

远东国际军事法庭 判决书

The Judgment of
the International Military Tribunal
for the Far East
(中英文版)

远东国际军事法庭 编

张效林 译

中

■ 國家圖書館出版社

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Thursday, 4 November 1948

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

Judgment & Opinions, vol. I Judgment

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

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

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

3 THE PRESIDENT: All of the accused are present
4 except HIRANUMA, SHIRATORI and UMEZU. The Sugamo prison
5 surgeon certifies that they are ill and unable to attend
6 the trial today. The certificates will be recorded and
7 filed. 5

8
9 CLERK OF THE COURT: THE UNITED STATES OF AMERICA,
10 THE REPUBLIC OF CHINA, THE UNITED KINGDOM OF GREAT BRITAIN
11 AND NORTHERN IRELAND, THE UNION OF SOVIET SOCIALIST
12 REPUBLICS, THE COMMONWEALTH OF AUSTRALIA, CANADA, THE
13 REPUBLIC OF FRANCE, THE KINGDOM OF THE NETHERLANDS, NEW
14 ZEALAND, INDIA, AND THE COMMONWEALTH OF THE PHILIPPINES.

15
16 AGAINST

17
18 ARAKI, Sadao, DOHIHARA, Kenji, HASHIMOTO, Kingoro, HATA,
19 Shunroku, HIRANUMA, Kiichiro, HIROTA, Koki, HOSHINO, Naoki,
20 ITAGAKI, Seishiro, KAYA, Okinori, KIDO, Koichi, KIMURA,
21 Heitaro, KOISO, Kuniaki, MATSUI, Iwane, MATSUOKA, Yosuke,
22 MINAMI, Jiro, MUTO, Akira, NAGANO, Osami, OKA, Takasumi,
23 OKAWA, Shumei, OSHIMA, Hiroshi, SATO, Kenryo, SHIGEMITSU,
24 Mamoru, SHIMADA, Shigetaro, SHIRATORI, Toshio, SUZUKI,
25 Teiichi, TOGO, Shigenori, TOJO, Hideki, UMEZU, Yoshijiro.

JUDGMENT OF THE INTERNATIONAL MILITARY TRIBUNAL

FOR THE FAR EAST.

1 THE PRESIDENT: I will now read the Judgment
2 of the International Military Tribunal for the Far East.
3 The title and formal parts will not be read.

4 PART A - CHAPTER I5 Establishment and Proceedings of the Tribunal

6 The Tribunal was established in virtue of and
7 to implement the Cairo Declaration of the 1st of December,
8 1943, the Declaration of Potsdam of the 26th of July,
9 1945, the Instrument of Surrender of the 2nd of September,
10 1945, and the Moscow Conference of the 26th of December,
11 1945.

12 The Cairo Declaration was made by the President
13 of the United States of America, the President of the
14 National Government of the Republic of China, and the
15 Prime Minister of Great Britain. It reads as follows:

16 "The several military missions have agreed upon
17 future military operations against Japan. The Three
18 Great Allies expressed their resolve to bring unrelenting
19 pressure against their brutal enemies by sea, land, and
20 air. This pressure is already rising.

21 "The Three Great Allies are fighting this war
22 to restrain and punish the aggression of Japan. They
23 covet no gain for themselves and have no thought of
24 territorial expansion. It is their purpose that Japan
25

shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, shall be restored to the Republic of China. Japan will also be expelled from all other territories which she has taken by violence and greed. The aforesaid Three Great Powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent.

"With these objects in view the three Allies, in harmony with those of the United Nations at war with Japan, will continue to persevere in the serious and prolonged operations necessary to procure the unconditional surrender of Japan."

The Declaration of Potsdam (Annex No. A-1) was made by the President of the United States of America, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain and later adhered to by the Union of Soviet Socialist Republics. Its principal relevant provisions are:

"Japan shall be given an opportunity to end this war.

"There must be eliminated for all time the authority and influence of those who have deceived and

1 misled the people of Japan into embarking on world
2 conquest, for we insist that a new order of peace, security
3 and justice will be impossible until irresponsible
4 militarism is driven from the world.

5 "The terms of the Cairo Declaration shall be
6 carried out and Japanese sovereignty shall be limited
7 to the islands of ~~F~~Yushu, Hokkaido, Kyushu, Shikoku
8 and such minor islands as we determine.

9 "We do not intend that the Japanese people shall
10 be enslaved as a race or destroyed as a nation, but stern
11 justice shall be meted out to all war criminals including
12 those who have visited cruelties upon our prisoners."

13 The Instrument of Surrender (Annex No. A-2) was
14 signed on behalf of the Emperor and Government of Japan
15 and on behalf of the nine Allied Powers. It contains
16 inter alia the following proclamation, undertaking, and
17 order:

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

22 "We hereby undertake for the Emperor, the
23 Japanese Government, and their successors, to carry out
24 the provisions of the Potsdam Declaration in good faith,
25 and to issue whatever orders and take whatever action

1 may be required by the Supreme Commander for the Allied
2 Powers or by any other designated representatives of the
3 Allied Powers for the purpose of giving effect to the
4 Declaration.

