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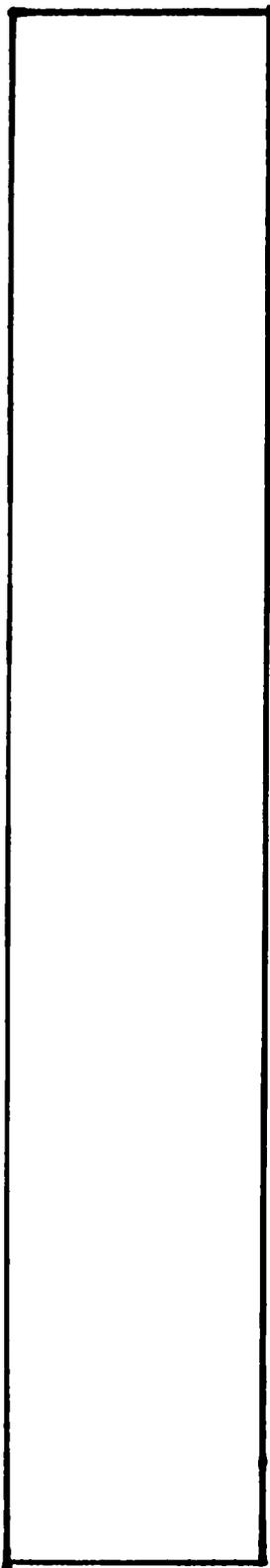
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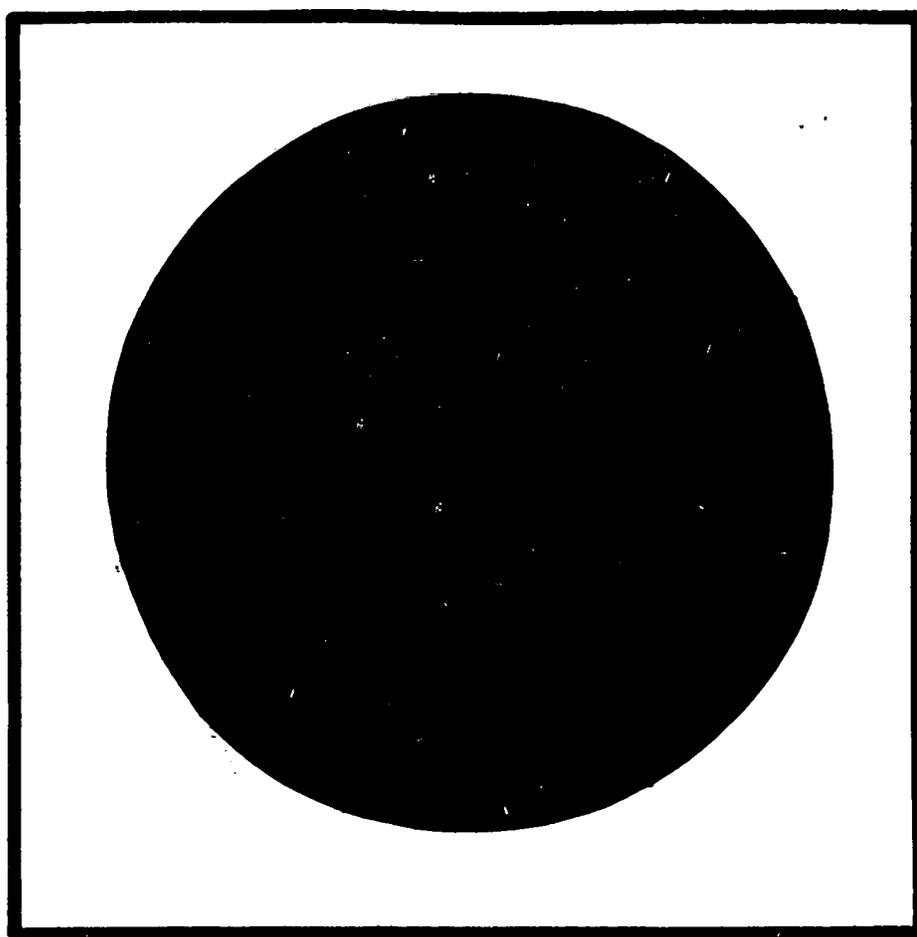
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of
contents**

I N D E X I N G D A T A

PERIOD

**United Nations War Crimes Commission (UNWCC)
Member Governments, other National Authorities and
Military Tribunals
Box-325-326-327**

**Transcripts of Proceedings and Documents of the
International Military Tribunal for the Far East
(Tokyo Trials).
Transcript PAG - 3/2.3.1**

**Indexes of witnesses (alphabetically arranged with
page reference to transcripts of proceedings, direct-
or cross-examined)**

Prosecution Witnesses

Defense witnesses

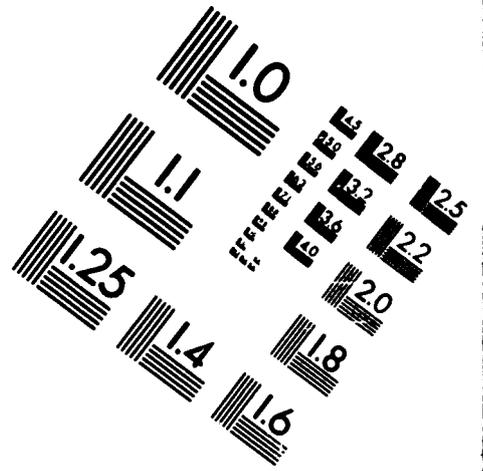
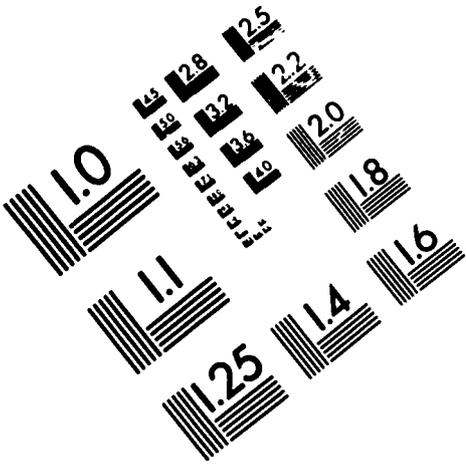
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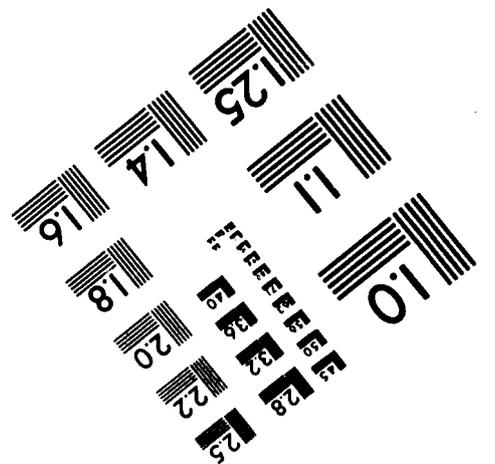
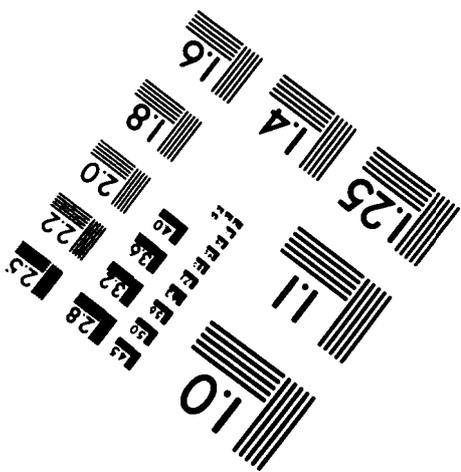
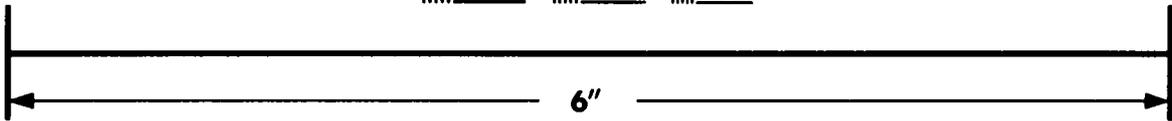
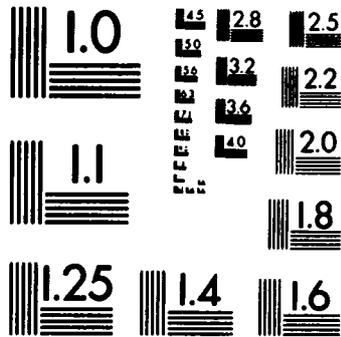
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Wednesday, 6 November, 1946

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

PROCEEDINGS IN CHAMBERS

On

Paper No. 508 - Application of
the Defense in re: Opening State-
ments for each phase of the case
for the Defense and summation for
individual defendants, and in re:
Defense Witnesses.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth
Of Australia.

Reported by:
Julian Wolf
Court Reporter
IMTFE

Wednesday, 6 November, 1941

- - -

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

PROCEEDINGS IN CHAMBERS

On

Paper No. 508 - Application
of the Defense in re: Opening
Statements for each phase of
the case for the Defense and
summation for individual de-
fendants, and in re: Defense
Witnesses.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth
of Australia.

Reported by:

Julian Wolf
Court Reporter
IMTFE

Appearances:

FOR THE PROSECUTION SECTION:

MR. E. WILLIAMS

MR. SOLIS HORWITZ

FOR THE DEFENSE SECTION:

MR. WILLIAM LOGAN, JR., Counsel for
Accused KIDO, Koichi

MAJOR BEN BRUCE BLAKENEY, Counsel for
the Accused, TOGO, Shigenori and
UMEZU, Yoshijiro

MR. MICHAEL LEVIN, Counsel for the
Accused KAYA, Okinori and SUZUKI,
Teichi

MR. GEORGE YAMAOKA, Counsel for the
Accused TOGO, Shigenori

MR. OWEN CUNNINGHAM, Counsel for the
Accused OSHIMA, Hiroshi

DR. UZAWA, Chief Japanese Counsel

FOR THE OFFICE OF THE GENERAL SECRETARY, IMTFE:

EDWARD H. DELL, Judge,
Legal Adviser to the Secretariat

MR. CHARLES A. MANTZ, Clerk of the Court

MR. H. W. DELANEY, Deputy Clerk of the
Court

The Proceedings were begun at 0900.

- - - -

THE PRESIDENT: This is a motion by the Chief Japanese Counsel on behalf of all the accused -- I take it by Mr. Blakeney for the accused TOGO and UMEZU -- for permission to make several opening statements, in addition to a general opening statement for each accused.

Who is supporting the application?

Mr. Blakeney.

MR. BLAKENEY: This motion represents the efforts of the planning committees of the defense to work out an expeditious method of presenting the defense. We do not want to be here another year on our part of the case.

THE PRESIDENT: Will it make for expedition?

MR. BLAKENEY: We think so, sir. What we have in mind in a general way is this: That we can assemble some parts, I would not say the considerable part, but some parts of our evidence into what I call phases, in the same way as the prosecution has done -- into groups. We can group subject matters in such a way that the evidence bearing on those points will relate to a major or a considerable number of defendants. Therefore, the evidence would not have to be presented

with duplication by individuals. I will say, frankly, we do not know yet how many of these phases there will be. There will be quite a few in number and we do not know what part of our evidence, speaking in the sense of a percentage, can be treated in this way.

The establishment of some sort of system in presenting the defense is a prerequisite to the Committees' making any detailed plans on how to present it. As I am sure you apprehend we have a tremendous problem of trying to get twenty-seven defendants, all represented by lawyers, to agree on almost anything; and this, I say, does represent our efforts to do that.

What we hope to do by this motion is to be permitted not only to present our evidence in those phases, but, I assume, we would have the right to do anything any way, but to make concise statements of what each phase is and at the end, in accordance with ground two of the motion, to make summations not only on the behalf of each defendant, but general summations on these points as treated in phases.

Ground three of the motion in connection with witnesses has a similar intent. There are many, many witnesses whose testimony will be needed by anywhere from two to ten to fifteen defendants. We think it would be terribly inefficient and time consuming if

that testimony were all put in at once by the first defendant who happened gratuitously to call him, and, then, if subsequent defendants were compelled to refer back probably each of them would feel obliged to refer rather freely by reading the evidence to show how it fits into his case.

We suggest then, by this ground of the motion, that such a witness' testimony might be broken down. He might testify for defendant "A" on matters concerning defendant "A", then be excused and be recalled later by defendant "J" and give the testimony there which concerns that defendant. Our feeling is that that is the obviously efficient way to do it and I cannot see that it would be objectionable in any way.

In fact, this motion was discussed with Mr. Keenan before it was filed and he stated that he had no objection. I do not know whether that is your position, Mr. Williams.

MR. E. WILLIAMS: It is not a matter of objecting at all. It is a matter for the absolute discretion of the Court.

There is only one thought that occurred to me in connection with it; that is your suggestion about the making of separate summations. It occurs to me that the prosecution will probably make a summation

of the entire case and there is not any reason why summations should not be made in that connection instead of summations of separate phases, as you suggested. I assume that each defendant has a right to make a summation on his own behalf, but why there should be a number of summations on different phases is something I cannot understand.

THE PRESIDENT: I think it is a bit early to decide the summation point.

MR. BLAKENEY: Of course, the Indictment may be dismissed before we start.

To explain exactly what we had in mind there I will give you an example: No individual defendant wishes to take his entire time allowed for summation in order to argue the question of conspiracy. That is a matter of general interest which certainly ought to be argued and yet the place --

MR. E. WILLIAMS: That was not the point I was making. You were talking about the right to make separate summations as to different phases.

MR. BLAKENEY: That is a phase in our definition.

MR. E. WILLIAMS: I thought you were referring to phases in the sense that the prosecution had divided the case up into phases: Is that what you meant?

MR. BLAKENEY: Our phases would be different. We would have to divide the case according to our theory of defense, not according to the prosecution theory of prosecution. That is why we said such phases as may be deemed most expeditious and efficient.

MR. E. WILLIAMS: I just wanted to put that thought before the Tribunal, that with all fairness to the defendants there should be some system devised by which there will not be any unnecessary repetition in summation.

MR. BLAKENEY: Quite, that is precisely our desire.

THE PRESIDENT: Major Blakeney, on the opening statements I suggest that what you propose would not be objectionable if we could say that all the opening statements, the general opening statement and the particular opening statements, will not take in the aggregate more than a certain number of days. That would be some safeguard against loss of time.

MR. BLAKENEY: Yes.

THE PRESIDENT: You could really make an estimate of what time the prosecution spent on opening statements. You should be able to spend at least as much time, I would think, as you have twenty-six men to defend. At the same time I think there were

reasons for allowing the prosecution to have a number of opening statements which are not open to you.

MR. BLAKENEY: Yes, sir, that is why we have taken the matter up on motion instead of assuming that it would be permitted.

THE PRESIDENT: Yes, they have had to cover all the ground; yet no single defendant has to do so. I can see what you propose may lead to saving of time. At first glance you might get the other impression.

MR. BLAKENEY: That is certainly the intention of it, sir, as well as our belief that it will be accomplished.

THE PRESIDENT: Time could be safeguarded by reaching an understanding that the total time spent on openings will not exceed prosecution.

MR. BLAKENEY: Fixed as we are as to the mechanics, that is to say, our planning committee is charged with the work of laying out the case, we cannot proceed to do so until we know whether it will be permitted to take up the question, say of conspiracy, open the subject, put on the evidence and later sum up. That is our dilemma. We must know whether that can be done or whether each individual defendant must individually defend against the charges of conspiracy, which will in effect mean the same defendant twenty-

six or twenty-seven times over.

We are not concerned with the question of time on openings at this juncture and we will be quite amenable to any reasonable provision in that regard.

THE PRESIDENT: On the other hand, the Court may further rule that each defendant may state everything that he can bring to bear on his defense. We have to deal with it more acceptably. We have to consider the evidence against each and for that reason I have no doubt we would prefer to see each defendant say all that can be said in his own favor without having to refer to what any other defendants said.

MR. BLAKENEY: Of course that would be done in this sense: That in addition to evidence of general application of all defendants each defendant will then follow with evidence peculiar to him and we presume that in summation he would be expected to tie all those things together to make a complete whole.

THE PRESIDENT: Of course, there are a number of general statements which can be said, once, for all time, covering all the defendants -- the law particularly. I suppose there would be no difference among the defendants as to what the law is or may be.

MR. BLAKENEY: I hope so.

THE PRESIDENT: All that could be covered in one opening statement.

Well, with that safeguard I cannot see great objection to what you propose.

MR. LEVIN: Mr. President, I was going to suggest that Mr. Blakeney did not refer to it, but I assume that in relation to the opening statement and the various phases -- the general opening statement -- the Court will permit the defense to use their discretion as to the division of that; in the event they wanted two or three or four members of the defense to make that type of opening statement, the Court would have no objection provided it came within the time limit. That was agreed upon or indicated by the Court. In other words, it is not -- I do not know what the final plan is among our group -- I have not heard it discussed, but it might be that there may be a number. It may be desirable to divide the opening statement among the two or three or four that I have indicated and I assume there would be no limitation so far as the Court is concerned so long as we came within any order of the Court as to time. I have not discussed that with any of my colleagues in any way. The thought occurred to me during this discussion.

MR. BLAKENEY: I think I had better say for

the record that the committees charged with planning these matters at this time have no such intentions as Mr. Levin says. It has not been decided. We have no scheme for trying to let every lawyer address the Court in the same opening statement. That is not our intention at all and I do not want it thought that it is. Of course, we have a great many different lawyers to contend with and we may have our own difficulties in that way, but if the Tribunal grants leave to do certain things and later feels moved to fix the time which may be occupied in doing them, we will worry out our own problem about who does.

THE PRESIDENT: On the matter of time you might make some valuable suggestion Major Blakeney. I think those time limitations were fixed in Germany. They may seem arbitrary, but they are done in every Court at times.

MR. BLAKENEY: We have not given any consideration to that question, sir, because we assume that opening statements would be treated as they were for the prosecution and within the limits of conciseness we would not be limited, but that summations would probably be fixed as to a definite period of time.

THE PRESIDENT: We had better leave summations until a later date. We may have to leave them long

before the summations are held.

MR. BLAKENEY: You may. If it is the Tribunal's desire our committees can work on the problem of time and try to submit suggestions but --

THE PRESIDENT: These opening statements and summations are a valuable part of the proceedings when you have got to distinguish between the case of each of the defendants, deal with them separately as we must.

MR. E. WILLIAMS: I think I could make a suggestion that would be very helpful to the defense. If they would permit Mr. Cunningham to make all of their opening statements, his views as to the necessity of terseness and conciseness are so definite he would not take very much time.

MR. CUNNINGHAM: Your Honor. You are not far wrong Mr. Williams, I will tell you that.

THE PRESIDENT: I do not intend to give a decision today on a matter of this importance. I am quite sure each of my colleagues has certain views about this thing and I would like to consult them all. However, I do not think we will take long about it. It does appear to me that this safeguard about limiting the opening to a certain number of days in the aggregate should get over all the difficulties and what you

propose certainly is not going to lead to confusion as far as I can judge, but a greater clarification.

MR. BLAKENEY: We hope so, sir.

MR. YAMAOKA: That is our intention.

THE PRESIDENT: I will reserve consideration for that until I consult my colleagues.

(Whereupon, at 0913 the proceedings were concluded.)

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6 NOVEMBER 1946

I N D E X
Of
WITNESSES
(none)

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
219P(69)	1010		Excerpt from the Press Releases issued by the Department of State on 13 June 1940		9658
219P(70)	1011		Excerpt from the Statement of Ambassador Grew to Foreign Minister MATSUOKA, Tokyo, dated 13 September 1940		9659
220 C(2)	1012		Press Release by the Japanese Embassy, dated 15 April 1940		9661
220 C(3)	1013		Excerpt of Press Release by the Department of State, Washington, dated 17 April 1940		9667
220 C(4)	1014		Excerpt from Memorandum by Ambassador Grew in Japan, dated 10 June 1940		9669
1589-A	1015		Telegram No. 3930 from Ambassador SHIGEMITSU in London to Foreign Minister ARITA, dated 13 February 1940		9671

I N D E X

Of

EXHIBITS

(con't)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1589-B	1016		Telegram from Ambassador SHIGEMITSU in London to Foreign Minister ARITA dated 23 March 1940		9674
1589-C	1017		Telegram from SHIGEMITSU to ARITA dated 13 May 1940		9683
1589-D	1018		Telegram from SHIGEMITSU to ARITA dated 25 May 1940		9687
1589-E	1019		Telegram from Ambassador SHIGEMITSU to Foreign Minister ARITA dated 19 June 1940		9691
1589-F	1020		Telegram from KURUSU in Berlin to Foreign Minister ARITA dated 10 July 1940		9694
1589-G	1021		Telegram from Ambassador KURUSU to Foreign Minister ARITA, dated 10 July 1940		9703
219P(92)	1022		Excerpts from Communication from the Acting Secretary of State to Ambassador Grew in Japan, dated 9 August 1940		9707
1250-L	1023		Telegram from Foreign Minister MATSUOKA to Ambassador SHIGEMITSU, dated 5 August 1940		9712

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
219P(93)	1024		Excerpts from Communication from Ambassador Grew in Japan to the Japanese Foreign Minister, dated 18 September 1940		9716
220 (5)	1025		Excerpt from a Telegram from the U. S. Secretary of State to Ambassador Grew, dated 3 September 1940		9718
220 C(7)	1026		Statement from Ambassador Grew to Foreign Minister MATSUOKA dated 19 September 1940		9721
220 C(17)	1027		Excerpt from a Message from the Japanese Embassy to the Department of State dated 7 October 1940		9723
699-A	1028		"A Memorandum Concerning Outstanding Anglo-Japanese Cases in China" dated 24 December 1938		9724
2400-A	1029		"Measures to be taken Towards Natives in East Asia or Burma - the President of the Racial Committee of the National Policy Research Institute, Kokusaku Kenkyu Kai, 20 September 1940	9755	
1603-A	1030		Summary of Proceedings re the Tri-Partite Pact between Germany, Japan and Italy at a Privy Council Meeting 26 September 1940		9756

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
219P(94)	1031		Excerpt from Ambassador Grew to MATSUOKA dated 11 October 1940		9767
219P(95)	1032		Excerpt from the Statement by Ambassador Grew to MATSUOKA dated 24 October 1940		9769
220 C(8)	1033		Excerpt from Communication by Mr. Grew to MATSUOKA dated 15 November 1940		9771
219P(71)	1034		Excerpt from a Statement by Ambassador Grew to MATSUOKA dated 26 November 1940		9772
1339A(4)	1035		Memorandum of KASE, Secretary to the Foreign Minister, dated 9 December 1940, OTA, Chief of the European Department	9777	
220 C(9)	1036		Excerpt from a Communication from the American Ambassador in Japan (Grew) to the Japanese Minister for Foreign Affairs (MATSUOKA) dated 17 December 1940		9778
220 C(10)	1037		Oral Statement of Mr. Grew to Mr. MATSUOKA re the Ambassador's Note to the Foreign Minister dated 17 December 1940		9779

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2531A(31)	1038		Newspaper excerpt re Announcement of the New Mobilization Law		9781
1339A(2)	1039		Proposal from Mr. Eden to Mr. SHIGEMITSU, dated 7 February 1941		9782
1131	1040		SHIGEMITSU's reply to Mr. Eden		9789
1132	1041		Telegram from MATSUOKA to SHIGEMITSU (Numbered Secret Code Cable 46) dated 13 February 1941		9794
220 C(11)	1042		Statement from Ambassador Grew to Foreign Minister MATSUOKA dated 13 February 1941		9796
220 C(20)	1043		Excerpt from a Memorandum of Secretary of State Hull, dated 14 February 1941		9798
1339A(1)	1044		Telegram from MATSUOKA to SHIGEMITSU, dated 17 February 1941		9801
1150	1045		Document entitled "Turning Point of the Pacific Tide"		9804

Wednesday, 6 November, 1946

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

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, same as before with the
exception of the HONORABLE K. B. PAL, Member from
India, not sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

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(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 the accused are present
4 except OKAWA, HIRANUMA and MATSUI, who are repre-
5 sented by their respective counsel. I have certifi-
6 cates from the prison surgeon at Sugamo certifying
7 to the continued illness of accused HIRANUMA and
8 accused MATSUI and their inability to attend the
9 trial today. The certificates will be recorded and
10 filed.

11 Mr. Williams.

12 MR. E. WILLIAMS: I continue with the
13 reading of prosecution exhibit No. 1009, beginning
14 at paragraph numbered 4 of page 2:

15 "4. What will America gain by fighting
16 against Japan? Does America desire to conquer
17 Japan and exterminate the YAMATO race? There may
18 be none in America who cherishes such an idea. Even
19 if some may cherish such a dream, it would be abso-
20 lutely impossible to realize it. Even if America
21 could make Japan surrender, and enforce a cruel
22 treaty upon the Japanese people, that might be
23 comparable with the Versailles Treaty, Japan would
24 break off such fetters or bonds within thirty years.
25 The restoration of Germany is an example. The

1 constitution of Japan is not matched by that of
2 any other country. Japan has always overcome all
3 national difficulties, by virtue of the unbounded
4 grace of the Emperor. There is no doubt that the
5 restoration of Japan will be wonderfully rapid
6 compared with Germany. The Emperor is indeed the
7 eternal source of our national strength. Without
8 understanding this unparalleled constitution, the
9 Japanese nation can never be understood after all.
10 In fine, the war between Japan and America would
11 bring not only ruin upon the two countries, which
12 should always be on friendly terms, but also the
13 downfall of world civilization. America will gain
14 nothing from the war, and calmly thinking, nothing
15 is more absurd than the commencement of war.

16 "5. If Japan and America were to fight
17 each other, the Soviets would certainly move, and
18 if Japan were completely defeated, as America
19 desires, the Soviets would certainly sweep all over
20 China and at once bolshevize the greater half of
21 the Asiatic continent by taking advantage of the
22 circumstances. Does America welcome such an event-
23 uality? If Japan should submit to America, the
24 situation in East Asia would indeed be terribly
25 confused."

1 "6. The diplomacy of our Empire is based
2 upon the great principle of 'the World a Home'
3 /T.N. HAKKO ICHIU/ and what Japan devotes itself
4 to is the establishment of world-peace and the pros-
5 perity, and Japan has never had such an intention as
6 to attack America. And so we cannot understand why
7 America is intent on arming against Japan. Japan
8 and America should never be opposed to each other,
9 but cooperate. But the speeches and moves of the
10 statesmen in America against Japan are not only very
11 stimulating, but also they seem to aim at large arma-
12 ments sufficient to police the world. Such is not
13 only regrettable for peace in the Pacific area, but
14 also not to be recommended for America. I believe
15 that America should not meddle in the 'living sphere'
16 of other powers, but be awakened to her original
17 responsibility or mission towards the peace of the
18 world, and devote herself towards breaking the present
19 world crisis, and should promote the welfare of the
20 people in the spirit of mutual assistance and conces-
21 sion of the world."
22

23 "We now offer in evidence IPS document No.
24 219P (69), which is taken from exhibit for identifi-
25 cation No. 58. This is an excerpt from the press
releases issued by the Department of State on June 13,

1940.

1 THE PRESIDENT: Admitted on the usual
2 terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 219P (69) will receive exhibit No. 1010.

5 (Whereupon, the document above
6 referred to was marked prosecution's exhibit
7 No. 1010 and was received in evidence.)

8 MR. E. WILLIAMS: We read prosecution
9 exhibit No. 1010:

10 "Press Release Issued by the Department
11 of State on June 13, 1940 -- Excerpt.

12 "In response to inquiries from corres-
13 pondents in regard to reports of the bombing of
14 Chungking on June 12, the Secretary of State said
15 that according to information which has reached the
16 Department from official and unofficial sources,
17 Chungking has been extensively bombed on each of
18 several recent days and on June 12 was intensively
19 and indiscriminately bombed by more than one hundred
20 Japanese planes; that casualties of June 12 among
21 the civil populace will probably number several
22 hundred; that various buildings of the American
23 Methodist Mission, including a church, were damaged
24 by concussion."
25

1 We offer in evidence IPS document No.
2 219P (70) from exhibit for identification No 58,
3 an excerpt from the statement of Ambassador Grew
4 to Foreign Minister MATSUOKA, Tokyo, September 13,
5 1940.

6 THE PRESIDENT: Admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 219P (70) will receive exhibit No. 1011.

10 ("Thereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1011 and was received in evidence.")

13 MR. E. WILLIAMS: I read from prosecution
14 exhibit No. 1011:

15 "The American Ambassador in Japan (Grew)
16 to the Japanese Minister for Foreign Affairs
17 (MATSUOKA).

18 "Tokyo, September 13, 1940.

19 "Excellency: I have the honor to apprise
20 Your Excellency that I have received a report through
21 the American Embassy at Chungking that on August 10,
22 1940, the Lewis Memorial Church of the Methodist
23 Episcopal Mission in that city, an American institu-
24 tion, was completely destroyed by fire resulting from
25 incendiary bombs during the course of a series of

1 raids upon Chungking by Japanese airplanes.

2 "I must add in this connection, lest it
3 be thought that this case of repeated bombing of the
4 same American property in China is unique, that the
5 instance of multiple Japanese bombings of the same
6 American properties in China have been numerous.

7 "I have the honor to enter a most emphatic
8 protest on behalf of my Government against this re-
9 newed attack upon the property of the Methodist
10 Episcopal Mission at Chungking; to request that
11 Your Excellency be good enough to furnish me a
12 prompt report upon this latest flagrant case; to
13 reserve all rights on behalf of the American citizens
14 and property involved; and to point out once more,
15 as I have on many previous occasions to Your Excel-
16 lency's predecessors, the grave risk to the lives
17 of American citizens in Chungking and in other parts
18 of China entailed by these ruthless Japanese air
19 bombings the damage of which to the property of
20 American nationals alone is sufficient evidence of
21 their indiscriminate character."
22

23 MR. BLEWETT: If your Honor please--

24 THE PRESIDENT: Mr. Blewett.

25 MR. BLEWETT: I ask the prosecution to
announce that he has skipped from 1383B (3) down

1 to 219P (69), and announce to the Japanese so that
2 they can locate the proper papers.

3 MR. E. WILLIAMS: It has already been
4 explained to the translators and everybody, your
5 Honor.

6 MR. BLEWETT: May I reiterate that request,
7 sir? The counsel does not seem to think that it is
8 necessary but we knew how to skip it but the Japanese
9 counsel are looking for the papers and they are quite
10 at sea.

11 THE PRESIDENT: Make a brief statement for
12 the benefit of Japanese counsel.

13 MR. E. WILLIAMS: The first document which
14 I offered in evidence this morning was No. 136 on
15 our list and the subsequent documents will follow
16 that number.

17
18 If it please the Tribunal, we offer in
19 evidence IPS document No. 220C (2) from Volume 2 of
20 exhibit No. 58 for identification. This is a press
21 release by the Japanese Embassy, April 15, 1940.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 220C (2) will receive exhibit No. 1012.

25 ("Whereupon, the document above
referred to was marked prosecution's exhibit

No. 1012 and was received in evidence.)

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2 MR. E. WILLIAMS: We read prosecution
3 exhibit No. 1012:

4 "Press Release Issued by the Japanese
5 Embassy on April 15, 1940.

6 "On being questioned by newspapermen
7 concerning Japan's position with regard to possible
8 involvement of the Netherlands in the European war
9 and its repercussions in the Netherlands East Indies,
0 Foreign Minister ARITA replied as follows:

11 "With the South Seas regions, especially
12 the Netherlands East Indies, Japan is economically
13 bound by an intimate relationship of mutuality in
14 ministering to one another's needs. Similarly,
15 other countries of East Asia maintain close economic
16 relations with these regions. That is to say, Japan,
17 these countries and these regions together are con-
18 tributing to the prosperity of East Asia through
19 mutual aid and interdependence.

20 "Should hostilities in Europe be extended
21 to the Netherlands and produce repercussions, as you
22 say, in the Netherlands East Indies, it would not only
23 interfere with the maintenance and furtherance of the
24 above-mentioned relations of economic interdependence
25 and of co-existence and co-prosperity, but would also

1 give rise to an undesirable situation from the
2 standpoint of the peace and stability of East Asia.
3 In view of these considerations, the Japanese
4 Government cannot but be deeply concerned over any
5 development accompanying an aggravation of the war
6 in Europe that may affect the status quo of the
7 Netherlands East Indies."

8 I now offer in evidence IPS document
9 No. 220C (3)--

10 THE PRESIDENT: Mr. Williams, at least
11 one of my colleagues, if not others, is concerned
12 with these jumps from diplomatic documents to
13 bombings. One document, exhibit 1006, is dated
14 January, 1941. The bombings go back to June and
15 September, 1940. Could you give us any explanation
16 of that? It may be simple; I do not know.

17 MR. E. WILLIAMS: Yes, I can explain it.
18 There were a series of some thirty documents, in odd
19 numbers, which through some error got into the wrong
20 place in our order of proof. As soon as we discovered
21 that we skipped down to the proper order.
22

23 THE PRESIDENT: We expect chronological
24 order, or logical order, or order of subject matter,
25 and we are not getting any.

MR. BROOKS: If the Tribunal please, I

1 would like to call attention to the Tribunal,
2 starting with exhibit 967 yesterday to 976, those
3 documents all listed the year as 1938 but the months
4 were not in chronological order. The documents 977
5 to 979 were for the year 1936 -- quite a difference.

6 THE PRESIDENT: We are with you, Captain
7 Brooks, but there is no need to go into details.

8 MR. BROOKS: Throughout that period of
9 continuing documents there is also that interchange
10 of dates and years which is confusing. It puts
11 emphasis, special emphasis, on certain points with-
12 out giving the thought or the chronological theory
13 or development that was taking place in the State
14 Department policy. The defense has been reluctant
15 to bring this to the Court's attention thinking
16 there was some logical explanation, but here is a
17 list of 457 documents arranged in the sequence that
18 we see it there and it has been thus for some time.

19 THE PRESIDENT: We expect an orderly
20 presentation and will insist on getting it.

21 MR. E. WILLIAMS: I may say that Mr. Hardin
22 in arranging these documents -- and this does not
23 apply to that one group of some thirty documents
24 that I spoke of which was an inadvertence -- has
25 tried generally to follow a chronological order but

1 in some places he has deviated from that for the
2 purpose of completing a certain subject matter.

3 THE PRESIDENT: That would be desirable
4 but have you done it?

5 MR. E. WILLIAMS: All I can say is that
6 Mr. Hardin stated that was what he had attempted
7 to do and I think he has done a reasonably good
8 job under the circumstances. It is impossible to
9 attain perfection.

10 THE PRESIDENT: Mr. Smith.

11 MR. SMITH: If your Honor please, immedi-
12 ately before the phases start, we get a list of
13 numbers and in order to keep up with the work, we
14 have our secretary sort these papers in chronological
15 order according to the numbering given us. We have
16 not received any new list of numbering and counsel
17 are required to skip through this bale of paper.
18 We find most of the time the documents have been
19 read before we can even locate the paper, and I
20 submit to your Honor, if the prosecution is going to
21 follow a new order, they ought to give us a new
22 list.
23

24 THE PRESIDENT: Yes, if the order is
25 changed the defense must be notified well in advance.

MR. E. WILLIAMS: If your Honor please,

the order has not been changed except as to that particular group of documents.

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1 THE PRESIDENT: Well, the Court is insisting
2 on a change. We want, as I said before, orderly pre-
3 sentation.

4 'R. E. WILLIAMS: We now offer in evidence
5 I. P. S. document No. 220-C(3) from Volume II of exhibit
6 for identification 58, which is an excerpt of press
7 release by the Department of State, Washington, April
8 17, 1940.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 220-C(3) will receive exhibit No. 1013.

12 (Whereupon, the above-mentioned docu-
13 ment was marked prosecution's exhibit No. 1013
14 and received in evidence.)

15 'R. E. WILLIAMS: We read prosecution's ex-
16 hibit No. 1013:

17 "PRESS RELEASE ISSUED BY THE DEPARTMENT OF STATE ON
18 April 17, 1940

19 "Intervention in the domestic affairs of the
20 Netherlands Indies or any alteration of their status quo
21 by other than peaceful processes would be prejudicial to
22 the cause of stability, peace, and security not only in
23 the region of the Netherlands Indies but in the entire
24 Pacific area.

25 "This conclusion, based on a doctrine which has
universal application and for which the United States un-

1 equivocally stands, is embodied in notes exchanged on
2 November 30, 1908, between the United States and Japan
3 in which each of the two Governments stated that its
4 policy was directed to the maintenance of the existing
5 status quo in the region of the Pacific Ocean. It is
6 reaffirmed in the notes which the United States, the
7 British Empire, France, and Japan -- as parties to the
8 treaty signed at Washington on December 13, 1921, re-
9 lating to their insular possessions and their insular
10 dominions in the region of the Pacific Ocean--sent to
11 the Netherlands Government on February 4, 1922, in which
12 each of those Governments declared that 'it is firmly
13 resolved to respect the rights of the Netherlands in
14 relation to their insular possessions in the region
15 of the Pacific Ocean.'

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1 We now offer I. P. S. document No. 220-C(4)
2 in evidence from Volume II in exhibit for identifica-
3 tion 58, excerpt from memorandum by Ambassador Grew in
4 Japan, dated June 10, 1940.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220-C(4) will receive exhibit No. 1014.

8 (Whereupon, the above-mentioned docu-
9 ment was marked prosecution's exhibit No. 1014
10 and received in evidence.)

11 MR. E. WILLIAMS: We read prosecution exhibit
12 1014:

13 "MEMORANDUM BY THE AMBASSADOR IN JAPAN (GREW)

14 "(TOKYO,) June 10, 1940

15 "After his opening remark above referred to, the
16 Minister had commented that the bulk of the United States
17 fleet remains in Hawaiian waters. My reply was that
18 Hawaii is American territory and that one of our most
19 important naval ports is that of Pearl Harbor, and I went
20 on to say that the fact that our fleet remains in Hawaiian
21 waters represents no threat whatsoever to Japan. The
22 Minister, however, replied that the continued stay of our
23 fleet in those waters constitutes an implied suspicion of
24 the intentions of Japan vis-a-vis the Netherlands East
25 Indies and the South Seas, and he desired categorically to

1 assert that Japan entertains no territorial ambitions.
2 Quite to the contrary, he added, Japan is exerting her
3 best efforts to promote good relations with her neigh-
4 hors, and he cited as an example that a non-aggression
5 pact is to be signed within a few days with Thailand.
6 The emphasis which the Minister placed upon this matter
7 is an indication of the important effect on Japanese
8 consciousness of the stay of our naval forces in
9 Hawaii."

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1 Now, if it please the Tribunal, we have a
2 series -- 1589 series -- series of documents relating
3 to relations between the United Kingdom, the British
4 Empire on the one hand, and Japan on the other. No.
5 1589-A is a telegram No. 3930, from Ambassador SHIGE-
6 MITSU in London to Foreign Minister ARITA, dated
7 February 13, 1940.

8 We offer I. P. S. document No. 1589-A in
9 evidence.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 1589-A will receive exhibit No. 1015.

13 (Whereupon, the above-mentioned docu-
14 ment was marked prosecution's exhibit No. 1015
15 and received in evidence.)

16 THE PRESIDENT: Mr. Blewett.

17 MR. BLEWETT: If your Honor please, this
18 document now offered and the following one do not have
19 certificates or any source of authenticity. I notice
20 that the balance of the numbers from 1589-C onwards
21 have certificates. I should like to inquire of the
22 prosecution regarding the source of these two docu-
23 ments.

24 MR. E. WILLIAMS: The documents on their face
25 show that they come from the Foreign Office of the

1 Japanese Government. They were provided by Mr. Comyns
2 Carr, representing the United Kingdom, and if it is
3 necessary to have any additional certificate, they
4 will be provided in due course.

5 THE PRESIDENT: There should be a certificate
6 showing where it came from.

7 MR. E. WILLIAMS: May it be received condi-
8 tionally?

9 THE PRESIDENT: Admitted conditionally and
10 otherwise on the usual terms.

11 Read it, please.

12 Are you not going to read it?

13 MR. E. WILLIAMS: You have not given it a
14 number yet.

15 CLERK OF THE COURT: It has been.

16 THE PRESIDENT: It has been numbered.

17 CLERK OF THE COURT: 1015.

18 MR. FURNESS: If the Court please, I believe
19 we received these documents yesterday afternoon.

20 MR. E. WILLIAMS: We read prosecution's exhibit
21 No. 1015:

22 "COPY OF TELEGRAM No. 3930. From Ambassador SUIGEMITSU
23 in London to Foreign Minister ARITA. Dispatched from
24 London February 13, p.m., 1940. Received at this
Ministry February 14, a.m., 1940.

25 "Section in Charge

"No. 221 (Secret Code)"

1 "(Top Secret, per Embassy long-distance /T.M. 'Kan-cho'/
Code).

2 *In the interview with Vice-Minister BUTLER on the 8th,
3 he told SHIGEMITSU that Foreign Minister HALIFAX had
4 said that 30th was the memorial day of signature of
5 Anglo-Japanese Alliance. It was not by mere chance.
6 Foreign Minister HALIFAX who assumed the office just
7 like Lord LANSLOWNE, from the viceroy of India, always
8 studied the details of conclusion of Anglo-Japanese
9 Alliance and was influenced by Lord LANSLOWNE. The
10 Vice-Minister told me that Foreign Minister believed
11 in the possibility of solving practically all inter-
12 national questions through negotiation, Lord LANSLOWNE
13 had proposed to open a negotiation with GERMANY in
14 1917 when the former great war was in the climax which
15 Foreign Minister already studied and also that al-
16 though it might be impossible to take into considera-
17 tion of negotiation in the present condition of the
18 war, it was interesting to find common facts between
19 both cases. I hope it will furnish you with some in-
20 formation."

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1 We tender in evidence I. P. S. document
2 1589-B, another telegram from Ambassador SHIGEMITSU
3 in London to Foreign Minister ARITA, dated March 23,
4 1940, being telegram No. 7657.

5 THE PRESIDENT: Mr. Blewett.

6 MR. BLEWETT: May I remind the Court that
7 we interpose the same objection to this document, please.

8 THE PRESIDENT: Admitted on the same terms as
9 the previous document.

10 CLERK OF THE COURT: Prosecution's document
11 No. 1589-B will receive exhibit No. 1016.

12 (Whereupon, the above-mentioned docu-
13 ment was marked prosecution's exhibit No. 1016
14 and received in evidence.)

15 MR. E. WILLIAMS: We read prosecution's ex-
16 hibit 1016:

17 "TELEGRAM No. 7657. From Ambassador SHIGEMITSU
18 to Foreign Minister ARITA. Code cypher. Dispatched P.M.
19 23 March 1940. Received P.M. 24 March 1940.

20 "No. 459 (Embassy Long Distance Code).

21 "The solution of FINLAND question gave a re-
22 markable blow to the political conditions of both GREAT
23 BRITAIN and FRANCE, consequently general policies of both
24 countries, especially that for SOVIET UNION will be dis-
25 cussed thoroughly. In the coming Easter holidays, as

1 they are just after the political change in FRANCE,
2 the British Government authorities are presumed to
3 contemplate British foreign policies, so I took it
4 advantageous for disposal of China Affairs from the
5 point of view of our international relations to explain
6 fully beforehand the establishment of WANG's government
7 now in progress and our attitude for it to British side,
8 therefore, in the evening of 21st, I visited Vice-Minister
9 BUTLER in the Foreign Office and had the following
10 private talk:-

11 "1. First of all, I explained fully the devel-
12 opment of new state of things in CHINA based upon the
13 news brought by ' Domei ' recently, for reference of
14 Foreign Minister;-

15 "(a) As the previous activity of WANG Ching-
16 wei, I explained KONOYE's three principles which consti-
17 tute fundamental relations between JAPAN and CHINA,
18 next as Chinese side, the relation between Peiking
19 and Nanking governments as well as measures for in-
20 ternal relation of Kuomintang.

21 "(b) Next I explained in detail the organiza-
22 tion and decisions of the whole national assembly held
23 after WANG's entry into Nanking on 17th and that the
24 new central government would be established on March
25 30th by the Chinese for CHINA and the Chinese; (omis-

1 sion) and its administrative policies are cooperation
2 for peace at home and abroad as well as anti-commun-
3 ism; and further, I

4 "(c) explained that the Japanese policy for
5 it was to do the purport so often explained thoroughly,
6 that is, to establish peace and order as well as co-
7 operation in CHINA, not to exclude any other than com-
8 munistic and Bolshevik elements who plot confusion and
9 conflicts, and to offer cooperation and friendship for
10 that purpose; this policy will be warmly received by
11 both Chinese and foreign nationals, therefore, it must
12 be a matter for congratulation if some compromise would
13 be found between the new central government and Chung-
14 king government based upon the above-mentioned purport;
15 in short, it was a pivotal point to exclude the Bol-
16 shevism as a source of confusion and to recover the
17 peace and order; and I told him that British government
18 would understand the Japanese attitude, as the former
19 had the most economic interest in CHINA.

20 "2. BUTLER said that British Government could
21 not immediately change her policy of having recognized
22 Chungking Government as the formal Chinese government,
23 but he understood my explanation and hoped the new
24 government would be successful; as for Tientsin prob-
25 lem, he further issued an instruction today (he ex-

1 plained the contents of the instruction) which would
2 prove of service for the settlement of the problem;
3 the settlement of Tientsin problem just at the time of
4 the establishment of WANG's Government is a 'gesture'
5 on the part of Britain expressing her desire to be of
6 any service. (I told BUTLER that, according to news-
7 paper information, recently Ambassador CRAIGIE pro-
8 posed to our Foreign Minister ARITA the strong attitude
9 of BRITAIN for the execution of the war; for this BUTLER
10 said that, according to the dispatch from the Ambros-
11 ador he seemed to have explained Premier CHURCHILL's
12 speech in detail, it was not by their specific instruc-
13 tion.)

14 "3. I asked BUTLER about the expulsion of
15 Brit from Labor Party and SOVIET UNION's problem, for
16 which BUTLER explained as follows:-

17 "I am a contact man with the Labor Party in
18 reference to diplomatic problems. The Labor Party
19 wishes to avoid to open hostilities against SOVIET
20 UNION, but this opinion is getting in the direction
21 of becoming stronger. The communistic elements as
22 Brit who are under the direction of MOSCOW" are being
23 boycotted; consequently the public opinion of BRITAIN,
24 to say nothing of the Government itself, is getting
25 stronger against SOVIET UNION within the limits of

1 avoiding war. The causes may be found in (1) firm
2 attitude of FRANCE against SOVIET UNION, (2) advance-
3 ment of understanding and realization of dangerous
4 propaganda at home and abroad or destructive activi-
5 ties of SOVIET UNION.

6 "(3) Necessity of beating SOVIET UNION (by
7 the blockade or other means) in the execution of the
8 war against GERMANY. The anti-SOVIET feeling of
9 Scandinavian countries was getting heightened, and
10 anti-Bolshevik sentiments of NORTH and SOUTH AMERICA
11 are observed to be very strong. WELLES also seemed to
12 be aware of danger of SOVIET-UNION."
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1 THE PRESIDENT: The Members of the Tribunal
2 find it difficult to see much value in all this
3 material that you are reading. Has any judgment been
4 exercised in making selections? One of my colleagues
5 fails to see any link between the last three documents.
6 It certainly is not easy to see one.

7 MR. E. WILLIAMS: These particular documents
8 were selected by Mr. Comyns Carr, who unquestionably
9 had in mind the definite object that he had in view
10 in reference to the diplomatic relations between Japan
11 and the United Kingdom.

12 THE PRESIDENT: The objection is not so much
13 to the selection of the documents, but to the selection
14 of the readings from them.

15 MR. E. WILLIAMS: I think the balance of
16 the document will probably answer your Honor's objection.

17 (Reading continued): "4. I told him that
18 there seemed to be many reasons why JAPAN and BRITAIN
19 may go further with the understandings in future taking
20 a wide view of things of Anglo-Japanese relations from
21 the point of view of national policy of JAPAN toward
22 CHINA as well as general situations of the world. If
23 my view is not mistaken, the authorities of both coun-
24 tries should strive to take measures to bring about
25 this collaboration and it is also necessary to conquer

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1 every difficulty. Vice-minister BUTLER replied that
2 he had felt the outline of my talk was felt as if a large
3 picture had been painted with reference to international
4 relations of the world and he was of the same opinion.

5 "5. Furthermore, I discussed concrete prob-
6 lems. (1) I called his attention based on concrete
7 examples. First of all I asked him how he thought of
8 recent propagandistic activities of left elements in
9 spite of the necessity of striving for not to deteriorate
10 the relations of both countries, especially if there
11 might be any means to guide the attitudes of Reuter
12 and BBC (Radio Broadcast) as the development organs
13 of public opinion; it is hard to understand that BBC
14 broadcast the speech of Lord CECIL who attacked
15 GERMANY and JAPAN as invaders; furthermore, it was said
16 that the Information Ministry had offices not only in
17 Tokyo but also in Hongkong and Shanghai; the communi-
18 cations of these reporters should have been guided to
19 go along the line of national policy, without being
20 imposed upon by propaganda.

21 "BUTLER replied that as for BBC, various
22 conditions at the time of its establishment often
23 embarrassed them but by the proper means they would
24 call its attention to this matter; for Reuter the same
25 means would be taken. Times must already have been

1 improved; CECIL had no social influence nowadays and
2 it was quite imprudent to act in such a way; Reuter's
3 actions in Tientsin was also wrong.

4 "In short, he said that he would take into
5 consideration what I had said. (2) Next, as concrete
6 problems of negotiations, I /SHIGEMITSU/ proposed
7 matters of trading and shipping of German goods and
8 I also explained that JAPAN would continue to hold
9 firm insistence on her neutral right; various obstacles
10 for trade had excited both Japanese Government and
11 people and its counter-measures would also affect the
12 general situations. So I expressed my earnest hope
13 to remove such obstacles. Individual problems shall
14 be negotiated by Councillor OKAMOTO but I expressed my
15 earnest hope that the British side would also make her
16 best exertions. Furthermore I have demanded their
17 considerations about the questions of obstacles for
18 trade and shipping of goods.

19 "BUTLER asked me that Japanese side would
20 understand likewise the standpoint of BRITAIN and also
21 pay attention to the same requirements of British side
22 and he promised that British side had no objection to
23 make her best exertions in this matter.

24 "Finally BUTLER said that he would report
25 today's interview to Foreign Minister tonight. After

1 the interview I met the Foreign Minister myself but
2 asked him that he would hear about the interview from
3 BUTLER."

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1 MR. E. WILLIAMS: We offer in evidence
2 I. P. S. document No. 1589-C, being telegram
3 No. 12998 from SHIGEMITSU to ARITA dated May
4 13, 1940.

5 THE PRESIDENT: Admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution's
8 document No. 1589-C will receive exhibit No.
9 1017.

10 (Whereupon, the above-mentioned
11 document was marked prosecution's exhibit
12 No. 1017 and received in evidence.)

13 MR. E. WILLIAMS: We read prosecution
14 exhibit No. 1017:

15 "Copy of Telegram. General Number 12998.
16 'Cipher Code.' From Ambassador SHIGEMITSU to
17 Foreign Minister ARITA. Dispatched from London
18 May 13, p.m., 1940. Received at this Ministry
19 May 14, p.m., 1940.

20 "No. 771 (Ambassador's Code)

21 "1. The invasion of German army into
22 HOLLAND and BELGIUM has caused the direct conflict
23 with British and French armies and it is evident that
24 HITLER made up his mind to stake all on this under-
25 taking as seen from the declaration of the expedition."

1 "After occupation of coast lines of HOLLAND and
2 BELGIUM, the German army may be hard to foresee
3 if they settle in positional warfare for a time,
4 but judging from the public opinion of ITALY,
5 although HITLER's present enterprise has been
6 aroused by the positive policy of BRITAIN and
7 FRANCE, the scale may be far larger than that
8 generally supposed. If he will succeed, he will
9 not leave his army only in occupation of HOLLAND
10 and BELGIUM. Therefore, it is of course necessary
11 for us to make arrangements taking into consideration
12 every possibility.

13 "2. Our national policy for South Seas
14 may be determined based upon that already adopted
15 for Dutch East Indian problems and we may make
16 headway on three points, viz., (a) JAPAN has no
17 intention of changing the status quo on the whole,
18 (b) neither belligerent nor neutral country shall
19 interfere with the status quo. (c) Interests of the
20 natives should firstly be considered (of course these
21 three points may be expressed in proper order and
22 circumstances) (Refer telegram No. 1593 of last
23 year).

24 "3. From the above mentioned standpoints,
25 if we investigate the relations with the UNITED STATES

1 or SOVIET UNION or belligerent countries in general,
2 it is the urgent need to take measures to make con-
3 ciliation of JAPAN and CHINA as Oriental people in
4 order to establish firmly our leading position in
5 EAST ASIA. As we are leading Chinese people in most
6 of the things nowadays, the conciliation of WANG
7 and CHIANG or that of CHIANG and JAPAN may be advan-
8 tagous to us regardless of its conditions. Unless
9 we shall have promptly settled Chinese questions, we
10 shall be placed in a disadvantageous situation, ir-
11 respective of the development of situation.

12 "Even if HITLER's success on land may be
13 decisive, Naval Powers of BRITAIN and FRANCE may remain
14 strong enough. Or even if FRANCE may be overwhelmed,
15 the war will not be ended. GERMANY is in the internal
16 condition to meet the needs of continuing victories,
17 while BRITAIN and FRANCE have special characteristics
18 to solidify the national union by the defeat. This is
19 an important matter not to be overlooked. If HITLER's
20 success on land will be kept in check, the powers of
21 BRITAIN and FRANCE will remarkably rally. In any case,
22 the change of situation hereafter is getting more and
23 more important, and by the backing of SOVIET UNION
24 the situation will be more and more complex. Taking
25 into consideration of the superiority of GERMANY on

1 land and that of BRITAIN and FRANCE at sea, we have
2 to apply our national policies for CHINA and SOUTH
3 SEAS, in accordance with the policy to make our
4 situation in the EAST ASIA firm and stable. The
5 most part of this cable may be the repetition of
6 my former one, but I care to send in view of the
7 present situation.

8 "Cabled to AMERICA, FRANCE, TURKEY, GERMANY
9 and ITALY.

10 "ASK ITALY to cable to GERMANY."

11 THE PRESIDENT: Probably the only part of
12 that worth reading was paragraph two and the last
13 sentence of paragraph three.

14 MR. E. WILLIAMS: Exhibits 1015 and 1016 --
15 if the Court please, may I say in reference to exhibits
16 1015 and 1016 that the original certificates are
17 attached to the original documents which were filed
18 with the Court. Apparently there has been -- I am
19 afraid there has been a failure to serve copies on the
20 defense. That will be remedied.

21 We offer in evidence I. P. S. document No.
22 1589-D, being telegram No. 14597 from SHIGEMITSU to
23 ARITA dated May 25, 1940.

24 THE PRESIDENT: Captain Brooks.

25 MR. BROOKS: If the Court please, defense

1 finds the certificates proper on the other two
2 documents that were admitted conditionally.

3 THE PRESIDENT: Then the condition has been
4 met in each case. The document last tendered is
5 admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1589-D will receive exhibit No. 1018.

8 (Whereupon, the above-mentioned docu-
9 ment was marked prosecution's exhibit No. 1018
10 and received in evidence.)

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1 MR. E. WILLIAMS: We read prosecution's
2 exhibit 1018:

3 "COPY OF
4 TELEGRAM. No. 14507. From Ambassador SHIGELITSU
5 to Foreign Minister ARITA. Despatched
6 from London, May 25, p.m., 1940.

7 Received at this Ministry, May 26, p.m.,
8 1940. Code Cipher.

9 No. 868 (Ambassador's Code)

10 "1. In spite of desperate efforts of British
11 and French armies, the general trend of the land action
12 on the Belgium-French border line has already been made
13 clear. Although the battle will be further continued
14 under the firm resolution of both BRITAIN and FRANCE,
15 it is needless to say that we are required to cope with
16 whatever change in the international situation may
17 occur. As for JAPAN, as the result of present war,
18 she should shoulder willy-nilly the responsibility for
19 the stability of EAST ASIA, which occupies one third
20 of the world, so I think it may be advantageous to
21 strengthen our position there even a little in order
22 to take an active part in the future international
23 arena. I think this measure will be of service to
24 secure the foundation to cope with international situ-
25 ations after the war regardless of the issue of

1 belligerent powers.

2 "2. From the above-said point of view, as I
3 have already proposed, as far as JAPAN takes the lead
4 of general situations in CHINA, it is necessary to
5 take measures to conciliate with various parts or
6 powers with reference to CHINA problems, but if we
7 leave the China-Japanese relations in the great dis-
8 pute, EUROPE and AMERICA will take advantage of this
9 chance and our international position will be restric-
10 ted after the war and our future diplomacy will suffer
11 difficulties.

12 "3. In this case, in order to prevent the
13 war to spread into the EAST ASIA, we had better take
14 measure once again.

15 "(a) JAPAN will inform her intention
16 to various powers formally and at
17 the same time take measure to ree-
18 lize her desire of the withdrawal
19 of the troops of the belligerent
20 powers from CHINA, as expressed by
21 us at the beginning of the war.

22 "(b) JAPAN must reconsider the declara-
23 tion of 'Three hundred-miles Prin-
24 ciple' (Act of warfare cannot be
25 permitted tacitly in the area three

1 hundred miles off the coast of
2 JAPAN, MANCHURIA and CHINA. This
3 does not involve the territorial
4 waters of JAPAN) after the fashion
5 of both North and South American
6 countries (according to the explan-
7 ation of Brazilian Ambassador in
8 this country, 'Three hundred-miles
9 principle' will be proposed by
10 NORTH and SOUTH AMERICA after the
11 war to be adopted as an international
12 agreement.)

13 "Of course, it is more effective to take these
14 measures by diplomatic procedure, rather than under the
15 pressure of military side nor of public opinion.

16 "I proposed these opinions from the point of
17 view of strengthening our diplomatic foundation in the
18 case of completion of the war.

19 "Cabled the same to America, Italy and France.

20 "Asked Italy to cable to Germany."
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1 Now we offer IPS document No. 1589-E, tele-
2 gram No. 17,724, from SHIGEMITSU to ARITA, dated
3 June 19, 1940.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1589-E will receive exhibit No. 1019.

7 (Whereupon, the document above
8 mentioned was marked prosecution's exhibit
9 No. 1019 and received in evidence.)

10 MR. E. WILLIAMS: (Reading)

11 "COPY OF TELEGRAM No. 17724

12 "From Ambassador SHIGEMITSU
13 To Foreign Minister ARITA

14 "Despatched from London, p.m., June 19, 1940

15 "Received at this Ministry, p.m., June 20, 1940

16 "No. 1040 (Embassy Long Distance Code)

17 "It is needless to say that it is quite advan-
18 tageous to make use of European War to strengthen the
19 position of Japan in the East Asia. For that purpose
20 I cable following items regarding Outgoing Telegram
21 No. 922, which I have noticed:

22 "1. It is quite important to watch the atti-
23 tude of the United States to say nothing of paying
24 attention to the condition of France, in the case of
25 taking positive policy for French Indo-China and others."

1 It may be difficult for the United States to enter
2 the war before the election, but no one can fore-
3 tell that Japanese activity will not excite here.
4 (Full investigation must be done concerning finan-
5 cial and economical matters of both Britain and the
6 United States, to say nothing of their naval powers.
7 If the surrender of France will be realized, her
8 plantations in South Pacific Ocean will be probably
9 interfered with by Australia and in that case Japan
10 may grasp the opportunity to take positive activity;
11 but as for our activity, neither discussion of press
12 will be allowed nor news will be published except
13 those intended by the Government.

14 "2. But it is most important for our for-
15 eign policy to state that Japan is gravely concerned
16 with the stability of East Asia (including South Seas),
17 and is resolved that the spread of European war must
18 be prevented, and is taking policy to exclude the con-
19 ditions destructive to the said stability and also
20 to prevent those which may be destructive, especially
21 to make clear that Japan will not tolerate to leave
22 Orientals and East Asia districts as the plantation
23 and object of trade to be exploited by capitalism of
24 Europe and I think it is the best chance to elucidate
25 our fundamental policy relating to East Asia and

1 Orientals today (which will yield good results in
2 Chinese problems); and it is most important as the
3 background of our foreign policies.

4 "3. If the districts of East Asia and South
5 Seas, which is so-called living area ('Lebensraum'),
6 should be owned by a certain great power, Japan would
7 be driven to dare the risk of war with that country
8 and the stability of East Asia would be deteriorated.
9 Therefore, I think it is of necessity to take courage
10 to prevent it today. I believe that Germany and
11 Italy will fully understand this matter.

12 "4. British Empire has elucidated that she
13 will continue the war to the end even if France would
14 surrender and stated her confidence even if the Ger-
15 man army should invade England. But, anyhow, it is
16 clear that the topographically Great Britain will
17 not be so simply invaded as France and attention
18 must be paid to the future development. As it is
19 evident that the influence of Europe to Orient will
20 be remarkable reduced after the war, Japan had better,
21 I presume, take advantage of this opportunity to est-
22 ablish our position in East Asia firmly.

23 "Cabled to Britain, Germany and Italy."
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1 THE PRESIDENT: Major Furness.

2 MR. FURNESS: If the Court please, we re-
3 ceived these documents yesterday with a great many
4 other documents. I have not had time to have the
5 translation checked and wish to reserve my right to
6 question it if the check which I will later make shows
7 it should be questioned. I am referring to exhibits
8 1015 to 1019.

9 THE PRESIDENT: Yes.

10 MR. F. WILLIAMS: We tender in evidence
11 IPS document No. 1589-F, telegram No. 20,394, from
12 KURUSU in Berlin to Minister ARITA, dated July 10,
13 1940.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 1589-F will receive exhibit No. 1020.

17 (Whereupon, the document above
18 mentioned was marked prosecution's exhibit
19 No. 1020 and received in evidence.)

20 MR. E. WILLIAMS: We read prosecution's
21 exhibit No. 1020:

22 "TELEGRAM No. 20,394. From Am-
23 bassador KURUSU in Berlin to Foreign
24 Minister ARITA on July 10, 1940.

25 No. 870-1 (Chief Code)

"Concerning your telegram No. 427.

"From Ambassador SATO:-

"After long absence of Foreign Minister RIBBENTROP, we could see him at last in Berlin on 8th of this month. I interviewed him for about an hour and twenty minutes accompanied by Ambassador KURUSU and Minister KAWAI and exchanged views with him which may be summarized as follows:-

"1. To begin with I tendered Japanese Government's congratulation to GERMANY's steady progress towards the establishment of new order in EUROPE and especially great success achieved in FRANCE. I expressed that at this opportunity of passing Berlin, I should like to convey the opinions of the Japanese Government by the order of the same and as I shall soon be back home, I should like to carry the opinion of the German Government to JAPAN, and explained items listed in the telegram stated above. Further I stated that taking for granted RIBBENTROP already knew the views of Japanese Government on problems of DUTCH EAST INDIES and FRENCH INDO-CHINA through the successive explanations of Ambassador KURUSU to Foreign Vice-Minister, so I expressed my hope to hear the opinions of RIBBENTROP on the same matter. RIBBENTROP, always paying

1 attention to me, replied that it was great pleasure
2 for GERMANY to know that Japanese Government desired
3 to cooperate with German Government on various prob-
4 lems and it was also a well-known fact that in the
5 past she had endeavored to reach full understanding
6 by close cooperation with JAPAN. However, although
7 he himself knows well what GERMANY wants to do, he
8 is regretful that he does not possess any definite
9 knowledge regarding whereabouts of the Japanese
10 intention, so he was eager to know in concrete form
11 what JAPAN really hopes, regarding as I do that
12 cooperation of both countries is quite necessary.
13 He further said that JAPAN's actions in the FAR EAST
14 had given considerable effect on EUROPE by which
15 GERMANY gained great facilities as I explained and
16 also that it was a real fact that JAPAN obtained
17 various interests concerning CHINA problems by the
18 aid of friendly attitude of GERMANY and if she had
19 not assumed such amicable attitude, the great war
20 successes that JAPAN had obtained in CHINA till now
21 right not be expected.

22
23 "2. Accordingly, I /SATC/ explained my view
24 on the fundamental policy of seceding from Nine-
25 Power Treaty system with the same principle as ex-
plained to the Italian authorities the other day

1 pointing that it is true that former Japanese diplo-
2 matic policy might have been apparently difficult to
3 grasp its pivotal points; really it might have been
4 caused by the great change of former policy by
5 reason of change of situations as the result of
6 various diplomatic difficulties and obstacles which
7 JAPAN encountered as long as nine years, since the
8 outbreak of MANCHURIAN Incident, during which JAPAN
9 was obliged to admit of inviting outward suspicions
10 caused by the change of policies, but the pivotal
11 point for which JAPAN pushed these nine years, es-
12 pecially those three years was the establishment of
13 new order in CHINA, that is to say, building up of
14 new CHINA seceded from Washington Treaty system and
15 in friendly relation with JAPAN and consequently she
16 has been struggling with such great powers as
17 BRITAIN, the UNITED STATES and FRANCE."

18 THE PRESIDENT: The heading suggests this
19 comes from KURUSU, but actually it is from SATO.

20 MR. E. WILLIAMS: Apparently it represents
21 a combined conference of KURUSU and SATO with SATO
22 making it.

23 THE PRESIDENT: We will recess for fifteen
24 minutes.
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(Whereupon, at 1045, a recess was

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taken until 1100, after which the proceedings were resumed as follows:)

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

THE PRESIDENT: Mr. Hardin.

MR. HARDIN: (Reading)

"3. Next HIBBENTROP asked me if the said problem of establishment of new order was the only one which made the understanding between JAPAN and AMERICA difficult among the problems pending between the two countries or besides if the problem of equality of naval power between JAPAN and AMERICA, might not endanger the diplomatic relations of both countries. Thereupon I replied that surely CHINA problem was the greatest cause of the disputes between JAPAN and the UNITED STATES; as Americans professed to be a protector of CHINA for right or wrong, they were not pleased of the advocacy of establishing of new order by JAPAN and further it was always the case with the UNITED STATES to harbor desire to maintain predominance of her naval power in the Atlantic Ocean and thereby to secure the police power in the Pacific Ocean; therefore, in so far as the matter concerns CHINA problems, the advocacies of both countries would remain contradictory to each other. To this HIBBENTROP said that as the result of saturation

1 of both capital and production in the UNITED
2 STATES, she would be hard up for markets for her
3 commodities after the war, so she would rather seek
4 for arrival of favorable turn of JAPAN-U.S. relation
5 by supplying abundance of raw materials and products
6 voluntarily. He further went on to say that when the
7 political power of any nation becomes stronger, the
8 various economical problems may be settled of them-
9 selves in the desired form. For example in GERMANY,
10 recently with the strengthening of her political
11 power, such problems as raw materials and export of
12 manufactured products are being settled in such a
13 manner as satisfactory to GERMANY, in which he im-
14 plicitly boasted the economical development of GERMANY
15 after her great victory. He continued to say that
16 although the UNITED STATES had come to possess nearly
17 ninety per cent of the gold of the world, gold was
18 no more the medium of exchange for material, so even
19 after the war, GERMANY would construct economy ab-
20 solutely independent of gold at home with the excep-
21 tion of international trade settlement where a small
22 amount of gold might be used. As the result of having
23 excessive gold and the expansion of productive power
24 in the UNITED STATES, the merchandise would overflow
25 and she would have to concentrate her soul and mind

1 upon acquisition of foreign markets, thus the
2 UNITED STATES would be so pressed with canvassing for
3 selling the goods and she would not be feared as a
4 great nation, he hinted.

5 "4. Therefore, I told him that, as I had stated
6 before, the alienation between JAPAN and the UNITED
7 STATES originated in CHINA problem and since then,
8 as the result of having neither profit nor loss in
9 CHINA, the UNITED STATES had always been adhered to
10 problems of principle, so the understanding between
11 the two countries had been exceedingly difficult.
12 Therefore, if JAPAN would act in a devious way beyond
13 a certain extent, the UNITED STATES' public opinion
14 would burst out and there is a possibility of imposing
15 economical pressure on JAPAN. The JAPAN-UNITED STATES
16 commercial treaty had already been abrogated, never-
17 theless the economical dependence of JAPAN upon the
18 UNITED STATES at present is far reaching and the
19 result of economical severance would be a matter of
20 great concern to JAPAN. If there would happen the
21 cessation of supply of oil, JAPAN would be obliged
22 to turn her eyes on South Seas as her life and death
23 problem and in such a case we cannot say that there
24 would be no danger of JAPAN-US. war. And if once this
25 war would break out, it would give great effect upon

1 EUROPE. I told so far to RIBBENTROP who nodded in
2 affirmative and looked to have been exceedingly im-
3 pressed.

4 "5. Furthermore RIBBENTROP stated that after the
5 Versailles Treaty, GERMANY was the one who experienced
6 the suffering of blockade most, but now she had over-
7 turned her position with BRITAIN. GERMANY believed
8 firmly that, as in the operation against FRANCE, she
9 could also obtain complete war results in an extremely
10 short period in British operation. Consequently,
11 when general trend of the world was viewed from econo-
12 mical standpoint, EUROPE and AFRICA would belong to
13 GERMANY and ITALY, EAST ASIA to JAPAN, the remaining
14 Asiatic region to SOVIET UNION, each of which builds
15 up an economic block, in addition to this an American
16 block would be constituted under the UNITED STATES; then
17 the leading countries of each block would carry out
18 trade with surplus materials left over after con-
19 sumption in each block.

20 "6. Next RIBBENTROP referred to CHINA problems
21 and as he questioned whether there was any expecta-
22 tion of rapid settlement of the Incident, I replied
23 that there was no expectation which might be termed
24 as rapid settlement, but anyhow, a new government of
25 WANG Chao-ming had been established and JAPAN was in

1 the midst of negotiation to conclude an amicable
2 agreement with it. Therefore, in the event of its
3 formation, the new government would likely to carry
4 out just and appropriate politics at home and abroad.
5 It would greatly contribute to the safety of EAST ASIA
6 and also give favorable effect to the UNITED STATES to
7 induce her to revise her recognition of the new
8 situation in EAST ASIA and consequently this might be
9 the good chance of adjusting JAPAN-U.S. relations.

10 "7. Further RIBBENTROP expressed that since
11 Russo-German agreement, the boundary between both
12 countries had been settled and made it the eternal
13 one; and also his satisfaction that JAPAN was en-
14 deavoring during these several months, as he previously
15 hoped, to recover friendly relations with SOVIET
16 UNION by solving pending problems between two countries
17 as GERMANY had done.

18 "8. Finally I questioned RIBBENTROP on his view
19 as to the measures to be taken to recover peace in
20 EUROPE after the conclusion of military operation
21 against BRITAIN, for which he replied that at present
22 the nerves of the whole GERMANY were being concentrated
23 into the military operation against BRITAIN and there
24 was no scope to take into consideration of program or
25 procedure of recovering peace; thus he kept himself

1 off going too deep into the subject. As the interview
2 extended more than an hour, I told RIBBENTROP again
3 that he must have understood fully various problems
4 which JAPAN had great concern and had been explained
5 by Ambassador KUKUSU and myself for which I hoped that
6 the German Government would pay consideration. Thus
7 the interview was ended.

8 "9. As you will understand from what I report
9 with this cable, I could not find any definite attitude
10 on German side as shown by Italian premier regarding
11 DUTCH EAST INDIES and FRENCH INDO-CHINA. It is also
12 a great regret that I could not get any promises or
13 pledges and on the contrary it was observed that German
14 side rather avoided to give definite previous promises
15 to these problems. As there was a wish from the Ger-
16 man side, I hope you would pay attention not to have
17 the contents of this telegram be leaked outside.

18 "Cabled the same to Italy, the United States,
19 Soviet Union and Britain."

20 We tender in evidence IPA document 1589-G,
21 being telegram from Ambassador KUKUSU to Foreign Minis-
22 ter AKITA, dated July 10, 1940.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1589-G will receive exhibit No. 1021.

1 (Whereupon, the document above referred to
2 was marked prosecution's exhibit No. 1021 and
3 received in evidence.)

4 L.R. HARDIN: We read prosecution's exhibit
5 1021:

6 "TELEGRAM NO. 20382 Cipher Code - From Ambassador
7 KURUSU in Berlin to Foreign Minister ARITA. Dispatched
8 from Berlin July 10, A.M., 1940. Received at the
9 Ministry July 10, P.M., 1940. (No. 871 - Chief Code -
10 Urgent.

11 "1. As I could understand the general outline
12 of the policy of the Imperial Government concerning
13 JAPAN-GERMAN cooperation by the aid of your telegram
14 No. 427, by taking advantage of the opportunity of
15 interview of Ambassador SATO with RIBBENTROP as re-
16 ported in my telegram No. 870 /No. 20394/, I shall
17 proceed with the talk myself at appropriate time.

18 "2. But I am under the impression now that re-
19 cently in Japan there are some who are too eager and
20 worried about every smile or frown of Germany; it may
21 be needless to say that it is very disadvantageous for
22 our diplomatic policy to show such attitude for Germans
23 who are inclined to urge everything to us as well as
24 in high spirits as the result of glorious victory and
25 I cannot expect good result of the cooperation concluded

1 under such unequal conditions.

2 "3. When Ambassador SATO was going to leave
3 after the above interview, based upon above mentioned
4 consideration, I showed my appreciation to RIBBENTROP
5 to the effect that by the aid of today's interview I
6 came to find Germany's desire of JAPAN-GERMAN coopera-
7 tion, and also stated that recently there were some
8 who reported me the cool attitude of GERMANY for JAPAN
9 and unfortunately if it were true, I, who hoped for
10 the JAPAN-GERMAN rapprochement, thought there would be
11 no other way than to consider some best policy under
12 the above new situation. At this RIBBENTROP was very
13 much astonished and denied it. Therefore, I said to
14 him that for such method of cooperation as desired by
15 JAPAN which RIBBENTROP questioned Ambassador SATO,
16 a solution would be found in so far as both sides
17 had intention of cooperation, and for that purpose I
18 should exchange views hereafter if he wanted to do so.

