with a long, white "straggly goat-beard," sat impassively. Lieutenant General Kenji Dohihara, according to the Nippon Times, resembled a "frightened rabbit." Former Premier Hideki Tojo, as described by the Nippon Times, looked like the "typical picture of a sly Japanese warlord." Baron Sadao Araki, "an unreliable general despite his mustache" quipped the Tokyo Shimbun, maintained his rigid courtroom posture.<sup>14</sup>

In its majority judgment, the Tribunal offered several explanations for the length of the two and one half year, ten million dollar trial. In addition to mentioning the scope of the case, covering the years 1928-1945, and delays involved with language translation, the court cited the tendency of counsel and witnesses to be "prolix and irrelevant." The Tribunal noted that the defense section repeatedly challenged the meaning of events, "often to the extent of contesting the seemingly incontestable." The court termed

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<sup>14</sup> Nippon Times, November 5, 1948, pp. 1, 2; London Times, November 5, 1948, p. 3; Tokyo Shimbun, November 7, 1948, GHQ, SCAP, Allied Translator and Interpreter Section (ATIS), Press Translations and Summaries, Numbers 761-777, Reel 13, November 12, 1948; and Stars and Stripes, November 12, 1948, p. 1, November 14, p. 10.

defense evidence a "disappointment." The bench refused much of the defense evidence because it contained "little or no probative value."

The majority judgment rejected all the defense contentions. It questioned the defense claim that Japan acted in self-defense, and ruled that Allied economic trade restrictions were "an entirely justifiable attempt" to curb Japanese expansion. The Tribunal pointed out that Japan's plan for conquest was made "long before" the Allies enacted economic sanctions against Japan. The judgment repudiated the defense claim that the IMTFE Charter violated international law and codified ex post facto legislation. The majority stated that the charter was "not an arbitrary exercise of power" but the "expression of international law existing at the time of its creation." The court asserted that aggressive war was an international crime even before the release of the Potsdam Declaration.<sup>15</sup>

The court held the leaders of Japan criminally responsible for the welfare of Allied prisoners of war and civilian internees and ruled that official responsibility extends beyond "mere maintenance" to the "prevention of mistreatment." Claimed ignorance of wartime atrocities could not absolve an accused from criminal liability. A

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<sup>15</sup> For cost estimates of trial, see Christian Science Monitor (Boston), November 12, 1948, p. 1; Time, November 22, 1948, p. 36. For majority opinion on length of trial, see IMTFE, Judgment of the IMTFE, pp. 13-20. For majority on defense contentions, see pp. 23-28, 990-992.

cabinet member who learned of atrocities yet remained in the government, whether he tried or failed to correct inhumane treatment, "willingly assumed responsibility for any ill treatment in the future." The Tribunal named nineteen of the twenty-five defendants for various violations of the civilized treatment of allied prisoners. The judgment noted that from 1937-1945 the Japanese armed forces "freely practiced" rape, torture, murder and cruelties of the most despicable and savage character. The widespread amount of war crimes proved that atrocities "were either secretly ordered or willfully permitted" by the Japanese leaders. The Tribunal emphasized that more Allied soldiers died in Japanese prison camps than in German or Italian camps. While only 4 percent of American and United Kingdom soldiers interned by Germany and Italy had died during the war, 27 percent of the American and United Kingdom troops held in Japanese camps had died.

The majority judgment catalogued the Japanese war crimes and atrocities. It asserted that Japanese methods of torturing Allied prisoners of war were "so uniform" as to indicate a common policy "both in training and execution." Punishments inflicted on prisoners had included vivisection and cannibalism. For example, a Japanese medical student had described the dissection of two American prisoners while they were still alive. After a Japanese medical officer extracted the two men's livers

the student recorded in his diary that it was "very informative." The consumption of prisoner's flesh had been made into a "festive occasion." Japanese soldiers had consumed the flesh of Allied prisoners or "soup from such flesh," even when other food was available. "Even officers of the rank of General and Rear-Admiral took part." The sickening, detailed examples caused many Americans to leave the courtroom.<sup>16</sup>

The court dropped thirty-eight of the fifty-five Allied charges in the IPS Indictment. The Tribunal dropped all allegations dealing with conspiracy to commit murder against individually specified Allied states. The majority judgment stated that the rejected charges were either repetitious or outside the jurisdiction of the IMTFE. The court decided that the Charter conferred jurisdiction only for a conspiracy to commit Crimes against Peace.<sup>17</sup>

On November 12, there was an "air of unreality" as the Tokyo War Crimes Trial began its final day. The visitor's gallery was only partially filled. The defendants appeared oblivious to their surroundings. Marquis Koichi

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<sup>16</sup>For view on individual responsibility, see IMTFE, Judgment of the IMTFE, pp. 28-32. For conclusion on war crimes, see pp. 1001-1003, 1065-1067. See also Honolulu Advertiser, November 11, 1948, p. 8; Pacific Stars and Stripes, Nov. 12, 1948, p. 1; and London Times, November 12, 1948, p. 4.

<sup>17</sup>IMTFE, Judgment of the IMTFE, pp. 32-37.

Kido, "looking older than his 59 years," slumped into his accustomed seat. The former Lord Keeper of the Privy Seal, who, according to the Nippon Times, resembled a "dyspeptic Mickey Mouse," closed his eyes "with that same expression of boredom" which had characterized all the accused throughout the long proceedings. Eighty-four year old former Premier Kiichiro Hiranuma appeared "to slumber peacefully." General Seishiro Itagaki seemed "no more concerned than if he were in a movie theater," according to the Pacific Stars and Stripes. General Hideki Tojo picked his nose while 75 year old former War Minister Jiro Minami dozed.<sup>18</sup>

At 1:30 p.m., President Webb began reading the court's finding on the indictment counts. The Tribunal found twenty-three of the twenty-five defendants guilty on Count One of the Indictment. Count One charged the accused with a criminal conspiracy to plan and wage aggressive wars. The goal of that conspiracy was the military, economic and political control of "east Asia, the Western and Southwestern Pacific Oceans and the Indian Ocean." The conspirators utilized "unconstitutional" and "ruthless" methods to seize control of the Japanese Government. The accused then used the Japanese state to

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<sup>18</sup>Honolulu Advertiser, November 12, 1948, p. 4; Pacific Stars and Stripes, November 12, 1948, pp. 1, 4; and Nippon Times, November 13, 1948, p. 3.

carry out their plans for control of East and Southeast Asia. The majority judgment termed that conspiracy to wage wars of aggression the most grave crime conceivable and "criminal in the highest degree."<sup>19</sup>

The court found most of the defendants guilty of waging aggressive war and found twenty-two guilty of waging aggressive war and war in violation of international treaties against the Republic of China from 1931-1945. The Tribunal decreed that eighteen defendants, from 1941-1945, had waged aggressive war and war in violation of international agreements against Britain, the Netherlands, and the United States. The majority judgment stated that two of the defendants, Kenji Dohihara and Seishiro Itagaki, were guilty of waging aggressive war against the Soviet Union at Lake Khassan in July 1938 and at Nomonhan from May to September 1939. The IMTFE found two of the accused, Mamoru Shigemitsu and Hideki Tojo, guilty of waging aggressive war against France in September 1940.

The Court ruled nine defendants guilty of war crimes and atrocities. Count 54 of the indictment charged the accused with authorizing and permitting war crimes. Count 55 held the defendants liable for failing to take sufficient measures to prevent the violation of the laws of war regarding treatment of prisoners. The majority judgment recited the repeated Japanese failure to uphold internationally recognized minimum standards for the treatment

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<sup>19</sup>IMTFE, Judgment of the IMTFE, pp. 1137-1142.



of prisoners of war. For example, in May 1942 Premier Tojo instructed prison camp officials to forbid prisoners "to lie idle doing nothing but eating freely for even a single day." He urged camp commanders to make sure that Allied prisoners were "usefully employed." At 4:30 p.m., the court took a brief recess.<sup>20</sup>

At 4:55 p.m., the Tribunal resumed to pronounce the verdicts. One by one, the individual Japanese defendants stood alone in the dock awaiting final sentence. After a two and one-half year trial, it took President Webb only twenty-one minutes to read the court's final judgment. The Australian jurist's voice was firm and steady as he pronounced the Tribunal's first death verdict on Kenji Dohihara. Kenji Dohihara, Koki Hirota, Seishiro Itagaki, Heitaro Kimura, Iwane Matsui, Akira Muto and Hideki Tojo were sentenced to death by hanging. Mamoru Shigemitsu received the lightest verdict of seven years imprisonment. The Tribunal sentenced Shigenori Togo to twenty years imprisonment and sentenced the remaining sixteen defendants to terms of life imprisonment. Most of the accused received their sentences calmly. After hearing the individual verdicts, each prisoner except Hiroshi Oshima bowed rigidly to either the court or gallery. Only Lieutenant General Akira Muto showed a visible reaction to the Tribunal's

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<sup>20</sup>For aggressive war verdicts, see IMTFE, Judgment of the IMTFE, pp. 992-1000. For war crimes verdicts, see pp. 1076-1078, 1086-1092, 1096-1097, 1105-1106, 1127-1211.



finding. Muto, according to Life magazine, "ground his teeth and gulped." Afterwards, Hideki Tojo told reporters, through his attorney Dr. Kiyose, that the World War II leader considered the proceedings a "victor's trial."

The sentences were somewhat inconsistent. The court found all defendants guilty on Count One except Mamoru Shegemitsu and Iwane Matsui. Every accused guilty on Count One except Shigenori Togo received at least a life imprisonment term. The Tribunal found Hiroshi Oshima and Toshio Shiratori guilty only on Count One but sentenced them both to life imprisonment. The majority Judgment declared Iwane Matsui guilty only on Count 55 yet condemned him to death. The bench voting on the seven death verdicts was close. The death penalty for Hirota Koki passed on a six to five vote. The Court voted seven to four on the remaining six executions.<sup>21</sup>

Two justices filed separate but concurring opinions. Philippine judge Delfin Jaranilla, survivor of the Bataan "death march," agreed with the verdicts but found them "too lenient, not exemplary and deterrent." In a thirty-five page opinion, Jaranilla stated that Supreme Commander MacArthur

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<sup>21</sup>For sentences, see IMTFE, Judgment of the IMTFE, pp. 1145-1218; Honolulu Advertiser, November 12, 1948, p. 1; Los Angeles Times, November 13, 1948, pp. 1,2,3; London Times, November 13, 1948, p. 4; Pacific Stars and Stripes, November 14, 1948, pp. 1,4; Washington Star, November 14, 1948, p. 1; and Life, November 29, 1948, pp. 40-41. For Court voting, see New York Times, December 9, 1948, p. 9; Stars and Stripes, December 10, 1948, p. 1; and Nippon Times, December 10, 1948, p. 1. For a detailed summary of the IMTFE verdicts, see Appendix D of this thesis.

had carefully chosen the eleven jurists for their qualifications, fairness and impartiality." The former Japanese prisoner alleged that the court exercised too much "leniency in favor of the accused" by granting the defendants every opportunity to present their case," thus protracting the trial." President Webb also submitted a separate but concurring motion, concluding that the Nazi war crimes had been "far more heinous, varied and extensive" than the Japanese atrocities. The chief judge, citing the advanced age of the war criminals, revealed his belief that no defendant should have been sentenced to death and stated that it might prove "revolting to hang or shoot such old men." A second reason for mitigation of the judgment, Webb believed, was the immunity of the Emperor, and he repeated his firm conviction of Hirohito's "outstanding part" in World War II. Webb noted that the court should have taken notice of the fact "that the leader of the crime, though available for trial, had been granted immunity by the prosecution."<sup>22</sup>

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<sup>22</sup>For Jaranilla opinion, see RG238, Court Journal, Box No. 84, pp. 4041-4076; Pacific Stars and Stripes, November 12, 1948, p. 1; Nippon Times, November 13, 1948, p. 1; and Stars and Stripes, November 14, 1948, p. 1. For Webb opinion, see Box No. 84, pp. 4077-4093; N.Y. Times, November 13, 1948, p. 9; L.A. Times, November 13, 1948, pp. 1, 2; London Times, November 13, 1948, p. 4; Nippon Times, November 13, 1948, pp. 1, 3; Stars and Stripes, November 14, 1948, p. 1; N.Y. Times, November 30, 1948, p. 16; L.A. Times, December 20, 1948, p. 7; and N.Y. Times, January 15, 1949, p. 4. According to William Sebald, SCAP's political advisor, MacArthur considered Webb's separate but concurring opinion "cheap politics," aimed at pleasing Australians who had demanded the trial of Emperor Hirohito as a war criminal.

Three judges held dissenting opinions. Justice B. V. A. Roling of the Netherlands contested many findings of the majority judgment. Roling agreed with the defense team that the wording of the Potsdam Declaration and Instrument of Surrender made no reference to Crimes against Peace and Crimes against Humanity. He concluded that the Allied countries had never made any declaration regarding war crimes "other than those committed in the last wars," and asserted that it was "well-nigh impossible" to define the concept of planning or waging an aggressive war.

French justice Henri Bernard also disagreed with the majority. Bernard attacked the "defective procedure" of the trial proceedings. He concluded that the court had failed to respect essential legal principles, "a violation of which would result in most civilized nations in the nullity of the entire procedure." The French judge also noted that the Tribunal had failed to establish direct proof of a conspiracy. He asserted that the immunity of Emperor Hirohito was "certainly detrimental to the defense of the accused." Bernard also revealed that the Tokyo jurists never met to discuss the Court's final judgment.<sup>23</sup>

Justice Radha Binod Pal of India, the only judge with a background in international law, issued a scathing

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See Sebald with Russell Brines, With MacArthur in Japan (New York, 1965), pp. 164, 168.

<sup>23</sup> For Roling dissent, see RG238, Court Journal, Box No. 84, pp. 3747-4015. For Bernard dissent, see pp. 4016-4040.

dissent, one longer than the entire majority judgment. Pal began writing his 250,000 word dissent in January 1947, nine months after the opening of the trial, and completed it in July 1948. The Indian jurist repudiated the entire proceedings as an illegal, "vindictive retaliation" against a defeated enemy. He asserted that Japan's activities in East Asia had a precedent in the Monroe Doctrine of the United States.

The former member of the Calcutta High Court challenged the basis of the IMTFE war crimes charges. Pal alleged that the accused could not be held individually responsible for acts of state. He stressed that Crimes against Peace and Crimes against Humanity had no basis in international law, and argued that the Charter could not grant the Tribunal jurisdiction over those two ex post facto charges. The Indian justice emphasized that no Allied declaration or wartime pronouncement could invest any court with authority that did not already exist under international law. He concluded that any international trial based on the definition of law as described by the Tokyo Charter amounted to the "sham employment of legal process for the satisfaction of a thirst for revenge." Finally, Judge Pal repudiated the prosecution contention of a Japanese conspiracy to launch aggressive war. He averred that the alleged conspiracy "had not been attested to by any witness, thing or documents." The jurist claimed that even if a conspiracy could be proved, conspiracy by

itself was not a crime under international law.

Pal also attacked the entire rules of procedure and evidence of the Tokyo War Crimes Trial and concluded that the court had abandoned all known procedural rules designed "to guard a Tribunal against erroneous persuasion." He pointed out that the court had accepted much evidence "which normally would have been discarded as hearsay evidence." The IMTFE had enacted restrictive rules of evidence for the defense while allowing more lax rules for the prosecution.<sup>24</sup>

The Japanese press reaction favored the verdicts. Most newspapers lauded the judgment as a milestone for justice and peace. The Jiji Shimpō, for example, declared that it was hard to imagine a more fair decision. The Asahi termed the verdicts a declaration of future peace. The Tokyo Shimbun, the Mainichi, Shin Yukan and the Sekai Keizai reminded their readers of the collective guilt of all Japanese people for allowing the "military clique" to "plague us for so long a time." Virtually all papers, however, were surprised by the court's harsh verdict for former Premier Koki Hirota. The Kochi Nippo quipped that

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<sup>24</sup>Radha Binod Pal, International Military Tribunal for the Far East: Dissident Judgment of Justice R. B. Pal (Calcutta, India, 1953), pp. 5-6, 9-21, 37, 48, 59, 70-71, 83, 86-87, 104-105, 139-141, 148-161, 291, 557-567, 572-574, 577, 698-701; Nippon Times, November 13, 1948, pp. 1,2; and Stars and Stripes, November 14, 1948, p. 1, November 15, p. 1. Pal dissent is also located in RG238, Court Journal, Box No. 85, pp. 4100-4782 and Box No. 86, pp. 4783-5463.

if the twenty-five defendants alone were responsible for 15 years of war then "they are supermen" and "their excellent ability should be praised."<sup>25</sup>

Japanese political activities ceased during the reading of the Tribunal's final verdicts. Diet members hovered around the radio to hear the judgment. All refused to comment. Emperor Hirohito and Empress Nagako heard the radio sentences at the Imperial Palace. Hirohito, dressed in a business suit, sat erectly in his chair but appeared downcast as he listened intently to the sentences. According to the Stars and Stripes, the Emperor looked "somewhat shocked" over the Tribunal's death verdict for Koki Hirota and life term for Koichi Kido.<sup>26</sup>

The Japanese popular reaction to the verdicts was mixed. Large crowds gathered in the Ginza to hear the judgments over the radio. Many Japanese "copied down the sentences in their notebooks." Some Japanese interviewed felt the findings were "entirely proper." Others felt the Tokyo decisions were an arbitrary punishment rendered by the victor nations. Petition drives for the mitigation of sentences began "gradually cropping up." The entreaty on behalf of Hirota Koki was always "the starter." Japanese

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<sup>25</sup> ATIS, Press Translation and Summaries, Numbers 761-777, Reel 160; Numbers 770-793, Reel 61; Numbers 794-808, Reel 62; and Nippon Times, November 13, 1948, p. 1, November 14, pp. 1, 4, November 26, p. 4.