5 "The authority of the Emperor and the Japanese
6 Government to rule the State shall be subject to the
7 Supreme Commander for the Allied Powers who will take
8 such steps as he deems proper to effectuate these terms
9 of surrender. We hereby command all civil, military,
10 and naval officials to obey and enforce all proclamations,
11 orders, and directives deemed by the Supreme Commander
12 for the Allied Powers to be proper to effectuate this
13 surrender and issued by him or under his authority."

14 By the Moscow Conference (Annex No. A-3) it
15 was agreed by and between the Governments of the United
16 States of America, Great Britain, and the Union of Soviet
17 Socialist Republics with the concurrence of China that:

18 "The Supreme Commander shall issue all orders
19 for the implementation of the Terms of Surrender, the
20 occupation and control of Japan and directives
21 supplementary thereto."

22 Acting on this authority on the 19th day of
23 January, 1946, General MacArthur, the Supreme Commander
24 for the Allied Powers, by Special Proclamation established
25 the Tribunal for "the trial of those persons charged

1 individually or as members of organizations or in both
2 capacities with offences which include crimes against
3 peace." (Annex No. A-4) The constitution, jurisdiction,
4 and functions of the Tribunal were by the Proclamation
5 declared to be those set forth in the Charter of the
6 Tribunal approved by the Supreme Commander on the same
7 day. Before the opening of the Trial the Charter was
8 amended in several respects. (A copy of the Charter as
9 amended will be found in Annex No. A-5).

10 On the 15th day of February, 1946, the Supreme
11 Commander issued an Order appointing the nine members
12 of the Tribunal nominated respectively by each of the
13 Allied Powers. This Order also provides that "the
14 responsibilities, powers, and duties of the Members of
15 the Tribunal are set forth in the Charter thereof..."

16 By one of the amendments to the Charter the
17 maximum number of members was increased from nine to
18 eleven to permit the appointment of members nominated
19 by India and the Commonwealth of the Philippines. By
20 subsequent Orders the present members from the United
21 States and France were appointed to succeed the original
22 appointees who resigned and the members from India and
23 the Philippines were appointed.
24

25 Pursuant to the provisions of Article 9(c) of
the Charter each of the accused before the opening of

1 the Trial appointed counsel of his own choice to represent
2 him; each accused being represented by American and
3 Japanese counsel.

4 On the 29th of April, 1946, an indictment,
5 which had previously been served on the accused in
6 conformity with the rules of procedure adopted by the
7 Tribunal, was lodged with the Tribunal.

8 The Indictment (Annex No. A-6) is long, containing
9 fifty-five counts charging twenty-eight accused with
10 Crimes against Peace, Conventional War Crimes, and Crimes
11 against Humanity during the period from the 1st of
12 January, 1928, to the 2nd of September, 1945, 7
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1 It may be summarized as follows:

2 In Count 1 all accused are charged with con-
3 spiring as leaders, organisers, instigators or accom-
4 plices between 1st January 1928 and 2nd September 1945
5 to have Japan, either alone or with other countries,
6 wage wars of aggression against any country or countries
7 which might oppose her purpose of securing the military,
8 naval, political and economic domination of East Asia
9 and of the Pacific and Indian oceans and their adjoining
10 countries and neighboring islands.

11 Count 2 charges all accused with conspiring
12 throughout the same period to have Japan wage aggres-
13 sive war against China to secure complete domination of
14 the Chinese provinces of Liaoning, Kirin, Heilungkiang
15 (Manchuria), and Jehol."

17 Count 3 charges all accused with conspiracy
18 over the same period to have Japan wage aggressive war
19 against China to secure complete domination of China.

20 Count 4 charges all accused with conspiring
21 to have Japan, alone or with other countries, wage
22 aggressive war against the United States, the British
23 Commonwealth, France, the Netherlands, China, Portugal,
24 Thailand, the Philippines and the Union of Soviet
25 Socialist Republics to secure the complete domination
of East Asia and the Pacific and Indian Oceans and their

1 adjoining countries and neighboring islands.

2 Count 5 charges all accused with conspiring
3 with Germany and Italy to have Japan, Germany and Italy
4 mutually assist each other in aggressive warfare against
5 any country which might oppose them for the purpose of
6 having these three nations acquire complete domination
7 of the entire world, each having special domination in
8 its own sphere, Japan's sphere to cover East Asia and
9 the Pacific and Indian Oceans.

10 Counts 6 to 17 charge all accused except
11 CONSPIRATORS with having planned and prepared aggressive
12 war against named countries.

13 Counts 18 to 26 charge all accused with initiating
14 aggressive war against named countries.

15 Counts 27 to 36 charge all accused with waging
16 aggressive war against named countries.

17 Count 37 charges certain accused with conspiring
18 to murder members of the armed forces and civilians of the
19 United States, the Philippines, the British Commonwealth,
20 the Netherlands and Thailand by initiating unlawful hos-
21 tilities against those countries in breach of the Hague
22 Convention No. III of 18th October 1907.