19 "4. That night at the dinner party, I had an op-
20 portunity to talk with STAHER who was present at the
21 above-mentioned interview. He confidentially told me
22 that RIBBENTROP, taking into consideration the situa-
23 tion after war, is thinking of cooperating with JAPAN
24 and that although it appears that he wants to have it
25 extend over the fields of both diplomacy and economy,

1 it seems that he is hoping for its earliest realiza-
2 tion in view of the surrounding circumstances. Cabled
3 the same to Britain, the United States, Italy and the
4 Soviet Union."

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1 MR. HARDIN: We offer in evidence IFS document
2 No. 219P (92), from exhibit for identification 58,
3 which is excerpts from communication from the Acting
4 Secretary of State to Ambassador Grew in Japan, dated
5 August 9, 1940.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 219P (92) will receive exhibit No. 1022.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 1022 and
11 received in evidence.)

12 MR. HARDIN: We read prosecution's exhibit
13 1022:

14 "The Acting Secretary of State to the Ambassador
15 in Japan (Grew).

16 "Excerpts.

17 "297 Washington, August 9, 1940 -- 8 p.m.

18 " At the end of June and during July of this
19 year Japanese-sponsored authorities introduced in
20 portions of China new economic measures and restrictions
21 detrimental to American interests, and there occurred
22 a series of incidents involving Japanese and American
23 nationals. During this period there has been carried
24 on intermittently agitation directed against American
25 interest which has taken the form of mass meetings and

1 demonstrations by Japanese residents and an inflammatory
2 press campaign in the Japanese-controlled press. There
3 were also developments in Japan which have raised ques-
4 tions as to the welfare and security of American nation-
5 als residing in that country.

6 "Developments at Shanghai have been of an
7 especially serious character.

8 "At that place, acts of terrorism have been
9 committed against reputable American citizens and
10 established American interests, as well as against
11 other nationals and other interests, and a judge of one
12 of the courts established by international agreement,
13 to which the Government of the United States is a party,
14 has been assassinated. Newspapers subject to Japanese
15 control have been conducting an anti-American and anti-
16 foreign campaign, the inflammatory character of which
17 could not but affect prejudicially peace and order.

18 "The Government of the United States has made
19 due note of and is taking due account of those acts and
20 developments which affect adversely interests of the
21 United States and its nationals.

22 "An illustrative list of recent restrictions
23 and incidents is appended.

24 "The summary of recent illustrative develop-
25 ments and incidents affecting adversely interests of

1 the United States and of its nationals, which I also
2 handed to him, included the following:

3 "Establishment in North China on June 28 of
4 full import exchange control.

5 "Assault on July 4 at Chafoo on members of
6 the American Presbyterian Mission by Japanese armed
7 soldiers;

8 "July 7 incident at Shanghai involving American
9 Marines and Japanese gendarmes, including reference to
10 restraint and good will shown by American authorities
11 in attempting to effect reasonable adjustment and to
12 the intemperate tone and language of communications
13 from the concerned Japanese authorities;

14 "The refusal since about July 8 of Japanese
15 military authorities of Shanghai to issue permits for
16 shipments by American firms to the hinterland and Yangtze
17 Valley;

18 "Mass meeting on July 10 in Hongkow in connec-
19 tion with the July 7 incident, reported intemperate
20 statements by the commander of the Japanese naval
21 landing party, and sensational and inciting articles
22 published in Japanese-controlled newspapers;

23 "The demand of the Nanking regime for the
24 departation from Shanghai of six Americans and one
25 British subject, the throwing of bombs at a Chinese

1 language newspaper in which an American claims an
2 interest, and the assassination of Samuel Chang;

3 "Tang Liang-li's reputed letter in the North
4 China Daily News of July 16 and a foreign newspaper
5 commentator's interpretation thereof as a threat to
6 kidnap if not to murder the Americans and Briton con-
7 cerned;

8 "A report of July 19 from Shanghai that an
9 American missionary woman at Soochow had been searched
10 in a humiliating and insulting manner by a Japanese
11 sentry;

12 "And anti-American demonstration on July 19
13 at Hangchow by Japanese in uniform riding in Japanese
14 military trucks;

15 "Attack on July 20 at Shanghai on Hallett
16 Abend;

17 "The appeal on July 20 of the Chairman of the
18 Shanghai Municipal Council to the Consular Body, the
19 public criticism of the appeal by the Japanese Consul-
20 General, and the attempt of the Japanese Consul-General
21 to cause the Consular Body to indicate in a resolution
22 that 'Chungking elements' were responsible for all
23 terrorism in Shanghai;

24 "The receipt on July 23 by the American Consul
25 at Shanghai of a telegram from Amagasaki demanding

1 apologies and withdrawal of American forces from China;

2 "The demand of the Nanking regime, reported
3 July 23, for the arrest of a large number of Chinese
4 in the Settlement, deportation of certain foreigners,
5 and closing down of foreign newspapers published in
6 the Settlement and newspaper threats that the regime
7 will take over Settlement police rights;

8 "The arrest on July 27 in Tokyo of a number
9 of British subjects, the death of Cox, the arrest and
10 detention of Morin, and the subsequent press warning
11 to foreign correspondents;

12 "The assassination of Judge Chien on July 29
13 in Shanghai;

14 "A report of July 31 that instructions had
15 been issued to Shanghai representatives of Japanese
16 newspapers to look for stories on which anti-American
17 articles might be based;

18 "The assassination on August 2 of a White
19 Russian employed by an American firm, the kidnapping
20 of a Chinese coal dealer on the same day, and the
21 publication of anti-American articles in a Japanese-
22 controlled paper."

23 Next we offer in evidence IPS document No.
24 1250A, duly authenticated, and ask that it be identified
25 as an exhibit. It is a telegram from Foreign Minister

1 MATSUOKA to Ambassador SHIGEMITSU dated August 5, 1940.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 1250A will receive exhibit No. 1023.

5 (Whereupon, the document above referred
6 to was marked prosecution's exhibit No. 1023 and
7 received in evidence.)

8 MR. HARDIN: We read prosecution's exhibit
9 1023:

10 "Total No.: 23849.

11 "Coded Telegram from London to the Foreign
12 Ministry.

13 "Despatched: Afternoon August 5, 1940

14 "Received: Afternoon August 6, 1940.

15 "To: Foreign Minister MATSUOKA

16 "From: Ambassador SHIGEMITSU.

17 "Telegram 1356 (Code used by Head of Embassy)

18 "Please accept my hearty congratulations for
19 the establishment and enforcement of the Greater East
20 Asia Policy at this time. In this connection, I wish
21 to inform you of the following points which have
22 occurred to me though there may be parts that duplicate
23 what I have already told you:

24 "1. In the present situation, it is better,
25 in regard to our attitude towards Germany and Italy

1 to push forward an independent parallel policy. As to
2 the extent of its application, it seems to me that the
3 way the Soviet Union is carrying out its parallel
4 policy will be of value.

5 "Italy's policy of Alliance was based on
6 geographical necessity, but Italy will generally main-
7 tain a merely subordinate position to Germany in
8 future. As Japan is in a very advantageous geographical
9 position, and as her object is to establish a position
10 in the world, I think it is fundamentally essential
11 to secure independence of policy. Next, in order to
12 establish our position in Greater East Asia, it would
13 be necessary to consider measures for gaining the max-
14 imum benefits at the minimum loss by carrying them out
15 at the direct expense of small nations (for instance --
16 France or Portugal) (although indirectly, it may turn
17 out to be at the expense of Britain and America) and
18 by avoiding conflict with other countries so as not to
19 make many enemies at once but to dispose of them one
20 by one.

21 "2. The Soviet Union, by means of its parallel
22 policy towards Germany occupied the Baltic area and
23 East Europe, compromised (with Germany and Italy) in
24 the Balkans and is supposed to be about to advance
25 towards Iran, Turkey and Iraq, (or perhaps also secure

1 a position in Finland). But she is always standing
2 strongly for neutrality, trying to avoid conflict with
3 the big countries, such as Britain (and France), etc.
4 but extending her power over minor countries which have
5 no connection with the war. Actually, the Soviet Union,
6 is aiming at a thorough shake-up of the British domin-
7 ions but it seems to be exercising all the skill at
8 its command to realize the greatest gains at the least
9 loss, while always leaving room for compromise with
10 Britain.

11 "3. The unavoidable diplomatic retreat of
12 Britain from East Europe and the Black Sea area and
13 the same situation in Asia, namely, the transfer of the
14 center of the British sphere of influence from Shanghai
15 to Honkong some time ago, and then from Hongkong to
16 Singapore, gives some idea of it. Britain is also
17 changing her fundamental policy toward China. Even in
18 the case of America, its strict adherence to the Monroe
19 Doctrine signifies an attitude of retreat from East
20 Asia. And the embargoes on oil and scrap-iron represent
21 not a positive but a negative policy which is defensive
22 (or obstructionist). The policies of Britain and
23 America are not Joint, but Parallel policies but they
24 have not necessarily been completely in accord hither-
25 to as to their purpose and application. That depends

upon our attitude. If we carry out our Greater East
1 Asia policy with a reasonable, fair and square attitude,
2 we may properly expect Anglo-American obstructions
3 to be removed in the natural course of events. As to
4 our attitude toward Britain and America, we need to
5 consider fully the actual benefits, while considering
6 at the same time our principles and position.

7 "4. Here we should be on our guard against
8 the fact that there are active, powerful movements
9 afoot to draw Japan into a conflict with Britain and
10 America in the Pacific Ocean thereby precipitating an
11 uncontrollable situation in the Pacific just as Japan
12 was drawn into the China problem by the Lukowkiao
13 Incident, which they could expand into a world war,
14 so that they could fish in troubled waters. In Britain
15 and America, this movement is represented by the re-
16 inforcement of the existing anti-Japanese movement
17 sponsored by the Leftists. The other one is a move-
18 ment to draw Japan into a conflict by making Japan
19 provoke Britain and America. Both movements have the
20 same direct objective, though they differ in their
21 ultimate objectives.

22 "5. In short, though the main object of our
23 policy is to establish a powerful political and economic
24 position in Greater East Asia, I believe that to show
25 a liberal-minded attitude towards settling the China

1 problem expresses, not weakness, but strength on our
2 part. In view of our present high international posi-
3 tion, it would be improper for us to be victimized by
4 other countries, not to speak of adopting an attitude
5 of supplication or subordination. I believe it to be
6 the cardinal principle of diplomacy to assert what our
7 country requires and believes, and at the same time to
8 prevent untoward losses in complicated diplomatic re-
9 lations and to devise all available means towards every
10 country alike within the limits of their potential
11 utility. Needless to say, it is necessary to sweeten
12 our relations with the Soviet Union and also to proceed
13 with scrupulous consideration and prudence in our re-
14 lations with Britain and America."

15 MR. FURNISS: If the Court please, I question
16 the translation of this document and request that
17 it be referred to the Language Section, in accordance
18 with the usual procedure.

19 THE PRESIDENT: We will refer it to the
20 Language Section.

21 MR. HARDIN: We next offer in evidence IPS
22 document 219P (93) from exhibit for identification 58,
23 which is excerpts from communication from Ambassador
24 Crew in Japan to the Japanese Foreign Minister, dated
25 September 18, 1940.

1 THE PRESIDENT: Admitted on the usual terms.
2 CLERK OF THE COURT: Prosecution's document
3 No. 219P (93) will receive exhibit No. 1024.

4 (Whereupon, the document above referred
5 to was marked prosecution's exhibit 1024 and
6 received in evidence.)

7 MR. HARDIN: (Reading)

8 "The American Ambassador in Japan (Grew)
9 to the Japanese Minister for Foreign Affairs (MATSUOKA)
10 "Excerpts.

11 "No. 1636 Tokyo, September 18, 1940.

12 "EXCELLENCY: I have the honor to recall to
13 Your Excellency the fact that my Government has fre-
14 quently found it necessary in recent years to make
15 representations to the Japanese Government in regard
16 to interference with American trade in China by Japanese
17 military authorities or by local organizations under
18 their control. Not only have representations been made
19 in connection with general trade and exchange measures
20 enforced by Japanese-controlled authorities in north
21 China, but also in connection with especially destruc-
22 tive interferences with American trade in individual
23 commodities, notably hides and skins, furs, wool,
24 radios, egg products, and embroideries. It is now
25 necessary to bring to the attention of the Japanese

1 Government widespread interference with American trade
2 in petroleum products.

3 "From Kalgan to Canton, in coastal cities
4 and in the interior, American trade in petroleum pro-
5 ducts, chiefly kerosene and candles, continues to be
6 subjected, notwithstanding repeated representations
7 to the local authorities by American diplomatic and
8 consular officers, to arbitrary and unwarranted
9 interferences."

10 Next we offer in evidence IPS document No.
11 220C (5), taken from volume 2 of exhibit 58, and ask
12 that it be identified as an exhibit. This is an excerpt
13 from a telegram from the United States Secretary of
14 State to Ambassador Grew, dated September 3, 1940.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 220C (5) will receive exhibit No. 1025.

18 (Whereupon, the document above referred
19 to was marked prosecution's exhibit No. 1025 and
20 received in evidence.)

21 MR. HARDIN: (Reading) *

22 "Telegram.

23 "The Secretary of State to the Ambassador in
24 Japan (Grew)

25 "(Paraphrase)

1 "Excerpt. Washington, September 3, 1940 --
2 6 p.m.

3 "334. At earliest moment possible, unless
4 you perceive objection, please obtain further inter-
5 view with Minister for Foreign Affairs and take up
6 with him the two matters which follow, as under instruc-
7 tion from this Government:

8 "(1) Refer to the conversation you had on
9 August 7 with the Minister (your telegram No. 672,
10 August 7, 10 p.m.) and say to him that within the past
11 few days reports from several sources have come to
12 the Department of State to the effect that the Govern-
13 ment of Japan has presented an ultimatum to the French
14 authorities in Indo-China on Japan's demands for per-
15 mission to Japanese armed forces, for purposes of
16 military operations against China, to pass through
17 French territory and to use military bases and other
18 facilities. The Government of the United States is
19 reluctant to believe these reports, and it wishes to
20 point out the unfortunate effect on American public
21 opinion from the point of view of Japanese-American
22 relations if these reports prove to be correct. Es-
23 pecially will this be true in view of statement which
24 the press attributed on June 19 to a representative
25 of the Japanese Foreign Office which said, in effect,

1 that Japan attached importance to maintaining the
2 status quo in French Indo-China."
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1 I note the next article I had has been offered
2 in evidence by another section in the past, 220-C(6).

3 I now offer in evidence IPS document 220-C(7),
4 taken from the second volume of exhibit for identifica-
5 tion 58, which is a statement from Ambassador Grew to
6 Foreign Minister MATSUOKA, September 19, 1940.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 220-C(7) will be given exhibit No. 1026.

10 (Whereupon, the document above
11 mentioned was marked prosecution's exhibit
12 No. 1026, and was received in evidence.)

13 MR. HARLIN: "Statement by the American Ambas-
14 sador in Japan (Grew) to the Japanese Minister for
15 Foreign Affairs MATSUOKA.

16 "My Government has instructed me to make the
17 following observations in reply to the oral statement
18 which was handed to me by the Vice-Minister for Foreign
19 Affairs on September 14.

20 "It is the opinion of my Government that the
21 status quo of a third country is seriously affected
22 when one of two countries which is engaged in hostili-
23 ties with another insists, in order to attack the other,
24 upon the right of the use of airdromes and the right of
25 passage for troops through the third country. In the

1 light of the Japanese Government's announced desire
2 that the status quo be maintained in the Pacific area
3 there appears to be an inconsistency in connection with
4 the stipulations of this nature which are being made
5 upon the authorities in Indo-China by the Japanese
6 Government.

7 "The American Government urges upon all govern-
8 ments the employment of peaceful means only in their
9 relations with all other governments and with all
10 other regions. The attitude of my Government toward
11 the unwarranted use of pressure in international rela-
12 tions is global.

13 "September 19, 1940."

14 I now offer IPS document 220-C(17) from exhibit
15 for identification 58, Volume II, which is an excerpt
16 from a message from the Japanese Embassy to the
17 Department of State, dated October 7, 1940.

18 THE MONITOR: We cannot follow you, sir, since
19 you are skipping. Will you give us the order number,
20 please; otherwise we cannot give you simultaneous inter-
21 pretation.

22 MR. HADLOW: Code No. 212.

23 THE MONITOR: Thank you, sir.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

1 No. 220-C(17) will receive exhibit No. 1027.

2 MR. HARLIN: If it please your Honor, if
3 there is a confusion here it is caused by an effort
4 to readjust in time order. We have not had the time
5 to distribute the list.

6 We now read from exhibit 1027:

7 "The Japanese Embassy to the Department of
8 State. Excerpt. No. 235.

9 "In view of the situation of iron and steel
10 scrap markets, the supply and demand of these materials
11 and the volume shipped to Japan, the Japanese Govern-
12 ment finds it difficult to concede that this measure
13 was motivated solely by the interest of national defense
14 of the United States.

15 "(Washington), October 7, 1940."

16 We now offer IPS document No. 699, order
17 No. 169, with the permission of the Tribunal, in evi-
18 dence. This document was captured from the Japanese
19 Foreign Office, duly authenticated, and entitled
20 "A Memorandum Concerning Outstanding Anglo-Japanese
21 Cases in China," and dated December 24, 1938.

22 Correction: That number is 699-A, if the
23 Court please.

24 MR. BLEWETT: If the Court please, I wish to
25 call attention to the certificate, which refers to

1 63 English pages, whereas the exhibit or the document
2 699-A seems to consist of 55 pages.

3 THE PRESIDENT: Look at the original.

4 MR. BLEWETT: I would like him to explain
5 that so we will have a record of the reason for it.

6 MR. HARDIN: The original document has
7 probably not been copied identically -- I mean, page
8 by page. It is there to show for itself.

9 THE PRESIDENT: I do not see any pages of
10 the original numbered at all. It is just a collection
11 of loose sheets, actually. I suppose that is how
12 they found it and they have left it in that condition.

13 Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 699-A will receive exhibit No. 1028.

16 (Whereupon, the document above
17 mentioned was marked prosecution's exhibit
18 No. 1028, and was received in evidence.)

19 MR. HARDIN: We desire to read from prosecu-
20 tion exhibit 1028, portions, although it all being in
21 evidence, only of the document.

22 "Memorandum.

23 "On the 24th December, 1938, the British
24 Ambassador handed to the then Vice-Minister for Foreign
25 Affairs a memorandum respecting outstanding Anglo-Japanese

1 cases in China.

2 "In continuation of that document Sir Robert
3 Craigie now communicates a further memorandum regarding
4 the present position of the most serious cases still
5 outstanding. It will be observed that some of the
6 cases mentioned were included in the representations
7 made in 1938, and these have been marked with an asterisk
8 for convenience of reference. It is requested that
9 special attention may be given to these cases, which
10 have been outstanding for more than two years, and in
11 particular to the Yangtze claims, which are perhaps the
12 gravest example. It will be seen that no progress has
13 been made regarding these claims and that no payment
14 whatever has been made in respect of them by the
15 Japanese Government, although the latter's assurance
16 that compensation would be given is now nearly three
17 years old.

18 "The Ministry of Foreign Affairs will under-
19 stand that the list is not intended to be exhaustive.
20 It will further be observed that in no less than
21 twelve of the cases included in the list, the represen-
22 tations made by His Majesty's Embassy have remained
23 without reply.

24 "The British Ambassador would be grateful for
25 an early examination of all these cases, many of which

1 have been dragging on for more than two years.

2 "British Embassy, Tokyo. November 22nd, 1940."

3 THE PRESIDENT: Must you read all these?

4 MR. HARDIN: I do not intend to read all.

5 Page 3 of the reproduction:

6 "SUMMARY OF OUTSTANDING ANGO-JAPANESE

7 CASES IN CHINA

8 "A - GENERAL

9 "SUBJECT -- FIRST REPRESENTATION -- PRESENT SITUATION

10 "1. RAILWAYS,

11 "(a) Peking-Mukden Railway.

12 "(1) Non-payment of Shanghai-Fengchiang
13 Railway mortgage redemption loan 1913."

14 This was presented October 11, 1937.

15 "(2) Non-payment of debt owing to Metro-
16 politan Cammel Carriage Company. ((1) and
17 (2) being largely due to non-payment by
18 the Japanese military for railway services.)

19 "(3) Construction of a parallel railway
20 to Jehol contrary to international agreement.

21 "(4) Unification of North China Railways
22 in complete -- "

23 These various subjects have been mentioned --

24 THE PRESIDENT: (Reading): "In complete
25 disregard of the British interests involved and of

1 international treaties governing them."

2 Then you read "Present Situation."

3 MR. HARDIN: Yes, sir.

4 (Reading): "These various subjects
5 have been mentioned in repeated protests from
6 October 1937 onwards. Though a general assur-
7 ance was given in a letter from Mr. Ishii on
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1 "July 20, 1938, that there was no intention of /
2 infringing British rights, no satisfactory explan-
3 ation has been given of the breaches of treaty
4 involved in the actions of the Japanese authorities
5 and no satisfactory action has been taken to respect
6 the British interests which have been disregarded
7 in these different ways by Japanese action. On
8 March 24th, 1939, His Majesty's Ambassador drew
9 attention to reports that the North China Railway
10 systems were to be taken over by a Japanese sponsored
11 concern in contravention of international agreements
12 covering the constitution of the Peking-Mukden Rail-
13 way and requested an assurance that no such pro-
14 cedure was intended. No reply."

15 Referring to page 11 of the reproduction,
16 omitting the caption:

17 "(a) Detention of S.S. 'Sagres', 'Lalita'
18 and 'Dholera'."

19 "British S.S. 'Sagres' was seized by
20 a Japanese destroyer in Chayuan Bay
21 on the 8th April, 1939, British S.S.
22 'Lalita' was seized on 27th April
23 near Foochow by a Japanese warship.
24 British S.S. 'Dholera' also seized
25 and detained by Japanese Navy."

1 "FIRST REPRESENTATION

2 "April 22nd, 1939. (Sagres)

3 "June 30th, 1939. (Lalita)

4 "PRESENT SITUATION

5 "In spite of an offer by the owner of the
6 'Lalita' and 'Dholera' to agree to waive
7 their claim for compensation upon the
8 vessels' release, under certain conditions,
9 and by the owners of the 'Sagres' to reduce
10 their claim to £10,000 on the vessel's
11 release, all three are still detained.

12 After a total of 15 communications from His
13 Majesty's Ambassador on the subject, the
14 Ministry of Foreign Affairs replied on 31st
15 July, 1940, that they would consider the
16 release of the vessels if His Majesty's
17 Government would guarantee not to requisition
18 them without the Japanese Government's
19 consent in the event of their being chartered
20 by Japanese interests."

21 Page 13 of the reproduction, omitting the same
22 heading:

23 "2. SHIPPING.

24 "(b) Detention of S.S. 'Sparta'.

25 "Greek S.S. 'Sparta' insured by

1 British interests, detained at Keelung.

2 His Majesty's Embassy support Danish
3 Legation's request for release.

4 "First Representations

5 "March 14th, 1938.

6 "PRESENT SITUATION

7 "Japanese authorities refuse to recognize
8 the validity of transfer from Chinese to
9 Greek registry. Periodic enquiry in support
10 of the Danish and subsequently, of the
11 Greek Ministers' representations, has led
12 to no result.

13 "On 11th March, 1940, His Majesty's Amba-
14 sador states that British underwriters had
15 now paid £10,000 on the vessel and that His
16 Majesty's Government viewed her detention
17 with growing concern. On 13th April, 1940,
18 the Ministry of Foreign Affairs were informed
19 that the transfer of the Sparta to Greek
20 nationality was correctly carried out under
21 Greek law. Japanese reply of 29th May,
22 1940, stated that vessel would not be re-
23 leased until suspicion of malicious transfer
24 had been cleared up."
25

Page 15:

"SUBJECT

1 "1. Tinkler Case.

2 "On 6th June, 1939, in the course of a
3 disorder at the China Printing and Finish-
4 ing Company's Mill at Pootung, a British
5 subject named Tinkler was fatally wounded
6 by Japanese Marines. Protests strongly
7 against the negligent and obstructive atti-
8 tude of Japanese authorities in the matter
9 and reserves right to claim compensation.

10 "FIRST REPRESENTATION.

11 "June 17th, 1939.

12 "PRESENT SITUATION

13 "Reminder sent on May 6th, 1940, urging the
14 disposal of this long outstanding case in
15 the interests of Anglo-Japanese relations.

16 "No reply."

17 Passing to page 22, omitting the caption:

18 "SUBJECT

19 "3. TSINGTAO. Discrimination against
20 British Shipping and Trade.

21 "In spite of Japanese assurances that Three
22 Power shipping will be given certain facili-
23 ties in the port of Tsingtao, British ships
24 have continued to be subjected to discrimi-
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1 ation and delays. Requests speedy relax-
2 ation of the restrictions.

3 "FIRST REPRESENTATION

4 "May 19th, 1939.

5 "PRESENT SITUATION

6 "After further communications, the Ministry
7 of Foreign Affairs replied on January 20th,
8 1940, that steps had recently been taken
9 by the local military authorities to pro-
10 vide further facilities did not, however,
11 in practice become available and, after a
12 reminder on April 15th, His Majesty's Amba-
13 sador made further representations on the
14 6th May regarding the wharf situation and
15 renewed instances of discrimination against
16 British shipping. Still further examples
17 of such discrimination were made the subject
18 of representations on the 13th June.

19 "No reply was received."

20 Page 24, omitting caption:

21 "SUBJECT

22 "4. WUTINGFU. Burning of English Methodist
23 Mission at Chuchia.

24 "English Methodist Mission was burnt by
25 Japanese troops on December 25th in retalia-

1 tion for alleged medical treatment of
2 Chinese guerrilla. Protests **onergotically**,
3 requests immediate investigation and reserved
4 right to claim.

5 "FIRST REPRESENTATION.

6 "January 9th, 1940.

7 "PRESENT SITUATION

8 "Japanese reply of February 12th states
9 that Mission was found to be centre of anti-
10 Japanese activities. Hospital was therefore
11 burnt in self-protection. His Majesty's
12 Ambassador replied on April 18th that His
13 Majesty's Government consider action of
14 Japanese troops totally unjustified and con-
15 trary to international law, and trust
16 vigorous measures will be taken to prevent
17 a recurrence of the incident."

18 Page 25.

19 THE PRESIDENT: I suppose you are reading
20 these to show that the matters of which the British
21 complained were the same as those of the Americans,
22 or very largely so.

23 MR. HARDIN: As well, Mr. President, as
24 evidence of the facts of the incident and the in-
25 difference of the Japanese in handling these claims.

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AFTERNOON SESSION

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The Tribunal met, pursuant to recess,
at 1330.

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

THE PRESIDENT: Major Blakeney.

MR. BLAKENEY: I have been requested by
the Russian prosecution to state that I have no
objection to the return of General MATSUMURA,
Tomokatsu, to Russia. I point out, however, that
his attendance was requested by me and is still
desired at the time that his testimony will be
needed. I have been requested also to state that
I have no objection to the return of the witness
SEJIMA, Ruizo, who has already testified and been
cross-examined. He was excused by the Tribunal on
the usual terms.

THE PRESIDENT: Is that the attitude of
all the defense counsel as regards both witnesses?

MR. BLAKENEY: I haven't been able to
consult them all, sir, but I think that one of my
clients was the only one interested in General
MATSUMURA, and Colonel SEJIMA has been cross-
examined so I think we are safe in assuming that.

1 THE PRESIDENT: Those two witnesses are
2 at liberty to leave Japan on the usual terms.

3 Mr. Williams.

4 MR. E. WILLIAMS: Mr. President, during
5 the recess Mr. Hardin has made some additional
6 effort to erase some of the irregularities in
7 chronological order of these documents. A new list
8 is being prepared which will be provided to the
9 Secretariat, the translators and defense as soon as
10 available, but it may cause a little difficulty
11 just during this short session.

12 May I ask the Clerk to give me the
13 number, exhibit number, of the exhibit which Mr.
14 Hardin was reading at the recess?

15 CLERK OF THE COURT: No. 1028.

16 THE PRESIDENT: Page 22.

17 MR. E. WILLIAMS: Beginning at page 22:

18 THE PRESIDENT: No, I think he read 24; I
19 am not sure. Begin at page 25.

20 MR. E. WILLIAMS: Is 25 the next, your Honor?

21 THE PRESIDENT: Yes.

22 MR. E. WILLIAMS: I will begin reading at
23 page 25 from exhibit 1028:

24 "SUMMARY OF OUTSTANDING ANGLO-JAPANESE
25 CASES IN CHINA.

1 "D - CENTRAL CHINA.

2 "SUBJECT: 1. BOMBING INCIDENTS.

3 "(a) Chungking -- In a raid by Japanese
4 aircraft on 4th May, 1939, a bomb killed 2 and
5 wounded 11 in the native staff quarters of His
6 Majesty's Consulate, while considerable damage was
7 done to property of His Majesty's Government. Pro-
8 tests vigorously and requests issue of instructions
9 to stop indiscriminate bombing.

10 "FIRST REPRESENTATION: May 12th, 1939.

11 "PRESENT SITUATION: In spite of these
12 representations renewed damage was done to British
13 property by repeated indiscriminate bombings of
14 Chungking. On the 24th June, 1940, further serious
15 damage was done to His Majesty's Consulate-General,
16 the Consul-General's house being destroyed and 2
17 other houses struck. On August 5th, 1940, His Majesty's
18 Ambassador stated that he must reserve all rights on
19 behalf of His Majesty's Government in the United
20 Kingdom in regard to these attacks, that the Japanese
21 Government must be held fully responsible for any
22 injury to British life and property and that a claim
23 for compensation would be entered in due course.

24 "SUMMARY OF OUTSTANDING ANGLO-JAPANESE
25 CASES IN CHINA.

"D - CENTRAL CHINA.

"SUBJECT: 1. BOMBING INCIDENTS Continued.

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"(b) Ichang -- On 6th August, 1939, the Asiatic Petroleum Company's installation and two steamers belonging to Jardine, Matheson and Company were damaged and one British officer and two Chinese sailors on board the latter were wounded in a raid by Japanese aircraft. Reminds Japanese Government of their assurances regarding foreign rights and interests and hopes that stricter orders will be issued in future. Reserves right to claim compensation.

"FIRST REPRESENTATION: August 11, 1939.

"PRESENT SITUATION: No reply.

"BOMBING INCIDENTS Continued.

"(c) Pakhoi -- China Mission School Hospital at Pakhoi was bombed on August 29, 1939, although particulars of the hospital had been communicated to the Japanese Consul-General at Canton by His Majesty's Consul-General in 1938. Requests investigation and steps to prevent repetition.

"FIRST REPRESENTATION: September 20, 1939.

"PRESENT SITUATION: No reply.

"BOMBING INCIDENTS Continued.

"(d) Pinkiang -- In bombing of English

1 Methodist Mission on March 15th, the Reverend I. G.
2 Leigh was killed. Protests, asks measures to ensure
3 nonrepetition and expression of regret and reserves
4 right to claim compensation.

5 "FIRST REPRESENTATION: March 28, 1939.

6 "PRESENT SITUATION: In spite of reminder
7 sent on 10th May, no reply was received.

8 "BOMBING INCIDENTS Continued.

9 "(e) Sian -- Jenkins Robertson Memorial
10 Hospital of the English Baptist Mission, though
11 clearly marked, was bombed by Japanese aircraft on
12 March 8, 1939, in spite of previous representations
13 made in regard to this hospital in Shanghai. The
14 operating theatre was destroyed and other damage
15 done. Requests enquiry, assurances against recur-
16 rence and expression of regret. Reserves right to
17 claim compensation.

18 "FIRST REPRESENTATION: March 13, 1939.

19 "PRESENT SITUATION: In spite of reminder
20 sent on May 10th, no reply was received.

21 "2. CENTRAL CHINA BANK -- Reports are
22 current that a new bank of issue may be set up by
23 the Nanking authorities. Such a step would have the
24 most unfortunate effect on trade of Third Powers and
25 on Anglo-Japanese relations and would be incompatible

1 with Japanese assurances"--

2 THE PRESIDENT: You left out "rumor." Is
3 that worth reading?

4 MR. E. WILLIAMS: (Continuing)

5 "Requests information.

6 "FIRST REPRESENTATION: May 27, 1940.

7 "PRESENT SITUATION: On October 23rd His
8 Majesty's Ambassador drew attention to a statement
9 made by the Minister of Finance of the Nanking
10 Government indicating that a Central bank of issue
11 would start operations in November. Sir Robert
12 Craige asked that steps be taken to prevent this
13 bank from being established. No reply."

14 Continuing: "SUBJECT.

15 "3. KIUKIANG. Refusal to allow British
16 Subjects to re-occupy their properties.

17 "Representatives of Butterfield and Swire,
18 Jardine, Matheson and Company, Asiatic Petroleum
19 Company and British-American Tobacco Company have
20 been refused permission to return to Kiukiang although
21 the Standard-Vacuum Oil Company's representatives had
22 been allowed to do so. Assumes that Japanese Govern-
23 ment do not propose to countenance discrimination of
24 this description and urges that permission should be
25 given to these firms to return to Kiukiang as soon as

possible.

"FIRST REPRESENTATION: May 24, 1940.

"PRESENT SITUATION: Japanese reply of 25th June stated that return of Butterfield and Swire and Asiatic Petroleum Company was impossible owing to military necessity, that permission was being reserved in case of Jardine, Matheson and Company owing to actions by the firm in the interests of the enemy, but that permission to return on certain conditions had already been granted to the British American Tobacco Company. There was no intention of deliberate discrimination against British firms."

Continuing:

"4. YANGTZE DELTA. Restrictions on British Trade.

"Draws attention to following Japanese activities in Yangtze Delta:--

"(a) Attempts to establish a system of trade permits;

"(b) Direct interference with British shipping; and

"(c) Discrimination against British shipping by means of the intimidation of Chinese. His Majesty's Government cannot admit the right of

1 Japanese authorities to restrict legitimate British
2 trade. Moreover, the Nanking authorities recently
3 informed the Shanghai Commission of Customs that
4 vessels wishing to clear for certain ports must
5 obtain certificates from the competent authorities
6 additional to Inland Water Certificates. This would
7 be unwarrantable interference with the Customs
8 Administration and with legitimate foreign trade.
9 Requests immediate issue of suitable instructions.

10 "FIRST REPRESENTATION: June 6, 1939.

11 "PRESENT SITUATION: After reminder dated
12 June 21st pressing for issue of appropriate instruc-
13 tions to local authorities, Japanese Government
14 replied on 20th September that the Chinese Customs
15 authorities and the Japanese military authorities were
16 acting within their competence in view of military
17 necessity.

18 "5. YANGTZE NAVIGATION. Discrimination
19 against British Shipping.

20 "(a) Shipments of ordinary goods by
21 Japanese ships are now freely possible.

22 "(b) 80% of the goods so carried cannot
23 be described as cargo for military requirements.

24 "(c) At certain places all imports except
25 Japanese goods are taxed."

1 "FIRST REPRESENTATION: April 10, 1939.

2 "PRESENT SITUATION: On 1st July, 1939,
3 His Majesty's Ambassador pointed out that German
4 and Italian shipping was being favored to the detri-
5 ment of British shipping and that the general situa-
6 tion had deteriorated since April 10th. No reply."

7 THE PRESIDENT: Omit pages 36, 37 and 38.
8 They are not marked to be read.

9 MR. T. WILLIAMS: Continuing on page 39,
10 this has to do with "Summary of Outstanding Anglo-
11 Japanese Cases in China.

12 "E - South China.

13 "SUBJECT: 2. Sharp Peak. Proposed
14 steamship service.

15 "Proposal for foreign passengers, mails,
16 food and medical supplies for foreigners at Foochow
17 to be brought by British steamer to neighborhood
18 of Sharp Peak once or twice a month. Trust Japanese
19 Government will agree on humanitarian grounds.

20 "FIRST REPRESENTATION: August 23, 1940.

21 "PRESENT SITUATION: No reply.

22 "3. SWATOW.

23 "(a) Harbor Restrictions. Port of Swatow
24 has been closed to Third Power shipping except for one
25 vessel a week since shortly after its occupation by

1 Japanese forces. Considerable quantities of goods
2 are now being landed there from Japanese vessels,
3 so argument that closure is due to military neces-
4 sity no longer applies. Requests reopening of port.

5 "FIRST REPRESENTATION: December 11, 1939.

6 "PRESENT SITUATION: Japanese reply of
7 January 17, 1940, states that restrictions must be
8 continued for reasons of strategic necessity but that
9 harbor will be reopened as soon as an improvement is
10 seen. On March 16th His Majesty's Ambassador gave
11 statistics of trading activities by Japanese vessels
12 at Swatow as evidence that closure of port could no
13 longer be justified on grounds of military necessity
14 and requested early steps for its reopening. No reply.

15 "3. SWATOW" Continued.

16 "(b) Taxation of Imports and Exports --
17 'Swatow Rehabilitation Commission' has established
18 tax bureau which is levying taxes on imports and
19 exports as well as 'voluntary contributions' on ship-
20 ments of embroideries. Requests cessation of this
21 further infringement of the rights of the Chinese
22 Maritime Customs.

23 "FIRST REPRESENTATION: February 10, 1940.

24 "PRESENT SITUATION: Japanese reply of
25 23rd February states that an investigation is being

undertaken.

1
2 "4. HONG KONG. Infringement of Territorial Waters and Attacks on Junks.

3
4 "Attacks by Japanese naval forces on
5 junks registered in Hong Kong or engaged in fishing
6 for the Hong Kong market have been made by Japanese
7 naval forces at frequent intervals from September,
8 1937. These incidents have often involved violation
9 of Hong Kong territorial waters.

10 "PRESENT SITUATION: Repeated representa-
11 tions by His Majesty's Ambassador have not been
12 successful in securing a cessation of these attacks,
13 which are still continuing."

14 THE PRESIDENT: Omit 43 and 44 as not
15 being marked for reading.

16 MR. E. WILLIAMS: Continuing on page 45:

17 "SUMMARY OF OUTSTANDING ANGLO-JAPANESE
18 CASES IN CHINA.

19 "F - Claims.

20 "SUBJECT: 2. S. S. ASLAN.

21 "Claim in respect of damage caused by the
22 wrongful detention of the ship by the Japanese navy
23 from February 7th to 20th and theft during detention
24 of articles on board.

25 "FIRST REPRESENTATION: May 1, 1938."

1 "PRESENT SITUATION: Japanese Government
2 stated in their reply of June 3rd that there were
3 insufficient documents on board and denied the
4 theft of any articles during the ship's detention a
5 receipt having been furnished by the Captain on
6 departure from Mako.

7 "On September 9th, His Majesty's Ambassador
8 explained the situation with regard to the ship's
9 documents, by the alleged irregularity of which
10 the Minister for Foreign Affairs had endeavored to
11 justify the ship's detention and pointed out that
12 detention could have been avoided by wireless con-
13 sultation of the port authorities. The receipt which
14 the Captain had given was only for private and ship's
15 papers. The Japanese reply of October 4th, claimed
16 that the Japanese could not bear the entire re-
17 sponsibility and that, as the Captain in his receipt
18 had stated everything was in order, there was no
19 room for further discussion on the subject of the
20 alleged thefts.

21 "3. Cases involving infringement of
22 Hong Kong territorial waters and attack on junks.

23 "(a) September 22nd, 1937, Fishing junks
24 sunk by Japanese submarine.

25 "FIRST REPRESENTATION: January 5, 1938. "

1 "PRESENT SITUATION: His Majesty's
2 Ambassador's Note of August 15th, 1938, stated that
3 Japanese explanation could not be accepted and pre-
4 sented a claim for Hong Kong \$30,469.00. The
5 Japanese reply of September 19th refused to consider
6 the question of responsibility, but offered an ex
7 gratia payment to those fishermen who are British
8 subject and can prove they took no part in aggres-
9 sion against a Japanese warship.

10 "3. (b) February 11, 1938. Attack on
11 and seizure of four junks by Japanese armed motor
12 trawler.

13 "FIRST REPRESENTATION: February 26, 1938.

14 "PRESENT SITUATION: Japanese Government's
15 reply of March 8th, stated that the incidents did
16 not take place within British territorial waters.
17 His Majesty's Note of April 27th, showed that the
18 junks in question were different from those referred
19 to in the Japanese Government's reply. A further
20 Note from His Majesty's Ambassador of the same date
21 submitted a claim for Hong Kong \$12,000.00. No
22 reply.

23 "3. (c) May 3, 1938. Piracy and murder
24 committed by Japanese sailors on a junk from Hong Kong.

25 "FIRST REPRESENTATION: June 17, 1938. "

1 "PRESENT SITUATION: His Majesty's Amba-
2 sador addressed a second Note to the Minister for
3 Foreign Affairs on July 8th, confirming the details
4 of his previous Note and on October 31st, a claim
5 for Hong Kong \$11,872.50 was submitted. The Japanese
6 Government's reply of December 6th, stated that there
7 had been cases in which Japanese warships had dealt
8 with hostile junks, but that there were no facts
9 corresponding to the statements in His Majesty's
10 Ambassador's Note of July 8th.

11 "4. Damage to His Majesty's Consulate at
12 Pagado Anchorage, Foochow, during an air raid on
13 July 1st.

14 "FIRST REPRESENTATION: July 9, 1938.

15 "PRESENT SITUATION: A claim for £215.7.4
16 was presented by His Majesty's Ambassador on May 3,
17 1939. No reply.

18 "5. Damage to His Majesty's Consulates
19 and British property at Chefoo and Tsingtao in the
20 course of anti-British demonstrations on August 11th
21 and July 10th respectively.

22 "FIRST REPRESENTATION: December 18, 1939.

23 "PRESENT SITUATION: A claim for Chinese
24 National \$1,554.01 and United States \$20.75 was sub-
25 mitted by His Majesty's Embassy on December 18th. On

1 January 23, 1940, the Japanese Ministry of Foreign
2 Affairs replied that the anti-British movement in
3 China had broken out spontaneously, that the Chinese
4 organs were in control, that the matter should be
5 discussed, therefore, between the local British and
6 Chinese authorities and that there was no reason
7 why the Japanese Government should bear the responsi-
8 bility or receive the statement of claim. In their
9 Note of February 12, 1940, His Majesty's Embassy
10 pointed out that His Majesty's Government do not
11 recognize the 'local Chinese authorities,' that
12 Tsingtao and Chefoo were under the effective
13 occupation of the Japanese Army and that the Japanese
14 Government were, therefore, responsible for preventing
15 disorder. The formula of July 22nd was intended to
16 cover such cases. His Majesty's Embassy, therefore,
17 maintained their claim. In their Note of March 20th,
18 His Majesty's Embassy enquired of the Ministry
19 whether a reply might shortly be expected but none
20 has yet been received.

21 "6. Attack on the Imperial Airways air-
22 craft.

23 "'Dardanus' on November 8, 1939, at Waichow
24 Island, South China.

25 "His Majesty's Ambassador protested

1 vigorously against this incident and pointed out
2 how unwarranted such an attack on a civilian air-
3 craft was, wherever it was flying. The identity
4 of the aircraft must have been clear to the Japanese
5 authorities. His Majesty's Government did not admit
6 any right on the part of the Japanese Government to
7 exclude British aircraft from any particular area,
8 as His Majesty's Ambassador had informed the Japan-
9 ese Government on February 27, 1939. His Majesty's
10 Ambassador also took strong exception to the deten-
11 tion of the aircraft's two pilots for five days,
12 reserved the right to claim compensation and re-
13 quested an assurance that instructions against the
14 repetition of such an incident had been sent to the
15 appropriate Japanese authorities.

16 "FIRST REPRESENTATION: November 23, 1939.

17 "PRESENT SITUATION: His Majesty's
18 Ambassador presented a claim for £1,706.8.3 for
19 damage and loss on January 13, 1940. A more de-
20 tailed statement of this claim showing the extensive
21 damage suffered by the aircraft and its unairworthy
22 state when returned to the British authorities, was
23 submitted by His Majesty's Embassy on February 13th.
24 As no reply was received a Note enquiring whether a
25 settlement might soon be expected was sent to the

1 Ministry on March 20th. In their reply of April
2 23rd, the Ministry stated that as regards repairs
3 the Imperial Japanese authorities did not take any
4 measures at the time as a matter of obligation, but
5 especially kind treatment was given. They stated
6 that there was, therefore, no reason for the Japanese
7 Government to bear any responsibility for any sort
8 of damage in this case.
9

10 "7. GENERAL CLAIMS.

11 "Between June 21, 1938, and November 11,
12 1940, fourteen sets of claims in respect of loss
13 suffered by British subjects as a result of the
14 operations of the Japanese armed forces in China
15 have been submitted. In addition, claims by Mr.
16 M. Hayward and by Messrs. Butterfield and Swire
17 (in respect of their Hokai Staff Quarters at Hankow)
18 have been submitted separately.

19 "FIRST REPRESENTATION: June 21, 1938.

20 "PRESENT SITUATION: These claims amount
21 in all to £414,654. 4. 7-1/4. Claims amount to
22 £5,000. 2. 3 only may be regarded as withdrawn,
23 while one claim has been reduced by £29. 17. 2,
24 leaving a balance of £409,624. 5. 2-1/4 outstanding
25 under this head alone."

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1 MR. E. WILLIAMS: We offer in evidence I. P. S.
2 document 2400-A which is taken from the office of the
3 Japanese Foreign Ministry at Tokyo, duly authenticated
4 and is entitled: Measures to be Taken Towards Natives
5 in East Asia or Burma, the President of the Racial
6 Committee of the National Policy Research Institute,
7 Kokusaku Kenkyu Kai, 20 September, 1940.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 2400-A will receive exhibit No. 1029.

11 (Whereupon, the above-mentioned document
12 was marked prosecution's exhibit No. 1029 and
13 received in evidence.)

14 THE PRESIDENT: Mr. Smith.

15 MR. SMITH: If the Court please, we just located
16 this document, exhibit 1029. It does not appear to be
17 a government document and the certificate does not
18 purport to show that it came from the government files.
19 We do not see how it has any connection with any defendant
20 in this case.

21 MR. BROCKS: Mr. President, on the certificate, it
22 is signed by YATSUGI, who was a witness for the pros-
23 ecution in this case and testified at that time that
24 this was a private society, as I believe the record
25 will bear us out. We have had introduced before

hypothetical situations and cases by various societies.

1 Now whether this is one or not, I think it is up to
2 the prosecution to prove or show.

3 THE PRESIDENT: Article 13 of the Charters
4 says we shall admit any evidence which we think has
5 probative value including statements which appear to
6 the Tribunal to contain information relating to the
7 charge.
8

9 MR. SMITH: Well, surely, your Honor --

10 THE PRESIDENT: That we may do it -- allow me
11 to complete what I am saying. You know the red light
12 stops me as it does you. -- but we may require to be
13 convinced or to be satisfied that this has probative
14 value in the circumstances, Mr. Williams. Probative
15 value may readily appear where we have a certificate
16 that the document was found in a war ministry or in a
17 foreign office.

18 MR. E. WILLIAMS: We shall endeavor to provide
19 such additional information as we can obtain to support
20 and add to its probative value, your Honor.

21 MR. SMITH: Well, your Honor, what the pros-
22 ecutor just said amounts to nothing. Certainly the
23 provision of the Charter dealing with what constitutes
24 evidence having a probative value refers basically to
25 evidence related to two or more defendants in this case

1 and that has not been shown that any defendant has any
2 connection with this.

3 THE PRESIDENT: All the counts are not for
4 conspiracy, you know, Mr. Smith. You forget that. It
5 is only one or several out of fifty-five. Although
6 this might well be appropriate to the conspiracy counts.

7 MR. SMITH: Well, your Honor, conspiracy is
8 still an allegation in this case. Nobody is conceding
9 it by any means.

10 THE PRESIDENT: However, Mr. Williams, it is
11 doubtful whether this has probative value at this
12 stage.

13 MR. E. WILLIAMS: Well, your Honor, I realize
14 that there is no need of presenting a document that
15 does not have, in the opinion of the Court, probative
16 value. May I request that the Court indicate whether
17 it would prefer to have the document simply marked for
18 identification at this time or admitted conditionally?

19 THE PRESIDENT: Well, you realize our difficul-
20 ty. We know nothing about this National Policy Research
21 Institute.

22 MR. E. WILLIAMS: I appreciate that, your
23 Honor. I am not insisting.

24 MR. BROCKS: If the Court please, I would like
25 to object to this being admitted conditionally, and would

1 ask that the prosecution's attention be called to the
2 certificate that there be no possibility of showing
3 this coming from an official source because the certi-
4 ficate has already disclosed that by the witness
5 signing there as he has already testified.

6 THE PRESIDENT: Mr. Williams is not intending
7 to tender it for conditional admission, but to mark it
8 for identification only. You cannot object to that.

9 Well, you can have it marked for identification
10 only.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2400-A will be marked exhibit 1029 for identifi-
13 cation only.

14 (Whereupon, the above-mentioned document
15 which had previously been marked exhibit No. 1029
16 in evidence was subsequently marked exhibit No.
17 1029 for identification only.)

18 MR. E. WILLIAMS: With the Tribunal's
19 permission, we now wish to tender in evidence I. P. S.
20 document No. 1603-A. This is a document taken from
21 the Japanese Foreign Office and has been duly authenti-
22 cated. It is a summary of proceedings concerning the
23 Tri-partite Pact between Germany, Japan and Italy at a
24 Privy Council meeting, September 26, 1940; and I may
25 say that in the old list it was No. 162.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution's document
3 No. 1603-A will receive exhibit No. 1030.

4 (Whereupon, the above-mentioned document
5 was marked prosecution's exhibit No. 1030 and
6 received in evidence.)

7 MR. E. WILLIAMS: We read parts only from
8 prosecution exhibit No. 1030. I read first from page
9 2, the last paragraph.

10 (Reading): "Councillor KAWAI: I consider
11 Article III of the treaty most important. Although I
12 do not believe in a Japanese-American war, I think that,
13 if worst comes to worst, the War and Navy Ministers may
14 have something in readiness to avert defeat, and on
15 this point I beg to have an explanation that will reassure
16 us. Moreover, we cannot say definitely that the U.S.S.R.
17 will not start something against JAPAN. In such a case,
18 what attitude will GERMANY take?

19 "War Minister TOJO: I will give my answer
20 chiefly from the standpoint of the Army. If the worst
21 comes to worst, only a small part of the military strength
22 will be necessary to carry out the operation against the
23 U.S.A. I think that you need not worry on this point.
24 However, an operation against the U.S.A. cannot be said
25 complete unless we consider an operation against the U.S.S.R."

1 "Therefore, adjustment of JAPAN-SOVIET relations is a
2 very important matter. I think that, if we could
3 accomplish this effectively, military preparation
4 would be eased considerably, but when we consider the
5 character of the U.S.S.R., JAPAN cannot neglect her
6 own preparation. As to the CHINA Incident, we intend
7 to bring it to a conclusion by making efficient use
8 of this treaty before we find ourselves in the worst
9 situation.

10 "Navy Minister OIKAWA: Since the war prepared-
11 ness of our present Navy is complete, we will definitely
12 not be beaten by the U.S.A., but in event of a prolonged
13 war, it is necessary that we make sufficient preparations
14 to keep up with the realization of the American plan
15 for repletion of her navy. On this point, the Navy is
16 adopting a policy prudent in every respect.

17 "Councillor KAWAI: I fear nothing so much as
18 the question of our materials. In case of a protracted
19 war, how long will they last?

20 "President of the Planning Board HOSHINO: As
21 I explained yesterday (the President gave a detailed
22 explanation of the material mobilization plan at the
23 regular meeting of the Privy Council on the previous
24 day), our country has for the last few years been making
25 preparations for self-sufficiency as regards materials."

1 Out of 2,100,000,000 yen in imports, 1,000,000,000 yen
2 is received from ENGLAND and the U.S.A. If, therefore,
3 the economic pressure is strengthened, it is necessary
4 that we act prudently considering the activation of
5 Article III of the treaty. As for iron, this year's
6 output is expected to be 5,200,000 tons, and even at
7 the worst we can expect an output of 4,000,000 tons.
8 At present, 1,500,000 tons are used for armaments and
9 military purposes, and the rest is allotted for the
10 repletion of productive power and for private and
11 governmental use. If we manipulate the repletion of
12 productive power, and restrict private and governmental
13 demands, giving consideration to cases when imports of
14 scrap iron and iron material may be stopped, we shall
15 not find ourselves in so serious a situation. As
16 regards metals other than iron, the case is different,
17 but I think that you need not be seriously concerned,
18 for we are now endeavoring to collect them from all
19 parts of the world. Most important is petroleum. We
20 are at present depending greatly on AMERICA, especially
21 for aviation gasoline, almost all of which we must
22 import from AMERICA. We must try to increase its pro-
23 duction at home and, at the same time, must find means
24 to secure it from places other than AMERICA. Recently,
25 we have accumulated a considerable 'stock' of aviation

1 petroleum. However, in case of a prolonged war with
2 the U.S.A., a self-sufficient supply cannot be obtained
3 solely in JAPAN, MANCHURIA, and CHINA, whereas iron
4 and other metals can be so obtained. Therefore, it
5 is necessary that we speedily secure the right to
6 obtain oil in the DUTCH EAST INDIES or NORTH KARAFUTO.
7 This matter has been touched upon in the recent talk
8 with GERMANY. Furthermore, you must understand that at
9 present negotiations are being carried on for the
10 peaceful acquisition of oil in the DUTCH EAST INDIES.

11 "Councillor KAWAI: In regard to petroleum,
12 at yesterday's talk the military and naval authorities
13 too implied that considerable preparations have been
14 effected. I wish to have some explanation by the
15 War Minister and the Navy Minister.

16 "Navy Minister OIKAWA: As for the Navy, we
17 have made preparations for a considerable length of
18 time. Measures are now being taken regarding synthetic
19 oil.

20 "War Minister TOJO: The Army has prepared so
21 that its materials may last for a considerable period.
22 If an unusually prolonged war should occur, consideration
23 must be given to oil for aircraft and mechanized units."

24 Then I drop down to page 6, the third paragraph
25 from the top of the page.

1 (Reading): "Councillor ARIMA: I agree with
2 the government in its desire to avert an American-Japa-
3 nese war as demonstrated by this treaty, but if JAPAN and
4 the UNITED STATES are destined to fight, I think now is
5 the best time. However, what concerns us most is our lack
6 of petroleum. Although the Navy Minister said that we
7 have made appropriate preparations, it cannot be sup-
8 posed that, if hostilities began between JAPAN and the
9 U.S.A., they would terminate in one or two years. Par-
10 ticularly since we are bound to use great quantities of
11 petroleum in modern wars, we cannot help worrying
12 whether or not synthetic petroleum and such will suffice
13 in critical times. Therefore, I would like to have a
14 reply on this point from the Navy Minister.

15 "Navy Minister OIKAWA: Since we have just
16 started with synthetic petroleum, we cannot say that it
17 will suffice in critical times. Therefore, there is no
18 other way than to acquire it from the DUTCH EAST INDIES
19 or NORTH KARAFUTO through peaceful means, and it is
20 quite likely this will occur. Consequently, when view-
21 ed from this point, I think adjustment of relations
22 with the U.S.S.R. is very important. On the other hand,
23 if the war is prolonged the Navy must consider the
24 economic use of petroleum.

25 "Councillor ARIMA: Would there be a sufficiency

1 of petroleum of high octane rating?

2 "Navy Minister OIKAWA: Yes, in regard to
3 petroleum of high octane rating, the Navy has lately
4 established a special research organ and has been pro-
5 ducing it through methods original with the Navy. More-
6 over, considerable store is on hand."

7 If the Court please, then down to page 15,
8 beginning with the second paragraph, commencing with
9 the words "Councillor FUKAI."

10 "Councillor FUKAI: I think that insertion
11 of sentiments in our foreign relations should be
12 avoided, and that diplomacy must always be practiced
13 realistically. In the preamble of the treaty it says:
14 'let every nation have its rightful place', but
15 since HITLER's words always give us the impression that
16 according to the laws of nature, the weak are the vic-
17 tims of the strong, do you think that GERMANY will be
18 able to understand the true spirit of this preamble?

19 "Foreign Minister MATSUOKA: The mission of
20 our diplomacy lies in the propagation of the 'Imperial
21 Way'. We do not act solely for the purpose of advantages
22 or disadvantages in respect of our interests. I think
23 that such thoughts as 'the weak are the victims of the
24 strong' should be absolutely rejected.

25 "Councillor FUKAI: I can understand that, if a

1 Japanese-American war is inevitable, emphasis in
2 diplomacy must be laid to either GERMANY or the Anglo-
3 Americans at this time, but the result of concluding
4 this treaty may hasten the Japanese-American war.
5 Therefore, I wish to ask the Prime Minister his deter-
6 mination, whether or not he has the confidence to be
7 able to overcome shortages of munitions and general
8 commodities; the demoralization of thoughts, etc.,
9 when he faces them in the most aggravated times.

10 "Prime Minister KONOYE: The basic idea of
11 this pact, of course, lies in the aversion of a Japan-
12 ese-American clash. However, I think that it is nec-
13 essary for us to show a firm attitude, because if we
14 act humbly, it will only make the UNITED STATES presump-
15 tuous. /Translator's Note: May also read '...if we make
16 a blunder, the UNITED STATES will become presumptuous.'/
17 If worst should come to worst, I think that the govern-
18 ment must adopt policies with firm resolutions on both
19 diplomatic and domestic affairs. The other day when I
20 presented myself at the Imperial Palace to report on
21 this matter, I found His Majesty, the Emperor, also to
22 have possessed a very firm resolution which was most
23 impressive. I hope that this treaty will be satisfact-
24 orily executed, even at the risk of my very life.

25 "Councillor FUTAGAMI: Since there has been

1 much discussion from the standpoint of both diplomacy
2 and economics, I would like to ask some questions on
3 some doubtful points on the treaty itself."

4 Then I will skip that down to page 17, the
5 next to the last paragraph on page 17.

6 (Reading): "Councillor OBATA: At this time
7 when JAPAN has not yet solved the Sino-Japanese Inci-
8 dent, if JAPAN is under the obligation to aid GERMANY
9 and ITALY in case the UNITED STATES should participate
10 in the European War, JAPAN will be placed under a very
11 heavy responsibility. On the other hand, I think,
12 the possibility of war breaking out between JAPAN and
13 AMERICA is small. Therefore, will not this treaty be
14 very one-sided?

15 "Foreign Minister MATSUOKA: Whether AMERICA
16 will participate in the European war or not, or whether
17 war between AMERICA and JAPAN will break out or not, I
18 think is a fifty-fifty possibility. Therefore, I do
19 not believe it to be one-sided.

20 "Councillor TAKECOE: As the result of this
21 treaty being concluded, what kind of support can
22 GERMANY give JAPAN in case worst comes to worst and
23 in case the Japanese Navy aids GERMANY and ITALY,
24 what kind of aid can it give?
25

"Foreign Minister MATSUOKA: Such problems as

1 the kind of help that can be mutually given should be
2 thoroughly investigated at the Joint special committee.

3 "Chief of the Investigation Committee SUZUKI:
4 I think a Japanese-American war is inevitable regardless
5 of whether this treaty is concluded or not. We, there-
6 fore, must carefully observe the expansion of the UNITED
7 STATES Navy and must not neglect our preparations
8 corresponding to this.

9 "Navy Minister OIKAWA: We are confident of
10 victory in a quick, decisive war against AMERICA, but
11 as for the future, we are steadily drawing various ex-
12 pansion plans.

13 "Councillor ISHII: I see what is written in
14 the last of exchange of statements is that the South Sea
15 Islands under our mandate will remain a territory of
16 JAPAN, provided that we pay a compensation for them.
17 According to Minister MATSUOKA's explanation of this,
18 since the VERSAILLES Treaty has already expired, JAPAN
19 is still continuing a military occupation of the South
20 Sea Islands. Therefore, although it is said that it is
21 necessary for JAPAN to pay compensation to GERMANY to
22 obtain transfer of the islands, according to the VER-
23 SAILLES Treaty, the possession of the mandated islands
24 were transferred to the Five Powers, from which powers
25 JAPAN acquired them. I, therefore, think it is proper

1 interpret that the islands are already the possession
2 of JAPAN and, therefore, I cannot agree to the verbal
3 declarations of the German Ambassador. Since I admit
4 that this problem is not a subject for Imperial inquiry,
5 I am just expressing my opinion for your information.

6 "Foreign Minister MATSUOKA: According to the
7 opinion of famous scholars of international law, as
8 Dr. TACHI, a mandate is not a transfer of territory.
9 Therefore, aside from the standpoint of legal theories,
10 and viewing it from the standpoint of practical politics,
11 it has been my opinion for the past three years that
12 it is a better policy to receive these islands from
13 GERMANY through some means. From what I have heard,
14 three years ago, the Japanese Navy had proposed to
15 GERMANY through the naval attache in BERLIN the cession
16 of these islands under certain compensatory terms.

17 "Councillor ISHII: I have exchanged opinions
18 with Dr. TACHI concerning this problem. Dr. TACHI's
19 opinion was only that a mandate is not a cession of
20 territory. In regards to the point that GERMANY trans-
21 ferred them to the Five Powers, I believe there is no
22 dispute. Therefore, I can hardly agree to having JAPAN
23 pay a compensation now to GERMANY for the cession of
24 these islands.

25 "Councillor MITSUCHI: From the questions and

1 interpret that the islands are already the possession
2 of JAPAN and, therefore, I cannot agree to the verbal
3 declarations of the German Ambassador. Since I admit
4 that this problem is not a subject for Imperial inquiry,
5 I am just expressing my opinion for your information.

6 "Foreign Minister MATSUOKA: According to the
7 opinion of famous scholars of international law, as
8 Dr. TACHI, a mandate is not a transfer of territory.
9 Therefore, aside from the standpoint of legal theories,
10 and viewing it from the standpoint of practical politics,
11 it has been my opinion for the past three years that
12 it is a better policy to receive these islands from
13 GERMANY through some means. From what I have heard,
14 three years ago, the Japanese Navy had proposed to
15 GERMANY through the naval attache in BERLIN the cession
16 of these islands under certain compensatory terms.

17 "Councillor ISHII: I have exchanged opinions
18 with Dr. TACHI concerning this problem. Dr. TACHI's
19 opinion was only that a mandate is not a cession of
20 territory. In regards to the point that GERMANY trans-
21 ferred them to the Five Powers, I believe there is no
22 dispute. Therefore, I can hardly agree to having JAPAN
23 pay a compensation now to GERMANY for the cession of
24 these islands.

25 "Councillor MITSUCHI: From the questions and

1 answers I have heard throughout this morning, the
2 discussion seems to be chiefly on matters assuming war
3 with AMERICA. However, the moment this treaty is
4 concluded, I think AMERICA's economic sanctions against
5 JAPAN will be greatly increased. In this case, I
6 think the subsistence problem of our people will become
7 serious. Are sufficient preparations made for this?
8 When a treaty of this sort is concluded, the Japanese
9 people are apt to follow GERMANY blindly and there is
10 danger that some may attempt anti-American movements,
11 etc. It is hoped that such acts will be strictly con-
12 trolled.

13 "President of the Planning Board HOSHINO: The
14 government is most concerned over the problems of the
15 people's livelihood and will try to meet the situation
16 most satisfactorily.

17 Prime Minister KONOYE: Since I am in full
18 accord with keeping under control anti-American move-
19 ments, I intend to carry it out very strictly."
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1 THE PRESIDENT: Mr. Levin.

2 MR. LEVIN: Mr. President, I would like to
3 call attention to the fact that the SUZUKI named in
4 this document is not the accused. There is no given
5 name indicated in this document. It is because of
6 the statement just read by Mr. Williams as having
7 been made by SUZUKI that I call the special attention
8 of the Tribunal to that fact.

9 MR. E. WILLIAMS: I understand that
10 counsel's statement is correct, Mr. President.

11 We tender in evidence IPS document No.
12 219P (94) from Volume I of exhibit 58 for identifi-
13 cation, which is an excerpt from Ambassador Grew to
14 MATSUOKA, dated October 11, 1940.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 219P (94) will receive exhibit No. 1031.

18 (Whereupon, the document above
19 mentioned was marked prosecution's exhibit
20 No. 1031 and received in evidence.)

21 MR. E. WILLIAMS: I read from prosecution's
22 exhibit No. 1031:

23 "THE AMERICAN AMBASSADOR IN JAPAN (GREW) TO THE
24 JAPANESE MINISTER FOR FOREIGN AFFAIRS (MATSUOKA).

"Excerpts.

25 "No. 1653

"TOKYO, October 11, 1940.

1 "By virtue of a widespread system of exchange
2 and trade controls in North China which culminated
3 on June 28, 1940, in the institution of a complete
4 and discriminatory control of exchange, American
5 trade with that area has come to a virtual halt.

6 "American enterprise having been practically
7 eliminated from Manchuria, and American enterprise
8 and trade in the North China area having been reduced
9 to insignificant proportions, it now appears to be
10 the intent of the military authorities of Japan to
11 force American enterprise and trade out of Shanghai,
12 the most important commercial center in China."

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1 Then we offer in evidence IPS document No.
2 219P (95) from exhibit 58 for identification, which
3 is an excerpt from the statement by Ambassador Grew
4 to MATSUOKA, dated October 24, 1940.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (95) will receive exhibit No. 1032.

8 (Whereupon, the document above
9 mentioned was marked prosecution's exhibit
10 No. 1032 and received in evidence.)

11 MR. E. WILLIAMS: We read prosecution's
12 exhibit No. 1032:

13 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
14 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS (MAT-
15 SUOKA)

16 "Excerpts. No. 1665

17 "TOKYO, October 24, 1940.

18 "EXCELLENCY: I have the honor to inform
19 Your Excellency that my Government has taken note
20 that the Japanese military authorities in North
21 China have since October 1 applied certain so-called
22 regulations governing the control of inspections
23 and shipments of raw materials for light industries
24 in North China.' According to the press the regu-
25 lations are applicable to cotton, hemp, jute, and

1 other vegetable fibers, animal hair, leather, and
2 furs.

3 "Failing an early modification of the at-
4 titude of the military authorities in China, Ameri-
5 can firms, both in the United States and in North
6 China, are destined (1) to suffer large financial
7 losses on account of stocks held for exportation
8 under already existing contracts and on account of
9 large additional unfilled contracts, and (2) to be
10 eliminated from trade in which they have partici-
11 pated for a long period."

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1 We offer in evidence IPS document No.
2 220C (8) from exhibit 58 for identification. This
3 is an excerpt from communication by Mr. Grew to
4 MATSUOKA, dated November 15, 1940.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220C (8) will receive exhibit No. 1033.

8 (Whereupon, the document above
9 mentioned was marked prosecution's exhibit
10 No. 1033 and received in evidence.)

11 MR. E. WILLIAMS: We read prosecution's
12 exhibit 1033:

13 "ORAL STATEMENT BY THE AMERICAN AMBASSADOR
14 (GREW) TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS
15 (MATSUOKA)."

16 There is a footnote on this:

17 "Notation: 'Left with Mr. Terazaki, Director
18 of the American Bureau of the Japanese Foreign Office,
19 by the American First Secretary, Mr. Crocker, Novem-
20 ber 15, 1940, as from the American Ambassador to the
21 Minister for Foreign Affairs.'

22 "I am informed by our Consul at Hanoi that
23 certain merchandise owned by American interests is
24 being refused re-export permits from Indo-China by
25 the Indo-Chinese authorities chiefly as a result of

1 Japanese pressure brought upon these authorities.

2 "Detailed information regarding such mer-
3 chandise is known to the Indo-China authorities, to
4 our Consul, and presumably to the Japanese.

5 "I have been instructed to request that
6 appropriate steps be taken to put an end to this
7 unwarranted interference with the shipments of
8 goods and merchandise owned by Americans."

9 We offer in evidence IPS document No.
10 219P (71) taken from exhibit for identification 58.
11 This is an excerpt from a statement by Ambassador
12 Grew to MATSUOKA, dated November 26, 1940.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 219P (71) will receive exhibit No. 1034.

16 (Whereupon, the document above
17 mentioned was marked prosecution's exhibit
18 No. 1034 and received in evidence.)

19 MR. E. WILLIAMS: I read prosecution's
20 exhibit No. 1034:

21 "THE AMERICAN AMBASSADOR IN JAPAN (GREW) TO THE
22 JAPANESE MINISTER FOR FOREIGN AFFAIRS (MATSUOKA)

23 "Excerpt. "TOKYO, November 26, 1940

24 "EXCELLENCY: Acting under instructions from
25 my Government, I have the honor formally to protest

1 against the actions of the Japanese military at Hanoi
2 who recently took into custody Mr. Robert W. Rinden,
3 American Vice-Consul, and the United Press corres-
4 pondent, Mr. Melville Jacoby.

5 "My Government considers that the employ-
6 ment of force and the threat of arm against an Am-
7 erican official and the individual accompanying him
8 were especially flagrant. I am constrained to re-
9 call that it has been necessary for my Government
10 to point out to Your Excellency's Government, in con-
11 nection with a deplorably large number of incidents
12 involving American nationals and the Japanese mili-
13 tary in China, that if the Japanese Government were
14 to issue strict and effective instructions that Am-
15 erican citizens should be treated with civility by
16 the Japanese military, incidents of the character
17 described above would not occur.

18 "With reference to the incident which is the
19 subject of the present note, I wish to invite the par-
20 ticular attention of Your Excellency to the fact that
21 Mr. Rinden and his companion were threatened with
22 rifles which were pointed at them, and were kept in
23 custody by Japanese soldiers, and that the Japanese
24 soldiers did not withdraw until the arrival of the
25 French authorities, despite the fact that Mr. Rinden

1 identified himself as an American Vice-Consul to a
2 Japanese officer who spoke and understood English."
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1 We offer in evidence IPS document No.
2 1339A (4) which is a memorandum of KASE, Secretary
3 to the Foreign Minister, dated December 9, 1940, to
4 OTA, Chief of the European Department.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. L339A (4) will receive exhibit No. 1035.

8 (Whereupon, the document above
9 mentioned was marked prosecution's exhibit
10 No. 1035 and received in evidence.)

11 THE PRESIDENT: We will recess for fifteen
12 minutes.

13 (Whereupon, at 1445, a recess was
14 taken until 1100, after which the proceed-
15 ings were resumed as follows:)

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

18 THE PRESIDENT: Major Furness.

19 MR. FURNESS: If the Court please, I wish
20 to object to the introduction of this document unless
21 the statement which is referred to in the first para-
22 graph is also submitted. Without such statement we don't
23 know what they are talking about, and I submit in
24 that case the document has no probative value.

25 THE PRESIDENT: Mr. Hardin.

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1 MR. HARDIN: It is presumed that what follows
2 is the memorandum. This is a document that was pre-
3 sented by the Foreign Office to our section. It does
4 say copy attached -- copy herewith. Now, I don't have
5 a certificate saying there is no copy, none was
6 located, but the certificate describes the number of
7 pages, I presume.

8 THE PRESIDENT: Three pages?

9 MR. HARDIN: Yes, sir.

10 MR. FURNESS: It is quite obvious, if the
11 Court please, that the document which is submitted
12 here is not three pages long; furthermore, it refers
13 to a summary, and whether that is in the original
14 document -- whether this is a summary of it, I don't
15 know.

16 THE PRESIDENT: Look at the original.

17 MR. FURNESS: The original, of course, is in
18 Japanese.

19 THE PRESIDENT: How many pages have you?

20 MR. FURNESS: It is three pages, but I sub-
21 mit again that regardless of that, unless -- regard-
22 less of where it comes from, unless we have the state-
23 ment referred to we don't know what is being talked
24 about between Ambassador Craigie and Foreign Minister
25 MATSUOKA, and therefore the summary, or whatever it is,

1 has no probative value.

2 THE PRESIDENT: It does not follow because it
3 isn't all there that it isn't admissible. Its pro-
4 bative value is reduced, and perhaps very seriously so.
5 We should have it if it is available. I suppose you
6 would have produced it had it been available to you?

7 MR. HARDIN: Yes, sir, if it had been avail-
8 able we would have had it.

9 THE PRESIDENT: But you can't say one thing
10 or the other really; you haven't investigated it?

11 MR. HARDIN: No, sir, I haven't personally.

12 THE PRESIDENT: Well, tender it for identi-
13 fication. In the meantime make a search for the balance.

14 MR. HARDIN: I will have the Investigation
15 Section do so as soon as I can get to them.

16 Yes, sir, I tender it for identification.

17 CLERK OF THE COURT: Prosecution's document
18 No. 1339A (4) is given exhibit No. 1035 for identi-
19 fication only.

20 (Whereupon, the document above referred
21 to, previously marked prosecution's exhibit No.
22 1035 in evidence, was marked prosecution's ex-
23 hibit No. 1035 for identification.)

24 MR. HARDIN: We next offer in evidence IPS
25 document No. 220C (9) from exhibit for identification

1 58, Volume 2. This is an excerpt from a communica-
2 tion from The American Ambassador in Japan (Grew)
3 to the Japanese Minister for Foreign Affairs (MATSUOKA),
4 dated December 17, 1940.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220C (9) will receive exhibit No. 1036.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1036 and was received in evidence.)

11 MR. HARDIN: (reading)

12 "THE AMERICAN AMBASSADOR IN JAPAN (GREW) TO THE
13 JAPANESE MINISTER FOR FOREIGN AFFAIRS (MATSUOKA).

14 "Excerpt. TOKYO, December 17, 1940.

15 "No. 1714

16 "EXCELLENCY: I have the honor to invite the
17 attention of Your Excellency to the fact that on
18 November 15 an oral statement was left with Mr.
19 TERAZAKI as from the American Ambassador to the
20 Minister for Foreign Affairs stating that, accord-
21 ing to information from the American Consul at
22 Hanoi, certain merchandise owned by American in-
23 terests was being refused re-export permits from
24 Indochina by the Indochinese authorities, chiefly
25 as a result of Japanese pressure brought upon those

1 authorities.