<sup>26</sup> Nippon Times, November 13, 1948, p. 1, and Pacific Stars and Stripes, November 14, 1948, p. 1.

repatriated soldiers from Manchuria and Russia felt the verdicts were too lenient.<sup>27</sup>

After the trial, Chief Prosecutor Keenan explained the prosecution's viewpoint on the Emperor. He disagreed strongly with President Webb's claim that Emperor Hirohito was the "leader of the crime." Keenan revealed that the January 1946 "high level" decision not to indict Hirohito was made by the Allies "for political reasons." The IPS position stated that the emperor had been under the power of "gangsters." Keenan believed that the prosecution testimony showed Hirohito "to be a weak character" but "on the side of peace." The head of IPS had attempted to have the emperor testify as a witness, but Britain had vetoed that attempt. He alleged that the courtroom appearance of Hirohito would have been unbearable for England since "they have a King of their own." Keenan alleged that Britain opposed "from the very beginning" the legal idea that "the initiation of wars is a crime." Finally, the chief prosecutor stated that he was ashamed of the seven year sentence for former Foreign Minister Mamoru Shigemitsu, who had been included as a defendant only at the insistence of the Soviet

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<sup>27</sup>For Japanese popular reaction, see Reels 60, 61 and 62 of ATIS; Christian Science Monitor, November 12, 1948, p. 1; Nippon Times, November 13, 1948, p. 1; N.Y. Times, November 13, 1948, pp. 1, 9; Washington Post, December 23, 1948, p. 10; and Sebald, With MacArthur in Japan, pp. 160-161. The American Bataan Veteran's Organization (BVO) attacked "the outrageous miscarriages of justice" at the Tokyo War Crimes Trial. The BVO felt that the "Japs" were "getting off too lightly." See Nippon Times, December 4, 1948, p. 2.



Union.<sup>28</sup>

Article 17 of the Charter granted Supreme Commander MacArthur a final review of the verdicts. On November 21, the defense lawyers petitioned SCAP for a reversal or for mitigation. Ben Bruce Blakeney argued that the Court did not provide the defendants an unbiased trial. He noted that three of the Tribunal's own judges contested the fairness of the proceedings. Blakeney stressed that the verdicts looked "too much like an act of vengeance to impress the world with our love of justice and fair play."<sup>29</sup>

On November 21, at 11:35 a.m., General MacArthur and Allied members of the Far Eastern Commission (FEC) met at the Dai Ichi Building to discuss the sentences. MacArthur asked for the FEC recommendations on the verdicts and for ninety minutes the eleven FEC members expressed their views. Seven advised no change in the sentences. Four advised a reduction in the sentences. French member Lieutenant

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<sup>28</sup>Nippon Times, November 21, 1948, pp. 1, 2; London Times, November 22, 1948, p. 3; Pacific Stars and Stripes, December 4, 1948, p. 4, December 6, p. 4; Washington Post, December 23, 1948, p. 16; and N.Y. Times, January 14, 1949, p. 11. In 1950, Keenan alleged that Stalin could have been indicted for planning and initiating wars of aggression, the same charge levied against the Japanese at the Tokyo War Crimes Trial. See "Joseph Keenan Meets the Press," American Mercury, April 1950, pp. 456-460.

<sup>29</sup>For defense petitions to SCAP, see RG238, Miscellaneous Records, Box No. 350. Blakeney's plea is in Box No. 352. See also Pacific Stars and Stripes, November 16, 1948, p. 4 and Nippon Times, November 21, 1948, p. 1, November 23, p. 1.

General Z. Pechkoff, though officially polled as advocating no changes in sentences, issued a personal appeal for clemency. Pechkoff noted that future generations might conclude that the Tokyo War Crimes Trial's objectivity was "influenced by and subjected to the political requirements of the moment."<sup>30</sup>

On November 24, MacArthur revealed his review decision. Stating that he could find "nothing of technical commission or omission" in the trial proceedings "to warrant my investigation," he upheld the sentences. The supreme commander concluded that he could conceive of "no judicial process where greater safeguard was made to evolve justice." He directed Eighth Army Commander Lieutenant General Walton Walker to execute the sentences one week after November 25. The date and time remained a secret. The bodies of the condemned war criminals would not be returned to their families.<sup>31</sup>

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<sup>30</sup>For FEC voting, see RG238, MacArthur's Review of the Judgment, Box No. 351; Sebald, With MacArthur in Japan, pp. 168-169; and Nippon Times, November 23, 1948, p. 1. For Pechkoff clemency plea, see RG238, Box No. 351.

<sup>31</sup>For MacArthur review, see Box No. 351; United States Department of State, Diplomatic Papers, Foreign Relations of the United States, 1948, volume 6 (Washington, D.C., 1974), p. 908; Stars and Stripes, November 24, 1948, p. 1; Nippon Times, November 25, 1948, pp. 1, 2; Douglas MacArthur, Reminiscences (N.Y., 1964), p. 318; Sebald, pp. 169-170; and Courtney Whitney, MacArthur, His Rendezvous with Destiny (N.Y., 1965), pp. 281-282.

On November 29, the same day that MacArthur's Press Office established a twenty-four "Tojo death watch," four American defense lawyers appealed to the U.S. Supreme Court. On November 30, SCAP postponed the executions pending the Supreme Court's decision. In their petition, defense attorneys again challenged the legality of the trial. On December 6, the Supreme Court agreed to hear the appeals. On the sixteenth and seventeenth, four counsel for the Japanese defendants argued their case before the High Court. George Yamaoka, George Furness, John Brannon and William Logan, Jr., claimed that the Tokyo Court was not a true international tribunal but a "rare creation" of the U.S. executive branch and "the military authority thereunder." Logan contended that SCAP had created new definitions of international law and Crimes against Peace and Humanity that retroactively violated the American Constitution. On December 21, by a vote of six to one, the Supreme Court ruled that it had no jurisdiction over an international body such as the Tokyo Tribunal. At 9:00 p.m., SCAP gave official notifications to the seven condemned men that their sentences would be carried out.<sup>32</sup>

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<sup>32</sup>For twenty-four hour "death watch," see Honolulu Advertiser, November 29, 1948, pp. 1,2; Pacific Stars and Stripes, November 29, 1948, p. 4; Nippon Times, November 29, 1948, p. 1; N.Y. Times, November 29, 1948, p. 17; and Washington Post, December 22, 1948, p. 4. For Supreme Court defense petitions and arguments, see Stars and Stripes, December 1, 1948, p. 4; Nippon Times, December 17, 1948,

The Tokyo night of December 23 was cold and crisp. At 1:40 a.m., Kenji Dohihara, Iwane Matsui, Akira Muto, and Hideki Tojo gathered in a specially constructed cell block shrine at Sugamo Prison. The four condemned men wore plain, green U.S. Army salvage work clothing "completely devoid of insignia of any kind." Shinsho Hanayama, Buddhist priest and professor of Indian philosophy at Tokyo University, conducted final rites in the improvised chapel. As a final goodbye, the defendants drank grape juice and then water with Dr. Hanayama. After the ceremony, two U.S. guards escorted each condemned man towards the death house.

At 11:55 p.m., four members of the Tokyo Far Eastern Commission entered the death house. General Douglas MacArthur had ordered American representative William J. Sebald, Chinese General Shang Chen, British member Patrick Shaw and Russian Lieutenant General Kuzma N. Derevyanko to be present as official witnesses in order to verify the execution of the judgment of the IMTFE. Despite the Nuremberg precedent and "worldwide protest," MacArthur forbade the press from viewing the executions.

There was absolute silence in the death house. The four Allied representatives stood on a low, narrow platform against one side of the brightly lit room. Before

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pp. 1, 2; Washington Post, December 17, 1948, pp. 1, 19, December 18, 1948, p. 3; Nippon Times, December 18, 1948, pp. 1, 2, December 19, pp. 1, 2; Washington Post, December 21, 1948, pp. 1, 3; Nippon Times, December 22, 1948, pp. 1, 2; and Stars and Stripes, December 22, 1948, pp. 1, 4.

those Allied witnesses stood a long, wooden stage with numbered ropes, from one to five. American Army doctors, grave registration personnel and soldiers stood by in the tomblike silence.

Seconds after midnight, Dohihara, Matsui, Tojo and Muto entered the death house. The entrance to the chamber opened directly in front of the dais on which the Allied delegates stood. Each condemned was "individually identified" as he entered the room. After the identification process, the four doomed men climbed the thirteen steps to the gallows' deck. Another identification was made. The execution detail placed black hoods over the heads of the four men. Lt. Charles C. Rexroad adjusted the ropes and nooses. One and a half minutes after midnight, with "clock-like" military precision, Rexroad sprang the traps simultaneously, resulting in "a sound like a rifle volley."

At 12:19 a.m. following medical verification of the deaths of Donihara, Matsui, Muto and Tojo, U.S. soldiers brought Seishiro Itagaki, Koki Hirota and Heitaro Kimura into the death chamber. The same identification process and execution was repeated. By 12:35 a.m., the seven death sentences had been carried out.

At 12:36 a.m., the four FEC members left the death house and hastened back to the main prison building. Colonel Handwerk, American commandant of Sugamo, provided cocktails to ease the tension. The four observers each drank a straight whiskey. Lieutenant General Derevyanko



rode home with American FEC Chairman Sebald because the Republic of China and the Soviet Union were at odds. On the way home, Derevyanko accepted Sebald's invitation for a nightcap. Around 2:00 a.m., Sebald drove Derevyanko home, "slightly worse for the evening's experience."<sup>33</sup>

A light rain fell on Sugamo Prison during the early hours of December 24. American soldiers with fixed bayonets stood guard, barring the way to Allied newsmen. At 2:05 a.m., under the "strictest security regulations," two large U.S. Army trucks sped through the gates of Sugamo Prison in Tokyo's Ikebukuro Ward. Four military police jeeps, two in front and two in the rear, flanked the Army trucks. "Under the cloak of utmost secrecy," the convoy disappeared into the night.

At 7:45 a.m., the military convoy, bearing the bodies of seven war criminals, arrived at a square stucco structure in Yokohama. The building, dominated by a 200 foot stack rising above it, stood in a bombed out hollow in an area

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<sup>33</sup>For descriptions of the seven hangings, see Los Angeles Times, December 21, 1948, p. 1, December 23, pp. 1, 6, December 24, p. 7; Baltimore Evening Sun, December 22, 1948, pp. 1, 4; Seattle Daily Times, December 22, 1948, pp. 1, 4; Washington Star, December 22, 1948, pp. 1, 4; New York Times, December 23, 1948, pp. 1, 6; Washington Post, December 23, 1948, pp. 1, 10; Nippon Times, December 24, 1948, pp. 1, 2; and Pacific Stars and Stripes, December 24, 1948, pp. 1, 4. For MacArthur's refusal to permit newsmen and photographers, see Nippon Times, November 25, 1948, pp. 1, 2, November 28, pp. 1, 2; and Stars and Stripes, December 22, 1948, pp. 1, 4. For the Nuremberg precedent of allowing two newsmen from each occupying power to witness the Nazi executions, see Stars and Stripes, October 2, 1946, p. 1.

known as Kuboyama. Inside, Hiyoshi Tobita, ten year proprietor of the Yokohama Municipal Crematorium, rushed to complete his preparations. The customary day's advance notice had not been given, but Tobita had been prepared to carry out the cremations on short notice.

At 8:10 a.m., amidst bleak surroundings that offered no more dignity than a "common garbage incinerator," seven rusty ovens consumed the seven bodies. U.S. Army personnel closely supervised the entire proceedings. Cremation employees placed the remains into ash boxes furnished by the U.S. Army. The small black boxes resembled "Japanese lunch boxes." Army personnel then loaded the seven boxes into American jeeps. "Well," said Hiyoshi Tobita, "it's all over. It is just what we expected for Tojo." The seven Army jeeps left the Yokohama Municipal Crematorium in different directions. To prevent possible enshrinement by militarists, U.S. Army officials scattered to the winds the ashes of the seven men.<sup>34</sup>

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<sup>34</sup>For cremation descriptions, see Baltimore Morning Sun, December 23, 1948, pp. 1, 6; Honolulu Advertiser, December 23, 1948, pp. 1, 7; N.Y. Times, December 23, 1948, pp. 1, 6; Washington Post, December 23, 1948, pp. 1, 10; Washington Star, December 23, 1948, pp. 1, 3; and Nippon Times, December 24, 1948, pp. 1, 2. Several Japanese crematorium workers salvaged a few ashes and buried them until the Occupation ended. The remains were then returned to the families of the condemned. See Pacific Stars and Stripes, April 23, 1955, p. 13 and Nippon Times, May 7, 1956, p. 3.



## IN RETROSPECT

A verdict reached by a Tribunal after a defective procedure cannot be a valid one...the manner in which deliberations were conducted may be contested as to having assured the defendants all the guarantees which the law of nations grants them....

-French Justice Henri Bernard, November 1948.

Between 1945 and 1951, Allied military tribunals met throughout East Asia, Southeast Asia and Russia to try Japanese war criminals. War crimes trials convened in Canberra, Batavia, Guam, Khabarovsk, Kuala Lumpur, Labuan, Manila, Canton, the Marshall Islands, Morotai, Fort Darwin, Rabaul, Shanghai, Singapore, Hong Kong, Nanking, Peiping, Manus Island, Macassar, Yokohama and Tokyo. Those Allied tribunals handed down 920 death verdicts and 5,472 prison terms.<sup>1</sup>

The major Asian war crimes trials convened in Tokyo from April 29, 1946 to November 12, 1948. That Court, the International Military Tribunal for the Far East, tried what is considered to be the twenty-eight principal Japanese prewar and wartime leaders. The Tokyo trial proceedings were hardly a model of fairness. The rules of trial

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<sup>1</sup> Location and statistics quoted from Philip Rocco Piccigallo, "In the Shadow of Nuremberg: Trials of Japanese in the East, 1945-1951" (Ph.D. dissertation, CCNY, 1977), pp. 1, 3. This thorough study describes the numerous trials of minor war criminals (Class "B" and "C") throughout Asia. The Tokyo Tribunal tried a small group of class "A" or major war criminals.

procedure, the nature of the evidence, the attitude of the Tribunal, the questionable legality of the Allied indictment, the problems with language translations and the Court's bias in favor of the prosecution precluded a fair trial by any national or international standard. The International Military Tribunal for the Far East was convinced long before it first assembled that only one verdict could be delivered.

American and Japanese defense lawyers labored at a disadvantage throughout the trial. Attorneys for the defense operated under several handicaps. The defense section lacked the necessary funds, facilities, lawyers, translators and time to insure a proper defense for Japanese accused of war crimes. For example, on December 30, 1946, the prosecution had 150 translators to the defense team's 50. Three Japanese defense lawyers later claimed that no defendant would have been hanged had the defense section possessed more money. The prosecution had more time to prepare its case. Supreme Commander MacArthur established the International Prosecution Section on December 8, 1945, while the International Defense Panel was not formed until April 5, 1946, only three weeks before the trial began.