23 Count 38 charges the same accused with conspiring
24 to murder the soldiers and civilians by initiating hostili-
25 ties in violation of the agreement between the United

1 states and Japan of 30th November 1908, the Treaty between
 2 Britain, France, Japan and the United States of 13th
 3 December 1921, the Pact of Paris of 27th August 1928, and
 4 the Treaty of Unity between Thailand and Japan of 12th
 5 June 1940.

6 Counts 39 to 43 charge the same accused with the
 7 commission on 7th and 8th December 1941 of murder at Pearl
 8 Harbour (Count 39) Kohta Behru (Count 40) Hong Kong
 9 (Count 41) on board H. M. S. Petrel at Shanghai (Count 42)
 10 and at Davao (Count 43).

11 Count 44 charges all accused with conspiring to
 12 murder on a wholesale scale prisoners of war and civilians
 13 in Japan's power.

14 Counts 45 to 50 charge certain accused with the
 15 murder of disarmed soldiers and civilians at Nanking
 16 (Count 45) Canton (Count 46) Hankow (Count 47) Changsha
 17 (Count 48) Hengyang (Count 49) and Kweilin and Liuchow.
 18 (Count 50).

19 Count 51 charges certain accused with the murder
 20 of members of the armed forces of Mongolia and the Soviet
 21 Union in the Khalkin-Gol River area in 1939.

22 Count 52 charges certain accused with the murder
 23 of members of the armed forces of the Soviet Union in the
 24 Lake Khasan area in July and August 1938.

25 Counts 53 and 54 charge all the accused except

1 OKAWA and SHIRATORI with having conspired to order,
2 authorize or permit the various Japanese Theatre Commanders,
3 the officials of the War Ministry and local camp and labour
4 unit officials frequently and habitually to commit breaches
5 of the laws and customs of war against the armed forces,
6 prisoners of war, and civilian internees of complaining
7 powers and to have the Government of Japan abstain from
8 taking adequate steps to secure the observance and prevent
9 breaches of the laws and customs of war.

10 Count 55 charges the same accused with having
11 recklessly disregarded their legal duty by virtue of their
12 offices to take adequate steps to secure the observance
13 and prevent breaches of the laws and customs of war.

14 There are five appendices to the Indictment:

15 Appendix A summarizes the principal matters and
16 events upon which the counts are based.

17 Appendix B is a list of Treaty Articles.

18 Appendix C specifies the assurances Japan is
19 alleged to have broken.

20 Appendix D contains the laws and customs of war
21 alleged to have been infringed.

22 Appendix E is a partial statement of the facts
23 with respect to the alleged individual responsibility of
24 the accused.
25

These appendices are included in Annex A-6.

1 During the course of the Trial two of the accused,
2 MATSUOKA and NAGANO, died and the accused OKAWA was de-
3 clared unfit to stand his trial and unable to defend him-
4 self. MATSUOKA and NAGANO were therefore discharged from
5 the Indictment. Further proceedings upon the Indictment
6 against OKAWA at this Trial were suspended.

7 On the 3rd and 4th of May the Indictment was
8 read in open court in the presence of all the accused, the
9 Tribunal then adjourning till the 6th to receive the pleas
10 of the accused. On the latter date pleas of "not guilty"
11 were entered by all the accused now before the Tribunal.

12 The Tribunal then fixed the 3rd of June following
13 as the date for the commencement of the presentation of
14 evidence by the Prosecution.

15 In the interval the Defence presented motions
16 challenging the jurisdiction of the Tribunal to hear and
17 decide the charges contained in the Indictment. On the
18 17th of May, 1946, after argument, judgment was delivered
19 dismissing all the said motions "for reasons to be given
20 later." These reasons will be given in dealing with the
21 law of the case in Chapter II of this part of the judgment.

22 The Prosecution opened its case on the 3rd of
23 June, 1946, and closed its case on the 24th of January 1947.

24 The presentation of evidence for the Defence
25 opened on the 24th of February, 1947, and closed on the

12th of January 1948, an adjournment having been granted
1 from the 19th of June to the 4th of August 1947, to per-
2 mit defense counsel to co-ordinate their work in the
3 presentation of evidence common to all the accused.

4 Prosecution evidence in rebuttal and defense
5 evidence in reply were permitted; the reception of evi-
6 dence terminating on the 10th of February 1948. In all-
7 4335 exhibits were admitted in evidence, 419 witnesses
8 testified in court, 779 witnesses gave evidence in de-
9 positions and affidavits, and the transcript of the
10 proceedings covers 48,412 pages.
11

12 Closing arguments and summations of prosecu-
13 tion and defense counsel opened on the 11th of February
14 and closed on the 16th of April 1948.

15 Having regard to Article 12 of the Charter,
16 which requires "an expeditious hearing of the issues"
17 and the taking of "strict measures to prevent any action
18 which would cause any unreasonable delay", the length
19 of the present trial requires some explanation and comment

20 In order to avoid unnecessary delay which would
21 have been incurred by adopting the ordinary method of
22 translation by interrupting from time to time evidence,
23 addresses and other matters which could be prepared in ad-
24 vance of delivery, an elaborate public address system was
25 installed. Through this system whenever possible a si-
multaneous