2 "On November 30, in a conversation with
3 Your Excellency, I made further representations in
4 this matter, repeating those made on November 15."

5 We offer in evidence IPS document 220C (10),
6 which is from exhibit for identification 58, Volume
7 2. This is oral statement of Mr. Grew to Mr.
8 MATSUOKA, referring to the Ambassador's note to the
9 Foreign Minister December 17, 1940. May I ask that
10 this be identified as an exhibit in evidence?

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 220C (10) will receive exhibit No. 1037.

14 (Whereupon, the document above re-
15 ferred to was marked prosecution's exhibit
16 No. 1037 and was received in evidence.)

17 MR. HARDIN: We read prosecution's exhibit
18 1037:

19 "ORAL STATEMENT BY THE AMERICAN AMBASSADOR
20 (GREW) TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS
21 (MATSUOKA).

22 "Referring to the American Ambassador's note to
23 His Excellency the Imperial Minister for Foreign
24 Affairs, No. 1714 dated December 17, 1940, relating
25 to the interference by the Indochinese authorities,

1 chiefly as a result of Japanese pressure brought upon
2 those authorities, with the shipments of American
3 owned goods and merchandise, the American Ambassador
4 is now instructed to express to His Excellency the
5 Minister for Foreign Affairs the opinion that it would
6 not be consistent with humanitarian considerations
7 to interfere with the movement of supplies of the
8 Red Cross at present in Indochina, in addition to
9 being unwarranted on other grounds. At least a
10 part of the Red Cross supplies under reference,
11 incidentally, was made possible by the contributions
12 of American citizens."

13 We now offer in evidence IPS document 2529A
14 (31), which is a newspaper excerpt, duly authenticated,
15 regarding announcement of the new mobilization law.

16 It isn't 2529A (31). 2531A.

17 MR. FURNESS: Referring to exhibit 1037,
18 request that we be furnished with the note referred
19 to, No. 1714, dated December 17, 1940.

20 MR. HARDIN: If it please the Court, this
21 is a publication in a newspaper and it is the whole
22 thing that was published in the paper, the whole
23 document.

24 THE PRESIDENT: I think these applications
25 should be made in Chambers to me if the document is

1 not given by the prosecution on application by the
2 defense. The time of the Court itself should not
3 be spent on matters of this type; that is to say, on
4 applications for documents that are generally dealt
5 with in Chambers.

6 The last document tendered is admitted on
7 the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2531A will receive exhibit No. 1038.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1038 and was received in evidence.)

13 MR. HARDIN: We will read prosecution's
14 exhibit 1038:

15 "EXTRACT FROM 'THE TOKYO NICHI NICHI' May 3, 1941.

16 "DEFENSE SECURITY LAW

17 "MEASURE TO GO INTO EFFECT ON MAY 10.

18 "The National Defense Security Law will be
19 enforced on May 10, it was decided in the Cabinet
20 meeting on May 2.

21 "Detailed regulations governing the enforce-
22 ment of the law will be published on May 10."
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1 MR. HARDIN: We offer in evidence IPS document
2 1339A (2) which is a proposal from Mr. Eden to Mr.
3 SHIGEMITSU, dated February 7, 1941.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1339A (2) will receive exhibit No. 1039.

7 (Whereupon, the document above referred
8 to was marked prosecution's exhibit No. 1039
9 and received in evidence.)

10 MR. HARDIN: (Reading)

11 "Proposal from Foreign Minister Eden to
12 Ambassador SHIGEMITSU on 7 February, Showa 16, 1941.

13 "1. At the first interview with the Foreign
14 Minister after the formation of the KONOYE Cabinet,
15 Ambassador Craigie expressed the hope that the new
16 cabinet would collaborate and settle the relations
17 between the two countries by friendly measures as did
18 the preceding Cabinet. To this Foreign Minister
19 MATSUOKA replied that the Cabinet was considering care-
20 fully the general policy for the future, and added at
21 the same time, as his unofficial idea, that a general
22 improvement of the relation between Japan and England
23 could not be hoped for, and a strained situation be-
24 tween Japan and England in the future was inevitable.

25 "Two days after the interview occurred the
arrests of many Englishmen in Japan and Korea, on which

1 a joint statement by the War Minister and Minister of
2 Justice was issued, giving generally the impression of
3 the existence of an English spy ring in Japan. But
4 the result of the trial was that they were punished for
5 trivial matters, and there was nothing about spies.

6 "This was the general situation in July and
7 August. In September Japan concluded the Tripartite
8 Pact and formally joined on the side of Germany and
9 Italy, enemies of Britain. The public speeches of states-
10 men and the tendency of the press were deepening more
11 and more anxiety on the part of England.

12 "2. Foreign Minister MATSUOKA said in his
13 official statement that the Tripartite Pact was a pact
14 of peace, and you also stated that the main policy of
15 Japan was to overcome the difficulties of the China
16 affair and restore order in East Asia. But judging
17 from facts which have happened since then, and consider-
18 ing all the indications that the sphere of influence
19 of Japan is being enlarged to dominate East Asia,
20 frankly the above explanation is hard to understand.

21 "In this connection the British Government
22 wishes to call your attention to the impropriety of
23 the statement of Foreign Minister MATSUOKA concerning
24 Japanese aspirations in Burma. As regards Indo-China
25 and Thailand also, recent situations have not mitigated

1 the strained relation in the Far East at all. Foreign
2 Minister MATSUOKA said that only Japan had the right to
3 mediate in the conflicts in the Far East, but the
4 British Government can not approve of this claim.

5 "If the purpose of the mediation were merely
6 to bring about a settlement of conflicts, Britain would
7 welcome it like all the other countries. But we have
8 received the disquieting information that Japan had
9 brought pressure to bear on Indo-China and Thailand,
10 and we have come to entertain misgivings whether Japan
11 were not using this mediation as a pretext to secure
12 far-reaching political and military concessions from
13 both these countries -- e.g. newspaper information
14 reports that Camran Bay and all the existing Air-fields
15 will be used by Japan.

16 "3. The most important fact is the recent
17 report of Ambassador Craigie, informing us that 'In
18 Japan the prevailing impression is that the crisis in
19 the Far East will occur within these two or three weeks.'

20 "What do these facts mean? Who is challenging
21 whom? Should we believe that a sort of advance planned
22 by Japan will be carried out simultaneously with the
23 German attack on England proper, and if so should Britain
24 assume that her territories in the Far East are in
25 danger of an attack by Japan? It is hard for me to

1 understand the situation. Geographically Japan is in
2 an advantageous position, so that she can remain entire-
3 ly aloof from the calamity of war if she so desires,
4 and moreover she is not being threatened by any one,
5 certainly not by England.

6 "If I may be allowed to speak frankly, it
7 seems to me that Japan has many reasons for not inter-
8 vening in another war after four years of the China
9 Incident. In my opinion, Japan can not but recognize
10 her reason for being on unfriendly terms with Britain
11 and the United States, but as proved by history, it can
12 not be denied that the prosperity of Japan was at its
13 best when she was at friendly relations with Britain
14 and the United States. So it is hard for me to under-
15 stand the reason why Ambassador Craigie reported of the
16 sphere of crisis increasing in Japan. It seems to me
17 that the aim of the Japanese statesmen is to indicate
18 the approach of a huge confusion.

19 "4. You will be able to understand that it
20 is impossible to disregard the above signs and portents,
21 and that it is necessary to tell you clearly our stand-
22 point. England has territories in the Far East, but she
23 has no aggressive intentions; however, she does not
24 intend to sacrifice these territories by orders from
25 any other country. And furthermore, it is impossible

1 to approve of the principle that Japan is the sole
2 country having the right to administer and control the
3 destiny of all the inhabitants (including the English)
4 in the Far East. There is no doubt that Britain will
5 protect her territories in the Far East with the ut-
6 most vigor, if they should be attacked, and defend the
7 security and welfare of the inhabitants.

8 "5. In addition, I wish to mention two points.

9 "The first point is as follows. There is no
10 objection to Japan deciding her own policy, but as an
11 old friend and a former Allied Power, I do not think
12 I will bring down the wrath of Japan upon myself for
13 saying the following thing -- that I hope and pray that
14 the policy about to be taken up by Japan will not lead
15 to a terrible disaster. And moreover I can not but
16 hope that, by cooperating with Germany and Italy, Japan
17 will not depart from her wise caution and good sense
18 with which she built up her great national power and
19 prosperity in the past.

20 "The second point is as follows: It is rumored
21 that concerning the war situation, news advantageous to
22 Britain is being suppressed in Japan, and there is
23 propagated an idea that Britain is a decadent country
24 on the brink of ruin. But as you know, the real
25 spirit of the English people of today is no such thing. "

1 Not only is there a strong determination of an absolute
2 national unity throughout the whole of the British
3 Empire, but also England possesses vast natural
4 resources and has unlimited assistance from America.
5 Whatever happens it is obvious that the British Empire
6 will not fail in this conflict. Germany is exaggerat-
7 ing that she can conquer this Island Empire, but we
8 are convinced of her failure. We averted the crisis
9 in September last year, and at present England's power
10 on land, on sea, and in the air has increased greatly
11 from that time. The English nation is convinced that
12 Germany will fail in her attempt to conquer England,
13 and be defeated in this war."

14 We wish to offer in evidence prosecution
15 document No. 1131, taken from the Japanese Foreign
16 Office and duly authenticated. This is a series of
17 telegrams, all dated the early part of the year 1941,
18 relating to British-Japanese diplomatic relations.

19 THE PRESIDENT: Major Furness.

20 MR. FURNESS: If the Court please, I believe
21 that the Court will find that the first four pages
22 of this document and the first paragraph on page 5
23 down to No. 79 is a duplicate of the document which
24 the prosecutor has just read.

25 THE PRESIDENT: It contains a lot of what

1 Mr. Eden said but I can't say that it doesn't extend
2 to anything else. However, Mr. Hardin may not intend
3 to read it all. Well, it seems to be confined to the
4 same conversation between the Japanese Ambassador and
5 Mr. Eden. We have the exact words of each and then a
6 summary.

7 MR. HARDIN: I believe I will submit it in
8 evidence and read beginning on page 5, not read down
9 to there because it does appear to be in substance
10 the same as the other.

11 THE PRESIDENT: It does look like a reply
12 by the accused SHIGEMITSU to Mr. Eden, doesn't it?

13 MR. HARDIN: I believe I will withdraw the
14 entire document since the other seems to cover the
15 other part.

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1 THE PRESIDENT: The preceding document showed
2 what Mr. Eden represented, Mr. Eden's appeal. But
3 this shows SHIGEMITSU's answer to Mr. Eden.

4 MR. HARDIN: Yes, sir. I think it is fair
5 to go ahead and read it.

6 THE PRESIDENT: Yes, the conversation.

7 MR. HARLIN: Yes.

8 CLERK OF THE COURT: Prosecution's document
9 1131 will be given exhibit No. 1040.

10 (Whereupon, the document above
11 mentioned was marked prosecution's exhibit
12 No. 1040 and received in evidence.)

13 THE PRESIDENT: Are you going to read it?

14 MR. HARDIN: Yes, sir.

15 I am reading from page 5:

16 "General No. 3341 In ciphers: London to Foreign
17 Ministry
18 "Despatched: 8 February 1941 (SHOWA 16) afternoon
19 "Received: 9 February 1941 (SHOWA 16) evening
20 "Jurisdiction: European Section

21 "To: Foreign Minister MATSUOKA From: Ambassador
22 SHIGEMITSU

23 "No. 79

24 "Ambassador: Will this representation be made in
25 Tokyo also?

"Eden: No, I wish to state it as my unreserved opin-
ion through you here.

"Ambassador: I do not possess any data to prove that

1 such a critical situation exists. Of course, under
2 the present circumstances, I have no intention of
3 criticizing the report of your Ambassador. However,
4 I would like to be permitted to ask you a few ques-
5 tions from the impression I gained from your 'expose,'
6 though I shall refrain from exchanging views regard-
7 ing the detailed substance of it.

8 "Eden: I shall hear them.

9 "Ambassador: From what you have just said, I have
10 received the impression that you have explained to
11 me to make clear for the last time the standpoint of
12 Great Britain under the promise that Anglo-Japanese
13 relations are fast approaching the last stage. How-
14 ever, it is necessary for us to endeavour to the last,
15 to avert the worst, even if no improvement can be
16 made in the relations between the two countries. It
17 is with this purpose in mind that I have done my best
18 so far. In what you have told me just now, you have
19 stated almost solely the unilateral view of Britain,
20 but failed to show an understanding attitude of Japan's
21 assertions, making only refutations and indicating the
22 intention of disapproval. Moreover, I think that, in
23 discussing this unfortunate aggravation of Anglo-Japan-
24 ese relations, we should commence it from at least ten
25 years ago, if not from 1904. You thoroughly know the

1 history of the past ten years. To cite an instance,
2 you have mentioned in your explanation Japan's coopera-
3 tion with Britain's enemy, but Britain has consistently
4 held the policy of aiding Japan's enemies. The fact
5 is that present aggravations of relations actually
6 came mostly from this standpoint. (to be continued)"

7 "General No. 3344 In Ciphers: London to Foreign
8 "Despatched: 8 February 1941 (SHOWA 16) afternoon Ministry
9 "Received: 9 February 1941 (SHOWA 16) evening
"Jurisdiction: European Section

10 "(Telegram No. 79 continued)

11 "Furthermore, it is geographically quite natural that
12 Japan should hold the leading position in East Asia,
13 and this cannot be helped. It is no different from
14 the special interests which Britain and the United
15 States of America feel in the neighboring geographi-
16 cally related countries. You have mentioned French
17 Indo-China, and seemed to view our movements there,
18 etc., with suspicion, but we have not invaded any Bri-
19 tish territory. It is beyond my comprehension that
20 you should say that you are unable to understand the
21 important interests, both political and economic, which
22 arise from geographical position. In stating the cri-
23 sis in Anglo-American relations, you do not try to
24 understand the other party's standpoint, but rather
25 find fault with the Japan's policy and lay the blame

1 these matters, that Japan's relations with Germany
2 and Italy were becoming 'progressively' intimate, and
3 that the German 'hold' on Japan was growing tighter."
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1 We now offer in evidence IPS document 1132,
2 taken from the Japanese Foreign Office and duly
3 authenticated. It is a telegram from MATSUOKA to
4 SHIGEMITSU numbered Secret Code Cable 46, and dated
5 13 February 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1132 will be given exhibit No. 1041.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1041, and was received in evidence.)

12 MR. HARDIN: (Reading)

13 "Telegram to Ambassador SHIGEMITSU, London,
14 from MATSUOKA, the Foreign Minister. No. 46

15 "Concerning your telegram No. 77.

16 "Ambassador Craigie also wishes an inter-
17 view with me which will be held within a few days.
18 In the meantime, I want you to hand telegram
19 No. 47 to Foreign Minister Eden, and at the same
20 time explain to the Minister the reason I express
21 so unreserved an opinion is because I feel so close
22 to him, as I was acquainted with Foreign Minister
23 Eden ever since we were in Geneva. Also Ambassador
24 Craigie's report of the approach of a critical
25 point in Far East, etc. is really a ridiculous

fantasy. (The Vice Minister also called the
1 Ambassador's attention on this point on the 12th.)
2 Of course it is not only groundless but also there
3 is no intertion on our part to make trouble with
4 Britain which I wish you would make a verbal repre-
5 sentation to him.

6 "Further some English newspapers, mis-
7 understanding our real motives, are recently publish-
8 ing stimulative news and editorials as if Japan
9 would try to start military actions at any moment,
10 which would only serve to make the relations of both
11 countries worse and be harmful and there would be
12 nothing to be gained by it. Will you kindly call
13 his attention to this point to stop them?"

14 We offer in evidence IPS document 1339-A(6),
15 which is a cablegram dated February 13, 1941, from
16 MATSUOKA to SHIGEMITSU.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1339-A(6) will be given exhibit No. 1042.
20

21 (Whereupon, the document above
22 referred to was marked prosecution's exhibit
23 No. 1042, and was received in evidence.)

24 MR. HARDIN: I read prosecution exhibit 1042.

25 "Telegram No. 4399 despatched 8:00 P.M.,
February 13, 1941, Code No. 46, from Foreign Minister

1 MATSUOKA to Ambassador SHIGEMITSU in England on
2 Delivering Document in English to England.

3 "Regarding your Cable No. 77--"

4 THE PRESIDENT: It is the same telegram, I
5 am told by a colleague. It appears to be No. 77.

6 MR. HARLIN: We withdraw the second.

7 THE PRESIDENT: You have our permission.

8 (Whereupon, prosecution's exhibit
9 No. 1042, heretofore admitted in evidence,
10 was, upon permission of the Tribunal, withdrawn.)

11 MR. HARLIN: We now offer in evidence
12 IPS document 220-C(11) from exhibit for identification
13 No. 58, Volume II, which is a statement from Ambassador
14 Grew to Foreign Minister MATSUOKA, dated February 13,
15 1941.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 220-C(11) will be given exhibit No. 1042.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1042, and was received in evidence.)

22 MR. HARLIN: (Reading)

23 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
24 TO THE JAPANESE MINISTER FOR FOREIGN
25 AFFAIRS (MATSUOKA)

1 "Excerpt.

2 "No. 1744

TOKYO, February 13, 1941.

3 "According to recent information received
4 by my Government not only do Japanese officials in
5 Indo-China continue to interfere with the granting
6 of permits by appropriate authorities of Indo-
7 China for the re-export of American-owned merchan-
8 dise, but in one instance at least have caused
9 these authorities to revoke a valid permit previous-
10 ly issued for the re-export of petroleum products
11 owned by an American firm, the Standard Vacuum
12 Oil Company."

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1 We now offer in evidence IPS document 220-C(20)
2 from exhibit for identification 58, Volume II, which is
3 an excerpt from a memorandum of Secretary of State Hull,
4 dated February 14, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220-C(20) will receive exhibit No. 1043.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 1043, and was received in evidence.)

11 MR. HARLIN: (Reading)

12 "MEMORANDUM BY THE SECRETARY OF STATE

13 "(WASHINGTON,) February 14, 1941

14 "Excerpts.

15 "I accompanied the new Japanese Ambassador
16 to the President's office and sat through the confer-
17 ence between the President and the Ambassador....

18 "The President then said that of course it is
19 manifest that the present relations between the two
20 countries are not good; that they are in fact getting
21 worse, or to use a well-known expression, they are
22 'deteriorating' . . . The President affirmed two or
23 three times the view that the American people, while
24 not bitter as yet, are thoroughly and seriously con-
25 cerned and to a more or less increasing extent, at

1 the course of Japan.

2 "He then referred to the movements of Japan
3 southward down to Indo-China and the Spratly Islands
4 and other localities in that area, as having given
5 this country very serious concern. He said that the
6 entry of Japan into the Tripartite agreement is like-
7 wise giving this country the same serious concern,
8 especially from the viewpoint that Japan is supposed
9 to have divested herself of her sovereign authority
10 to deal with the question of peace and war and to leave
11 it to the Tripartite signatories led by Germany. The
12 President went over this the second time with increased
13 emphasis as to the heavy signs of concern it had created
14 among the American people.

15 "He then said that in view of all these
16 serious conditions which are becoming increasingly worse
17 and which seriously call for attention, it occurred to
18 him that the Japanese Ambassador might find it advisable
19 and agreeable as he, the President, does, to sit down
20 with the Secretary of State and other State Department
21 officials and review and reexamine the important phases
22 of the relations between the two countries, at least
23 during the past four or five years, and frankly dis-
24 cuss all of their phases and ascertain just when and
25 how points of divergence developed and their effects,

1 and bring the whole situation in these respects up
2 to date in order to see if our relations could not
3 be improved. The President said there is plenty of
4 room in the Pacific area for everybody, and he repeated
5 this statement with emphasis."

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1 We now offer in evidence IPS document 1330-A(1)
2 taken from the Japanese Foreign Office and duly
3 authenticated, which is a telegram from MATSUOKA to
4 SHIGEMITSU, dated February 17, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 Do not start reading until all the judges have
7 their copies.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1339-A(1) will be given exhibit No. 1044.

10 MR. HARLIN: (Reading)

11 "No. 4894. CIPHER TELEGRAM FROM Y. MATSUOKA, MINISTER
12 OF FOREIGN AFFAIRS, TO M. SHIGEMITSU, AMBASSADOR IN
13 ENGLAND.

14 "TELEGRAM NO. 49 (STRICTLY CONFIDENTIAL) SENT ON 14
15 FEB. (SHOWA 16), 1941, 'RE THE BRITISH FOREIGN MINI-
16 STER'S PROPOSAL.'

17 "Concerning your telegram No. 77, the pres-
18 ent proposal by the British Foreign Minister which is
19 based on the report from Ambassador Craigie seems to
20 have been made under the presumption or fear that
21 Japan would acquire military bases etc. in Thailand
22 and French Indo-China by taking advantage of the arb-
23 itration conference between Thailand and French Indo-
24 China, and then commence military action against Eng-
25 land in the South Seas concurrently with Germany's

1 landing strategy against England. It is difficult
2 to understand on what grounds Ambassador Craigie based
3 the above alarming report to his home government.
4 When the Vice-Minister visited him on the 12th he
5 said, in reply to the Vice-Minister's question that
6 he knew well from past experiences that Japan's poli-
7 tics and diplomacy were controlled by the military,
8 and that he had made the present report based on the
9 speech and action of military men of responsibility.
10 So, to make sure, I at once carefully privately in-
11 vestigated in various fields whether such facts ex-
12 isted, but I could find no such facts. On the other
13 hand, in view of the fact that every influential news-
14 paper in England is loudly reporting the crisis be-
15 tween Japan and England, the present proposition
16 seems to be trying to check Japan's advance to the
17 South, if only for the present besides containing the
18 strategic motive of turning America's interest toward
19 Thailand and French Indo-China and cementing the
20 cooperation between England and America in this sphere.
21 Although I think you have noticed this matter already,
22 I am sending you our observation for you to bear in
23 mind.

24 "Wired to the Ambassador in America."
25

1 MR. BLEWETT: If the Court please, this
2 certificate attached to exhibit 1044 refers to four
3 pages dated February 17, 1941. We have here but one
4 page, and the date seems to be 14th of February.

5 MR. HARDIN: There is a discrepancy in the
6 date, but it identifies the same telegram by number,
7 4894.

8 THE PRESIDENT: The original has four pages
9 and it bears the date 14th February. It happens to
10 be in Roman notation and not in Japanese.

11 There was no need for the intervention,
12 Mr. Blewett. You could have looked at the original,
13 as we did.

14 MR. HARDIN: Now, if it please the Tribunal,
15 we wish to offer in evidence IPS document 1150, taken
16 from the Japanese Foreign Office, and it has been duly
17 authenticated. This document is headed "Turning Point
18 of the Pacific Tide." It is a series of cablegrams
19 exchanged between MATSUOKA and various ministers in
20 Britain, U.S.A., Canada, and so forth. We ask that it
21 be identified as an exhibit.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 1150 will be given exhibit No. 1045.

25 (Whereupon, the document above

1 referred to was marked prosecution's exhibit
2 No. 1045, and was received in evidence.)

3 MR. HARDIN: (Reading) "Cipher Telegram.

4 Dated 7 p.m. February 14, Showa 16 /1941/.

5 "Foreign Office Cable #4490, 4492.

6 "Charge of U.S. Affairs Dept.

7 "To Ambassador NOMURA from Foreign Minister
8 MATSUOKA. On Enlightening the Government and People
9 of the United States. No. 68 Strictly Confidential.

10 "During the recent interpellations in the Diet,
11 the present Foreign Minister expressed our attitude and
12 determination in a straightforward way to urge recon-
13 sideration on the part of the United States, and is
14 making efforts to make it clear that our national
15 resources have not been so much used up. On your
16 arrival at your post please make continuous effort to
17 make the President and the leading members in the Govern-
18 ment and among the people know the Japan's real inten-
19 tion thoroughly, explaining to them fully, as you think
20 fit, the following points.

21 "1. It is the inherent mission of both Japan
22 and the U.S.A. to rescue modern civilization from cata-
23 strophe and bring peace and prosperity to the Pacific,
24 and it is our duty to cooperate with each other to
25 accomplish this mission. On the basis of this faith,

1 Japan wishes for the development of diplomatic relations
2 between Japan and the United States. But unfortunately,
3 the American Government and people do not try to under-
4 stand Japan's real intention; instead, they misconstrue
5 Japan's action as a threat towards the United States.
6 This is a grave and very dangerous illusion, indeed.
7 Japan is strongly determined to execute the already-fixed
8 policy at the risk of the nation's destiny. So if
9 America should believe that, on the basis of informa-
10 tion, that there are still some people among the Japanese
11 who are secretly opposed to the Tripartite Pact (of
12 course, there are, but there are such people in any
13 country); or, over-estimating the exhaustion of Japan's
14 natural resources due to the prolongation of the China
15 Incident, a strong attitude on the part of the United
16 States would easily cause a split in the public opi-
17 nion of Japan or make us give in, it would be a ridi-
18 culous misconception and we are afraid that such a
19 belief would bring quite unfathomable results.

20
21 "2. The consumption of our national resources
22 is true to some extent, but not as bad as is propagated
23 in America. It is our national character to repel
24 strongly any pressure from foreign countries, so if the
25 United States should purposely obstruct our way, the
Japanese Government and people will unit more firmly

1 and determine strongly to accomplish the national
2 policy, regardless of sacrifice. Suppose the United
3 States should be in the same situation as Japan, the
4 Americans also would probably see the same result as
5 the Japanese, because in this point the American charac-
6 ter is very similar to that of the Japanese. So the
7 Americans should easily understand such psychology and
8 also the result caused by this psychology. On the
9 other hand, it should be remembered that the Japanese
10 are very grateful to those who are quite sympathetic
11 and have complete understanding towards them and at
12 times will even make concessions or compromises under
13 the circumstances, even if it is not logical. The
14 intelligent public of America should take these charac-
15 teristics into consideration."

16 THE PRESIDENT: Pausing there, several
17 of my colleagues seem to think that this has been read
18 before.

19 MR. HARDIN: I am advised that there has been
20 a document on that. With that in mind--

21 THE PRESIDENT: It may have been a cabinet
22 decision communicated then to Mr. NONURA, Admiral
23 NOMURA.

24 MR. HARDIN: I submit the whole document in
25 evidence without reading.

1 I now offer IPS document 1133 in evidence,
2 found in the Japanese Foreign Office, which has
3 been duly authenticated, and which is a telegram
4 from MATSUOKA to SHIGEMITSU dated February 17, 1941.

5 THE PRESIDENT: Major Furness.

6 MR. FURNESS: If the Court please, this
7 apparently is a duplicate of exhibit 1044.

8 THE PRESIDENT: It is a long way back,
9 isn't it? That particular one wasn't read.

10 MR. FURNESS: Not the next exhibit -- the
11 one that was just introduced.

12 THE PRESIDENT: Telegram 77 was read once
13 today but it was tendered twice.

14 MR. FURNESS: This is telegram 49, sir.
15 This is a reference to a cablegram, number FF5. I
16 don't know what that means. The substance of the
17 telegram is exactly the same and has reference to
18 the same matter -- merely appears to have been
19 translated by someone else.

20 MR. HARDIN: I submit 1133 in evidence
21 without reading.

22 THE PRESIDENT: If it is the same in sub-
23 stance --

24 MR. HARDIN: The same in substance.

25 THE PRESIDENT: -- Why not withdraw it?

1 MR. FURNESS: It is exactly the same
2 telegram.

3 MR. HARDIN: It is sufficiently alike
4 that I believe I will withdraw it.

5 THE PRESIDENT: You have the Tribunal's
6 permission to do so.

7 MR. HARDIN: We offer in evidence IPS
8 document 1339A(5), which is a reply to Eden
9 dated February 17.

10 THE PRESIDENT: We think we won't accept
11 any more documents today.

12 Will you put on your headphones?

13 We ask you to make a careful revision of
14 your documents, Mr. Hardin, with a view to prevent-
15 ing what has been happening this afternoon, the
16 tendering of the same document twice or even three
17 times.

18 You might examine that document you have
19 just withdrawn. It is possible there is something
20 different in that from the earlier copies of the
21 telegram.

22 We will adjourn now until half past nine
23 tomorrow morning.

24 (Whereupon, at 1600, an adjournment
25 was taken until 0930, Thursday, 7 November, 1946.)

Handwritten text, possibly a signature or date, located in the upper right corner of the page.

7 NOVEMBER 1946

I N D E X
Of
WITNESSES
(none)

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For</u>	<u>In</u>
				<u>Ident.</u>	<u>Evidence</u>
339A(3)	1046		Telegram from MATSUOKA to SHIGEMITSU dated 18 February 1941		9811
1339A(8)	1047		Letter dated 21 February 1941 Craigie to MATSUOKA		9816
1592A	1048		Telegram from SHIGEMITSU to Foreign Minister MATSUOKA dated 24 February 1941		9818
702A	1049		Interchange of communications between the Japanese Foreign Office and the British re mutual relations, dated 24 February 1941		9821
1592B	1050		Telegram No. 4840 dated 25 February 1941 from OSHIMA to MATSUOKA		9826
1592C	1051		Telegram No. 4956 dated 25 February 1941 from SHIGEMITSU in London to MATSUOKA		9828

7 NOVEMBER 1946

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Of
"WITNESSES
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I N D E X
Of
EXHIBITS

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I N D E X

Of

EXHIBITS

(cont.)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
220 C(12)	1052		Excerpt from a telegram from Mr. Grew to Secretary of State dated 27 February 1941		9833
1339A(7)	1053		Japan's Proposal by SHIGEMITSU to Churchill dated 27 February 1941		9835
1593-A	1054		Telegram No. 6915 dated 4 March 1941 from MATSUOKA to NOMURA, the Ambassador in Washington		9838
2530A	1055		Newspaper announcement re the New Mobilization Law dated 8 March 1941		9841
220 C(20)	1056		Excerpt from a memorandum of Secretary of State Hull dated 8 March 1941		9843
220 C(22)	1057		Excerpts from a Memorandum of the Secretary of State dated 14 March 1941		9847
1632W(48)	1058		Excerpt from Marquis KIDO's Diary dated 3 April 1941		9850
220 C(23)	1059		Proposal presented by the Department of State in Japan at a meeting of Private Japanese and American individuals on 9 April 1941		9851
220 C(24)	1060		Excerpt from memorandum from Secretary of State Hull dated 14 April 1941		9863

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
220 C(25)	1061		Excerpt of Secretary of State Hull dated 16 April 1941		9866
1339A(9)	1062		Letter from Churchill to MATSUOKA dated 12 April 1941 handed to MATSUOKA at Moscow		9868
1339A(10)	1063		Telegram from MATSUOKA to Churchill dated 22 April 1941		9871
219P(73)	1064		Excerpt from Statement by Ambassador Grew to Acting Foreign Minister KONOYE, Tokyo, dated 4 April 1941		9873
16327(49)	1065		Entry in KIDO's Diary dated 19 April 1941		9875
16327(50)	1066		Entry in KIDO's Diary dated 28 April 1941		9876
2529A	1067		Offer of the Japanese Policy to Increase the Population to 100,000,000 by 1945		9878
4059A	1068		Telegram from Ott to Ribbentrop dated 6 May 1941		9883
219P(74)	1069		Excerpt from Communication of Ambassador Grew to MATSUOKA dated 6 May 1941		9890
220 C(26)	1070		Draft Proposal handed by the Japanese Ambassador NONURA to the Secretary of State dated 12 May 1941		9891

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E X H I B I T S

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
220 C(27)	1071		Draft Suggestion from the Secretary of State to the Japanese Ambassador on 16 May 1941		9904
219P(75)	1072		Excerpt from Statement of Mr. Grew to MATSUOKA dated 17 May 1941		9908
4060A	1073		Telegram from Ott to Ribbentrop dated 18 May 1941		9909
220 C(18)	1074		Excerpt from a Summary of Conversations between U. S. and Japan in 1941		9914
1383B(18)	1075		Telegram from OSHIMA to MATSUOKA dated 20 May 1941		9918
1383B(20)	1076		Telegram from OSHIMA to Foreign Minister MATSUOKA dated 21 May 1941		9933
220 C(28)	1077		Excerpt from Memorandum of Conversation between Ambassador Morris and the Secretary of State dated 28 May 1941		9934
220 C(29)	1078		American Draft of Proposal dated 31 May 1941 handed to Ambassador OSHIMA		9937
220 C(30)	1079		American Statement handed to Ambassador NOMURA dated 31 May 1941		9947

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
220 C(31)	1080		Informal Oral Statement to KOHAMA by Secretary of State dated 31 May 1941		9960
220 C(32)	1081		Excerpt from Memorandum of Secretary of State Hull dated 2 June 1941		9961
219P(76)	1082		Excerpt from Statement from Lr. Grew to MATSUOKA dated 4 June 1941		9963
220 C(33)	1083		Excerpt from Memorandum of Conversation between Secretary of State and Japanese Ambassador dated 4 June 1941		9964
1632W(51)	1084		Entry in KIDO's Diary of 6 June 1941		9979
220 C(34)	1085		Informal Statement handed by Secretary of State Hull to KOHAMA 6 June 1941		9982

Thursday, 7 November, 1946

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

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, same as before with the
exception of the HONORABLE R. B. PAL, Member from
India, not 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 resumed.

3 THE PRESIDENT: All the accused are present
4 except OKAWA, HIRANUMA, and MATSUI, who are repre-
5 sented by their respective counsel. We have cer-
6 tificates from the prison surgeon at Sugamo certify-
7 ing that MATSUI and HIRANUMA are unable to attend
8 the trial today on account of illness. The certifi-
9 cate will be recorded and filed.

10 Major Moore.

11 LANGUAGE ARBITER (Major Moore): If the
12 Tribunal please, referring to document No. 1444,
13 exhibit No. 919, page 1, the recprd page 9261, line
14 15, we recommend that the words, "Liaison Conference
15 Decision Plan," be corrected to read, "Liaison
16 Conference Decision, Draft."

17 THE PRESIDENT: The correction will be made.

18 Mr. Higgins.

19 MR. HIGGINS: If the Tribunal please, we offer
20 in evidence J. P. S. document No. 1339A(3), which is
21 a telegram dated February 18, 1941, from MATSUOKA to
22 SHIGEMITSU.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1339A(3) will receive exhibit No. 1046.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 1046 and received in evidence.)

4 MR. HIGGINS: I read prosecution's exhibit
5 No. 1046:

6 "CABLE #51 DESPATCHED 8:00 P.M. FEB. 18,
7 1941, BY FOREIGN MINISTER MATSUOKA TO AMBASSADOR
8 SHIGEMITSU ON INTERVIEW BETWEEN FOREIGN MINISTER AND
9 CRAIGIE REGARDING CABLE #47.

10 "Craigie, on the 15th, called upon me with
11 a note containing the purport of your cable No. 78
12 and a summary of the discussions between you and Eden.
13 I told Craigie on this occasion that I had already re-
14 ceived from you a detailed report concerning this
15 question, and that in response thereto I had requested
16 you to lay my note before Foreign Secretary Eden and
17 handed him a copy of my cable #47. I then pointed
18 out to Craigie that there seemed to be an over-anxiety
19 on the part of Britain about the orientation of Japan's
20 policy, that various reports were reaching us that
21 Britain and the United States had taken up a combined
22 action against Japan, that this was inciting Japan's
23 public opinion, causing doubt and fear and giving
24 rise to the arguments in some quarters that Japan
25 must take some counter-measures to meet this situa-

1 tion, and this would lead to misunderstanding on both
2 sides. I further told Craigie that so long as they
3 refrained from taking any such provocative attitude
4 against us we would under no circumstances initiate
5 action that would lead to anxiety on the part of
6 Britain and the United States, that misunderstandings
7 by either party are the most dangerous factors, and
8 that we wished to do everything possible to eliminate
9 them, and urged that England reconsider. I also ex-
10 plained to him that the major object of the Tripartite
11 Pact was the limitation of the warfare in Europe and
12 encouragement of a peaceful settlement. Also under
13 strict secrecy I made it clear to him that, at the
14 moment of signing of the pact Germany had stressed
15 her desire to avoid provoking the United States and
16 especially to avert Japanese-American hostilities as
17 far as possible. Negotiations for the pact were car-
18 ried out on the basis of the above. I told him that
19 I myself did not doubt Germany's real intention that
20 the above seemed to me to be consistent with her real
21 interest, but that Japan's policy also was based on
22 this, and that she would continue to act along this
23 course.

24 "Craigie then, in response, questioned
25 whether I could check the so-called southward march

1 of Japan, views on which were so active at the mo-
2 ment in Japan. Further, Craigie raised a query as
3 to whether Japan did not expect exorbitant compensa-
4 tion for her role as a mediator of the Siam-French
5 Indo-China conflict. I assured him as to Japan's
6 southward advance that I would try to check it to
7 the best of my ability, but as for the Siam-French
8 Indo-China affairs I preferred to indicate Japan's
9 real intentions by actual fact rather than by making
10 excuses in words, and further, that as far as I my-
11 self was concerned, the greatest reward was the re-
12 storation of peace, with which I would be satisfied.
13 I told him I believed that this was the first step
14 toward realizing world peace which was Japan's ideal
15 since the beginning of the nation; and I explained to
16 him in detail Japan's policy. I added that since
17 there exists a close intimacy between the Foreign
18 Secretary and myself since our days in Geneva I had
19 expressed my views outspokenly in my memorandum ad-
20 dressed to him, but in regard to that part which con-
21 cerns arbitration for European peace, this had nothing
22 to do with Germany and Italy, and that I had merely
23 stated the belief which I've always held. The con-
24 versation between Craigie and myself lasted for about
25 two hours, and he seemed quite relieved when he left.

"Wired to U.S.A."

1 We now offer in evidence I. P. S. document
2 No. 1339A(8), which is a letter from Craigie to
3 Foreign Minister dated February 21, 1941.

4 THE PRESIDENT: Admitted on the usual terms.

5 MR. LOGAN: If the Tribunal please, this
6 communication refers to an alleged misquotation in
7 the Japanese press. The document to which it refers
8 is a communique issued by the Thai Government on the
9 13th of February, 1941. This alleged mistake in the
10 Japanese press certainly can have no probative value
11 with respect to the charges in the Indictment, and
12 no accusation that any of these accused were re-
13 sponsible for the appearance in the Japanese press
14 of their interpretation of that document.

15 THE PRESIDENT: I notice it is regarded as
16 a deliberate misquotation.

17 MR. HIGGINS: Yes.

18 THE PRESIDENT: It is not an ordinary mis-
19 apprehension or mistake.

20 Major Furness.

21 MR. FURNESS: If the Court please, referring
to exhibit 1046, there was a reference to the hand-
ing to Craigie of MATSUOKA's cable No. 47. This
same cable is referred to in exhibit 1041, a telegram
from Foreign Minister MATSUOKA to Ambassador

1 SHIGEMITSU. I would like to ask whether that tele-
2 gram No. 47 is in any of the papers which have been
3 introduced into evidence.

4 THE PRESIDENT: You should know, Mr. Furness.

5 MR. FURNESS: What is that?

6 THE PRESIDENT: You should know, and so should
7 I. I do not recollect it. I think 49 is in.

8 MR. FURNESS: I know no particular paper
9 which is referred to as telegram 47. I thought,
10 though, that some of the other messages which haven't
11 any telegram number, might be that particular document;
12 and if so, I would like to know which document, and
13 I should think it would help the Tribunal since they
14 would know what the two men were talking about in
15 their conversation.

16 THE PRESIDENT: Well, now, you should not
17 interpose to ask whether a document is in. You
18 should know, and the Tribunal can be left to say
19 whether they want to see a document or not. Is the
20 document in, Mr. Higgins? I do not recollect it.
21 I recollect 47.

22 MR. HIGGINS: Mr. Hardin says he is not
23 certain. It is his impression that 47 is in. He
24 may have it confused with 49. That will be checked
25 and reported.

CLERK OF THE COURT: Prosecution's document No. 1339A(8) will receive exhibit No. 1047.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1047 and received in evidence.)

MR. HIGGINS: I read prosecution's exhibit No. 1047.

THE PRESIDENT: I should expressly state that the objection to the last document tendered on the ground that it has no probative value is overruled for the reason I gave, that it imports something sinister.

MR. HIGGINS: I read prosecution's exhibit No. 1047:

"BRITISH EMBASSY.

"TOKYO

"21st February, 1941

"My dear Minister,

"With reference to our conversation of yesterday in regard to the presence of British troops near the Malayan-Thai frontier, I send you the text of a reassuring communique issued by the Thai Government of the 13th instant. You will see from this that that Government is not in any way apprehensive in regard to the precautionary measures taken in Malay.

1 "I am sorry to say that this communique was
2 distorted when published in the Japanese press. In-
3 stead of the words 'both countries still respect the
4 Treaty and pact on non-aggression concluded between
5 one another', the version given in the Japanese press
6 states 'Great Britain should respect the Non-Agression
7 Treaty which she concluded with Thailand'. This can
8 only have been a deliberate misquotation, which I
9 am sure you will agree is very regrettable in present
10 circumstances.

11 "Believe me

12 "my dear Minister,

13 "Yours very sincerely,

14 "(S) R. H. Craigie."
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1 We have a series of I. P. S. documents
2 numbered 1592A, B and C, taken from the Japanese
3 foreign office and separately authenticated.

4 We now wish to offer in evidence I. P. S.
5 document No. 1592A, which is a telegram No. 4808,
6 dated February 24, 1941, from SHIGEMITSU to MATSUOKA.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1592A will receive exhibit No. 1048.

10 (Whereupon, the document above
11 referred to was marked prosecution's ex-
12 hibit No. 1048 and received in evidence.)

13 MR. HIGGINS: I read prosecution's exhibit
14 No. 1048:

15 "Copy of telegram No. 4808.

16 "Nature of telegram: Code

17 "Date: Dispatched: 24 February, Showa,
18 16/1941/PM . Received: 25 February, Showa 16/1941/PM.

19 "TO: FOREIGN MINISTER MATSUOKA.

20 "FROM: SHIGEMITSU, JAPANESE AMBASSADOR IN
21 LONDON.

22 "No. 135.

23 "At the request of Premier Churchill, I
24 had a talk with him for about an hour at noon on
25 the 24th. At that time the Premier spoke in

1 connection with the matter of Anglo-Japanese relations
2 with which he had been personally concerned. He
3 went into detail in speaking of the situations from
4 the time of the conclusion of the Anglo-Japanese
5 Alliance through the Russo-Japanese War and up to
6 the World War and he expressed how much he desired
7 to keep a friendly relationship with Japan."

8 THE PRESIDENT: "He went into detail."

9 MR. HIGGINS (Reading continued): "Then,
10 as the second point, he expressed deep regret re-
11 garding the present Anglo-Japanese relation which
12 is gradually getting worse; if a clash should occur
13 between the two nations it would indeed be a tragedy.
14 He emphasized that the defense works undertaken in
15 the area with Singapore as its center were merely
16 for the protection and control of the area and that
17 Britain had never taken any policy such as to resort
18 to an offensive against Japan. As the third point,
19 he emphasized that the British had a firm resolu-
20 tion for the prosecution of the war. He went so far
21 as to say that if what Britain believes to be
22 justice should fail to gain the victory, Britain
23 had better go to ruin. He said he had been thinking
24 that this was not at all an easy war as people in
25 general thought and that it would by no means come

1 to an end this year. He, however, believes that the
2 war will certainly be brought to an end with victory
3 on the part of Britain. Therefore, he said that the
4 question of mediation which Mr. MATSUOKA mentioned
5 would not arise. In connection with the cordial
6 message which Foreign Minister MATSUOKA sent to
7 British Foreign Minister Eden, Premier Churchill
8 has given me the note of another telegram No. 136,
9 asking me to tell you that since Eden is away he
10 himself has written you the outline of the talk we
11 had today. The questions and answers in the talk
12 will be sent afterwards by cable.

13 "THIS TELEGRAM ALONE HAS BEEN SENT TO THE
14 UNITED STATES."
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1 MR. HIGGINS: We offer in evidence I. P. S.
2 document No. 702A, a document taken from the
3 Japanese Foreign Office duly authenticated. It
4 is an interchange of communications between the
5 Japanese Foreign Office and the British on mutual
6 relations and it is dated February 24, 1941.

7 THE PRESIDENT: Admitted on the usual
8 terms

9 CLERK OF THE COURT: Prosecution's document
10 No. 702A will receive exhibit No. 1049.

11 (Whereupon, the document above
12 referred to was marked prosecution's exhibit
13 No. 1049 and received in evidence.)

14 MR. HIGGINS: I read prosecution's exhibit
15 No. 1049:

16 "INTERCHANGE BETWEEN JAPANESE FOREIGN
17 OFFICE AND BRITISH ON MUTUAL RELATIONSHIPS.

18 "Note from Japanese Minister for Foreign
19 Affairs containing message to his Britannic Majesty's
20 Secretary of State for Foreign Affairs has been
21 laid before Prime Minister.

22 "Prime Minister is gratified to observe
23 that Monsieur MATSUOKA sees no reason to apprehend
24 any untoward developments in East Asia, and notes
25 with satisfaction his assurance about peaceful

intentions of Japanese Government.

1 "Since Monsieur MATSUOKA, for his part,
2 makes reference to 'movements of British and American
3 Governments in their attempt to expedite and enlarge
4 warlike preparations', Prime Minister would allow
5 himself to offer certain observations which he hopes
6 may remove any misunderstanding of position of H. M.'s
7 Government.
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9 "There is no question of H. M. 's Government
10 making any attack upon or committing any act of
11 aggression against Japan; and Prime Minister is
12 sure that this also represents intentions of United
13 States, though of course he cannot claim to speak
14 for them. All preparations which are being made in
15 Oriental Regions by Great Britain and United States
16 are of a purely defensive character. Incidentally,
17 Prime Minister would wish to assure Monsieur MATSUOKA
18 that concern which Mr. Eden expressed to Japanese
19 Ambassador was not based exclusively on reports
20 from H. M. 's Ambassador in Tokyo, but on the course
21 of events in Far East and on a study of the speeches
22 of Japanese Minister for Foreign Affairs himself.

23 "Turning now to the war in progress in
24 Europe between Great Britain and Germany it will be
25 within Monsieur MATSUOKA's recollection that, before

intentions of Japanese Government.

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2 "Since Monsieur MATSUOKA, for his part,
3 makes reference to 'movements of British and American
4 Governments in their attempt to expedite and enlarge
5 warlike preparations', Prime Minister would allow
6 himself to offer certain observations which he hopes
7 may remove any misunderstanding of position of H. M.'s
8 Government.

9 "There is no question of H. M. 's Government
10 making any attack upon or committing any act of
11 aggression against Japan; and Prime Minister is
12 sure that this also represents intentions of United
13 States, though of course he cannot claim to speak
14 for them. All preparations which are being made in
15 Oriental Regions by Great Britain and United States
16 are of a purely defensive character. Incidentally,
17 Prime Minister would wish to assure Monsieur MATSUOKA
18 that concern which Mr. Egan expressed to Japanese
19 Ambassador was not based exclusively on reports
20 from H. M. 's Ambassador in Tokyo, but on the course
21 of events in Far East and on a study of the speeches
22 of Japanese Minister for Foreign Affairs himself.

23 "Turning now to the war in progress in
24 Europe between Great Britain and Germany it will be
25 within Monsieur MATSUOKA's recollection that, before

1 outbreak of war, H. M. 's Government made every offer,
2 by concession and reasonable dealing, to avert
3 hostilities. That is recognized throughout the
4 world, and indeed the Government of the day in this
5 country were severely criticised for having travelled
6 too far along this road. Their efforts were un-
7 availing, and German Government, by attacking
8 Poland after so many breaches of faith and of
9 treaties, chose arbitrament of war. H. M. 's
10 Government, having thus been forced to enter upon
11 this grievous quarrel, have no thought but to carry
12 it to a victorious conclusion. Naturally it takes
13 some time for the peaceful communities which compose
14 British Empire to overtake military preparations of
15 countries which have long been exulting in their
16 martial might, and adapting their industries to war
17 production. But even now H. M. 's Government feel
18 well assured of their ability to maintain themselves
19 against all comers, and they have every reason to
20 hope that within a few months they will, with rapidly
21 increasing supply of materials which is coming from
22 United States, be overwhelmingly strong.

24 "Monsieur MATSUCKA makes allusions to
25 help which this country receiving from United States
of America. Prime Minister would observe that that

1 help is being given for very reason that battle
2 which this country is waging is for overthrow
3 of system of lawlessness and violence abroad and
4 cold, cruel tyranny at home which constitutes German
5 Naziism regime.

6 "It is this system that people of British
7 Empire, with sympathy and support of whole English-
8 speaking world, are resolved to extirpate from
9 continent of Europe. H. M. 's Government have no
10 designs upon integrity of independence--"

11 THE PRESIDENT: "Or."

12 MR. HIGGINS: "Integrity or" it should be.

13 (Reading continued): "--integrity or
14 independence of any other country, and they seek no
15 advantage for themselves except satisfaction of
16 having rid the earth of a hateful terror and of
17 restoring freedom to the many insulted and enslaved
18 nations of European continent. This they would
19 regard as greatest honour that could reward them,
20 and the crowning episode in what, for western world,
21 is a long continuity of history.

22 "Monsieur MATSUOKA, with loftiest motives,
23 has hinted at his readiness to act as the mediator
24 between the belligerents. Prime Minister is sure
25 that, in light of what he has said and upon for the

1 reflection, Monsieur MATSUOKA will understand that
2 in a cause of this kind, not in any way concerned
3 with territory, trade or material gains, but affecting
4 whole future of humanity, there can be no question
5 of compromise or parley. It would be a matter of
6 profoundest regret to H. M. 's Government if by
7 any circumstance Japan and this country were to
8 become embroiled, and this not only because of their
9 recollection of the years during which two countries
10 were happily united in alliance, but also because
11 such a melancholy event would both spread and pro-
12 long the war without however in opinion of H. M. 's
13 Government altering its conclusion.

14 "Foreign Office, W. 1.

15 "24th February, 1941."
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1 We now offer in evidence IPS document No.
2 1592-B which is a telegram No. 4840, dated February
3 25, 1941, from OSHIMA to MATSUOKA.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1592-B will receive exhibit No. 1050.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 1050 and received in evidence.)

10 MR. HIGGINS: I read prosecution's exhibit
11 No. 1050:

12 "Copy of Telegram No. 4840

13 "Nature of Telegram: Code

14 "Date: Dispatched 25 February Shows 16/1941/A.M.
15 Received, 25 February Shows 16/1941/P.M.

16 "To: Foreign Minister MATSUOKA

17 "From: Ambassador OSHIMA, Berlin

18 "No. 160 (Urgent)

19 "At the interview with Ribbentrop reported to
20 you in Telegram No. 157, I stressed that there have
21 been various conjectures concerning Japanese-German re-
22 lations, especially concerning the Tri-Partite Pact,
23 that there has also been slanderous propaganda by Ing-
24 land and the United States; but that although there
25 may be some degree of misunderstanding on the part of

1 Germany, the fact that Japan is absolutely faithful to
2 the Tri-Partite Pact will be clearer when the Imperial
3 Rescript is issued; and that both government officials
4 and the people are moving forward with united and stead-
5 fast resolve toward the realization of the national
6 policy, with the aforementioned treaty as the keynote
7 of our foreign relations. Ribbentrop agreed, saying
8 that Germany too has a comradesly feeling of being in
9 the same boat as Japan, and that Chancellor Hitler has
10 the strongest faith on this point. He said that he
11 hoped that there was no misunderstanding about Germany's
12 real intention by Japan.

13 "For your reference.

14 "Relayed to Germany, Soviet Russia, Turkey, and
15 to the U.S.A."
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1 THE PRESIDENT: Mr. Hardin.

2 MR. HARDIN: I offer in evidence IPS docu-
3 ment 1592-C which is telegram No. 5956 dated Febru-
4 ary 25, 1941 from SHIGEMITSU in London to MATSUOKA.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1592-C will receive exhibit No. 1051.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 1051 and received in evidence.)

11 MR. HARDIN: (Reading)

12 "COPY OF TELEGRAM NO. 4956.

13 NATURAL OF TELEGRAM: Code

14 DATE DESPATCHED: 25 Feb. Showa 16, 1941, P.M.

15 RECEIVED: 26 Feb. Showa 16, 1941, P.M.

16 TO: Foreign Minister MATSUOKA

17 FROM: Ambassador SHIGEMITSU in London

18 "No. 137-1

19 "1. At the interview with Premier Churchill
20 on the 24th he first spoke to me consecutively for
21 about 20 minutes as summarized in my previous tele-
22 gram No. 136.

23 "2. I answered that I understood what he said.
24 However, with regard to the third point, I told him
25 that Foreign Minister MATSUOKA did not offer to med-

1 late, but that he simply emphasized Japan's spirit
2 toward peace and that he especially expressed his
3 concern over the peace in East Asia. Availing my-
4 self of this opportunity I told him that I wanted
5 to express my unreserved opinion to the effect that
6 while the relations between Great Britain and Japan
7 had become very clear, to our satisfaction, by
8 Japan's avowal of having no intention to aggress
9 upon Great Britain and by Britain's declaration
10 that she would not take any offensive policy against
11 Japan, it was very regrettable that Britain, who was
12 well aware that the aggravation of the relations be-
13 tween the two countries arose from the problems in
14 China, has been, together with other countries,
15 giving concrete assistance to the Chungking govern-
16 ment, our enemy, thus maintaining a policy enabling
17 the Chungking Government to carry on resistance
18 against Japan. Such a policy is recognized as a
19 challenge to the peace of East Asia for which Japan
20 has deep concern. I contended that Japan has no
21 idea of conquering China and that her unprejudiced
22 stand was clearly pointed out in MATSUOKA's message,
23 and that we are carrying out our policies in that
24 line under the treaties with the Nanking Government.
25 In view of the present world conditions, it is im-

1 possible for Japan to go on existing, abandoning
2 the continent of China to a chaotic condition, and,
3 therefore, that it is only justifiable for her to
4 counter-attack against hostile activities made upon
5 order and peace. Uneasiness could not be eliminated
6 unless this point should be amended. I said that I
7 was convinced that in the Pacific the time has come
8 to require more positive and constructive policies,
9 not just the preventing of general destruction. This
10 would be significant for preventing conditions from
11 becoming aggravated again. If all of the nations
12 concerned had enough self-control to be able to
13 construct peace in this area, too, through their
14 goodwill and mutual understanding, I went on, it
15 might prove the first step in gradually saving the
16 world from catastrophe. This was why I had been
17 making efforts and exchanging opinions with Lord
18 Lloyd (the Colonial Secretary, a leader of the Upper
19 House and an intimate friend of Churchill. Died
20 lately). Lord Hankey and others, as I said in con-
21 clusion, he (Churchill) might have been aware.

22 "3. The Premier answered that he was
23 aware of it; then he said that as he had declared
24 previously (his speech in Parliament at the time of
25 the conclusion of the negotiations over the Burma

1 Road) to the contrary, he considered it desirable
2 that Japan be active in China, and that peace be
3 brought about between them; so Great Britain had no
4 intention of interfering. He said that rather than
5 giving assistance, Britain's position is indeed
6 tantamount to strict neutrality. Great Britain,
7 he continued, has no objection now or later to the
8 uninterrupted development of Japan as one of the
9 great countries of the world. He said that, at any
10 rate, he is at present doing his utmost to reesta-
11 blish a righteous peace in Europe. The British Em-
12 pire alone has a White population of sixty-five
13 millions as against a population of seventy-five
14 millions in Germany, and he was sure that the war
15 should be brought to a final victory for his coun-
16 try by utilizing far bigger resources and with the
17 assistance of the U. S. A.

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19 "4. The premier said further that after
20 the conclusion of the Tripartite Pact the inten-
21 tions of Japan had been so vague as to cause sus-
22 picion on the part of Britain and the U. S. A., but
23 instead that conditions have now become good is
24 clear both at home and abroad by the press accounts.
25 To the above I answered that it would be a gross mis-
take to consider that the latest press campaign by

1 Britain gives favorable effect to Japan. In a word,
2 a campaign of such nature would be only harmful and un-
3 profitable. Then the Premier justified himself,
4 saying that there was no special campaign.

5 "5. At the interview today Premier Churchill
6 tried to emphasize the determination of Great Britain
7 to carry through the war, calling the German actions
8 inhuman aggressive acts, but he did not criticize
9 the past Japanese policies toward China. Instead he
10 appeared to show an attitude of indifference toward
11 it.

12 "Dispatch relayed to United States."
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1 We tender in evidence IPS document 220C (12)
2 from exhibit 58 for identification, Volume II. This
3 is an excerpt from a telegram from Mr. Grew to Secre-
4 tary of State, dated February 27, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220C (12) will receive exhibit No. 1052.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhib-
10 it No. 1052 and received in evidence.)

11 MR. HARDIN: (Reading)

12 "TELEGRAM

13 "THE, AMBASSADOR IN JAPAN (GREW) TO THE
14 SECRETARY OF STATE

15 "TOKYO, February 27, 1941--2 a.m. (Received
16 4:55 p.m.)

17 "Excerpt.

18 "317. In the course of my conversation today
19 with the Foreign Minister he went out of his way to
20 accuse the British Government of taking measures in
21 the Far East which were a direct incitement to Japan
22 and which rendered very difficult an improvement in
23 the situation. He referred in this connection to the
24 reported mining of Singapore and the sending of Aus-
25 tralian troops to the Malaya-Thailand border."

1 " I said that it seemed to me extraordinary
2 that the Japanese should interpret and characterize
3 obviously defensive measures as measures of offense.
4 As I had said to the Minister at the American-Japan
5 Society luncheon, we must inevitably be guided by
6 'facts and actions' and that certainly the facts and
7 actions relating to Japan's southward advance were
8 concrete causes for serious anxiety not only on the
9 part of Great Britain but of ourselves. Having occu-
10 pied in succession Waichow, Hainan, the Spratly Is-
11 lands, and other areas, the Japanese military were
12 now pouring troops into Indo-China and, according
13 to our informer, had occupied the airport in Saigon,
14 quite apart from naval activities in those regions,
15 and that these steps, taken in conjunction with the
16 public utterances of many Japanese statesmen, gener-
17 als and admirals concerning Japanese intentions to the
18 southward, had created a situation which could hardly
19 be regarded with equanimity either by the United
20 States or Great Britain since they threatened not on-
21 ly our interests but our possessions."
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1 THE PRESIDENT: Mr. Chief of Counsel.

2 MR. KEENAN: We offer in evidence IPS
3 document No. 1339A (7) which is Japan's proposal by
4 SHIGEMITSU to Churchill, dated February 27, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1339A (7) will receive exhibit No. 1053.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhib-
10 it No. 1053 and received in evidence.)

11 MR. KEENAN: (Reading)

12 "Japan's Second Offer (Handed by Ambassador SHIGEMITSU
13 to CHURCHILL)

14 "His Imperial Japanese Majesty's Minister
15 for Foreign Affairs acknowledges the receipt of the
16 note of His Britannic Majesty's Prime Minister, dated
17 February 24, 1941, and takes pleasure in apprising
18 the letter that the statement and remarks contained
19 therein have been duly noted.

20 "The Foreign Minister trusts that Mr. Church-
21 ill is not necessarily expecting observations to made
22 upon them. He wishes, however, to take advantage of
23 the opportunity to state that no hint whatever of his
24 readiness to act as a mediator between the actual he-
25 lligerents was intended to be conveyed in his Memoren-

1 dum addressed to His Britannic Majesty's Principal
2 Secretary of State for Foreign Affairs, nor did he
3 imagine for a moment any possibility of such a hint
4 being read in any part of the text. The Foreign
5 Minister took occasion in his Memorandum to refer
6 to the radiation now taking place in Tokyo as Mr.
7 Iden had made allusions to it and incidentally took
8 the liberty of stating in a general and abstract
9 manner the views he has always cherished, in order
10 to make clear the aspiration and attitude of his
11 country concerning the problem of peace or the re-
12 covery of normal conditions throughout the world.

13 "The Foreign Minister believes that it will
14 not be entirely out of place to reiterate what he
15 has said on more than one occasion in reference to
16 the Tripartite Pact, inasmuch as this matter was
17 touched upon by Mr. Iden in his conversation with
18 Ambassador SHIGEMITSU. The Tripartite Pact was
19 concluded as, and remains, a peace pact in the sense
20 that it was entered into largely with a view to pre-
21 venting a third Power from participating in the
22 European war or Sino-Japanese conflict, thus limit-
23 ing the participants and dimensions of the war and
24 also to bringing about peace at the earliest pos-
25 sible date. Japan's ideals were epitomized in the

1 preamble of the Pact, and it is needless to say that
2 Japan, remaining absolutely loyal to the aims and
3 ideals enunciated, will always find herself standing
4 by her allies in carrying out her duty under the Tri-
5 partite Pact.

6 "The Foreign Minister would equally deplore
7 and regret, if by any untoward circumstances, Great
8 Britain and this country were to become embroiled,
9 not only because of the recollection of the years
10 during which the two countries were united in alliance,
11 but also because such a tragic eventuality would be
12 fraught with the danger of destroying modern civili-
13 zation to the undoing of the best part of Humanity.

14 "February 27, 1941."
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1 We now desire to offer in evidence IPS 'docu-
2 ment 1593-A taken from the Japanese Foreign Office
3 and duly authenticated. It is a telegram, No. 6915,
4 dated 4 March 1941, from MATSUOKA to NOMURA, the
5 Ambassador in Washington.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1593-A will receive exhibit No. 1054.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1054 and received in evidence.)

12 THE PRESIDENT: Mr. Chief of Counsel, the
13 preceding exhibit, 1053, is headed "Japan's Second
14 Offer." Can you suggest that exhibit 1053 contains
15 an offer?

16 MR. KEEMAN: If the Tribunal please, this
17 is not our contention of the fact, nor do we at any
18 time, at any stage of this proceeding, in offering
19 any document or witness, intend to be bound when they
20 are of Japanese origin or nationality. We are offer-
21 ing it as the representation made by the Japanese
22 Government of what they contended the facts to be as
23 they were making it appear to other nations.

24 More specifically, Mr. President, with re-
25 spect, in stating our position in answer to the Court's

1 inquiry, this might be considered an offer for world
2 peace on Japanese terms.

3 THE PRESIDENT: Mr. Logan.

4 MR. LOGAN: If the Tribunal please, we can-
5 not let the Chief Prosecutor's statement go by un-
6 challenged.

7 THE PRESIDENT: He can state his position
8 without issuing any challenge that you can meet now.
9 The Court, in effect, invited him to state his po-
10 sition. He did not misunderstand us. He just
11 stated it, and I think that ought to be the end of it
12 for the time being, Mr. Logan.

13 MR. LOGAN: I am not referring to his
14 statement with regard to your inquiry on exhibit
15 1053. I am referring to his statement that the
16 prosecution is not bound by any of the documents or
17 statements made by witnesses of Japanese origin. It
18 has always been my understanding that when a witness
19 is offered by the prosecution that he vouches for
20 his credibility, and I know of no reason why any
21 other procedure than that should be adopted in this
22 case.

23 THE PRESIDENT: In a criminal proceeding, of
24 course, it is the duty of the prosecution to place
25 all the facts before the Court and let the Court

1 draw its conclusion. Here you have a document which
2 may or may not contain a wrong heading. If it con-
3 tains a wrong heading, the prosecution are not bound
4 by that wrong heading.

5 MR. KEENAN: Mr. President, perhaps I
6 should make it abundantly clear that this is the
7 document exactly as we found it in the Japanese
8 archives, and it sneaks for itself; and, of course,
9 the Court will make whatever interpretation circum-
10 stances warrant.

11 THE PRESIDENT: We always understood that
12 heading appeared on the original.

13 MR. KEENAN: The prosecution now offers in
14 evidence IPS document No. 2530-A, another newspaper
15 announcement relating to the new Mobilization Law,
16 dated 8 March 1941.

17 THE PRESIDENT: Mr. Chief of Counsel, do
18 you propose to read exhibit 1054?

19 MR. KEENAN: I beg your pardon. We do
20 propose. In the colloquy with counsel, I had for-
21 gotten that that was not read. May I now read it?

22 THE PRESIDENT: Yes. It has been admitted
23 and numbered, and you will read it.

24 MR. KEENAN: (Reading)

25 "Date: 7:00 P.M. March 4, 1941

1 "Sender: Foreign Minister MATSUOKA.

2 "Addressee: NOMURA, Japanese Ambassador to
3 the U S. A.

4 "Subject: Ambassador NOMURA's denial of the
5 war with America.

6 "No. 107.

7 "Concerning No. 123 of your telegram, I
8 fully appreciate the circumstances under which you
9 had to make your answer in a cautious way. How-
10 ever, as I have already made an affirmative reply
11 to the question as to whether Japan will partici-
12 pate in a warfare in case the United States should
13 attack Germany, at the general meeting of Budget
14 Committee in the House of Representatives and on
15 other occasions, I hope that hereafter you will act
16 in concert with me when you answer questions of like
17 nature."

18 THE PRESIDENT: The document last tendered
19 is admitted on the usual terms.

20 Give it a number.

21 CLERK OF THE COURT: Prosecution's document
22 No. 2530-A is given exhibit No. 1055.

23 (Whereupon, the document above re-
24 ferred to was marked prosecution's exhibit
25 No. 1055 and received in evidence.)

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1 MR. KEENAN: (Reading)

2 "EXTRACT FROM 'THE TOKYO NICHI NICHI'

3 "March 8, 1941

4 - - -

5 "NATIONAL MOBILIZATION LAW

6 "Revised Regulations will be put in
7 Force on March 20.

8 - - -

9 "The detailed regulations relative to the
10 application of the revised National Mobilization Law,
11 which were approved in the 76th session of the Diet,
12 will be put in force on March 20, it was decided at
13 the Cabinet Meeting on March 7."
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1 MR. KEENAN: We now offer in evidence IPS
2 document 220C (20) from exhibit for identification
3 No. 58, volume 2. This is an excerpt from a memorandum
4 of Secretary of State Hull, dated March 8, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220C (21) will receive exhibit No. 1056.

8 (Whereupon, the document above referred
9 to was marked prosecution's exhibit No. 1056 and
10 received in evidence.)

11 MR. KEENAN: (Reading)

12 "Memorandum by the Secretary of State.

13 "Washington, March 8, 1941.

14 "The Ambassador then said that it would be well-
15 nigh unthinkable for our two countries to fight each
16 other on account of the destructive effects that would
17 inevitably result in any event. I here spoke and
18 said that my country entertained the same idea about
19 the destructive effects of a military clash between
20 our two countries. I then inquired of the Ambassador
21 whether the military groups in control of his Govern-
22 ment could possibly expect important nations like the
23 United States to sit absolutely quiet while two or
24 three nations before our very eyes organized naval and
25 military forces and went out and conquered the balance

1 of the earth, including the seven seas and all trade
2 routes and the other four continents. Could they
3 expect countries like mine to continue to remain com-
4 placent as that movement is going on? I inquired fur-
5 ther what countries like mine would have to gain by
6 remaining complacent in the face of a movement to sub-
7 stitute force and conquest for law and justice and
8 order and fair dealing and equality. The Ambassador
9 sought to play down the view that such military con-
10 quest was really in the mind of his Government and he
11 then said that embargoes by this country were, of
12 course, of increasing concern, and that he did not
13 believe there would be any further military movements
14 unless the policy of increasing embargoes by this country
15 should force his Government, in the minds of those in
16 control, to take further military steps. To this I
17 replied that this is a matter entirely in the hands of
18 his Government for the reason that his Government took
19 the initiative in military expansion and seizures of
20 territory of other countries, thereby creating an
21 increasingly deep concern on the part of my own and other
22 countries as to the full extent of Japanese conquest
23 by force which was contemplated; that my country has
24 not been at fault and none of the nations engaged in
25 conquest have pretended seriously to charge it with

1 any action of omission or commission in relation to the
2 present movement of world conquest by force on the part
3 of some three nations, including Japan. The Ambassador
4 sought here to minimize and mildly to controvert the
5 idea that Japan is engaged in broad unqualified mil-
6 itary conquest. I then repeated the terms of the
7 Tripartite Agreement and the public declaration of
8 Hitler and MATSUOKA and other high authorities in Japan
9 to the effect that their countries under the Tripartite
10 arrangement were out by military force to establish
11 a new order not for Asia alone, not for Europe alone,
12 but for the world, and a new order under their control.
13 I said that whatever interpretation the Ambassador
14 might give these utterances and military activities
15 in harmony with them thus far, the American people
16 who were long complacent with respect to dangerous
17 international developments have of late become very
18 thoroughly aroused and awakened to what they regard as
19 a matter of most serious concern in relation to move-
20 ments by Japan and Germany, presumably to take charge
21 of the seas and the other continents for their own
22 personal arbitrary control and pecuniary profit
23 at the expense of the welfare of all of the peoples,
24 who are victims of such a course and of peaceful nations
25 in general. I said, of course, these apprehensions

1 and this tremendous concern will remain and continue
2 so long as Hitler continues his avowed course of un-
3 limited conquest and tyrannical rule and so long as
4 the Japanese Army and Navy increase their occupation
5 by force of other and distant areas on both land and
6 sea, with no apparent occasion to do so other than
7 that of capture and exclusive use of the territory
8 and other interests of other countries. The Ambassador
9 again sought to allay the idea of military conquest
10 on the part of his country, and I again replied with
11 emphasis that so long as Japanese forces were all over
12 China and Japanese troops and airplanes and naval
13 vessels were as far south as Thailand and Indo-China
14 and Saigon, accompanied by such threatening declarations
15 as Japanese statesmen are making week after week,
16 there can only be increasing concern by nations who
17 are vitally interested in international affairs both
18 on land and sea as they are also vitally interested
19 in the halt of world conquest by force and barbaric
20 methods of government.

21 "I proceeded to comment on Japan's line of
22 activities and utterances by saying that this country
23 and most other countries only proclaim and practice
24 policies of peaceful international relationships,
25 political, economic, social and cultural. Sometimes

1 the policy to promote these mutually beneficial rela-
2 tionships is proclaimed, such as our good neighbor
3 policy with special reference to Pan-America. And yet
4 all of our acts and programs and policies adopted by
5 the twenty-one American nations in their conferences
6 from time to time are made universal in their appli-
7 cation, so that Japan and all other nations receive
8 the same equal opportunities for trade and commerce
9 generally throughout the Americas that each of the
10 American nations receives itself. In striking contrast
11 the new order in greater Eastern Asia is unequivocally
12 believed to be purely a program of military aggression
13 and conquest with entirely arbitrary policies of
14 political, economic and military domination."

15 Quotations from a Foreign Relations volume.

16 The prosecution now offers in evidence IPS
17 document 220C (22) from exhibit for identification
18 58, volume 2, which is excerpts from a memorandum
19 of the Secretary of State, dated March 14, 1941.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 220C (22) will receive exhibit No. 1057.

23 (Whereupon, the document above referred
24 to was marked prosecution's exhibit No. 1057 and
25 received in evidence.)

1 MR. KEENAN: (Reading)

2 "Memorandum by the Secretary of State.

3 "March 14, 1931.

4 "Excerpts.

5 "The President again returned to the Tri-
6 partite agreement and said that it had upset the
7 American people because they think that a concerted
8 effort is being made by Germany and Italy to reach the
9 Suez Canal and by Japan on the other hand to approach
10 Singapore, the Netherlands East Indies and the Indian
11 Ocean. The Japanese Ambassador spoke more strongly
12 than he had in his earlier talk with me, expressing
13 his belief that his country would not go South.

14 "The President finally remarked that, as the
15 Ambassador indicated, matters between our two countries
16 could undoubtedly be worked out without a military
17 clash, emphasizing that the first step in this direc-
18 tion would be the removal of suspicion and fear regard-
19 ing Japan's intentions. I here remarked that, of
20 course, with MATSUOKA astride the Axis on his way to
21 Berlin and talking loudly as he goes, and Japanese
22 naval and air forces in the vicinity of Indo-China,
23 Thailand and Saigon, with no explanation but with ser-
24 ious inferences, the Ambassador must realize how acute
25 feeling and opinion in this country have become."

1 We now offer in evidence, if it please the
2 Tribunal, several separate documents from the accused
3 KIDO's diary. They are documented as a series of IPS
4 documents 1632W. They will not be tendered consecutively
5 but in order of date in the course of this evidence.

6 THE PRESIDENT: We will receive them after
7 the recess. We will recess now for fifteen minutes.

8 (Whereupon, at 1045, a recess was taken
9 until 1100, after which the proceedings were
10 resumed as follows:)

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

3 THE PRESIDENT: Mr. Chief of Counsel.

4 MR. KEENAN: I will proceed to read the docu-
5 ment last referred to before the Court recessed.

6 If the Court please, I tendered the ~~excerpt~~
7 from Marquis KIDO's Diary, and I believe the Court had
8 not acted upon its admission.

9 THE PRESIDENT: We have not seen it yet. It
10 has not been distributed.

11 Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 1632-W(48) will receive exhibit No. 1058.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 1058, and was received in evidence.)

17 MR. KEENAN: Dated 3 April 1941.

18 (Reading) "In the anteroom of the Imperial
19 Palace Premier KONOYE consulted me about the pros-
20 pective appointment of Admiral TOYODA as the Minister
21 of Commerce and Industry and Lieutenant-General
22 SUZUKI as the President of the Planning Board. I
23 agreed with him. At 4.40 p.m. Premier KONOYE tele-
24 phoned me saying that since the plan he had intimated
25 to me this morning had been approved by both the War

1 Minister and the Navy Minister, necessary arrangements
2 for the appointments would be made at once."

3 Prosecution now offers in evidence IPS
4 document 220-C(23) from exhibit for identification
5 58, Volume II. This is a proposal presented by the
6 Department of State in Japan at a meeting of private
7 Japanese and American individuals on April 9, 1941.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 220-C(23) will receive exhibit No. 1059.

11 (Whereupon, the document above
12 referred to was marked prosecution's exhibit
13 No. 1059, and was received in evidence.)

14 MR. KEENAN: (Reading) "Proposal Presented
15 to the Department of State through the Medium of
16 Private American and Japanese Individuals on
17 April 9, 1941."