American attorneys for both the prosecution and the defense were singularly ill-equipped for an international trial of Japanese. Only five of the nearly one hundred American lawyers spoke Japanese. Few counsel on either side

had any knowledge of Japan, its culture, or its politics. Prosecution attorneys seldom used the names of the Japanese defendants but instead identified the accused by an official court seating diagram.<sup>2</sup>

Both the prosecution and defense suffered from internal bickerings and disputes. The prosecution split into cliques, occasioned by the mixed feelings that Chief Prosecutor Joseph B. Keenan evoked amongst them. Keenan,

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<sup>2</sup>For defense disadvantages, see Valentine B. Deale, letter to the New York Times, December 19, 1948, p. 8E; Valentine B. Deale, interview at his office, Washington, D.C., February 5, 1979; Beverly M. Coleman, interview at the Metropolitan Club, Washington, D.C., April 22, 1979; Coleman, telephone conversation, July 31, 1979; and Owen Cunningham, "Forum on War Crimes Trials," Proceedings of the Section of International and Comparative Law, Seattle Meeting, September 6-7, 1948, American Bar Association (Chicago, 1949), pp. 34-38. For December 30 figure, see International Military Tribunal for the Far East, Tokyo War Crimes Trial, Proceedings (Tokyo: The Tribunal, May 3, 1946-April 16, 1948), pp. 13878-13891. For three Japanese counsel and extra money, see The Nippon Times (Tokyo), May 7, 1956, p. 3. Only three American defense counsel spoke Japanese: John G. Brannon, Ben Bruce Blakeney and Nisei George Yamaoka. For IPS lack of background on Japan, see Robert M. Donihi, interview at Andrews Air Force Base, Camp Springs, Maryland, October 14, 1978; Solis Horowitz, "The Tokyo Trial," International Conciliation 465 (November 1950):494; David Nelson Sutton, Jr., "The Trial of Tojo: The Most Important Trial in All History?" American Bar Association Journal 36 (February 1950):95; H. A. Hauxhurst, "Forum on War Crimes Trials," p. 32; James T. C. Liu, "The Tokyo Trial: Source Materials," Far Eastern Survey 17 (July 28, 1948):170; and Saburo Shiroyama, War Criminal: The Life and Death of Hirota Koki (Tokyo, 1977), p. 230. For IPS and seating chart, see George F. Blewett, "Victor's Injustice: The Tokyo War Crimes Trial," American Perspective 4 (Summer 1950):287.

although considered a courtroom genius, was a poor administrator, drank excessively, and suffered from high blood pressure. Several associate prosecutors tried to have Keenan removed as chief of the International Prosecution Section (IPS). A. S. Comyns Carr, Associate Prosecutor from Britain, thought the prosecution case proceeded "more smoothly when Keenan was not in Tokyo."<sup>3</sup>

The defense team failed to present a united front. Several of the accused disliked each other. Those defendants often worked at cross-purposes and introduced contradictory evidence. Japanese and American attorneys had different ideas on how to conduct the case. Legal training and court procedure differed. What might have been important and relevant to a Japanese counsel seemed trivial or superfluous to an American lawyer. Divisions such as these only strengthened the prosecution's case. In fact, much of the defense evidence, as prosecution attorney Solis Horowitz wrote, "supported rather than rebutted the prosecution case."<sup>4</sup>

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<sup>3</sup>For Keenan disputes, see Robert M. Donihi interview; U.S. Army Pacific Stars and Stripes (Tokyo), June 19, 1946, p. 1; June 28, p. 1 and June 30, p. 1; and United States Department of State, Diplomatic Papers, Foreign Relations of the United States, 1947, volume VI (Washington, D.C., 1971), pp. 269-270. For Keenan's occasional flushed courtroom condition, see Donihi interview; Courtney Browne, Tojo: The Last Banzai (New York, 1967), p. 225; Robert J. C. Butow, Tojo and the Coming of the War (Stanford, 1969), p. 496; and Richard H. Minear, Victor's Justice; The Tokyo War Crimes Trial (Princeton, 1971), p. 211.

<sup>4</sup>For defense divisions, see Walter Lee Riley, "The International Military Tribunal for the Far East and the Law of the Tribunal as Revealed by the Judgment and the Concurring and Dissenting Opinions" (Ph.D. dissertation, University of

The quality of the American defense lawyers varied. While a few were undoubtedly excellent, most were mediocre. A Catholic University Law School Dean described the defense team as a conglomeration of "political hacks" whose legal experience, professional standards and moral values were "extremely slight." The June 1946 resignation of Chief of Defense Counsel Beverly M. Coleman and the other five original American defense attorneys hampered defense efforts. During the course of the trial, other counsel resigned because of Court abuse, inadequate clerical aid, and poor translation facilities.<sup>5</sup>

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Washington at Seattle, 1957), pp. 102-103 and Lawrence W. Wadsworth, Jr., "A Short History of the Tokyo War Crimes Trial with Special Reference to Some Aspects of Procedure" (Ph.D. dissertation, American University, 1955), pp. 165-166, 226. For defense evidence actually aiding the prosecution, see Osaka Mainichi, January 17, 1947, p. 2; Nippon Times (Tokyo), November 6, 1948, p. 1; U.S. Army Pacific Stars and Stripes (Tokyo), November 7, 1948, p. 1; and Solis Horowitz, "The Tokyo Trial," pp. 525-526, 536.

<sup>5</sup> Catholic University Law Dean Gordon Ireland, "Uncommon Law in Martial Tokyo," Year Book of World Affairs (London, 1950), p. 72; "Ex Post Facto From Rome to Tokyo," Temple Law Quarterly 21 (July 1947), pp. 49-50, footnote #91; Valentine B. Deale interview; Beverly M. Coleman interview; Deale letter to N.Y. Times, December 19, 1948, p. 8E; Newsweek, July 1, 1946, p. 38; and Saburo Shiroyama, War Criminal: The Life and Death of Hirota Koki, pp. 244-245, 250-251. Many counsel expected "sumptuous quarters, good publicity and the admiration of the Japanese." Some defense lawyers lingered in "geisha houses and other places of amusement" instead of in court. A few attorneys were intoxicated during interrogations, and one American counsel expected to sleep with the wife of his Japanese defendant.

There existed no fixed standards on the admissibility of courtroom evidence. The rules of evidence rested upon the Tribunal's discretion. For example, a vote of the bench determined what evidence would be admissible. This uncertainty as to what evidence was acceptable placed the defense team at a disadvantage. Article 13 of the Tribunal Charter permitted the Court to admit any type of evidence which it deemed to have probative value. The Court accepted hearsay evidence, permitted leading questions and allowed the use of affidavits in lieu of courtroom examination of witnesses. Article 9d, however, stated that each accused had the right "to conduct his defense, including the right to examine any witness." That acceptance of testimony by deposition precluded any cross-examination by the defendant or his counsel.

Tribunal rulings favored the prosecution. Defense attorneys repeatedly argued that court rulings were biased against their case. In fact, 90 percent of all Tribunal decisions proved unfavorable to the defense. Tribunal President Sir William Flood Webb of Australia turned down defense attempts to quote Winston Churchill or Harry S. Truman, but yet allowed the prosecution to cite Josef Stalin. Evidence of Japanese atrocities in China formed a major part of the prosecution's case; yet President Webb refused to permit the defense to quote a statement of Chiang Kai-shek approving Japanese treatment of Chinese prisoners of war. The Court excluded all defense evidence



relating to the existence of Communism in China or Russia. The Tribunal discounted evidence of Allied prewar economic legislation aimed at Japan. In sum, the Tokyo War Crimes bench rejected 50 percent of the defense evidence as lacking probative value. The Australian chief judge dismissed attempts to introduce evidence of good Japanese behavior. Sir William reminded the defense team that the Tokyo Tribunal had assembled to try Japanese on war crimes and "not to ascertain what virtues they possessed."<sup>6</sup>

President Webb's courtroom manners exercised a disquieting effect on the proceedings. His clashes with

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<sup>6</sup>For Court Charter, see Supreme Commander for the Allied Powers, International Military Tribunal for the Far East Established at Tokyo January 19, 1946 (Washington, D.C., 1947), pp. 3-16. For fundamental right to cross-examine witnesses, see Paul Chung-tseng Tsai, "Judicial Administration of the Laws of War: Procedures in War Crimes Trials" (LLD. dissertation, Yale University, 1957), 2 volumes, Volume I, Chapter V, pp. 60-66. For 90% figure, see Lawrence W. Wadsworth, Jr., "A Short History of the Tokyo War Crimes Trial with Special Reference to Some Aspects of Procedure," p. 163. For the quoting of Truman, Churchill and Stalin, see International Military Tribunal for the Far East, Tokyo War Crimes Trial, Proceedings (Tokyo: The Tribunal, 3 May 1946-16 April 1948), pp. 188-195, 23759-23761. For Chiang Kai-shek statement, see IMTFE, Proceedings, p. 21806. For Court rulings on Communism, see pp. 21081, 22412-22413, 23759-23761. For a summary of the defense economic argument, see pp. 17088-17089, 24764-24765, 24787-24792. For 50% figure, see Lawrence W. Wadsworth, Jr., "A Short History of the Tokyo War Crimes Trials with Special Reference to Some Aspects of Procedures," p. 179. For Webb comments on the good conduct of individual Japanese, see IMTFE, Proceedings, pp. 12325, 4473-4474, 27474. For more on Court bias in favor of the prosecution, see Wadsworth dissertation, pp. 139, 165-166, 173, 175-176, 215-216, 219-220, 224-225.



defense counsel and Chief Prosecutor Keenan became a regular occurrence. The court president frequently upbraided the defense lawyers. He accused some of spreading enemy propaganda, using gratuitous insults and exercising conduct unbecoming an attorney. Some of Webb's courtroom rulings were questionable. When a defense witness arrived late for court due to a transportation mix-up, Sir William ordered a full investigation. He remarked that "we must fix responsibility in these matters." Webb charged Justice Ju-Ao Mei's driver with contempt of court for failing to pick up the Chinese judge on time. After Dr. Ichiro Kiyose, counsel for Hideki Tojo, delivered a trenchant speech on the trial proceedings, Captain George Furness, counsel for Mamoru Shigemitsu, praised the "brilliant presentation." Webb replied: "...you can omit the compliments. It is quite unnecessary." After defense counsel Lawrence McManus objected to the prosecution's use of the term "massacre at Naha," citing the fact that a massacre had not been proved, the Tribunal president told McManus that he was "unduly sensitive."<sup>7</sup>

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<sup>7</sup> For Webb insults to defense counsel, see Chapter Three, footnote 23 of this thesis; Austin J. Gerber, "The Tokyo Trial of General Itagaki" (M.A. thesis, Stanford University, 1959), pp. 71, 73; Philip Rocco Piccigallo, "In the Shadow of Nuremberg: Trials of Japanese in the East, 1945-1951," pp. 43-44; and Ireland, "Uncommon Law in Martial Tokyo," Year Book of World Affairs, pp. 66-67. For Webb and transportation delays, see IMTFE, Proceedings, pp. 18032, 18131, 24503. For Webb and Furness, see p. 196. For Webb and McManus, see pp. 2289-2290. Webb called defense witness former Premier and Navy Minister Admiral Mitsumasa Yonai the "most stupid witness I have ever seen."

The composition of the Tokyo Tribunal adversely affected the outcome of the trial. All eleven judges represented the victorious powers. No judge from a neutral nation sat on the bench. Furthermore, Russian justice Major General Ivan Michayevich Zaryanov and French judge Henri Bernard understood neither English nor Japanese, the two official languages of the trial. Ju-Ao Mei, the Chinese jurist, was not a judge in his homeland. Only Indian justice Radha Binod Pal had a background in international law. Three judges joined the trial after proceedings began on April 29, 1946. On May 17, Indian member Pal joined the bench. A month later, Philippine judge Delfin Jaranilla first sat on the Tribunal. It was not until July 15 that U.S. justice Major General Myron C. Cramer assumed his seat on the bench. The defense lawyers contested the impartiality of three judges. They pointed out that President Webb had served as Australian war crimes commissioner during World War II. Delfin Jaranilla had spent World War II as a Japanese prisoner of war after surviving the infamous Bataan "death march." Myron Cramer had written a legal opinion while he was Judge Advocate General for President Franklin D. Roosevelt on the responsibility for Pearl Harbor.

The admissibility of court evidence hinged on the daily composition of the Tribunal. A majority vote of all judges present determined Court decisions. Absenteeism

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See Osaka Mainichi, September 23, 1947, pp. 1, 4.

among the judges increased sharply as trial dragged on. Unlike the Nuremburg war crimes trial, the Tokyo Trial failed to provide for alternate judges. Some jurists missed months at a time. Defense lawyers protested their repeated absences and argued that court decisions, whether favorable or unfavorable to their clients, depended solely on the daily constitution of the bench. President Webb more than once admitted that a full bench might be inclined to vote differently than a bench of six to eight members.<sup>8</sup>

The defense repeatedly challenged the Court's novel definitions of types of war crimes. Crimes against Peace and Crimes against Humanity, first proclaimed at the August 1945 London Conference for postwar planning for the trial of Nazi war criminals, possessed no basis in international law. Since both charges were created retroactively, the defense argued that an individual should not be held liable for an offense which was not criminal at the time of its commission. Moreover, it was unnecessary to indict Japanese defendants on those two counts. Conventional war crimes charges, as recognized by international law, would certainly have sufficed. Why, asked the defense, "stack the deck" further against the accused?

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<sup>8</sup>For Bernard and Zaryanov lack of language background, see Chapter 3, footnote 4 of this thesis. For Webb quote on composition of Tribunal, see IMTFE, Proceedings, pp. 24816-24817, 25190-25191 and Modern Military Branch, World War II War Crimes (IMTFE), Record Group 238, Proceedings in Chambers, Box No. 78, p. 25, National Archives, Washington, D.C.

The defense section attacked the prosecution charges of aggressive war and conspiracy. The Nuremburg and Tokyo Charters nowhere defined the concept of waging aggressive war. Furthermore, international law contained no mention of the crimes of planning, initiating and waging an aggressive war. The doctrine of conspiracy, which Justice Pal claimed international law did not recognize as a crime, was peculiar to Anglo-American law. The defense team alleged that even if conspiracy were a crime, the prosecution had failed to prove that a conspiracy had indeed existed. The defense stated that there was no dictator like Hitler in Japan. Fifteen different Japanese cabinets held power from 1928-1945. There existed no united, concerted band of conspirators as in Nazi Germany. The accused may have been wrong, argued Judge Pal, "but they were not conspirators."<sup>9</sup>

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<sup>9</sup>For arguments on international law and aggression, see Radha Binod Pal, International Military Tribunal for the Far East: Dissident Judgment of R. B. Pal (Calcutta, India, 1953), pp. 109-135; Walter Lee Riley, "The International Military Tribunal for the Far East and the Law of the Tribunal as Revealed by the Judgment and the Concurring and Dissenting Opinion," pp. 121-151; Richard Minear, Victor's Justice: The Tokyo War Crimes Trial, pp. 42-73; Gordon Ireland, "Ex Post Facto From Rome to Tokyo," pp. 49-59; "Uncommon Law in Martial Tokyo," pp. 80-88; C. A. Pompe, Aggressive War An International Crime (The Hague, Netherlands, 1953), pp. 24-35, 53-54, 116-117, 176-180, 221-227; Julius Stone, Legal Controls of International Conflict (New York, 1954), pp. 324-334; Ian Brownlie, International Law and the Use of Force by States (Oxford, 1963), pp. 171-173, 201-203, 209-211, 253; Lassa Oppenheim, International Law, A Treatise (New York, 1944), volume II, pp. 252-253, 450-459; and George Finch, "The Nuremberg Trial and International Law," American Journal of

Japanese atrocities formed a large part of the Allied case. Horrible barbarisms certainly took place. But wartime cruelties took place on both sides. American wartime hatred of Japanese soldiers often reached extreme racial proportions. After one Pacific tour, Colonel Charles A. Lindbergh recorded tales of American troops making pen knives from the bones of Japanese soldiers, shooting parachuting Japanese airmen and gleefully slitting the "yellow sons of bitches" throats. Lindbergh reported that Japanese troops who fought unfairly were

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International Law 41 (January 1947):20-37. For the view on the legality of the charge of aggressive war, see Joseph B. Keenan and Brendan F. Brown, Crimes Against International Law (Washington, D.C., 1950), pp. 4, 16-22, 24-27, 40, 43-62, 73-74, 88-93, 108-110, 113-129, 176-177; Sheldon Glueck, "The Nuernberg Trial and Aggressive War," Harvard Law Review 59 (February 1946):396-456; The Nuremberg Trial and Aggressive War (New York, 1946), pp. vii, xi, 4-5, 7 (Glueck's 1944 book War Criminals: Their Prosecution and Punishment (New York) differs in interpretation, see pp. 37-38, 41, 93-94, 118, 171); Hans Kelsen, Peace Through Law (Chapel Hill, North Carolina, 1944), pp. 91-103; Quincy Wright, "War Criminals," American Journal of International Law 39 (April 1945):257-285; "War Crimes Under International Law," Law Quarterly Review 62 (January 1946):40-52; and "The Law of the Nuremberg Trial," American Journal of International Law 41 (January 1947): 38-72. For arguments on conspiracy, see R. B. Pal, Dissentient Judgment, pp. 177-189; Walter Lee Riley dissertation, pp. 152-167; Minear, Victor's Justice, pp. 34-42; Kenzo Takayanagi article on conspiracy in the Nippon Times, June 16, 1946, p. 4; George Blewett, "Victor's Injustice," pp. 284-287; Ireland, "Uncommon Law in Martial Tokyo," pp. 80-88; and "Ex Post Facto from Rome to Tokyo," pp. 49-59. For arguments on legality of the charge of criminal conspiracy, see Keenan and Brown, Crimes Against International Law, pp. 88-112; Brendan F. Brown, The Criminal Conspiracy in the Japanese War Crime Trials (Washington, D.C., 1950); and Solis Horowitz, "The Tokyo Trial," pp. 499, 543-557. For Pal quote, see p. 558 of his Dissentient Judgment.

"yellow bastards" while American soldiers who fought likewise did it because they knew the "Japs" had done it to their buddies.<sup>10</sup>

Lack of American understanding of Japan probably exacerbated that wartime enmity. American soldiers and Tokyo trial attorneys were not alone in being ill-informed about Japanese culture, personality and politics. Americans as a group knew little of Japan. Few Americans had ever seen a Japanese while many had met Germans. An unseen, alien enemy was easier to hate than a concrete, visible one. In 1939, only 3 percent of United States world history textbooks were devoted to Japan and China. In 1944, only 7 percent of American geography textbooks were devoted to Asia. As late as May 1946, 66 percent of Americans believed that Japanese living in the United States had spied for their government while 31 percent believed that Japanese-Americans had destroyed U.S. war materials. Even today our knowledge of Asia remains woefully inadequate. One could argue that American ignorance about Vietnam aided our debacle in Southeast Asia. Ignorance breeds prejudice and prejudice leads to poor political decisions.<sup>11</sup>

<sup>10</sup> Charles A. Lindbergh, The Wartime Journals of Charles A. Lindbergh (New York, 1970), pp. 853-854, 857, 859-860, 879-880, 881, 902-903, 906, 915, 919, 923. See also R. B. Pal, Dissentient Judgment, pp. 646-653.

