

said orders and an opportunity has been afforded counsel for the defense and each of the accused in this case for cross-examining said witnesses, with the exception of the following named witnesses:

- KITA, Seiichi whose affidavit was offered and received in evidence and marked Exhibit 835 as appears at page 8127 of the transcript of the record
- AKIKUSA, Shun whose affidavit was offered and received in evidence and marked Exhibit 743 as appears at page 7708 of the transcript of the record
- YANAGITA, Genzo whose affidavit was offered and received in evidence and marked Exhibit 723 as appears at page 7580 of the transcript of the record
- USHIROKU, Jun whose affidavit was offered and received in evidence and marked Exhibit 703 as appears at page 7515 of the transcript of the record
- OTSUBA, Kajuma whose affidavit was offered and received in evidence and marked Exhibit 837 as appears at page 8160 of the transcript of the record
- TOMINAGA, Keoji whose affidavit was offered and received in evidence and marked Exhibit 705 as appears at page 7526 of the transcript of the record

and the Tribunal further finds

That the prosecution has adduced convincing evidence of good reasons for its inability to produce the witness KITA, Seiichi for cross-examination,

WHEREFORE IT IS ORDERED by a majority vote of the members of the Tribunal that the affidavit of the witness KITA, Keiichi, which is Exhibit 835 in this case, will be taken into consideration for such probative value as it may

have, and that the affidavits of the deponents AKIKUSA, Shun (Exhibit 743), YANAGITA, Genzo (Exhibit 723), USHIROKU, Jun (Exhibit 703), OTSUBA, Kajuma (Exhibit 837) and TOMINAGA, Keoji (Exhibit 705) will be disregarded by the Tribunal and will not be taken into consideration by the members of the Tribunal in their deliberations of this case.

Dated at Tokyo, Japan this 17th day of November 1947.

BY THE TRIBUNAL:

(signed) Myron C. Cramer
Acting President

SITTING:

The Honorable Mr. Justice McDougall
The Honorable Mr. Justice Ju-Ao Mei
The Honorable Mr. Justice Bernard
Lord Patrick
The Honorable Mr. Justice Roling
The Honorable Mr. Justice Northcroft
The Honorable Mr. Justice Jaranilla
Maj. Gen. of Justice I. M. Zaryanov
Maj. Gen. Myron C. Cramer