18 At this time, if the Court please, I would
19 like to have the previous remarks that had been read
20 from the prepared manuscript to conform with the exact
21 language of the heading of this document, namely:

22 "Proposal Presented to the Department of
23 State through the Medium of Private American and
24 Japanese Individuals on April 9, 1941.

25 "The Governments of the United States and of

1 Japan accept joint responsibility for the initiation
2 and conclusion of a general agreement disposing the
3 resumption of our traditional friendly relations.

4 "Without reference to specific causes of
5 recent estrangement, it is the sincere desire of both
6 Governments that the incidents which led to the de-
7 terioration of amicable sentiment among our people
8 should be prevented from recurrence and corrected in
9 their unforeseen and unfortunate consequences.

10 "It is our present hope that, by a joint
11 effort, our nations may establish a just Peace in the
12 Pacific; and by the rapid consummation of an entente
13 cordiale, arrest, if not dispel, the tragic confusion
14 that now threatens to engulf civilization.

15 "For such decisive action, protracted nego-
16 tiations would seem ill-suited and weakening. "We,
17 therefore, suggest that adequate instrumentalities
18 should be developed for the realization of a general
19 agreement which would bind, meanwhile, both governments
20 in honor and in act.

21 "It is our belief that such an understanding
22 should comprise only the pivotal issues of urgency and
23 not the accessory concerns which could be deliberated
24 at a Conference and appropriately confirmed by our re-
25 spective Governments. "

1 We presume to anticipate that our Govern-
2 ments could achieve harmonious relations if certain
3 situations and attitudes were clarified or improved;
4 to wit:

5 "1. The concepts of the United States and
6 of Japan respecting international relations and the
7 character of nations.

8 "2. The attitudes of both governments to-
9 ward the European War.

10 "3. The relations of both nations toward
11 the China Affair.

12 "4. Naval, aerial and mercantile marine re-
13 lations in the Pacific.

14 "5. Commerce between both nations and their
15 financial cooperation.

16 "6. Economic activity of both nations in the
17 Southwestern Pacific area.

18 "7. The policies of both nations affecting
19 political stabilization in the Pacific.

20 "Accordingly, we have come to the following
21 mutual understanding subject, of course, to modifica-
22 tions by the United States Government and subject to
23 the official and final decision of the Government of
24 Japan.

25 "1. The concepts of the United States and

1 of Japan respecting international relations and the
2 character of nations.

3 "The Governments of the United States and
4 of Japan might jointly acknowledge each other as equal-
5 ly sovereign states and contiguous Pacific powers.

6 "Both Governments assert the unanimity of
7 their national policies as directed toward the founda-
8 tion of a lasting peace and the inauguration of a new
9 era of respectful confidence and cooperation among our
10 peoples.

11 "Both Governments might declare that it is
12 their traditional, and present, concept and conviction
13 that nations and races compose, as members of a family,
14 one household; each equally enjoying rights and ad-
15 mitting responsibilities with a mutuality of interests
16 regulated by peaceful processes and directed to the
17 pursuit of their moral and physical welfare, which
18 they are bound to defend for themselves as they are
19 bound not to destroy for others.

20 "Both Governments are firmly determined
21 that their respective traditional concepts on the
22 character of nations and the underlying moral princi-
23 ples of social order and national life will continue
24 to be preserved and never transformed by foreign ideas
25 or ideologies contrary to these moral principles and

1 concepts.

2 "II. The attitudes of both Governments
3 toward the European War.

4 "The Government of Japan maintains that the
5 purpose of its Axis Alliance was, and is, defensive
6 and designed to prevent the extension of military
7 grouping among nations not directly affected by the
8 European War.

9 "The Government of Japan, with no intention
10 of evading its existing treaty obligations, desires
11 to declare that its military obligation under the Axis
12 Alliance, comes into force only when one of the parties
13 of the Alliance is aggressively attacked by a power
14 not at present involved in the European War.

15 "The Government of the United States main-
16 tains that its attitude toward the European War is,
17 and will continue to be, determined by no aggressive
18 alliance aimed to assist any one nation against another.
19 The United States maintains that it is pledged to the
20 hate of war, and accordingly, its attitude toward the
21 European War is, and will continue to be, determined
22 solely and exclusively by considerations of the pro-
23 tective defense of its own national welfare and se-
24 curity.
25

"III. China affairs.

1 "The President of the United States, if the
2 following terms are approved by His Excellency and
3 guaranteed by the Government of Japan, might request
4 the Chiang-Kai-Chek regime to negotiate peace with
5 Japan.

6 "a. Independence of China

7 "b. Withdrawal of Japanese troops from
8 Chinese territory, in accordance with an agreement
9 to be reached between Japan and China

10 "c. No acquisition of Chinese territory

11 "d. No imposition of indemnities

12 "e. Resumption of the 'Open Door'; the
13 interpretation and application of which shall be agreed
14 upon at some future, convenient time between the United
15 States and Japan.

16 "f. Coalescence of Governments of Chiang-
17 Kai-Chek and of Wang-Ching-Wei.

18 "g. No large-scale or concentrated immigra-
19 tion of Japanese into Chinese territory.

20 "h. Recognition of Manchukuo.

21 "With the acceptance by the Chiang-Kai-Chek
22 regime of the aforementioned Presidential request, the
23 Japanese Government shall commence direct peace nego-
24 tiations with the newly coalesced Chinese Government,
25 or constituent elements thereof."

1 "The Government of Japan shall submit to
2 the Chinese concrete terms of peace, within the limits
3 of aforesaid general terms and along the line of neigh-
4 borly friendship, joint defense against communistic
5 activities and economic cooperation.

6 "Should the Chiang-Kai-Chek regime reject
7 the request of President Roosevelt, the United States
8 Government shall discontinue assistance to the Chinese.

9 "IV. Naval, aerial and mercantile marine
10 relations in the Pacific.

11 "a. As both the Americans and Japanese are
12 desirous of maintaining the peace in the Pacific, they
13 shall not resort to such disposition of their naval
14 forces and aerial forces as to menace each other. De-
15 tailed, concrete agreement thereof shall be left for
16 determination at the proposed joint Conferences.

17 "b. At the conclusion of the projected Con-
18 ference, each nation might despatch a courtesy naval
19 squadron to visit the country of the other and signal-
20 ize the new era of Peace in the Pacific.

21 "c. With the first ray of hope for the set-
22 tlement of Chinese affairs, the Japanese Government
23 will agree, if desired, to use their good offices to
24 release for contract by Americans certain percentage
25 of their total tonnage of merchant vessels, chiefly

1 for the Pacific service, so soon as they can be re-
2 leased from their present commitments. The amount of
3 such tonnage shall be determined at the Conference.

4 "V. Commerce between both nations and their
5 financial cooperation.

6 "When official approbation to the present
7 understanding has been given by both Governments, the
8 United States and Japan shall assure each other to
9 mutually supply such commodities as are respectively
10 available or required by either of them. Both govern-
11 ments further consent to take necessary steps to the
12 resumption of normal trade relations as formerly es-
13 tablished under the Treaty of Navigation and Commerce
14 between the United States and Japan. If a new com-
15 mercial treaty is desired by both governments, it
16 could be elaborated at the proposed conference and con-
17 cluded in accordance with usual procedure.

18 "For the advancement of economic cooperation
19 between both nations, it is suggested that the United
20 States extend to Japan a gold credit in amounts suf-
21 ficient to foster trade and industrial development
22 directed to the betterment of Far Eastern economic
23 conditions and to the sustained economic cooperation
24 of the Governments of the United States and of Japan.

25 "VI. Economic activity of both nations in

1 the Southwestern Pacific area.

2 "On the pledged basis of guarantee that
3 Japanese activities in the Southwestern Pacific area
4 shall be carried on by peaceful means, without resort-
5 ing to arms, American cooperation and support shall
6 be given in the production and procurement of natural
7 resources (such as oil, rubber, tin, nickel) which
8 Japan needs.

9 "VII. The policies of both nations affect-
10 ing political stabilization in the Pacific.

11 "A. The Governments of the United States
12 and of Japan will not acquiesce in the future transfer
13 of territories or the relegation of existing States
14 within the Far East and in the Southwestern Pacific
15 area to any European Power.

16 "b. The Governments of the United States
17 and of Japan jointly guarantee the independence of
18 the Philippine Islands and will consider means to
19 come to their assistance in the event of unprovoked
20 aggression by any third Power.

21 "c. The Government of Japan requests the
22 friendly and diplomatic assistance of the Government
23 of the United States for the removal of Hongkong and
24 Singapore as doorways to further political encroach-
25 ment by the British in the Far East."

1 "d. Japanese Immigration to the United
2 States and to the Southwestern Pacific area shall re-
3 ceive amicable consideration--on a basis of equality
4 with other nationals and freedom from discrimination.

5 "Conference.

6 "a. It is suggested that a Conference be-
7 tween Delegates of the United States and of Japan be
8 held at Honolulu and that this conference be opened
9 for the United States by President Roosevelt and for
10 Japan by Prince KONOYE. The delegates could number
11 less than five each, exclusive of experts, clerks, etc.

12 "b. There shall be foreign observers at
13 the Conference.

14 "c. This Conference could be held as soon
15 as possible (May 1941) after the present understand-
16 ing has been reached.

17 "d. The agenda of the Conference would not
18 include a reconsideration of the present understanding
19 but would direct its efforts to the specification of
20 the prearranged agenda and drafting of instruments to
21 effectuate the understanding. The precise agenda could
22 be determined upon by mutual agreement between both
23 governments.

24 "Addendum.

25 "The present understanding shall be kept as

1 a confidential memorandum between the Governments of
2 the United States and of Japan.

3 "The scope, character and timing of the
4 announcement of this understanding will be agreed upon
5 by both Governments."

6 Taken from Foreign Relations Vol. II, pp.
7 398-402.

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1 MR. LOGAN: If the Tribunal please--

2 MR. KEENAN: I am not through. I want to
3 make a remark about it.

4 MR. LOGAN: I am sorry.

5 MR. KEENAN: Mr. President, because of the
6 unusual situation existing, I ask respectfully, per-
7 mission to explain to the Tribunal at this time that
8 later on in this phase we will present Mr. Ballantine,
9 Special Assistant to the Secretary of State of the
10 United States, who participated in many conferences
11 held in 1941 preceding the outbreak of the Japanese-
12 American War.

13 I am offering no testimony, of course, at
14 this time, but I am explaining to the Court that at
15 that time he will give direct testimony as to these
16 conferences or talks between unofficial -- those who
17 were not officials of either Japan or the United
18 States. We have believed it preferable to place the
19 series of documents before the Court.

20 There were no officials representing the
21 United States Government, we expect to prove, and we
22 make this statement so that the Court will not be
23 misled by any documents we present, nor will the record
24 be confused in that regard. So we believe the Court
25 will understand our explanatory statement at this time.

1 The prosecution offers in evidence IPS
2 document 220-C(24) from exhibit for identification
3 58, Volume II.

4 This is an excerpt from memorandum from
5 Secretary of State Hull, dated April 14, 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 220-C(24) will receive exhibit No. 1060.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1060, and was received in evidence.)

12 MR. KEENAN: (Reading)

13 "MEMORANDUM BY THE SECRETARY OF STATE
14 (WASHINGTON,) April 14, 1941

15 "Excerpt.

16 "The Ambassador of Japan called at my
17 apartment at the Wardman Park Hotel at my request.
18 I stated that as the Ambassador would recall, both
19 the President and I suggested during our conversations
20 with him that he might care in discussions with me to
21 explore the question of improving relations between
22 the United States and Japan; that such a procedure
23 might involve a review of relations during recent
24 years in an attempt to ascertain where and in what
25 respects the courses of the two countries had div-

1 erged; and that this would be done with a view to
2 ascertaining whether something practicable might
3 be done toward restoring the relations of our two
4 countries to that harmonious state which existed for
5 so many decades. I said that I referred to this
6 again at this time because of the reports which
7 have been coming to me that certain of the Ambass-
8 ador's compatriots have been working on formulation
9 of proposals and plans for improving relations be-
10 tween the United States and Japan. I had been told
11 that the Ambassador's compatriots have been in touch
12 with the Ambassador in connection with their pro-
13 posals and that the Ambassador has participated in
14 and associated himself with these plans. I added
15 that I did, of course, not know whether these reports
16 are entirely accurate and, as mentioned previously
17 to him, we can deal only with the Ambassador in ad-
18 dressing ourselves to consideration of problems out-
19 standing between our two Governments.

20 "I then emphasized the point that I had
21 sent for the Ambassador primarily to clear up the
22 matter of the extent of his knowledge of the latest
23 document handed to my associates in the State Depart-
24 ment by those Americans and Japanese who are collab-
25 orating as individuals in an effort to make some sort

1 of contribution to better relations between the two
2 countries, and as to whether it was his desire to
3 present that officially as a first step in negotia-
4 tions between the two Governments. I again cited
5 those phases previously referred to, which called
6 for preliminary conversation on certain subjects
7 before a stage of negotiations could be reached, and
8 which discouraged the immediate presentation of the
9 document by the Ambassador in an official way. The
10 Ambassador promptly replied that he did not know all
11 about this document and that he had collaborated
12 more or less with the individual Japanese and Ameri-
13 cans referred to, and that he would be disposed to
14 present it as a basis for negotiations. He proceed-
15 ed to refer to his great desire to preserve peace
16 between the two countries and, therefore, to do any-
17 thing within his power to that end. He emphasized
18 the utter disaster it would be to both countries to
19 go to war, which would last perhaps for many years
20 with the complete exhaustion of all concerned. He
21 spoke strongly expressing the view that his Govern-
22 ment did not intend to invade the South Sea area.

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24 "Foreign Relations II, pp.402 - 403"

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We offer in evidence IPS document No. 220 C (25) from exhibit for identification, Volume 2, exhibit 58. This is an excerpt of Secretary of State Hull, dated April 16, 1941.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 220 C (25) will receive exhibit No. 1061.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1061 and received in evidence.)

MR. KEENAN: (Reading)

"MEMORANDUM BY THE SECRETARY OF STATE

"Excerpt. (Washington) April 16, 1941

"With reference to the question of gradually developing a settlement in the Orient, I said that I had been told that the document on which the Ambassador and the private group of individual Americans and Japanese were collaborating contained numerous proposals with which my Government could readily agree; on the other hand, however, there were others that would require modification, expansion, or entire elimination, and, in addition, there would naturally be some new and separate suggestions by this Government for consideration. I then remarked

1 that the one paramount preliminary question about
2 which my Government is concerned is a definite
3 assurance in advance that the Japanese Government
4 has the willingness and ability to go forward with
5 a plan along the lines of the document we have
6 referred to and the points brought up in our conver-
7 sation in relation to the problems of a settlement;
8 to abandon its present doctrine of military conquest
9 by force and the taking of title to all property
10 and territories seized, together with the use of
11 force as an instrument of policy; and to adopt the
12 principles which this Government has been proclaiming
13 and practicing as embodying the foundation on which
14 all relations between nations should properly rest.

15 "I said:

16 "I will, therefore, hand to you as the
17 basis for my preliminary question, the following
18 four points on a blank piece of paper:

19 "1. Respect for the territorial integrity
20 and the sovereignty of each and all nations.

21 "2. Support of the principle of non-
22 interference in the internal affairs of other coun-
23 tries.

24 "3. Support of the principle of equality,
25 including equality of commercial opportunity. "

1 "14. Non-disturbance of the status quo
2 in the Pacific except as the status quo may be
3 altered by peaceful means.

4 "'You can answer the questions or submit
5 them to your Government for its answer through you,
6 as you prefer. You understand that we both agree
7 that we have in no sense reached the stage of
8 negotiations; that we are only exploring in a purely
9 preliminary and unofficial way what action might
10 pave the way for negotiations later.'

11 "Foreign Relations II, pp. 406-407."

12 Prosecution offers in evidence IPS document
13 1339-A (9), letter from Mr. Churchill to MATSUOKA,
14 dated April 12, 1941, handed to MATSUOKA at Moscow.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 1339-A (9) will receive exhibit No. 1062.

18 ("Hereupon, the document above
19 referred to was marked prosecution's exhibit No.
20 1062 and received in evidence.)

21 MR. KEENAN: (Reading)

22 "Message from the Right Honorable Winston
23 Churchill, Acting Secretary of State for Foreign
24 Affairs, to His Excellency Mr. Yosuke MATSUOKA, His
25 Imperial Japanese Majesty's Minister for Foreign

1 Affairs, of which a copy was handed unofficially
2 to Mr. MATSUOKA by His Majesty's Ambassador at
3 Moscow on April 12, 1941.

4 "(Note. - It had originally been intended
5 that this letter should be delivered to Mr. MATSUOKA
6 by Mr. SHIGEMITSU who had expected to meet the
7 Japanese Foreign Minister during his stay in Europe).

8 "Your Excellency,

9 "I take advantage of the facilities with
10 which we have provided your Ambassador to send you a
11 friendly message of sincerity and goodwill. I venture
12 to suggest a few questions which, it seems to me,
13 deserve the attention of the Imperial Japanese
14 Government and people:

15 "(1) Will the Germans, without command of
16 the sea or command of the British daylight air, be
17 able to invade and conquer Great Britain in the
18 spring, summer or autumn of 1941? Will the Germans
19 try to do so? Would it not be in the interests of
20 Japan to wait until these questions have answered
21 themselves?

22 "(2) Will the German attack on British
23 shipping be strong enough to prevent American aid
24 from reaching British shores with Great Britain and
25 the United States of America transforming their

1 whole industry to war purposes?

2 "(3) Did Japan's accession to the triple
3 pact make it more likely or less likely that the
4 United States would come into the present war?

5 "(4) If the United States entered the war
6 at the side of Great Britain and Japan ranged her-
7 self with the Axis Powers, would not the naval
8 superiority of the two English-speaking nations
9 enable them to deal with Japan while disposing of
10 the Axis Powers in Europe?

11 "(5) Is Italy a strength or a burden to
12 Germany? Is the Italian fleet as good at sea as on
13 paper? Is it as good on paper as it used to be?

14 "(6) Will the British Air Force be
15 stronger than the German Air Force before the end
16 of 1941 and far stronger before the end of 1942?

17 "(7) Will the many countries which are
18 being held down by the German army and Gestapo learn
19 to like the Germans more or will they like them less
20 as the years pass by?

21 "(8) Is it true that the production of
22 steel in the United States of America during 1941
23 will be 75 million tons and in Great Britain about
24 12½ million tons, making a total of nearly 90
25 million tons? If Germany should happen to be

defeated as she was last time would not the
7 million tons of steel production of Japan be
inadequate for a single-handed war?

"From the answers to these questions may
spring the avoidance by Japan of a serious catastro-
rophe and a marked improvement in the relations
between Japan and Great Britain, the great sea
Power of the West.

"I remain, with great truth and respect,

"Your Excellency's obedient Servant,

"(Sd) "INSTON S. CHURCHILL."

I offer in evidence, with the Court's
permission, IPS document No. 1339-A (10), which is
a telegram from MATSUOKA to Churchill, dated April
22, 1941.

THE PRESIDENT: Admitted on the usual
terms.

CLERK OF THE COURT: Prosecution's docu-
ment No. 1339-A (10) will receive exhibit No. 1063.

("hereupon, the document above
referred to was marked prosecution's exhibit
No. 1063 and received in evidence.)

MR. KEENAN: (Reading)

"April 22, 1941

"Your Excellency,

1 "I have just come back from my trip and
2 hasten to acknowledge the receipt of paper, handed
3 to me at Moscow on the evening of the 12th instant
4 by Sir Stafford Cripps with remark that it was a
5 copy in substance of a letter addressed to me dated
6 London, April 2, 1941, and forwarded to Tokyo.

7 "I wish to express my appreciation for
8 the facilities with which your Government made
9 efforts to provide our Ambassador when he wanted
10 to meet me on the continent. I was keenly dis-
11 appointed when I learned that he could not come.

12 "Your Excellency may rest assured that
13 the foreign policy of Japan is determined upon and
14 after an unbiased examination of all the facts
15 and a very careful weighing of all the elements of
16 the situation she confronts, always holding stead-
17 fastly in view the great racial aim and ambition of
18 finally bringing about on the earth the conditions
19 envisaged in what she calls Hakkoichiu, the Japanese
20 conception of a universal peace under which there
21 would be no conquest, no oppression, no exploitation
22 of any and all peoples. And, once determined, I need
23 hardly tell Your Excellency, it will be carried out
24 with resolution but with utmost circumspection, taking
25 in every detail of changing circumstances."

"I am, believe me,

"Your Excellency's obedient servant,

"Yosuke MATSUOKA."

Prosecution offers in evidence document
No. 219P (73) taken from exhibit for identification
No. 58, Volume 1, which is an excerpt from statement
by Ambassador Grew to Acting Foreign Minister KONOYE,
Tokyo, April 14, 1941.

THE PRESIDENT: Admitted on the usual
terms.

CLERK OF THE COURT: Prosecution's document
No. 219P (73) will receive exhibit No. 1064.

("Whereupon, the document above
referred to was marked prosecution's exhibit
No. 1064 and was received in evidence.)

MR. KEENAN: (Reading)

"Tokyo, April 14, 1941
"No. 1779.

"The American Ambassador in Japan (Grew)
to the Japanese Acting Minister for Foreign Affairs
(PRINCE KONOYE).

"Excellency: I have the honor to refer to
my note to the Minister for Foreign affairs, No. 1738
of February 4, 1941, with reference to the aerial
bombardment of Kunming, China, by Japanese aircraft

1 on January 29, 1941, at which time the American
2 Consulate at that place was seriously endangered, and
3 to inform Your Excellency that American lives and
4 property were again endangered at Kunming on April 8
5 by a wanton and indiscriminate bombing attack by
6 Japanese airplanes.

7 "On this occasion, according to the Amer-
8 ican Consul at Kunming, the China Inland Mission,
9 where seven American citizens including three
10 children were residing, was badly damaged by ex-
11 plosions and barely escaped destruction by fire.
12 At the same time, the house occupied by the
13 American-citizen clerk of the Consulate, adjacent
14 to the Mission, suffered concussion and damage in
15 the form of broken glass, fallen plaster and tiles,
16 and demolished electric light fixtures.

17 "Foreign Relations I, pp. 710-711."

18 THE PRESIDENT: Mr. Williams.

19 MR. E. WILLIAMS: "We tender in evidence
20 IFS document No. 1632" (49), which is an entry in
21 KIDO's Diary, April 19, 1941.

22 THE PRESIDENT: Admitted on the usual
23 terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1632" (49) will receive exhibit No. 1065.

1 ("whereupon, the document above
2 referred to was marked prosecution's
3 exhibit No. 1065 and received in evidence.)

4 MR. E. WILLIAMS: We read prosecution
5 exhibit No. 1065:

6 "Extract from Entry from Marquis KIDO's
7 Diary, 19 April 1941.

8 "April 19, 1941 - (Extract).

9 "From 1:20 p.m. to 1:43 p.m. I was re-
10 ceived in audience by the Emperor and reported
11 Japan's relations with the U.S. and also German-
12 Soviet relations. Ambassador KURUSU came to report
13 to the Throne. I was allowed to hear his report.
14 I talked with Premier KONOYE concerning Ambassador
15 NOMURA's request for instructions. It was our con-
16 clusion that we must bend every effort to keep good
17 faith with Germany and Italy, and at the same time
18 we ought to endeavor to realize the establishment of
19 a new order in the Greater East Asia Co-prosperity
20 Sphere, which is our fixed national policy."

21 We offer in evidence IPS document
22 No. 16327 (50), an entry in KIDO's Diary, April 28,
23 1941.

24 THE PRESIDENT: Admitted on the usual
25 terms.

1 CLERK OF THE COURT: Prosecution's document
2 No. 16327 (50) will receive exhibit No. 1066.

3 (Whereupon, the document above
4 referred to was marked prosecution's exhibit
5 No. 1066 and received in evidence.)
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1 MR. E. WILLIAMS: We read prosecution
2 exhibit No. 1066.

3 "'Entry from Marquis KIDO's Diary, 28
4 April 1941.'

5 "Having caught a cold I took a rest. At
6 11.30 a.m. Chief Secretary MATSUDIARA came to say that
7 my opinion had been asked by the Emperor what official
8 His Majesty should turn to for advice on diplomatic
9 questions when the Premier, Foreign Minister and Lord
10 Keeper of the Privy Seal were ill simultaneously as
11 is the case today, and he also asked about the
12 progress of deliberations on our policy towards the
13 U.S.A.
14

15 "I expressed my opinions about these questions
16 and then asked MATSUDAIRA to submit them to the Throne.
17 In the afternoon the Chief Secretary telephoned me
18 to say that the Emperor was well pleased with my
19 answer, and also conveyed to me a gracious Imperial
20 message which advised me always to take good care
21 of my health."

22 MR. LOGAN: If the Tribunal please, may we
23 have document, exhibit No. 1066, referred to the
24 Translation Section?

25 THE PRESIDENT: What do you suggest is wrong
with it, Mr. Logan?

1 MR. E. WILLIAMS: We read prosecution
2 exhibit No. 1066:

3 "Entry from Marquis KIDO's Diary, 28
4 April 1941."

5 "Having caught a cold I took a rest. At
6 11.30 a.m. Chief Secretary MATSUDAIRA came to say that
7 his opinion had been asked by the Emperor what official
8 his Majesty should turn to for advice on diplomatic
9 questions when the Premier, Foreign Minister and Lord
10 Keeper of the Privy Seal were ill simultaneously as
11 is the case today, and he also asked about the
12 progress of deliberations on our policy towards the
13 U.S.A.

14 "I expressed my opinions about these questions
15 and then asked MATSUDAIRA to submit them to the Throne.
16 In the afternoon the Chief Secretary telephoned me
17 to say that the Emperor was well pleased with my
18 answer, and also conveyed to me a gracious Imperial
19 message which advised me always to take good care
20 of my health."

21 MR. LOGAN: If the Tribunal please, may we
22 have document, exhibit No. 1066, referred to the
23 Translation Section?
24

25 THE PRESIDENT: What do you suggest is wrong
with it, Mr. Logan?

1 MR. LOGAN: The first sentence "Secretary
2 MATSUDAIRA came to say that his opinion" should be
3 "my opinion," that is, KIDO's.

4 THE PRESIDENT: The Tribunal refers it to
5 the Language Section.

6 MR. E. WILLIAMS: We offer in evidence
7 IPS document No. 2529-A, which is an offer of the
8 Japanese policy to increase the population to
9 100,000,000 by 1945. This has been duly authenticated.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2529-A will receive exhibit No. 1067.

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 1067 and received in evidence.)
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1 MR. E. WILLIAMS: We read prosecution
2 exhibit No. 1067:

3 "EXTRACT FROM 'JAPAN TIMES & ADVERTISER'

4 "January 23, 1941.

5 - - - - -

6 "CABINET TAKES STEP TO 100,000,000 GOAL
7 IN POPULATION DRIVE

8 - - - - -

9 "EAST ASIA LEADERSHIP REQUIRES EXPANDING
10 NUMBERS, IMPROVED QUALITIES, OFFICIALS
11 SAY

11 - - - - -

12 "DUAL POLICY OUTLINED

13 - - - - -

14 "GOVERNMENT WILL ATTEMPT TO RAISE BIRTH RATE,
15 CUT DEATH TOLL

15 - - - - -

16 "VARIOUS AIDS PROPOSED

17 - - - - -

18 "Fundamental principles of Japan's population
19 policy were decided on at the special Cabinet meeting
20 in the official residence of the Premier Wednesday,
21 Domei reports.

22 "Mr. Naoki HOSHINO, president of the Cabinet
23 Planning Board, made detailed explanations on the
24 policy while the Welfare, Education, and War Ministers
25 expressed their opinions."

1 "With minor changes, in wording, however, the
2 draft of a bill relating to the population policy
3 was unanimously approved by the members of the Cabinet.
4 In this connection a statement was issued by the Board
5 of Information immediately after the meeting.

6 "According to this statement, the Government
7 has been brought to establish a new population policy
8 to increase the population of this country quickly
9 and incessantly, to enhance the quality of the Japanese,
10 and to correct the distribution of the Japanese race
11 so as to secure the leadership of Japan over East
12 Asia.

13 "GOAL at 100,000,000

14 "To this end, the goal for the total
15 population of Japan proper in 1935" -- it says here
16 by mistake; it should be 1945 -- "has been set at
17 100,000,000. This is to enable Japan to expand its
18 population without stop, to surpass other countries
19 in the rate of population increase as well as in the
20 quality of race, to secure adequate man power for
21 military and economic purposes, and to keep the
22 supremacy of Japan over other races in East Asia.

23 "The Government will make payments to
24 newlyweds, cut the marriageable age by three years.
25 The goal is five children per couple.

1 "Efforts will be made to heighten the
2 birth rate, and lower the death rate, and for the
3 propagation of the view of the world based on family
4 and race instead of the individual.

5 "For heightening the birth rate in this
6 country, marriages will be promoted by special bureaus
7 designated by the Government, expenditures on weddings
8 will be restricted, employment of women over 20
9 will be restricted as much as possible, and priority
10 in materials will be given to prolific families.

11 "Birth Control Banned

12 "At the same time, various systems will
13 be instituted for the protection of mothers and infants,
14 and birth control through the practice of abortion
15 and use of medicines will be prohibited strictly.

16 "In order to lower the death rate, the
17 Government will make special efforts for the prevention
18 of tuberculosis as well as the protection of infants
19 from death. According to a Government plan, the death
20 rate in Japan will be reduced by 35 per cent in the
21 next 20 years.

22 "As a means of elevating the quality of the
23 nation, the Government will try to redistribute
24 population with stress laid on the reduction of the
25 population of large cities such as Tokyo and Osaka.

"Farmers Held Static

1 "At the same time, it will keep the farming
2 population in this country at a certain level as
3 the farming villages are considered to be the best
4 source of soldiers and laborers. It will expand
5 sports facilities for the rearing of stout and healthy
6 youths, and institute a system through which young
7 men can receive special spiritual and physical training
8 for a certain period of time.

9 "In this connection, Dr. Nobumi ITO, president
10 of the Board of Information, told Domei that since the
11 establishment of the Greater East Asia Co-prosperity
12 Sphere is the greatest mission ever delegated to the
13 Japanese, they must hold the responsibility as the
14 leaders of East Asia.

15 "To become the leader of the Orient', he
16 said, 'the Japanese must not only expand greatly in
17 number but elevate themselves in quality.

18 "To achieve this end, individualistic
19 ideas, and the practice of birth control in various
20 forms, must be driven out of the minds of the public;
21 the view of the world based on the family and race
22 must be filtered into them, and early marriages and
23 child-bearing in many numbers should be encouraged."

24 We now offer in evidence IPS document No.
25 4059-A, a document taken from the files at Nuernberg

1 and is a telegram from Ott to Ribbentrop, dated
2 May 6, 1941.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 4059-A will receive exhibit No. 1068.

6 (Whereupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 1068 and received in evidence.)

9 MR. E. WILLIAMS: We read prosecution exhibit
10 No. 1068: --

11 THE PRESIDENT: It is a very long document.

12 MR. E. WILLIAMS: It is long.

13 THE PRESIDENT: We will hear it after the
14 luncheon adjournment. We will recess now until half
15 past one.

16 (Whereupon, at 1155 a recess was taken.)
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AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

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

THE PRESIDENT: Mr. Williams.

MR. E. WILLIAMS: We read prosecution's
exhibit No. 1068:

(Reading):

"Telegram (Secret Cipher Process)

"Tokyo, 6 May 1941 1110 S.

"Arrival 7 May 1941 100 Hours

"No. 685 of 6 May Most urgent!

"Re: Telegram No. 676 of 5 May for the German
Foreign Minister

"For the German Foreign Minister.

"Today I had a rather long conversation with
MATSUOKA whom I told the points of view contained
in the foregoing telegram. MATSUOKA entirely agree
with my trend of thought, asking me to explain his
conception of the present situation to the German
Foreign Minister as follows:

"He read the speech of the Fuehrer yesterday
and is extremely impressed by the sureness and wisdom
of the arguments. On the other hand, ROOSEVELT seems

1 to him to have completely lost his head, judging
2 from his hysterical invectives. Impressed by the
3 Fuehrer's speech, he has sent to the German Foreign
4 Minister through the Japanese Embassy in Berlin a
5 telegram, of which he handed me a copy.

6 "Turning to a discussion of the overall
7 situation MATSUOKA stated that he intended to
8 acquaint me with the American proposal as soon as
9 he had achieved acceptance of his viewpoint by the
10 authoritative quarters within the country. The
11 American proposal probably originates in a report
12 to WASHINGTON by the American Ambassador in MOSCOW;
13 he has known him for a long time and had a frank
14 discussion with him at MOSCOW while on his trip
15 back. The American Ambassador, who did not conceal
16 his critical attitude towards ROOSEVELT, asked him
17 what JAPAN would do in case the United States should
18 join the war. He replied that then Japan likewise
19 would in any case immediately join the war on the
20 side of the Axis powers. The Ambassador tried to
21 soft pedal this view point in that he tried to
22 represent Japanese interference as possible in his
23 report to WASHINGTON. He (MATSUOKA), however,
24 emphasized most clearly that Japan would then strike.

25 "Even on his way back to TOKYO he expected

1 the American Counter move. When he arrived he
2 found the American proposal of which I had been
3 informed, and which skillfully caters to the needs
4 of certain domestic political groups. At first,
5 not only industry but likewise high Navy leaders
6 had favored a serious discussion of the American
7 proposal. Meanwhile he has used the interim to
8 influence the Admiral, especially pointing to the
9 activistic groups of young officers in the Army and
10 Navy who would determinedly resist such a policy.
11 On Saturday a solemn group consisting of the Prime
12 Minister, Minister of the Interior HIRANUMA and
13 the Chief of the Army gave their consent to the
14 interim reply which was communicated in the fore-
15 going report; and gave a vote of confidence. At
16 any rate, dealing with the American proposal will
17 lead to strained relations with economic circles.
18 He will try to manocuver tactically in such a way
19 that AMERICA will be pledged to non-participation
20 in the European war, the more so since from the
21 Fuehrer's speech he has gained the impression that
22 German policy is pursuing this aim. However, he
23 cherishes only meagre hopes as far as this is con-
24 cerned since he personally presumes that the
25 American developments in the direction of a

1 participation in the war will continue at a quick pace.
2 Just now he is having investigated the question
3 whether a Japanese protest is not called for even
4 against patrolling activity on the part of American
5 armed forces amounting to the arbitrary creation of
6 an American safety zone.

7 "He would be grateful for the earliest
8 possible information on the views of the German
9 Foreign Minister concerning the American proposal
10 /T.N. to be used/ for the unavoidable domestic
11 political discussion.

12 "As to the conclusion of the Russo-Japanese
13 neutrality pact, MATSUOKA reported that right after
14 his departure from BERLIN, he did not envision the
15 possibility of the settlement. During the conver-
16 sation with the German Foreign Minister he also
17 voiced this saying he would accept only in case
18 RUSSIA showed readiness. In his opinion the neutrality
19 pact was the off-shoot of Russian fear of Germany.
20 He found STALIN absolutely willing to keep the peace.
21 STALIN assured him that there could be no question
22 of RUSSIA's concluding a pact with the Anglo-Saxon
23 powers. One of his (MATSUOKA's) motives for con-
24 cluding the neutrality pact had been to provide
25 another hindrance to this pact. According to

1 STALIN, the SOVIET Union did not join the Tripartite
2 pact because the allied powers were not in need of
3 Russian assistance. However, in case this was nec-
4 essary, RUSSIA is prepared to co-operate extensively
5 with the Tripartite powers. When I remarked that
6 the SOVIET Union wanted to protect its rear and
7 asked what attitude Japan would adopt regarding
8 American shipments of armaments via VLADIVOSTOK
9 in case of a German-Russian conflict, MATSUOKA
10 answered as follows: No Japanese Premier or
11 Foreign Minister would ever be able to keep Japan
12 neutral in the event of a German-Russian conflict.
13 In this case, Japan would be driven, by the force
14 of necessity to attack Russia at Germany's side.
15 No neutrality pact could change this. Finally
16 MATSUOKA voiced his opinion that American partici-
17 pation in the war could induce the Fuehrer to resolve
18 upon a solution of the Russian question by violent
19 means in order firmly to secure areas of supply,
20 because the war would then probably drag on for a
21 longer term. He is personally convinced of a speedy
22 victory of the German forces in this case.

23 "I thanked MATSUOKA for his frank utterances,
24 promising him to ask the German Foreign Minister for
25 an opinion as soon as possible."

1 "During my conversation today I have, of
2 course, continued in my endeavors to direct Japanese
3 policy toward SINGAPORE, in opposition to American
4 interference manoeuvres and against the existing
5 Japanese tendency to pay attention primarily to
6 RUSSIA.

7 "OTT."
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1 MR. E. WILLIAMS (Continuing): I now offer
2 in evidence I. P. S. document No. 219P (74) from
3 an exhibit marked for identification under 58, Item
4 One, excerpt from communication of Ambassador Grew
5 to MATSUOKA, dated May 6, 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 219P (74) will receive exhibit No. 1069.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 1069
11 and received in evidence.)

12 MR. E. WILLIAMS: We read prosecution's
13 exhibit No. 1069:

14 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
15 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS (MATSUOKA)

16 "Excerpt

17 "No. 1793

18 "TOKYO, May 6, 1941.

19 "EXCELLENCY: I have the honor to refer to
20 my note No. 1779 of April 14, 1941, addressed to
21 Prince KONOYE during Your Excellency's absence from
22 Japan, concerning the repeated indiscriminate bombing
23 of Kunming by the Japanese aircraft, and the danger to
24 American lives and damage to American property caused
25 thereby, and to inform Your Excellency that according

1 to information received from the American Consul at
2 that city, the Consulate was again seriously damaged
3 during an air raid on April 29, 1941. Window glass
4 and screens were blown out; plaster, a large memorial
5 tablet, and part of a wall were knocked down; and
6 dirt and debris were blown into the Compound.
7 Fortunately, there appear to have been no casualties."

8 We offer in evidence I. P. S. document
9 No. 220C (26) from exhibit 58, Volume II, for identi-
10 fication. This is a draft proposal handed by the
11 Japanese Ambassador NOMURA to the Secretary of State,
12 May 12, 1941.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 220C (26) will receive exhibit No. 1070.

16 (Whereupon, the document above referred
17 to was marked prosecution's exhibit No. 1070
18 and received in evidence.)

19 MR. E. WILLIAMS: We read prosecution's
20 exhibit No. 1070:

21 "DRAFT PROPOSAL HANDED BY THE JAPANESE
22 AMBASSADOR (NOMURA) TO THE SECRETARY OF STATE ON
23 MAY 12, 1941.

24 "CONFIDENTIAL MEMORANDUM AGREED UPON BETWEEN
25 THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE

1 GOVERNMENT OF JAPAN.

2 "The Governments of the United States and
3 of Japan accept joint responsibility for the initiation
4 and conclusion of a general agreement disposing the
5 resumption of our traditional friendly relations.

6 "Without reference to specific causes of
7 recent estrangement, it is the sincere desire of both
8 Governments that the incidents which led to the
9 deterioration of amicable sentiment among our peoples
10 should be prevented from recurrence and corrected in
11 their unforeseen and unfortunate consequences."

12 THE PRESIDENT: Is this any different from
13 that handed in this morning?

14 MR. E. WILLIAMS: Yes, sir. The one handed
15 in this morning was a proposal by some independent
16 persons submitted to the State Departments of the
17 Government. This is an official, confidential draft
18 proposal submitted by Japan.

19 THE PRESIDENT: The phraseology seems familiar.

20 MR. E. WILLIAMS: It is very similar, your
21 Honor. I may say, if the Court please, that several
22 of these proposals and counter-proposals, each of them
23 have phraseology very similar but differ substantially
24 in details. I continue to read from prosecution's
25 exhibit No. 1070.

1 (Reading continued): "It is our present
2 hope that, by a joint effort, our nations may estab-
3 lish a just peace in the Pacific, and by the rapid
4 consummation of an entente cordiale (amicable under-
5 standing), arrest, if not dispel, the tragic confusion
6 that now threatens to engulf civilization.

7 "For such decisive action, protracted
8 negotiations would seem ill-suited and weakening.
9 Both Governments, therefore, desire that adequate
10 instrumentalities should be developed for the reali-
11 zation of a general agreement which would bind, mean-
12 while, both Governments in honor and in act.

13 "It is our belief that such an understanding
14 should comprise only the pivotal issues of urgency
15 and not the accessory concerns which could be deliber-
16 ated at a conference and appropriately confirmed by
17 our respective Governments.

18 "Both Governments presume to anticipate that
19 they could achieve harmonious relations if certain
20 situations and attitudes were clarified or improved;
21 to wit:

22 "1. The concepts of the United States and of
23 Japan respecting international relations and the
24 character of nations.

25 "2. The attitude of both Governments toward

1 the European War.

2 "3. The relations of both nations toward the
3 China Affair.

4 "4. Commerce between both nations.

5 "5. Economic activity of both nations in
6 the Southwestern Pacific area.

7 "6. The policies of both nations affecting
8 political stabilization in the Pacific area.

9 "Accordingly, we have come to the following
10 mutual understanding:--

11 "1. The concepts of the United States and
12 of Japan respecting international relations and the
13 character of nations.

14 "The Governments of the United States and of
15 Japan jointly acknowledge each other as equally sovereign
16 states and contiguous Pacific powers.

17 "Both Governments assert the unanimity of
18 their national policies as directed toward the found-
19 dation of a lasting peace and the inauguration of a
20 new era of respectful confidence and cooperation among
21 our peoples.

22 "Both Governments declare that it is their
23 traditional, and present, concept and conviction that
24 nations and races compose, as members of a family,
25 one household; each equally enjoying rights and admitting

1 responsibilities with a mutuality of interests regu-
2 lated by peaceful processes and directed to the pursuit
3 of their moral and physical welfare, which they are
4 bound to defend for themselves as they are bound not
5 to destroy for others; they further admit their responsi-
6 bilities to oppose the oppression or exploitation of
7 backward nations.

8 "Both governments are firmly determined that
9 their respective traditional concepts on the character
10 of nations and the underlying moral principles of
11 social order and national life will continue to be
12 preserved and never transformed by foreign ideas or
13 ideologies contrary to these moral principles and
14 concepts.

15 "II. The attitude of both Governments toward
16 the European War.

17 "The Governments of the United States and
18 Japan make it their common aim to bring about the
19 world peace; they shall, therefore, jointly endeavour
20 not only to prevent further extension of the European
21 War but also speedily to restore peace in Europe.

22 "The Government of Japan maintains that its
23 alliance with the Axis Powers was, and is, defensive
24 and designed to prevent the nations which are not at
25 present directly affected by the European War from

1 engaging in it.

2 "The Government of Japan maintains that its
3 obligations of military assistance under the Tripartite
4 Pact between Japan, Germany and Italy will be applied
5 in accordance with the stipulation of Article 3 of
6 the said Pact.

7 "The Government of the United States main-
8 tains that its attitude toward the European War is,
9 and will continue to be, directed by no such aggressive
10 measures as to assist any one nation against another.

11 "The United States maintains that it is
12 pledged to the hate of war, and accordingly, its
13 attitude toward the European War is, and will continue
14 to be, determined solely and exclusively by consider-
15 ations of the protective defense of its own national
16 welfare and security.

17 "III The relations of both nations toward
18 the China Affair.

19 "The Government of the United States,
20 acknowledging the three principles as enunciated in
21 the KONOYE Statement and the principles set forth
22 on the basis of the said three principles in the
23 treaty with the Nanking Government as well as in the
24 Joint Declaration of Japan, Manchukuo and China and
25 relying upon the policy of the Japanese Government

1 to establish a relationship of neighborly friendship
2 with China, shall forthwith request the Chiang Kai-
3 shek regime to negotiate peace with Japan.

4 "IV Commerce between both nations.

5 "When official approbation to the present
6 understanding has been given by both Governments,
7 the United States and Japan shall assure each other
8 to mutually supply such commodities as are, respective-
9 ly, available or required by either of them. Both
10 Governments further consent to take necessary steps
11 to the resumption of normal trade relations as formerly
12 established under the Treaty of Commerce and Navi-
13 gation between the United States and Japan.

14 "V. Economic activity of both nations in
15 the Southwestern Pacific area.

16 "Having in view that the Japanese expansion
17 in the direction of the Southwestern Pacific area is
18 declared to be of peaceful nature, American cooperation
19 shall be given in the production and procurement of
20 natural resources (such as oil, rubber, tin, nickel)
21 which Japan needs.

22 "VI The policies of both nations affecting
23 political stabilization in the Pacific area.

24 "a. The Government of the United States and
25 Japan jointly guarantee the independence of the

1 Philippine Islands on the condition that the Philippine
2 Islands shall maintain a status of permanent neutrality.
3 The Japanese subjects shall not be subject to any
4 discriminatory treatment.

5 "B. Japanese immigration to the United States
6 shall receive amicable consideration -- on a basis of
7 equality with other nations and freedom from discrim-
8 ination.

9 "Addendum.

10 "The present understanding shall be kept as
11 a confidential memorandum between the Governments of
12 the United States and of Japan.

13 "The scope, character and timing of the
14 announcement of this understanding will be agreed
15 upon by both Governments.

16 "(ANNEX)

17 "ORAL EXPLANATION FOR PROPOSED AMENDMENTS TO
18 THE ORIGINAL DRAFT.

19 "II. Par. 2.

20 "Attitude of Both Governments toward the
21 European War.

22 "Actually the meaning of this paragraph is
23 virtually unchanged but we desire to make it clearer
24 by specifying a reference to the Pact. As long as Japan
25 is a member of the Tripartite Pact, such stipulation

1 as is mentioned in the understanding seems unnecessary.

2 "If we must have any stipulation at all, in
3 addition, it would be important to have one which would
4 clarify the relationship of this understanding to
5 the aforementioned Pact.

6 "III

7 "China Affair.

8 "The terms for China-Japan peace as proposed
9 in the original understanding differ in no substantial
10 way from those herein affirmed as the 'principles of
11 KONOYE'. Practically, the one can be used to explain
12 the other.

13 "We should obtain an understanding, in a
14 separate and secret document, that the United States
15 would discontinue her assistance to the Chiang Kai-shek
16 regime if Chiang Kai-shek does not accept the advice
17 of the United States that he enter into negotiations
18 for peace.

19 "If, for any reason, the United States finds
20 it impossible to sign such a document, a definite
21 pledge by some highest authorities will suffice.

22 "The three principles of Prince KONOYE as
23 referred to in this paragraph are:

24 "1. Neighborly friendship;

25 "2. Joint defense against communism;

1 "3. Economic cooperation -- by which
2 Japan does not intend to exercise economic monopoly
3 in China nor to demand of China a limitation in the
4 interests of Third Powers.

5 "The following are implied in the afore-
6 side principles:

7 "j. Mutual respect of sovereignty and
8 territories;

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1 "2. Mutual respect for the inherent
2 characteristics of each nation cooperating as good
3 neighbors and forming a Far Eastern nucleus contrib-
4 uting to world peace;

5 "3. Withdrawal of Japanese troops from
6 Chinese territory in accordance with an agreement
7 to be concluded between Japan and China;

8 "4. No annexation, no indemnities;

9 "5. Independence of Manchoukuo.

10 "III.

11 "Immigration to China.

12 "The stipulation regarding large-scale
13 immigration to China has been deleted because it
14 might give an impression, maybe a mistaken impression,
15 to the Japanese people who have been offended by the
16 past immigration legislation of the United States,
17 that America is now taking a dictating attitude even
18 toward the question of Japanese immigration in China.

19 "Actually, the true meaning and purpose of
20 this stipulation is fully understood and accepted by
21 the Japanese Government.

22 "IV.

23 "Naval, Aerial and Mercantile Marine Relations.

24 "(a) and (c) of this section have been
25 deleted not because of disagreement but because it

1 would be more practical, and possible, to determine
2 the disposition of naval forces and mercantile marine
3 after an understanding has been reached and relations
4 between our two countries improved; and after our
5 present China commitments are eliminated. Then we will
6 know the actual situation and can act accordingly.

7 "Courtesy visit of naval squadrons.

8 "This proposal, (b) of IV might better be
9 made a subject of a separate memorandum. Particular
10 care must be taken as to the timing, manner and scope
11 of carrying out such a gesture.

12 "V.

13 "Gold Credit.

14 "The proposal in the second paragraph of V
15 has been omitted for the same reasons as suggested the
16 omission of paragraphs (a) and (c).

17 "VI.

18 "Activity in Southwestern Pacific Area.

19 "The words, in the first paragraph, 'without
20 resorting to arms,' have been deleted as inappropriate
21 and unnecessarily critical. Actually, the peaceful
22 policy of the Japanese Government has been made clear
23 on many occasions in various statements made both by
24 the Premier and the Foreign Minister.

25 "VIII (VII).

1 "Political Stabilization in the Pacific Area.

2 "As the paragraph (a) implying military and
3 treaty obligation would require, for its enactment,
4 such a complicated legislative procedure in both
5 countries, we consider it inappropriate to include
6 this in the present understanding.

7 "Paragraph (b) regarding the independence
8 of the Philippine Islands has been altered for the
9 same reason.

10 "In paragraph (c) (d) the words 'and to
11 the Southwestern Pacific Area' have been omitted
12 because such questions should be settled, as necessity
13 arises, through direct negotiation with the authorities
14 in the Southwestern areas by the Governments of the
15 United States and of Japan respectively.

16 "Conference.

17 "The stipulation for holding a Conference
18 has been deleted. We consider that it would be better
19 to arrange, by an exchange of letters, that a conference
20 between the President and the Premier or between suit-
21 able representatives of theirs will be considered when
22 both the United States and Japan deem it useful to
23 hold such a conference after taking into due con-
24 sideration the effect resulting from the present
25 understanding. "

1 "Announcement.

2 "In regard to the statement to be issued
3 on the successful conclusion of the present under-
4 standing a draft will be prepared in Tokyo and
5 cabled to Washington for the consideration of the
6 United States Government."
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1 We offer in evidence I. P. S. document
2 No. 220C (27) from exhibit for identification 58,
3 Volume II. This is a draft suggestion from the
4 Secretary of State to the Japanese Ambassador on
5 May 16, 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLEK OF THE COURT: Prosecution's docu-
8 ment No. 220C (27) will receive exhibit No. 1071.

9 (Whereupon, the document above
10 referred to was marked prosecution's
11 exhibit No. 1071 and received in evidence.)

12 MR. E. WILLIAMS: We read prosecution's
13 exhibit No. 1071:

14 "(Annex 2)

15 "DRAFT SUGGESTION A HANDED BY THE SECRETARY
16 OF STATE TO THE JAPANESE AMBASSADOR ON MAY 16, 1941.

17 "II. THE ATTITUDES OF THE UNITED STATES
18 AND OF JAPAN TOWARD THE EUROPEAN WAR.

19 "The Government of Japan declares that the
20 purpose of its Axis Alliance was and is defensive and
21 is designed to prevent the nations which are not at
22 present engaged in the European war from participating
23 therein, and declares that its obligations of military
24 assistance under the Tripartite Pact between Germany,
25 Japan and Italy come into force only if and when one

1 of the parties of the pact is aggressively attacked
2 by a power not at present involved in the European
3 hostilities.

4 "The Government of the United States de-
5 clares that its attitude toward the European hostili-
6 ties is and will continue to be determined solely
7 and exclusively by considerations of protection and
8 self-defense: its national security and the defense
9 thereof.

10 "The Government of Japan further declares
11 that it is under no commitment under its Axis Alliance
12 or otherwise which is inconsistent with the terms of
13 the present declaration of policy and intention agreed
14 upon between the Government of Japan and the Government
15 of the United States.

16 "(Annex 3)

17 "DRAFT SUGGESTION B HANDED BY THE SECRETARY
18 OF STATE TO THE JAPANESE AMBASSADOR ON MAY 16, 1941.

19 "III. CHINA AFFAIRS.

20 "When this declaration of policy and in-
21 tention, including the provisions of this section,
22 is agreed upon and both Governments have given it
23 their approval and commitment, the President of the
24 United States will suggest to the Government of Japan
25 and the Government of China that those Governments

1 enter into a negotiation for a termination of
2 hostilities and resumption of peaceful relations
3 on a basis as follows:

4 "a. Neighborly friendship.

5 "b. Mutual respect of sovereignty and
6 territories.

7 "c. Withdrawal of Japanese troops from
8 Chinese territory in accordance with a schedule
9 to be agreed upon.

10 "d. No annexation.

11 "e. No indemnities.

12 "f. Equality of commercial opportunity
13 in terms of and with conditions of fair treatment
14 for all concerned.

15 "g. Parallel measures of defense against
16 subversive activities from external sources.

17 "h. The question of the future of Man-
18 churia to be dealt with by friendly negotiations.

19 "(Annex 4)

20 "DRAFT SUGGESTION C HANDED BY THE SECRETARY
21 OF STATE TO THE JAPANESE AMBASSADOR ON MAY 16, 1941.

22 "V. ECONOMIC ACTIVITY OF BOTH NATIONS IN
23 THE SOUTHWESTERN PACIFIC AREA.

24 "On the pledged basis of guarantee that
25 Japanese activity and American activity in the

1 Southwestern Pacific area shall be carried on by
2 peaceful means, the Japanese Government and the
3 Government of the United States agree to cooperate
4 each with the other toward ensuring on the basis of
5 equality of opportunity equal access by Japan and
6 by the United States to supplies of natural resources
7 (such as oil, rubber, tin, nickel) which each coun-
8 try needs for the safeguarding and development of
9 its own economy."

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1 We offer in evidence IPS document 219P (75)
2 from exhibit for identification 58, Volume I. This
3 is an excerpt from statement of Mr. Grew to MATSUOKA,
4 dated May 17, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (75) will receive exhibit No. 1072.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1072 and received in evidence.)

11 MR. E. WILLIAMS: We read prosecution's
12 exhibit No. 1072:

13 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
14 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS
15 (MATSUOKA)

16 "Excerpt.

17 No. 1802

"TOKYO, May 17, 1941.

18 "EXCELLENCY: With reference to my note No.
19 1793 of May 6, 1941, concerning repeated indiscrimi-
20 ate bombing of Kunming by Japanese aircraft, and the
21 consequent danger to American lives and damage to
22 American property, I have the honor to inform Your
23 Excellency that the American Consul at Kunming has
24 reported that the Consulate was again damaged during
25 a Japanese air raid on May 12, 1941. Fragments of

1 bombs were scattered in the Consulate Compound and
2 one piece broke through a window into a residence
3 bedroom.

4 "Moreover, during this same raid, the larger
5 part of the Compound occupied by Mr. Stanley McGeary,
6 an American clerk of the Consulate, was destroyed
7 and his residence so damaged as to render it barely
8 habitable, and for the third time recently the
9 China Inland Mission, where a number of Americans
10 live, was damaged and the residence there of Mr. E.
11 L. Crapuchettes, an American citizen, was partly
12 demolished."

13 We now tender in evidence IPS document No.
14 4060-A which is a document taken from the Nuernberg
15 files and is a telegram from Ott to Ribbentrop, dated
16 May 18, 1941, and is numbered 85,107-8.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 4060-A will receive exhibit No. 1073.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1073 and received in evidence.)

23 MR. E. WILLIAMS: We now read prosecution's
24 exhibit No. 1073:
25

1 "Telegram (Secret Cipher Process)

2 "Tokyo, 18 May 1941 Arrival 18 May 1941

3 "No. 759 of 17 May

4 "Marginal Note: Sent on to FUSSEL under
5 No. 1573 18 May 3.25 hours Tel. Ktr.

6 "For the German Foreign Minister

7 "Re: Telegram of 15th, No. 622.

8 "Today I have carried out the instructions
9 of the above mentioned telegram during a long con-
10 versation with Foreign Minister MATSUOKA.

11 "I stressed the especially immense regret
12 of the German Government that the German views of 11
13 May were not awaited before the reply to WASHINGTON
14 was sent off. Making use of the arguments of tele-
15 gram No. 592 of 11 May and No. 622 of 15 May, I have
16 pointed to the necessity of making America give the
17 most clear and precise assurance not to participate
18 in the European conflict; I also pointed out that the
19 formulation employed in the Japanese reply re Article
20 3 of the Tripartite Pact, constitutes the absolute
21 minimum of what must be demanded in view of the Tri-
22 partite Pact. The German Government must insist on
23 being immediately informed on the American reply, as
24 well as to be admitted to further negotiations be-
25 tween JAPAN and the USA"

1 "MATSUOKA pointed to his oral communication
2 to HULL, reported in telegram No. 733 of (groups
3 garbled), as well as to his conversations with the
4 British and American ambassadors, reported in tele-
5 gram 750 of 15 May, which showed that he would not
6 jolt the Tripartite Pact. During a secret Cabinet
7 Session he had called upon all members of the Govern-
8 ment clearly to acknowledge Japan's obligations under
9 the Tripartite Pact on their part too, in all of their
10 conversations. All members of the Cabinet had agreed
11 unanimously. Besides he views the chances of the
12 Japanese-American Negotiations most skeptically, and
13 as heretofore he counts on America's entry into the
14 War in the near future. His sole motive in the neg-
15 otiations with USA is, if possible, to postpone or
16 prevent the entry of the United States into the war
17 and furthermore to eliminate the increase of the
18 present American assistance to England.

19 "HULL has not yet taken a stand regarding
20 the Japanese proposal, merely promising a study which
21 would take a certain amount of time. He will immedi-
22 ately inform us of the American reply, also keeping
23 abreast, and as far as possible consulting with the
24 allied governments of Germany and Italy on the fur-
25 ther course of the negotiations. When I demanded to

1 be admitted to the coming phase, he replied that he
2 would meet our desire to a great extent; he could,
3 however, not promise always to await the views of the
4 Axis powers, especially when a quick utterance was
5 absolutely essential. I cogently requested MATSUOKA
6 to do nothing without Japan's allies in these nego-
7 tiations, which concerned the Tripartite Pact in its
8 entirety.

9 "Domestic political influences, to whose
10 pressure MATSUOKA has yielded in the face of the
11 allegedly imminent American entry into the War, can
12 be found among certain anglophiles of the Court,
13 such as Imperial Household Minister MATSUDAIRA, ex-
14 ponent of industry and big money, such as Minister
15 Without Portfolio OGURA, and some influential Navy
16 officers with whom Ambassador Admiral OPTURA/TN:
17 NOMURA/ has apparently worked together in WASHINGTON.
18 This group was joined by elements of the army who
19 want to gain time in order to retain freedom of
20 action in view of the uncertainty of RUSSIA's future
21 attitude. Minister of the Interior, HIRANUMA, has
22 probably acted in the same way; he had to resign when
23 the German-Russian non-aggression pact was concluded,
24 being a champion of a German-Japanese alliance against
25 RUSSIA. Finally, the activist group which is closely

1 working together with the Embassy, is at present
2 weakened by the serious illness of SHIRATORI who
3 was left the political struggle on account of a
4 serious and apparently incurable illness.

5 "OTT"
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1 We now offer in evidence IPS document No.
2 220C (18) from exhibit for identification 58, Volume
3 II, which is an excerpt from a summary of conversa-
4 tions prepared by the Department of State on May 19,
5 1942 but relating to conversations between United
6 States and Japan in 1941.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 220C (18) will receive exhibit No. 1074.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1074 and received in evidence.)

13 MR. E. WILLIAMS: We read prosecution's
14 exhibit No. 1074:

15 "SUMMARY OF CONVERSATIONS

16 "MEMORANDUM PREPARED IN THE DEPARTMENT OF STATE

17 "(WASHINGTON,) MAY 19, 1942.

18 "ACCOUNT OF INFORMAL CONVERSATIONS BETWEEN THE GOVERN-
19 MENT OF THE UNITED STATES AND THE GOVERNMENT OF JAPAN,
20 1941.

21 "Excerpts.

22 "The equilibrium in the Far East which had
23 been established by the Washington Conference treaties
24 of 1921-1922 became seriously disturbed by the setting
25 up by forceful means in a part of China of a regime

1 under Japanese control under the name of "Manchukuo".
2 This control over Manchuria has been marked by the
3 carrying out of a policy of discrimination which has
4 resulted in forcing out American and other foreign
5 interests.

6 "During the years that followed, Japan went
7 steadily forward in her preparations for expansion by
8 force of arms. In December 1934, she gave notice of
9 her intention to terminate the naval treaty of Feb-
10 ruary 6, 1922. She then proceeded with intensified
11 construction of military and naval armaments, at the
12 same time undertaking, from time to time, limited
13 actions directed toward an extension of her domination
14 over China and involving disregard and destruction of
15 the lawful rights and interests of other countries, in-
16 cluding the United States.

17 "In July 1937, the armed forces of Japan
18 embarked upon large-scale military operations against
19 China. Invading forces of more than a million men oc-
20 cupied large areas along the seaboard and in the cen-
21 tral provinces. In these areas there were set up
22 puppet regimes which instituted systems of controls
23 and monopolies discriminatory in favor of the inter-
24 ests of the invading country.

25 "It has been clear throughout that Japan

1 under Japanese control under the name of "Manchukuo".
2 This control over Manchuria has been marked by the
3 carrying out of a policy of discrimination which has
4 resulted in forcing out American and other foreign
5 interests.

6 "During the years that followed, Japan went
7 steadily forward in her preparations for expansion by
8 force of arms. In December 1934, she gave notice of
9 her intention to terminate the naval treaty of Feb-
10 ruary 6, 1922. She then proceeded with intensified
11 construction of military and naval armaments, at the
12 same time undertaking, from time to time, limited
13 actions directed toward an extension of her domination
14 over China and involving disregard and destruction of
15 the lawful rights and interests of other countries, in-
16 cluding the United States.

17 "In July 1937, the armed forces of Japan
18 embarked upon large-scale military operations against
19 China. Invading forces of more than a million men oc-
20 cupied large areas along the seaboard and in the cen-
21 tral provinces. In these areas there were set up
22 puppet regimes which instituted systems of controls
23 and monopolies discriminatory in favor of the inter-
24 ests of the invading country.

25 "It has been clear throughout that Japan

1 under Japanese control under the name of "Manchukuo".
2 This control over Manchuria has been marked by the
3 carrying out of a policy of discrimination which has
4 resulted in forcing out American and other foreign
5 interests.

6 "During the years that followed, Japan went
7 steadily forward in her preparations for expansion by
8 force of arms. In December 1934, she gave notice of
9 her intention to terminate the naval treaty of Feb-
10 ruary 6, 1922. She then proceeded with intensified
11 construction of military and naval armaments, at the
12 same time undertaking, from time to time, limited
13 actions directed toward an extension of her domination
14 over China and involving disregard and destruction of
15 the lawful rights and interests of other countries, in-
16 cluding the United States.

17 "In July 1937, the armed forces of Japan
18 embarked upon large-scale military operations against
19 China. Invading forces of more than a million men oc-
20 cupied large areas along the seaboard and in the cen-
21 tral provinces. In these areas there were set up
22 puppet regimes which instituted systems of controls
23 and monopolies discriminatory in favor of the inter-
24 ests of the invading country.

25 "It has been clear throughout that Japan

1 has been actuated from the start by broad and ambitious
2 plans for establishing herself in a dominant position
3 in the entire region of the Western Pacific. Her
4 leaders have openly declared their determination to
5 achieve and maintain that position by force of arms
6 and thus to make themselves masters of an area con-
7 taining almost one-half of the entire population of
8 the world. As a consequence, they would have arbi-
9 trary control of the sea and trade routes in that
10 region.

11 "Previous experience and current develop-
12 ments indicate that the proposed "new order" in the
13 Pacific area means, politically, domination by one
14 country. It means, economically, employment of the
15 resources of the area concerned for the benefit of
16 that country and to the ultimate impoverishment of
17 other parts of the area and exclusion of the interests
18 of other countries. It means, socially, the destruc-
19 tion of personal liberties and the reduction of the
20 conquered peoples to the role of inferiors.

21 "It should be manifest to every person that
22 such a program for the subjugation and ruthless ex-
23 ploitation by one country of nearly one-half of the
24 population of the world is a matter of immense signi-
25 ficance, importance and concern to every other nation

1 wherever located.

2 "Notwithstanding the course which Japan has
3 followed during recent years, this Government has made
4 repeated efforts to persuade the Japanese Government
5 that her best interests lie in the development of
6 friendly relations with the United States and with
7 other countries which believe in orderly and peaceful
8 processes among nations. "We have at no time made any
9 threats."

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1 We offer in evidence IPS document No. .
2 1383B (18), a telegram from OSHIMA to MATSUOKA, dated
3 May 20, 1941.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1383B (18) will receive exhibit No. 1075.

7 (Whereupon, the document above re-
8 ferred was marked prosecution's exhibit No.
9 1075 and received in evidence.)

10 MR. E. WILLIAMS: We read prosecution's
11 exhibit No. 1075:

12 "Copy of the Telegram of Ambassador OSHIMA
13 to Foreign Minister MATSUOKA, dispatched on 20 May
14 (T.N. Year is missing) (1941?) No. 567

15 "In connection with the rumor that you are
16 going to America, I heard various rumors here concern-
17 ing the problems of the negotiation between Japan
18 and America. Although from the interview with
19 Ribbentrop on 5th May, I learned that it was not a
20 mere rumor. Although I intended to go on without
21 touching this matter, in view of the tendency of
22 this matter, and considering the future of Japan and
23 of the influence of the Tripartite Pact, I can not
24 remain without some deep thoughts. As I believe that
25 it is my duty to inform you of the opinion of the

1 German staff and also of my frank opinion, I send
2 the separate telegrams No. 568 and No. 569.

3 "What I want to mention to you now is as
4 follows:

5 "You showed me the reason why you did not
6 inform this matter to the Italian Ambassador in Ger-
7 many two times recently. However, presently I have
8 no intentions of sounding out the problem of the con-
9 fidence in me or of my position towards the people
10 during the present critical period when the whole of
11 our nation should act upon the 'Way of the Imperial
12 Subjects' as its primary principle. Much less do I
13 try to sound your opinion, for the practice and tech-
14 nique of diplomacy belong to your department.

15 "But what I cannot understand is that you
16 think it is unnecessary to have me report the opin-
17 ions of the Staffs of Germany and Italy, when the
18 Japanese-American Agreement which has a very delicate
19 relation with the Tripartite Pact, is about to be con-
20 cluded. Therefore, from the standpoint of my duty
21 as an Ambassador to Germany, I could not keep silent,
22 and I expressed my opinion frankly in the separate
23 telegrams, although it might be unnecessary. I beg
24 you to take these circumstances into consideration.
25 (End) "

1 "Copy of the Telegram from Ambassador
2 OSHIMA to Foreign Minister MATSUOKA. No. 568

3 "1. On 3rd May Foreign Minister RIBBENTROP
4 asked me to visit him. When I called on him I was in-
5 formed about the telegram regarding the Japanese-
6 American negotiation. He said that although the tel-
7 egram was to be kept a secret from me and the Italian
8 Ambassador, as a friend to me, he revealed it to me
9 for my personal understanding, since the matter is
10 extremely serious. He then showed me the draft re-
11 garding the agreement proposed by America on 16 April.
12 The draft consisted of four articles. He (RIBBENTROP)
13 confessed that he was quite at a loss to understand
14 the real intention of the Japanese government, so I
15 answered him that Japan was observing the Tripartite
16 Pact as the basis of its diplomacy, as you (Foreign
17 Minister MATSUOKA) had clearly stated on your previ-
18 ous visit to Germany. I further told him that, accord-
19 ingly, there was no reason to conclude such a treaty
20 between Japan and America contrary to the Tripartite
21 Pact. Thus, I avoided being concerned in this matter.

22 "2. But on 9th of May RIBBENTROP asked me
23 to visit him again, and he showed me OTT's telegram
24 of the draft of the intermediary answer of Japan to
25 America and also the telegraphic record of the con-

1 ference between you and OTT which was held on 6th
2 of May. RIBBENTROP seemed to have understood the
3 affair clearly from the frequent telegrams sent by
4 OTT, and according to the said intermediate reply,
5 it is supposed that Japan has consulted regarding
6 the understanding with America to a considerable ex-
7 tent, and to tell you frankly, according to the in-
8 formations that Germany has gathered, from various
9 sources, there is a report that the proposal was made
10 by Japan. Gathering from the conversation of For-
11 eign Minister MATSUOKA and OTT, it seems to me that
12 Foreign Minister MATSUOKA was compelled by a certain
13 group to consent to it. Moreover, it is reported
14 that Foreign Minister MATSUOKA during the course of
15 that conference stated that Japan will participate
16 in a Russo-German war, if it should break out. When
17 Foreign Minister MATSUOKA visited Germany recently,
18 he said, as his personal opinion, that Japan was going
19 to attack SINGAPORE, but it seems that you have
20 changed your opinion.

21 "I have some doubts as to the true inten-
22 tion of ROOSEVELT.

23 "If you should become obliged to conclude
24 this agreement in order to avoid the participation
25 in a remotely possible war, the Tripartite Pact would

1 in reality become meaningless even if it may be poss-
2 ible to hit upon some legal pretext. Moreover, I
3 believe that in Japan's progress, she will lose the
4 chance to establish her right for leadership in East
5 Asia. After lengthy thoughts concerning this prob-
6 lem, I thought of the following two plans from the
7 German viewpoint.

8 "(a) Plan to refuse the proposal of Ameri-
9 ca.

10 "(b) Plan to conclude the Japanese-Ameri-
11 can agreement under the condition that America main-
12 tain a neutral attitude without extending 'convoy'
13 patrol lines.

14 "RIBBENTROP asked my (Ambassador OSHIMA)
15 opinion, saying that he wished to report plan (a)
16 to the Fuhrer as he believed it to be a good one.
17 Therefore, although I did not receive any instruction,
18 I conjectured the intention of the Japanese government
19 from common sense, and, as my personal opinion, insis-
20 ted upon plan (b) explaining that (b) would be much
21 more advantageous to Germany. The reasons that I ex-
22 plained to RIBBENTROP were as follows:

23 "If plan (b) are adopted, Germany will be
24 able to fight a single combat against Britain and
25 terminate the war in a short time. Again, although

1 it might be wishful thinking, perhaps the 'ROOSEVELT
2 faction' may recognize the fact that America's assis-
3 tance to Britain would be useless, and would make it
4 a reason to alleviate America's assistance to Britain.

5 "Even in case of its failure, it is useful
6 at least for ascertaining ROOSEVELT's actual inten-
7 tions concerning the assistance to Britain. Thirdly,
8 it will enable those Japanese who want the cooperation
9 with America to realize its impossibility. However,
10 RIBBENTROP said that America would utilize this nego-
11 tiation to estrange Japan from Germany, as long as
12 this negotiation continued, and he ^{*cited the content of*} ~~repeated the same~~
13 ~~thing in~~ telegram No. 545 (dispatched to TURKEY, No.
14 11). He further stated that it is possible for America
15 to utilize it as propaganda material to convince the
16 anti-war faction in America that America could now
17 advance to the Atlantic Ocean because of the
18 elimination of apprehension in Pacific area, and
19 consequently the situation would become very dangerous
20 to Germany. Therefore, he did not agree with my
21 opinion, and said that at any rate this problem has
22 not yet been decided by the Fuhrer, so he wanted
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1 to send a telegram on the evening of the same day
2 to the Fuhrer, who was out of BERLIN, for a decision.
3 At the same time, he wished to report my opinion to
4 the Fuhrer. Then I asked him whether or not he
5 had consulted with Italy already. To my question
6 he answered that Italy had already received all
7 the reports from Ambassador INDERLI, but he had
8 not yet consulted directly with the Italian govern-
9 ment, but that as soon as he received the decision
10 of the Fuhrer, he wished to send the telegram to
11 OTT so that he might consult Italy.

12 "2. As I made a promise to Prime Minister
13 MUSSOLINI to visit him at the beginning of this
14 month, I started for ROME on the night of the 10th.
15 On the morning of the 12th, Minister BISMARCK visited
16 me, and by orders of RIBBENTROP, he showed me the
17 telegraphic instructions to OTT and added that the
18 Italian government had the same opinion as Germany.
19 After I read that instruction, I recognized that the
20 Fuhrer had made a different decision from that of
21 RIBBENTROP. In the afternoon of 13th, RIBBENTROP
22 flew unexpectedly to ROME and met MUSSOLINI and
23 CIANO on the same day, and asked me to visit him
24 on the morning of the 14th. When I went to see
25 him, he showed me the telegram from OTT concerning

1 the interview on the 12th, between you (Foreign
2 Minister MATSUOKA) and the two Ambassadors of
3 Germany and Italy in Tokyo. He expressed deep
4 discontentment at your statement that you had
5 been in a position where you were compelled to
6 commence with the negotiation with America and
7 that because of internal reasons, you were unable
8 to await the arrival of opinions from Germany and
9 Italy. He asked reproachfully why couldn't you
10 await the telegraphic instructions when they were
11 sure to arrive in several days. I told him that
12 although I was not aware of the circumstances,
13 I guessed that Japan was compelled to take such
14 a measure because of the following reasons: It
15 was necessary for Japan to conclude the agreement
16 as soon as possible to maintain secrecy, and in
17 Japan such important negotiations as this must be
18 privately reported to the Emperor. I added that
19 I believed that the agreement was not made out of
20 inconsideration to Germany and Italy. RIBBENTROP,
21 however, would not readily accept my words. He
22 said that when you (Foreign Minister MATSUOKA)
23 visited Germany, he met you (MATSUOKA) many times
24 but he did not hear anything substantial concerning
25 the Japanese-American agreement which is closely

1 related to the Tripartite Pact. He said that it
2 came as a great surprise to him when he received
3 such a report soon after you (Foreign Minister
4 MATSUOKA) returned to Japan. He continued that
5 frankly he was much afraid that the agreement might
6 make the Tripartite Pact automatically meaningless.
7 He also said that as he (RIBBENTROP) had remarked
8 the other day, he did not believe ROOSEVELT from
9 the very beginning, and that although his opinion
10 was to advise Japan to refuse the American proposal
11 he had to send a telegraphic instruction contrary
12 to his own opinion. Hearing that I told him that
13 it was a great pity to have a misunderstanding
14 between Japan and Germany concerning this matter,
15 so I gave advice to him that it was very necessary
16 to inform OTT of his opinion, to make the facts
17 clear and certain. When I visited Foreign Minister
18 CIANO on the evening of the same day, it seemed that
19 an interview had already taken place between RIBBENTROP,
20 MUSSOLINI and CIANO, since CIANO expressed the same
21 opinion as RIBBENTROP.
22

23 "3. No sooner did I return to BERLIN on
24 May 17th, than I was asked by Vice Minister WEISEGGER
25 to visit him. When I called on him, he, by the
telegraphic order of RIBBENTROP at FUSSELL, showed

1 me a draft of Japan's answer to America which was
2 telegraphed by OTT on the 14th, and the draft of
3 the instruction of the German government to OTT
4 concerning Japan's answer to America. He (WEISEGGER)
5 said that as he received the order only to show me
6 (Ambassador OSHIMA) the telegram, he will not express
7 any opinion, but that in view of the present political
8 situation, the German government had a deep concern
9 about the result of this problem. He added that
10 the German government attached great importance to
11 Foreign Minister MATSUOKA's statement to OTT to
12 the effect that Japan would attack the U.S.S.R.
13 in case of a Russo-German war. He (WEISEGGER)
14 then asked me whether or not Foreign Minister
15 MATSUOKA understood the true state of affairs
16 between Germany and Russia when he returned from
17 his stay in Germany. I told him that I did not
18 know what the Foreign Minister had revealed con-
19 cerning Japan's attitude toward a Russo-German
20 war, but that in Japan, such an important matter
21 as this should be decided by the Emperor, and that
22 probably Foreign Minister MATSUOKA must have expressed
23 his personal opinion. I further added that since
24 the Foreign Minister had many interviews with Foreign
25 Minister RIBBENTROP during his stay in Germany I had

1 no doubt that you (MATSUOKA) were aware of the real
2 relationship between Germany and Soviet Russia. (End) "
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1 "Telegram No. 569 sent by Ambassador
2 OSHIMA to Foreign Minister MATSUOKA.