<sup>11</sup> Textbook statistics quoted from Harold R. Isaacs, "Sources for Images of Foreign Countries," edited by Melvin Small, Public Opinion and Historians (Detroit, 1970), p. 102.



A central question remains: was justice done at the Tokyo War Crimes Trial? Despite the biased trial, did the International Military Tribunal for the Far East render just verdicts? The Japanese people certainly applauded the sentences. Few lamented the "demise of the militarists." The trial apparently created no American ill-feeling in Japan. For many Japanese, the trial symbolized the elimination of the military influence on Japanese society. The long-range impact of the Tokyo Tribunal appears negligible. Even though the International Military Tribunal for the Far East proceedings were unfair, most of the defendants, at least in the eyes of their countrymen, received their just deserts.

But was this American justice? Would defeated American war leaders want to be judged on the Tokyo standard? Would the United States tolerate a decision delivered by such a court? Perhaps Indian justice Radha Binod Pal was correct when he wrote:

When the conduct of the nations is taken into account, the law will perhaps be found to be that only a lost war is a crime.<sup>12</sup>

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For May 1946 poll, see Hadley Cantril (ed.), Public Opinion 1935-1946 (Princeton, 1951), p. 381, poll #17.

<sup>12</sup>Radha Binod Pal, International Military Tribunal for the Far East: Dissident Judgment of Justice R. B. Pal, p. 59.



## APPENDIX A

### War Crimes Chronology

#### 1942-1945

January 13, 1942	Declaration of St. James Palace, London, on war crimes.
November 1, 1943	Moscow Declaration.
December 1, 1943	Cairo Declaration.
January 18, 1944	UNWCC holds inaugural meeting.
May 10, 1944	UNWCC establishes Pacific Subcommittee.
February 5-11, 1945	Yalta Conference.
May 2, 1945	Truman appoints Jackson U.S. Chief of Counsel for the Prosecution of Nazi war criminals.
May 7, 1945	Germany surrenders.
June 26 - August 8, 1945	London International Conference on Military Trials.
July 26, 1945	Potsdam Declaration.
August 6, 1945	Hiroshima.
August 8, 1945	London Agreement and IMT Charter.
August 8, 1945	USSR declares war on Japan (August 9, Tokyo time).
August 9, 1945	Nagasaki.
August 10, 1945	Japan sues for peace.
August 14, 1945	Truman announces Japanese surrender.
September 2, 1945	Instrument of Surrender signed in Tokyo Bay.
September 11, 1945	SCAP begins round-up of war crimes suspects; Tojo suicide attempt.
September 27, 1945	Emperor Hirohito visits Supreme Commander MacArthur.
October 8, 1945	Arraignment of General Tomoyuki Yamashita.
November 20, 1945	International Military Tribunal (IMT) at Nuremburg begins.
November 29, 1945	Truman appoints Joseph Keenan U.S. Chief of Counsel for the Prosecution of Japanese war criminals.
December 7, 1945	Yamashita sentenced to death.

December 8, 1945	SCAP establishes International Prosecution Section (IPS).
December 16, 1945	Prince Konoye Fumimaro suicide.
December 16-26, 1945	Moscow conference.
December 27, 1945	Far Eastern Commission (FEC) established.

#### 1946

January 1, 1946	Hirohito's Imperial Rescript denying divinity.
January 3, 1946	Lt. General Masaharu Homma trial begins.
January 19, 1946	SCAP establishes the International Military Tribunal for the Far East (IMTFE) in Tokyo.
February 11, 1946	Homma trial concludes.
February 15, 1946	SCAP appoints judges for IMTFE Tribunal.
February 23, 1946	Yamashita hanged.
February 26, 1946	FEC meets for first time.
March 3, 1946	Homma shot.
April 5, 1946	IMTFE General Secretary establishes the International Defense Panel (IDP); French judge M. Henri Reimburger resigns--M. Henri Bernard replaces him on Tribunal.
April 22, 1946	IMTFE General Secretary appoints Beverly M. Coleman as Chief of Defense Counsel.
April 26, 1946	Russian delegation joins IMTFE; SCAP amends January 19 IMTFE Charter.
April 29, 1946	IMTFE opens; Indictment lodged.
May 3, 1946	Arraignment of the 28 class "A" war criminals.
May 17, 1946	Indian Justice R. B. Pal joins Tribunal bench.
May 31, 1946	Original six American defense counsel issue their resignations to SCAP.
June 3, 1946	Defense extension granted.
June 4, 1946	Keenan delivers IPS opening statement; recess begins.
June 13, 1946	Philippine Justice Delfin Jaranilla joins Court bench; Shumei Okawa transferred to hospital.

June 17, 1946	SCAP relieves six American lawyers including Chief of Defense Counsel Beverly M. Coleman.
June 24, 1946	Justice John P. Higgins announces imminent resignation.
June 28, 1946	Yosuke Matsuoka dies of tuberculosis.
July 10, 1946	Webb adjourns Court until air-conditioning installed.
July 12, 1946	Judge Higgins resigns from Tribunal bench.
July 15, 1946	Court resumes briefly; American Justice Myron C. Cramer replaces Higgins on IMTFE bench.
July 22, 1946	IMTFE proceedings resume.
October 1, 1946	IMT judgment read--Nuremburg ends.
October 16, 1946	Nuremburg executions.
November 14, 1946	IMTFE establishes Language Arbitration Board.
December 30, 1946	Defense requests thirty day recess.

#### 1947

January 3, 1947	Japanese defense counsel radio appeal.
January 5, 1947	Admiral Nagano dies.
January 24, 1947	Prosecution rests.
January 27, 1947	Defense opens their case.
February 3, 1947	Twenty day defense recess granted.
February 24, 1947	Court resumes; opening address on joint portion of defense case.
March 5, 1947	Webb expels defense counsel David Smith.
March 24, 1947	Defense applies for recess.
March 25, 1947	Seven day recess granted.
April 2, 1947	Court resumes.
April 9, 1947	Tribunal declares Okawa unfit for trial and places him in psychiatric institution.
May 8, 1947	Webb declares one day court recess.
May 10, 1947	Court resumes.
June 10, 1947	Defense applies for recess.
June 11, 1947	Webb grants lengthy recess.

June 19, 1947  
 August 4, 1947  
 September 5, 1947  
 November 7, 1947  
 December 15, 1947  
 December 26-30, 1947  
 December 31, 1947-  
 January 6, 1948

Defense recess begins.  
 Court resumes.  
 David Smith apology attempt.  
 Webb announces his temporary recall to Australia; SCAP names Cramer acting president.  
 Webb returns to IMTFE bench.  
 Tojo affidavit read in court.  
 Keenan cross-examines Tojo.

#### 1948

January 12, 1948  
 January 14, 1948  
 January 28, 1948  
 February 3, 1948  
 February 9, 1948  
 February 10, 1948  
 February 11, 1948  
 March 2, 1948  
 April 15, 1948  
 April 16, 1948  
 July 27, 1948  
 August 2, 1948  
 September 7, 1948  
 October 15, 1948  
 November 3, 1948  
 November 4, 1948  
 November 4-12, 1948  
 November 24, 1948  
 November 29, 1948  
 December 6, 1948

Defense rests.  
 Prosecution begins rebuttal evidence.  
 Defense requests recess.  
 Recess granted--effective immediately.  
 Court resumes.  
 Defense ends surrebuttal.  
 Prosecution begins closing arguments.  
 Prosecution finishes; defense begins closing arguments.  
 Defense finishes--case submitted.  
 Court adjourns to consider evidence.  
 IMTFE General Secretary announces court has reached a decision.  
 Translation of IMTFE Judgment begins.  
 Owen Cunningham address before American Bar Association meeting in Seattle.  
 IMTFE bars Cunningham from Court.  
 A. S. Comyns Carr address before London Grotius Society.  
 Court resumes.  
 Tribunal reads Judgment and Verdicts.  
 MacArthur upholds IMTFE verdicts.  
 Defense files motions with U.S. Supreme Court.  
 Supreme Court agrees to hear defense motions.

December 16-17, 1948	Arguments heard before Supreme Court
December 20, 1948	Supreme Court denies petitions.
December 21, 1948	SCAP notifies condemned war criminals of their imminent executions.
December 23-24, 1948	SCAP carries out seven executions.
December 24, 1948	Last remaining 17 Class "A" war criminals granted amnesty.



## APPENDIX B

### The Accused\*

- 1) Sadao Araki - former general, Inspector General of Military Training during Mukden Incident (September 1931), Minister of War (December 1931-January 1934), Education Minister (May 1938-August 1939) and member of Supreme War Council.
- 2) Kenji Dohihara - former general, Commander of the Special Service Section in Manchuria in 1931, Commander-in-Chief Eastern Army in Japan (1941-1945), Command of the 7th Area Army at Singapore (1941-1945) and member of Supreme War Council.
- 3) Kingoro Hashimoto - former colonel, participated in the "rape" of Nanking (1937), commanded the forces which shelled the Ladybird and Panay (1937). Hashimoto helped establish the Imperial Rule Assistance Association.
- 4) Shunroku Hata - former general, member of Supreme War Council, War Minister (1939-40) and Commander-in-Chief of the Expeditionary Force in China (March 1941-June 1944).
- 5) Kiichiro Hiranuma - former Chief Justice of Japan, founder and president of the Kokuhonsha patriotic society (1926-1938), member of Privy Council (1924-1939) and Prime Minister (January-August 1938).
- 6) Koki Hirota - civilian, Foreign Minister (September 1933-March 1936, June 1937-May 1938) and Prime Minister (March 1936-February 1937).
- 7) Naoki Hoshino - civilian, a chief Japanese official in Manchuria (1932-July 1940), President of the Planning Board (July 1940-April 1941), and Chief Cabinet Secretary (October 1941-July 1944).
- 8) Seishiro Itagaki - former general, Chief of Staff in Kwantung Army and Japanese forces in China (1929-1937), War Minister (June 1938-August 1939), Chief of Staff of the Japanese Army in China (September 1939-July 1941), Commander of the Japanese in Korea (July 1941-March 1945) and Commander of the 7th Area Army in Singapore (April-August 1945).

\*Sources: Solis Horowitz, "The Tokyo Trial," International Conciliation (November 1950), pp. 578-583; U.S. Dept. of State, Bulletin, May 19, 1946, pp. 848, 853; U.S. Strategic Bombing Survey. Japan's Struggle to End the War. (Washington, D.C.:1946), pp. 23-36; Tokyo War Crimes Trial, volume I, The Oriental Economist (1946), pp. 84-115 and Osaka Mainichi, April 30, 1946, pp. 1, 2.

- 9) Okinori Kaya - civilian, Minister of Finance (June 1937-May 1938, October 1941-February 1944) and President of the North China Development Company (1939-1941).
- 10) Koichi Kido - civilian, Chief Secretary to the Lord Keeper of the Privy Seal (1930-1937), Education Minister, Welfare Minister and Home Minister (held successively 1937-1939), and Lord Keeper of the Privy Seal (1940-1945).
- 11) Heitaro Kimura - former general, Chief of Staff of Kwantung Army (October 1940-April 1941), Vice Minister of War (April 1941-March 1943) and Commander-in-Chief of the Japanese Army in Burma (August 1944-August 1945).
- 12) Kuniaki Koiso - former general, Vice Minister of War in 1932, Chief of Staff of Kwantung Army (August 1932-March 1934), Commander of the Japanese Army in Korea (1934-1936), Overseas Minister (1939-1940), Governor-General of Korea (May 1942-July 1944) and Prime Minister (July 1944-April 1945).
- 13) Iwane Matsui - former general, Japanese Army representative at Geneva Conference (1931-1933), Commander-in-Chief of the Japanese Forces in Central China (October 1937-February 1938), president of the Greater East Asia Development Society and member of Supreme War Council.
- 14) Yosuke Matsuoka - chief delegate to the League of Nations Assembly in 1933, President of the South Manchurian Railway (1935-1939) and Foreign Minister (July 1940-July 1941).
- 15) Jiro Minami - former general, War Minister (1931), Commander-in-Chief Kwantung Army and Kwantung Governor-General (1934-1936), Governor-General of Korea (1936-1942) and Member of the Privy Council (1942-1945).
- 16) Akira Muto - former general, Chief of the Military Affairs Bureau (October 1939-April 1942) and Chief of Staff of the 14th Area Army in the Philippines (October 1944-August 1945).
- 17) Osami Nagano - former admiral, delegate to Geneva Naval Conference (1931-1933), Chief Delegate to the London Naval Conference (1935), Navy Minister (March 1936-February 1937), member of the Supreme War Council, Chief of Naval General Staff (April 1941-February 1944) and Supreme Naval Adviser to the Emperor (February 1944-August 1945).
- 18) Takasumi Oka - former admiral, Section Chief of the General and Military Affairs Bureau of the Navy (1938-1940), Chief of the General and Military Affairs Bureau of the Navy (October 1940-July 1944) and Vice Navy Minister (1944).



- 19) Shumei Okawa - officer of the South Manchurian Railway, alleged organizer of the Mukden Incident (18 September 1931) and principal propagandist.
- 20) Hiroshi Oshima - former general, Military Attache to the Japanese Embassy in Berlin (March 1934-October 1938), and Ambassador to Germany (October 1938-December 1939, December 1940-April 1945).
- 21) Kenryo Sato - former general, Chief of the Military Affairs Section of the War Ministry (February 1941-April 1942), Chief of the Military Affairs Bureau of the War Ministry (April 1942-December 1944), Assistant Chief of Staff of China Expeditionary Forces (December 1944-April 1945) and Commander of the 37th Division in Indo-China (April-August 1945).
- 22) Mamoru Shigemitsu - civilian, Ambassador to China (1931-1932), Ambassador to the U.S.S.R. (August 1936 - September 1938), Ambassador to Great Britain (September 1938-February 1941), Ambassador to Nanking Puppet Government (February 1941-April 1943) and Foreign Minister (April 1943-April 1945).
- 23) Shigetaro Shimada - former admiral, Vice Chief of Naval General Staff (1935-1937), Navy Minister (1941-July 1944), Chief of the Naval General Staff (February-July 1944), and member of the Supreme War Council.
- 24) Toshio Shiratori - civilian, Chief of the Information Bureau of the Foreign Office (1929-June 1933), Minister to the Scandinavian countries (June 1933-1937), Ambassador to Italy (1938-1940), and Adviser to the Japanese Foreign Office (1940-1945).
- 25) Teiichi Suzuki - former general, Chief of the Political Affairs Division of the China Affairs Board (December 1938-April 1941), President of the Cabinet Planning Board (April 1941-October 1943), and Cabinet Adviser (November 1943-September 1944).
- 26) Shigenori Togo - civilian, Ambassador to Germany (1937), Ambassador to U.S.S.R. (October 1938-October 1941), and Foreign Minister (October 1941-September 1942, April 1945-August 1945).
- 27) Hideki Tojo - former general, Command of the Military Police of the Kwantung Army (1935-1937), Chief of the Staff of Kwantung Army (1937-1938), Vice Minister of War (May-December 1938), War Minister (July 1940-July 1944), Prime Minister (October 1941-July 1944), and Chief of the Army General Staff (February-July 1944).

- 28) Yoshijiro Umezu - former general, Chief of the General Affairs Department of the Army General Staff (1931-1934), Commander of the Japanese forces in China (1934-1936), Vice War Minister (March 1936-May 1938), Commander of Kwantung Army and Ambassador to Manchukuo (1939-1944), and Chief of Army General Staff (July 1944-August 1945).

# APPENDIX C

## Defendants and Counsel

Defense Counsel as of May 3, 1946\*

Chief of Defense Counsel: Beverly M. Coleman  
 Associate Counsel: Valentine B. Deale  
 George A. Furness  
 Aristides G. Lazarus  
 Franklin E. N. Warren  
 George Yamaoka

Defendant	Chief Counsel	Associate Counsel <sup>†</sup>	American Counsel
1) Sadao Araki	Yutaka Sugawara		
2) Kenji Dohihara	Naoyoshi Tsukazaki		
3) Kingoro Hashimota	Itsuro Hayashi		
4) Shunroku Hata	Masayoshi Kanzaki		
5) Kiichiro Hiranuma	Rukuro Usami		
6) Koki Hirota	Tadashi Hanai		
7) Naoki Hashino	Goichiro Fujii		
8) Seishiro Itagaki			
9) Okinari Kaya	Tsuruo Takano		
10) Koichi Kido	Shigetaka Hozumi		
11) Heitaro Kimura			
12) Kuniaki Koiso			
13) Iwane Matsui	Somei Uzawa		
14) Yosuke Matsuoka	Shunzo Kobayashi		
15) Jiro Minami	Kintaro Takeuchi		
16) Akira Muto			
17) Osami Nagano	Hachiro Okuyama		
18) Takasumi Oka	Shinji Somiya		
19) Shumei Okawa	Shinichi Ohara		
20) Hiroshi Oshima	Naoyoshi Tsukazaki		

\*IMTFE, Proceedings of the IMTFE (Tokyo: The Tribunal, 1948), May 3, 1946, between pp. 21-22.