3 "1. As I reported in the separate telegram,
4 the German government has a deep dissatisfaction con-
5 cerning the problem of the Japanese-American agreement,
6 and has much apprehension about the future of the
7 Tripartite Pact. Since America is actually partici-
8 pating in the war, if Japan, ignoring the present
9 circumstances, should conclude an agreement with America
10 it would be very natural for Germany to suspect that
11 Japan is trying to check America's participation in
12 the war, and at the same time trying to avoid her own
13 obligation of participating in the war. When you came
14 to Germany, all the people in Germany heartily wel-
15 comed you, and delighted in the strengthening of the
16 'Axis'. Since this is directly after that occasion,
17 the feeling that Germany was betrayed is very strong.

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19 "2. I am well aware of Japan's desire to
20 solve the China Incident as soon as possible in order
21 to have time to spare for politics, economy and other
22 fields. However, the European war is developing very
23 favourably for Germany and Italy. In a few months,
24 very important developments are expected, and if at
25 this time Japan should lose the confidence and trust
of Germany and Italy who will become the leaders in

1 Europe, simply for an immediate profit, it is very
2 unfavourable. Needless to say, America seems to have
3 proposed the agreement as a temporary measure for es-
4 tranging Japan from the Tripartite Alliance. I am
5 afraid that such a two-faced diplomacy should lead Japan
6 to an absolute international isolation during the cri-
7 tical period which may arise after the war.

8 "3. Aside from the point that if Japan solves
9 the China Incident with the support of America, she
10 will leave an uneradicated root of future calamity, I
11 express my apprehension that should Japan lose this op-
12 portunity to expand southward and the possibility of
13 attacking SINGAPORE at random, she will invite the con-
14 tempt of not only America and Britain, but also those
15 of Germany and Italy. And, should America, taking
16 advantage of the elimination of fear in the Pacific
17 area, reinforce her assistance to Britain, the devel-
18 opment of the European War would greatly be affected
19 although America may avoid nominal participation in
20 the war. Subsequently, Japan may suffer from some un-
21 expected calamity. Moreover, should Japan abandon her
22 right to leadership in the Southern regions for the
23 sake of America, it is clear that Japan cannot stress
24 the leadership to Germany and Italy. This will mean
25 that Japan abandoned her great mission to establish

1 a new order in the Greater East Asia.

2 "4. Last autumn, Japan concluded the Tripar-
3 tite Pact, and the road our people should follow was
4 made clear. But, if Japan should conclude the Japa-
5 nese-American Agreement now, our people in Japan would
6 be bewildered as to which path they should follow.
7 Moreover, our friendly countries will despise Japan
8 and will not trust Japan any longer. Subsequently,
9 Japan will fall into international isolation, and will
10 gain nothing. Therefore, I hope earnestly that the
11 Japanese Government will embody the following two
12 points, if the conclusion of the agreement is unev-
13 able:

14 "(a) As conditions to the conclusion of the
15 Japanese-American Agreement, it is absolutely necessary
16 for Japan that she should make use of her situation
17 over America, and establish the idea of the Tripartite
18 Pact, by upholding the principle that Japan is to facil-
19 itate the battle of Germany and Italy against Britain.
20 Again, Japan should demand America's neutrality in
21 the European war, and at the same time, make clear that
22 Japan has an obligation to participate in the war,
23 based upon the Tripartite Pact. If America does not
24 accept our proposal, Japan must not conclude the agree-
25 ment."

1 "(b) It is most unfavourable for Japan to
2 give the impression to Germany and Italy that the Japa-
3 nese government is compelled to conclude the agree-
4 ment on account of the increasing influence of a party
5 in Japan that wants status quo. The conclusion of
6 the Japanese-American agreement will only make Germany
7 and Italy increasingly suspect that Japan took this
8 action in order to avoid the obligation to participate
9 in the war. Therefore, concerning the Japanese-Ameri-
10 can negotiation, Japan has to exchange frank opinions
11 with Germany and Italy, and must thoroughly convince
12 Germany and Italy about the purport of article (a)."
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1 MR. E. WILLIAMS: Offering in evidence
2 IPS document No. 1383-B (20), a telegram from OSHIMA
3 to Foreign Minister MATSUOKA, dated May 21, 1941.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLEK OF THE COURT: Prosecution's document
6 No. 1383-B (20) will receive exhibit No. 1076.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1076 and received in evidence.)

10 MR. E. WILLIAMS: We read prosecution's
11 exhibit No. 1076:

12 "Minister - Vice-Minister. submitted separately.
13 Chief of AMERICA Bureau. Chief of EUROPE-ASIA Bureau.
14 Translator's Note. These notations were marked in
15 the margin.

16 "SECRET -- Embassy CHO Code.

17 "(Translator's Note. In the copy, there are 2
18 stamps indicating TOP SECRET.)

19 "Dispatched A.M. May 21, 1941 from BERLIN.

20 "Arrived P.M. May 21, 1941 this office.

21 "To the Foreign Minister from Ambassador OSHIMA.

22 "No. 575.

23 "The JAPANESE-AMERICAN Agreement now under
24 negotiation, is thought to be important change in
25 the national policy, and it concerns greatly with

1 the plans of the JAPANESE military and naval
2 attaches in Germany. Therefore, recognizing the
3 fact that it is necessary to transmit this agreement
4 to them beforehand, telegrams No. 567, No. 568, and
5 No. 569 were sent exclusively to both attaches today,
6 the 20th. As regards this matter, I wish you will
7 inform the War Minister, the Naval Minister, the
8 Chief of General Staff, and the Chief of the Navy
9 General Staff."

10 THE PRESIDENT: Mr. Chief of Counsel.

11 MR. KEENAN: May it please the Tribunal, we
12 offer in evidence IPS document 220C (28) from ex-
13 hibit for identification 58, Volume 2, an excerpt
14 from memorandum of conversation between Ambassador
15 Morris and the Secretary of State, 28 May 1941.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 220C (28) will receive exhibit No. 1077.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution's exhibit No.
21 1077 and received in evidence.)

22 MR. KEENAN: (heading)

23 "MEMORANDUM OF A CONVERSATION. (WASHINGTON)
24 May 28, 1941.

25 "The Ambassador commented that under the

1 Japanese consitutional system other ministers in
2 addition to the Foreign Minister are consulted in
3 matters relating to foreign policy.

4 "The Secretary said that in his consideration
5 of the matters we have been exploring a difficulty
6 has been presented by questions involving the re-
7 lations of our respective countries toward the
8 European war. Mr. MATSUOKA since his return from
9 Europe, according to reports widely published in the
10 press, has been making declarations on every occasion
11 in regard to Japan's obligations under the Tri-
12 partite Alliance in the matter of supporting Ger-
13 many in the event of American entry into the war.
14 He said that, if we went into an agreement with
15 Japan, critics would assert, unless the Japanese
16 Government could clarify its attitude toward its ob-
17 ligations under the Tripartite Alliance in the event
18 that the United States should be drawn into the
19 European war through action in the line of self-
20 defense, that there was no assurance as to Japan's
21 position. The Secretary referred to the President's
22 speech of the previous evening and reviewed that the
23 Secretary had previously said publicly and also to
24 the Ambassador in regard to the attitude of this
25 country toward maintaining the freedom of the seas

1 against Hitler as an essential measure of self-
2 defense.

3 "The Secretary then brought up the question of
4 the withdrawal of Japanese troops from China and
5 asked the Ambassador to indicate what the Japanese
6 Government had in mind.

7 "The Ambassador indicated, in reply to specific
8 questions, that such evacuation would not include
9 troops retained in China under the provision of
10 cooperative defense against communistic activities.
11 He contemplated an arrangement being negotiated with
12 China similar to the Boxer Protocol under which
13 Japanese troops would be stationed for an indefinite
14 period in North China and Inner Mongolia. The Am-
15 bassador said he could not indicate approximately
16 how many troops it was proposed to station in China
17 under such an arrangement or define precisely the
18 areas in which the arrangement would be operative.

19 "The Secretary commented that it seemed to him
20 important that relations between China and Japan should
21 be adjusted on a basis which would offer permanent
22 promise of friendship between the two countries; that
23 the continued presence of Japanese troops in China
24 would be a factor operating against such friendship,
25 as the presence of these troops tended to produce
incidents and friction."

1 MR. KEENAN: Prosecution now offers in evidence
2 IPS document 220C (29) from exhibit for identification
3 58, volume 2. This is American draft of proposal,
4 dated 31 May 1941, handed to Ambassador NOMURA.

5 THE PRESIDENT: Admitted on the usual terms.

6 MR. KEENAN: I wish to state respectfully to
7 the Court that the prosecution places great emphasis
8 upon this document for reasons that will be obvious
9 in its examination.

10 CLERK OF THE COURT: Prosecution's document
11 No. 220C (29) will receive exhibit No. 1078.

12 (Whereupon, the document above referred
13 to was marked prosecution's exhibit No. 1078 and
14 received in evidence.)

15 MR. KEENAN: (Reading)

16 "American Draft Proposal Handed to the
17 Japanese Ambassador (NOMURA) on May 31, 1941.

18 "Washington, May 31, 1941.

19 "Unofficial, Exploratory and without Commit-
20 ment.

21 "The Governments of the United States and of
22 Japan accept joint responsibility for the initiation
23 and conclusion of a general agreement of understand-
24 ing as expressed in a joint declaration.

25 "Without reference to specific causes of

1 recent estrangement, it is the sincere desire of both
2 Governments that the incidents which led to the deter-
3 ioration of amicable sentiment between their countries
4 should be prevented from recurrence and corrected in
5 their unforeseen and unfortunate consequences..

6 "It is our present hope that, by a cooper-
7 ative effort, the United States and Japan may contri-
8 bute effectively toward establishment and preservation
9 of peace in the Pacific area; and, by the rapid con-
10 summation of an amicable understanding, arrest, if not
11 dispel, the tragic confusion that now threatens to
12 engulf civilization.

13 "For such decisive action, protracted negoti-
14 ations would seem ill-suited and weakening. Both
15 Governments, therefore, desire that adequate instru-
16 mentalities should be developed for the realization of
17 a general understanding which would bind, meanwhile,
18 both Governments in honor and in act.

19 "It is the belief of the two Governments
20 that such an understanding should comprise only the
21 pivotal issues of urgency and not the accessory con-
22 cerns which could be deliberated at a conference.

23 "Both Governments presume to anticipate that
24 they could achieve harmonious relations if certain
25 situations and attitudes were clarified or improved;

1 to wit:

2 "1. The concepts of the United States and
3 of Japan respecting international relations and the
4 character of nations.

5 "2. The attitudes of both Governments toward
6 the European war.

7 "3. Action toward a peaceful settlement be-
8 tween China and Japan.

9 "4. Commerce between both nations.

10 "5. Economic activity of both nations in the
11 Pacific area.

12 "6. The policies of both nations affecting
13 political stabilization in the Pacific area.

14 "7. Neutralization of the Philippine Islands.

15 "Accordingly, the Government of the United
16 States and the Government of Japan have come to the
17 following mutual understanding and declaration of
18 policy:

19 "I. The Concepts of the United States and
20 of Japan respecting international relations and the
21 character of nations.

22 "Both Governments affirm that their national
23 policies are directed toward the foundation of a last-
24 ing peace and the inauguration of a new era of
25

1 reciprocal confidence and cooperation among our peoples.

2 "Both Governments declare that it is their
3 traditional, and present, concept and conviction that
4 nations and races compose, as members of a family,
5 one household; each equally enjoying rights and admitting
6 responsibilities with a mutuality of interests regulated
7 by peaceful processes and directed to the pursuit of
8 their moral and physical welfare, which they are bound
9 to defend for themselves as they are bound not to
10 destroy for others; they further admit their responsi-
11 bilities to oppose the oppression or exploitation of
12 other nations.

13 "Both Governments are firmly determined that
14 their respective traditional concepts on the character
15 of nations and the underlying moral principles of
16 social order and national life will continue to be
17 preserved and never transformed by foreign ideas or
18 ideologies contrary to those moral principles and con-
19 cents.

20 "II. The attitudes of both Governments toward
21 the European war.

22 "The Government of Japan maintains that the
23 purpose of the Tripartite Pact was, and is, defensive
24 and is designed to prevent the participation of nations
25 in the European war not at present involved in it."

1 "Obviously, the provisions of the Pact do not apply to
2 involvement through acts of self-defense.

3 "The Government of the United States maintains
4 that its attitude toward the European hostilities is
5 and will continue to be determined solely and exclusive-
6 ly by considerations of protection and self-defense;
7 its national security and the defense thereof.

8 "III. Action toward a peaceful settlement
9 between China and Japan.

10 "The Japanese Government having communicated
11 to the Government of the United States the general
12 terms within the framework of which the Japanese Govern-
13 ment will propose the negotiation of a peaceful settle-
14 ment with the Chinese Government, which terms are
15 declared by the Japanese Government to be in harmony
16 with the KONOYE Principles regarding neighborly friend-
17 ship and mutual respect of sovereignty and territories
18 and with the practical application of those principles,
19 the President of the United States will suggest to the
20 Government of China that the Government of China and
21 the Government of Japan enter into a negotiation on a
22 basis mutually advantageous and acceptable for a ter-
23 mination of hostilities and resumption of peaceful
24 relations.
25

"Note: (The foregoing draft of Section III

1 is subject to further discussion of the question of
2 cooperative defense against communistic activities,
3 including the stationing of Japanese troops in
4 Chinese territory.)"

5 THE PRESIDENT: This is a convenient break,
6 Mr. Keenan. We will recess now for fifteen minutes.

7 (Whereupon, at 1445, a recess was
8 taken until 1500, after which the proceedings
9 were resumed as follows:)

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MARSHAL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: Mr. Chief of Counsel.

MR. KEENAN: (Reading)

"IV. Commerce between both nations.

"When official approbation to the present understanding has been given by both governments, the United States and Japan shall assure each other mutually to supply such commodities as are, respectively, available and required by either of them. Both Governments further consent to take necessary steps to resume normal trade relations as formerly established under the Treaty of Commerce and Navigation between the United States and Japan. If a new commercial treaty is desired by both Governments, it would be negotiated as soon as possible and be concluded in accordance with usual procedures.

"V. Economic activity of both nations in the Pacific area.

"On the basis of mutual pledges hereby given that Japanese activity and American activity in the Pacific area shall be carried on by peaceful means and in conformity with the principle of non-discrimination in international commercial relations,

1 the Japanese Government and the Government of the
2 United States agree to cooperate each with the other
3 toward obtaining non-discriminatory access by Japan
4 and by the United States to commercial supplies of
5 natural resources (such as oil, rubber, tin,
6 nickel) which each country needs for the safe-
7 guarding and development of its own economy.

8 "VI. The policies of both nations effecting
9 political stabilization in the Pacific area.

10 "The Japanese Government and the Government
11 of the United States declare that the controlling
12 policy underlying this understanding is peace in
13 the Pacific area; that it is their fundamental
14 purpose, through cooperative effort, to contribute
15 to the maintenance and the preservation of peace
16 in the Pacific area; and that neither has territorial
17 designs in the area mentioned.

18 "VII. Neutralization of the Philippine
19 Islands.

20 "The Government of Japan declares its
21 willingness to enter at such time as the Government
22 of the United States may desire into negotiation
23 with the Government of the United States with a
24 view to the conclusion of a treaty for the neutrali-
25 zation of the Philippine Islands, when Philippine

1 independence shall have been achieved."

2 The following annex is a part of the
3 document as delivered.

4 "ANNEX AND SUPPLEMENT ON THE PART OF THE
5 JAPANESE GOVERNMENT

6 "III. Action toward a peaceful settlement
7 between China and Japan.

8 "The basic terms as referred to in the
9 above section are as follows:

10 "1. Neighborly friendship.

11 "2. (Cooperative defense against injurious
12 communistic activities--including the stationing of
13 Japanese troops in Chinese territory.) Subject to
14 further discussion.

15 "3. Economic cooperation -- by which China
16 and Japan will proceed on the basis of non-discrimi-
17 nation in international commercial relations.

18 "4. Mutual respect of sovereignty and
19 territories.

20 "5. Mutual respect for the inherent
21 characteristics of each nation cooperating as
22 good neighbors and forming a Far Eastern nucleus
23 contributing to world peace.

24 "6. Withdrawal of Japanese military and
25 naval forces from Chinese territory and Chinese

1 waters as promptly as possible and in accordance
2 with an agreement to be concluded between Japan and
3 China.

4 "7. No annexation.

5 "8. No indemnities.

6 "9. Amicable negotiation in regard to
7 Manchukuo."
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1 If the Court please, I would like to offer
2 with its permission an explanation that it is -- we
3 believe it will be obvious from the foregoing and
4 subsequent documents that we were requested by the
5 Japanese to state -- the United States, to state its
6 views with reference to the European War, and this
7 was compliance with that request.

8 We offer in evidence IPS document 220-C(30)
9 from exhibit 58 for identification, Volume II. This
10 is American statement handed to Ambassador NOMURA,
11 May 31, 1941.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 220-C(30) will receive exhibit No. 1079.

15 (Whereupon, the document above
16 referred to was marked prosecution's exhibit
17 No. 1079, and was received in evidence.)

18 MR. KEENAN: May I be permitted to state to
19 the Court that this document relates to the last read
20 and it is an oral explanation, as it so states.

21 I call the Court's attention respectfully,
22 at this time, to our previous exhibit 1070, dated
23 May 12, 1941.

24 (Reading) "American Statement Handed to the
25 Japanese Ambassador (NOMURA) on May 31, 1941.

1 "May 31, 1941. Unofficial, Exploratory and
2 Without Commitment.

3 "Oral Explanation for Suggested Amendments
4 to the Japanese Draft."

5 The draft referred to, I believe, is the
6 exhibit that I just called the Court's attention to.

7 "Introductory Statement.

8 "A few minor changes have been made in
9 phraseology with a view to clarifying the meaning.

10 "In the list of points enumerated on page
11 two of the Japanese draft, the title of Section III
12 has been altered to conform more accurately to the
13 subject matter, the word 'Southwestern' has been omit-
14 ted from point numbered five and, in view of the new
15 subject matter under point Six (for explanation see
16 infra), part of the subject matter under point six
17 in the Japanese draft has been incorporated in an addi-
18 tional section, the title of which is therefore listed,
19 and part of the subject matter in Section VI of the
20 Japanese draft has been omitted (for explanation see
21 infra).

22
23 "I. The concepts of the United States and
24 of Japan respecting international relations and the
25 character of nations.

"The first paragraph has been omitted inas-

1 much as the statement of fact is a self-evident one.

2 "In the third paragraph of the Japanese
3 draft there has been substituted for the word 'backward'
4 the word 'other' in order to maintain consistency with
5 principles relating to equality of races and peoples.

6 "II. The attitudes of both Governments toward
7 the European war.

8 "The first paragraph of the Japanese draft
9 has been omitted in order to avoid any implication of
10 inconsistency with statements made by the President to
11 the effect that the present is not an opportune time
12 for the American Government to endeavor to bring about
13 peace in Europe.

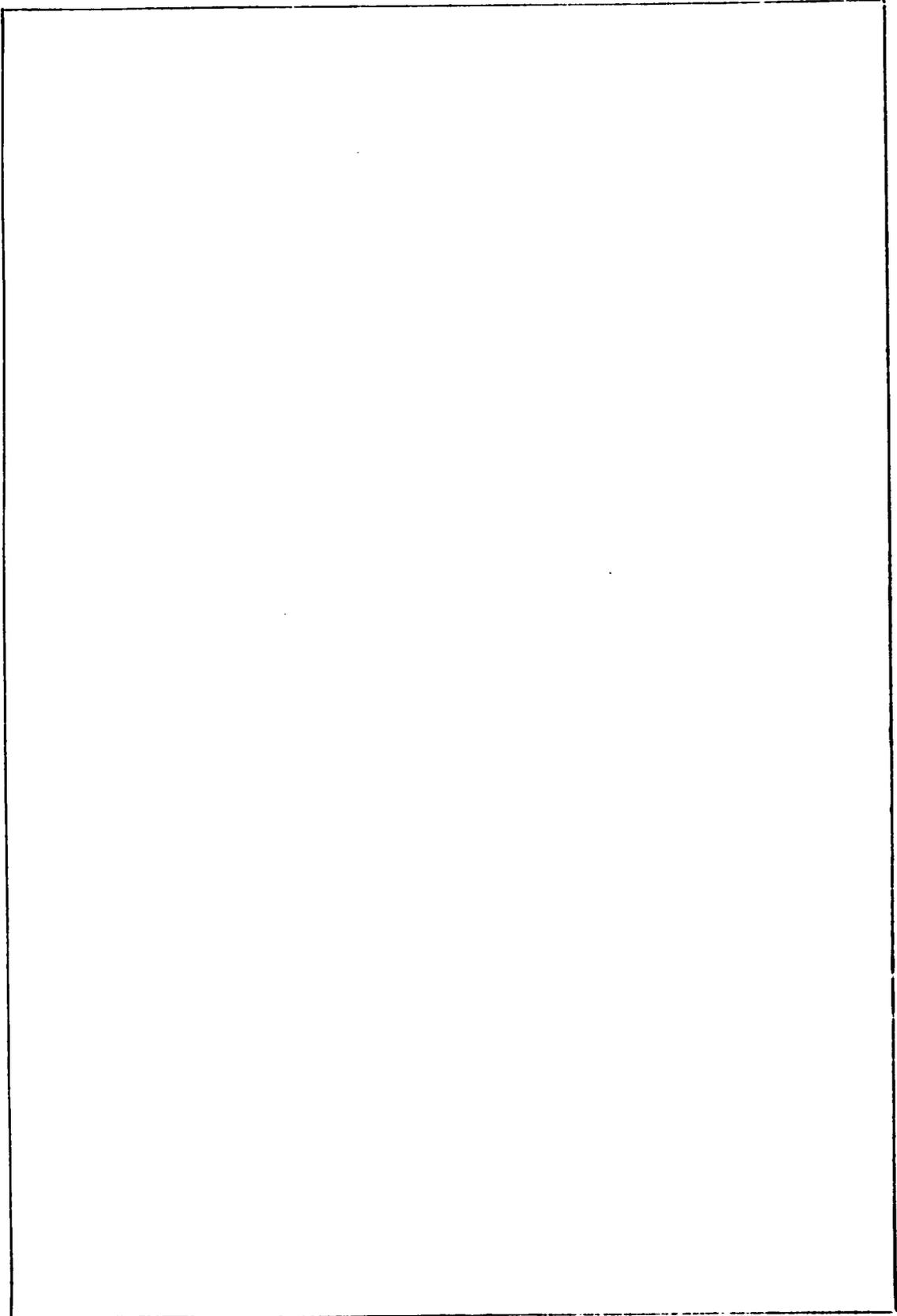
14 "To the second paragraph of the Japanese draft
15 a new sentence has been added to emphasize the aspect
16 of self-defense.

17 "The third paragraph has been omitted inas-
18 much as the text of the Tripartite Pact has been pub-
19 lished and no purpose would appear to be served by
20 express reference to any of its provisions.

21 "The fourth paragraph of the Japanese draft
22 has been revised to emphasize the protective and self-
23 defense character of the attitude of the United States
24 toward the European hostilities.

25 "A statement in the Annex and Supplement on

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[Faint, illegible handwritten text at the bottom of the page]

1 the part of the Government of the United States con-
2 trains an elaboration of this Government's viewpoint
3 toward the military movement of conquest inaugurated
4 by Chancellor Hitler.

5 "III. Action toward a peaceful settlement
6 between China and Japan.

7 "As laready stated, the title has been alter-
8 ed to describe more accurately the contents.

9 "The statement in the Japanese draft has been
10 rewritten to keep the underlying purport and at the
11 same time to avert raising questions which do not seem
12 fundamental to the basic subject and which are contro-
13 versial in character and might present serious diffi-
14 cultics from the point of view of the United States.

15 "The statement in the Japanese Annex and Sup-
16 plement in regard to this section has also been re-
17 vised in a few particulars in conformity with the con-
18 siderations mentioned in the preceding paragraph. In
19 addition, point numbered three in regard to economic
20 cooperation has been rephrased so as to make it clear
21 that China and Japan intend to follow in their economic
22 relations the principle of nondiscrimination in inter-
23 national commercial relations, a principle to which it
24 is understood the Japanese Government and the Chinese
25 Government have long subscribed and which principle

1 forms the foundation of the commercial policy of the
2 United States. As it is assumed that the term
3 'troops' in point numbered six is meant to include
4 all armed forces, the language of this point has been
5 slightly rephrased to avoid possible ambiguity.

6 "As already stated, the question relating
7 to communistic activities, including the stationing
8 of Japanese troops in Chinese territory, is subject
9 to further discussion.

10 "IV. Commerce between both nations.

11 "A statement is included in the Annex and
12 Supplement on the part of the United States clarifying
13 the point that as a temporary measure during the present
14 international emergency it is understood that each
15 country may restrict export of commodities which it
16 needs for its own purposes of security and self-defense.

17 "V. Economic activity of both nations in
18 the Pacific area.

19 "The language of this section has been re-
20 phrased to make the provisions thereof applicable
21 equally to the United States and to Japan.

22 "VI. The policies of both nations effecting
23 political stabilization in the Pacific area.

24 "This section has been revised to make it
25 consist of a clear-out statement of the fundamental

1 purpose of the understanding. The thought in mind is
2 to give emphasis to this purpose so that the document
3 may speak for itself on this all-important subject.

4 "The statement of fundamental purpose has
5 been assigned a section by itself in order that it
6 may gain added emphasis.

7 "The statement in the Japanese draft in re-
8 gard to the Philippine Islands has been dealt with in
9 a new section bearing number VII.

10 "The statement in regard to Japanese immi-
11 gration has been omitted in view of the established
12 position of the United States that the question of
13 immigration is a domestic matter. For that reason, to
14 attempt to include a statement on this subject would
15 stand in the way of the underlying purposes of the
16 agreement.

17 "VII. Neutralization of the Philippine
18 Islands.

19 "The phraseology of this section has been
20 altered so as to bring it into conformity with the
21 language of the Tydings-McDuffie Act, approved March
22 24, 1934.

23 "Addendum

24 "In view of the traditional policy of the
25 United States and various practical considerations

1 in the United States, important difficulties would
2 be presented should the Government of the United States
3 endeavor to keep secret the understanding under refer-
4 ence together with its annexes. This Government could
5 probably arrange to keep the understanding secret for
6 a period of a few weeks, during which time it believes
7 that the two Governments should work out procedures
8 covering the scope, character and timing of the announce-
9 ment of the understanding and of at least the definite
10 substance thereof.

11 "Foreign Relations II, pp. 451-454."
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"(Annex 2)

1
2 "ANNEX AND SUPPLEMENT ON THE PART OF THE GOVERNMENT
3 OF THE UNITED STATES

4 "II. The attitudes of both Governments toward the
5 European war.

6 "The position of the Government of the
7 United States toward the military movement of con-
8 quest inaugurated by Mr. Hitler is set forth in a
9 public address made by the Secretary of State on
10 April 24, 1941. Some extracts which are directly
11 in point and which are basic in relation to the en-
12 tire situation are as follows:

13 " ..As waged by them (the aggressor powers
14 this is not an ordinary war. It is a war of
15 assault by these would-be conquerors, employ-
16 ing every method of barbarism, upon nations
17 which cling to their right to live in freedom
18 and which are resisting in self-defense.....
19 Such is the movement which is extending
20 rapidly throughout the world.

21 "If experience shows anything, it shows
22 that no nation anywhere has the slightest
23 reason to feel that it will be exempted from
24 attack by the invader, any more than, in a
25 town overrun by bandits, the wealthiest citi-
zen might expect to be free from attack."

1 "Every thinking man can answer the ques-
2 tion for himself by simply calling the roll of
3 the wretched victims of world aggression who
4 are now in a condition of semi-slavery, and
5 whose every hope of again enjoying the bless-
6 ings of civilization depends only on the defeat
7 or failure of the movement of conquest. So it
8 is in Austria, Czechoslovakia, Poland, Norway,
9 Denmark, Holland, Belgium, Albania, Luxemburg,
10 France, Rumania, Hungary, Bulgaria, Yugoslavia."

11 I hear the question being propounded by a
12 counsel as to what this has to do with it. I want
13 to make it clear that this is a part of the state-
14 ment that was handed to the Japanese Ambassador. It
15 is an integral part of the document.

16 "The conclusion is plain. Now, after
17 some fifteen nations have lost everything that makes
18 life worth living, it is high time that the remain-
19 ing free countries should arm to the fullest extent
20 and in the briefest time humanly possible and set
21 for their self-preservation.

22 "Events have shown beyond possible ques-
23 tion that the safety of this hemisphere and of this
24 country calls for resistance wherever resistance will
25 be most effective...This policy means, in practical

1 application, that...aid must reach its destina-
2 tion in the shortest of time and in the maximum
3 quantity. So--ways must be found to do this.

4 "Those nations that are making resis-
5 tance are primarily seeking to save themselves,
6 their homes and their liberties. Great Britain
7 for instance is acting primarily for her own
8 safety. The United States both in its direct
9 defense effort and in the aid which it extends
10 to the resisting nations is likewise acting
11 primarily for its own safety. As safety for
12 the nations that are offering resistance means
13 security for us, aid to them is an essential
14 part of our own defense. Every new conquest
15 makes available to the aggressor greater re-
16 sources for use against the remaining free
17 peoples. Our aid to the resisting nations is

18 not the mere crusading of a world benefactor.
19 It is based on the definite knowledge that every
20 free nation anywhere is a bastion of strength
21 to all the remaining free peoples everywhere.
22 "Those Americans who, in effect, are
23 saying that a British defeat would not matter
24 to us, signally overlook the fact that the re-
25 sulting delivery of the high seas to the invader
would create colossal danger to our own national

1 defense and security. The breadth of the sea
2 may give us a little time. It does not give us
3 safety. Safety can only come from our ability,
4 in conjunction with other peace-loving nations,
5 to prevent any aggressor from attaining control
6 of the high seas.

7 "Some among us, doubtless with the best
8 of intentions, still contend that our country
9 need not resist until armed forces of an in-
10 vader shall have crossed the boundary line of
11 this hemisphere. But this merely means that
12 there would be no resistance by the hemisphere,
13 including the United States, until the invading
14 countries had acquired complete control of the
15 other four continents and of the high seas,
16 and thus had obtained every possible strategic
17 advantage, reducing us to the corresponding
18 disadvantage of a severely handicapped defense.
19 This is an utterly shortsighted and extremely
20 dangerous view.'

21 "The foregoing statements make it clear
22 that the attitude of the Government of the United
23 States is one of resolve to take measures of self-
24 defense in resistance to a movement, which, as has
25 been made unequivocally clear by the acts and utter-
ances of Hitler, is directed to world conquest by

1 force from which no country and no area are excepted.
2 This attitude is based upon a most fundamental con-
3 sideration--that of the inalienable right of self-
4 defense. The only other attitude this Government
5 could assume would be the suicidal attitude of some
6 fifteen countries in Europe which also were told,
7 as our country is being told, that they would not
8 be molested but that if they should undertake to
9 resist beyond their own boundaries they would be
10 charged with being aggressors and with having as-
11 sured the offensive. A similar course by this
12 nation from the standpoint of effective defense
13 against the Hitler movement of world conquest would
14 be absurd, futile and suicidal from the standpoint
15 of reasonable precautions for its safety.

16 "In the light of the existing situation,
17 Hitler is the one person who can promptly remove
18 the necessity for efforts at effective self-defense
19 by this country and other countries similarly situa-
20 ted, whereas for any other nation to request that
21 the United States desist from any such resistance
22 would in its actual effect range the country making
23 such request on the side of Hitler and his movement
24 of aggression by force. Hitler is therefore the
25 person who should be addressed in support of peace,
rather than those whom he is attacking for the pur-

1 pose of bringing about their complete subjugation
2 without color of law, or of right, or of humanity.

3 "Yes, it makes a difference who wins--
4 the difference whether we stand with our backs
5 to the wall with the other four continents
6 against us and the high seas lost, alone de-
7 fending the last free territories on earth--
8 or whether we keep our place in an orderly
9 world.'

10 "Foreign Relations II, pp.
11 446-451."
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1 We offer in evidence with the permission of
2 the Court, IPS document 220-C(31) from exhibit for
3 identification 58, Volume II. This is an informal,
4 oral statement handed to NOMURA by Secretary of State,
5 31 May 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 220-C(31) will receive exhibit No. 1080.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1080, and was received in evidence.)

12 MR. KEENAN: (Reading) "American Informal and
13 Unofficial Oral Statement Handed to the Japanese
14 Ambassador (NOMURA) on May 31, 1941.

15 "The Government of the United States will at
16 some appropriate stage prior to any definitive discus-
17 sion talk over in strict confidence with the Chinese
18 Government the general subject matter involved in the
19 discussions, especially as it relates to China.

20 "Foreign Relations, II, page 454."

21 We offer in evidence IPS document 220-C(32)
22 from exhibit for identification 58, Volume II, which
23 is an excerpt from memorandum of Secretary of State
24 Hull, dated June 2, 1941.

25 THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 220-C(32) will receive exhibit No. 1081.

(Whereupon, the document above
referred to was marked prosecution's exhibit
No. 1081, and was received in evidence.)

MR. KEENAN: (Reading)

"MEMORANDUM BY THE SECRETARY OF STATE

"Excerpts

"June 2, 1941.

"The Ambassador of Japan came to my hotel
apartment at his request.

"I then very slowly and deliberately asked
the Ambassador whether it was his considered judgment
that his Government seriously and earnestly desired
to enter into a settlement, for peace and non-
discriminatory commercial relations and friendship
generally in the Pacific area. He promptly replied
that that was his judgment. I remarked that, in the
light of the loud statements which MATSUOKA and others
were daily making, the question which I propounded
was sharply raised, and that one was forced back to
the inquiry of whether Japan really is seeking this
sort of settlement, or whether she is only seeking
a way to get out of China, to the principles which would
have to underlie a settlement establishing peace"--

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1 THE PRESIDENT: You left a line out.

2 MR. KEENAN: (Continuing)

3 --"seeking a way to get out of China,
4 and otherwise to go forward with methods and practices
5 entirely contrary to the principles which would have
6 to underlie a settlement establishing peace, non-
7 discriminatory commerce and fair friendly relations
8 in the Pacific area. The Ambassador reiterated his
9 view that an earnest and fair settlement was desired.

10 "Foreign Relations II, pp. 454-455"

11 THE PRESIDENT: A line was omitted.

12 MR. KEENAN: I read it into evidence after
13 the Court corrected me. Which line is it?

14 THE PRESIDENT: I am not asking it to be
15 corrected twice, Mr. Chief of Counsel. Apparently
16 you did read the line.

17 MR. KEENAN: Thank you. I am grateful
18 to the Court for calling my attention to the omission.

19 We offer in evidence IPS document No. 219P-76
20 from exhibit for identification 58, Volume I. This is
21 an excerpt of a statement from Mr. Grew to MATSUOKA,
22 dated 4 June 1941.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 219P-76 will receive exhibit No. 1082.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 1082 and received in evidence.)

4 MR. KEENAN: (Reading)

5 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
6 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS (FATSUOKA)

7 "No. 1817

8 "TOKYO, June 4, 1941

9 "EXCELLENCY: With reference to my note to
10 Your Excellency No. 1803 of May 22, 1941, concerning
11 damage inflicted on properties of the Methodist
12 Episcopal Mission at Chungking by Japanese aircraft
13 on May 9 and May 10, 1941, I have the honor to inform
14 Your Excellency that properties of the same Mission
15 at Chungking were again seriously damaged by Japanese
16 aerial bombardment on June 1, 1941.

17 "According to information received from the
18 American Embassy at Chungking, a section of the
19 hospital of the Mission at Tai Chishang, in the center
20 of the city, was badly damaged by a direct hit. A
21 second bomb damaged the compound wall, and the home
22 of an American missionary received damage from stones
23 through the roof. This property has been damaged on
24 at least four previous occasions.

25 "In addition, the newly built Lewis Memorial

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1 Institutional Church of the same Mission, located
2 at a distance of about seven hundred yards from the
3 hospital mentioned above, was completely wrecked by
4 a direct hit. This property has likewise been
5 damaged on at least four previous occasions.

6 "Foreign Relations I, p, 714"

7 Prosecution offers in evidence IPS document
8 220C-33 taken from exhibit for identification 58,
9 Volume II. This is an excerpt from memo. of a conversa-
10 tion between Secretary of State and Japanese Ambassador,
11 dated June 4, 1941.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 220C-33 will receive exhibit No. 1083.

15 (Whereupon, the document above
16 referred to was marked prosecution's exhibit
17 No. 1083 and received in evidence.)
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1 MR. HARDIN: (Reading)

2 "MEMORANDUM OF A CONVERSATION

3 "(Washington) June 4, 1941

4 "ANNEX AND SUPPLEMENT ON THE PART OF THE GOVERNMENT
5 OF THE UNITED STATES

6 "II. The Attitudes of both Governments toward the
7 European war.

8 "The Government of the United States de-
9 clares that, so far as its attitude toward the
10 European war is concerned, it does not and will
11 not resort to any aggression aimed to assist any
12 one nation against another.

13 "Colonel TAKURO said that the Japanese
14 would be quite prepared to drop the foregoing sug-
15 gestion if we on our part would be prepared to drop
16 our proposed sentence in the first paragraph reading,
17 'Obviously, the provisions of the Pact do not apply
18 to involvement through acts of self-defense.'

19 "Mr. TAKASUGI said that they desired to
20 have inserted at the beginning of Section II a new
21 paragraph reading as follows:

22 "It being the common aim of both
23 Governments of Japan and the United States to
24 establish world peace, they will join forces with a
25 view to preventing the extension of the European war

and restoring peace.'

1
2 "Mr. Hamilton raised for consideration
3 the question of whether the idea underlying the
4 proposed paragraph could not be incorporated in
5 the first section. He pointed out that an express
6 reference of this kind under Section II, which deals
7 with the attitude of the two countries to the Euro-
8 pean war, might be regarded as inconsistent with the
9 President's declared attitude in regard to the
10 question of a present American effort to bring about
11 peace in Europe. He suggested also for consideration
12 whether it might not serve the purpose desired to
13 change the word 'our' to 'all' in the first para-
14 graph of Section I, which in our draft reads as
15 follows:

16 "Both Governments affirm that their
17 national policies are directed to (toward) the
18 foundation of a lasting peace and the inauguration
19 of a new era of reciprocal confidence and cooperation
20 among our peoples.'

21 "Mr. WAKASUGI said that they would leave
22 this point for further consideration and that we
23 might also consider whether the words could not be
24 incorporated in some other section or in a section by
25 itself."

1 "with reference to Section III, Mr. WAKASUGI
2 proposed an entirely different formula. The formula
3 in our draft and the formula he proposed are shown
4 in parallel columns as follows:

5 "FORMULA IN OUR DRAFT OF MAY 31

6 "The Japanese Government having communicated
7 to the Government of the United States the general
8 terms within the framework of which the Japanese
9 Government will propose the negotiation of a peaceful
10 settlement with the Chinese Government, which terms
11 are declared by the Japanese Government to be in
12 harmony with the KONOYE Principles regarding neighborly
13 friendship and mutual respect of sovereignty and
14 territories and with the practical application of
15 those principles, the President of the United States
16 will suggest to the Government of China that the
17 Government of China and the Government of Japan enter
18 into a negotiation on a basis mutually advantageous
19 and acceptable for a termination of hostilities and
20 resumption of peaceful relations.

21 "FORMULA PROPOSED BY JAPANESE

22 "The President of the United States will
23 suggest to the Government of Chiang Kai-shek that it
24 will enter as soon as possible into a negotiation with
25 Japan on the basis of the KONOYE three principles and

1 the practical application of these principles for a
2 termination of hostilities and the resumption of
3 peaceful relations.

4 "The reason adduced by Mr. WAKASUGI for
5 this change was that it was desired to avoid giving
6 any impression to the Japanese people that there was
7 involved any question of an American mediation between
8 China and Japan.

9 "The Japanese then offered an alternative
10 formula, concerning which they wished to make reser-
11 vations on minor points, reading as follows:

12 "'The Government of Japan having announced
13 the general terms within the framework of which the
14 Government of Japan will propose the negotiation of
15 a peaceful settlement of the China conflict, which
16 terms are declared by the Government of Japan to be
17 in harmony with the KONOYE principles and with the
18 practical application of those principles, the Pres-
19 ident of the United States, relying upon the policy
20 of neighborly friendship with China, will suggest to
21 the Chinese Government at Chungking that that Govern-
22 ment and the Government of Japan enter into a negotia-
23 tion for a termination of hostilities and resumption
24 of peaceful relations.'

25 "Mr. Hamilton then asked Colonel IWAKURO

whether it was his conception that upon the conclusion
of this agreement it would be the Wang Ching-wei
1 regime or the Government at Chungking which would
2 constitute the Government of China.

3 "Colonel IWAKURO said that the Japanese
4 now recognized the Wang Ching-Wei regime as the
5 Government of China and regarded the Government at
6 Chungking as a local regime. The proposed under-
7 standing contemplated negotiations by the Japanese
8 Government with Chungking. As regards the outcome of
9 the negotiations, there were three possibilities,
10 which he charted on a piece of paper, attached:
11 (a) that the Chungking Government might become
12 absorbed into the Nanking Government of Wang Ching-Wei,
13 (b) that the Nanking Government of Wang Ching-Wei
14 might become absorbed into the Chungking Government,
15 and (c) that both the Nanking Government and the
16 Chungking Government might be coalesced into a new
17 government. The Japanese Government proposed to leave
18 this matter to be decided by the Chinese themselves.

19 "Mr. TAKASUGI then offered an amended annex
20 on the part of the Japanese Government in connection
21 with Section III. The formulae in the draft of May
22 31 and in the Japanese redraft are shown in parallel
23 columns:
24
25

"FORMULA IN OUR DRAFT OF MAY 31

"The basic terms as referred to in the above section are as follows:

"1. Neighborly friendship.

"2. (Cooperative defense against injurious communistic activities--including the stationing of Japanese troops in Chinese territory.) Subject to further discussion.

"3. Economic cooperation--by which China and Japan will proceed on the basis of non-discrimination in international commercial relations.

"4. Mutual respect of sovereignty and territories.

"5. Mutual respect for the inherent characteristics of each nation cooperating as good neighbors and forming a Far Eastern nucleus contributing to world peace.

"6. Withdrawal of Japanese military and naval forces from Chinese territory and Chinese waters as promptly as possible and in accordance with an agreement to be concluded between Japan and China.

"7. No annexation.

"8. No indemnities.

"9. Amicable negotiation in regard to 'Manchoukuo.'

"FORMULA PROPOSED BY JAPANESE

"The basic terms as implied in the KONOYE three principles and the practical application of those principles are as follows:

"1. Neighborly friendship.

"2. Cooperative defense against communistic activities--including the stationing of Japanese troops in the Inner Mongolia and certain areas of the North China.

"3. Economic cooperation.

"4. Mutual respect of sovereignty and territories.

"5. Mutual respect for the inherent characteristics of each nation cooperating as good neighbors and forming an Eastern Asia nucleus contributing to world peace.

"6. Withdrawal of Japanese troops from Chinese territory in accordance with agreement between Japan and China.

"7. No annexation.

"8. No indemnities.

"9. Recognition of 'Manchoukuo.'

"Mr. TAKASUGI explained that, with reference to caption three of the foregoing annex, the Japanese did not wish to expand the wording in the

1 caption beyond the mere statement 'economic coopera-
2 tion,' as they wished to leave the matter to be
3 dealt with by negotiations between Japan and China.
4 Mr. Hamilton observed that in the Japanese Oral
5 Explanation of May 12 this point had been expanded
6 by the statement 'by which Japan does not intend to
7 exercise economic monopoly in China nor to demand of
8 China a limitation in the interests of Third powers and
9 that we had substituted the phraseology 'by which China
10 and Japan will proceed on the basis of non-discrimina-
11 tion in international commercial relations' in the
12 interest of clarity. Mr. Hamilton here emphasized
13 the importance which this Government attached to the
14 application of the principle of non-discrimination in
15 international commercial relations.

16 "Mr. Hamilton noted that in caption six
17 where we had suggested the wording 'military and
18 naval forces' the Japanese in their new draft had
19 restored the term 'troops.' He asked whether it was
20 not intended by Japan to withdraw their naval forces.
21 Colonel IWAKURO said that in normal international
22 intercourse war vessels visited ports of other countries,
23 and, moreover, at Shanghai foreign powers, including
24 the United States, normally maintained marines or
25 corresponding naval units. They had used the English

1 word 'troops' as translation of the Japanese term
2 'guntai' which was not restricted to army forces.
3 He said that it was Japan's clear intention to
4 withdraw all armed forces whether of the army or
5 the navy engaged in the present hostilities, and he
6 had no objection to the use of the term 'armed
7 forces' if that would cover better what was meant.
8 He added that it was his understanding that 'Chinese
9 Territory' included Chinese territorial waters.

10 "Mr. Hamilton said that we would take note
11 of all the points made in connection with Section III
12 and the annex pertaining thereto.

13 "Mr. WAKASUGI said that the Japanese had
14 no changes to offer with respect to the text of
15 Section IV, but that they desired the withdrawal of
16 our annex relating to restrictions upon trade during
17 the present international emergency. He stated that
18 such an annex would weaken the force of the stipula-
19 tion in Section IV. He said that they thought that
20 the word 'available' in Section IV would cover what
21 we had in mind. Mr. Hamilton said that we would make
22 note of the point.

23 "Mr. WAKASUGI said that they wished to offer
24 an alternative wording for Section V. The formulae
25 of our draft of May 31 and of the Japanese alternative

1 draft are shown in parallel columns, as follows:

2 "FORMULA IN OUR DRAFT OF MAY 31

3 "V. Economic activity of both nations
4 in the Pacific area.

5 "On the basis of mutual pledges hereby
6 given that Japanese activity and American activity
7 in the Pacific area shall be carried on by peaceful
8 means and in conformity with the principle of non-
9 discrimination in international commercial relations,
10 the Japanese Government and the Government of the
11 United States agree to cooperate each with the
12 other toward obtaining non-discriminatory access by
13 Japan and by the United States to commercial supplies
14 of natural resources (such as oil, rubber, tin,
15 nickel,) which each country needs for the safeguarding
16 and development of its own economy.

17 "FORMULA PROPOSED BY JAPANESE

18 "V. Economic activity of both nations in
19 the Southwestern Pacific area.

20 "Noting that Japanese expansion in the
21 direction of the Southwestern Pacific area is declared
22 to be of peaceful nature. American cooperation and
23 support shall be given in the production and procure-
24 ment of natural resources (such as oil, rubber, tin,
25 nickel) which Japan needs."

1 "Asked what were the reasons for the
2 proposed changes, Colonel IWAKURO explained that
3 Japan had no suspicion that the United States would
4 engage in activities other than peaceful in the
5 Southwest Pacific area, and he felt that the United
6 States should accept Japanese declarations in regard
7 to the peaceful character of their aims. The reason
8 for restricting the application of this section to
9 the Southwestern Pacific area, which we had broadened
10 to include the whole Pacific area, was that it was
11 the Japanese desire to devote this section specifically
12 to the Southwestern Pacific area on account of the
13 special interest which the Japanese people had
14 developed therein.

15 "He pointed out that Section VI covered
16 the whole Pacific area. Mr. Hamilton raised the
17 question whether the pledge in regard to peace might
18 be incorporated in Section VI, retaining, however,
19 in Section V a statement pledging both countries to
20 the application of non-discrimination in international
21 commercial relations. He emphasized the importance
22 which this Government attached to such statements.
23 He pointed out in reference to commercial relations
24 that in an earlier draft we had proposed the wording
25 'on the basis of equality of opportunity'; that the

1 Japanese had objected to that phraseology on the
2 ground that Japanese had no clear concept of the
3 implications of the term; and that, as we had been
4 given to understand that the Japanese would not object
5 if we used phraseology contained in a recent speech
6 by the Secretary, we had in our draft of May 31
7 substituted such phraseology. Mr. Hamilton said that
8 we would make note of the question of a possible
9 change in the draft.

10 "With reference to Section VI, Mr. WAKASUGI
11 offered an alternate draft, which includes an addi-
12 tional paragraph. The formulae of our draft of May 31
13 and of the Japanese alternative draft are shown in
14 parallel columns, as follows:

15 "FORMULA IN OUR DRAFT OF MAY 31

16 "The Japanese Government and the Government
17 of the United States declare that the controlling
18 policy underlying this understanding is peace in the
19 Pacific area; that it is their fundamental purpose,
20 through cooperative effort, to contribute to the
21 maintenance and the preservation of peace in the
22 Pacific area; and that neither has territorial designs
23 in the area mentioned.

24 "FORMULA PROPOSED BY JAPANESE

25 "The Japanese Government and the Government

1 of the United States declare that it is their
2 fundamental purpose, through cooperative effort,
3 to contribute to the maintenance and the preservation
4 of peace in the Pacific area; and that neither has
5 territorial designs in the area mentioned.

6 "The Government of Japan declares that it
7 has no intention to establish military bases within
8 the area of the Western Hemisphere nor to entertain
9 any political designs therein. Similarly, the
10 Government of the United States declares that it has
11 no intention to establish military bases in East
12 Asia or in the Southwestern Pacific area; nor to
13 entertain any political designs therein. The Govern-
14 ment of Japan and the United States mutually recognize
15 the defensive position each maintains respectively in
16 the East Asia area and in the Western Hemisphere.

17 "Their objections to the wording of our
18 draft were that they thought the phraseology somewhat
19 redundant and that they did not understand what we
20 meant by the word 'controlling'. They indicated a
21 willingness to accept the word 'basic' for 'controlling'
22 after Mr. Hamilton had endeavored to explain. There
23 was no discussion of the second paragraph other than
24 a statement by the Japanese that they would be willing
25 to have the contents embodied in an annex. Mr. Hamilton

1 said that we would take note of the proposal.

2 "Mr. TAKASUGI said that they desired to
3 offer no changes with respect to Section VII, but
4 they desired the inclusion of an annex on the part
5 of the Government of Japan reading as follows:

6 "ANNEX AND SUPPLEMENT ON THE PART OF

7 THE JAPANESE GOVERNMENT

8 "VII. Neutralization of the Philippine Islands.

9 "The Government of the United States will
10 accord in the Philippine Islands to the Japanese
11 subjects a non-discriminatory treatment.

12 "Mr. MATSUDAIRA said that what they had
13 in mind in this point was to provide for non-discrim-
14 ination in matters both of Japanese immigration and
15 establishment. Mr. Hamilton observed that the quota
16 system in the Philippine Immigration Law was on a
17 non-discriminatory basis. Mr. MATSUDAIRA admitted
18 this, but indicated a desire for a larger quota.

19 "There was no further discussion. Mr.
20 Hamilton said that we would report to the Secretary
21 and it was agreed that Mr. MATSUDAIRA and Mr. Ballan-
22 tine would keep in touch as to the next step.

23 "Foreign Relations II, pp. 458-464."

24 "We offer in evidence IPS document No.
25 1632" (51), which is an entry in KIDO's Diary of

1 June 6, 1941.

2 THE PRESIDENT: Admitted on the usual
3 terms.

4 CLERK OF THE COURT: Prosecution's docu-
5 ment No. 16327 (51) will receive exhibit No. 1084.

6 (Whereupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 1084 and received in evidence.)

9 MR. HARDIN: (Reading)

10 "Extract from Entry from Marquis KIDO's
11 Diary, 6 June 1941.

12 "At 9:00 a.m. Prince KONOYE telephoned
13 me to say that Ambassador OSHIMA had an interview
14 with Hitler at Berchtesgaden and that Germany had at
15 last decided to attack Russia. Hitler had intimated
16 his desire for Japen's participation in this war
17 against Russia, though he did not say so. Prince
18 KONOYE also said that the Liaison Conference in
19 this connection would be held this morning, and he
20 asked me to report this fact to the Throne. I pro-
21 ceeded to the Palace in response to a summons from
22 His Majesty, and was received in audience from 10:20
23 a.m. to 11:05 a.m. His Majesty discussed at full
24 length the matter mentioned above during the whole
25 period. I had a talk with the Chief Aid-de-Camp at

1 11:10 a.m. and asked him to keep in close touch with
2 me with regard to the same. Premier KONOYE made
3 Mr. HOSOKAWA, Secretary to the Premier, bring the
4 telegram of Ambassador OSHIMA to me, and he asked me
5 to study it. I read it and returned it. I was
6 granted an audience with the Emperor from 1:10 p.m.
7 to 1:30 p.m. to report on the substance of the
8 telegram. Foreign Minister MATSUOKA proceeded to
9 the Palace, and was received in audience by the
10 Emperor to report on the recognition of Croatia and
11 on the telegram from Ambassador OSHIMA. Foreign
12 Minister MATSUOKA intimated to me his opinion as to
13 the future outlook of the relations between the
14 Soviet and Germany. According to his opinion as
15 regards the German-Soviet relations, the conclusion
16 of an agreement was sixty percent possible and the out-
17 break of war forty percent in spite of Ambassador
18 OSHIMA's observations. I had a visit from MITSUDAIRA,
19 Minister of the Imperial Household Department at 2:10
20 p.m., and he informed me of such matters as the visit
21 to Japan of Wang Ching-wei and the circumstances
22 concerning the change of the Lord Chamberlain. At three
23 in the afternoon the Chief Aide-de-Camp informed me
24 of the opinion of the War Minister concerning relations
25 between the Soviet and Germany, which confirmed the

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opinion of the Foreign Minister, which was that
the outbreak of war was not so imminent as Ambassador
OSHIMA expected."

1 We tender in evidence IPS document 220C-34
2 from exhibit for identification 58, Volume II.
3 This is excerpt of informal statement handed by
4 Secretary of State Hull to NOMURA, June 6, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220C-34 will receive exhibit No. 1085.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 1085 and received in evidence.)

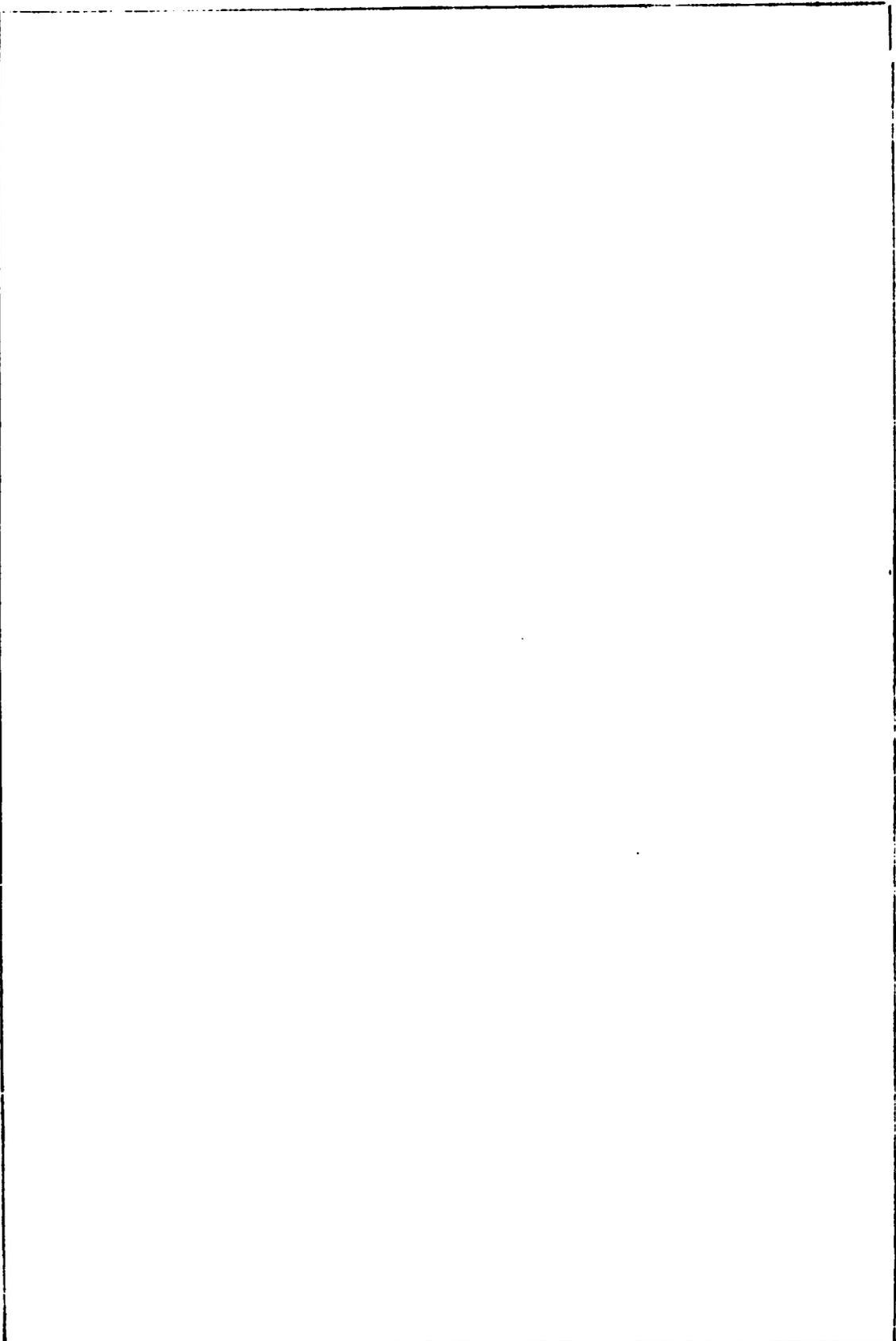
11 MR. HARDIN: (Reading)

12 "INFORMAL AND UNOFFICIAL ORAL STATEMENT
13 HANDED BY THE SECRETARY OF STATE TO THE JAPANESE
14 AMBASSADOR (NOMURA) ON JUNE 6, 1941

15 "Excerpts

16 "From such study as it has so far been
17 possible to make of the revisions which the associates
18 of the Japanese Ambassador offered on June 4 it is
19 disappointing to note a vast difference between the
20 proposal as it now stands with these revisions and the
21 original document on which earlier discussions were
22 based. The successive Japanese revisions appear to
23 have gradually narrowed down the extent of the advances
24 in the direction of a liberal policy and to have
25 carried the proposal away from the fundamental points

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1 which the Government of the United States considers
2 are involved in establishing and preserving peaceful
3 conditions in the Pacific area. The impression that the
4 Secretary of State derives from the proposed revisions
5 as a whole and from recent manifestations of the
6 Japanese Government's attitude is that they evince
7 a disposition (1) to stress Japan's alignment with
8 the Axis, (2) to avoid giving a clear indication of
9 an intention to place Japan's relations with China
10 on a basis which in the opinion of the Government of
11 the United States would contribute to a lasting
12 peace and thus to future stability in the Far East,
13 and (3) to veer away from clear-cut commitments in
14 regard to policies of peace and of non-discriminatory
15 treatment which are the fundamentals of a sound
16 basis for peace in the Pacific area. As the Secretary
17 of State has indicated, this Government has not wished
18 to take an initiative in commenting upon the merits
19 of the proposed peace terms between Japan and China;
20 comment has been offered upon this matter because
21 under the proposed understanding this Government would
22 be expected to take some action with regard to these
23 terms.

24 "Foreign Relations II, pp 467-468"

25 THE PRESIDENT: We will adjourn until

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half past nine tomorrow morning.

(Whereupon, at 1600, an adjournment
was taken until Friday, 8 November 1946, at
0930.) - - - -

*Revised by
Fletcher
dated 10/1/45*

Record of Proceedings
of the
**INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST**

Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The United States of America, the Republic of China,
the United Kingdom of Great Britain and Northern Ireland,
the Union of Soviet Socialist Republics, the Commonwealth of
Australia, Canada, the Republic of France, the Kingdom of
the Netherlands, New Zealand, India, and the Commonwealth
of the Philippines

-Against-

ARAKI, Sadao; DOHIHARA, Kenji; HAHIMOTO,
Kingoro; HATA, Shunroku; HIRANUMA, Tadamichi; HIRO,
TA, Koki; HOSHINO, Naoki; ITAGAKI, Seishiro; IYAMA,
Okinori; KIDO, Koichi; KIMURA, Shiro; KOISO, Kuni-
aki; MATSUI, Iwao; MATSUOKA, Yasujiro; MINAMI,
Jiro; MUTO, Akira; NAGANO, Osamu; OEA, Takashi;
OKAWA, Shumei; OSHIMA, Hiroshi; SATO, Kenryo; SHI-
GEMITSU, Mamoru; SHIMADA, Shigetata; SHIRATO,
RI, Tetsu; SUZUKI, Tetschi; TOGO, Shigenori; TOJO,
Hideki; UMEZU, Youshijiro

-Accused-

Official Court Reporters

Jack Greenberg, Chief
Fred T. Abram
John F. Barton
Antoinette Duda
Samuel Goldberg
Robert H. Morse
John J. Smith
Daphne Spurr
Eliza Whalen
Julius Wolf
Lorraine Yelton

8 NOVEMBER 1946

I N D E X

Of

WITNESSES

(none)

I N D E X

Of

EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
4061B	1086		Telegram from Ott in Tokyo to Ribbentrop dated 11 June 1941		9986
220 C(35)	1087		Draft of the Proposal received from NOMURA dated 15 June 1941		9988
219P(77)	1088		Excerpt from Telegram of Ambassador Grew to Secretary of State Hull dated 16 June 1941		9996
1632W(52)	1089		Entry in KIDO's Diary dated 18 June 1941		9998
1632W(53)	1090		Entry in KIDO's Diary dated 20 June 1941		9999
220C (36)	1091		Oral Statement by Secretary of State handed to Ambassador NOMURA dated 21 June 1941		10000
220 C(37)	1092		Draft Proposal of a Settlement between Japan and the U.S. by the Secretary of State to the Japanese Ambassador dated 21 June 1941		10004

I N D E X

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E X H I B I T S

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1632W(55)	1093		Entry from KIDO's Diary dated 22 June 1941		10019
1632W(56)	1094		Entry in KIDO's Diary dated 23 June 1941		10023
1632W(57)	1095		Entry in KIDO's Diary dated 23 June 1941		10026
4081C	1096		Telegram from Ribbentrop at the German Embassy at Tokyo		10029
4081D	1097		Telegram from the German Files at Muernberg from Ott to Ribbentrop dated 28 June 1941		10034
1632W(58)	1098		Entry in KIDO's Diary dated 28 June 1941		10036
219P(78)	1099		Message from the American Ambassador in Japan to the Japanese Minister for Foreign Affairs MATSUOKA dated 8 July 1941		10039
220C(14)	1100		Excerpt from an Oral State- ment of Ambassador Grew to Minister MATSUOKA dated 8 July 1941		10041
1339A(5)	1101		Foreign Minister MATSUOKA's Reply of February 17 to Foreign Secretary Eden		10043
220C(14)	1102		Excerpt from Press Release by the Department of State in Washington dated 24 July 1941		10047

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E X H I B I T S

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1699	1103		Relating to Central Liaison Conferences held during 1941		10051
2216	1104		Affidavit of the Honorable Henry L. Stinson, dated 7 June 1946		10067
239	1105		Affidavit of Ambassador Joseph Clark Grew		10089
2007B	1106		Excerpt from the Testimony of former Secretary of State Cordell Hull before the United States Congressional Committee for the investigation of the Pearl Harbor Attack (pp. 1076 to 1083)		10109

1 Friday, 8 November, 1946

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

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13 Appearances:

14 For the Tribunal, same as before with the
15 exception of the HONORABLE R. B. PAL, Member from
16 India, not sitting.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

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22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: All the accused are present
4 except OKAWA, HIRANUMA and MATSUI who are represented
5 by their respective counsel. We have certificates
6 from the Medical Superintendent of Sugamo Prison to
7 the effect that the accused HIRANUMA and MATSUI are
8 still unable to attend the trial owing to illness.

9 The certificates will be recorded and filed.
10 Major Moore.

11 LANGUAGE ARBITER (Major Moore): If the
12 Tribunal please, referring to exhibit 1060, record
13 page 9877, line 7, the words "his opinion" should
14 read "my opinion." We recommend this correction be
15 made.

16 THE PRESIDENT: It will be adopted. Thank
17 you, Major Moore.

18 Mr. Williams.

19 MR. E. WILLIAMS: We offer in evidence IPS
20 document 4061 B which is a telegram dated June 11,
21 1941 from Ott in Tokyo to Ribbentrop. It was recover-
22 ed from the German files in Nuernberg.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT. Prosecution's document
25 No. 4061 B will receive exhibit No. 1086.

1 (Whereupon, the document above re-
2 ferred to was marked prosecution's exhibit
3 No. 1086 and received in evidence.)

4 MR. E. WILLIAMS: We read prosecution ex-
5 hibit No. 1086:

6 "Telegram (Secret Cipher Process)

7 "Tokyo 11 June 1941

8 "Arrival 12 June 1941

9 "No. 927 of 11 June.

10 "Prince URACHI has informed us of a conver-
11 sation with the Commander-in-Chief of the KWANTUNG
12 Army, General UMEZU, in HSINKING: 'Commander-in-
13 Chief of the KWANTUNG Army, General UMEZU, stressed
14 that he welcomed the Neutrality Pact JAPAN-RUSSIA for
15 the moment. Since, however, the Tripartite Pact is
16 the unchangeable basis of Japanese foreign policy,
17 Japan's attitude towards the Neutrality Pact must
18 undergo a change just as soon as the hitherto exist-
19 ing German-Russian relations undergo an alteration.

20 "OTT"
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1 We offer in evidence IPS document No.
2 220 C (35) from exhibit for identification 58, Vol-
3 ume II, which is a draft of the document or proposal
4 received from NOMURA June 15, 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 220 C (35) will receive exhibit No. 1087.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1087 and received in evidence.)

11 MR. E. WILLIAMS: We read prosecution's
12 document No. 1087:

13 "DRAFT DOCUMENT RECEIVED INFORMALLY FROM ASSOCIATES
14 OF THE JAPANESE AMBASSADOR (NOMURA) ON JUNE 15, 1941

15 "The Governments of the United States and of
16 Japan accept joint responsibility for the initiation
17 and conclusion of a general agreement of understanding
18 as expressed in a joint declaration for the resumption
19 of traditional friendly relations.

20 "Without reference to specific causes of
21 recent estrangement, it is the sincere desire of both
22 Governments that the incidents which led to the de-
23 terioration of amicable sentiment between their
24 countries should be prevented from recurrence and cor-
25 rected in their unforeseen and unfortunate consequences."

1 "It is our earnest hope that, by a coopera-
2 tive effort, the United States and Japan may contri-
3 bute effectively toward the establishment and pre-
4 servation of peace in the Pacific area and, by the
5 rapid consumation of an amicable understanding, en-
6 courage world peace and arrest, if not dispel, the
7 tragic confusion that now threatens to engulf civi-
8 lization.

9 "For such decisive action, protracted ne-
10 gotiations would seem ill-suited and weakening.
11 Both Governments, therefore, desire that adequate
12 instrumentalities should be developed for the reali-
13 zation of a general understanding which would bind,
14 meanwhile, both Governments, in honor and in act.

15 "It is the belief of the two Governments
16 that such an understanding should comprise only the
17 pivotal issues of urgency and not the accessory con-
18 cerns which could be deliberated later at a Conference.

19 "Both Governments presume to anticipate that
20 they could achieve harmonious relations if certain
21 situations and attitudes were clarified or improved;
22 to wit:

- 23 "1. The concepts of the United States and of
24 Japan respecting the international relations
25 and the character of nations."

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2 "2. The attitudes of both Governments toward
3 the European war.

4 "3. Action toward a peaceful settlement be-
5 tween China and Japan.

6 "4. Commerce between both nations.

7 "5. Economic activity of both nations in the
8 Pacific area.

9 "6. The policies of both nations affecting po-
10 litical stabilization in the Pacific area.

11 "7. Neutralization of the Philippine Islands.

12 "Accordingly, the Government of the United
13 States and the Government of Japan have come to the
14 following mutual understanding and declaration of
15 policy:

16 "I. The concepts of the United States and of Japan
17 respecting international relations and the charac-
18 ter of nations.

19 "Both Governments affirm that their national
20 policies are directed toward the foundation of a last-
21 ing peace and the inauguration of a new era of reci-
22 procal confidence and cooperation between our peoples.

23 "Both Governments declare that it is their
24 traditional, and present, concept and conviction
25 that nations and races compose, as members of a family,
one household living under the ideal of universal

1 concord through justice and equity; each equally
2 enjoying rights and admitting responsibilities with
3 a mutuality of interests regulated by peaceful pro-
4 cesses and directed to the pursuit of their moral
5 and physical welfare, which they are bound to defend
6 for themselves as they are bound not to destroy for
7 others; they further admit their responsibilities
8 to oppose the oppression or exploitation of other
9 people.

10 "Both Governments are firmly determined that
11 their respective traditional concepts on the character
12 of nations and the underlying moral principles of
13 social order and national life will continue to be
14 preserved and never transformed by foreign ideas or
15 ideologies contrary to these moral principles and
16 concepts.

17 "II. The attitudes of both Governments toward the
18 European war.

19 "The Government of Japan maintains that the
20 purpose of the Tripartite Pact was, and is, defensive
21 and is designed to prevent the participation of na-
22 tions in the European war not at present involved in
23 it.

24 "The Government of the United States main-
25 tains that its attitude toward the European hostili-

1 ties is and will continue to be determined solely
2 and exclusively by considerations of protection and
3 self-defense: its national security and the defense
4 thereof.

5 "III. Action toward a peaceful settlement between
6 Japan and China.

7 "The Government of Japan having declared
8 that the general terms, within the framework of which
9 the Government of Japan will propose the negotiation
10 of a peaceful settlement of the China Affair, are
11 implied in the KONOYE principles and in the practical
12 application of these principles, the President of the
13 United States, relying upon the policy of the Govern-
14 ment of Japan to establish a relation of neighborly
15 friendship with China, will suggest to the Government
16 at Chungking that it enter with the Government of
17 Japan into a negotiation for a termination of hostili-
18 ties and resumption of peaceful relations.

19 "IV. Commerce between both nations.

20 "When official approbation to the present
21 understanding has been given by both Governments,
22 the United States and Japan shall assure each other
23 mutually to supply such commodities as are, respective-
24 ly, available and required by either of them. Both
25 Governments further consent to take necessary steps

1 to resume normal trade relations as formerly estab-
2 lished under the Treaty of Commerce and Navigation
3 between the United States and Japan. If a new commer-
4 cial treaty is desired by both Governments, it would
5 be negotiated as soon as possible and be concluded
6 in accordance with usual procedure.

7 "V. Economic activity of both nations in the Paci-
8 fic area.

9 "On the basis of mutual pledges hereby given
10 that Japanese activity and American activity in the
11 Pacific area shall be carried on by peaceful means
12 and in conformity with the principle of non-discrim-
13 ination in international commercial relations, the
14 Japanese Government and the Government of the United
15 States agree to cooperate each with the other toward
16 obtaining non-discriminatory access by Japan and by
17 the United States to commercial supplies of natural
18 resources (such as oil, rubber, tin, nickel) which
19 each country needs for the safeguarding and develop-
20 ment of its own economy.

21 "VI. The policies of both nations affecting political
22 stabilization in the Pacific area.

23 "Both Governments declare that the control-
24 ling policy underlying this understanding is peace
25 in the Pacific area; that it is their fundamental

1 purpose, through cooperative effort, to contribute
2 to the maintenance and the preservation of peace in
3 the Pacific area; and that neither has territorial
4 designs in the area mentioned.

5 "VII. Neutralization of the Philippine Islands.

6 "The Government of Japan declares its will-
7 ingness to enter at such time as the Government of
8 the United States may desire into negotiation with
9 the Government of the United States with a view to
10 the conclusion of a treaty for the neutralization
11 of the Philippine Islands, when Philippine independ-
12 dence shall have been achieved.

13 "(Enclosure)

14 "ANNEX AND SUPPLEMENT ON THE PART OF THE GOVERNMENT
15 OF THE UNITED STATES

16 "IV. Commerce between both nations.

17 "It is understood that during the present
18 international emergency Japan and the United States
19 each shall permit export to the other of commodities
20 in amounts up to the figures of usual or pre-war trade,
21 except, in the case of each, commodities which it
22 needs for its own purposes of security and self-de-
23 fense. These limitations are mentioned to clarify
24 the obligations of each Government. They are not
25 intended as restrictions against either Government;

1 and, it is understood, that both Governments will
2 apply such regulations in the spirit dominating re-
3 lations with friendly nations."
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1 We offer in evidence IPS document No.
2 219P (77) from exhibit for identification 58, Vol-
3 ume I, which is an excerpt from a telegram of Ambas-
4 sador Grew to Secretary of State Hull, dated June
5 16, 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 219P (77) will receive exhibit No. 1088.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1088 and received in evidence.)

12 MR. E. WILLIAMS: We read prosecution ex-
13 hibit 1088:

14 "TELEGRAM

15 "THE AMBASSADOR IN JAPAN (GREW) TO THE SECRETARY OF
16 STATE

17 "TOKYO, June 16, 1941 - 9 p.m.
(Received June 16 - 10:35 a.m.)

18 "Excerpts

19 "830. Chungking's 240, June 15, 3 p.m.
20 Without delay I immediately sought an appointment
21 with the Minister for Foreign Affairs and delivered
22 to him in person a signed note quoted below. I made
23 the most emphatic representations and pointed out the
24 grave danger to American Japanese relations involved in
25 recent bombing attacks on Chungking which have now

1 resulted in heavy damage to our Embassy property,
2 including the residence of the Ambassador, and serious-
3 ly jeopardizing both the lives of the Ambassador and
4 other American nationals and the U. S. S. Tutuila.

5 "Excellency: I have the honor to inform
6 your Excellency that according to information
7 just received from the American Ambassador at
8 Chungking, during an air raid early on the
9 afternoon of June 15, 1941, twenty-seven Japa-
10 nese airplanes flying high bombed Chungking
11 and also dropped several, about five, bombs
12 within areas of one to three hundred yards of
13 the entrance to the Embassy Chancery and the
14 United States ship Tutuila. A bomb which
15 dropped within fifty yards of the entrance to
16 the Embassy dugout hit alongside of and heavily
17 damaged the offices of the assistant military
18 attache; about half way between the Chancery
19 and the United States ship Tutuila. The con-
20 cussion and flying debris damaged the Chancery,
21 including the windows, transoms, tile roof,
22 screens and shutters. Some damage was also
23 caused at the Ambassador's residence a half
24 mile away and at the Standard Oil offices near
25 the Chancery."

1 We offer in evidence IPS document No.
2 1632W (52), an entry in KIDO's Diary, June 18, 1941.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 1632W (52) will receive exhibit No. 1089.

6 (Whereupon, the document above re-
7 ferred to was marked prosecution's exhibit
8 No. 1089 and received in evidence.)

9 MR. E. WILLIAMS: We read prosecution's
10 exhibit No. 1089:

11 "Extract from Entry From Marquis KIDO's
12 Diary, 18 June '41.'

13 "June 18th, 1941 - (Extract)

14 ".....I had a visit from the Premier and
15 the Foreign Minister at 11 a.m.. The Foreign Minister
16 told me that instructions had been sent to have
17 the German Government negotiate with the Vichy Govern-
18 ment in connection with the French Indo-China Prob-
19 lem."

20 MR. LOGAN: If the Tribunal please, may we
21 have that exhibit referred to the Language Section?

22 THE PRESIDENT: What do you suggest is wrong
23 with it, Mr. Logan?

24 MR. LOGAN: According to our translation,
25 it should read: "I had a visit from the Premier and

1 the Foreign Minister at 11 a.m.. The Foreign Minister
2 told me that instructions had been sent to negotiate
3 with the Vichy Government through the German Govern-
4 ment in connection with the French Indo-China prob-
5 lem."

6 THE PRESIDENT: There seems to be no sub-
7 stantial difference, but we will refer it to the
8 Language Section.

9 Mr. Williams.

10 MR. E. WILLIAMS: We offer in evidence IPS
11 document No. 1632W (53) which is an entry in KIDO's
12 Diary, June 20, 1941.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 1632W (53) will receive exhibit No. 1090.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution's exhibit
18 No. 1090 and received in evidence.)

19 MR. E. WILLIAMS: We read prosecution's
20 exhibit No. 1090:

21 "Extract from Entry from Marquis KIDO's
22 Diary, 20 June 1941.

23 ".....Prince KONOYE called on me at 5:50
24 p.m. and informed me confidentially that there was
25 something hard to understand about the Foreign

1 Minister's opinion in view of the present strained
2 international relations including the outbreak of
3 the war between the Soviet and Germany. He took this
4 occasion to refer to the responsibility of the Cabin-
5 et, but I advised him that it was still too early
6 to discuss this. I promised him that we would talk
7 over the matter with Mr. HIRANUMA, Minister of Home
8 Affairs, at the earliest opportunity. He went home
9 after about an hour's talk."

10 MR. LOGAN: If the Tribunal please, we
11 would like to have this referred to the Language
12 Section.

13 THE PRESIDENT: Why, Mr. Logan?

14 MR. LOGAN: The middle sentence should read:
15 "He took this occasion to refer to the responsibility
16 of the Cabinet, but I advised him that it was out of
17 the question."

18 THE PRESIDENT: It will be referred.

19 MR. E. WILLIAMS: We offer in evidence IPS
20 document No. 220C (36) which is an oral statement by
21 Secretary of State handed to Ambassador NOMURA, June
22 21, 1941.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 220C (36) will receive exhibit No. 1091.

1 (Whereupon, the document above re-
2 ferred to was marked prosecution's exhibit
3 No. 1091 and received in evidence.)

4 MR. E. WILLIAMS: We read prosecution's
5 exhibit No. 1091.

6 "ORAL STATEMENT HANDED BY THE SECRETARY OF STATE TO
7 THE JAPANESE AMBASSADOR (NOMURA) ON JUNE 21, 1941

8 "Excerpt.

9 "The Secretary of State has no reason to doubt
10 that many Japanese leaders share the views of the Jap-
11 anese Ambassador and his associates as indicated above
12 and would support action toward achieving those high
13 objectives. Unfortunately, accumulating evidence
14 reaches this Government from sources all over the
15 world, including reports from sources which over many
16 years have demonstrated sincere good will toward Japan,
17 that some Japanese leaders in influential official
18 positions are definitely committed to a course which
19 calls for support of Nazi Germany and its policies of
20 conquest and that the only kind of understanding with
21 the United States which they would endorse is one that
22 would envisage Japan's fighting on the side of Hitler
23 should the United States become involved in the Euro-
24 pean hostilities through carrying out its present
25 policy of self-defense. The tenor of recent public

1 statements gratuitously made by spokesmen of the Jap-
2 anese Government emphasizing Japan's commitment and
3 intentions under the Tripartite alliance exemplify an
4 attitude which cannot be ignored. So long as such
5 leaders maintain this attitude in their official
6 positions and apparently seek to influence public
7 opinion in Japan in the direction indicated, is it
8 not illusory to expect that adoption of a proposal
9 such as the one under consideration offers a basis
10 for achieving substantial results along the desired
11 lines?

12 "Another source of misgiving in the Japanese
13 proposal relates to the desire of the Japanese Gov-
14 ernment to include in its terms for a peaceful settle-
15 ment to be offered to the Chinese Government, a pro-
16 vision which would permit the stationing of Japanese
17 troops in certain areas in Inner Mongolia and North
18 China as a measure of cooperation with China in
19 resisting communistic activities. While this Gov-
20 ernment has given careful thought to the considera-
21 tions which have prompted the Japanese Government to
22 make such a proposal, and while this Government does
23 not desire to enter into the merits of such a pro-
24 posal, it feels that the liberal policies to which the
25 United States is committed, as explained on numerous

1 occasions to the Japanese Ambassador and his associates,
2 would not permit this Government to associate itself
3 with any course which appears to be inconsistent with
4 these policies. Furthermore, although in matters
5 affecting only this country there might be some lati-
6 tude of decision as to the qualifying of rights, the
7 matter under discussion affects the sovereign rights
8 of a third country, and accordingly it is felt that
9 this Government must be most scrupulous in dealing
10 with such a matter.

11 "The Secretary of State has therefore re-
12 luctantly come to the conclusion that this Government
13 must await some clearer indication than has yet been
14 given that the Japanese Government as a whole desires
15 to pursue courses of peace such as constitute the ob-
16 jectives of the proposed understanding. This Govern-
17 ment sincerely hopes that the Japanese Government will
18 manifest such an attitude.

19 "NOTE: In order to bring the current dis-
20 cussions up to date as far as the American attitude is
21 concerned, there is being handed the Japanese Ambassa-
22 dor separately a revision, bearing the date of June 21,
23 of the document marked 'Unofficial, Exploratory and
24 without Commitment' which was handed the Japanese Am-
25 bassador on May 31."

1 THE PRESIDENT: Mr. Chief Counsel.

2 MR. KEENAN. Mr. President, the prosecution
3 now offers in evidence IPS document 220 C (37) from
4 exhibit for identification 58, Volume 2, which is
5 draft proposal of a settlement between Japan and the
6 United States by the Secretary of State to the Jap-
7 anese Ambassador June 21, 1941.

8 THE PRESIDENT: Admitted on the usual terms.

9 MR. KEENAN: I hope the Court will permit
10 me at this time to state for the clearer understand-
11 ing, not only of the Court but the defense counsel,
12 that this is a document very similiar to exhibit
13 1078, which was a draft handed by the Secretary of
14 State to the Japanese Ambassador at Washington on
15 31 May 1941. There are the following changes in
16 this draft: One has reference to the exchange of
17 views as to the attitude toward the European War of
18 the two nations by letters instead of by annexes
19 to the document itself as of May 31. The second
20 change has reference to the treatment of the sub-
21 ject matter of economic affairs in China, and the
22 third includes the entire Pacific area instead of
23 the Western Pacific.

24 The prosecution apologizes for its offering
25 this entire document, because it is so closely in

1 resemblance to the former one, but believes this part
2 of the case is so important it craves the Court's in-
3 dulgence for such purpose. So, with the Court's per-
4 mission, I will read this exhibit, if the Court ad-
5 mits it.

6 THE PRESIDENT: Read it, Mr. Counsel.

7 CLERK OF THE COURT: Prosecution's document
8 No. 220 C (37) will receive exhibit No. 1092.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit No.
11 1092 and received in evidence.)

12 MR. KEENAN: (reading)

13 "DRAFT PROPOSAL HANDED BY THE SECRETARY OF
14 STATE TO THE JAPANESE AMBASSADOR (NOMURA) ON JUNE
15 21, 1941.

16 "Unofficial, Exploratory and Without Commitment.

17 "Washington, June 21, 1941.

18 "The Governments of the United States and of
19 Japan accept joint responsibility for the initiation
20 and conclusion of a general agreement of under-
21 standing as expressed in a joint declaration for
22 the resumption of traditional friendly relations.

23 "Without reference to specific causes of recent
24 estrangement, it is the sincere desire of both
25 Governments that the incidents which led to the

1 deterioration of amicable sentiment between their
2 countries should be prevented from recurrence and
3 corrected in their unforeseen and unfortunate con-
4 sequences.

5 "It is our earnest hope that, by a cooperative
6 effort, the United States and Japan may contribute
7 effectively toward the establishment and preserva-
8 tion of peace in the Pacific area and, by the rapid
9 consummation of an amicable understanding, encourage
10 world peace and arrest, if not dispel, the tragic
11 confusion that now threatens to engulf civilization.

12 "For such decisive action, protracted negotia-
13 tions would seem ill-suited and weakening. Both
14 Governments, therefore, desire that adequate instru-
15 mentalities should be developed for the realization
16 of a general understanding which would bind, mean-
17 while, both Governments in honor and in act.

18 "It is the belief of the two Governments that
19 such an understanding should comprise only the
20 pivotal issues of urgency and not the accessory
21 concerns which could be deliberated later at a
22 conference.

23 "Both Governments presume to anticipate that
24 they could achieve harmonious relations if certain
25 situations and attitudes were clarified or improved,

to wit:

1 "1. The concepts of the United States and of
2 Japan respecting international relations and the
3 character of nations.

4 "2. The attitudes of both Governments toward
5 the European war.

6 "3. Action toward a peaceful settlement be-
7 tween China and Japan.

8 "4. Commerce between both nations.

9 "5. Economic activity of both nations in the
10 Pacific area.

11 "6. The policies of both nations affecting
12 political stabilization in the Pacific area.

13 "7. Neutralization of the Philippine Islands.

14 "Accordingly, the Government of the United
15 States and the Government of Japan have come to the
16 following mutual understanding and declaration of
17 policy:

18 "1. The concepts of the United States and of Japan
19 respecting international relations and the character
20 of nations.

21 "Both governments affirm that their national
22 policies are directed toward the foundation of a
23 lasting peace and the inauguration of a new era of
24 reciprocal confidence and cooperation between our
25

1 peoples.

2 "Both Governments declare that it is their tra-
3 ditional, and present, concept and conviction that
4 nations and races compose, as members of a family,
5 one household living under the ideal of universal
6 concord through justice and equity; each equally
7 enjoying rights and admitting responsibilities with
8 a mutuality of interests regulated by peaceful pro-
9 cesses and directed to the pursuit of their moral and
10 physical welfare, which they are bound to defend for
11 themselves as they are bound not to destroy for
12 others; they further admit their responsibilities to
13 oppose the oppression or exploitation of other
14 peoples.

15 "Both Governments are firmly determined that
16 their respective traditional concepts on the character
17 of nations and the underlying moral principles of
18 social order and national life will continue to be
19 preserved and never transformed by foreign ideas or
20 ideologies contrary to those moral principles and
21 concepts.

22 "II. The attitudes of both Governments toward the
23 European war.

24 "The Government of Japan maintains that the
25 purpose of the Tripartite Pact was, and is, defensive

1 and is designed to contribute to the prevention
2 of an unprovoked extension of the European war.

3 "The Government of the United States main-
4 tains that its attitude toward the European hostili-
5 ties is and will continue to be determined solely
6 and exclusively by considerations of protection and
7 self-defense; its national security and the defense
8 thereof.

9 "NOTE (There is appended a suggested draft of
10 an exchange of letters as a substitute for the Annex
11 and Supplement on the part of the Government of the
12 United States on this subject which constituted a
13 part of the draft of May 31, 1941. For discussion
14 of the fundamental question underlying this whole
15 section, vide the Oral statement handed the Jap-
16 anese Ambassador on June 21.)

17 "III. Action toward a peaceful settlement be-
18 tween China and Japan.

19 "The Japanese Government having communicated to
20 the Government of the United States the general terms
21 within the framework of which the Japanese Government
22 will propose the negotiations of a peaceful settle-
23 ment with the Chinese Government, which terms are
24 declared by the Japanese Government to be in har-
25 mony with the KONOYE principles regarding neighborly

1 friendship and mutual respect of sovereignty and
2 territories and with the practical application of
3 those principles, the President of the United
4 States will suggest to the Government of China that
5 the Government of China and the Government of Japan
6 enter into a negotiation on a basis mutually ad-
7 vantageous and acceptable for a termination of hos-
8 tilities and resumption of peaceful relations.

9 "NOTE (The foregoing draft of Section III is
10 subject to further discussion of the question of
11 cooperative defense against communistic activities,
12 including the stationing of Japanese troops in
13 Chinese territory, and the question of economic
14 cooperation between China and Japan. With regard to
15 suggestions that the language of Section III be
16 changed, it is believed that consideration of any
17 suggested change can most advantageously be given
18 after all the points in the annex relating to this
19 section have been satisfactorily worked out, when the
20 section and its annex can be viewed as a whole.)

21 "IV. Commerce between both nations.

22 "When official approbation to the present under-
23 standing has been given by both Governments, the
24 United States and Japan shall assure each other
25 mutually to supply such commodities as are,

1 respectively, available and required by either of
2 them. Both Governments further consent to take
3 necessary steps to resume normal trade relations as
4 formerly established under the Treaty of Commerce
5 and Navigation between the United States and Japan.
6 If a new commercial treaty is desired by both Gov-
7 ernments, it would be negotiated as soon as possible
8 and be concluded in accordance with usual procedures.

9 "V. Economic activity of both nations in the Pacific
10 area.

11 "On the basis of mutual pledges hereby given
12 that Japanese activity and American activity in the
13 Pacific area shall be carried on by peaceful means
14 and in conformity with the principle of non-discrimi-
15 nation in international commercial relations, the
16 Japanese Government and the Government of the United
17 States agree to cooperate each with the other to-
18 ward obtaining non-discriminatory access by Japan
19 and by the United States to commercial supplies of
20 natural resources (such as oil, rubber, tin,
21 nickel) which each country needs for the safe-
22 guarding and development of its own economy.

23 "VI. The policies of both nations affecting
24 political stabilization in the Pacific area.

25 "Both Governments declare that the controlling

1 policy underlying this understanding is peace in
2 the Pacific area; that it is their fundamental pur-
3 pose, through cooperative effort, to contribute to
4 the maintenance and the preservation of peace in
5 the Pacific area; and that neither has territorial
6 designs in the area mentioned.

7 "VII. Neutralization of the Philippine Islands.

8 "The Government of Japan declares its willing-
9 ness to enter at such time as the Government of the
10 United States may desire into negotiation with the
11 Government of the United States with a view to the
12 conclusion of a treaty for the neutralization of the
13 Philippine Islands, when Philippine independence
14 shall have been achieved."
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1 "(Annex 1)

2 "Annex and Supplement on the Part of the
3 Japanese Government.

4 "III. Action toward a peaceful settlement
5 between China and Japan.

6 "The basic terms as referred to in the above
7 section are as follows:

8 "1. Neighborly friendship.

9 "2. (Cooperative defense against injurious
10 communistic activities -- including the stationing
11 of Japanese troops in Chinese territory.) Subject to
12 further discussion.

13 "3. (Economic cooperation.) Subject to agree-
14 ment on an exchange of letters in regard to the appli-
15 cation to this point of the principle of non-discrim-
16 ination in international commercial relations.

17 "4. Mutual respect of sovereignty and terri-
18 tories.

19 "5. Mutual respect for the inherent character-
20 istics of each nation cooperating as good neighbors
21 and forming an East Asian nucleus contributing to world
22 peace.

23 "6. Withdrawal of Japanese armed forces from
24 Chinese territory as promptly as possible and in
25 accordance with an agreement to be concluded between

1 Japan and China.

2 "7. No annexation.

3 "8. No indemnities.

4 "9. Amicable negotiation in regard to
5 Manchoukuo.

6 "(Annex 2)

7 "Annex and Supplement on the Part of the Govern-
8 ment of the United States.

9 "IV. Commerce between both nations.

10 "It is understood that during the present inter-
11 national emergency Japan and the United States each
12 shall permit export to the other of commodities in
13 amounts up to the figures of usual or pre-war trade,
14 except, in the case of each, commodities which it needs
15 for its own purposes of security and self-defense.
16 These limitations are mentioned to clarify the obli-
17 gations of each Government. They are not intended as
18 restrictions against either Government; and, it is
19 understood, both Governments will apply such regula-
20 tions in the spirit dominating relations with friendly
21 nations.

22 "(Annex 3)

23 "Suggested Exchange of Letters between the
24 Secretary of State and the Japanese Ambassador.

25 "The Secretary of State to the Japanese Ambassador:

1 "EXCELLENCY: In Section II of the Joint Declar-
2 ation which was entered into today on behalf of our
3 two Governments, statements are made with regard to
4 the attitudes of the two Governments toward the European
5 war. During the informal conversations which resulted
6 in the conclusion of this Joint Declaration I explained
7 to you on a number of occasions the attitude and policy
8 of the Government of the United States toward the
9 hostilities in Europe and I pointed out that this
10 attitude and policy were based on the inalienable right
11 of self-defense. I called special attention to an
12 address which I delivered on April 24 setting forth
13 fully the position of this Government upon this sub-
14 ject.

15 "I am sure that you are fully cognizant of this
16 Government's attitude toward the European war but in
17 order that there may be no misunderstanding I am again
18 referring to the subject. I shall be glad to receive
19 from you confirmation by the Government of Japan that,
20 with regard to the measures which this nation may be
21 forced to adopt in defense of its own security, which
22 have been set forth as indicated, the Government of
23 Japan is not under any commitment which would require
24 Japan to take any action contrary to or destructive of
25 the fundamental objective of the present agreement,

1 to establish and to preserve peace in the Pacific areas.

2 "Accept, Excellency, the renewed assurances
3 of my highest consideration.

4 "The Japanese Ambassador to the Secretary
5 of State:

6 "EXCELLENCY: I have received your letter of
7 June --.

8 "I wish to state that my government is fully
9 aware of the attitude of the Government of the United
10 States toward the hostilities in Europe as explained
11 to me by you during our recent conversations and as
12 set forth in your address of April 24. I did not fail
13 to report to my Government the policy of the Government
14 of the United States as it had been explained to me,
15 and I may assure you that my Government understands
16 and appreciates the attitude and position of the
17 Government of the United States with regard to the
18 European war.

19 "I wish also to assure you that the Government
20 of Japan, with regard to the measures which the Govern-
21 ment of the United States may be forced to adopt in
22 defense of its own security, is not under any commit-
23 ment requiring Japan to take any action contrary to or
24 destructive of the fundamental objective of the present
25 agreement. "

1 "The Government of Japan, fully cognizant of
2 its responsibilities freely assumed by the conclusion
3 of this agreement, is determined to take no action
4 inimical to the establishment and preservation of peace
5 in the Pacific area.

6 "Accept, Excellency, the assurances of my
7 most distinguished consideration.

8 "(Annex 4)

9 "Suggested Letter to be Addressed by the
10 Secretary of State to the Japanese Ambassador in
11 Connection with the Joint Declaration.

12 "EXCELLENCY: In the informal conversations
13 which resulted in the conclusion of a general agree-
14 ment of understanding between our two Governments, you
15 and your associates expressed fully and frankly views
16 on the intentions of the Japanese Government in regard
17 to applying to Japan's proposed economic cooperation
18 with China the principle of non-discrimination in inter-
19 national commercial relations. It is believed that
20 it would be helpful if you could be so good as to con-
21 firm the statements already expressed orally in the form
22 of replies on the following points:

23 "1. Does the term 'economic cooperation'
24 between Japan and China contemplate the granting by the
25 Government of China to the Japanese Government or its

1 nationals of any preferential or monopolistic rights
2 which would discriminate in favor of the Japanese
3 Government and Japanese nationals as compared with the
4 Government and nationals of the United States and of
5 other third countries? Is it contemplated that upon
6 the inauguration of negotiations for a peaceful
7 settlement between Japan and China the special Japane-
8 ese companies, such as the North China Development
9 Company and the Central China Promotion Company and
10 their subsidiaries, will be divested, in so far as
11 Japanese official support may be involved, of any
12 monopolistic or other preferential rights that they
13 may exercise in fact or that may inure to them by
14 virtue of present circumstances in areas of China under
15 Japanese military occupation?

16 "2. With regard to existing restrictions
17 upon freedom of trade and travel by nationals of third
18 countries in Chinese territory under Japanese military
19 occupation, could the Japanese Government indicate
20 approximately what restrictions will be removed immedi-
21 ately upon the entering into by the Government of
22 Chungking of negotiations with the Government of Japan
23 and what restrictions will be removed at later dates,
24 with an indication in each case in so far as possible
25 of the approximate time within which removal of

1 restrictions would be effected?

2 "3. Is it the intention of the Japanese
3 Government that the Chinese Government shall exercise
4 full and complete control of matters relating to trade,
5 currency and exchange? Is it the intention of the
6 Japanese Government to withdraw and to redeem the
7 Japanese military notes which are being circulated in
8 China and the notes of Japanese-sponsored regimes in
9 China? Can the Japanese Government indicate how soon
10 after the inauguration of the contemplated negotiations
11 arrangements to the above ends can in its opinion be
12 carried out?

13 "It would be appreciated if as specific
14 replies as possible could be made to the questions
15 above listed.

16 "Accept, Excellency, the renewed assurances
17 of my highest consideration.

18 "Foreign Relations Volume II, pages 486-492."

19 THE PRESIDENT: Mr. Higgins.

20 MR. HIGGINS: We offer in evidence IPS docu-
21 ment No. 1632W (55), an entry in KIDO's Diary, June 22,
22 1941.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1632W (55) will receive exhibit No. 1093.

(Whereupon, the document above referred
to was marked prosecution's exhibit No. 1093 and
received in evidence.)

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1 MR. HIGGINS: I read prosecution exhibit 1093:
2 "Extract from Entry from Marquis KIDO's Diary,
3 22 June 41.
4 "June 22nd, 1941 - (Extract)
5 "At 2 p.m. General SUZUKI, President of the
6 Planning Board, telephoned me saying that the report
7 relating to the outbreak of war between Soviet Russia
8 and Germany had been received. Foreign Minister MAT-
9 SUOKA also telephoned me to say that the official report
10 of the commencement of the war between Soviet Russia
11 and Germany from Ambassador OSHIMA had been received.
12 So I asked TOKUGAWA, the gentlemen in waiting on duty,
13 to consult the Imperial convenience to see Foreign
14 Minister MATSUOKA, and it was decided that he would
15 be granted an audience with the Emperor at 5.30 p.m.
16 Before Foreign Minister MATSUOKA had his audience
17 with the Emperor, I was received in audience by the
18 Emperor to present my opinion based on my talk with
19 Prince KONOYE and Baron HIRANUMA last night as follows:
20 There has been a difference of opinion between the
21 Premier and the Foreign Minister concerning our foreign
22 policy to be followed in case of war breaking out
23 between Germany and Soviet Russia. As this war would
24 have a predominant influence upon the future of this
25 country, it was very desirable that his Majesty the

1 Emperor should ask Foreign Minister MATSUOKA whether
2 he had already consulted the Premier about it or not,
3 and if not, prevail upon him to follow Prince KONOYE's
4 opinion.

5 "At 5.30 p.m. Foreign Minister MATSUOKA had
6 his audience with the Emperor. After that I was
7 requested to proceed to the Palace and was received
8 in audience from 6.40 to 6.50 p.m. On this occasion,
9 the Emperor was pleased to point out that the Foreign
10 Minister's policy would mean Japan's positive advance
11 to both the Northern and Southern regions and that it
12 was quite doubtful whether or not the Government and
13 the Supreme War Command would agree and whether or not
14 such policy would ever be appropriate in consideration
15 of our national strength. His Majesty looked very
16 anxious about this matter. I therefore telephoned
17 Prince KONOYE to consult with him, but found he was
18 not at home. Then I telephoned Baron HIRANUMA to
19 say that it was desirable for him to pay careful consider-
20 ation to this matter. At 9.30 p.m. I telephone
21 Prince KONOYE to report the progress of Mr. MATSUOKA's
22 audience with the Emperor, and to ask him to act with
23 prudence at the Liaison Conference. At 00.30 a.m.
24 Prince KONOYE telephoned me to say that he had just
25 had a visit from Foreign Minister MATSUOKA, who

1 explained that what he had reported to the Throne
2 yesterday was his prospect of the future and was never
3 meant as a matter to be put into action immediately."

4 THE PRESIDENT: Mr. Logan.

5 MR. LOGAN: I ask that this be referred to
6 the Language Section, if the Tribunal please.

7 THE PRESIDENT: Why, Mr. Logan?

8 MR. LOGAN: There are so many corrections in
9 it that I think it would be quicker if I read the
10 entire report the way we have it rather than make the
11 corrections line by line.

12 THE PRESIDENT: If they are lengthy, it will
13 be sufficient if you point them out to Major Moore, to
14 whom we refer the matter.

15 MR. LOGAN: Yes, sir.

16 MR. HIGGINS: We offer in evidence IPS
17 document 1632-W(56), which is an entry in KIL0's Diary,
18 June 23, 1941.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 1632-W(56) will receive exhibit No. 1094.

22 (Whereupon, the document above
23 referred to was marked prosecution's exhibit
24 No. 1094, and was received in evidence.)

25 MR. HIGGINS: I read prosecution's exhibit 1094:

1 "Extract from Entry from Marquis KIDO's Diary,
2 23 June 41.

3 "I went to my office at 10 a.m. I talked with
4 the Chief Aide-de-Camp to the Emperor concerning the
5 war between Germany and Soviet Russia. From 10:30 a.m.
6 to 11 a.m. I was received in audience by the Emperor,
7 and expressed my opinion about such matters as the
8 Foreign Minister's report submitted to the Throne yes-
9 terday and the future outlook of the international
10 situation. The Lord Chamberlain called on me at my
11 office at 11:30 a.m. I informed him what I had just
12 reported to the Throne. At 1 p.m. the Chief Aide-de-
13 Camp to the Emperor called on me to report on matters
14 relative to the Chief of the General Staff's audience
15 with His Majesty, the Emperor. Prince KONOYE proceeded
16 to the Palace. We talked from 2:40 p.m. to 4 p.m.
17 exchanging frank opinions on the changed situation
18 caused by Germany's war against Soviet Russia. I went
19 to my official residence at 4:20 p.m. when I had a call
20 from General SUZUKI, President of the Planning Board,
21 with whom I exchanged opinions. He put forth his
22 opinion as to the unification and reinforcement of the
23 Imperial General Headquarters. I agreed in principle,
24 but called his attention to the matter concerning
25 consultation with the Board of Field Marshals and Fleet

1 Admirals."

2 MR. LOGAN: If the Tribunal please, may we have
3 prosecution exhibit 1094 referred to the Language
4 Section?

5 THE PRESIDENT: I think we had better give
6 you general permission to point out what you think are
7 errors to Major Moore without coming for express
8 permission.

9 MR. LOGAN: Thank you.

10 THE PRESIDENT: That will apply to all
11 documents.

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1 MR. HIGGINS: We now offer in evidence IPS
2 document 1632W(57), an entry of June 23, 1941, in
3 KIDO's Diary.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 1632W(57) will receive exhibit No. 1095.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1095 and received in evidence.)

10 MR. HIGGINS: I read prosecution's exhibit 1095.

11 "Entry from Marcus KIDO's Diary, 25 June 41
12 "June 25th, 1941 - Fall

13 "Mr. HASHIMOTO, Director of the Police Bureau,
14 came to my house and reported about repercussions
15 in various circles in this country. At 9 a.m. I went
16 to Tokyo station to send off President WANG CHING
17 WEI. After this I had an interview with Prince
18 KONCWE who said that he had a private talk with
19 WANG CHING WEI last night, when the latter had ex-
20 pressed his opinion regarding general peace between
21 China and Japan, saying that for the purpose of bring-
22 ing about general peace, it was quite necessary as a
23 matter of course to win over LI Tsung-jen and PAI
24 Chung-Hsi, but at the same time our political
25 demarche to CHIANG Kai-Shek was also necessary.
Since we have to ask for the United States assistance

1 for this purpose, Wang further said, the pro-American
2 politicians would inevitably gain influence once
3 more, but to meet this situation we would have to
4 get our comrades properly posted in the Government.
5 The matter of the adjustment of relations between
6 CHIANG Kai-Shek and WANG Ching-Wei would be placed
7 in the hands of TOYAMA. As regards the Japanese
8 General Army Headquarters in China, the senior
9 officers have a good understanding of our Chinese
10 policy but the contacts between 'Superiors and
11 inferiors', 'left and right', and 'front and rear'
12 are bad. In consequence, it is no easy task to carry
13 out our Chinese policy on the spot. Corrupt
14 practices of the Army in China also have been
15 indeed rife.

16 "At 9.20 a.m. Karoku NOMURA paid me a visit
17 to talk with me. From 10.45 a.m. to 11.35 a.m. I
18 was received in audience by the Emperor. At 1 p.m.
19 I consulted the Chief Aide-de-camp to the Throne as
20 to the holding of the Liaison Conference and on other
21 problems. I went home, and then I left home again
22 for the Empress Dowager's Palace to offer my con-
23 gratulations on her birthday. At 4 p.m. the
24 Premier, the Chief of the Army General Staff, and
25 Chief of the Naval General Staff proceeded to the

~~Palace to report on the decisions of the Liaison~~

1 Conference regarding the Japanese troops' entry
2 into French Indo-China. I met Prince KONOYE at
3 4.30 p.m. and had a talk with him."

4 MR. LOGAN: If the Tribunal please, may I
5 just point out at this time that many of these
6 excerpts have very material errors in them, and I
7 have checked it back with the translations that
8 were made by the prosecution which they call "screen
9 translations," as the Court will probably recall,
10 and some of these excerpts are those screen trans-
11 lations. They are not revised.

12 THE PRESIDENT: We can do no more than
13 give you complete access to Major Moore on all
14 points, Mr. Logan.

15 MR. LOGAN: I appreciate that. I just
16 wanted to point that out, that some of them have
17 material erros -- very material.

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

20 (Whereupon, at 1045, a recess
21 was taken until 1100, after which the pro-
22 ceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The Tribunal is
2 now resumed.

3 THE PRESIDENT: Mr. Higgins.

4 MR. HIGGINS: Mr. President, we now tender
5 in evidence IPS document No. 4081-C. This is a
6 telegram dated 28 June 1941, taken from the German
7 files at Nuernberg and is from Ribbentrop at the
8 German Embassy at Tokyo.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 4081-C will receive exhibit No. 1096.

12 (Whereupon, the document above
13 referred to was marked prosecution's exhibit
14 No. 1096 and received in evidence.)

15 MR. SHIMANOUCI: I am counsel SHIMANOUCI.

16 THE PRESIDENT: Counsel SHIMANOUCI.

17 MR. SHIMANOUCI: This document is similar
18 to IPS document No. 4033 and it had been presented
19 to the Court already numbered -- received Court
20 exhibit No. 587. The whole text was read by
21 Prosecutor Hyde.
22

23 THE PRESIDENT: You heard what he said,
24 Mr. Higgins.

25 MR. HIGGINS: Yes, your Honor.

MR. HARDIN: If it please you, Mr. President,

1 our advice from the record was that this was not--
2 this is "C," 4081-C, and that the one that corres-
3 ponded to 4033-D was 4081-B; and we left out--

4 THE PRESIDENT: But the counsel said this
5 is already in as exhibit 587.

6 MR. HARDIN: If it is, it is an error of
7 the record.

8 MR. CUNNINGHAM: If the Tribunal please--

9 THE PRESIDENT: Mr. Cunningham.

10 MR. CUNNINGHAM: The document which is
11 now introduced is the same except for translation
12 and the translation of one word changes the sense
13 of the whole document.

14 THE PRESIDENT: What one word is that?

15 MR. CUNNINGHAM: I would like to have it
16 referred to the translation section to determine
17 whether or not the document introduced by Mr. Hyde
18 is the correct translation or the document intro-
19 duced in this phase of the case is the correct
20 translation.

21 THE PRESIDENT: For our convenience, it
22 might be read again if it is important enough.

23 MR. CUNNINGHAM: If your Honor please, it
24 is not that important but I would like to call
25 attention to the translation section of the vital

1 feature. This document says that there is an agree-
2 ment that OSHIMA "should" use his influence and the
3 other document says there is an agreement that OSHIMA
4 "will" use his influence, and I would like to have
5 the correct translation.

6 THE PRESIDENT: It seems very important
7 so read it again and we will refer it to the trans-
8 lation section.

9 MR. HIGGINS: Very well, Mr. President.

10 (Reading): "To be kept in locked file.

11 "Telegram (Secret Cipher Process)

12 "Special Train 28 June 1941, 2010 hours

13 "Arrival: 28 June 1941, 2030 hours

14 "No. 267/R German Foreign Office, 28 June

15 "No. 560 of 28 June 1) German Embassy Tokyo

16 2) Cipher-Bureau, Secret

17 remarks for officials in charge.

18 "(Marginal note: Sent on to Tokyo under No. 916,
19 28 June 1941, 2130 hours).

20
21 "I have agreed with Ambassador OSHIMA
22 that he influence his government to the effect
23 of a speedy military action against Soviet Russia.
24 I also request you now to utilize all available
25 possibilities to influence to the same effect
the government there, and other influential

1 feature. This document says that there is an agree-
2 ment that OSHIMA "should" use his influence and the
3 other document says there is an agreement that OSHIMA
4 "will" use his influence, and I would like to have
5 the correct translation.

6 THE PRESIDENT: It seems very important
7 so read it again and we will refer it to the trans-
8 lation section.

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10 (Reading): "To be kept in locked file.

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17 remarks for officials in charge.

18 "(Marginal note: Sent on to Tokyo under No. 916,
19 28 June 1941, 2130 hours).

20 "I have agreed with Ambassador OSHIMA
21 that he should influence his government to the
22 effect of a speedy military action against Soviet
23 Russia. I also request you now to utilize all
24 available possibilities to influence to the same
25 effect the government there, and other influential

1 circles. Please make use of the following arguments:

2 "1) The war between Germany and Soviet Russia
3 will not merely lead to the solution of more or less
4 limited individual problems, but will result in a
5 final solution through a fight to the finish
6 /Endkampf-leesung/ of the Russian question.

7 "2) The annihilation of Russian power by our
8 military action, to be expected in relatively short
9 time, will also make Germany's victory over England
10 an irrevocable fact. If Germany gets hold of the
11 Russian oil fields and wheat fields, sufficient
12 provisions for the whole of Europe is thereby
13 guaranteed, so that the British blockade becomes
14 entirely senseless. Direct land communication to
15 East Asia will likewise be established at this
16 occasion.

17
18 "3) In this way all requirements then exist
19 for making possible the New Order of the European
20 Sphere as intended by the Axis Powers.

21 "4) The present situation provides Japan, too,
22 with a unique opportunity just as Germany in Europe.
23 Japan can now create the basis for the New Order
24 planned by it in East Asia by a military action
25 against Soviet Russia. After the elimination of
Soviet power in the Far East also, the solution of

1 the Chinese problem as desired by Japan, will meet
2 with no further difficulties.

3 "5) From the point of view of Japan's interests,
4 the idea of a move to the South in the direction of
5 Singapore is and will be of great importance. Since,
6 at present, Japan is not ready for this, and in
7 addition such move is not yet possible in the present
8 phase of the war, it is in the utmost Japanese inter-
9 est not to leave unused the at present available
10 opportunity to solve the Russian problem in the
11 Far East as well. She would thereby protect her rear
12 for the move to the South.

13 "6) In view of the speedy course of events
14 to be expected, Japan should, without delay, decide
15 upon a military attack against Soviet Russia. A
16 Japanese move against an already beaten Soviet
17 Russia would considerably injure Japan's moral and
18 political position.

19 "7) It may be counted upon that the speedy
20 conquest of Soviet Russia, especially if Japan
21 takes part in it from the East, will probably be the
22 best way to convince the United States of the abso-
23 lute futility of entering into the war on the side
24 of England, then completely isolated and facing the
25 most powerful alliance of the earth. RIBBENTROP."

1 I now offer in evidence IPS document
2 No. 4081-D, taken from the German files at Nuern-
3 berg. It is a telegram, No. 1069, from Ott to
4 Ribbentrop, 28 June 1941.

5 THE PRESIDENT: Admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution's docu-
8 ment No. 4081-D will receive exhibit No. 1097.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1097 and received in evidence.)

12 MR. HIGGINS: I now read prosecution
13 exhibit No. 1097:

14 "Telegram (Secret Cipher Process)

15 "Tokyo 28 June 41 1145 hours

16 "Arrival 28 June 41 2210 hours

17 "To be kept in locked file.

18 "No. 1069 of 28 June Secret!

19 "Re Telegram No. 1034 with Pol VIII, of
20 25 June.

21
22 "Within the last days the leadership
23 committee of the Cabinet has repeatedly met in the
24 presence of the Chief of Staff, the entire Cabinet
25 and deliberating committees without reaching a clear-
cut decision as to Japan's future attitude to the

1 German-Russian war. As far as could be found out,
2 only preparatory measures for the various possible
3 actions on the part of Japan have been ordered thus
4 far. As Army memorandum confirms, preparatory
5 measures have indeed begun with zest. Under the
6 circumstances the preparations for attack against
7 Russia will take at least six weeks, unless a
8 decisive material and moral weakening of Russia in
9 the Far East takes place beforehand. According to
10 reliable, confidential information, Premier KONOYE
11 and the majority of Cabinet Ministers, to be sure,
12 seem to maintain the view that nothing must be
13 undertaken that would injure Japan's military pos-
14 ition in China. Hence, the Cabinet seems thus far
15 merely to have resolved on tightening their grip on
16 Indo-China for which purpose three divisions are
17 allegedly being prepared.

18 "In public and behind the scenes discus-
19 sions concerning the attitude to be taken are in
20 full swing. Noted nationalists, who always closely
21 work together with the Embassy, have held various
22 confidential conversations -- cf. DNB No. 244 of 26
23 June -- in which caution towards the Soviet Union
24 and determined action in the South was advocated.

25 "The danger exists that the Southern

1 expansion desired by this group will at first be
2 limited to French Indo-China, while their efforts*
3 (* Clear text evidently missing) could hinder Japan's
4 activity in the North. Under these circumstances,
5 the question arises whether the general directions,
6 given to me at Berlin, to work, in the first place,
7 for Japan's activity in the South while ignoring the
8 Soviet Union, are still valid if a successful move
9 to the South beyond Indo-China cannot be counted on
10 at present. According to confidential reports
11 coming to me from the Japanese Foreign Office,
12 Ambassador OSHIMA is said to have urgently advised
13 the Japanese government to attack Russia soon.

14 "I request telegraphic instructions.

15 "Ott."

16
17 "We now offer in evidence IPS document
18 No. 1632" (58), which is an entry in KIDO's Diary,
19 June 28, 1941.

20 THE PRESIDENT: Admitted on the usual
21 terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 1632" (58) will receive exhibit No. 1098.

24 ("hereupon, the document above
25 referred to was marked prosecution's exhibit
No. 1098 and received in evidence.)

1 MR. HIGGINS: I now read prosecution
2 exhibit No. 1098:

3 "Extract from entry from Marquis KIDO's
4 Diary, 28 June 41.

5 "War Minister TOJO proceeded to the
6 Palace, and after his withdrawal from the presence
7 of the Emperor, he had a talk with me. He explained
8 the following matters: (1) The Army's policy
9 dealing with the German-Soviet War is that the
10 attitude of the Kwantung Army towards that war should
11 be calm and prudent. (2) Various information from
12 Ambassadors in China regarding that war. (3) Political
13 moves or demarches towards YEN Hsi-shan, LI Tsung-jen
14 and PAI Chung-hsi. (4) The strengthening of the
15 Imperial General Headquarters, and arrangements for
16 them to meet every day in the Palace."

17 MR. LOGAN: If the Tribunal please, in view
18 of the ruling this morning, may the record show after
19 each one of these entries are read -- may it appear
20 after each one is read in the record itself that that
21 particular excerpt is referred to the language section
22 without further order?
23

24 THE PRESIDENT: Every counsel, defense and
25 other counsel, is at liberty to refer any point of
translation to the head of the language section,

1 Major Moore, without the permission of the Tribunal.
2 If that right is fully exercised there will be no
3 need for the Tribunal to refer any document to
4 Major Moore. If Major Moore advises a correction
5 he will notify the fact to the counsel who presented
6 the document, who will read it as corrected unless
7 he dissents when the Court may have to take other
8 steps to secure finality, but we do not contemplate
9 that in any circumstances.

10 Dr. KUROSE.

11 DR. KUROSE: I wish to make one request
12 regarding the Court exhibit.

13 I have been noticing this since yesterday
14 that the translations presented to the Court by the
15 prosecutors are, generally speaking, fairly accurate.
16 However, in the translation of the diary of KIDO there
17 are very many errors. It may be one way to read the
18 documents here before any corrections are made and
19 then corrected after consideration; however, if it
20 can be arranged so that the translations can be pre-
21 sented to us beforehand, one day beforehand, I believe
22 it would speed up matters here in the Court and
23 there will be no misunderstanding on that point, and
24 it would be much better both for the Tribunal and for
25 us. I hope the Court will consider this matter.

1 THE MONITOR: Slight addition: If the
2 translations are handed to us one day before the
3 required time and necessary corrections made -- one
4 or two days beforehand -- so that counsel will read
5 the corrected copy.

6 THE PRESIDENT: If the Court's permission
7 is availed of fully there will be no need for the
8 Court to make any references to the language section.
9 We insist on that course being followed.

10 Mr. Higgins.

11 MR. HIGGINS: We now offer in evidence IPS
12 document No. 219P (78) from exhibit for identification
13 No. 58, Volume 1. This is an excerpt from statement
14 of Ambassador Grew to Foreign Minister MATSUOKA,
15 dated 8 July 1941.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 219P (78) will receive exhibit No. 1099.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1099 and received in evidence.)
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1 MR. HIGGINS: I now read prosecution's
2 exhibit No. 1099.

3 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
4 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS
5 (MATSUOKA).

6 "Excerpt. No. 1845. TOKYO, July 8, 1941.

7 EXCELLENCY: I have the honor to inform
8 Your Excellency that during a severe Japanese air
9 raid on Chungking on June 29, 1941, at which time
10 the British Embassy was badly damaged, the con-
11 cussion from bombs dropped on the south bank of the
12 river caused some damage to the staff residence of
13 the American Embassy."

14 I now offer in evidence I. P. S. document
15 No. 220C (14), which is an excerpt from the press
16 release by the Department of State -- no, I beg your
17 pardon; I have skipped one -- (13) from exhibit for
18 identification 58, volume II, which is an excerpt
19 from an oral statement of Ambassador Grew to Minister
20 MATSUOKA, 8 July 1941.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 220C (13) will receive exhibit No. 1100.

24 (Whereupon, the document above
25 referred to was marked prosecution's exhibit

1 No. 1100 and received in evidence.)

2 MR. HIGGINS: I read prosecution's exhibit
3 No. 1100:

4 "ORAL STATEMENT BY THE AMERICAN AMBASSADOR
5 IN JAPAN (GREW) TO THE JAPANESE MINISTER FOR FOREIGN
6 AFFAIRS (MATSUOKA).

7 "Excerpt.

8 "Since that time, information has been
9 received to the effect that certain cargo at Hanoi
10 as well as at Haiphong has been seized by the
11 Japanese military, but that it was impossible to
12 check the amount and nature of the cargo so seized
13 because the rightful owners were not permitted to
14 inspect the warehouse where their merchandise was
15 stored. Nevertheless, it is known that a substantial
16 amount of American cargo has been taken away.

17 "In bringing this subject again to the
18 attention of the Foreign Office, it is urgently
19 requested that immediate steps be taken to restore
20 the merchandise to its rightful owners. The Govern-
21 ment of the United States, as has been stated before,
22 does not recognize the right of the Japanese military
23 to take any action whatsoever in French-Indo China
24 against property in which there is an American in-
25 terest. The American Embassy has been instructed to

1 state that the result of persistence by the Japanese
2 in action such as that described above can only be
3 further deterioration in relations between the
4 United States and Japan.

5 "TOKYO, July 8, 1941."

6 MR. HARDIN: Mr. President, may I ask per-
7 mission to depart from the order here and introduce
8 in evidence I. P. S. document No. 1339 '85). I
9 desire this -- this is the document which counsel
10 called to our attention yesterday morning as being
11 telegram No. 47. It does not show on the translation
12 nor any of the English that we found, but they say
13 that from the Japanese it is that telegram, and in
14 obedience to your Honor's request we have investigated
15 and are willing to accept that and read it in evidence.
16

17 THE PRESIDENT: It has not been read before?

18 MR. HARDIN: It has not. It is similar to
19 one which was read, but not identical.

20 THE PRESIDENT: A different translation has
21 already been read, is that so?

22 MR. HARDIN: No, sir, another telegram very
23 similar to this was in evidence, but not this one.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document
No. 1339A (5) will receive exhibit No. 1101.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 1101 and received in evidence.)

4 MR. HARDIN: We read prosecution's exhibit
5 No. 1101:

6 "FOREIGN MINISTER MATSUOKA'S REPLY OF
7 FEB. 17 TO FOREIGN SECRETARY EDEN.

8 "His Imperial Japanese Majesty's Minister
9 for Foreign Affairs is rather surprised to learn
10 about the undue concern shown on the part of His
11 Britannic Majesty's Principal Secretary for Foreign
12 Affairs which is, no doubt, based upon information
13 emanating from the British Embassy in Tokyo and
14 other sources. There is, of course, no way to as-
15 certain what kind of information the British Govern-
16 ment has been receiving, but the Minister for Foreign
17 Affairs would like to avail himself of this oppor-
18 tunity to state that so far as he can see there is no
19 ground for entertaining such alarming views on the
20 situation in East Asia.

21 "On more than one occasion the Minister
22 for Foreign Affairs has explained to the British
23 Ambassador in Tokyo and even to the public at large
24 that one of the primary purposes of the Tripartite
25 Pact is to limit the sphere of the European war by

1 preventing those Powers not engaged in hostilities
2 at present from joining the war and also to bring
3 about its termination as quickly as possible. The
4 Japanese Government has so far found no reason or
5 occasion to alter this avowed aim which constitutes
6 a fundamental basis of its policy. The British
7 Government may rest assured on this point.

8 "However, the Minister for Foreign Affairs
9 feels obliged to say candidly that he cannot help
10 entertaining a certain amount of anxiety, if not
11 misgivings, on the movements of the British and
12 American Governments in their attempt to expedite
13 and enlarge warlike preparations with an eye to
14 meeting supposed contingencies in the Pacific and
15 the South Seas. Press reports about these move-
16 ments originating from American sources and else-
17 where are causing increasing misgivings in Japan
18 with the consequence that in some quarters it is even
19 contended that Japan should lose no time in taking
20 measures to meet the worst eventuality in these
21 regions. The concern felt is quite natural in the
22 face of these disturbing reports. If the American
23 Government could only be persuaded to restrict its
24 activities to the Western Hemisphere, and prudently
25 avoid causing unnecessary anxiety to the Japanese,

1 the situation would indeed be very much mitigated.

2 "Having had the privilege of forming personal
3 acquaintanceship at Geneva with His Britannic
4 Majesty's Principal Secretary for Foreign Affairs
5 and prompted by the belief that a general exchange of
6 frank views at this juncture will be of some ser-
7 vice in enabling the two nations to see eye to eye,
8 the Minister for Foreign affairs wishes to take the
9 liberty of making further observations. The upper-
10 most thought in my mind has always been world peace.
11 He sincerely hopes that on the one hand, the China
12 Affair will be brought to an end as soon as possible
13 and on the other, the European war will see an early
14 termination. It is my earnest and constant prayer
15 that the Powers may gather again to discuss at a
16 round table their differences and disputes and
17 deliberate on the great question of organizing an
18 enduring peace upon a just and equitable world order.
19 In this connection, I desire to assure my eminent
20 colleague that far from aspiring to control the
21 destinies of, or to dominate, other peoples, it is
22 Japan's established policy to inaugurate an era of
23 peace and plenty and mutual helpfulness throughout
24 the region of Greater East Asia by promoting the
25 spirit of concord and conciliation. As repeatedly

1 affirmed, Japan's motto is 'no conquest, no
2 oppression, no exploitation.' I, therefore,
3 strongly deprecate those biased reports designed
4 to calumniate Japan.

5 "The Minister for Foreign Affairs frankly
6 confesses his utter inability to see any good purposes
7 served by prolonging the war whatever the motive.
8 Whatever the outcome, whoever the victor, there are
9 present in the world situation, especially in Europe,
10 elements of great danger such as would bring about
11 a fearful state of chaos and confusion, possibly
12 eventuating in the downfall of modern civilization.
13 It takes statesmanship of a high order to foresee and
14 meet in time such catastrophic contingency. The
15 Minister for Foreign Affairs has not lost hope yet
16 that such statesmanship is not wanting in the British
17 Empire.

18 "Lastly, the Minister for Foreign Affairs
19 would like to make it clear that Japan, deeply con-
20 cerned as she is with an early restoration of peace,
21 is fully prepared to act as a mediator, not only in
22 Greater East Asia but anywhere the world over, or to
23 take whatever action is calculated to recover normal
24 conditions.

25 "The Minister for Foreign Affairs trusts that

1 His Britannic Majesty's Principal Secretary for
2 Foreign Affairs will not hesitate to share with him
3 the conviction that upon the shoulders of the leading
4 Powers rests the great and grave responsibility of
5 restoring peace and saving modern civilization from
6 the impending collapse. Such a responsibility can
7 only be fulfilled by a wise and courageous statesman-
8 ship willing to display an accommodating and generous
9 spirit in listening to others' claims and contentions.
10 It is hardly necessary to add that whatever Japan
11 may do, she will always be actuated by the conscious-
12 ness of the responsibility she owes to Humanity."

13 We offer now in evidence I. P. S. document
14 220C (14), which is an excerpt from press release by
15 the Department of State in Washington, dated July 24,
16 1941.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 220C (14) will receive exhibit No. 1102.
20

21 (Whereupon, the document above referred
22 to was marked prosecution's exhibit No. 1102
23 and received in evidence.)

24 MR. HARDIN: We read prosecution's exhibit
25 No. 1102:

"PRESS RELEASE ISSUED BY THE DEPARTMENT OF

1 STATE ON JULY 24, 1941.

2 "In response to inquiries by press corres-
3 pondents, the Acting Secretary made the following
4 statement:

5 "It will be recalled that in 1940 the
6 Japanese Government gave expression on several
7 occasions to its desire that conditions of disturbance
8 should not spread to the region of the Pacific, with
9 special references to the Netherlands East Indies
10 and French Indo-china. This desire was expressly
11 concurred in by many other Governments, including
12 the Government of the United States. In statements
13 by this Government, it was made clear that any alter-
14 ation in the existing status of such areas by other
15 than peaceful processes could not but be prejudicial
16 to the security and peace of the entire Pacific area
17 and that this conclusion was based on a doctrine which
18 has universal application.

19 "On September 23, 1940, referring to the
20 events then rapidly happening in the Indo-China situ-
21 ation, the Secretary of State stated that it seemed
22 obvious that the existing situation was being upset
23 and that the changes were being achieved under duress.
24 Present developments relating to Indo-China provide clear
25 indication that further changes are now being effected

1 under duress.

2

3 "There is no doubt as to the attitude of
4 the Government and people of the United States toward
5 acts of aggression carried out by use or threat of
6 armed force. That attitude has been made abundantly
7 clear.

8 "By the course which it has followed and
9 is following in regard to Indo-China, the Japanese Govern-
10 ment is giving clear indication that it is determined
11 to pursue an objective of expansion by force or threat
12 of force.

13 "There is not apparent to the Government
14 of the United States any valid ground upon which the
15 Japanese Government would be warranted in occupying
16 Indo-China or establishing bases in that area as measures
17 of self-defense.

18 "There is not the slightest ground for
19 belief on the part of even the most credulous that
20 the Governments of the United States, of Great
21 Britain, or of the Notherlands have any territorial
22 ambitions in Indo-china or have been planning any moves
23 which could have been regarded as threats to Japan.
24 This Government can, therefore, only conclude that the
25 action of Japan is undertaken because of the estimated

1 value to Japan of bases in that region primarily for
2 the purpose of further and more obvious movements of
3 conquest in adjacent areas."

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1 MR. HARDIN: We wish to tender in evidence
2 I. P. S. document No. 1699, which is a document taken
3 from the Japanese Foreign Office, Tokyo, duly authenti-
4 cated, and which relates to Central Liaison Conferences
5 held during 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1699 will receive exhibit No. 1103.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1103 and received in evidence.)

12 MR. HARDIN (Reading):

13 "Liaison Conferences held during 1941.

14 "(An Abstract from Article in Asahi)

15 "Date and place: 6:00 - 9:30 p. m., on 13
16 January at Meguro-Saryo (Japanese Restaurant).

17 "Attendance: KONOYE (Prime Minister); TOJO (War
18 Minister); SUGIYAMA (Chief of Army General Staff);
19 TOMIDA (Chief Secretary of the Cabinet); ANAMI (Vice
20 Minister of War); MUTO (Chief of Military Bureau);
21 TSUKADA (Vice Chief of Army General Staff); TANAKA
22 (Director of Army General Staff); TOYODA (Vice Minis-
23 ter of Navy); OKA (Chief of Naval Affairs Bureau);
24 KONDO (Vice Chief of Naval General Staff); UGAKI (Vice
25 Chief of Naval General Staff)."

1 "Remarks: Exchange of views."

2 THE PRESIDENT: Mr. Hardin, the majority of
3 my colleagues do not want this read.

4 MR. HARDIN: Very well. We submit it in
5 evidence.

6 THE PRESIDENT: If it showed the nature of
7 the business on each day, it would be different, but
8 it does not in any detail, at all events.

9 MR. HARDIN: We will offer it in evidence
10 without reading it, your Honor.

11 THE PRESIDENT: Well, is there any part you
12 would like to point out in particular? It may be an
13 extremely useful document, but there is no advantage,
14 so far as I can see, in reading it into the trans-
15 cript if the nature of the business is so indefinite.

16 Mr. Smith.

17 MR. HARDIN: We think it important as to each
18 defendant in this case to show his attendance at
19 Liaison Conferences during this period, even though
20 this document does not show the business transacted
21 at the Liaison Conferences.
22

23 THE PRESIDENT: Well, what advantage has it
24 as a part of the transcript that it does not possess
25 as an exhibit?

 MR. HARDIN: Well, Mr. President, I do not

1 know that there is any particular difference in its
2 advantage on the transcript beyond its influence as
3 an exhibit. It is the information that during this
4 critical period these particular defendants were
5 taking part in the conferences in this period leading
6 to -- and all the context of the evidence in the case
7 shows important matters were on hand.

8 THE PRESIDENT: As you deal with the happen-
9 ings in these conferences you can indicate who was
10 present.

11 MR. SMITH: If the Court please, we wanted
12 to record an objection. This document has no
13 probative value at all.

14 MR. LOGAN: If the Tribunal please, it appears
15 in the document which has been filed with the Tribunal
16 that it is a copy which was taken from, prepared by
17 somebody from this newspaper, Asahi, and filed in the
18 Cabinet Secretariat's office. It does not appear from
19 the document filed what date or dates of the newspaper
20 were used in compiling that report which was filed in
21 the Cabinet Secretariat's office. The newspaper or
22 newspapers in which these reports appeared have not
23 been filed with the Tribunal, and, furthermore, it
24 does not seem possible -- it may be so -- that a
25

1 newspaper would publish data like this which is
2 supposed to refer to secret conferences.

3 THE PRESIDENT: You might consider for what
4 purpose you are really introducing this. You may have
5 some good purpose. It may be that it will be suffi-
6 cient to meet that purpose if you read only part of
7 it. Think it over during the luncheon adjournment,
8 Mr. Hardin.

9 We will recess until half past one.

10 (Whereupon, at 1155, a recess was
11 taken.)
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THE PRESIDENT: Should you not name them
when you reveal what the discussions were to obviate

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1 the need for us to refer back to this document?

2 MR. HARDIN: I, of course, see the force of
3 that. But, in those interrogations, they will not be
4 definite as to the number of these conferences or the
5 dates of them and as to the individuals who attended.
6 This evidence --

7 THE PRESIDENT: Can you not tell us then
8 the dates and the persons present?

9 MR. HARDIN: Yes, sir.

10 THE PRESIDENT: This document at this stage
11 of the transcript would be no more useful to us than
12 the exhibit itself if omitted from the transcript.

13 MR. HARDIN: At this time, simply because it
14 is dated within this period, I am happy to give the
15 names of the defendants and the dates of these con-
16 ferences. In each case I would like to add that
17 Premier KONOYE was present at all of them but three.

18 THE PRESIDENT: You had better read it.

19 MR. HARDIN: I shall start at the first
20 although I have read a little.

21 (Whereupon, IPS document No. 1699,
22 exhibit No. 1103 was read as follows:)

23 "Liaison Conference held during 1941.

24 "Date and place: 6:00 - 9:30 p.m. on 13
25 January at Megro-Saryo (Japanese Restaurant).

1 "Attendance: KONOYE (Prime Minister); TOJO
2 (War Minister); SUGIYAMA (Chief of Army General
3 Staff); TOMIDA (Chief Secretary of the Cabinet);
4 ANAMI (Vice Minister of War); MUTO (Chief of Military
5 Bureau); TSUKADA (Vice Chief of Army General Staff);
6 TANAKA (Director of Army General Staff); TOYODA
7 (Vice Minister of Navy); OKA (Chief of Naval Affairs
8 Bureau); KONDO (Vice Chief of Naval General Staff);
9 UGAKI (Vice Chief of Naval General Staff).

10 "Remarks: Exchange of views.

11 "Date and place: 11:00 a.m. on 16 January
12 at the official residence of the Prime Minister.

13 "Attendance: KONOYE; HIRANUMA (Home
14 Minister); MATSUOKA (Foreign Minister); TOJO;
15 OIKAWA (Navy Minister); TSUKADA; KONDO.

16 "Remarks: Exchange of informations and views
17 on important matters.

18 "Date and place: 9:00 - 11:00 a.m. on
19 17 January at the official residence of the Prime
20 Minister.

21 "Attendance: KONOYE; HIRANUMA, MATSUOKA,
22 TOJO, OIKAWA, SUGIYAMA, KONDO.

23 "Remarks: Discussion of important matters.

24 "Date and place: "10:30 a.m. on 19 January."
25

No remarks, no record of attendance.

1 "Date and place: 11:00 - 12:00 a.m. on 23
2 January.

3 "Remarks: Conference on various matters of
4 the day.

5 "Date and place: 4:30 - 6:30 p.m. on 30
6 January at the official residence of the Prime
7 Minister.

8 "Attendance: KONOYE; MATSUOKA, TOJO, OIKAWA,
9 HIRANUMA, SUGIYAMA, KONDO, MUTO, OKA, TOMIDA.

10 "Remarks: Exchange of informations and
11 views.

12 "Date and place: 4:00 p.m. on 3 February.

13 "Attendance: KONOYE, MATSUOKA, TOJO, OIKAWA,
14 HIRANUMA, SUGIYAMA, KONDO, MUTO, OKA.

15 "Remarks: Exchange of views on matters of
16 the day.

17 "Date and place: 11:15 a.m. on 13 February.

18 "Attendance: KONOYE; MATSUOKA, TOJO, OIKAWA,
19 HIRANUMA, SUGIYAMA, KONDO, TOMIDA, MUTO, OKA.

20 "Remarks: Exchange of views."

21 THE PRESIDENT: They are all the same, are
22 they not?

23 MR. HARDIN: That is the same thing. I beg
24 your pardon, no. I reread it.

25 May I correct a remark of a while ago? The

1 sheet shows dittos on the two previous ones on the
2 first page instead of no attendance.

3 (Reading) "11:00 a.m. on 20 February.

4 "Attendance: MATSUOKA, TOJO, OIKAWA, HIRA-
5 NUMA, SUGIYAMA, KONDO, MUTO, OKA.

6 "Remarks: Exchange of views on problems
7 concerning latest international affairs.

8 "Date and place: 11:00 a.m. on 23 February.

9 "Attendance: MATSUOKA, TOJO, OIKAWA, HIRA-
10 NUMA, SUGIYAMA, KONDO, MUTO, OKA.

11 "Remarks: Exchange of views on matters of
12 the day.

13 "Date and place: 5:00 - 7:30 p.m. on 2 March
14 at KONOYE's private residence at Ogikubo, Tokyo.

15 "Attendance: KONOYE, TOJO, OIKAWA, MATSUOKA,
16 HIRANUMA, MUTO, TOMIDA, SUGIYAMA, KONDO.

17 "Remarks: Exchange of views.

18 "Date and place: 11:00 - 12:30 a.m. on 6
19 March at the official residence of the Prime Minister.

20 "Attendance: KONOYE, MATSUOKA, TOJO, OIKAWA,
21 HIRANUMA, SUGIYAMA, KONDO, TOMIDA, MUTO.

22 "Remarks: Exchange of views.

23 "Date and place: 5:20 - 7:30 p.m. on 7 March.

24 "Attendance: KONOYE, MATSUOKA, TOJO, OIKAWA,
25 HIRANUMA, SUGIYAMA, KONDO, TOMIDA, MUTO."

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1 MR. HARDIN: We read prosecution's ex-
2 hibit 1104:

3 "INTERNATIONAL MILITARY TRIBUNAL FOR THE
4 FAR EAST.

5 "The UNITED STATES OF AMERICA, THE REPUBLIC OF
6 CHINA, THE UNITED KINGDOM OF GREAT BRITAIN AND
7 NORTHERN IRELAND" --

8 THE PRESIDENT: Don't read that. You can
9 say "United States and others against ARAKI and
10 others."

11 MR. HARDIN: All right, sir. (Reading)
12 "United States of America, Against IRAKI, and others.
13 "COUNTY OF SUFFOLK, STATE OF NEW YORK, UNITED STATES
14 OF AMERICA.

15 "I, Henry L. Stimson, being duly sworn, on oath
16 depose and say:

17 "I was Secretary of State of the United States
18 of America from March 5, 1929, to March 4, 1933.
19 Prior to that time, in 1928, I was appointed
20 Governor-General of the Philippine Islands, which
21 office I held until I was named Secretary of State.

22 "On the basis of my personal observation and
23 contacts, as well as on the information coming to me
24 in the course of my official duties, I verily be-
25 lieve the following statements to be true:

1 "When I took office as Secretary of State,
2 Japan, together with the United States and various
3 other nations, was a party to the following treaties,
4 pacts, and agreements, and others, or had sub-
5 scribed to the principles therein announced:

6 "(1) The Convention for the Pacific Settle-
7 ment of International Disputes, signed at The Hague
8 29 July 1899;

9 "(2) The Convention for the Pacific Settlement
10 of International Disputes, signed at The Hague 18
11 October 1907;

12 "(3) The Hague Convention No. III relative to
13 the Opening of hostilities signed 18 October 1907;

14 "(4) Agreement effected by exchange of notes
15 between the United States and Japan, signed 30
16 November 1908, declaring their policy in the Far
17 East;

18 "(5) Treaty between the British Commonwealth of
19 Nations, France, Japan, and the United States re-
20 lating to their insular possessions and Insular
21 Dominions in the Pacific Ocean, 13 December 1921;

22 "(6) The Treaty between the United States of
23 America, the British Commonwealth of Nations, Bel-
24 gium, China, France, Italy, Japan, the Netherlands,
25 and Portugal, concluded and signed at Washington

1 6 February 1922, known as the Nine-Power Treaty;

2 "(7) The Treaty concluded and signed at Paris
3 27 August 1928, known as the Kellogg-Briand Pact
4 and as the Pact of Paris;

5 "(8) Convention respecting the Rights and
6 Duties of Neutral Powers and Persons in War on land,
7 signed at The Hague 18 October 1907.

8 "As a party to the above listed treaties, pacts,
9 and agreements, and others, or as a subscriber to the
10 principles therein announced, Japan had agreed, inter
11 alia:

12 "To use its best efforts to insure the Pacific
13 settlement of international differences; in
14 case of serious disagreement or conflict,
15 before an appeal to arms, to have recourse, as far
16 as circumstances allow, to the good offices or
17 mediation of one or more friendly Powers; not to
18 commence hostilities without previous and explicit
19 warning; to maintain the existing status quo in the
20 region of the Pacific Ocean and to defend the prin-
21 ciple of equal opportunity for commerce and in-
22 dustry in China and to support the independence
23 and integrity of China; in event of controversy in any
24 Pacific questions to invite other Parties to a joint
25 Conference; to respect the sovereignty, independence,

1 and the territorial administrative integrity of China;
2 to use its influence to effectually establish and
3 maintain the principle of equal opportunity for the
4 commerce and industry of all nations throughout the
5 territory of China; to refrain from seeking special
6 or monopolistic privileges in China detrimental to
7 the rights or interests of other foreign powers or
8 their nationals; to condemn recourse to war for the
9 solution of international controversies and to re-
10 nounce war as an instrument of national policy; not
11 to move troops or convoys across the territory of a
12 neutral Power.

13 "In 1931 Manchuria was actually and legally part
14 of China. Japan claimed some exceptional rights in
15 Manchuria, and many of these rights, while always
16 asserted with emphasis, were not attested by documentary
17 evidence which was unchallenged. Some of the treaties
18 upon which Japanese claims rested were asserted by
19 China to be either unauthentic or to have been
20 executed under duress. Under cover of these
21 treaties, however, Japan exercised powers of the ad-
22 ministration and police throughout a zone which
23 bordered the South Manchuria Railway, based upon the
24 armed forces she was permitted to maintain. These
25 areas included towns and portions of cities like

1 Mukden and Changchun.

2 "While there was no cleavage in Japanese feel-
3 ings as to the existence and importance of special
4 interests in Manchuria, there was a very fundamental
5 difference in political thought in Japan as to the
6 method by which that interest should be supported and
7 enforced. This difference in general corresponded
8 with the alignment between those leaders who were
9 following the ideals of popular government on the
10 one hand, and the conservative and military leaders
11 on the other. The policy of the latter group rested
12 ultimately upon military force, and assumed that
13 Japan's rights were political and sovereign.

14 "On the night of September 18, 1931, armed hos-
15 tilities broke out in Manchuria, and Japanese forces
16 occupied not only the city of Mukden, but other cities
17 in South Manchuria. The incident which was claimed
18 by the Japanese to have caused their action, namely
19 an alleged act of sabotage by the Chinese on the
20 South Manchurian Railway, diminished to such small
21 proportions as strongly to suggest its actual non-
22 existence. Meanwhile the Japanese army was found to
23 have acted with such promptness as to make it evi-
24 dent that they were moving under a previously ar-
25 ranged strategic plan. By the afternoon of September

1 19, 1931, cities like Antung, Changchun, and New-
2 chwang, several hundred miles from one another, had
3 been occupied by the Japanese forces, who at once
4 assumed the place of the civil authorities in those
5 cities. Within forty-eight hours the whole of
6 southern Manchuria, not only along the Japanese
7 South Manchuria Railway, but also along some of the
8 railroads built by the Chinese had thus been ef-
9 fectively occupied. The evidence pointed to a de-
10 liberate action planned and authorized by the
11 highest Japanese authorities in Manchuria and possibly
12 with direction from the high military command in
13 Tokyo.

14 "On September 25, 1931, the Japanese Ambassador
15 in Washington left with the Under Secretary of State
16 a Statement issued after an extraordinary meeting of
17 the Japanese Cabinet on September 24, 1931. This
18 Statement contained an assurance that while on
19 September 21 a detachment was despatched from Chang-
20 chun to Kirin it was not with a view to military
21 occupation but only for the purpose of removing the
22 menace to the South Manchuria Railway on flank and
23 that as soon as that object had been attained it
24 would be withdrawn. The Statement contained a firm
25 assurance that the Japanese Government harbored no

1 territorial designs in Manchuria. As early as October
2 8, following this firm assurance on the part of Japan,
3 I was informed by the American Charge in Tokyo that
4 the Japanese General Staff had issued an information
5 bulletin to foreign military attaches stating that
6 Japan found it impossible to withdraw the Japanese
7 Army to their original stations or even to the con-
8 tiguous territory.

9 "After the capture of Mukden by the Japanese on
10 September 19, 1931, the headquarters of the Chinese
11 Government and forces had been removed to Chinchow.
12 Soon after September 30, General Honjo, the Japanese
13 Commander-in-Chief in Manchuria, publicly announced
14 that the Government of Marshal Hsueh-liang would no
15 longer receive Japanese recognition. Other state-
16 ments followed to the effect that Japanese forces
17 would not cease their activities until Marshal Chang
18 and his government were driven entirely out of Man-
19 churia. Not only were these statements left without
20 reprimand from the Tokyo government, but Japanese
21 military planes began to enforce this policy in a
22 most drastic manner. On October 8, 1931, a squadron
23 of eleven Japanese planes dropped thirty or forty
24 bombs upon the unarmed and unwarned city of Chinchow,
25 killing and wounding a number of the inhabitants."

1 "On its face this was an indefensible act of aggression.

2 In the latter part of October, the Japanese high com-
3 mand in Manchuria sent a military expedition to
4 Tsitsihar in northern Manchuria. This was several
5 hundred miles north of any portion of the South Man-
6 churia Railway and far outside the zone of any of the
7 treaty rights which Japan claimed. This expedition
8 defeated and destroyed the forces of Chinese General
9 Ma Chan-shan and thus destroyed all the organized
10 forces of Marshal Chang in North Manchuria.

11 "The capture of Tsitsihar left the Chinchow Dis-
12 trict as the only fragment of Manchuria in which
13 Marshal Chang's authority remained intact, and to-
14 wards the latter part of November the Japanese forces
15 began to move towards Chinchow. On behalf of the
16 United States I made vigorous representations through
17 diplomatic channels, and the Japanese forces were
18 withdrawn to Mukden on November 28, 1931. On November
19 24, 1931, the Japanese Foreign Minister stated to the
20 American Ambassador that 'the Premier, the Secretary
21 of War, the Chief of Staff and he are agreed that
22 towards Chinchow there shall be no hostile operations
23 and orders have been issued to that effect.' After
24 December 11, 1931, however, the movement towards
25 Chinchow was resumed and that city was seized by the

1 Japanese army on January 3, 1932. This completed the
2 destruction of the organized forces of Marshal Chang
3 and left the control of all Manchuria in the hands of
4 the Japanese.

5 "On October 26, 1931, the Japanese Government
6 made public fundamental points upon which normal re-
7 lations between China and Japan should be based, and
8 it appeared then that they included the settlement of
9 the entire question of the disputed treaty rights of
10 Japan in Manchuria. While Japanese representatives
11 disclaimed her intention to use military force to
12 achieve her national objectives, it seemed clear that
13 she was bent on doing just that very thing. Her army
14 was not withdrawing; it was actually pushing forward
15 and the Japanese government was declining to in-
16 terfere until all these fundamental questions of
17 national policy between the two nations should be
18 settled.

19 "On December 22, 1931, I received from the
20 American Ambassador in Tokyo a telegram in which the
21 Ambassador stated that the Prime Minister of Japan had
22 called at the American Embassy and assured him that
23 Japan would never allow a situation to arise in Man-
24 churia which would be fraught with the danger of war,
25 and that Chinese sovereignty would never be impaired."

1 "The Prime Minister reiterated that Japan merely de-
2 sired the protection of Japanese persons and in-
3 terests. In the same telegram the American Am-
4 bassador reported that active preparations were con-
5 tinuing for further operations in Manchuria where a
6 free hand seemed to have been given to the military."
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6 free hand seemed to have been given to the military."