†No information available

Defendant	Chief Counsel	Associate Counsel <sup>†</sup>	American Counsel
21) Kenryo Sato			
22) Mamoru Shigemitsu	Kenzo Takayanagi		
23) Shigetaro Shimada	Yoshitsugu Takahashi		
24) Toshio Shiratori	Somei Uzawa		
25) Teiichi Suzuki	Moto Kichi Hasegawa		
26) Shigenori Togo	Shigetaka Hozumi		
27) Hideki Tojo	Ichiro Kiyose		
28) Yoshijiro Umezu			

Defense Counsel as of June 3, 1946<sup>\*</sup>

Chief of Defense Counsel: Beverly M. Coleman  
 Associate Counsel: Norris H. Allen  
 Valentine B. Deale  
 Joseph F. Hynes

Defendant	Chief Counsel	Associate Counsel <sup>†</sup>	American Counsel
1) Sadao Araki	Yutaka Sugawara		Lawrence J. McManus
2) Kenji Dohihara	Naoyoshi Tsukazaki		Franklin E. N. Warren
3) Kingoro Hashimoto	Itsuro Hayashi		
4) Shunroku Hata	Masayoshi Kanzaki		Aristides G. Lazarus
5) Kiichiro Hiranuma	Rukuro Usami		Samuel J. Kleiman
6) Koki Hirota	Tadashi Hanai		David F. Smith
7) Naoki Hoshino	Goichiro Fujii		George C. Williams
8) Seishiro Itagaki	Hanzo Yamada		
9) Okinori Kaya	Tsuruo Takano		George Yamaoka
10) Koichi Kido	Shigetaka Hozumi		William Logan, Jr.
11) Heitaro Kimura	Toksaburo Shiohara		Collins Edward
12) Kuniaki Koiso	Shohei Sammonji		Alfred W. Brooks
13) Iwane Matsui	Kiyoshi Ito		Floyd J. Mattice
14) Yosuke Matsuoka	Shunzo Kobayashi		Franklin E. N. Warren
15) Jiro Minami	Kintaro Takeuchi		Wm. J. McCormack
16) Akira Muto	Shoichi Okamoto		Roger F. Cole
17) Osami Nagano	Hachiro Okuyama		John E. Brannon
18) Takasumi Oka	Shinji Somiya		
19) Shumei Okawa	Shinichi Ohara		Alfred W. Brooks
20) Hiroshi Oshima	Naoyoshi Tsukazaki		Owen Cunningham
21) Kenryo Sato	Ichiro Kiyose		James E. Freeman
22) Mamoru Shigemitsu	Kenzo Takayanagi		George A. Furness
23) Shigetaro Shimada	Yoshitsugu Takahashi		Edward P. McDermott
24) Toshio Shiratori	Somei Uzawa		Charles B. Caudle
25) Teiichi Suzuki	Motokichi Hasegawa		Michael Levin
26) Shigenori Togo	Shigetaka Hozumi		C. Talbot Young
27) Hideki Tojo	Ichiro Kiyose		John W. Guider
28) Yoshijiro Umezu	Shotaro Miyake		Ben Bruce Blakeney

<sup>\*</sup>IMTFE, Proceedings, pp. 323-324 and Osaka Mainichi, June 2, 1946, pp. 1, 2.

<sup>†</sup>No information available

Defense Counsel as of July 9, 1946\*

Defendant	Chief Counsel	Associate Counsel	American Counsel
1) Sadao Araki	Yutaka Sugawara	Sakae Ichikawa	Lawrence McManus
2) Kenji Dohihara	Naoyoshi Tsukasaki	Takahisa Kato	Franklin E. N. Warren
3) Kingoro Hashimoto	Itsuro Hayashi	Kunji Kanase Kohei Iwama	
4) Shunroku Hata	Nasayoshi Kanzaki		Aristides G. Lazarus
5) Kiichiro Hiranuma	Rokuro Usami	Hisao Yanai	Samuel J. Kleiman
6) Koki Hirota	Tadashi Hanai		David F. Smith
7) Naoki Hoshino	Goichiro Fujii	Masao Migita	George C. Williams
8) Seishiro Itagaki	Hanzo Yamada	Sasagawa Tomoji	Floyd J. Mattice
9) Okinori Kaya	Tsuro Takano	Yasumichi Tonaka	Roger S. Rutchick
10) Koichi Kido	Shigetaka Hozumi	Takutaro Sakuta	William Logan, Jr.
11) Heitaro Kimura	Tokisaburo Ehiohara	Tatsumi Koretsune	Joseph C. Howard
12) Kuniaki Koiso	Shahei Sammonji	Ryozo Makino Takao Iwamatsu	Alfred W. Brooks
13) Iwane Matsui	Kiyoshi Ito		Floyd J. Mattice
14) Jiro Minami	Toshio Okamoto	Tatsuo Matsuzawa	William J. McCormack
15) Akira Muto	Shoichi Okamoto		Roger F. Cole
16) Osami Nagano	Hachiro Okuyama		John G. Brannon
17) Takasumi Oka	Shinji Somiya		Franklin E. N. Warren
18) Shumei Okawa	Shinichi Ohara		Alfred W. Brooks
19) Hiroshi Oshima	Naoyoshi Tsukazaki	Fujio Uchida Nobuhiko Ushiba	Owen Cunningham
20) Kenryo Sato	Hyoichiro Kusano	Isaburo Kazuma	James N. Freeman
21) Mamoru Shigemitsu	Kenzo Takayanagi	Hisao Yanai Rokuro Usami	George A. Furness
22) Shigetaro Shimada	Yoshitsugu Takahashi	Juzo Yamana	Edward P. McDermott
23) Toshio Shiratori	Nobuo Naritomi	Yoji Hirota Shin Sakuma	Charles B. Caudle
24) Teiichi Suzuki	Motokichi Hasogawa	Michitaka Kaino Kenzo Takayanagi	Michael Levin
25) Shigenori Togo	Shigetaka Hozumi	Taganobu Yoshinaga	George Yamaoka

\*Modern Military Branch, WWII War Crimes, IMTFE, RG238, Miscellaneous Records, Box No. 352, National Archives, Washington, D.C.

Defendant	Chief Counsel	Associate Counsel	American Counsel
26) Hideki Tojo	Ichiro Kiyose	Tokisaburo Shiohara Masatoshi Makushita	
*27) Yoshijiro Umezu	Shotaro Miyake	Kisaku Ono	Ben Bruce Blakeney

\*The twenty-eighth defendant, Yosuke Matsuoka, died on June 28, 1946.



Defense Counsel as of October 31, 1946<sup>\*</sup>

Defendant	Chief Counsel	Associate Counsel	American Counsel
1) Sadao Araki	Yutaka Sugawara	Sakae Ichikawa	Lawrence McManus
2) Kenji Dohihara	Kinjiro Ohta	Takahisa Kato	Franklin E. N. Warren
		Shigeharu Kimura	
3) Kingoro Hashimoto	Itsuro Hayashi	Kohei Iwama	E. R. Harris
4) Shunroku Hata	Masayoshi Kanzaki	Kokubu Tomoharu	Aristides G. Lazarus
		Taitaro Iwanari	
5) Kiichiro Hiranuma	Rokuro Usami	Hisao Yanai	Franklin E. N. Warren
		Sawa Kunio	
		Yoichi Mori	
6) Koki Hirota	Tadashi Hanai	Yoshiro Ando	David F. Smith
		Goro Morishima	
7) Naoki Hoshino	Goichiro Fujii	Masao Migita	Joseph C. Howard
		Reisuke Matsuda	
8) Seishiro Itagaki	Hanzo Yamada	Sasagawa Tomoji	Floyd J. Mattice
		Junkichi Banno	
9) Okinori Kaya	Tsuruo Takano	Yasumichi Tanaka	Michael Levin
		Kenji Fujiwara	
		Masamichi Yamagiwa	
10) Koichi Kido	Shigetaka Hozumi	Takahiko Kido	William Logan, Jr.
11) Heitaro Kimura	Tokisaburo Shiohara	Tatsumi Koretsune	Joseph C. Howard
		Abe Akira	
12) Kuniaki Koiso	Shohei Sammonji	Kazuya Takagi	Alfred W. Brooks
		Tsunehisa Mimachi	
		Tokihiko Matsusaka	
		Kyoichi Kobayashi	
13) Iwane Matsui	Kiyoshi Ito	Takayoshi Jodai	Floyd J. Mattice
		Ryoichi Omuro	
14) Jiro Minami	Toshio Okamoto	Tatsuo Matsuzawa	Alfred W. Brooks
		Giichi Kondo	
15) Akira Muto	Shoichi Okamoto	Seiji Hara	Roger F. Cole
		Keizo Ohsumi	

<sup>\*</sup>RG238, Box No. 352.

Defendant	Chief Counsel	Associate Counsel	American Counsel
16) Osami Nagano	Hachiro Okuyama	Shimao Iwai Kunji Kanase	John G. Brannon
17) Takasumi Oka	Shinji Somiya	Tetsuichi Kurashige Seiichiro Ona	Franklin E. N. Warren
18) Shumei Okawa	Shinichi Ohara	Ryosuke Kanauchi Fumiko Fukuoka	Alfred W. Brooks
19) Hiroshi Oshima	Tatsuki Shimanouchi	Fujio Uchida Nobuhiko Ushiba	Owen Cunningham
20) Kenryo Sato		Isaburo Kazuma Chikao Fujisawa	James N. Freeman
21) Mamoru Shigemitsu	Hisao Yanai	Rokuro Usami Kazuichi Miura Shizuo Kanaya	George A. Furness
22) Shigetaro Shimada	Yoshitsugu Takahashi	Juzo Yamana Isamu Suzuki	E. R. Harris
23) Toshio Shiratori	Nobuo Naritomi	Yoji Hirota Shin Sakuma	Charles B. Caudle
24) Teiichi Suzuki	Kenzo Takayanagi	Michitaka Kaino Otiochi Okamoto	Michael Levin
25) Shigenori Togo	Haruhiko Nishi	Tadashi Sakaya Katsumi Nihro Shigetaka Hozumi Denjiro Kato	George Yamaoka Ben Bruce Blakeney
26) Hideki Tojo	Ichiro Kiyose	Tokisaburo Shiobara Masatoshi Makushita	George F. Blewett
27) Yoshijiro Umezu	Mitsuo Miyata	Kisaku Ono Ikeda Sumihisa Yoshikazu Umezu	Ben Bruce Blakeney

Defense Counsel as of October 18, 1948\*

Defendant	Chief Counsel	Associate Counsel	American Counsel
1) Sadao Araki	Yutaka Sugahara	Takaaki Hasuoka Jiro Tokuoka	Lawrence J. McManus
2) Kenji Dohihara	Kinjiro Ohta	Takahisa Kato Shigehara Kimura Tomeo Hongo	Franklin E. Warren
3) Kingoro Hashimoto	Itsuro Hayashi	Kunji Kanase Hachiro Okuyama	E. Richard Harris
4) Shunroku Hata	Masayoshi Kanzaki	Tomoharu Kokubu Taitaro Imanari	James N. Freeman
5) Kiichiro Hiranuma	Rokuro Usami	Kunio Sawa Yoichi Mori	Franklin E. Warren
6) Koki Hirota	Tadashi Hanai	Masao Hirota Shinichi Shibusawa	George Yamaoka
7) Naoki Hoshino	Geichiro Fujii	Masao Migita Reisuke Matsuda	Joseph C. Howard
8) Seishiro Itagaki	Hanzo Yamada	Tomaji Sasagana Junkichi Banno Kenji Ohkoshi Ryosuke Kanauchi	Floyd J. Mattice
9) Okinori Kaya	Tsuruo Tanaka	Yasumichi Tanaka Kenji Fujiwara Masamichi Yamagiwa Wataru Narahashi	E. R. Harris
10) Koichi Kido	Shigetaka Hozumi	Takahiko Kido	William Logan, Jr.
11) Heitaro Kimura	Tokisaburo Shiohara	Tatsumi Koretsune Akira Abe	Joseph C. Howard
12) Kuniaki Koiso	Shohei Sammonji	Kazuya Takagi Tokihiko Matsuzaka Kyoichi Kobayashi Seiichi Saito	Alfred W. Brooks
13) Iwane Matsui	Kiyoshi Ito	Takayoshi Jodai	Floyd J. Mattice
14) Jiro Minami	Toshio Okamoto	Tatsuo Matsuzawa Giichi Kondo Yasuma Oda	Alfred W. Brooks

\*RG238, Box No. 352.

Defendant	Chief Counsel	Associate Counsel	American Counsel
15) Akira Muto	Shoichi Okamoto	Seiji Hara	Roger F. Cole
16) Takazumi Oka	Shinji Somiya	Chihiro Saeki	John G. Brannon
17) Hiroshi Oshima	Ryuki Shimanouchi	Seiichiro Ono	
		Kenji Enomoto	
		Fujio Uchida	
		Nobuhiko Ushira	
18) Kenryo Sato	Hyoichiro Kusano	Jugo Saigo	James N. Freeman
		Isaburo Kazuma	John G. Brannon
19) Mamoru Shigemitsu	Hisao Yanai	Matsataro Inoue	George A. Furness
		Kazuichi Miura	
		Shizuo Kanaya	
20) Shigetaro Shimada	Yoshitsugu Takahashi	Isamu Suzuki	E. R. Harris
		Masajiro Takigawa	John G. Brannon
		Shimao Inai	
		Shigeo Yasuda	
21) Toshio Shiratori	Shin Sakuma	Yogi Hirota	Charles B. Caudle
22) Teiichi Suzuki	Kenzo Takayanagi	Michitaka Kaino	
		Ippei Kato	
		Hisashi Fukushima	
23) Shigenori Togo	Haruhiko Mishi	Denjiro Kato	Ben Bruce Blakeney
		Motoharu Shichida	
24) Hideki Tojo	Ichiro Kiyose	Kenjiro Kawakita	George F. Blewett
		Hiroshi Uchiyama	
*25) Yoshijiro Umezu	Mitsuo Miyata	Kisaku Ono	Ben Bruce Blakeney
		Sumihisa Ikeda	
		Yoshikazu Umezu	

\* Osami Nagano died on January 5, 1947; Okawa was declared unfit for trial on April 9, 1947.

# APPENDIX D

## Indictment and Verdicts

### A) Indictment

- Count 1: Criminal conspiracy to wage wars of aggression.  
(1928-45)
- Count 27: Aggressive war against China. (1931-45)
- Count 29: Aggressive war against the United States. (1941-45)
- Count 31: Aggressive war against the British Commonwealth.  
(1941-45)
- Count 32: Aggressive war against the Netherlands. (1941-45)
- Count 33: Aggressive war against France. (1940)
- Count 35: Aggressive war against the U.S.S.R. at Lake  
Khassan. (1938)
- Count 36: Aggressive war against the U.S.S.R. at Nomonhan.  
(1939)
- Count 54: Ordering, authorizing and permitting violations  
of laws and customs of war against armed forces,  
prisoners, and civilian internees. (1941-45)
- Count 55: Reckless disregard of legal duty to secure  
observance of the laws and customs of war.  
(1941-45)

### B) Verdicts, November 1948

Defendant	Guilty Counts	Verdict
1) Sadao Araki	1, 27	Life
2) Kenji Dohihara	1, 27, 29, 31, 32, 35, 36, 54	Hanging
3) Kingoro Hashimoto	1, 27	Life
4) Shunroku Hata	1, 27, 29, 31, 32, 55	Life
5) Kiichiro Hiranuma	1, 27, 29, 31, 32, 36	Hanging
6) Koki Hirota	1, 27, 55	Life
7) Naoki Hoshino	1, 27, 29, 31, 32	Hanging
8) Seishiro Itagaki	1, 27, 29, 31, 32, 35, 36, 54	Life
9) Okinori Kaya	1, 27, 29, 31, 32	Life
10) Koichi Kido	1, 27, 29, 31, 32	Hanging
11) Heitaro Kimura	1, 27, 29, 31, 32, 54, 55	Life
12) Kuniaki Koiso	1, 27, 29, 31, 32, 55	Hanging
13) Iwane Matsui	55	June 1946
14) Yosuke Matsuoka	Died during trial on 28	Life
15) Jiro Minami	1, 27	Hanging
16) Akiro Muto	1, 27, 29, 31, 32, 54, 55	January 1947
17) Osami Nagano	Died during trial on 5	Life
18) Takasumi Oka	1, 27, 29, 31, 32	
19) Shumei Okawa	Declared unfit for trial 9 April 1947	Life
20) Hiroshi Oshima	1	Life
21) Kenryo Sato	1, 27, 29, 31, 32	7 years
22) Mamoru Shigemitsu	27, 29, 31, 32, 33, 55	

Defendant	Guilty Counts	Verdict
23) Shigetaro Shimada	1,27,29,31,32	Life
24) Toshio Shiratori	1	Life
25) Teiichi Suzuki	1,27,29,31,32	Life
26) Shigenori Togo	1,27,29,31,32	20 years
27) Hideki Tojo	1,27,29,31,32,33,54	Hanging
28) Yoshijiro Umezu	1,27,29,31,32	Life

## APPENDIX E

### The International Military Tribunal for the Far East

- 1) Henri Bernard of the Republic of France - Advocate General  
Premiere Classe.
- 2) Major General Myron C. Cramer of the United States -  
Judge Advocate General of the U.S. Army. On 15 July 1946,  
Judge Cramer assumed the vacant seat of John P. Higgins  
who had resigned on 24 June 1946. Justice Cramer became  
Acting-President during the absence of W. F. Webb.
- 3) John P. Higgins of the United States - Chief Justice of  
the Superior Judicial Court of Massachusetts. Justice  
Higgins resigned on 24 June 1946.
- 4) Delfin Jaranilla of the Commonwealth of the Philippines -  
member of the Supreme Court of the Philippine Commonwealth.  
Jaranilla joined the Tribunal 13 June 1946.
- 5) Edward Stuart McDougall of Canada - Court of King's Bench,  
Montreal, Quebec.
- 6) Ju Ao-mei of the Republic of China - Acting Chairman of  
Foreign Affairs Committee, Legislative Yuan.
- 7) Erima Harvey Northcroft of New Zealand - Supreme Court  
of New Zealand.
- 8) Radha Binod Pal of India - Calcutta High Court. Justice  
Pal joined the Tribunal on 17 May 1946.
- 9) Lord Patrick of the United Kingdom of Great Britain and  
Northern Ireland - Senator of His Majesty's College in  
Scotland and Judge of Court of Session in Edinburgh.
- 10) Bernard Victor A. Roling of the Kingdom of the Netherlands -  
Judge in Utrecht Court and Law Professor at Utrecht Univer-  
sity.
- 11) Sir William Flood Webb of the Commonwealth of Australia -  
Chief Justice of the Supreme Court of Queensland. Sir William  
was President of the Tribunal.
- 12) Major General Ivan Michyevich Zaryanov of the U.S.S.R. -  
Military Collegium of Supreme Court of the Soviet Union.