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1 "On December 22, 1931, I requested the American
2 Ambassador in Japan to inform the Foreign Minister of
3 my apprehension of Japanese forces taking action against
4 Chinese regulars south of Chinchow. I requested the
5 Ambassador to inform the Foreign Minister that a new
6 attack by Japanese forces on Chinese regulars would be
7 regarded as unwarranted and would be interpreted as
8 indicative of indifference to obligations assumed in
9 various treaties to which Japan and China, as well as
10 the United States, were parties. On December 27, 1931,
11 I received a memorandum from the American Ambassador
12 which had been delivered to him by the Vice Minister
13 of Foreign Affairs in which it was stated that the
14 Imperial Government was determined to remain loyal to
15 the League of Nations Covenant, the No War Treaty,
16 other various treaties and the two resolutions adopted
17 by the Council of the League of Nations regarding the
18 Manchurian situation. On December 29, 1931, the American
19 Minister in China informed me that Marshal Chang Hsueh-
20 liang ordered withdrawal of all Chinese forces from
21 Manchuria, stating that he was motivated by a desire
22 to deprive Japanese of any excuse for further aggres-
23 sion in North China.

24 "On January 7, 1932, I sent a note to Japan and
25 China informing them that the United States could not

1 admit the legality of any situation de facto and did
2 not intend to recognize any treaty entered into be-
3 tween those Governments which might impair the treaty
4 rights of the United States or its citizens in China,
5 including those which relate to the sovereignty, the
6 independence, or the territorial and administrative
7 integrity of China, or to the international policy
8 relative to China, commonly known as the open door
9 policy, and that the United States did not intend to
10 recognize any situation, treaty or agreement which
11 might be brought about by means contrary to the
12 obligations of the Pact of Paris of August 27, 1928.
13 On January 16, 1932, the Japanese government replied
14 to our note of January 7. The argument made in that
15 note was to the effect that China was in an 'unsettled
16 and distracted state' and that this fact relieved Japan
17 from the obligation to carry out the covenants of the
18 Nine-Power Treaty and the League of Nations Covenant,
19 which may be fairly said to have become the argument
20 upon which Japan thereafter relied with the greatest
21 assurance, but which was rejected as untrue and un-
22 sound by the unanimous report of the Lytton Commission.

23 In the middle of January, 1932, Japan's aggres-
24 sion in Manchuria seemed to have achieved success. By
25 May 1, 1932, Japan had attempted to extend her

1 aggressive action to the Yangtze River and to break up
2 the efforts of the Chinese at Shanghai to maintain an
3 economic boycott against her business. There Japan
4 received a military set-back in being checked by
5 Chinese soldiers. In the hostilities around Shanghai,
6 on January 28, 1932, the Japanese forces bombed the
7 unwarned and helpless civilian native quarter of Chapei.
8 This was an act of inexcusable cruelty. Not only were
9 bombs dropped upon positions held by Chinese troops,
10 but incendiary bombs were used which soon had the entire
11 quarter in flames. Thereafter, the Japanese barricaded
12 the streets in the International Settlement of Shanghai,
13 disarmed the police, and paralyzed all regular municipal
14 functions. Numerous excesses against the Chinese popu-
15 lation were committed, including many summary execu-
16 tions, and a veritable reign of terror resulted. The
17 Japanese troops even invaded the American sector of
18 defense at Shanghai where they committed acts of
19 violence against Chinese. On February 24, 1932, I sent
20 to Senator Borah, Chairman of the Committee on Foreign
21 Relations of the Senate, a letter in which was outlined
22 the position and policy of the American Government with
23 respect to the situation in China in relation to the
24 application of treaties.

25 "Almost immediately after its army had

1 overthrown the Chinese Government of Manchuria, Japan
2 commenced to establish political and economic control
3 over that country. This was done by forcible creation
4 of an ostensibly independent but really puppet state
5 controlled by Japan and known as Manchukuo. Thereafter,
6 as soon as other nations had announced their intention
7 not to recognize as valid any fruits of this conquest,
8 the Japanese government proceeded to take further steps
9 designed to make this policy of the rest of the world
10 as difficult and ineffective as possible.

11 "On April 4, 1932, the Japanese Ambassador in
12 Washington called upon me and in the course of discus-
13 sion, admitted that promises made by Japan had been
14 broken but said that chauvinist conditions were so acute
15 in Japan that the Government could not take any other
16 position. On June 23, 1932, I received a telegram from
17 Ambassador Grew in Tokyo that the press had cabled to
18 America a statement by General ARAKI, Minister of War,
19 before the Supreme Military Council to the effect that
20 the resolutions of the League of Nations and statements
21 made by Japan in regard to Manchuria before the estab-
22 lishment of Manchukuo could no longer be considered
23 as binding on Japan.

24 "On January 5, 1933, the Japanese Ambassador
25 in Washington called upon me and stated that in any

1 event Japan had no territorial ambition south of the
2 Great Wall. He stated that his information as to the
3 affair in Shanhaikwan was that it was a local incident,
4 provoked by a minor outbreak of Chinese against
5 Japanese there. On February 23, 1933, the Japanese
6 Ambassador came to tell me on the instruction of his
7 Government that the State of Manchukuo was determined
8 to suppress irregular forces in the Province of Jehol,
9 and that under the treaty between Manchukuo and Japan,
10 Japan was obliged to support Manchukuo and, therefore,
11 the Japanese forces were co-operating in this movement
12 in Jehol. On February 27, 1933, I reminded the Japanese
13 Ambassador that when the Manchurian outbreak occurred
14 in September, 1931, I had not attributed it to the
15 Government of Japan or to the statesmen whom I used to
16 know or to the people of Japan but to the efforts of
17 a small group of persons of militaristic ambitions and
18 desires. The Ambassador said that he knew this very
19 well. I pointed out the importance of the treaties
20 as instruments to preserve peace and the Ambassador
21 said that he recognized this. He also said that on his
22 part although he had been disappointed many times when
23 he had given me assurances which were afterwards not
24 carried out in Manchuria he still believed in his people
25 and that sooner or later the moderate elements would

1 not disappoint us. I told him at that time that I
2 joined in his hope that this would be so.

3 "I retired as Secretary of State on March 4,
4 1933, and was succeeded by the Honorable Cordell Hull
5 who then assumed the burden of office in connection
6 with Japanese-American relations."

7 (Signed) "Henry L. Stimson."

8 "Subscribed and sworn to."

9 We now offer in evidence IPS document No. 239.
10 This is an affidavit of former Ambassador Joseph C.
11 Grew, and we ask that it be identified as an exhibit
12 in the evidence.

13 THE PRESIDENT: Mr. Smith.

14 MR. SMITH: If your Honor please, we object
15 to the admission of this affidavit unless the prosecu-
16 tion produces the witness here for cross-examination.
17 We make the point that Mr. HIROTA -- Neither Mr. HIROTA
18 or the other defendants in this case can have that fair
19 trial contemplated by the Charter unless the accused
20 are confronted by the witnesses against them. The
21 right of an accused to be confronted by the witnesses
22 against him is found in nearly every constitution in
23 the world, and it is in the new Japanese Constitution
24 which has been promulgated with the approval of the
25 Supreme Commander, and I submit to your Honor that the

1 Supreme Commander could not have had a lesser require-
2 ment in mind when he provided in this Charter for a
3 fair trial. In this affidavit, which consists of
4 about fifteen pages, double spaced, Mr. Grew covers
5 practically ten years in which he was American Amba-
6 sador in Tokyo. This affidavit is written in a terse,
7 sweeping style and many of the statements in it are
8 misleading in their present form and are contradicted
9 by Mr. Grew's own widely published books, "Ten Years
10 in Japan" and "Report from Tokyo."

11 Your Honor, we have no funds to take any
12 depositions and if your Honor adheres to the ruling
13 made in connection with the Affidavit of Mr. Stimson
14 we would like to have the Court advise Mr. Grew that
15 we will take his deposition and make some provision
16 to pay for the expenses of taking it.

17 Mr. Grew lives in Washington, D.C. He is in
18 good health and I understand he is about 72 years of
19 age. Counsel just raised a controversy as to how
20 I know Mr. Stimson is in good health.

21 THE PRESIDENT: Mr. Grew.

22 MR. SMITH: I mean Mr. Grew. I was born in
23 Washington, D.C., and I lived there nearly all my life
24 until I came to Tokyo. I saw Mr. Stimson quite often.

25 THE PRESIDENT: Mr. Grew.

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19 age. Counsel just raised a controversy as to how
20 I know Mr. Stimson is in good health.

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23 Washington, D.C., and I lived there nearly all my life
24 until I came to Tokyo. I saw Mr. Stimson quite often.

25 THE PRESIDENT: Mr. Grew.

1 MR. SMITH: I mean, Mr. Grew. Before he came
2 to Toky and after he returned from Tokyo. And just a
3 few weeks ago I got out here a copy of the New York
4 Times which showed Mr. Grew attending a social function
5 which, as I remember, was in New York City. He appeared
6 to be in very good health and spirits.

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1 MR. LEVIN: I don't want to add anything to
2 what has already been mentioned both by Mr. Smith,
3 in relation to this affidavit, and by Mr. Logan in
4 relation to Mr. Stimson's affidavit.

5 There are two things which I would like to
6 suggest: (1) That this affidavit was made on May
7 28, 1946. Had the prosecution notified the defense
8 that this affidavit had been taken it would have been
9 possible for us to have cross-examined him either by
10 commission or interrogatories, in view of the fact
11 that a number of defense counsel have been in Wash-
12 ington since that affidavit was made.

13 I believe, Mr. President, there is greater
14 validity in requiring Mr. Grew to be present than Mr.
15 Stimson, because Mr. Grew, I understand, is still
16 presently connected with the State Department.

17 I am advised by my colleagues that Mr. Grew
18 has been recently retired, although he was connected
19 with the State Department for quite some time.

20 It does seem to us that a witness of this
21 calibre, having made the affidavit that he did May
22 28th, should have been examined. That is, the defense
23 should have had an opportunity to examine him orally,
24 and I believe that opportunity should still be given
25 him.

1 I should like to add that Major -- that it
2 is contemplated that Major Furness will go to the
3 United States very shortly, and when he does he could
4 cross-examine him at that time.

5 MR. HARDIN: Mr. President, it is pleasing
6 information that the gentleman is able to find Mr.
7 Grew in good spirits from his picture. It is my
8 information that Mr. Grew has been in not good health,
9 a bad state of hearing -- his hearing almost gone --
10 and that he has been retired from service in the
11 State Department for quite a while -- just how long
12 I don't know.

13 MR. FURNESS: If the Court please, the
14 health of Mr. Grew can be checked very readily, in
15 short order. Colonel Warren has just come back from
16 the States and I can telephone him and, I think,
17 find out just what his state of health is.

18 I think it is a well known fact that Mr.
19 Grew has been almost totally deaf for many years.
20 He makes that statement in his book. But it didn't
21 prevent him from leading a most active life.

22 MR. LOGAN: If the Tribunal please, I would
23 just like to add that a witness of the stature of
24 Mr. Grew, whose name has predominantly appeared
25 throughout this trial, should be produced by the

1 prosecution to give us a first-hand story of the
2 situation as he saw it and the facts as he knew them.
3 He knew, perhaps, all of these accused, talked to
4 many of them, and a great deal more, I believe,
5 could be acquired by the Tribunal from information
6 obtained from him from the witness' box, and seeing
7 him and listening to him, than what can be obtained
8 from reading a cold affidavit.

9 MR. HARDIN: Mr. President, what I have
10 said is not to oppose the interrogatories or even a
11 deposition from Mr. Grew. I do not believe he could
12 come here.

13 THE PRESIDENT: Neither the new Japanese
14 Constitution nor General MacArthur's attitude towards
15 it has any bearing on the question of a fair trial:

16 No matter what may be the state of health of
17 Mr. Grew at present, we see no immediate need, at all
18 events, to bring him here. We have decided to admit
19 his affidavit and to overrule the objection to its
20 admission.

21 An application can be made to me in Chambers
22 to have Mr. Grew examined on commission or by way
23 of interrogatories in the United States. The ques-
24 tion of expense can be dealt with before me in
25 Chambers. If a commission is decided upon it will be,

1 of course, a great convenience to have it taken
2 while Major Furness is in America.

3 The affidavit is admitted on the usual
4 terms.

5 CLERK OF THE COURT: Prosecution's docu-
6 ment No. 239 will receive exhibit No. 1105.

7 (Whereupon, the document above
8 referred to was marked prosecution's
9 exhibit No. 1105 and received in evidence.)

10 THE PRESIDENT: I think this is a con-
11 venient break. This is a long affidavit and it will
12 take most of the afternoon. We will recess for
13 fifteen minutes.

14 (Whereupon, at 1445, a recess was
15 taken until 1500, after which the proceed-
16 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. Hardin.

4 MR. HARDIN: (Reading)

5 "The United States of America," and others,
6 "Against ARAKI, Sadao," and others.

7 "City of Washington, District of Columbia,
8 United States of America.

9 "I, Joseph Clark Grew, being duly sworn,
10 on oath depose and say:

11 "I served as United States Ambassador to
12 Japan, at Tokyo, from June 1932 until the Japanese
13 attack on Pearl Harbor, December 7, 1941. Diplomacy
14 has been my life work since 1904. Prior to World
15 War I, I served in the United States Foreign Service
16 in Egypt, Mexico, Russia, Austria-Hungary and Germany.
17 I was counselor at the American Embassy in Berlin
18 during World War I. In 1918 I became acting head
19 of the Western European Division of the United
20 States State Department. I took part in the peace
21 negotiations at Paris and also represented the
22 United States during the negotiations with Turkey,
23 at Lausanne, in 1922. I also served as Minister to
24 Denmark and to Switzerland, as Under Secretary of
25 State, and, just prior to my appointment to Tokyo,

1 as Ambassador to Turkey.

2 "The statements hereinafter set forth
3 relate to matters which arose from time to time
4 in connection with the carrying out of my duties
5 at Tokyo as diplomatic representative of the
6 American Government in Japan, and I vouch for the
7 truth thereof.

8 "At the time I became Ambassador to Japan,
9 as aforesaid, Japan, along with the United States
10 and other nations, was a party to the following
11 treaties, pacts and agreements, and others, or had
12 subscribed to the principles therein announced:

13 "(1) The Convention for the Pacific
14 Settlement of International Disputes, signed at
15 the Hague 29 July 1899;

16 "(2) The Convention for the Pacific
17 Settlement of International Disputes, signed at
18 the Hague 18 October 1907;

19 "(3) The Hague Convention No. III rela-
20 tive to the Opening of Hostilities, signed 18
21 October 1907;

22 "(4) The agreement, signed 30 November
23 1908, effected by exchange of notes between the
24 United States and Japan, declaring their policy in
25 the Far East."

1 "(5) The Treaty between the British
2 Commonwealth of Nations, France, Japan and the
3 United States relating to their Insular possessions
4 and Insular Dominions in the Pacific Ocean, 13
5 December 1921;

6 "(6) The so-called 'Nine-Power Treaty'
7 concluded and signed at Washington 6 February 1922;

8 "(7) The so-called 'Kellogg-Briand Pact'
9 concluded and signed at Paris 27 August 1928;

10 "(8) The Convention respecting the Rights
11 and Duties of Neutral Powers and Persons in Wars on
12 Land, signed at the Hague, 18 October 1907.

13 "As a party to the above-listed treaties,
14 pacts and agreements, and others, or as a subscriber
15 to the principles therein announced, Japan had
16 agreed, inter alia:

17 "to avoid the use of force in the settle-
18 ment of international differences; in case of serious
19 disagreement or conflict to have recourse to the
20 good offices or mediation of one or more friendly
21 power; not to open hostilities without a declaration
22 of war; to submit international disputes to arbitra-
23 tion; to respect and support the sovereignty, in-
24 dependence and territorial administrative integrity
25 of China; to use its influence to effectually

1 establish and maintain the principle of equal
2 opportunity for the commerce and industry of all
3 nations throughout the territory of China; to re-
4 frain from seeking special or monopolistic privileges
5 in China detrimental to the rights or interests of
6 other foreign powers or their nationals; to renounce
7 war as an instrument of national policy; not to
8 violate the territory of neutral powers.

9 "At the time I became Ambassador as
10 aforesaid Japan had gained military control of
11 Manchuria and had established there the Japanese
12 controlled puppet state of Manchukuo. The official
13 records of the United States Department of State
14 with respect to the Manchurian affair, with which I
15 had familiarized myself, indicated that Japan had
16 pursued its course of action in Manchuria despite
17 frequent protests by the United States and other
18 nations that its aggressive action was in contraven-
19 tion of Japan's treaty obligations. The Department's
20 official records further indicated that Japan had
21 consistently defended its aggressive action as a
22 purely defensive measure for the protection of
23 Japanese nationals, and had repeatedly assured the
24 United States Government that Japan had no territorial
25 ambitions or intentions of disturbing the rights and

interests of third parties, in China.

1 "During all of my stay in Tokyo as United
2 States Ambassador I repeatedly called to the atten-
3 tion of the Japanese Minister for Foreign Affairs,
4 and occasionally the Japanese Prime Minister, and
5 other responsible government officials the fact that
6 the American Government considered the Japanese
7 military operations in China as a violation of
8 Japan's obligations, under various treaties and
9 agreements hereinbefore mentioned, to respect the
10 territorial integrity of China, to maintain the
11 principle of the Open Door in China and to refrain
12 from endangering the lives and interests of nationals
13 of the United States and other powers, to refrain
14 from the use of force in settlement of disputes, to
15 submit disputes to arbitration and abide by results
16 thereof. I pointed out that Japan was rapidly losing
17 the good will of the American Government and people
18 and of other peoples of the world by its aggressive
19 policy and by the excesses of its military forces.
20 The excuse given was that the military operations
21 were purely defensive measures against Chinese bandits
22 or Communists whom the Chinese Government was unable
23 to control, or were for the protection of Japanese
24 nationals and interests in China from abuses resulting
25

1 from the anti-Japanese feeling deliberately aroused
2 by the irresponsible Chinese Government. I was re-
3 peatedly assured by the officials referred to that
4 Japan had no territorial ambitions in China, that
5 Japan was solicitous of the rights and interests of
6 third parties and was earnestly endeavoring to pro-
7 tect them and preserve the status quo, and, up until
8 the end of 1938, that Japan intended to preserve
9 the principle of the Open Door in China.

10 "I protested repeatedly against the in-
11 discriminate bombing of non-military objectives
12 which endangered the lives and properties of non-
13 combatant Chinese and foreigners. A few of the more
14 flagrant examples were the bombing and sinking of the
15 U.S.S. Panay on the Yangtze, in which two American
16 nationals were killed, and the machine-gunning of the
17 small boat in which the Panay's captain and others
18 were being taken ashore, the deliberate bombing of
19 the U.S.S. Tutuila at Chungking, the reckless and
20 wanton bombing of residential and business districts
21 of Nanking after a totally inadequate warning had
22 been given, the machine-gunning by a Japanese plane
23 of five Americans while horseback riding within the
24 International Settlement at Shanghai, the bombing of
25 American-owned mission property in Tungpeh in which

1 an American national (Phoebe Nyhus) was killed, the
2 destruction by Japanese planes of a commercial
3 passenger plane belonging to the Chinese National
4 Aviation Corporation (in which Pan-American Airways
5 had a large interest) resulting in the loss of lives
6 of a number of noncombatant passengers and the en-
7 dangering of the life of the American pilot, the
8 destruction by five Japanese planes of another
9 properly marked Chinese Aviation Corporation com-
10 mercial passenger plane, which had just landed at
11 Chanyi and in which the American pilot was killed,
12 the bombing and complete destruction of an American
13 church at Chungking after eight previous bombings
14 all of which had been made the subject of separate
15 protests. The number of instances in which churches,
16 schools and other American properties were repeatedly
17 bombed and damaged could not but compel the conclusion
18 that the attacks were intentional. Furthermore, in
19 most cases the Japanese had been furnished beforehand
20 with maps on which had been marked the locations of
21 the properties in question. In virtually all in-
22 stances the Japanese Government disclaimed responsi-
23 bility on one pretext or another, claiming, among
24 other things, that the property was too close to a
25 military objective or was used by Chinese forces

1 (which excuses were not justified by facts brought
2 out by investigations), or that the bomb release
3 mechanism in the plane apparently did not function
4 properly, or merely that a mistake had been made.

5 "In spite of my protests American business
6 men and missionaries were prevented from returning
7 promptly to Nanking even after hostilities in that
8 area had ceased, as, for instance, when the Shanghai
9 University property was evacuated by Japanese troops
10 and the American missionary societies which owned the
11 property were not permitted to immediately reoccupy
12 it, even for the purpose of preventing its further
13 deterioration. In refusing American nationals per-
14 mission in such cases to return and resume business
15 or protect and preserve their property, the excuse
16 given was that peace and order had not been sufficient-
17 ly restored. The lack of any basis for this excuse
18 was usually illustrated by the presence of many
19 Japanese merchants and their families in the areas
20 in question.

22 "On July 7, 1934 I forwarded to the Japanese
23 Ministry for Foreign Affairs an informal memorandum
24 regarding the establishment by the authorities in
25 Manchuria of a discriminatory petroleum selling monop-
oly. Attention was invited to the fact that the

1 cooperation and approbation of the Japanese Govern-
2 ment in the project, which would close the door in
3 Manchuria to sales by American oil companies of
4 their products, would violate the principles of the
5 Open Door, to which Japan was committed, and which it
6 had declared it would uphold, and, further, that the
7 proposed project would contravene the provisions of
8 Article 3 of the Nine-Power Treaty of 1922 and the
9 explicit provisions of the Sino-American Treaty of
10 1884. In a reply thereto dated August 2, 1934, the
11 Japanese Minister for Foreign Affairs stated that
12 since Manchukuo was an independent state the question
13 was one concerning the American and Manchukuo Govern-
14 ments, and denied that contravention of any treaty
15 obligations by Japan was involved. I again addressed
16 an informal memorandum to the Japanese Minister for
17 Foreign Affairs, pointing out that the project planned
18 would unquestionably result in a monopoly prejudicial
19 to the treaty rights of American nationals and counter
20 to the principles of the Open Door, and that since
21 plans therefor were being formulated with the concur-
22 rence and cooperation of Japanese nationals, the
23 participation of quasi-official organizations such as
24 the South Manchuria Railway, and the assent or approval
25 of the Japanese Government, the carrying out of the

1 project would be in contravention of Japan's treaty
2 obligations as well as of her unqualified assurances
3 previously given to the American and other govern-
4 ments.

5 "It was undeniable, of course, that Japan
6 had assured maintenance of the Open Door policies in
7 Manchuria even after the establishment of the so-
8 called independent regime of Manchukuo, for the
9 maintenance of those policies had been promised
10 in the speech of Count UCHIDA (then Minister for
11 Foreign Affairs) before the Diet on August 25, 1932,
12 and in the Japanese Government's public statement of
13 September 15, 1932, issued on the occasion of the
14 recognition of Manchukuo. Moreover, the protocol
15 between Japan and Manchukuo, of September 15, 1932
16 itself was predicated upon observance by Manchukuo
17 of international obligations applying to that ter-
18 ritory, as shown by the second paragraph of the
19 Preamble of the Protocol, reading:
20

21 "Whereas Manchukuo has declared its
22 intention of abiding by all international agreements
23 entered into by China in so far as they are applicable
24 to Manchukuo, * * *

25 Consequently, on November 30, 1934 I delivered another
memorandum to the Minister for Foreign Affairs

1 reiterating my previous protests at establishment of
2 the oil monopoly in Manchuria in violation of treaty
3 obligations and assurances to the contrary. I had a
4 long discussion with Mr. HIROTA on the subject. He
5 remarked that Americans were free to purchase stock
6 in the petroleum company and that, therefore, the
7 door was not being closed to them. The fact was,
8 however, as I informed him, that forty percent of the
9 stock had already been issued to the South Manchuria
10 Railway, a quasi-official Japanese organization,
11 twenty percent to the Government of Manchuria and
12 forty percent to four Japanese companies. Mr. HIROTA
13 said he thought we and the British were taking too
14 legalistic an attitude. The discussion continued
15 for half an hour, but the Minister's arguments were
16 specious, and it was obviously impossible for me to
17 get anywhere.

18 "On April 10, 1935, the Japanese Minister
19 for Foreign Affairs forwarded to me an answer to my
20 note of November 30, 1934, on the Manchurian oil
21 matter, which consisted of a repetition of the prev-
22 ious denials of Japan's responsibility for the
23 actions of the Government of Manchukuo. I communicated
24 the contents thereof to the American Government, and,
25 as instructed by the Secretary of State, advised the

1 Japanese Foreign Minister, by note dated April 15,
2 1935, of the American Government's refusal to recog-
3 nize the contentions advanced by Japan, and of the
4 American view that the ultimate responsibility for
5 injury to American interests would rest upon Japan.
6 I called on the Japanese Minister for Foreign
7 Affairs on April 16, 1935, to point out again the
8 American view that Japan was violating its treaty
9 obligations and also the assurances it had made on
10 prior occasions (identifying them specifically) that
11 the principles of the Open Door would be maintained.
12 His only reply was that these assurances were con-
13 ditioned upon recognition of Manchukuo by the
14 interested powers.

15 "On December 1, 1937 I registered with
16 the Japanese Foreign Minister an objection to the
17 manifesto issued by the Manchurian Government regard-
18 ing extra-territorial rights of foreigners other than
19 Japanese, and to the promulgation of a law under
20 which an American branch bank at Harbin had been
21 advised to prepare to register and to appoint a
22 representative and I called attention to the fact
23 that the extra-territorial rights of United States
24 nationals in Manchuria were governed by treaties be-
25 tween the United States and China and that the law

1 by which the Manchurian Government sought to assert
2 jurisdiction over American nationals was in direct
3 contravention of American treaty rights. The Foreign
4 Minister's reply merely disclaimed any responsibility
5 on Japan's part for the acts of the Government of
6 Manchukuo.

7 "As in the case of the oil monopoly in
8 Manchuria, I protested frequently and strongly against
9 the taking over of the Chinese Customs Administration
10 by the Japanese at Shanghai, Canton, Swatow and other
11 places, and the revision of customs regulations to
12 favor Japanese imports. I protested further in the
13 case of the seizure of the Salt Tax Administration.
14 I pointed out that large American and other foreign
15 loans had been secured against customs revenues and
16 salt tax revenues and that the United States and other
17 nations had vital financial interests in the adminis-
18 trative integrity of the Chinese Maritime Customs and
19 the Salt Administration and were entitled to be con-
20 sulted in connection with any change in regulations
21 or procedure or diversion of revenues. These protests
22 were, like all others, to no avail, the Japanese For-
23 eign Minister and other officials claiming that the
24 steps taken were required by military necessity and by
25 the fact that Chinese officials would not cooperate."

1 "Other specific instances when assurances
2 which were later violated were given to the American
3 Government, through me or in statements issued to the
4 press by the Japanese Government for publication,
5 were the following:

6 "(1) On April 25, 1934 the Japanese Foreign
7 Minister (HIROTA) assured me personally that Japan had
8 no intention whatever of seeking special privileges
9 in China, of encroaching upon the territorial and
10 administrative integrity of China, or of creating
11 difficulties for the bona-fide trade of other countries
12 in China. He further stated that there was no intention
13 or desire on the part of Japan to claim a privileged
14 position in derogation of the rights and responsibilities
15 to which the signatories of the Nine-Power Treaty were
16 entitled, and that the policy of Japan was complete
17 observance and support of the provisions of the Nine-
18 Power Treaty in every respect. I observed to him that
19 the American Government and people would be less impressed
20 by statements of policy than by more concrete evidence.

21 "(2) On September 1, 1937 the Vice-Minister
22 for Foreign Affairs (HORINOUCI), in a radio broadcast
23 to the United States, defended Japan's actions in China
24 on the ground of China's anti-Japanese acts and asserted
25 that Japan's intentions were peaceful; he stated that

1 the ultimate object of the current hostilities in
2 North China and Shanghai was the realization of a state
3 permitting genuine cooperation between the two countries;
4 and declared that the Japanese forces in China had not
5 been sent there for aggressive purposes and that Japan
6 had no territorial designs. Mr. HORINOUCHI's radio
7 address was similar to speeches subsequently made in
8 the Diet by the Foreign Minister (HIROTA) and the Prime
9 Minister (KONOYE).

10 "(3) On February 17, 1939, in an interview
11 with the Minister for Foreign (ARITA), I reminded him
12 of his government's previous statements to the effect
13 that Japan had no territorial ambitions in China; I
14 called his attention to the recent occupation of Hainan
15 Island by Japanese forces; and I asked for an expression
16 as to the intentions of the Japanese Government in
17 connection with the occupation of the island in view of
18 the fact that there were numerous American residents
19 and substantial American missionary and educational
20 properties on the island. The Minister replied that the
21 purpose of the occupation was to strengthen the blockade
22 of the South China coast and to hasten the suppression
23 of the Chiang Kai-shek regime; he repeated the former
24 statements of the Japanese Government that Japan had no
25 territorial ambitions in China and added that the

1 occupation 'will not go beyond military necessity.'

2 "(4) On April 15, 1940 the Foreign Minister
3 (ARITA), on being questioned by newspapermen concerning
4 Japan's position with regard to the possible involvement
5 of the Netherlands in the European war and its
6 repercussions in the Netherlands East Indies, stated
7 that 'the Japanese Government can not but be deeply
8 concerned over any development accompanying an aggravation
9 of the war in Europe that may affect the status quo of
10 the Netherlands East Indies.'

11 " In July, 1941 the Japanese Foreign Minister
12 assured me that Japan had not so far considered the
13 possibility of joining the hostilities against Russia.
14 During that month I had forwarded to the Japanese
15 Prime Minister a memorandum expressing the hope of the
16 United States Government that there was no truth in the
17 reports that Japan intended to enter upon hostilities
18 against Russia, referring to contemporaneous statements
19 of responsible Japanese officials that Japan desired to
20 maintain and preserve peace in the Pacific area. The
21 reply thereto, which came from the Japanese Foreign
22 Minister, recited that maintenance and preservation of
23 peace in the area of the Pacific had always been the sincere
24 and genuine desire of the Japanese Government which had
25 consistently contributed earnest efforts toward

1 achieving that purpose and that Japan had not so far
2 considered the possibility of joining the hostilities
3 against the Soviet Union.

4 "During 1938 the establishing of a new order
5 in East Asia began to be mentioned. The Prime Minister
6 and the Foreign Minister referred to the extension
7 of the campaign in China from Manchuria to North China
8 and thence into Central and South China and expressed
9 the hope for the emergence of a new regime in China
10 cooperative with Japan, repeating, however, the customary
11 assurances of intention to continue the policies of the
12 Open Door and to protect the rights and interests of
13 third powers. Later the Foreign Minister indicated that
14 the hostilities in China would go on to a finish; that
15 no dealings would be had with General Chiang Kai-shek
16 even if he should sue for peace; and (significantly)
17 that since the main purpose of the campaign was to make
18 possible economic and social cooperation of China and
19 Japan, it was a 'small matter' whether the territory
20 was Chinese or Japanese, and that China should be
21 powerful enough to put itself in order before extra-
22 territoriality and unequal treaties could be abolished
23 in that country. Then, in November, 1938, the Japanese
24 Foreign Office, in announcing the fall of Canton and
25 three Wuhan cities, stated 'all vital areas of China

1 have thus fallen into our hands.' No mention was
2 made of the rights or interests of third parties, the
3 statement merely expressing Japan's confidence that
4 other powers would adapt their attitude to the new condit-
5 ions prevailing in East Asia. The Japanese people were
6 cautioned, however, that these victories would not bring
7 an era of peace but rather that since Japan was entrusted
8 with the task of constructing a new Far East ' the
9 actual fighting has just started.' By the end of 1940
10 the idea of a new order in East Asia had progressed
11 and developed to the point where the Japanese Government
12 openly admitted it was determined to secure for Japan
13 the position in 'greater East Asia including the South
14 Seas' to which it considered itself entitled as a result
15 of its growth as a first-class power in the modern world,
16 and which would remove the territorial and economic
17 restrictions previously hampering it.

18 "In making the representations, protests and
19 objections on behalf of the American Government, as
20 herein set forth, I was always dealing with the Japanese
21 individual or individuals who, as the official records
22 of the Japanese Government will show, were filling the
23 indicated civil office in the Japanese Government at
24 that time. In most cases I took up the matter in
25 question with the Japanese Minister for Foreign Affairs;

1 some were referred to the Vice-Minister for Foreign
2 Affairs, and some to responsible subordinate officials
3 of the Foreign Ministry; and a few cases were referred
4 to the Prime Minister. The matters herein related con-
5 stitute a small, but representative, proportion of all
6 those which occurred during my Ambassadorship. At the
7 end of 1938 over 400 separate protests had been filed
8 by me and the number of instances of depredations
9 against American property, discriminations against
10 American business men, and endangering of American lives
11 by the Japanese in China was steadily increasing and
12 continued to do so until the end of my term as Ambassador."

13
14 /s/"Joseph Clark Grew."
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1 With the permission of the Tribunal, we now
2 wish to offer in evidence I. P. S. document No. 2007B,
3 which is an excerpt from the testimony of former
4 Secretary of State, Cordell Hull, given before the
5 United States Congressional Committee for the in-
6 vestigation of the Pearl Harbor Incident, and we ask
7 that this be identified as an exhibit in the prose-
8 cution's testimony.

9 THE PRESIDENT: Mr. Logan.

10 MR. LOGAN: If the Tribunal please, we
11 are not making any objections to the introduction
12 of this document, but we do wish to point out that
13 the prosecution's excerpts of the prepared statement
14 which Secretary Hull gave before the Committee --
15 that this prepared statement covered a period up to
16 and including December 7, 1941, but that the prosecu-
17 tion is only offering that part of the statement up
18 to June 21, 1941; and it does not include any of the
19 answers which Secretary Hull gave to questions which
20 were asked him before the Committee.

21 THE PRESIDENT: Mr. Smith.

22 MR. SMITH: If your Honor please, I object
23 to the matter which appears on the first page, because
24 it is too remote. It goes back to 1895, 1905, 1910,
25 and 1915, and if we have to answer for the Russian-

1 Japanese War, we will just have to fight that all
2 over again, and this case will never come to an end.

3 MR. HARDIN: Mr. President, as to Mr. Logan's
4 objection, you may recall that request was made --
5 application was made for the right to present ex-
6 cerpts, and the defendants asked for additional,
7 and we have supplied them by due processing with all
8 the additional that they asked for.

9 As to Mr. Smith's objection, that is just
10 briefly some of the background and history which has
11 some effect, however remote, upon the relations be-
12 tween the countries involved in this inquiry.

13 THE PRESIDENT: Of course, we may discover
14 upon considering these various statements that there
15 is much in them that is not properly evidence before
16 us. I would not care to say that what happened in
17 1895 was relevant to any issue. The objection is not
18 overcome by calling it background. However, we are
19 not in a position just now to undertake a revision of
20 these various documents which contain, perhaps,
21 statements which are not proper -- which cannot
22 properly be regarded as evidence.

23
24 In Mr. Stimson's affidavit there are con-
25 clusions there that we are not going to be bound by
simply because he draws them. Well, of course, the

1 Court will pay regard only to such matters as are
2 properly evidence directed to the issues, and will
3 disregard other matters.

4 The statement of Mr. Hull is admitted on
5 the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2007B will be given exhibit No. 1106.

8 (Whereupon, the document above
9 referred to was given exhibit No. 1106 and
10 received in evidence.)

11 MR. HARDIN: We read prosecution's exhibit
12 No. 1106:

13 'EXCERPTS FROM TESTIMONY OF SECRETARY OF
14 STATE HULL GIVEN BEFORE THE JOINT CONGRESSIONAL
15 COMMITTEE ON THE INVESTIGATION OF THE PEARL HARBOR
16 ATTACK.

17 "pp. 1076 to 1083.

18 "I. BACKGROUND of 1941 CONVERSATIONS.

19 "The Japanese proposal for conversations
20 was directed toward the conclusion of an agreement
21 between Japan and the United States relating to the
22 Far East. It was made early in 1941. Before ac-
23 cepting or rejecting this proposal, the President
24 and I gave the subject thorough consideration against
25 the background of such factors as Japan's record of

1 international aggression, her record of duplicity
2 in international dealings, the sharp divergence
3 between the policies traditionally and currently
4 pursued by Japan and by the United States, and the
5 current situation in the Far East, in Europe, and
6 in the United States.

7 "A. Japan's Record of Aggression:

8 "The President and I had to bear in mind
9 and to take into account Japan's past record of
10 aggression and the trend of contemporary developments
11 in the Far East.

12 "Almost from the outset of Japan's emergence
13 as a modern state she had been pursuing a policy of
14 military aggrandisement. For the most part, except
15 during certain brief periods when forces of modera-
16 tion appeared to be in the ascendancy, the intervals
17 between one aggressive step and the next were but
18 periods of consolidation.

19 "In 1895, following Japan's successful war
20 against China, Japan annexed Formosa and tried unsuc-
21 cessfully to establish a foothold in Manchuria.

22 "In 1905, after the Russo-Japanese war,
23 Japan established herself securely in Manchuria by
24 acquiring a lease of the Kwantung territory and
25 ownership of the South Manchuria Railway. At that

1 time Japan also acquired southern Sakhalin.

2 "In 1910 Japan annexed Korea after years
3 of encroachment by pressure and intrigue.

4 "In 1915 Japan took advantage of the pre-
5 occupation of her European allies with the war
6 against Germany to present to China the notorious
7 Twenty-one Demands.

8 "At the end of the first World War Japan
9 participated in the Washington Conference of 1921-22
10 and became a party to the treaties concluded there.
11 Among those treaties was the Nine-Power Treaty
12 relating to principles and policies concerning China.
13 That treaty envisaged the creation of conditions
14 designed to provide the fullest and most unembarrassed
15 opportunity to China to develop and maintain for her-
16 self an effective and stable government. Japan
17 pledged herself to the policies of self-restraint
18 toward China on which the Nine Power Treaty rested.

19 "In 1928, however, following the advent
20 of the Cabinet of General TANAKA in 1927, Japan
21 adopted a so-called 'positive' policy toward China
22 under which it manifested an increasing disposition
23 to intervene in China's internal affairs.
24

25 "In 1931 Japan invaded Manchuria and
subsequently established there a puppet regime under

1 the name of 'Manchukuo.' By that action, which
2 was a flagrant violation of the Nine-Power Treaty,
3 Japan broke completely away from the policy of
4 cooperation agreed upon in the Washington Con-
5 ference treaties.

6 "I recalled how early in 1934 I welcomed
7 an approach by the Japanese Government in the form
8 of a note (February 21, 1934) by Mr. HIROTA, the
9 Japanese Minister for Foreign Affairs, in which he
10 stated that he firmly believed that no question
11 existed between the United States and Japan 'that
12 is fundamentally incapable of amicable solution.'
13 In my reply (March 3, 1934) I concurred in that
14 view and emphasized our Government's belief in
15 adjustments of questions by pacific processes.

16 "Only a short time after that exchange of
17 notes, however, Japan again unmasked the basic
18 purpose of aggression consistently adhered to by
19 powerful policy-making elements in Japan. On
20 April 17, 1934 the Japanese Foreign Office spokes-
21 man gave out a truculent official statement known
22 as the 'hands off China' statement. In that state-
23 ment Japan made clear a purpose to compel China to
24 follow Japan's dictate and to permit other countries
25 to have relations with China only as Japan allowed."

1 "On December 29, 1934 Japan gave formal
2 notice of its intention to withdraw at the end of
3 1936 from the Naval Limitation Treaty signed at
4 Washington on February 6, 1922. That notice was
5 another clear and significant move in the direction
6 of a course of conquest. Following the giving of
7 that notice, Japan proceeded energetically to in-
8 crease her armaments, preparatory to launching her
9 invasion in China.

10 "About that time Japan entered into con-
11 versations with Nazi Germany which resulted in the
12 conclusion by the two countries, on November 25,
13 1936, of the Anti-Comintern Pact. In 1937 Italy
14 adhered. While the Pact was ostensibly for self-
15 protection against communism, actually it was a
16 preparatory move for subsequent measures of forceful
17 expansion by the bandit nations -- the first step
18 in the creation of the so-called 'Axis.'

19 "In July 1937, Japan deliberately took ad-
20 vantage of a minor incident between Chinese and Ja-
21 panese forces at a point near Peiping and began
22 flagrantly to invade China on a huge scale. She
23 poured into China immense armies which spread fan-
24 line over great areas, including industrial and other
25 key centers. These armies raped, robbed, murdered,

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and committed all kinds of lawless acts. Particularly

1 barbarous were the outrages in Nanking following
2 occupation of that city by Japanese military on
3 December 13, 1937.

4 "On December 12, 1937 Japanese aircraft
5 bombed and sank the U. S. S. Panay in the Yangtze
6 River.

7 "To gain public support in Japan for its
8 program of military expansion, slogans were used such
9 as 'the new order in Greater East Asia' and 'East
10 Asia Co-Prosperity Sphere.' The United States and
11 other countries were charged with attempting to
12 choke Japan's development.

13 "In August and September 1940 Japan with
14 German assistance extorted an agreement from Vichy
15 France under which Japanese troops moved into
16 northern Indo-China.

17 "In September 1940 Japan entered into the
18 Tripartite Pact with Germany and Italy. That alliance
19 was aimed directly at the United States. It was de-
20 signed to discourage the United States from taking
21 adequate measures of self-defense until both Japan
22 and Germany had completed their programs of conquest
23 in Asia and Europe, when they could turn on the
24 United States then standing alone.

25 "On October 4, 1940 Premier KONOYE

1 was quoted by the press in a statement on the
2 Tripartite Pact as having said in part:

3 "If the United States refuses to under-
4 stand the real intentions of Japan, Germany and
5 Italy and continues persistently its challenging
6 attitude and acts . . . those powers will be
7 forced to go to war. Japan is now endeavoring to
8 adjust Russo-Japanese political and economic
9 relations and will make every effort to reduce
10 friction between Japan and Russia. Japan is now
11 engaged in diplomatic manouvers to induce Russia,
12 Britain and the United States to suspend their
13 operations in assisting the Chiang regime.

14 "B. Japan's Record of Duplicity:

15 "The President and I also gave thought to
16 the fact that Japan had a long record of duplicity
17 in international dealings. This duplicity was due
18 largely to the fact that the Japanese military
19 were a law unto themselves and consistently over-
20 rode commitments which civilian Japanese had given.

21 "In 1904, Japan guaranteed Korea's in-
22 dependence and territorial integrity. In 1910,
23 Japan annexed Korea.
24

25 "In 1908, Japan pledged with the United
States to support the independence and integrity of

1 China and the principle of equal opportunity there.
2 In 1915, Japan presented to China the notorious
3 'twenty-one demands.'

4 "In 1918, Japan entered into an inter-allied
5 arrangement whereby forces, not exceeding above
6 7,000 by any one power, were to be sent to Siberia to
7 guard military stores which might be subsequently
8 needed by Russian forces, to help the Russians in
9 the organization of their own self-defense, and to
10 aid the evacuating Czechoslovakian forces in
11 Siberia. The Japanese military saw in this enter-
12 prise an opportunity, in which they were eventually
13 unsuccessful, to annex eastern Siberia and sent more
14 than 70,000 troops.

15 "In the Nine-Power Treaty of 1922, Japan
16 agreed to respect China's sovereignty, independence,
17 and territorial and administrative integrity. Japan
18 also agreed to use its influence to establish the
19 principle of equal opportunity there. Japan's whole
20 course in China since 1931 of military occupation
21 and economic domination was in violation of those
22 pledges.

23 "On November 21, 1932, Mr. MATSUOKA then
24 Japanese delegate to the League of Nations, said:
25 'We want no more territory.' By the end of 1932

1 Japanese forces had occupied the whole of Manchuria
2 and in subsequent years they moved southward and
3 westward occupying a vast area of China.

4 "On July 27, 1937, Prince KONOYE, then
5 Japanese Premier, said 'In sending troops to North
6 China, of course, the Government has no other
7 purpose, as was explained in its recent statement,
8 than to preserve the peace of East Asia.' In
9 order to 'preserve the peace of East Asia,'
10 Japanese forces for four years had carried war-
11 fare and suffering over the greater part of China.

12 "On October 28, 1937, the Japanese Foreign
13 Office said, 'Japan never looks upon the Chinese peo-
14 ple as an enemy . . . Japan showed its friendly feel-
15 ing for China by bombing Chinese civilian populations,
16 by burning Chinese cities, by making millions of
17 Chinese homeless and destitute, by mistreating and
18 killing civilians, and by acts of horror and
19 cruelty. "
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1 "On April 15, 1940, Mr. ARITA, then Japanese
2 Minister for Foreign Affairs, said the 'Japanese
3 Government cannot but be deeply concerned over any
4 development ... that may affect the status quo of
5 the Netherlands East Indies'. Following the occu-
6 pation of the Netherlands by Germany that spring,
7 Japan sent a Commercial Commission to the Indies
8 which asked concessions so far reaching that, if
9 granted, they would have reduced the Indies practic-
10 ally to a Japanese colony.

11 "After the outbreak of Japan's undeclared
12 war against China in July, 1937, Japanese civilian
13 leaders time and again gave assurances that American
14 rights would be respected. Time and again the
15 Japanese military acted in violation of those assur-
16 ances...

17 "pp. 1084 - to 1088

18 "Time and again the Japanese gave assurances
19 that American lives and property in China would be
20 respected. Yet there were reported in steadily
21 mounting numbers cases of bombing of American property
22 with consequent loss or endangering of American lives.

23 "Time and again the Japanese gave assurances
24 that American treaty rights in China would be respected.
25 Unnumbered measures infringing those rights were put

1 into effect in Japanese occupied areas. Trade monop-
2 olies were set up, discriminatory taxes were imposed,
3 American properties were occupied, and so on. In
4 addition, American nationals were assaulted, arbitrarily
5 detained, and subjected to indignities.

6 "C. Divergence between Japanese and
7 American Policies:

8 "The President and I have very much in mind
9 the fact that the United States and Japan had widely
10 different concepts and policies. We went over the
11 successive steps our Government had taken to in-
12 fluence Japan to adopt peaceful policies.

13 "We recalled that Japan's action in 1931
14 in embarking on a course of aggression, expansion
15 by force and of disregard of treaties had ushered in
16 an ever widening conflict between force of aggression
17 and those desirous of maintaining peace. Our Govern-
18 ment's opposition to Japan's course in Manchuria was
19 set forth in a communication addressed by the then
20 Secretary of State, Mr. Stimson, to the Japanese
21 Government on January 7, 1931 --"

22 That is blurred. I can't make it out for
23 sure.

24 "--and in a further communication of
25 February 25, 1935, to the Secretary General of the

1 League of Nations.

2 "On January 17, 1933 the President-elect,
3 Mr. Roosevelt, made clear his support of the
4 principle of sanctity of international treaties by
5 writing out, in reply to a question, a statement as
6 follows:

7 " 'I am ... wholly willing to make it
8 clear that American foreign policies must uphold the
9 sanctity of international treaties. That is the
10 cornerstone on which all relations between nations
11 must rest.'

12 "In his first inaugural address, on March
13 4, 1933, President Roosevelt said that in the field
14 of world policy he would dedicate this nation to
15 the policy of the good neighbor -- 'the neighbor who
16 resolutely respects himself and, because he does so,
17 respects the rights of others -- the neighbor who
18 respects his obligations and respects the sanctity
19 of his agreements in and with a world of neighbors.'

20 "Thus in 1931-1933, while Japan was carrying
21 forward its program of aggression, the American
22 Government was moving steadily ahead in advocacy of
23 world support of sanctity of treaties and peaceful
24 processes.
25

"On May 16, 1934 I had a general conversation

1 with Japanese Ambassador SAITO, one of many conversations
2 in which I endeavored to convince the Japanese that
3 their best interests lay in following policies of
4 peace.

5 "Three days later I talked again with the
6 Japanese Ambassador. During the conversation the
7 Ambassador repeated the formula which his Government
8 had been putting forward publicly for some weeks to
9 the effect that Japan had a superior and special
10 function in connection with the preservation of peace
11 in Eastern Asia. I brought to the Japanese Ambassa-
12 dor's attention the clear implications contained in
13 the Japanese formula of the intention on the part of
14 Japan to exercise an overlordship over neighboring
15 nations and territories.

16 "On June 12, 1936 in a conversation with
17 the Japanese Ambassador to Great Britain, I told
18 the Ambassador that the impression of the American
19 people was that Japan sought the economic domination
20 first of Eastern Asia and then of other areas such as
21 it might select, and that this would ultimately
22 mean political as well as military domination. I
23 urged upon the Ambassador the benefit to Japan from
24 its associating itself in a peaceful and constructive
25 program."

1 "Despite all our pleas and efforts, Japan
2 in July 1937 proceeded to invade China. Therefore,
3 on July 16 the Government of the United States
4 issued a statement of fundamental principles of
5 international policy which was directed at rallying
6 all countries to the support of peaceful processes.

7 "In a further statement of August 23,
8 1937, I applied the principles of the July 16
9 statement expressly to the situation in China. I
10 stated that the issues, in that situation, of
11 concern to the United States went far beyond the
12 immediate question of the protection of American
13 nationals and American interests. Serious hostilities
14 in any part of the world were of concern to all
15 nations. Accordingly, I urged on both the Chinese
16 and Japanese Governments that they refrain from
17 hostilities.

18 "On October 6, 1937 the American Government
19 stated that the action of Japan in China was incon-
20 sistent with the principles which should govern re-
21 lationships between nations and was contrary to
22 the provisions of the Nine-Power Treaty and of the
23 Briand-Kellogg Pact.

24 "In November 1937 the United States partici-
25 pated with eighteen other nations in a conference

1 held at Brussels to 'study peaceable means of
2 hastening the end of the regrettable conflict which
3 prevails' in the Far East. The conference was held
4 in accordance with a provision of the Nine-Power
5 Treaty of 1922. The repeated refusals of the
6 Japanese Government to participate in the conference
7 effectively prevented efforts to bring about an
8 end to the conflict by mediation and conciliation.
9 On November 24 the conference suspended its sittings.

10 "pp. 1089

11 "On April 15, 1940 the Japanese Foreign
12 Minister issued a statement disclosing an underlying
13 purpose to extend Japanese control to the South
14 Seas regions, especially the Netherlands East Indies.
15 On April 17 I took cognizance of that statement. I
16 pointed out the importance of the Netherlands Indies
17 in international relationships. I said that inter-
18 vention in the domestic affairs of the Netherlands
19 Indies or any alteration of their status quo by
20 other than peaceful processes would be prejudicial
21 to the cause of stability, peace, and security, not
22 only in the region of the Netherlands Indies but
23 in the entire Pacific area. I urged that peaceful
24 principles be applied not only in every part of the
25 Pacific area but in every part of the world."

1 "p. 1090

2 "During the winter of 1940 and the spring
3 of 1941 I had clearly in mind -- and I was explaining
4 to members of Congress and other Americans with whom
5 I came in contact -- that it was apparent that the
6 Japanese military leaders were starting on a mission
7 of conquest of the entire Pacific area west of a few
8 hundred miles of Hawaii and extending to the South
9 Seas and to India. The Japanese were out with
10 force in collaboration with Hitler to establish a
11 new world order, and they thought they had the power
12 to compel all peaceful nations to come in under that
13 new order in the half of the world they had arrogated
14 to themselves.

15 "I was saying to those Americans that
16 beginning in 1933 I had commenced a systematic and
17 consistently earnest effort to work out our relations
18 with Japan. I had been trying to see whether it
19 was humanly possible to find any way to approach
20 the Japanese and prevail on them to abandon this
21 movement of conquest. We had been urging the
22 Japanese to consider their own future from the
23 standpoint of political, economic, and social aspects.

24 "p. 1092

25 "The President had an eye to the situation

1 in the Far East when on January 6, 1941 in his
2 address to Congress he declared that 'at no previous
3 time has American security been as seriously
4 threatened from without as it is today'. The
5 President said that the whole pattern of democratic
6 life had been blotted out in an appalling number of
7 independent nations and that the assailants were
8 still on the march threatening other nations, great
9 and small.

10 "p. 1093.

11 "On January 15, 1941, in a statement in
12 support of the Lend-Lease Act before the Committee
13 on Foreign Affairs in the House of Representatives,
14 I said:

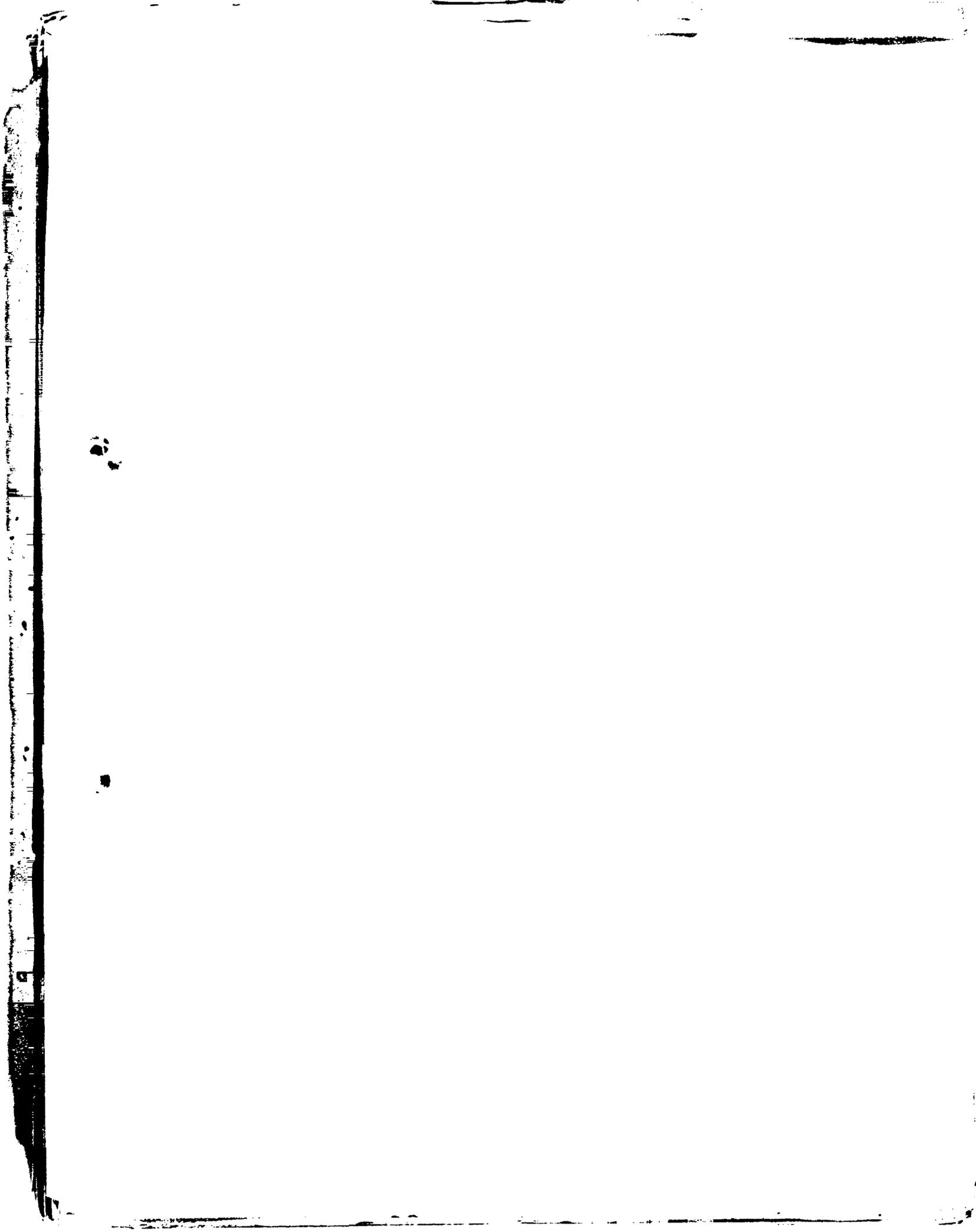
15 " 'It has been clear throughout that Japan
16 has been actuated from the start by broad and
17 ambitious plans for establishing herself in a
18 dominant position in the entire region of the Western
19 Pacific. Her leaders have openly declared their
20 determination to achieve and maintain that position
21 by force of arms and thus to make themselves master
22 of an area containing almost one-half of the entire
23 population of the world. As a consequence, they
24 would have arbitrary control of the sea and trade
25 routes in that region.' "

1 "I pointed out that mankind was face to
2 face with an organized, ruthless and implacable
3 movement of steadily expanding conquests, and
4 that control of the high seas by law-abiding nations
5 'is the key to the security of the Western Hemisphere".

6 THE PRESIDENT: Well, you have just
7 finished part I. We will hear part II on Tuesday
8 morning. We will adjourn until half-past nine on
9 Tuesday morning.

10 (Whereupon, at 1600, an adjournment
11 was taken until Tuesday, 12 November, 1946, at
12 0930.)

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12 NOVEMBER 1946

I N D E X
of
WITNESSES
(none)

I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1855	1107		List of names of persons attending Imperial Conferences of 1941		10140
1632EE	1108		Entry from Marquis KIDO's Diary dated 2 July 1941		10144
2731	1109		Certificate of Interpreter Commander Maxon dated 25 October 1946 of interrogations of the Defendant TOJO, Hideki of various dates during January, February and March of this year (not read)		10149
2502	1110		Parent document of Imperial Conference called by TOJO July 1941	10150	
2502B	1110-A		Interrogation of TOJO, Hideki dated 13 February 1946 - an extract		10151
4062J	1111		Report dated 3 July 1941 from Weizsaecker to German Foreign Minister Ribbentrop		10153

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1632W(59)	1112		Entry from Marquis KIDO's Diary dated 5 July 1941		10155
4062K	1113		Telegram from Ott at Tokyo to Ribbentrop dated 7 July 1941		10157
4052C	1114		Telegram dated 15 July from Ott to Berlin		10158
1632W(60)	1115		Extract from Marquis KIDO's Diary dated 15 July 1941		10161
1632W(61)	1116		ditto 16 July 1941		10165
1632W(62)	1117		ditto 17 July 1941		10166
4052F	1118		Telegram from Ott to Berlin dated 20 July 1941		10169
2512	1119		Parent document of Interrogation of TOJO, Hideki dated 15 March 1946	10173	
2512B	1119-A		Extract therefrom		10173
1383E	1120		Telegram from NOMURA to TOYODA dated 23 July 1941		10175
4052G	1121		Telegram dated 24 July 1941 from Ott to Berlin		10178
847C	1122		Official Statement of the Japanese Bureau of Information dated 29 July 1941 announcing Japan's Occupation of French Indo-China		10179

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2502A	1123		Extracts from the TOJO's interrogation dated 13 February 1946		10181
4167	1124		Parent document of TOJO's interrogation dated 15 February 1946	10183	
4167B	1124-A		Extract from interrogation of TOJO dated 15 July 1946		10183
1632W(63)	1125		Certain views of the Defendants NAGANO and KIDO re war with the U. S.		10184
2495	1126		Parent document of interrogation of Osami NAGANO dated 21 March 1946	10187	
2495-A	1126-A		Extracts therefrom		10187
2497	1127		Parent document of interrogation of Osami NAGANO dated 27 March 1946	10191	
2497A	1127-A		Extracts therefrom		10191
2498	1128		Parent document interrogation of Shigetaro SHIMADA on 23 January 1946	10193	
2498B	1128-A		Extract therefrom		10193

I N D E X
Of
EXHIBITS
(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1632W(64)	1129		Extract from Marquis KIDO's Diary dated 2 August 1941		10196
1632W(66)	1130		Entry from KIDO's Diary dated 7 August 1941		10198
1457	1131		Telegram from NOHURA to Foreign Minister TOYODA dated 16 August 1941		10202
2534	1132		Certified Press item showing that the Cabinet on 22 August 1941 approved National Community Mobilization Plan		10204
2535A	1133		Excerpt from the "Osaka Mainichi and the Tokyo "Nichi-Nichi" of 8 September 1941		10213
1632W(67)	1134		Extract from KIDO's Diary dated 5 September 1941		10214
1632W(68)	1135		Extract from KIDO's Diary dated 6 September 1941		10215
2507	1136		Parent document of TOJO's interrogation dated 23 February 1946	10219	
2507A	1136-A		Extracts from the TOJO interrogation of 23 February 1946		10219
2509	1137		Parent document of TOJO's interrogation dated 11 March 1946	10219	
2509A	1137-A		Extract therefrom		10220

I N D E X
Of
EXHIBITS
(cont'd)

<u>Doc. No.</u>	<u>Pres. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Id'nt.</u>	<u>In Evidence</u>
1632W(69)	1138		Entry from KIDO's Diary dated 11 September 1941		10222
1457B	1139		Telegram from NOMURA to TOYODA dated 12 September 1941		10223
2546A	1140		Report of extract from the Tokyo Nichi-Nichi dated 13 September 1941 re Labor Mobilization Plan		10228
1632W(71)	1141		Extract from KIDO's Diary dated 26 September 1941		10230
1632W(72)	1142		ditto 29 September 1941		10231
1632W(75)	1143		ditto 7 October 1941		10232
2593D-4	1144		Telegram from NOMURA to Tokyo dated 8 October 1941 (Part 1 of 4)		10233
15-I	1145		Telegram from NOMURA to Tokyo dated 8 October 1941 (Part 2 of 4)		10234
1632W(76)	1146		Extract from KIDO's Diary dated 9 October 1941		10241
1632W(77)	1147		Extract from KIDO's Diary dated 12 October 1941		10246
497A	1148		Facts Pertaining to the Resignation of the 3rd KONOYE Cabinet		10250
1632W(78)	1149		Extract from KIDO's Diary dated 12 October 1941		10274
1632W(79)	1150		Entry from Marquis KIDO's Diary dated 15 October 1941		10275

1 Tuesday, 12 November, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12
13 Appearances:

14 For the Tribunal, same as before with the
15 exception of the HONORABLE R. B. PILL, Member from
16 India, not sitting.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

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20 - - -

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22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IITFE.)
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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 the accused are present
4 except OKAWA and HIRANUMA, who are represented by
5 their respective counsel. I have a certificate from
6 the Medical Superintendent of Sugamo Prison, cer-
7 tifying that HIRANUMA is unable to attend today on
8 account of illness. The certificate will be recorded
9 and filed.

10 Mr. Higgins.

11 MR. HIGGINS: With the permission of the
12 Tribunal, I shall conclude the reading of exhibit
13 1106.

14 THE PRESIDENT: This is Mr. Kull's statement?

15 MR. HIGGINS: Yes, sir.

16 Beginning with the first complete paragraph
17 on page 9:

18 "II. CONVERSATIONS AND DEVELOPMENTS PRIOR
19 TO JULY 1941.

20 "On February 14, 1941 the President received
21 the new Japanese Ambassador, Admiral NOMURA, in a spir-
22 it of cordiality and said that they could talk candid-
23 ly. He pointed out that relations between the United
24 States and Japan were deteriorating and mentioned Jap-
25 anese movements southward and Japanese entry into the

1 Tripartite Agreement. The President suggested that
2 the Ambassador might like to re-examine and frankly
3 discuss with the Secretary of State important phases
4 of American-Japanese relations.

5 "On March 8, in my first extended conversa-
6 tion with the Japanese Ambassador, I emphasized that
7 the American people had become fully aroused over the
8 German and Japanese movements to take charge of the
9 seas and of the other continents for their own arbi-
10 trary control and to profit at the expense of the wel-
11 fare of all of the victims.

12 "On March 14 the Japanese Ambassador saw
13 the President and me. The President agreed with an
14 intimation by the Ambassador that matters between our
15 two countries could be worked out without a military
16 clash and emphasized that the first step would be re-
17 moval of suspicion regarding Japan's intentions. With
18 the Japanese Foreign Minister MATSUOKA on his way to
19 Berlin, talking loudly, and Japanese naval and air
20 forces moving gradually toward Thailand, there was
21 naturally serious concern and suspicion.

22 "On April 16 I had a further conversation
23 with the Japanese Ambassador. I pointed out that the
24 one paramount preliminary question about which our
25 Government was concerned was a definite assurance in

1 advance that the Japanese Government had the willing-
2 ness and power to abandon its present doctrine of con-
3 quest by force and to adopt four principles which our
4 Government regarded as the foundation upon which re-
5 lations between nations should rest, as follows:

6 "(1) Respect for the territorial integrity
7 and the sovereignty of each and all nations;

8 "(2) Support of the principle of non-inter-
9 ference in the internal affairs of other countries;

10 "(3) Support of the principle of equality,
11 including equality of commercial opportunity;

12 "(4) Non-disturbance of the status quo in
13 the Pacific except as the status quo may be altered
14 by peaceful means.

15 "I told the Japanese Ambassador that our
16 Government was willing to consider any proposal which
17 the Japanese Government might offer such as would be
18 consistent with those principles.

19 "On May 12 the Japanese Ambassador presented
20 a proposal for a general settlement. The essence of
21 that proposal was that the United States should re-
22 quest Chiang Kai-shek to negotiate peace with Japan,
23 and, if Chiang should not accept the advice of the
24 United States, that the United States should discontin-
25 ue its assistance to his Government; that normal trade

1 relations between the United States and Japan should
2 be resumed; and that the United States should help
3 Japan acquire access to facilities for the exploita-
4 tion of natural resources--such as oil, rubber, tin
5 and nickel--in the southwest Pacific area. There were
6 also other provisions which Japan eventually dropped,
7 calling for joint guarantee of independence of the
8 Philippines, for the consideration of Japanese immi-
9 gration to the United States on a non-discriminatory
10 basis, and for a joint effort by the United States and
11 Japan to prevent the further extension of the European
12 war and for the speedy restoration of peace in Europe.

13 "The proposal also contained an affirmation
14 of Japan's adherence to the Tripartite Pact and a
15 specific reference to Japan's obligations thereunder
16 to come to the aid of any of the parties thereto if
17 attacked by a power not at that time in the European
18 war or in the Sino-Japanese conflict, other than the
19 Soviet Union which was expressly excepted.

20 "The peace conditions which Japan proposed
21 to offer China were not defined in clear-cut terms.
22 Patient exploring, however, disclosed that they in-
23 cluded stipulations disguised in innocuous-sounding
24 formulas whereby Japan would retain control of various
25 strategic resources, facilities and enterprises in

1 China and would acquire the right to station large
2 bodies of Japanese troops, professedly for 'joint
3 defense against Communism,' for an indefinite period
4 in extensive key areas of China proper and Inner
5 Mongolia.

6 "Notwithstanding the narrow and one-sided
7 character of the Japanese proposals, we took them
8 as a starting point to explore the possibility of
9 working out a broad-gauge settlement, covering the
10 entire Pacific area, along lines consistent with the
11 principles for which this country stood.

12 "On May 14, Mr. MATSUOKA, the Japanese Min-
13 ister of Foreign Affairs, in the course of a conversa-
14 tion with Ambassador Grew, said that both Prince
15 KONOYE and he were determined that Japan's southward
16 advance should be carried out only by peaceful means,
17 'unless,' he added significantly, 'circumstances ren-
18 der this impossible.'

19 "In reply to the Ambassador's inquiry as to
20 what circumstances he had in mind, Mr. MATSUOKA re-
21 ferred to the concentration of British troops in Ma-
22 laya and other British measures. When the Ambassador
23 pointed out that such measures were of a defensive
24 character, the Minister's reply was that those meas-
25 ures were regarded as provocative by the Japanese

1 public, which might bring pressure on the Government
2 to act.

3 "On May 27, 1941, President Roosevelt pro-
4 claimed the existence of an 'unlimited national emer-
5 gency' and in a radio address on the same day he de-
6 clared that our whole program of aid for the democ-
7 racies had been based on concern for our own security.
8 He warned of the conditions which would exist should
9 Hitler be victorious.

10 "The President and I were sure that the
11 proclamation would be noticed not only by Hitler but
12 also by the Japanese war lords.

13 "On May 28 I told the Japanese Ambassador
14 that I had it in mind before passing from our informal
15 conversations into any negotiations with Japan to talk
16 out in strict confidence with the Chinese Government
17 the general subject matter involved in the proposals.

18 "During the next few weeks there were a
19 number of conversations for the purpose of clarifying
20 various points and narrowing areas of difference. We
21 repeatedly set forth our attitude on these points--
22 the necessity of Japan's making clear its relation to
23 the Axis in case the United States should be involved
24 in self-defense in the war in Europe; application of
25 the principle of non-interference in the internal

1 affairs of another country and withdrawal of Japan-
2 ese troops from Chinese territory; application of
3 the principle of non-discrimination in commercial
4 relations in China and other areas of the Pacific and
5 assurance of Japan's peaceful intent in the Pacific.
6 I emphasized that what we were seeking was a compre-
7 hensive agreement which would speak for itself as an
8 instrument of peace.

9 "The Japanese pressed for a complete reply
10 to their proposals of May 12. Accordingly, on June
11 21, the Ambassador was given our views in the form of
12 a tentative redraft of their proposals. In that re-
13 draft there was suggested a formula which would make
14 clear that Japan was not committed to take action
15 against the United States should the latter be drawn
16 by self-defense into the European war. It was pro-
17 posed that a further effort be made to work out a sat-
18 isfactory solution of the question of the stationing
19 of Japanese troops in China and of the ~~que~~ question of
20 economic cooperation between China and Japan. There
21 also was eliminated any suggestion that the United
22 States would discontinue aid to the Chinese Government.
23 Various other suggested changes were proposed in the in-
24 terest of clarification for the purpose of harmonizing
25 the proposed settlement with our stated principles."

1 MR. HIGGINS: Mr. President, this document
2 concludes that part of our phase of the case dealing
3 with relations between the British Commonwealth
4 and the United States on the one hand and Japan on
5 the other, ending June 30, 1941.

6 Mr. John W. Fihelly, First Assistant United
7 States Attorney for the District of Columbia, of the
8 United States, will present the evidence dealing
9 with the relations between July 1, 1941 and December
10 7, 1941.

11 THE PRESIDENT: Mr. Fihelly.

12 MR. FIEHELLY: Mr. President and Members of
13 the Tribunal, we now treat the phase of our period
14 covering American, British and Japanese relations
15 from 1 July 1941 to and including the Pearl Harbor
16 attack on 7 December 1941.

17 Our evidence will show that all Imperial
18 Conferences were preceded by Liaison Conferences
19 where preliminary decisions were made on matters of
20 important national policy.

21 It has already been shown by one of Mr.
22 Hardin's introductory documents, IPS document No.
23 1699, Court exhibit No. 1103, that six Liaison Con-
24 ferences were held immediately following Germany's
25 attack on Russia of June 22nd.

1 A Liaison Conference was held the very next
2 day after the German attack on Russia, namely on
3 June 23rd, and other Liaison Conferences followed
4 on June 25th, 26th, 27th, 28th, and 30th.

5 Following those six Liaison Conferences, an
6 Imperial Conference was held on July 2nd, this being
7 the first of the four important Imperial Conferences
8 of the year.

9 I now offer in evidence IPS document No.
10 1855, which gives the names of those who attended
11 this and later Imperial Conferences of 1941 which we
12 will come to in their order of date.

13 MR. LOGAN: If the Tribunal please, we ob-
14 ject to the introduction of this document, on the
15 ground that it appears on its face that it was made
16 on recollection, apparently, only, of the Director
17 of General Affairs, Central Liaison Office. All
18 the records of the conferences were destroyed in air
19 raids, and it is quite apparent that he is guessing
20 as to who was present at these various conferences.
21 because he stated in his own affidavit that in
22 many cases certain of these men were there, and he
23 doesn't set forth just what investigation was made
24 or what documents were seen in order to ascertain who
25 was actually present at these conferences, which were,

1 as you know, very important conferences.

2 THE PRESIDENT: Mr. Blewett.

3 MR. BLEWETT: I would like to include in
4 that objection also, your honor, demand for the wit-
5 ness for cross-examination, unless the prosecution is
6 going to put him on.

7 THE PRESIDENT: What Mr. Logan says, of
8 course, goes to weight only and not to admissibility.
9 The destruction of the documents reduces the pro-
10 bative value of the evidence, but does not destroy
11 its value. Short of calling the witness, it re-
12 presents the best evidence available, as I understand
13 the position. The document is really admissible, but
14 whether the person responsible -- what is his name?

15 MR. FHELLY: Mr. IGUCHI.

16 THE PRESIDENT: -- is a matter upon which my
17 colleagues will have to decide. They may think he
18 ought to be called if he is in Tokyo.

19 (Whereupon, the President conferred
20 with the Members on the Bench.)

21 THE PRESIDENT: The majority of the Court
22 think that the person making the statement should
23 be called, because of the great importance attached
24 to what he says, so the defense' objection to the
25 statement is overruled, but their application that the

1 witness be called is upheld.

2 You may proceed with the reading of the
3 statement, but he must be called for cross-examina-
4 tion.

5 Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1855 will receive exhibit No. 1107.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1107 and received in evidence.)

11 MR. FIEHELLY: This document, exhibit No. 1107,
12 shows that the following individuals were present at
13 the Imperial Conference of July 2, 1941:

14 KONOYE, Prime Minister; MATSUOKA, Foreign
15 Minister; TOJO, War Minister; OKAWA, Navy Minister,
16 KAWADA, Finance Minister; SUZUKI, President of Plan-
17 ning Board; HIRANUMA, Home Minister; SUGIYAMA, Chief
18 of Army General Staff; NAGANO, Chief of Naval General
19 Staff; TOMITA, Chief Secretary of the Cabinet; OKA,
20 Director of Military Affairs Bureau, Navy Ministry;
21 TSUKADA, Vice-Chief of Army General Staff; KONDO,
22 Vice-Chief of Naval General Staff; HARA, President
23 of the Privy Council.