APPENDIX F

Tribunal Absenteeism

1) Justice Henri Bernard of France

1. Absent 9 January 1947.
2. Not sitting 12 March 1947, 0930-1200.
3. Not sitting 19 May 1947, 1500-1600.
4. Not sitting 9 June 1947, 1500-1600.
5. Not sitting 18 June 1947, 1120-1600.
6. Not sitting 2 September 1947, 1130-1600.
7. Absent 16 September 1947.
8. Absent 19 September 1947.
9. Not sitting 24 September 1947, 1335-1445.
10. Not sitting 1 October 1947, 1500-1600.
11. Absent 2 October 1947.
12. Absent 3 October 1947.
13. Absent 6 October 1947.
14. Absent 7 October 1947.
15. Absent 8 October 1947.
16. Not sitting 10 October 1947, 1330-1600.
17. Not sitting 16 October 1947, 1500-1600.
18. Not sitting 17 October 1947, 1500-1600.
19. Not sitting 24 October 1947, 1500-1600.
20. Not sitting 5 November 1947, 1100-1600.
21. Not sitting 20 November 1947, 1330-1430.
22. Not sitting 9 January 1948, 1330-1600.
23. Absent 16 January 1948.
24. Not sitting 28 January 1948, 1330-1600.
25. Not sitting 9 February 1948, 0930-1200.
26. Not sitting 10 February 1948, 1330-1445.
27. Not sitting 19 February 1948, 1500-1600.
28. Not sitting 1 March 1948, 1330-1600.
29. Not sitting 5 March 1948, 1330-1600.
30. Not sitting 8 March 1948, 1330-1445.
31. Not sitting 15 March 1948, 1500-1600.
32. Not sitting 22 March 1948, 1500-1600.
33. Not sitting 30 March 1948, 1330-1600.
34. Not sitting 2 April 1948, 1500-1600.
35. Not sitting 12 April 1948, 1330-1600.
36. Absent 15 April 1948.

2) Justice Myron C. Cramer of the United States\*

1. Not sitting 4 March 1947, 1330-1600.
2. Not sitting 10 June 1947, 1330-1500.

\*On 15 July 1946, Judge Cramer took over the vacant seat of John Higgins of Massachusetts who had resigned on July 12, 1946. Higgins missed only one session--May 17, 1946.

3. Not sitting 8 October 1947, 1500-1600.
4. Absent 22 March 1948.

### 3) Delfin Jaranilla of the Philippines

1. Absent 3 July 1946.
2. Absent 5 July 1946.
3. Absent 6 July 1946.
4. Absent 8 July 1946.
5. Not sitting 9 July 1946, 1330-1600.
6. Absent 10 December 1946.
7. Absent 11 December 1946.
8. Absent 12 December 1946.
9. Absent 13 December 1946.
10. Absent 16 December 1946.
11. Absent 17 December 1946.
12. Absent 18 December 1946.
13. Absent 19 December 1946.
14. Absent 20 December 1946.
15. Absent 23 December 1946.
16. Absent 24 December 1946.
17. Absent 26 December 1946.
18. Absent 27 December 1946.
19. Absent 30 December 1946.
20. Absent 31 December 1946.
21. Absent 2 January 1947.
22. Absent 3 January 1947.
23. Absent 6 January 1947.
24. Not sitting 5 March 1947, 1330-1600.
25. Not sitting 21 March 1947, 1330-1600.
26. Absent 24 March 1947.
27. Absent 25 March 1947.
28. Not sitting 4 August 1947, 1335-1348.
29. Not sitting 8 January 1948, 1330-1600.
30. Absent 9 January 1948.
31. Absent 22 January 1948.
32. Not sitting 26 January 1948, 1330-1600.
33. Absent 3 February 1948.
34. Absent 16 February 1948.
35. Not sitting 3 March 1948, 1330-1600.
36. Not sitting 15 March 1948, 0930-1200.
37. Not sitting 9 April 1948, 1330-1600.

### 4) Justice Edward Stuart McDougall of Canada

1. Not sitting 11 June 1947, 1100-1200.
2. Not sitting 19 June 1947, 1100-1530.
3. Absent 4 August 1947.
4. Absent 5 August 1947.
5. Absent 6 August 1947.
6. Absent 7 August 1947.
7. Absent 8 August 1947.
8. Absent 11 August 1947.
9. Absent 12 August 1947.

10. Absent 13 August 1947.
11. Absent 14 August 1947.
12. Absent 15 August 1947.
13. Absent 18 August 1947.
14. Absent 19 August 1947.
15. Absent 20 August 1947.
16. Not sitting 5 December 1947, 0930-1200.
17. Not sitting 11 December 1947, 1330-1600.
18. Absent 19 December 1947.
19. Absent 12 January 1948.
20. Absent 13 January 1948.
21. Not sitting 21 January 1948, 1100-1600.
22. Absent 22 January 1948.
23. Absent 23 January 1948.
24. Not sitting 18 February 1948, 1330-1600.
25. Absent 18 February 1948.
26. Absent 19 February 1948.
27. Absent 20 February 1948.
28. Not sitting 25 February 1948, 1330-1600.
29. Absent 27 February 1948.
30. Not sitting 10 March 1948, 0930-1200.
31. Not sitting 11 March 1948, 0930-1200.
32. Not sitting 17 March 1948, 0930-1200.
33. Not sitting 19 March 1948, 1330-1600.
34. Not sitting 26 March 1948, 1330-1445.
35. Not sitting 12 April 1948, 1330-1445.

5) Justice Ju Ao-Mei of the Republic of China

1. Absent 17 May 1946.
2. Not sitting 12 November 1946, 1340-1600.
3. Absent 27 December 1946.
4. Absent 30 December 1946.
5. Absent 31 December 1946.
6. Absent 2 January 1947.
7. Absent 3 January 1947.
8. Absent 6 January 1947.
9. Absent 7 January 1947.
10. Absent 8 January 1947.
11. Absent 9 January 1947.
12. Absent 10 January 1947.
13. Absent 13 January 1947.
14. Absent 14 January 1947.
15. Absent 15 January 1947.
16. Absent 19 March 1947.
17. Absent 23 May 1947.
18. Not sitting 26 May 1947, 1330-1600.
19. Not sitting 27 May 1947, 1330-1600.
20. Absent 12 June 1947.
21. Not sitting 17 June 1947, 0930-1045.
22. Not sitting 19 June 1947, 1500-1530.
23. Absent 4 August 1947.
24. Not sitting 26 September 1947, 1330-1600.
25. Absent 21 October 1947.
26. Not sitting 2 December 1947, 1330-1600.

27. Not sitting 8 December 1947, 1500-1600.
28. Not sitting 19 December 1947, 1330-1600.
29. Not sitting 22 December 1947, 1330-1600.
30. Not sitting 29 December 1947, 1500-1600.
31. Not sitting 15 January 1948, 1330-1600.
32. Absent 20 January 1948.
33. Not sitting 16 January 1948, 1100-1600.
34. Absent 19 January 1948.
35. Absent 21 January 1948.
36. Absent 22 January 1948.
37. Absent 23 January 1948.
38. Absent 26 January 1948.
39. Not sitting 27 January 1948, 1330-1600.
40. Not sitting 13 February 1948, 0930-1200, 1500-1600.
41. Not sitting 25 February 1948, 1500-1600.
42. Not sitting 5 March 1948, 1500-1600.
43. Not sitting 24 March 1948, 1500-1600.
44. Absent 26 March 1948.
45. Not sitting 2 April 1948, 1500-1600.
46. Not sitting 13 April 1948, 0930-1045.
47. Not sitting 14 April 1948, 1500-1600.

6) Justice Erima Harvey Northcroft of New Zealand

1. Absent 27 January 1947.
2. Absent 28 January 1947.
3. Absent 29 January 1947.
4. Absent 30 January 1947.
5. Absent 31 January 1947.
6. Absent 3 February 1947.
7. Absent 27 February 1947.
8. Absent 13 March 1947.
9. Absent 29 April 1947.
10. Absent 30 April 1947.
11. Absent 1 May 1947.
12. Absent 2 May 1947.
13. Absent 22 May 1947.
14. Absent 23 May 1947.
15. Not sitting 11 June 1947, 1330-1600.
16. Absent 12 June 1947.
17. Absent 13 June 1947.
18. Absent 16 June 1947.
19. Absent 17 June 1947.
20. Absent 18 June 1947.
21. Absent 19 June 1947.
22. Absent 4 August 1947.
23. Absent 5 August 1947.
24. Absent 6 August 1947.
25. Absent 7 August 1947.
26. Absent 8 August 1947.
27. Not sitting 15 August 1947, 1330-1600.
28. Not sitting 19 August 1947, 1330-1600.
29. Not sitting 22 August 1947, 1330-1600.
30. Not sitting 29 August 1947, 1330-1600.

31. Not sitting 5 September 1947, 1330-1600.
32. Not sitting 18 September 1947, 1330-1600.
33. Not sitting 26 September 1947, 1330-1600.
34. Not sitting 3 October 1947, 1330-1600.
35. Not sitting 10 October 1947, 1330-1600.
36. Not sitting 23 October 1947, 1330-1600.
37. Not sitting 31 October 1947, 1500-1600.
38. Not sitting 6 November 1947, 1330-1600.
39. Not sitting 21 November 1947, 1445-1600.
40. Absent 6 January 1948.
41. Not sitting 12 February 1948, 0930-1200.
42. Not sitting 20 February 1948, 1330-1600.
43. Absent 22 March 1948.
44. Absent 23 March 1948.
45. Absent 24 March 1948.
46. Absent 25 March 1948.
47. Absent 26 March 1948.

7) Justice Radha Binod Pal of India

1. Absent 8 August 1946.
2. Absent 10 September 1946.
3. Absent 28 October 1946.
4. Absent 29 October 1946.
5. Absent 30 October 1946.
6. Absent 31 October 1946.
7. Absent 1 November 1946.
8. Absent 4 November 1946.
9. Absent 5 November 1946.
10. Absent 6 November 1946.
11. Absent 7 November 1946.
12. Absent 8 November 1946.
13. Absent 12 November 1946.
14. Absent 13 November 1946.
15. Absent 14 November 1946.
16. Absent 15 November 1946.
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18. Absent 19 November 1946.
19. Absent 20 November 1946.
20. Absent 21 November 1946.
21. Absent 22 November 1946.
22. Absent 25 November 1946.
23. Absent 26 November 1946.
24. Absent 27 November 1946.
25. Absent 29 November 1946.
26. Not sitting 22 May 1947, 1330-1600.
27. Not sitting 6 June 1947, 1330-1600.
28. Not sitting 2 September 1947, 1330-1600.
29. Absent 3 September 1947.
30. Absent 4 September 1947.
31. Absent 5 September 1947.
32. Absent 8 September 1947.
33. Absent 9 September 1947.
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35. Absent 11 September 1947.
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42. Absent 22 September 1947.
43. Absent 23 September 1947.
44. Absent 24 September 1947.
45. Absent 25 September 1947.
46. Absent 26 September 1947.
47. Not sitting 2 October 1947, 1100-1200.
48. Absent 6 October 1947.
49. Absent 7 October 1947.
50. Absent 8 October 1947.
51. Absent 9 October 1947.
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64. Absent 29 October 1947.
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66. Absent 31 October 1947.
67. Absent 3 November 1947.
68. Absent 4 November 1947.
69. Absent 5 November 1947.
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71. Absent 7 November 1947.
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73. Absent 12 November 1947.
74. Absent 13 November 1947.
75. Absent 14 November 1947.
76. Absent 17 November 1947.
77. Absent 18 November 1947.
78. Absent 19 November 1947.
79. Absent 20 November 1947.
80. Absent 21 November 1947.
81. Absent 24 November 1947.
82. Absent 25 November 1947.
83. Absent 26 November 1947.
84. Not sitting 14 January 1948, 1500-1600.
85. Not sitting 23 January 1948, 1500-1600.
86. Absent 13 February 1948.
87. Not sitting 25 February 1948, 0930-1045.
88. Absent 19 March 1948.



- 89. Not sitting 24 March 1948, 1500-1600.
- 90. Absent 25 March 1948.
- 91. Absent 29 March 1948.
- 92. Absent 30 March 1948.
- 93. Absent 8 April 1948.

8) Justice Lord Patrick of Great Britain and Northern Ireland

- 1. Absent 2 January 1947.
- 2. Absent 27 January 1947.
- 3. Absent 14 March 1947.
- 4. Absent 17 March 1947.
- 5. Absent 18 March 1947.
- 6. Not sitting 6 June 1947, 1500-1600.
- 7. Not sitting 15 August 1947, 1300-1600.
- 8. Not sitting 22 August 1947, 1330-1600.
- 9. Not sitting 29 August 1947, 1330-1600.
- 10. Not sitting 5 September 1947, 1330-1600.
- 11. Not sitting 12 September 1947, 1330-1600.
- 12. Not sitting 10 October 1947, 1330-1600.
- 13. Not sitting 23 October 1947, 1330-1600.
- 14. Not sitting 21 November 1947, 1330-1600.
- 15. Absent 8 December 1947.
- 16. Not sitting 9 December 1947, 1330-1600.
- 17. Not sitting 16 December 1947, 1330-1600.
- 18. Not sitting 26 January 1948, 1330-1600.
- 19. Absent 28 January 1948.
- 20. Absent 29 January 1948.
- 21. Absent 30 January 1948.
- 22. Absent 3 February 1948.
- 23. Absent 9 February 1948.
- 24. Absent 10 February 1948.
- 25. Absent 11 February 1948.
- 26. Absent 12 February 1948.
- 27. Absent 13 February 1948.
- 28. Absent 16 February 1948.
- 29. Absent 18 February 1948.
- 30. Absent 19 February 1948.
- 31. Absent 20 February 1948.
- 32. Absent 24 February 1948.
- 33. Absent 25 February 1948.
- 34. Absent 26 February 1948.
- 35. Absent 27 February 1948.
- 36. Absent 1 March 1948.
- 37. Absent 2 March 1948.
- 38. Absent 3 March 1948.
- 39. Absent 4 March 1948.
- 40. Absent 5 March 1948.
- 41. Absent 8 March 1948.
- 42. Absent 8 April 1948.
- 43. Absent 9 April 1948.
- 44. Absent 12 April 1948.
- 45. Absent 13 April 1948.
- 46. Absent 14 April 1948.



47. Absent 15 April 1948.

48. Absent 16 April 1948.

9) Justice B.V.A. Roling of the Netherlands

1. Not sitting 2 January 1947, 1330-1600.
2. Absent 3 January 1947.
3. Not sitting 14 May 1947, 1330-1600.
4. Not sitting 19 May 1947, 1330-1600.
5. Not sitting 20 May 1947, 1330-1600.
6. Not sitting 24 October 1947, 1500-1600.
7. Not sitting 29 October 1947, 1330-1600.
8. Absent 31 October 1947.
9. Not sitting 15 January 1948, 1500-1600.
10. Not sitting 12 February 1948, 1330-1600.
11. Not sitting 24 February 1948, 1500-1600.
12. Absent 26 February 1948.
13. Not sitting 17 March 1948, 1100-1200.
14. Not sitting 18 March 1948, 1500-1600.
15. Not sitting 19 March 1948, 1330-1600.
16. Not sitting 23 March 1948, 1500-1600.
17. Not sitting 25 March 1948, 0930-1045.
18. Absent 26 March 1948.
19. Absent 29 March 1948.
20. Absent 30 March 1948.
21. Not sitting 7 April 1948, 1330-1600.

10) Justice Sir William Flood Webb of Australia

1. Absent 10 November 1947.
2. Absent 12 November 1947.
3. Absent 13 November 1947.
4. Absent 14 November 1947.
5. Absent 17 November 1947.
6. Absent 18 November 1947.
7. Absent 19 November 1947.
8. Absent 20 November 1947.
9. Absent 21 November 1947.
10. Absent 24 November 1947.
11. Absent 25 November 1947.
12. Absent 26 November 1947.
13. Absent 28 November 1947.
14. Absent 1 December 1947.
15. Absent 2 December 1947.
16. Absent 3 December 1947.
17. Absent 4 December 1947.
18. Absent 5 December 1947.
19. Absent 8 December 1947.
20. Absent 9 December 1947.
21. Absent 10 December 1947.
22. Absent 11 December 1947.
23. Absent 12 December 1947.

11) Justice I. M. Zaryanov of the Soviet Union

1. Absent 4 August 1947.
2. Absent 5 August 1947.
3. Absent 6 August 1947.
4. Absent 7 August 1947.
5. Absent 8 August 1947.
6. Absent 11 August 1947.
7. Absent 12 August 1947.
8. Absent 13 August 1947.
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15. Absent 22 August 1947.
16. Absent 25 August 1947.
17. Absent 26 August 1947.
18. Absent 27 August 1947.
19. Absent 28 August 1947.
20. Absent 29 August 1947.
21. Absent 2 September 1947.
22. Absent 17 September 1947.
23. Absent 18 September 1947.
24. Absent 19 September 1947.
25. Not sitting 30 September 1947, 1500-1600.
26. Absent 3 February 1948.
27. Not sitting 12 February 1948, 0930-1200.
28. Not sitting 13 February 1948, 1330-1600.
29. Absent 19 February 1948.
30. Not sitting 20 February 1948, 1330-1600.
31. Absent 25 February 1948.
32. Not sitting 1 March 1948, 1330-1600.
33. Not sitting 2 March 1948, 0930-1200.
34. Not sitting 17 March 1948, 0930-1200.
35. Not sitting 24 March 1948, 1330-1600.
36. Not sitting 1 April 1948, 0930-1200.
37. Not sitting 9 April 1948, 0930-1445.

## SELECTED BIBLIOGRAPHY

### Primary Sources

### Archival Sources

Modern Military Branch. World War II War Crimes Records.  
Record Group 238 (IMTFE). National Archives, Washington,  
D.C.

Records of Allied Operational and Occupation Headquarters,  
World War II. (Record Group 331) (SCAP). Washington  
National Record Center, Suitland, Maryland.

### International Military Tribunal for the Far East Documents

Bernard, Henri. Dissenting Judgment of the Member from  
France of the International Military Tribunal for the  
Far East. Tokyo: The Tribunal, November 12, 1948.

International Military Tribunal for the Far East. War  
Crimes. Interrogations of Japanese Prisoners, Tokyo  
1946-1947. Microform Reading Room, Library of Congress,  
Washington, D.C. (6 reels).

\_\_\_\_\_. Judgment of the International Military Tribunal  
for the Far East. Tokyo: The Tribunal, November 12,  
1948.

\_\_\_\_\_. Rejected Defense Documents, 1946-1948. Microform  
Reading Room, Library of Congress, Washington, D.C.  
(6 reels).

\_\_\_\_\_. Tokyo War Crimes Trial, Proceedings. Tokyo: The  
Tribunal, May 3, 1946-April 16, 1948. (818 sessions).  
(113 volumes or 37 reels).

Jaranilla, Delfin. Concurring Opinion by the Honorable Mr.  
Justice Delfin Jaranilla Member from the Republic of  
the Philippines. Tokyo: The Tribunal, November 12, 1948.

Pal, Radha Binod. Dissenting Opinion of Judgment and Decision  
of the International Military Tribunal for the Far East  
in the Case of the U.S.A., The Republic of China, et al.  
Against Araki Sadao, Dohihara Kinji, et al. Tokyo:  
The Tribunal, November 12, 1948. (12 volumes).

Roling, Bernard V. A. Opinion of Mr. Justice Roling, Member for the Netherlands. Tokyo: The Tribunal, November 12, 1948.

Webb, Sir William Flood. U.S.A. and Others V. Araki, and Others, Separate Opinion of the President. Tokyo: The Tribunal, November 12, 1948.

Webb, Sir William Flood. Webb's Judgment. Tokyo: The Tribunal, November 12, 1948.

#### United States Government Documents

Blakeslee, George H. The Far Eastern Commission: A Study in International Cooperation, 1945-1952. Washington, D.C.: Government Printing Office, 1953.

Congressional Record. 1942. 77 Congress, second session, volume 88. Washington, D.C.: GPO, 1942.

\_\_\_\_\_. 1943. 78 Congress, first session, volume 89. Washington, D.C.: GPO, 1943.

\_\_\_\_\_. 1944. 78 Congress, second session, volume 90. Washington, D.C.: GPO, 1944.

\_\_\_\_\_. 1945. 79 Congress, first session, volume 91. Washington, D.C.: GPO, 1945.

Far Eastern Commission. Activities of the Far Eastern Commission Report by the Secretary-General, February 26, 1946-July 10, 1947 Washington, D.C.: GPO, 1947.

\_\_\_\_\_. Second Report by the Secretary-General, July 10, 1947-December 23, 1948 (Washington, D.C.: GPO, 1949.

Kirchman, Charles V. and Ryan, Garry D. Preliminary Inventory of the Textual Records of the International Military Tribunal for the Far East. Record Group 238. General Services Administration. National Archives and Record Service. Washington, D.C.: GPO, 1965.

Notter, Harley. Postwar Foreign Policy Preparation, 1939-1945 Washington, D.C.: GPO, 1949.

Supreme Commander for the Allied Powers. International Military Tribunal for the Far East Established at Tokyo 19 January 1946. Washington, D.C.: GPO, 1947.

\_\_\_\_\_. General Headquarters. Allied Translator and Interpreter Section (ATIS). Press Translations and Summaries, Japan, November 1945-August 1949. (Tokyo) (75 reels).

\_\_\_\_\_. Government Section. Political Reorientation of Japan, September 1945-September 1948. Washington, D.C.: GPO, 1949 (2 volumes).

United States Army. Basic Field Manual: Rules of Land Warfare Washington, D.C.: GPO, 1940.

\_\_\_\_\_. Forces in the Pacific. Regulations Governing the Trial of War Criminals. Washington, D.C.: GPO, 1945.

United States Department of State. Activities of the Far Eastern Commission. Washington, D.C.: GPO, 1947.

\_\_\_\_\_. Bulletin. "Apprehension, Trial and Punishment of War Criminals in the Far East." 16 (May 4, 1947); 804-806.

\_\_\_\_\_. Bulletin. "Atrocities and War Crimes." 12 (June 10, 1945): 1071-1078.

\_\_\_\_\_. Bulletin. "Crimes Against Civilian Populations in Occupied Countries." 7 (August 22, 1942): 700-701.

\_\_\_\_\_. Bulletin. "Declaration of German Atrocities." 9 (November 6, 1943): 310-311.

\_\_\_\_\_. Bulletin. "Execution of Hostages by the Nazis." 5 (October 25, 1941): 317.

\_\_\_\_\_. Bulletin. "Japanese Atrocities." 10 (February 5, 1944): 145-151.

\_\_\_\_\_. Bulletin. "Japanese Atrocities." 10 (February 12, 1944): 168-175.

\_\_\_\_\_. Bulletin. "Japanese Atrocities." 13 (September 9, 1945): 343-357.

\_\_\_\_\_. Bulletin. "Japanese Practice of Locating Prisoner of War and Civilian Camps in Areas Subject to Bombardment." 13 (August 5, 1945): 176-177.

\_\_\_\_\_. Bulletin. "Japanese Trial and Execution of American Aviators." 8 (April 24, 1942): 337-339.

\_\_\_\_\_. Bulletin. "Japanese War Crimes." 13 (December 2, 1945): 898-899.



- \_\_\_\_\_. Bulletin. "Offer of Surrender from Japanese Government." 13 (August 12, 1945):205-206.
- \_\_\_\_\_. Bulletin. "Proclamation Defining Terms for Japanese Surrender." 13 (July 29, 1945):137-138.
- \_\_\_\_\_. Bulletin. "Refuge in Neutral Countries for Axis Leaders." 9 (July 31, 1943):62.
- \_\_\_\_\_. Bulletin. "Signing by Japan of Surrender Terms." 13 (September 2, 1945):299-301.
- \_\_\_\_\_. Bulletin. "Soviet Denunciation of Pact with Japan." 12 (April 29, 1945):811-812.
- \_\_\_\_\_. Bulletin. "Trial of Far Eastern War Criminals." 14 (March 10, 1946):361-364.
- \_\_\_\_\_. Bulletin. "Trial of Far Eastern War Criminals." 14 (May 19, 1946):846-848, 853.
- \_\_\_\_\_. Bulletin. "Trial of Japanese War Criminals." 20 (May 1, 1949):569-571.
- \_\_\_\_\_. Bulletin. "United Nations Commission to Investigate War Crimes." 7 (October 10, 1942):797.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1929. I. Washington, D.C.: GPO, 1943.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1942. I. Washington, D.C.: GPO, 1960.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1943. III. Washington, D.C.: GPO, 1963.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1944. V. Washington, D.C.: GPO, 1965.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1945. VI. Washington, D.C.: GPO, 1969.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1946. VIII. Washington, D.C.: GPO, 1971.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1947. VI. Washington, D.C. GPO, 1971.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States, 1948. VI. Washington, D.C.: GPO, 1974.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States. The Conferences at Washington, 1941-1942 and Casablanca, 1943. Washington, D.C.: GPO, 1968.

- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States. The Conferences at Cairo and Tehran, 1943. Washington, D.C.: GPO, 1961.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States. The Conferences at Malta and Yalta, 1945. Washington, D.C.: GPO, 1955.
- \_\_\_\_\_. Diplomatic Papers. Foreign Relations of the United States. The Conference of Berlin, 1945 (Potsdam). Washington, D.C.: GPO, 1960.
- \_\_\_\_\_. Occupation of Japan: Policy and Progress. Washington, D.C.: GPO, 1947.
- \_\_\_\_\_. Report of Robert H. Jackson U.S. Representative to the International Conference on Military Trials, London 1945. Washington, D.C.: GPO, 1949.
- \_\_\_\_\_. The Axis in Defeat: A Collection of Documents on American Policy Towards Germany and Japan. Washington, D.C.: GPO, 1946.
- \_\_\_\_\_. Trial of Japanese War Criminals: Documents. Washington, D.C.: GPO, 1946.
- \_\_\_\_\_. Trial of War Criminals. Washington, D.C.: GPO, 1945.
- United States Strategic Bombing Survey. Japan's Struggle to End the War. Washington, D.C.: GPO, 1946.
- Uyehara, Cecil H. Check List of Archives in the Japanese Ministry of Foreign Affairs, Tokyo, Japan, 1868-1945. Washington, D.C.: GPO, 1954.

### Newspapers

- Atlanta Constitution. July-September 1945.
- Baltimore Evening Sun. November, December 1948.
- Baltimore Morning Sun. November, December 1948.
- Boston Daily Globe. August 1945.
- Boston Evening Globe. August 1945.
- Christian Science Monitor. April 1943, June 1946, November 1948.
- Cleveland Press. August 1945.



Cumberland (Maryland) Evening-News. August 1945.

Dallas Morning-News. August 1945.

Detroit Free Press. August 1945.

Frederick (Maryland) News. August 1945.

Honolulu Advertiser. April 1943, August 1945, November 1948,  
December 1948.

London Times. December 1941-December 1948.

Los Angeles Times. December 1941-December 1948.

New York Times. October 1941-January 1949.

Nippon Times (Tokyo, Japan). July 1945-December 1948.

Osaka Mainichi (Japan). April 1946-December 1947.

Pacific Stars and Stripes (Tokyo). August 1945-December 1948.

St. Louis Post-Dispatch. August 1945.

Portland Oregonian. April 1943, August 1945.

Seattle Daily-Times. November, December 1948.

Washington Post. December 1941-January 1949.

Washington Star. April 1943, July-September 1945, November-  
December 1948.

### Magazines

"A 'Dead Man' Speaks." Life, January 26, 1948, pp. 87-91.

"Japan's War Leaders Sentenced to Hang." Life, November 29,  
1948, pp. 40-41.

"Jap War Criminals." Life, May 27, 1946, 47-48, 50.

"Jap War Criminals Await Trial." Life, November 12, 1945,  
pp. 29-33.

"Snafu Suicide." Life, September 24, 1945, pp. 36-37.

"The Mills of Justice." Newsweek, November 15, 1948, p. 40.

"Tic Tac Tojo." Newsweek, July 1, 1946, pp. 37-38.

- "To Judgment." Newsweek, May 13, 1946, p. 50.
- "Tojo Tells All." Newsweek, January 5, 1948, p. 39.
- "Wages of Infamy." Newsweek, November 22, 1948, pp. 35-36.
- "First Haul." Time, September 24, 1945, p. 22.
- "The Prosecution Rests." Time, February 3, 1947, p. 3.
- "War Crimes." Time, May 20, 1946, p. 24.
- "War Crimes." Time, January 5, 1948, pp. 24-25.
- "War Crimes." Time, November 22, 1948, pp. 31-32.

#### Accounts by Trial Participants

- Blakeney, Ben Bruce. "International Military Tribunal, Argument for Motions to Dismiss." American Bar Association Journal 32 (August 1946):475-477, 523.
- Blewett, George F. "Victor's Injustice: The Tokyo War Crimes Trial." American Perspective 4 (Summer 1950): 282-292.
- Brown, Brendan Francis. The Criminal Conspiracy in the Japanese War Crime Trials. Washington, D.C.: GPO, 1946.
- Comyns-Carr, A. S. "The Judgment of the International Military Tribunal for the Far East." Transactions of the Grotius Society 34 (1948):141-151.
- \_\_\_\_\_. "The Tokyo War Crimes Trial." Far Eastern Survey 18 (May 18, 1949):109-114.
- Fixel, Rowland Wells. Trial of Japan's War Lords (n.p., 1959)
- Hanayama, Shinsha. The Way of Deliverance: Three Years with the Condemned Japanese War Criminals New York: Charles Scribner's Sons, 1950).
- \_\_\_\_\_. "Last Days of Tojo." Collier's, May 6, 1950, p. 28.
- Hauxhurst, H. A., Owen Cunningham, Charles F. Wennerstrum, James T. Bond. "Forum on War Crimes Trials." Proceedings of the Section of International and Comparative Law. American Bar Association. Seattle Meeting, September 6-7, 1948. Chicago, 1949.
- Horowitz, Solis. "The Tokyo Trial." International Conciliation 465 (November 1950):473-584.

- "Joseph Keenan Meets the Press." American Mercury, April 1950, pp. 456-460.
- Keenan, Joseph Berry and Brendan Francis Brown. Crimes Against International Law (Washington, D.C.: Public Affairs Press, 1950).
- Kodama, Yoshio. Sugamo Diary. (Tokyo: The Radio Press, 1960).
- Liu, James T. L. "The Tokyo Trial." China Monthly 8 (July 1947):242-247.
- \_\_\_\_\_. "The Tokyo Trial: Second Look." 8 (August 1947): 279-280.
- \_\_\_\_\_. "The Tokyo Trials: Source Materials." Far Eastern Survey 17 (July 28, 1948):168-170.
- MacArthur, Douglas. Reminiscences. New York: McGraw-Hill 1964.
- Pal, Radha Binod. International Military Tribunal for the Far East: Dissident Judgment of Justice R. B. Pal. Calcutta: Sanyal and Company, 1953.
- Sebald, William J. with Russell Brines. With MacArthur in Japan. New York: W. W. Norton, 1965.
- Shigemitsu, Mamoru. Japan and Her Destiny: My Struggle for Peace. New York: E. P. Dutton, 1958.
- Sutton, David Nelson, Jr. "The Trial of Tojo: The Most Important Trial in All History?" American Bar Association Journal 36 (February 1950):93-96, 160-165.
- Takayanagi, Kenzo. The Tokyo Trials and International Law: Answer to the Prosecution's Arguments on International Law Delivered at the International Military Tribunal for the Far East on March 3 and 4, 1948. Tokyo: Yuhikaku, 1948.
- Togo, Shigenori. The Cause of Japan. New York: Simon and Schuster, 1956.

#### Personal Interviews

- Coleman, Beverly Mosby. Washington, D.C. Interview, May 22, 1979.
- Deale, Valentine B. Washington, D.C. Interview, February 5, 1979.

Donihi, Robert M. Camp Springs, Maryland. Interview,  
October 14, 1978.

Unpublished Material

Gerber, Austin J. "The Tokyo Trial of General Itagaki."  
M.A. Thesis, Stanford University, June 1959.

Hanson, John Frederick. "The Trial of Lieutenant General  
Masaharu Homma." Ph.D dissertation, Mississippi  
State University, August 1977.

Heller, Maxine Jacobson. "The Treatment of Defeated War  
Leaders." Ph.D. dissertation, Columbia University,  
1965.

Kraft, Robby Lee. "The Treaty Background of Japan's  
International Commitments as Disclosed by the Final  
Judgment of the Military Tribunal for the Far East."  
M.A. Thesis, University of Washington, 1951.

Piccigallo, Philip Rocco. "In the Shadow of Nuremberg:  
Trials of Japanese in the East, 1945-1951." Ph.D.  
dissertation, CCNY, 1977.

Riley, Walter Lee. "The International Military Tribunal for  
the Far East and the Law of the Tribunal as Revealed  
by the Judgment and the Concurring and Dissenting  
Opinions." Ph.D. dissertation, University of  
Washington, 1957.

Rogers, Fred Tecumseh. "The Tokyo Trial of Koki Hirota."  
M.A. Thesis, Stanford University, June 1953.

Tsai, Paul Chung-tseng. "Judicial Administration of the  
Laws of War: Procedures in War Crimes Trials." LL.D.  
Thesis, Yale University, 1957. (two volumes).

Wadsworth, Lawrence W., Jr. "A Short History of the Tokyo  
War Crimes Trials with Special References to Some  
Aspects of Procedure." Ph.D. dissertation, American  
University, 1955.

## Secondary Sources

### Books

- Almond, Gabriel. The American People and Foreign Policy. New York: Praeger, 1960.
- American Historical Association. What Shall be Done with the War Criminals (AHA: Washington, D.C., 1944).
- Appleman, John A. Military Tribunals and International Crimes. Indianapolis: Bobbs-Merrill, 1954.
- Bailey, Thomas Andrew. The Man in the Street: The Impact of American Public Opinion on Foreign Policy. New York: MacMillan Company, 1948.
- Bergamini, David. Japan's Imperial Conspiracy. New York: Morrow, 1971.
- Browne, Courtney. Tojo: The Last Banzai. New York: Holt, Rinehart and Winston, 1967.
- Bosch, W. J. Judgment on Nuremberg: American Attitudes Toward the Major German War-Crime Trials. Chapel Hill: University of North Carolina Press, 1970.
- Brownlie, Ian. International Law and the Use of Force by States. Oxford, England: The Clarendon Press, 1963.
- Butow, Robert Joseph Charles. Tojo and the Coming of the War. Stanford: Stanford University Press, 1969.
- \_\_\_\_\_. Japan's Decision to Surrender. Stanford: Stanford University Press, 1954.
- Cantril, Hadley (editor). Public Opinion, 1935-1946. Princeton: Princeton University Press, 1951.
- Cohen, Marshall, Thomas Nagel and Thomas Scanlon (editors). War and Moral Responsibility. Princeton: Princeton University Press, 1974.
- Coox, Alvin D. Tojo. New York: Ballantine Books, 1975.
- Craven, Wesley Frank and James Lea Cate (editors). The Army Air Forces in World War II. 7 volumes, Chicago: University of Chicago Press, 1953. Volume 5: The Pacific: Matterhorn to Nagasaki, June 1944-August 1945.
- Creel, George. War Criminals and Punishment. New York: Robert M. McBride and Company, 1944.



- Crowley, James. Japan's Quest for Autonomy, National Security and Foreign Policy, 1930-1938. Princeton: Princeton University Press, 1966.
- Daniels, Roger. Concentration Camps U.S.A.: Japanese-Americans and World War II. New York: Holt, Rinehart and Winston, 1976.
- Dull, Paul S. and Michael Umemura. The Tokyo Trials: A Functional Index to the Proceedings of the International Military Tribunal for the Far East. Ann Arbor: University of Michigan Press, 1957.
- Falk, Richard A., Gabriel Kolko and Robert Jay Lifton (editors). Crimes of War. New York: Random House, 1971.
- Falk, Stanley Lawrence. Bataan: The March of Death. New York: Norton, 1962.
- Ferencz, Benjamin B. Defining International Aggression, The Search for World Peace: A Documentary History and Analysis. (two volumes), Dobbs Ferry, New York: Oceana Publications, 1975.
- Flory, William E. S. Prisoners of War: A Study in the Development of International Law. Washington, D.C.: American Council on Public Affairs Press, 1942.
- Friedman, Leon. The Law of War, A Documentary History. (two volumes). New York: Random House, 1972.
- Gallup, George. The Gallup Poll, volume one, 1935-1948. New York: Random House, 1972.
- Glueck, Sheldon. The Nuremberg Trial and Aggressive War. New York: Alfred A. Knopf, 1946.
- \_\_\_\_\_. War Criminals: Their Prosecution and Punishment. New York: Alfred A. Knopf, 1944.
- Greenspan, Morris. The Modern Law of Land Warfare. Berkeley: University of California Press, 1959.
- Grew, Joseph C. Turbulent Era: A Diplomatic Record of Forty Years, 1904-1945 (two volumes). Boston: Houghton Mifflin, 1952.
- Grotius, Hugo. The Law of War and Peace. Indianapolis: Bobbs-Merrill, 1925.
- Hankey, Maurice Pascal Alers. Politics, Trials and Errors. Chicago: Henry Regnery Company, 1950.

- Hull, Cordell. The Memoirs of Cordell Hull. 2 volumes, New York: MacMillan Company, 1948.
- Ike, Nobutaka (editor). Japan's Decision for War: Records of the 1941 Policy Conference. Stanford: Stanford University Press, 1967.
- Johnson, Shelia K. American Attitudes Toward Japan 1941-1975. Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975.
- Kajima, Morinosuke. Modern Japan's Foreign Policy. Rutland, Vermont: Tuttle Press, 1969.
- Kase, Toshikazu. Journey to the Missouri. New Haven: Yale University Press, 1950.
- Kawai, Kazuo. Japan's American Interlude. Chicago: University of Chicago Press, 1960.
- Kelley, Frank Raymond and Cornelius Ryan. Star Spangled Mikado. New York: McBride, 1947.
- Kelsen, Hans. Peace Through Law. Chapel Hill: University of North Carolina Press, 1944.
- Lachs, Manfred. War Crimes. London: Stevens and Sons, Limited, 1945.
- Lee, Clark Gould. One Last Look Around. New York: Duell, Sloan and Pearce, 1947.
- Lenson, George Alexander. The Strange Neutrality: Soviet-Japanese Relations During the Second World War, 1941-1945. Tallahassee, Florida: The Diplomatic Press, 1972.
- Levering, Ralph B. The Public and American Foreign Policy, 1918-1978. New York: William Morrow and Company, Inc., 1978).
- Lindbergh, Charles A. The Wartime Journals of Charles A. Lindbergh. New York: Harcourt Brace Jovanovich, Inc., 1970.
- Lydgate, William A. What America Thinks. New York: Thomas Y. Crowell Company, 1944.
- Markel, Lester (editor). Public Opinion and Foreign Policy. New York: Harper and Brothers, 1949.
- Maruyama, Masao. Thought and Behavior in Modern Japanese Politics. Edited by Ivan Morris. New York: Oxford University Press, 1963.



- Maugham, Frederick H. M. United Nations Commission and War Crimes. London: J. Murray, 1951.
- Miner, Richard H. Victor's Justice: The Tokyo War Crimes Trial. Princeton: Princeton University Press, 1971.
- Moody, Samuel B. Reprieve from Hell. New York: Pagan Press, 1961.
- Morton, Louis. The Fall of the Philippines. Washington, D.C.: Government Printing Office, 1953.
- Oppenheim, Lassa Francis. International Law. (2 volumes) New York: Longmans, Green and Company, 1944.
- Oriental Economist. Tokyo War Crimes Trial: International Military Tribunal for the Far East. Volume I. Tokyo: The Oriental Economist, 1946.
- Piggott, Francis Steward Gilderoy. Broken Thread: An Autobiography. Aldershot, England: Gale and Polden, 1950.
- Pompe, C. A. Aggressive War An International Crime. The Hague, Netherlands: Martinus Nijhoff, 1953.
- Reel, Adolf Frank. The Case of General Yamashita. Chicago: The University of Chicago Press, 1949.
- Russell, Edward F. L. Knights of Bushido: A Short History of Japanese War Crimes. London: Transworld, 1960.
- Saionji, Kimmochi. The Saionji-Harada Memoirs. (n.p., n.d.).
- Schroeder, Paul W. The Axis Alliance and Japanese-American Relations, 1941. Ithaca, New York: Cornell University Press, 1958.
- Schwarzenberger, Georg. International Law and Totalitarian Lawlessness. London: J. Cape, 1943.
- Shiroyama, Saburo. War Criminal: The Life and Death of Hirota Koki. San Francisco: Kodansha International Ltd., 1977.
- Small, Melvin (editor). Public Opinion and Historians. Detroit: Wayne State University Press, 1970.
- Stimson, Henry Louis and McGeorge Bundy. On Active Service in Peace and War. New York: Harper and Row, 1947.

- Stone, Julius. Legal Controls of International Conflict. New York: Rinehart and Company, Inc., 1954).
- Taylor, Telford. Nuremburg and Vietnam: An American Tragedy. New York: Quadrangle Books, 1970.
- Titus, David Anson. Palace and Politics in Prewar Japan. New York: Columbia University Press, 1974.
- Trainin, Aron N. Hitlerite Responsibility Under Criminal Law. New York: Hutchison and Company, Limited, 1945.
- Truman, Harry S. Year of Decisions. volume one. New York: Doubleday, 1955.
- Tsurumi, Kazuko. Social Change and the Individual: Japan Before and After Defeat in World War II. Princeton: Princeton University Press, 1970.
- Tupper, Eleanor and George McReynolds. Japan in American Opinion. New York: MacMillan Company, 1937.
- United Nations War Crimes Commission. History of the United Nations War Crimes Commission and the Development of the Laws of War. London: HMSO, 1948.
- Utley, Freda. The High Cost of Vengeance. Chicago: H. Regnery Co., 1949.
- Veale, Frederick J. P. Advance to Barbarism. Appleton, Wisconsin: C. C. Nelson Publishing Company, 1953.
- Ward, Robert E. and Frank Joseph Shulman. The Allied Occupation of Japan, 1945-1952: An Annotated Bibliography of Western-Language Materials. Chicago: American Library Association, 1974.
- Willoughby, Charles A. with John Chamberlain. MacArthur, 1941-1951. New York: McGraw-Hill, 1954.
- Whitney, Courtney. MacArthur: His Rendezvous with History. New York: Alfred A. Knopf, 1956.
- Woetzel, Robert K. The Nuremburg Trials in International Law. New York: Praeger, 1962.
- Yamaguchi, Susumu (editor). Buddhism and Culture. Kyoto, Japan: Nakano Press, 1960.
- Yoshida, Shigenu. The Yoshida Memoirs. Boston: Houghton Mifflin Company, 1962.

# Articles

Allen, Lafe Franklin. "Japan's Militarists Face the Music." American Foreign Service Journal 24 (August 1947): 14-17, 41-44.

. "Judgment Day in Tokyo." Military Government Journal. 2 (Fall 1949): 7-8, 12.

Anderson, C. Arnold. "The Utility of the Proposed Trial and Punishment of War Leaders." American Political Science Review 37 (1943):1081-1100.

Behle, Calvin A. "The War Crimes Trials." Nevada State Bar Journal 12 (April 1948): 55-67.

Birmingham, Robert L. "The War Crimes Trial, A Second Look." University of Pittsburgh Law Review 24 (October 1962): 132-154.

Black, Gregory and Clayton Koppes. "OWI Goes to the Movies." Foreign Service Journal 51 (August 1974): 18-30.

Brundidge, Harry T. "Tojo Tried to Die." American Mercury 77 (August 1953): 7-12.

Cho, Sung-Yoon. "The Tokyo War Crimes Trial." Quarterly Journal of the Library of Congress 24 (October 1967): 309-318.

Cole, Allen B. "American Professors on Postwar Japan." Public Opinion Quarterly 8 (Winter 1944-1945): 530-536.

Cowles, Willard B. "Trial of War Crimes in Military Tribunals." American Bar Association Journal 30 (June 1944): 330-333, 362.

. "Trial of War Criminals (Non-Nuremberg)." American Journal of International Law 42 (April 1948): 299-319.

. "Universality of Jurisdiction Over War Crimes." California Law Review 33 (1945):177-218.

Daly, Edward J. "War Crime Trials." Connecticut Bar Journal 23 (March 1949):2-10

Dickinson, George. "Japanese War Trials." Australian Quarterly 24 (June 1952):69-75.

- Edelman, Maurice. "Will the War Criminals Escape?" New Republic 112 (February 19, 1945):259-260.
- Eagleton, Clyde. "Punishment of War Criminals by the United Nations." American Journal of International Law 37 (July 1943): 495-498.
- Ehard, Hans. "The Nuremberg Trial Against the Major War Criminals and International Law." American Journal of International Law 43 (April 1949):223-245.
- Field, Harry M. and Louise M. van Pattern. "If the American People Made the Peace." Public Opinion Quarterly 8 (Winter 1944-1945): 500-512.
- Finch, George A. "Retribution for War Crimes." American Journal of International Law 37 (January 1943): 81-88.
- \_\_\_\_\_. "The Nuremberg Trial and International Law." American Journal of International Law 41 (January 1947): 20-37.
- Fugua, Ellis E. "Judicial Review of War Crime Trials." Journal of Criminal Law and Criminology 37 (May 1946): 58-64.
- Glueck, Sheldon. "Punishing the War Criminals." New Republic 109 (November 22, 1943): 706-709.
- \_\_\_\_\_. "The Nuernberg Trial and Aggressive War." Harvard Law Review 59 (February 1946): 396-456.
- Gross, Leo. "The Criminality of Aggressive War." American Political Science Review 41 (April 1947): 205-225.
- Hauser, Ernest O. "Tojo." Life, March 30, 1942, p. 69.
- "Have We Lost the Peace?" Christian Century 66 (July 13, 1949): 383-839.
- Hessel, Eugene A. "Let the Judges Do the Hanging!" Christian Century 66 (August 24, 1949): 984-986.
- Hogan, Willard N. "War Criminals." South Atlantic Quarterly 45 (October 1946): 415-424.
- "International Hangings." Commonweal 49 (November 26, 1948): 165.
- "International Military Tribunal for the Far East." International Organization 1 (February 1947): 176.



- "International Military Tribunal for the Far East."  
International Organization 3 (February 1979):  
184-186.
- "International Military Tribunal for the Far East."  
Current Notes on International Affairs 19 (May 1948):  
231-241.
- Ireland, Gordon. "Ex Post Facto From Rome to Tokyo."  
Temple Law Quarterly 21 (July 1947):27-59.
- \_\_\_\_\_. "Uncommon Law in Martial Tokyo." Year Book of  
World Affairs 4 (1950):50-104.
- Katona, Paul. "Japanese War Crime Trials." Free World 12  
(November 1946):37-40.
- Koessler, Maximillian. "American War Crime Trials in  
Europe." Georgetown University Law Journal 39 (1950):  
18-112.
- Kornhauser, Arthur. "Can Japanese Militarism Be Uprooted?"  
American Magazine 140 (October 1945): 40-41, 112-114.
- Levy, Albert G. D. "The Law and Procedure of War Crime  
Trials." American Political Science Review 37  
(December 1943): 1052-1101.
- MacArthur, Douglas. "General Douglas MacArthur's Review  
of the War Crimes Sentences Issued on 24 November  
1948." Contemporary Japan 17 (July/December 1948):  
433-434.
- Manner, George. "The Legal Nature and Punishment of Criminal  
Acts of Violence Contrary to the Laws of War."  
American Journal of International Law 37 (July 1943):  
407-435.
- Mignone, Frederick. "After Nuremberg, Tokyo." Texas Law  
Review 25 (May 1947): 475-490.
- Neumann, Franz. "The War Crime Trials." World Politics 2  
(October 1949): 135-147.
- "Observations on the Trial of War Criminals in Japan."  
External Affairs 1 (February 1949): 12-23.
- Pritchard, R. John. "The Nature and Significance of British  
Post-War Trials of Japanese War Criminals, 1945-1948."  
Proceedings of the British Association for Japanese  
Studies. (University of Sheffield, Centre for Japanese  
Studies, 1977). (volume two):190-219.

- Quentin-Baxter, R. Q. "The Task of the International Military Tribunal At Tokyo." New Zealand Law Journal 25 (June 1949): 133-138.
- Rama, Rao, T. S. "The Dissenting Judgment of Mr. Justice Pal at the Tokyo Trial." Indian Year Book of International Affairs 2 (1953): 277-291.
- "Remember?" New Republic 115 (December 30, 1946): 895.
- "Sentence Japanese War Criminals" Christian Century 65 (November 24, 1948): 1262.
- Solow, Herbert. "A Rather Startling Result." Fortune 39 (April 1949): 158-166.
- Stimson, Henry L. "The Nuremberg Trial: Landmark in Law." Foreign Affairs 25 (January 1947): 179-189.
- Stowell, Ellery C. "The Laws of War and the Atomic Bomb." American Journal of International Law 39 (October 1945): 784-788.
- Taylor, Telford. "The Nuremberg War Crimes Trials." International Conciliation 450 (April 1949): 241-371.
- "The Fortune Survey." 25 (February 1942): 97-100.
- "The Fortune Survey." 29 (April 1944): 290, 292.
- "The Fortune Survey." 32 (December 1945): 303, 305-306, 309-310.
- "The Verdict Pronounced by the International Military Tribunal for the Far East on the Twenty-Five Japanese War Crime Suspects, November 12, 1948." Contemporary Japan 17 (July/December 1948): 416-432.
- "Two Japanese War Criminals." New Republic 114 (February 25, 1946): 269.
- Walkinshaw, Robert B. "The Nuremburg and Tokyo Trials: Another Step Towards International Justice." American Bar Association Journal 35 (April 1949): 299-302, 362-363.
- Walser, T. "Revenge or Peace in Japan?" Christian Century 63 (October 2, 1946): 1178-1179.
- Wright, Quincy. "The Law of the Nuremburg Trial." American Journal of International Law 41 (January 1947): 38-72.
- \_\_\_\_\_. "War Criminals." American Journal of International Law 39 (April 1945): 257-285.

Wright, Robert. "War Crimes Under International Law."  
Law Quarterly Review 62 (January 1946): 40-52.