24 MR. FIEHELLY: As the July 2nd Imperial
25 Conference was the first of the four Imperial

1 Conferences of 1941, and the national policies de-
2 cided upon had a direct bearing on the other three
3 that followed, and on what the evidence will show
4 to be, the aggressive wars that followed, we now
5 refer to, because of its importance and, particularly,
6 call the Court's attention to the provisions of Pro-
7 secution Exhibit No. 588, a document which was found
8 at the Foreign Ministry, which gives information as
9 to the national policies agreed on and the decisions
10 made at the Imperial Conferences of 1941.

11 As to the July 2nd Imperial Conference, this
12 document shows, that with Russia now at war with
13 Germany, and with the pressure off from the north,
14 Japan speedily moved southwards to French Indo-China
15 to carry out the national policies decided on at
16 that first Imperial Conference. Our evidence will
17 also show that Japan, with each step, prepared for
18 war with the United States and Great Britain, should
19 those countries in any way interfere with her plans
20 in that respect.

21 As shown by this exhibit, there were three
22 policies decided on at the Imperial Conference of
23 July 2nd. Briefly, they were that:

24 (1) Regardless of any change in the international
25 situation, Japan will adhere to the principle of .

1 establishing a "Greater East Asia Co-Prosperty
2 Sphere," ---

3 Mr. LOGAN: If the Tribunal please, I don't
4 know whether the prosecution is giving evidence here
5 or making a summation or opening statement, or just
6 what it is. I believe the opening statement has
7 already been made for this phase.

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2 THE PRESIDENT: He has been making some con-
3 necting remarks between documents. He is now read-
4 ing part of exhibit 588. If the transcript is to
5 constitute intelligible reading something of the
6 sort must be done that has been done. But I repeat
7 that we want counsel to say no more than is abso-
8 lutely necessary to meet that one purpose, to con-
9 nect what they are saying and reading.

10 MR. FANELLY: I may say to Mr. President
11 and Members of the Tribunal, that what I am doing
12 here is just taking the very meat from the exhibit,
13 rather than repeating and rereading it all.

14 THE PRESIDENT: It would be better to read
15 the material parts of this very important and not
16 over-long document.

17 MR. FANELLY: Mr. President, I will proceed
18 with another document in the meantime, because I do
19 not have the original or a copy here, I just have
20 the descriptive remarks connected with it.

21 MR. BROOKS: Mr. President, if the Tribunal
22 please, I notice in this list of members there is an
23 OIKAWA, and he pronounced it OKAWA. That is not the
24 accused, OKAWA; that is a different spelling, and I
25 would like to call the Court's attention to it, if

1 you please.

2 THE PRESIDENT: We have not been misled.

3 MR. FINELLY: As also showing that an
4 Imperial conference was held on July 2, and the pur-
5 pose for which it was held, we now offer in evidence
6 International Prosecution document 1632EE, which is
7 an extract from the KIDO diary dated July 2, 1941.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 1632EE will receive exhibit No. 1108.

11 (Whereupon, the document above
12 referred to ~~was marked~~ prosecution's
13 exhibit No. 1108 and received in evidence.)

14 MR. FINELLY (Reading):

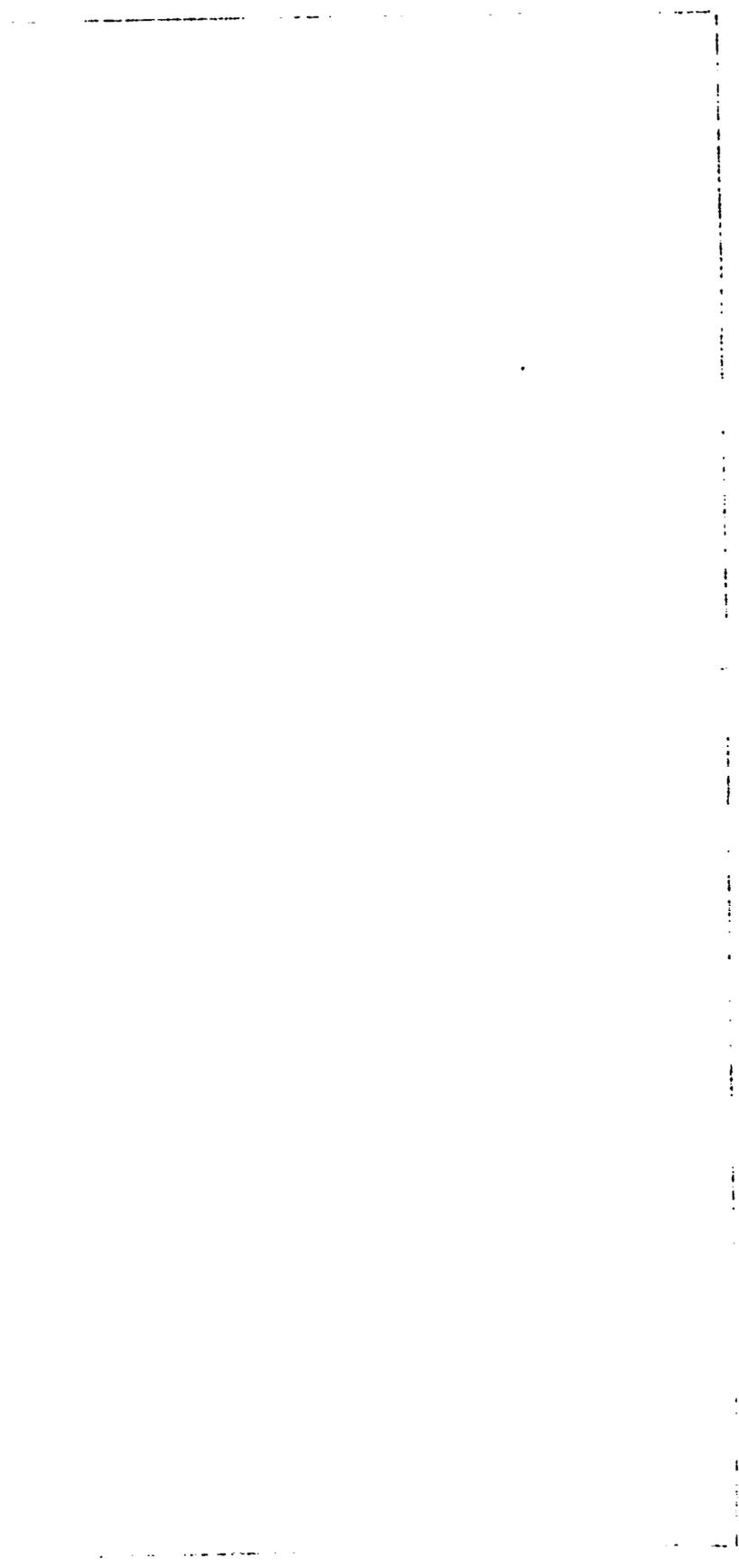
15 "At 10 A.M., Imperial Conference was held in
16 the Imperial Palace, and the national policy to
17 cope with the new situation accompanying the out-
18 break of the Russo-German War was decided."

19 Paragraph four: "At 1 P.M. Prince KONOYE
20 called me at my officeroom, and we talked. He said
21 that he found it difficult to understand the true
22 intention of Foreign Minister MATSUOKA."

23 And the next and last paragraph: "From 2
24 to 3 PM, was received in audience by the Emperor, and
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1 was told about the progress of the Imperial Conference.

2 At 3:20 P.M., made arrangements with the chief aide-de-
3 camp for the establishment of the Imperial General
4 Headquarters within the Imperial Court and for the
Imperial visit to HAYAMA."

6 Now, with respect to exhibit 588, a copy
7 of which I now have before me, Mr. President and
8 Members of the Tribunal --

9 THE PRESIDENT: Read from the document.
10 Don't attempt your own precis of it, Mr. Fihelly;
11 otherwise you will have trouble from the defense.

12 MR. FIEHELLY: Document 1652, page 1, this
13 being exhibit 588:

14 "Resolutions Concerning the Japanese-
15 American Negotiations Adopted Through
16 the Conferences in the Imperial Presence."

17 THE PRESIDENT: Now you are going to deal
18 with the first conference, I understand.

19 MR. FIEHELLY: That is right.

20 THE PRESIDENT: For the time being read only
21 so much as bears on that, and don't make a precis.

22 MR. FIEHELLY (Reading): "Through the
23 Imperial conference on July 2, 1941."

24 Resolution adopted through the Imperial
25 conferences of that date.

1 "A summary of the Empire's POLICY according
2 to the changes in the situation.

3 "I PRINCIPLE.

4 "a. Regardless of any change in the international
5 situation, Japan will adhere to the principle of
6 establishing a 'Greater East Asia Co-prosperity
7 Sphere,' and accordingly contribute to the establish-
8 ment of world-peace.

9 "b. Japan will continue the disposition of the
10 Chinese Incident and will stop up the Southward
11 advance in order to establish for herself a basis
12 for self-existence and self-defense. The Northern
13 problems will be dealt with according to the changes
14 in the situations.

15 "c. Japan will remove all obstacles for the
16 achievement of the foregoing purpose.

17 "II SUMMARY.

18 "a. In order to hasten the surrender of Chiang's
19 Regime, further pressure through the Southern
20 regions will be strengthened to the changes in the
21 situations, we shall execute our rights of war against
22 the Chungking Regime at the proper time, and shall
23 confiscate the enemy concessions in China.

24 "b. For the sake of her self-existence and self-
25 defense Japan will continue necessary diplomatic

1 negotiations with relevant nations in the Southern
2 regions and will also promote other necessary
3 measures. For this purpose we shall make preparations
4 for a war with Britain and the United States. First,
5 we shall accomplish the execution of our schemes
6 against French Indo-China and Thailand following the
7 'Principle Policy toward French Indo-China and
8 Thailand,' and 'Matters concerning the Promotion of
9 our Southern Policy,' thereby stabilizing our
10 structure for the Southern advance. In order to
11 achieve the above-mentioned purpose, Japan will not
12 hesitate to have a war with Britain and the United
13 States.

14 "c. Though the spirit of the tripartite axis will
15 form the keynote of our attitude toward the German-
16 Soviet War, we shall not intervene for a while, but
17 take voluntary measures by secretly preparing arms
18 against the Soviet Union. Meanwhile, diplomatic
19 negotiations will be continued with detailed pre-
20 cautions; and should the conditions of the German-
21 Soviet war progress favourable to Japan we shall
22 execute arms to solve the northern problems, thereby
23 securing stability in the Northern regions.

24 "d. In the accomplishment of the above, all measures,
25 especially in the case of execution of arms, must be

1 decided so that there will be no great difficulty
2 in maintaining our basic posture for a war with
3 Britain and the United States.

4 "e. We shall do our utmost in preventing the United
5 States participation in the War through diplomatic
6 measures in the pre-arranged programmes, and every
7 other possible way, but in case she should participate,
8 Japan will act according to the Tripartite Pact.

9 However, the time and method of military action will
10 be decided independently.

11 "f. We shall shift promptly to the complete stabiliza-
12 tion of internal war-time structures, particularly we
13 shall strive for the stabilization of national defense.

14 "g. As to the definite measures we shall decide
15 separately."

16
17 And that is all, Mr. President and
18 Members of the Tribunal, from that document to be
19 read at this time.

20 We shall have occasion, Mr. President
21 and Members of the Tribunal, to refer to many extracts
22 of interrogations of the defendant TOJO, and we
23 accordingly offer at this time International Prosecu-
24 tion document 2731, which is a group certification of
25 the interrogations of the defendant TOJO on various
dates set forth in the certification, during January,

1 February and March of this year. The certification
2 is the same as the individual certifications which
3 have been heretofore used, and only differs in that
4 it is a group certification.

5 THE PRESIDENT: Admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution's document
8 2731 will receive exhibit No. 1109.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's
11 exhibit No. 1109 and received in evidence.)
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1 MR. FINELLY: To show that the defendant
2 TOJO, as Minister of War, called the first Imperial
3 Conference of July 1941, and to give his version of
4 why it was called and who attended it, we now offer
5 in evidence International Prosecution Document 2502-B,
6 which is an extract from the TOJO interrogation of
7 February 13 of this year, pages 8 and 9.

8 THE PRESIDENT: Mr. Blewett.

9 MR. BLEWETT: If the Court please, I under-
10 stand the prosecution is not going to offer the full
11 statement in evidence or even for identification,
12 but simply read excerpts, and in some of these ex-
13 cerpts are just one or two questions and answers.

14 THE PRESIDENT: The parent document should
15 be tendered for identification as hitherto.

16 MR. BLEWETT: The reason I make the statement,
17 sir, is because in many places after one or two days'
18 interrogations the witness has gone back to certain
19 questions and explained them more fully; and if these
20 excerpts just simply show the one question and answer
21 it is not a complete answer.

22 THE PRESIDENT: You will have to speak with
23 the utmost simplicity; otherwise you will have every-
24 thing translated twice into Japanese.

25 Speak into the microphone, speak slowly,

1 speak clearly.

2 Mr. Blewett, as the Tribunal has frequently
3 pointed out, you will be at liberty to tender later
4 when the defense are giving evidence, such questions
5 and answers as are omitted by the prosecution. That
6 is all I can say at this stage.

7 The document is admitted on the usual terms.
8 But the parent document, if I may call it such, must
9 be tendered for identification.

10 MR. FINELLY: We offer the parent document
11 for identification and ask that this extract be
12 marked as an exhibit.

13 CLERK OF THE COURT: Prosecution's document
14 No. 2502 will receive exhibit No. 1110 for identifi-
15 cation only, and the excerpt therefrom, to-wit,
16 document No. 2502-B, will receive exhibit No. 1110-A.

17 (Whereupon, prosecution's document
18 No. 2502 was marked prosecution's exhibit No. 1110
19 for identification. Prosecution's document
20 No. 2502-B was marked prosecution's exhibit No. 1110-A,
21 and was received in evidence.)

22 MR. FINELLY: I now read, Mr. President
23 and Members of the Tribunal, from exhibit 1110-A.

24 "Who requested this Imperial Conference
25 of July 1941?"

1 "A Since the problem of stationing troops
2 in southern French Indo-China was the principal prob-
3 lem, it may have been the War Minister, I believe.

4 "Q Do you not recall whether or not you
5 called this meeting? You were War Minister.

6 "A Actually, I think I probably requested
7 it. However, things were decided usually at the
8 Liaison Conference where they were decided practically
9 by common consent. You asked me who requested this
10 conference and I cannot answer because usually the
11 War Minister, the Navy Minister, Foreign Minister,
12 and the Premier got together and agreed on a subject.
13 Then the actual drafting of the plan was left to the
14 three secretaries, to whom I have referred in pre-
15 vious interviews. The plan was then presented to the
16 Liaison Conference from which the decision to request
17 an Imperial Conference might come. Just now you
18 looked very solemn when you asked me the question of who
19 called the conference. It was called by the process
20 I have described, but the responsibility in connection
21 with the movement of troops into southern Indo-China
22 was my responsibility as War Minister. It is dis-
23 tasteful to me to try to avoid responsibility."

24 That the Tripartite Pact was the basis of
25 every move which Japan made at this time in connection

1 with the negotiations with the United States is shown
2 by International Prosecution document 4062-J, which is
3 now offered in evidence, this being a report dated
4 July 3, 1941, referring to the defendant OSHIMA, from
5 Weizsaecker, an official of the Foreign Office in
6 Berlin, to the German Foreign Minister Ribbentrop.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 4062-J will receive exhibit No. 1111.

10 "Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1111, and was received in evidence.)

13 MR. FINELLY: Before reading this document,
14 I desire to call the attention of the Tribunal and
15 counsel to one word which is a typographical error
16 which appears in the next to the last paragraph on
17 the first page of the document, the word "wear." We
18 have examined the original document and are informed
19 that should be "weak" instead of "wear."

20 THE PRESIDENT: It is w-e-a-r here.

21 MR. FINELLY: May I read the document,
22 Mr. President, as it is? I now read from exhibit 1111.

23 "Teletype. Berlin, 3 July 1941. To German
24 Minister of Foreign Affairs.

25 "At the occasion of a conversation with

1 Ambassador OSHIMA concerning the recognition of WANG
2 CHING-WEI by Denmark and Finland, I have drawn the
3 Ambassador's attention to the latest 'Revue Diploma-
4 tique.' In this the Japanese attitude after the
5 Cabinet Session is familiarly described as iridescent.

6 "In this connection OSHIMA told me he had
7 last night received an interim report from Tokyo con-
8 cerning the present Japanese attitude, running about as
9 follows:

10 "1. Substance and spirit of the Tri-Partite
11 Pact will remain the basis of Japanese foreign
12 politics.

13 "2. Japan wants to continue fighting the
14 Communist organizations with Germany and strengthen
15 her military preparations for this purpose (presumably
16 in Manchuria.)

17 "3. By bringing pressure to bear on England
18 and the United States in the Southwest Pacific,
19 Japan wants to tie down both of the Anglo-Saxon states.

20 "4. All efforts shall be directed towards
21 the termination of the Chinese conflict.

22 "OSHIMA said that in this report he especially
23 did not understand item 2. He has wired to Tokyo for
24 a commentary and has pointed out the great danger of
25 missing an historic opportunity. He finally stated

1 his unwillingness to help champion a --" and here comes
2 the word "wear" -- "policy on the part of Japan.

3 "I confirmed this surprising communication
4 to Ambassador OSHIMA with the information that Amba-
5 sador OTT has just informed us of the unsatisfactory
6 outcome of the Cabinet Session."

7 On July 5, 1941, there is an entry in KIDO's
8 Diary which throws light on the nature of the Japanese
9 intentions at this time. This entry we now offer in
10 evidence, International Prosecution document 1632-W(59).

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1632-W(59) will receive exhibit No. 1112.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 1112, and was received in evidence.)
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1 MR. FIELLY: I now read from prosecution
2 exhibit No. 1112, KIDO's diary entry, July 5, 1941.

3 "Foreign Minister MATSUOKA proceeded to the
4 Palace at 2 p.m., and we talked after his withdrawal
5 from the Imperial presence. He said that information
6 of the diplomatic parley between France and Japan
7 relative to the Japanese Army's entry into French Indo-
8 China seemed to have leaked out, for Ambassador Craigie
9 had lodged a protest with us through Mr. OHASHI, Vice
10 Foreign Minister, saying that if the understanding
11 reached between France and Japan were true, England
12 would consider it a serious problem. Therefore the
13 negotiations which had been originally scheduled to
14 start today or thereabout were decided to be postponed
15 for another five days in order to watch necessary
16 developments."

17 On July 7, 1941 Ambassador Ott at Tokyo
18 made a report to Ribbentrop, including some remarks
19 concerning the defendant SHIRATORI, International
20 Prosecution document 4062-K, which we now offer in
21 evidence as tending to show the close relationship
22 between Japan and Germany at this time and the dis-
23 position of Japan to wage aggressive war.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

1 No. 4062-K will receive exhibit No. 1113.

2 (Whereupon, the document above
3 referred to was marked prosecution's exhibit
4 No. 1113 and received in evidence.)

5 THE PRESIDENT: If you use that word "aggressive"
6 unnecessarily, as you have done, the defense will
7 tell you you are arguing a case.

8 Mr. Blewett.

9 MR. BLEWETT: We wish to object to the remark,
10 your Honor. We do not like to object continuously
11 on that question and we shall not do so unless it is
12 used more than we think it should be at any time in
13 the form of testimony or evidence on the part of the
14 prosecution.

15 MR. FIDELLY: I shall now read the last
16 eight lines of document, prosecution exhibit 1113.
17 The first part of the telegram all relates to SHIRATORI's
18 illness and I shall not read it unless requested to.

19 The wire is from "Tokyo, July 7, 1941, telegram
20 of 3rd, No. 965, Foreign Ministry. For the German
21 Foreign Minister," and the last eight lines read as
22 follows:

23 "I transmitted him the best wishes of the
24 German Foreign Minister for his (SHIRATORI) recovery
25 which evidently greatly pleased him. He asked me to

1 thank the German Foreign Minister and to assure
2 /him/ that as soon as he was able to take up his
3 political work again, he wants unchangedly to advocate
4 an active course for Japan, and that he regarded the
5 entry into the war against Russia as the most urgent
6 goal."

7 It has already been shown by prosecution
8 exhibit 640, a wire from MATSUOKA to Foreign Minister
9 KATO, dated July 12, 1941, that at this time Japan was
10 exerting pressure on the Vichy Government to allow
11 it to send troops into South French Indo-China and
12 we now offer in evidence International Prosecution
13 document 4052-C, a wire of July 15 from Ott to Berlin,
14 to show the German connection in this matter and to
15 indicate the part that the Tri-Partite Pact played in
16 this enterprise.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 4052-C will receive exhibit No. 1114.

20 (Whereupon, the document above
21 referred to was marked prosecution's exhibit
22 No. 1114 and received in evidence.)

23 MR. FIELLY: I now read from prosecution
24 exhibit No. 1114:

25 "Tokyo - 15 July 1941 - 1150 hours

1 "Arrival 16 July 1941 - 7.30 hours

2 "No. 1246 of 15 July

3 "MOST URGENT!

4 "Secret.

5 "MARGINAL NOTE: Sent to Special Train with-
6 out a number Tel. Kt. - 16 July

7 "Japanese Vice Foreign Minister just asked
8 me to see him and informed me of the following with
9 the request for handling it strictly confidentially.

10 "The Japanese Government has commissioned
11 its Ambassador in Vichy to enter into negotiations with
12 the French Government in order to obtain their consent
13 to station a number of Japanese troops in South Indo-
14 China and to set up one naval base each in Saigon and
15 Comoran/ sic. Camranh/ as well as several air bases.
16 The object was a common defense with the French authorit-
17 ies against harmful influences on the part of the De
18 Gaulle movement fostered by England and America. The
19 Japanese Government is vitally interested in a peaceful
20 development of Indo-China politically and economically,
21 especially economically, in order to secure the vital
22 supply of foodstuffs and raw materials. The Japanese
23 Government has no territorial intentions - does not
24 wish to infringe on the sovereignty of Indo-China
25 and intends to stand by the agreements of August of

1 last year and the treaties recently signed with the
2 French Government re Indo-China. She hopes to reach
3 her goal by peaceful means but is determined to def-
4 initely succeed against any eventual interference
5 by England or America. Japan expects the negotiations
6 to be successfully terminated by 20 July and will
7 then commence the occupation. Should the French
8 Government claim the help of the German Government
9 against the Japanese request, Japan requests the
10 German Government to influence Vichy in the sense
11 of a peaceful settlement.

12 "The Italian Ambassador will be informed
13 to the same effect. One group missing. Other
14 governments and the French Ambassador in Tokyo
15 will not be informed. "

16 "Ott," name appearing at the end.
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1 Next comes two entries from the KIDO Diary,
2 dated July 15 and 16, International Prosecution
3 document 1632W (60) and (61) which we now offer in
4 evidence, both.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1632W (60) will receive exhibit No. 1115, and
8 document No. 1632W (61) will receive exhibit No.
9 1116.

10 (Whereupon, the documents above re-
11 ferred to were marked prosecution's exhibit
12 Nos. 1115 and 1116, respectively, and re-
13 ceived in evidence.)

14 MR. FIELLY: Mr. President and Members of
15 the Tribunal, the first document, 1115, is a lengthy
16 one and only refers in general, as the reading of the
17 document will show, to the fact that MATSUOKA's views
18 as Foreign Minister had brought about a Cabinet
19 crisis. I do not intend to read this document unless
20 requested but will go on to the other, exhibit 1116,
21 which shows what happens as a result of that crisis.

22 THE PRESIDENT: We all think that you should
23 read this.

24 MR. FIELLY: I am prepared to read it, your
25 Honor.

1 I now read, Mr. President and Members of the
2 Tribunal, from prosecution exhibit 1115:

3 "Extract from Entry from Marquis KIDO's
4 Diary, 15 July 41'

5 "MATSUDAIRA came from Tokyo at eight a.m.
6 to report on the outcome of his meeting with Premier
7 KONOYE. There still remained a certain vagueness
8 about Foreign Minister MATSUOKA's attitude towards
9 the proposal formula for a Japan-American understand-
10 ing. Under the circumstances, up to yesterday the
11 Premier was of the opinion that should the Foreign
12 Minister agree to the formula prepared by the Direc-
13 tor of Military Affairs and the Director of Naval
14 Affairs, with a few alterations he would push the
15 policy as it was. Although the Foreign Minister had
16 no objection to the formula, he insisted on giving in-
17 structions to Ambassador NOMURA in Washington to the
18 effect that the Government would reject the oral state-
19 ment of Mr. Cordell Hull, as it was of a disgraceful
20 nature for Japan. After that he said that he would
21 wire a compromise formula to Admiral Kichisaburo NO-
22 MURA. But Prince KONOYE was of the opinion that our
23 formula should be wired at the same time, because if
24 we followed MATSUOKA's idea, there would be a possi-
25 bility that America might take it as our intention to

1 | discontinue the negotiations. Adviser SAITO advised
2 | that since it could be done by the Ambassador as
3 | deemed best, how about carrying it on according to
4 | the Foreign Minister's view? But the Premier con-
5 | tradicted him and sent him to Mr. MATSUOKA in order
6 | to persuade him to agree with the Premier's opinion.
7 | Such was the position about 10:30 yesterday evening.
8 | At 1:30 this morning Prince KONOYE telephoned me to
9 | say that he had waited long for MATSUOKA's answer in
10 | vain, so he had sent Director TERAZAKI to Mr. MATSU-
11 | OKA to hold an enquiry into the circumstances. It
12 | became clear that he had sent his instructions to
13 | NOMURA by himself and not through the medium of the
14 | competent director, and that he intended to call on
15 | me at Hayama to work out remedial measures. I had
16 | a conference with the chief secretary regarding poli-
17 | cy in the event of the expected resignation en bloc
18 | of the Cabinet. At this time when the tension pre-
19 | vailing over the people regarding the present poli-
20 | tical situation was so strong that even some higher
21 | schools closed lest disturbances should arise an
22 | overall political change for some unknown reason
23 | should be avoided by all means. For this purpose we
24 | should try everything possible to obtain, first of
25 | all, the resignation of the Foreign Minister. In

1 the case of failure of our effort to make the For-
2 eign Minister resign, resulting in the resignation
3 'en bloc' of the Cabinet, we resolved to prevail up-
4 on the Emperor to issue an Imperial command to Prince
5 KONOYE to form a new Cabinet in order to tide over
6 the difficult political situation.

7 "I went to my office at 11 a.m. I was re-
8 ceived in audience by the Emperor from 1:35 p.m. to
9 2 p.m. to report on the above circumstances. Prince
10 KONOYE came to see me from Tokyo at 3 p.m. We had a
11 talk until 4:20 p.m. What I heard from the Premier
12 was almost the same as the information I had received
13 from the Chief Secretary.

14 "I thought it was advisable to urge Mr.
15 MATSUOKA's resignation to avoid a change of Cabinet,
16 but the Premier disagreed with me saying that if
17 this were done Mr. MATSUOKA and his party would make
18 propaganda to the effect that the cause which had com-
19 pelled his resignation was nothing but pressure on the
20 part of the U.S.A. upon our Government."
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1 I now read from prosecution exhibit 1116,
2 extract of July 16, 1941 from the same diary:

3 "At 4 p.m. Marquis MATSUDAIRA telephoned me
4 to say that the resignation 'en bloc' of the Cabinet
5 had been decided at a special Cabinet meeting. I had
6 my audience with the Emperor from 4:10 p.m. to 4:20
7 p.m. Prince KONOYE tendered the general resignation
8 of his Ministry at 9 p.m. I proceeded to the Palace
9 in response to a summons from His Majesty to receive
10 an Imperial order as to the incoming Cabinet as
11 follows: 'As the Premier has tendered the general
12 resignation of his Ministry, we have ordered the
13 Lord Chamberlain to invite the President of the Privy
14 Council and the ex-Premiers to gather at the Palace
15 and to ask their opinions in order to reply to our
16 question as to who was the suitable person for the
17 post of Premier in the succeeding Cabinet.' I talked
18 with the Chief Secretary to arrange tomorrow's proce-
19 dure and went back home at 10:30 p.m."

20 THE PRESIDENT: We will recess for fifteen
21 minutes.

22 (Whereupon, at 1045, a recess was
23 taken until 1100, after which the proceed-
24 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. Fihelly.

4 MR. FIELLY: Mr. President, the resignation
5 of the second KONOYE Cabinet was followed by a meeting
6 of senior statesmen on July 17, 1941 which led to
7 the formation of the third KONOYE Cabinet. This is
8 described in FIDO's diary under date of July 17,
9 which entry we now offer in evidence, International
10 Prosecution document No. 1632W (62).

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1632W (62) was given exhibit No. 1117.

14 (Whereupon, the document above referred
15 to was marked prosecution's exhibit No. 1117
16 and received in evidence.)

17 MR. FIELLY: I now read from prosecution's
18 exhibit No. 1117, the entry of July 17, 1941:

19 "I left for Tokyo by train, leaving at
20 8:44 a. m. and proceeded to my office. I met HARA,
21 President of the Privy Council, WAKATSUKI, OKADA, IBE,
22 YONAI, HAYASHI and HIROTA at 1 p. m. Mr. KANROJI,
23 Vice Lord Chamberlain, delivered an Imperial message,
24 and then I expressed my opinion as follows:
25

"The Emperor has ordered me to gather

1 your opinions before I make a reply to the Throne
2 regarding the Premier of the succeeding Cabinet.
3 I, therefore, would like to have your frank opinions
4 on this matter as I had on a previous occasion. Of
5 course, as you all know, this is not a formal conference
6 and no resolutions will be passed, but I should like
7 to have a heart-to-heart talk in a friendly atmos-
8 phere. Our utterances in this place are expected
9 to be kept confidential.

10 "A copy of the Premier's resignation was
11 circulated for reference.

12 "WAKATSUKI questioned me as to the pur-
13 pose of the resignation and the diplomatic problems
14 (i. e. the clash of opinions between the Premier
15 and Foreign Minister). ABE stressed the necessity
16 of having Prince KONOYE as Premier; OKADA recom-
17 mended Prince KONOYE, saying that no other person
18 could exercise general control over both the Army
19 and political circles; HAYASHI held the same opinion
20 as ABE and OKADA; HARA did not differ from the above-
21 mentioned; HIROTA laid stress upon the reinforcement
22 of G. H. Q. and the formation of a military Cabinet,
23 but he consented to the opinion of the rest upon my
24 explanation of the establishment of G. H. Q. YONAI
25 said that Prince KONOYE was the most suitable man to

1 cope with the present difficulty. WAKITSKI sup-
2 ported Prince KONOYE though his attitude was not
3 positive. We recommended Prince KONOYE unanimously
4 and closed our meeting at 2 p. m. The Emperor
5 and Empress returned to Tokyo from their Hayama
6 Villa. I visited the Emperor from 3:30 p. m. to
7 4:10 p. m. to report on the progress of our meet-
8 ing, while the Lord Chamberlain telephoned to
9 Prince KONOYE to request his presence at the
10 Palace. At 5:05 p. m. Prince KONOYE proceeded
11 to the Palace to receive the Imperial commands
12 from a cabinet. OHASHI, Vice Foreign Minister,
13 visited me at 5:50 p. m. to explain the draft
14 understanding between the U. S. A. and this
15 country."
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1 MR. FIELLY: It has been proved by Court
2 exhibits 102 to 129, inclusive, that the third
3 KONOYE Cabinet contained the following accused in
4 the following offices: TOJO as War Minister;
5 KIMURA as Vice War Minister; SUZUKI, as Minister of
6 State and President of the Planning Board, all
7 retaining their former offices, and HIRANUMA, as
8 Minister of State instead of Home Minister. The
9 new Foreign Minister replacing MATSUOKA was Admiral
10 TOYODA.

11 The new Cabinet continued the policy of
12 the old with regard to French Indo-China and
13 associated matters, as appears from Prosecution
14 Exhibit 642, a wire of July 19, 1941, and from
15 Prosecution Exhibit 644, a wire of July 20, 1941.

16 As additional evidence on this same point,
17 we now offer in evidence International Prosecution
18 document No. 4052-F, a wire of Ott to Berlin dated
19 July 20, 1941.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 4052-F will receive exhibit No. 1118.

23 (Whereupon, the document above referred
24 to was marked prosecution's exhibit No. 1118
25 and received in evidence.)

1 MR. FIDELLY: I now read from prosecution's
2 exhibit No. 1118:

3 "Telegram (Secret Cipher Process)

4 "Tokyo. 20 July 1941, 1.50 hours

5 "Arrival, 20 July, 4.20 hours.

6 "To be kept in Locked File

7 "No. 1297 of 19 July

8 "Most Urgent!

9 "In reference to telegram No. 1295
10 Pol VIII of 19 July.

11 "The translation of the Foreign Minister's
12 declaration follows:

13 " 'Entrusted with the post of Foreign
14 Minister, I permit myself to hereby introduce myself
15 to the German (the Italian) Ambassador in Tokyo.

16 " 'I respectfully request that you transmit
17 my regards to your Foreign Minister and to inform him
18 that I was unexpectedly entrusted with the post of
19 Foreign Minister in the new forming of the Cabinet.

20 " 'At the same time I would like to officially
21 inform you and your government of the change of the
22 Imperial Japanese Government. As you have perceived
23 from the announcement by the Imperial Government,
24 this governmental change was effected in order to
25 firstly carry out political measures suitable to the

1 international situation, and further to be able to
2 take, as soon as possible, the necessary steps for
3 strengthening the inner political situation of the
4 country. Outside of these points there existed no
5 grounds for the governmental change, and the hitherto
6 policy of the Japanese Empire will in no case undergo
7 any change. I request that you take particular
8 cognizance of the fact /that/ Japan's policy will
9 rest on the basis of the spirit and aims of the
10 Tripartite Pact, concluded between Japan, Germany,
11 and Italy. No change whatever will take place in
12 Japan's attitude toward Germany and Italy, as former
13 Foreign Minister MATSUOKA clearly expressed to you,
14 based on the cabinet decision of 2 July. I respect-
15 fully request that you also notify your government
16 of the above. I personally was active in the Navy
17 at the time of the conclusion of the Tripartite Pact,
18 and had a share in its realization. 's successor of
19 former Foreign Minister MATSUOKA, I intend to continue
20 his foreign policy and to still strengthen the close
21 unity of Japan, Germany, and Italy, and march forward
22 in the common spirit. I express the hope that you,
23 Mr. Ambassador, will bestow upon me, just as the
24 former Foreign Minister, your valued friendship and
25 collaboration.' " Signed "OTT".

1 On July 21, as it appears from Prosecution
2 exhibit No. 1103 that a statement was issued with
3 respect to future Liaison Conferences, which state-
4 ment is very brief and I will read it from that
5 document.

6 "4.00 p. m. - on 21 July at the office of
7 the High Command situated at the Imperial Grounds,
8 it was decided that the Prime Minister, accompanied
9 by the Foreign Minister and other Ministers concerned,
10 should attend this place occasionally and exchange
11 views and project national policies with War, Navy
12 ministers and Staffs of the High Command."

13 In other words, Mr. President and Members
14 of the Tribunal, from now on we will have to get our
15 information as to attendances at Liaison Conferences
16 mainly from other sources, such as interrogations of
17 the defendants.

18 To show those who regularly attended Liaison
19 Conferences and the predominance of military and naval
20 personnel we now offer in evidence, first: the
21 parent document, I. P. S. 2512, and then the extracts
22 therefrom, both the parent document and extract coming
23 from the TOJO interrogation of March 15, 1946, the
24 extract being from pages 2 and 3.

25 CLERK OF THE COURT: Prosecution's document

1 No. 2512 will be given exhibit No. 1119 for identi-
2 fication only.

3 THE PRESIDENT: Admitted on the usual terms.

4 (Whereupon, the document above mentioned
5 was marked prosecution's exhibit No. 1119
6 for identification only.)

7 CLERK OF THE COURT: Prosecution's document
8 No. 2512-B, extract from the foregoing, will receive
9 exhibit No. 1119-A.

10 (Whereupon, the document above referred
11 to was marked prosecution's exhibit No. 1119-A
12 and received in evidence.)

13 MR. FIBELLY: I now read from prosecution's
14 exhibit 1119-A, TOJO Interrogation extract for March
15 15.

16 "Extract from Interrogation of Hideki
17 TOJO, 15 March 1946., p. 2-3.

18 "Q What members of the Liaison Con-
19 ference were concerned with agreements or disagree-
20 ments?
21

22 "A The ones who normally had this right were,
23 on the cabinet side, the Premier, Foreign Minister,
24 the War Minister, the Navy Minister, the President of
25 the Cabinet Planning Board. On the Supreme Command
side, there were the two Chiefs of Staff. As

1 necessary, other cabinet members from the cabinet
2 side, and the Assistant Chiefs of Staff from the
3 Supreme Command side, also attended with this power,
4 but the decisions were not by majority. They were
5 unanimous. Discussions were continued until there
6 was unanimous agreement.

7 "Q It is not true that the subject matter of
8 all the Imperial Conferences held in 1941 had been,
9 a short time previously, discussed by one or more
10 Liaison Conferences and a decision made?

11 "A Generally speaking, yes. That is to say,
12 in each case a proposal was decided upon which was
13 put before the Imperial Conference for a decision.

14 "Q All of the seven regular members of the
15 Liaison Conference, whom you have mentioned, also
16 attended the Imperial Conferences and voted, did
17 they not?

18 "A Yes, of course."
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1 MR. FANELLY: To show what reaction Japan's
2 threatened moves in French Indo-China had in the
3 United States, we offer in evidence the cabled
4 warning of Ambassador NOMURA to TOGO dated July
5 23, 1941, I. P. S. document No. 1383E.

6 THE PRESIDENT: Admitted on the usual terms.
7 Mr. Blewett.

8 MR. BLEWETT: If your Honor please, I think
9 the prosecution said "TOGO."

10 MR. FANELLY: It would be TOYODA. I had
11 TOGO written. Of course it would be TOYODA.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1383E will receive exhibit No. 1120.

14 (Whereupon, the document above referred
15 to was marked prosecution's exhibit No. 1120
16 and received in evidence.)

17 MR. FANELLY: I now read prosecution's exhibit
18 No. 1120:

19 "Top Secret. Dispatched: 23 July 1941, P. M.,
20 WASHINGTON

21 "Received: 24 July 1941, A. M., Foreign Office

22 "To: Foreign Minister TOYODA

23 "From: Ambassador NOMURA

24 "No. 550 (Urgent - Top Secret - Ambassador's
25 Code)

1 "In the telegrams of July 3 and July 19,
2 I have mentioned what the effects on Japanese-American
3 relations would be when our southern advance is con-
4 templated. Today, these effects have rapidly
5 developed to a stage where there is danger that
6 diplomatic relations between these two countries may
7 be severed. Sensing the urgency of the situation
8 from the conversation on Monday between AKASUGI and
9 the Assistant Secretary of State, on Tuesday I requested
10 an interview with the Assistant Secretary of State.
11 The request was finally granted and I am scheduled
12 to interview him at 3:00 p.m. this coming Wednesday.
13 Last night I met a cabinet member who had hurriedly
14 returned from his trip. He too told me that Secretary
15 HULL was taking a rest for his health and that WELLES
16 was at a loss for what to do, and he intimated that
17 he could not do anything for us. He asked for my
18 opinion so I replied that I have not lost hope and
19 will do my best according to my belief. However, it
20 is believed that things will develop to a point just
21 short of a diplomatic break.

22 "The cause for the rapid change of American
23 public opinion toward JAPAN lies in the southward
24 advance. They consider that the southward advance is
25 the first step which will eventually lead to SINGAPORE

1 and the DUTCH EAST INDIES. The U. S. Navy officers
2 are presumed to have the same opinion. There is
3 criticism that on one hand JAPAN is planning her
4 southward advance, and on the other hand is trying
5 to conclude an agreement with AMERICA, and that the
6 Secretary of State is being deceived. With his
7 physical condition as such, there are also rumors
8 that he may resign. Furthermore, reports from TOKYO,
9 which tend to make our real intentions questionable,
10 keep coming in frequently. Some of the outstanding
11 ones are : (a) The negotiations carried on by us here
12 will be 'torpedoed' in TOKYO. (b) JAPAN has explained
13 to the Axis Powers that the adjustment of Japanese-
14 American diplomacy is a strategem to complete
15 preparations for a southward advance. There are rumors
16 that even the highest authorities have begun to listen
17 to these reports. Briefly speaking, even while the
18 negotiations are going on, there are attempts at
19 alienation and slander by the third countries. It
20 is obvious that there are opposition movements both
21 in JAPAN and AMERICA and the situation now is really
22 difficult.

23 "I suggest that the Japanese government lose
24 no time in manifesting to the American ambassador the
25 sincere intentions of JAPAN in regard to the adjustment

1 of Japanese-American diplomacy and the real intentions
2 of JAPAN's occupation in FRENCH INDO-CHINA. It is
3 also requested that you notify me as soon as possible
4 of the new cabinet's policy toward AMERICA. As a
5 man given a new lease on life, I am resolved to do
6 my utmost. (End)"

7 To show how Japan obtained its military
8 bases in French Indo-China and the part which Germany
9 played therein, we now offer in evidence International
10 Prosecution Document No. 4052-G, a wire of July 24th
11 from Ott to Berlin.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 4052-G will receive exhibit No. 1121.

15 (Hereupon, the document above referred
16 to was marked prosecution's exhibit No. 1121
17 and received in evidence.)

18 III. FINALLY: I now read the top identifying
19 marks from the first two paragraphs of that exhibit:

20 "Telegram (Secret Cipher Process)

21 "Tokyo 24 July 41 1150 hours

22 "Arrival 25 July 41, 1.30 hours

23 "No. 1253 of 24 July

24 "Most urgent!"
25

1 MR. FIFELLY: My next offer in evidence
2 International Prosecution Document No. 847-C, which
3 is an official statement of the Japanese Bureau of
4 Information dated July 29th, announcing Japan's
5 occupation of French Indo-China.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 847-C will be given exhibit No. 1122.

9 (Hereupon, the document above referred
10 to was marked prosecution's exhibit No. 1122
11 and received in evidence.)

12 MR. FIFELLY: I feel, Mr. President and
13 members of the Tribunal, that I should make this one
14 explanation in connection with the Japanese processing
15 of the documents. We were informed after the distri-
16 bution had been read to the Court and defense attorneys
17 that the date did not appear on the Japanese copies.
18 The date which appears on the original and on the
19 English copies should have been there, July 29, 1941.

20 I now read the identifying marks and the
21 first paragraph of prosecution's exhibit 1122.
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"July 29 (SHOWA 16) 1941

"Announcement of the Information Bureau:

"With regard to the conclusion of the protocol between Japan and France, pertaining to the joint defense of French Indo-China, having hitherto been proceeding with the necessary measures for its conclusion and having obtained the Imperial sanction thereto on the 28th instant (yesterday), the Government has immediately instructed Ambassador KATO in France by telegram to sign the protocol. Ambassador KATO has signed and sealed the protocol on this 29th instant at Vichy, together with the Vice-Premier and Foreign Minister Darlan, thus making it effective immediately."

As tending to show what Japan's real purpose was in moving into French Indo-China, particularly the southern part, we now offer in evidence extract from the TOJO interrogation of February 13, 1946 which is IPS document 2502A, pages 5, 9 and 13, and will ask that the parent document be given an identifying number. I think that one is already in, so all that has to be done is to have this extract marked and offered in evidence.

THE PRESIDENT: The extract is admitted on the usual terms.

1 CLERK OF THE COURT: Prosecution's document
2 No. 2502A will be given exhibit No. 1123.

3 (Whereupon, the document above re-
4 ferred to was marked prosecution's exhibit
5 No. 1123 and received in evidence.)

6 MR. FIDELLY: I now read the extract from
7 prosecution exhibit 1123:

8 "Q. When was the first Imperial Conference
9 called in 1941?

10 "A. It was in July, I believe. I do not
11 remember definitely.

12 "Q. What was the basic reason for the
13 Imperial Conference of July 1941?

14 "A. I think that the basic reason was the
15 problem of dispatching troops to south Indo-China.

16 "Q. Whose plan was considered in refer-
17 ence to this problem?

18 "A. I don't remember definitely, but
19 essentially I think it was probably the War Minister's
20 plan. Before the Imperial Conference, there had been
21 a Liaison Conference which had practically settled
22 the matter. This was attended by the Prime Minister,
23 the Ministers involved and the Chiefs of Staff.

24 "Q. What Ministers were involved?
25

"A. I don't remember clearly, but the

1 Premier, the Foreign Minister, and the Army and
2 Navy Ministers were involved. I am not sure whether
3 the President of the Planning Board was there or not.
4 The two Chiefs of Staff were also present. That was
5 the conference."

6 Unless there is objection from the Court and
7 members of the defense, I will skip to page 3 which
8 is the pertinent part: (Reading)

9 "Q. Those same troops (referring to
10 stationing of troops in French Indo-China) would also
11 be of offensive assistance in case of war against
12 those countries named (England, America and Holland)?

13 "A. This is a matter which will be very
14 serious if not understood. After the decision for
15 war on the 1st of December 1941, offensive operations
16 were taken. The character of the operations changed
17 and they became offensive. However, at this time,
18 operations were defensive in character."

19 For the same purpose we now offer in evi-
20 dence International Prosecution document No. 4167 B
21 which is an extract from the TOJO interrogation of
22 February 15, '46, pages 3 and 4, and ask that the
23 parent document be given an exhibit No. for identi-
24 fication.

25 CLERK OF THE COURT: Prosecution's document

1 No. 4167 will be given exhibit No. 1124 for identi-
2 fication only.

3 (Whereupon, the document above re-
4 ferred to was marked prosecution's exhibit
5 No. 1124 for identification.)

6 THE PRESIDENT: The excerpt is admitted on
7 the usual terms.

8 CLERK OF THE COURT: The extract therefrom,
9 to wit, document No. 4167 B, will be given exhibit
10 No. 1124A.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution's exhibit
13 No. 1124A and received in evidence.)

14 MR. FIELLY: I now read from prosecution's
15 exhibit 1124A the question and answer in that ex-
16 tract:

17 "Q When Japan attacked the United States,
18 what attacks were launched from French Indo-China?

19 "A An attack was made from Saigon, I be-
20 lieve, in French Indo-China southwest toward the east
21 coast of Thailand. Planes based in southern French
22 Indo-China also cooperated with the forces that were
23 making the landings. That was the main force, I
24 believe. However, there may have been some troop
25 movements south from Canton by ship. At the same

1 time, Navy carrier-based planes attacked Singapore.
2 These matters are from my recollection. They were
3 really command problems."

4 There is an entry in the KIDO Diary of July
5 31, '41 which we now offer in evidence, International
6 Prosecution document No. 1632W (63), which gives as of
7 this date certain views of the defendants NAGANO and
8 KIDO with respect to war with the United States.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 1632W (63) will be given exhibit No. 1125.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit
14 No. 1125 and received in evidence.)

15 MR. FIELLY: I now read from prosecution
16 exhibit No. 1125 the entry of 31 July '41, KIDO
17 Diary:

18"From 10:15 a.m. to 11 a.m. I was
19 received in audience by the Emperor, and His
20 Majesty was pleased to inform me about the report
21 of Admiral NAGANO, Chief of Naval General Staff,
22 in reply to the Imperial question regarding our
23 policy toward the U.S.A. as follows:

24 "1. His opinion regarding war was the
25 same as that of the former Chief of Naval General

1 Staff, Prince FUSHIMI, in that we should try to
2 avert war as much as possible.

3 "2. He seemed very strongly opposed to
4 the Tri-Partite Alliance. He also seemed to be of
5 the opinion that so long as such an alliance existed,
6 the adjustment of Japanese-American diplomatic
7 relations would be impossible.

8 "3. Suppose the adjustment of diplomatic
9 relations between the U.S.A. and Japan were impossible
10 and we were cut off from supplies of oil, our oil
11 stored up would run out in two years. In case a
12 war with the U.S.A. breaks out the supply of oil
13 would be only sufficient for one and a half years.
14 Under these circumstances, there would be no other
15 alternative but to take the initiative in operations
16 against them.

17 "4. According to the written report
18 submitted, the Emperor believed that we would win,
19 since it is so stated there. When NAGANO was asked
20 if it would be possible to win a sweeping victory
21 as in the Russo-Japanese War, he replied to the
22 Emperor that it was even doubtful whether or not
23 we would ever win, to say nothing of a great victory
24 as in the Russo-Japanese War.

25 "5. I was filled with trepidation by the

1 Imperial anxiety about the danger of having to wage
2 a desperate war.

3 "My answer to the Imperial speech was as
4 follows:

5 "1. Admiral NAGANO's opinion was too
6 simple.

7 "2. The U.S.A. recognized the existence
8 of the Tri-Partite Pact in our previous parley with
9 America, and I was very doubtful whether we could
10 deepen the confidence of the U.S.A. for us by the
11 act of annulment of the Pact, as the U.S.A. was a
12 nation which showed respect for international treaties.
13 We would only be held in contempt by the U.S.A.
14 We were not quite without means of restoring the
15 friendship between America and Japan. We must
16 deliberate on the matter in a constructive manner.
17 I would demand the Premier's careful consideration
18 on this point. I met Navy Minister OIKAWA at noon
19 to talk over Admiral NAGANO's report to the Throne.
20 The Chief Aide-de-Camp to the Emperor visited me at
21 1 p.m. to talk with me on the same subject."
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1 Before leaving the month of July, 1941, we
2 will now introduce several documents to show that
3 during that month the Japanese fleet practiced on
4 what was generally known as the "YAMAMOTO Plan" to
5 attack Pearl Harbor which plan, as testimony will
6 later show, was the one which was actually used in
7 that attack. We first offer in evidence for that
8 purpose an extract from the interrogation of the
9 defendant NAGANO of March 21, 1946, pages 7, 8 and
10 9 of International Prosecution document 2495-A, and
11 we ask that the parent document be marked for
12 identification.

13 CLERK OF THE COURT: Prosecution's document
14 No. 2495 will be given exhibit No. 1126 for identifi-
15 cation only.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution's exhibit
18 No. 1126 for identification.)

19 THE PRESIDENT: The extract is admitted on
20 the usual terms.

21 CLERK OF THE COURT: The extract therefrom,
22 to witn, 2495-A, will be given exhibit No. 1126A.

23 (Whereupon, the document above re-
24 ferred to was marked prosecution's exhibit
25 1126A and received in evidence.)

1 I now read from prosecution exhibit 1126A
2 the interrogation extract of 21 March, pages 7, 8,
3 and 9:

4 "Q Admiral, who was the originator of the plan
5 to attack Pearl Harbor?

6 A After being studied by the Combined Fleets
7 the plan was brought forth in the spring of 1941 by
8 Admiral YAMAMOTO. It was a great secret in the Com-
9 bined Fleets whereby Admiral YAMAMOTO and only one
10 or two other officers knew of it.

11 "Q When was the plan as prepared by Admiral
12 YAMAMOTO first called to your attention, Admiral?

13 "A I first found out about this plan officially
14 in October 1941. I heard prior to that that such a
15 plan was being studied.

16 "Q Admiral, when did you become Chief of the
17 Naval General Staff?

18 "A In April 1941.

19 "Q And is it not a fact that this plan of
20 Admiral YAMAMOTO's was called to your attention at
21 that time?

22 "A No, it was not. I believe it was at that
23 time that YAMAMOTO first thought of the plan.

24 "Q Now, Admiral, you stated that the first
25 time the plan had been called to your attention

1 officially was in October 1941. When was the plan
2 called to your attention unofficially?

3 "A About July I heard that they were training
4 or practicing such a plan.

5 "Q And is it not a fact, Admiral, and again
6 I ask you not to answer me too literally but to answer
7 my questions from your knowledge even though you
8 were not personally present and from your knowledge
9 as Naval Chief of Staff as to what was going on in
10 connection with Naval activities in the light of the
11 fact that you were Chief of Staff and as such had general
12 knowledge of Naval activities, is it not a fact
13 that the Japanese Navy started practicing to place
14 into execution the YAMAMOTO plan to attack Pearl Harbor
15 in the spring of 1941?

16 "A The plan came into being in the spring but
17 it was not practiced until summer.

18 "Q And what do you mean by summer?

19 "A I am not sure but I believe it was about
20 the beginning of July. The Combined Fleets went into
21 Kagoshima and there they practiced coming in low over
22 the mountains and dive bombing.

23 "Q And is it not a fact also, Admiral, that in
24 addition to those maneuvers, that the fleet also
25 practiced with a specially designed torpedo for use

1 in shallow water such as was known to be the situa-
2 tion in Pearl Harbor?

3 "A The torpedo was completed during those
4 maneuvers. The Combined Fleets spent a lot of time
5 trying out this torpedo and experimenting with it."
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1 For the same purpose we now offer in evidence
2 International Prosecution document 2497 A which is an
3 extract from the interrogation of the defendant NAGANO
4 of March 27, '46, pages 1 - 3, and we ask that the
5 parent document be given an identification number.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2497 will be given exhibit No. 1127 for identifi-
8 cation only.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1127 for identification.)

12 THE PRESIDENT: The extract is admitted on
13 the usual terms.

14 CLERK OF THE COURT: The extract therefrom
15 will be given exhibit No. 1127A.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution's exhibit
18 No. 1127A and received in evidence.)

19 MR. FIELLY: I now read from the first
20 part of prosecution exhibit 1127A the first two or
21 three questions and answers which refer to this par-
22 ticular summer matter:

23 "Q Now, Admiral, I believe yesterday or the
24 day before you mentioned, or you stated that the
25 Japanese Navy started practicing on the Pearl Harbor

1 plan some time in the summer of 1941. That was
2 correct, was it not?

3 "A Yes, I believe the Fleet started training
4 in the summer as you say.

5 "Q Do you remember just about what month in
6 the summer of 1941, Admiral?

7 "A I don't remember too clearly but I am sure
8 it was some time in the summer.

9 "Q Would you say it was possibly some time
10 in July, 1941?

11 "A Yes.

12 "Q As I have the details here, the experi-
13 ments and training were held at Sukamo, Saiki,
14 Kagoshime and Konoye. Is that correct?

15 "A Sukamo is a very suitable place for training
16 and the Navy has consistently used it for such, but
17 I believe the training of dive bombing and coming
18 in low over the mountains which was utilized in the
19 attack on Pearl Harbor was practiced at Kagoshime."
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1 THE PRESIDENT: That interrogation was on
2 the 27th of March, this year. You may have said so;
3 I did not notice it.

4 MR. FIELLY: For the same purpose we now
5 offer in evidence International Prosecution document
6 2498-B which is an extract from the interrogation of
7 the defendant SHIMADA of January 23, 1946, page 33;
8 and we ask that the parent document be given an
9 identification number.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2498 will be given exhibit No. 1128 for identifi-
12 cation only.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1128 for identification.)

16 THE PRESIDENT: The extract is admitted on
17 the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 2498-B will receive exhibit 1128A.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1128A and received in evidence.)

23 MR. FIELLY: I now read from prosecu-
24 tion exhibit 1128A the first seven or eight questions
25 and answers appearing thereon that pertain to this

1 particular matter. (Reading)

2 "Q YAMAMOTO proposed his Pearl Harbor attack
3 plan to the General Staff early in 1941, did he not?

4 "A I heard that he offered it in January of
5 1941.

6 "Q At that time he was Commander-in-Chief
7 of the combined fleet, was he not?

8 "A Yes.

9 "Q Admiral NAGANO authorized him to proceed
10 with a study of the plan in March 1941, did he not?

11 "A In that point I don't know the date, but
12 I think it was later.

13 "Q But it was early in 1941, wasn't it?

14 "A I think it was perhaps May or June.

15 "Q May or June when his plan was adopted
16 for study?

17 "A At first the ordinary plan did not have any
18 plans for the attack on Pearl Harbor, but it was made
19 formal in May or June. The studying and training
20 of a squadron by YAMAMOTO was begun in May or June
21 of 1941, I think ...

22 "Q You know that the Navy started developing
23 a shallow water torpedo early in 1941, don't you?

24 "A Yes, I know very well.

25 "Q That was because the Navy was well aware

1 that the water at Pearl Harbor was shallow water,
2 wasn't it?

3 "A Yes.

4 "Q And the fleet practiced with the use of
5 such a torpedo throughout the summer of 1941, did
6 it not?

7 "A Yes, I think so ...!"
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1 And, in passing from this same general sub-
2 ject, prosecution exhibit 809, page 1, shows also
3 from that official document of the United States
4 War Department that their investigation showed that
5 the Japanese fleet did practice during the summer of
6 '41 on the "YAMAMOTO Plan."

7 As also giving the views of the Japanese
8 naval officers at this time, we offer in evidence
9 International Prosecution document 1632W (64), an
10 entry from the KIDO Diary of August 2, 1941.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1632W (64) will receive exhibit No. 1129.

14 (Whereupon, the document above re-
15 ferred to was marked prosecution's exhibit
16 No. 1129 and received in evidence.)

17 MR. FIDELLY: I now read from prosecution
18 exhibit 1129 the entry of 2 August, '41:

19 "I went to my office at 10 a.m. Prince
20 KONOYE visited me at 11 a.m. He said he was annoyed
21 to find that there was an observable tendency for
22 the tough elements in the Navy to gather strength,
23 a tendency which would be a great hindrance in the
24 way of the maintenance of harmony between the Su-
25 preme Command and the Government. If the U.S.A.

1 adopted decisive measures such as to cut us off from
2 supplies of oil, we would run out of oil. Under
3 these circumstances, we would be threatened by an
4 acute national crisis, if we made any mistake in our
5 diplomatic moves. Hence an understanding between the
6 War and Navy Ministers concerning our fundamental
7 national policy should be secured as soon as possible,
8 and if a complete agreement is not reached, there
9 would be nothing for the Government to do but to re-
10 sign en bloc.

11 "The Army and the Navy would then assume
12 charge of the administration of the country. I
13 talked with the Chief Secretary on the same matter."
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1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: If the Tribunal please, although
3 we have the direction to refer these translation mat-
4 ters to the Translation Section, I would like to
5 point out, in order that there be no mistake about it,
6 that according to our translation the last half of
7 our entry is a direct statement made by Marquis
8 KIDO as to his opinion and not the opinion of KONOYE
9 as set forth in the prosecution's document.

10 THE PRESIDENT: The matter is referred to
11 Major Moore.

12 MR. FIHELLY: As giving the general views of
13 the defendant KIDO at this time as to the war with
14 the United States and Japan's advance southward,
15 we now offer in evidence International Prosecution
16 document No. 1632W (66), an entry from the KIDO Diary
17 of August 7, 1941.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 1632W (66) will be given exhibit No. 1130.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 1130 and received in evidence.)
24

25 MR. FIHELLY: I now read from prosecution
exhibit No. 1130 the entry of August 7, '41:

1 "Prince KONOYE proceeded to the Palace
2 at 3:30 p.m. He talked with me from 4 p.m. to 4.30 after
3 his interview with the Emperor. I expressed my
4 opinions as follows, and asked him to give them
5 full consideration.

6 "1. The situation we are facing now is
7 very serious.

8 "2. We must immediately decide our
9 national policy by holding a meeting between the
10 Government and the Army without loss of time.

11 "3. According to reports received to
12 date, we are not strong enough to fight with the
13 U.S.A. and the Soviet at the same time.

14 "4. We are facing a very serious situation
15 which could be easily reduced to a simple problem
16 such as oil, by making a little difference in our
17 viewpoint.

18 "5. According to the Navy, the quantity
19 of oil in store was so moderate that it would barely
20 supply us throughout two years during peace, and
21 in case of war we would not have enough for more
22 than 1½ years, but the Army estimates there is 1
23 year's supply for war.

24 "6. If the above mentioned were true, we
25 must reach the conclusion that our war with the U.S.A.

1 would be a hopeless one.

2 "7. The Dutch East Indies and the northern
3 part of Saghalien would be the chief source of oil
4 supply after we were cut off from our American supplies.

5 "8. To occupy Singapore and the Philippine
6 Islands was an essential prerequisite to a successful
7 landing in the Dutch East Indies. Since oil wells
8 would be destroyed during these actions, it would
9 not be possible to obtain oil in necessary quantities
10 for 1½ years.

11 "9. If we attack the Dutch East Indies,
12 the U.S.A. would declare war against Japan. The
13 long-distance transportation of oil under a constant
14 menace of submarines and airplanes would be very
15 dangerous and the result would fall short of our
16 expectations.

17 "10. If there were miscalculation about
18 oil supplies, we would face a very serious situation
19 which might lead to our defeat.

20 "11. We could not do what we wanted on
21 account of the lack of our national power. Although
22 the situation was different in its external appearance,
23 we might be compelled to exercise the same self-restraint
24 as we did after our victory in the Sino-Japanese
25 War in 1895."

1 "12. We should be resolved to toil through
2 ten years of hard struggles.

3 "13. Meanwhile we should do everything
4 to restore friendly relations between the U.S.A. and
5 Japan. And we must try to secure the materials
6 which we need.

7 "14. Our ultimate objective is Japan's
8 advance to the Southern Regions, and in order to
9 attain this object, a ten-year plan has been mapped
10 out as follows:

11 "a. Establishment of heavy industries and
12 machine-tool industries.

13 "b. Establishment of a synthetic oil
14 industry.

15 "c. Expansion of ocean lines and shipping."
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1 The reaction of the United States to Japan-
2 ese movements in the south is again shown by Inter-
3 national Prosecution document No. 1457 which is a
4 wire of August 16 from NOMURA which we now offer in
5 evidence.

6 I would like to make this additional state-
7 ment for the assistance of the Tribunal and counsel:
8 As processed, this document is combined with the wire
9 of September 30, 1941 from TOYODA to NOMURA which we
10 will not read at this time but later, when we reach
11 that date in presentation of our evidence. To save
12 time, we will offer both wires and will only read
13 the earlier wire of August 16 from IPS document
14 1457 at this time.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 1457 will receive exhibit No. 1131.

18 (Whereupon, the document above re-
19 ferred to was marked prosecution's exhibit
20 No. 1131 and received in evidence.)

21 MR. FIELLY: I will now read from prosecu-
22 tion's exhibit 1131 just the descriptive remarks
23 from the top of the document and the first few
24 lines referring to Thailand:
25

"Telegram from Ambassador NOMURA to Foreign

1 Minister TOYODA, dated 16 Aug. 1941 (No. 703 Secre-
2 tariat Code, Secret.)

3 "Concerning your telegram No. 480.

4 "I. As I often reported, the relations
5 between Japan and U.S. were brought to a very criti-
6 cal moment and it hangs now on a hair. The next move-
7 ment on the part of Japan may lead to a sudden change.
8 It is generally feared by both Japanese and Americans
9 that it will do so in case Japan advances into Thailand."

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1 We next offer in evidence IPS document No.
2 2534 D which is a certified press item with respect
3 to the day, August 23, 1941, as showing that the
4 Cabinet on August 22 approved a national Commodity
5 Mobilization Plan.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2534 D will receive exhibit No. 1132.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1132 and received in evidence.)

12 THE PRESIDENT: Do you intend to read
13 that, Mr. Fihelly?

14 MR. FIELLY: Yes, the first few paragraphs
15 of it, your Honor.

16 I will now read from prosecution exhibit
17 1132 the headline, descriptive remarks, and the first
18 two paragraphs:

19 "Speedy Expansion of Armaments And
20 Autarchy Of East Asia Sought.

21 "COMMODITY MOBILIZATION PLAN STUDIED.

22 "Program for 2nd Quarter Of Fiscal Year
23 Decided As Proposed by Governor of Planning Board;
24 Key Points Of Scheme Announced.

25 "The Government, at the Cabinet meeting on

1 August 22, formally decided the national commodity
2 mobilization plan for and after the 2nd quarter of
3 the 1941-2 fiscal year, as proposed by Lieut-General
4 Teiichi SUZUKI, governor of the Planning Board.

5 "The key points of the scheme are: (1)
6 Prompt expansion of armaments; (2) Establishment of a
7 system of autarchy for important resources in the
8 East Asia Co-prosperity Sphere, especially the
9 maintenance of steel and coal production; (3) Maint-
10 enance of the lowest limit for the nation's living
11 necessities; and (4) Strict harmony between the
12 commodity mobilization scheme and the marine trans-
13 portation plan."

14 THE PRESIDENT: We will adjourn until half
15 past one.

16 (Whereupon, at 1200, a recess was
17 taken.)
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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1340, the HONORABLE JU-AO-MEI, Member from the
5 Republic of China, not sitting.

6 - - - -

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

9 THE PRESIDENT: Mr. Smith.

10 MR. SMITH: If your Honor please, I beg
11 please to bring up a matter that I think is of urgent
12 importance. Last Sunday afternoon Colonel Warren,
13 defense counsel, returned from the United States and
14 brought with him a new statement by former American
15 Ambassador Grew. The statement was dictated by the
16 Ambassador and was intended for the information of
17 this Court. It is only a page and a half in length
18 and it materially qualifies and at least clarifies
19 the affidavit of Mr. Grew which was read in evidence on
20 Friday. Further, it seems to eliminate three de-
21 fendants from this case, as we read it and, your Honor,
22 we think in fairness to the former Ambassador, and
23 certainly for the enlightenment of this Court and
24 that the Court not get a wrong impression from the
25 affidavit read last Friday, that we have leave to

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1 read this at this time. Your Honor, the necessary
2 copies have been supplied for the Court and also
3 for the translation, so it could be done simultaneously.

4 THE PRESIDENT: It seems to me it is de-
5 fense evidence to be given later, unless the prose-
6 cution are prepared to adopt it as theirs and tender

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1 it. If they are satisfied with its authenticity --
2 and I don't suppose they question Colonel Warren's
3 word -- well, they ought to tender it.

4 Mr. Higgins.

5 MR. HIGGINS: Mr. President, if it has the
6 effect that counsel says it has, that is, to eliminate
7 three of the defendants from this case, certainly the
8 prosecution is not interested in presenting this
9 evidence for the prosecution.

10 THE PRESIDENT: If you don't want to tender
11 it, certainly we won't force you to do so.

12 MR. HIGGINS: No, sir.

13 THE PRESIDENT: It is in the same position
14 as evidence taken on interrogatory. It would not
15 follow that when we received that we would accept it
16 immediately. It would have to be tendered as part
17 of the defense evidence.

18 MR. SMITH: I do not ask anything more, your
19 Honor.

20 THE PRESIDENT: You will have to wait, Mr.
21 Smith, unless the prosecution are prepared to oblige
22 you by accepting it and tendering it.

23 Mr. Fihelly.

24 MR. FIEHELLY: Mr. President and Members of
25 the Tribunal, just prior to lunch we had arrived

1 chronologically at the end of August, 1941. At
2 this point Premier KONOYE --

3 THE PRESIDENT: I should remind the defense
4 of what I said on Friday, that if they desire to
5 apply for a commission or for interrogatories to be
6 administered to Mr. Hull, or any of those gentlemen
7 in the United States or elsewhere than Japan, they
8 should make application to me in Chambers.

9 MR. SMITH: Your Honor, could I say one
10 more word in response to your last observation? If
11 I could read Mr. Grew's last statement there wouldn't
12 be any necessity for me to take his interrogatory in
13 the United States. That is one of the points.

14 THE PRESIDENT: Well, we have given our
15 answer. It depends on the attitude of the prosecution.

16 MR. FIDELLY: At this point Premier KONOYE
17 presented on August 28 a memorandum to President
18 Roosevelt with regard to the proposed meeting be-
19 tween them. This was followed by the President's
20 reply on September 3rd. Both of these items will
21 be dealt with later in the evidence of Mr. Ballantine

22 We have already seen shown that during July
23 of 1941 the Japanese fleet practiced and rehearsed
24 the YAMAMOTO Plan of the Pearl Harbor attack. Our
25 evidence now will show that the first week in September

1 Japan further practiced that particular plan of
2 attack by war games which were held here in Tokyo
3 at the Naval War College.

4 In this connection, I refer to prosecution
5 exhibit 809 and read from page 1 what is stated
6 there in connection with those games. On page 1 it
7 is stated in that exhibit from 2 to 13 September 1941
8 the final war games convened at the Naval War College
9 in Tokyo, participated in by a large number of top
10 ranking naval officers. The problems set were two-fold;
11 first, to the working out of the details of the naval
12 air strike at Pearl Harbor; secondly, the establish-
13 ment of a schedule of operations for the occupation
14 of Malaya, Burma, the Netherlands East Indies, the
15 Philippine Islands, and Solomon and Central Pacific
16 Islands, including Hawaii. The outline of condi-
17 tions under which these problems were to be worked
18 out constituted the essence of the forthcoming order
19 specifying the actual attack.

20 There was a further part of prosecution ex-
21 hibit 1127A, the interrogation of the defendant
22 NAGANO, of March 27, 1946, which we would like to
23 read from at this time, in that same connection.

24 I will read from page 1 of the exhibit,
25 the last two questions and answers on the page:

1 "Q And later, in August of 1941, is it not a
2 fact, Admiral, that the final plans were made at the
3 Naval War College in Tokyo?

4 "A I believe preparations by the Naval War
5 College were started in October, but a considerable
6 amount of research was done. The results were later
7 given out to us and that was how we first heard of
8 the attack officially, and at that time the commander
9 of the fleets put forth the plan which was later
10 adopted.

11 "Q When you say, Admiral, that you later were
12 first officially advised of the results, do you mean
13 by that that you were advised of the results of the
14 attack on Pearl Harbor?

15 "A After the results of the research of the
16 Naval War College had been put forth the commander
17 of the fleets explained the Pearl Harbor plan.

18 "Q As a matter of fact, Admiral, the time in
19 which the plans were perfected at the Naval War
20 College was in late August or early September, 1941,
21 rather than in October, was it not?

22 "A Do you mean the plan for the attack on
23 Hawaii or the general research that was carried on by
24 the Naval College?

25 "Q I refer to the time, Admiral, when the plans

1 were perfected at the Naval War College in Tokyo
2 at which time various teams were made up, such as
3 the "N" Team, the "A" team and the "E" team.

4 "A I don't remember very well, but I believe
5 it may well have been toward the end of September."

6 Last question and answer:

7 "Q In these games at which the plans were
8 perfected for the attack upon Pearl Harbor, Admiral,
9 you acted as umpire, did you not?

10 "A No, the head umpire was Admiral YAMAMOTO.
11 I had no connection with the war games, but I went to
12 see the results when they were over."
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1 MR. FHELLE: We next offer in evidence
2 International Prosecution's document No. 2535A which
3 is a report of the Cabinet meeting on September 5, as
4 the result of which land and sea transportation was
5 put on a war basis.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2535A will receive exhibit No. 1133.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 1133 and
11 received in evidence.)

12 MR. FHELLE: I now read prosecution's exhibit
13 No. 1133:

14 "Excerpt from 'The Osaka Mainichi and the
15 Tokyo Nichi Nichi', Sunday, September 7, 1941.

16 "Government to Expedite Building of Ships
17 and Freight Cars.

18 "Traffic Mobilization.

19 "Concrete Plans being Drafted by Communications
20 and Railway Offices.

21 "Based on the traffic mobilization plan for
22 the 1941-42 fiscal year, the Railway Office will
23 positively embark on the construction of freight cars,
24 while the Communications Office will establish the
25 shipbuilding control association in order to systematize

1 the ship building industry, it is expected.

2 "The Government, at the Cabinet meeting on
3 Friday, September 5, decided the traffic mobilization
4 plan in order to place land and sea transportation on
5 a wartime basis to meet the requirements of the times."

6 We now offer in evidence an extract from the
7 KIDO Diary dated September 5, 1941, IPS Document
8 No. 1632W 67, as indicating that preparations were
9 being made to hold another Imperial Conference.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 1632W (67) will receive exhibit No. 1134.

13 (Whereupon, the document above referred
14 to was marked prosecution's exhibit No. 1134 and
15 received in evidence.)

16 MR. FIELLE: I now read prosecution exhibit
17 No. 1134:

18 "September 5, 1941 - (Extract)

19 "At 4.30 p.m. the Premier proceeded to the
20 Palace and submitted to the Throne a plan relative to
21 the holding of a Council in the Imperial presence.
22 The Premier said that as the Emperor asked many ques-
23 tions as to our policy towards U.S.A. from the point of
24 view of war strategy, he had advised the Emperor to
25 summon the Chief of General Staff and the Chief of

1 the Naval General Staff. I, therefore, proceeded to the
2 Palace to advise the Emperor to follow the Premier's
3 advice. I requested Aide-de-camp YOKOYAMA to call the
4 Chief of the General Staff, the Chief of the Naval
5 General Staff, and the Premier to the Palace. At
6 6 p.m. they were granted an audience by the Emperor
7 to answer the Imperial questions."

8 The second of the four important Imperial
9 Conferences of 1941 was held on September 6. In this
10 connection, we offer in evidence an extract from the
11 KIDO Diary of that date, International Prosecution
12 document No. 1632W (68).

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 1632" (68) will receive exhibit No. 1135.

16 ("hereupon, the document above referred
17 to was marked prosecution's exhibit No. 1135 and
18 received in evidence.)

19 MR. FHELLE: I now read prosecution's
20 exhibit No. 1135:

21 "September 6th, 1941 (Extract)

22 "From 9.40 to 9.55 a.m. I visited the Emperor
23 in response to the Imperial summons. He said that
24 he would like to ask some questions at the Conference
25 in his presence. Then I advised His Majesty that

1 TOYODA, Foreign Minister; TOJO, War Minister; OIKAWA,
2 Navy Minister; OGURA, Finance Minister; SUZUKI, Pres-
3 ident of Planning Board; TANABE, Home Minister; SUGIYAMA,
4 Chief of Army General Staff; NAGANO, Chief of Naval
5 General Staff; TOMITA, Chief Secretary of the Cabinet;
6 MUTO, Director of Military Affairs Bureau, War Ministry;
7 OKA, Director of Military Affairs Bureau, Navy Ministry;
8 TSUKADA, Vice Chief of Army General Staff; ITO, Vice-
9 Chief of Naval General Staff; HARA, President of the
10 Privy Council."

11 I now refer to Court exhibit, prosecution
12 exhibit No. 588, a document found at the Foreign
13 Ministry, and call attention to certain parts thereof,
14 the document itself having been put in evidence and
15 other parts read by Mr. English. The part with respect
16 to September 6 is found on page 2 of the document, the
17 first part being devoted to the July 2 Imperial Con-
18 ference. I now read the pertinent part:

19 "Resolution adopted through the Imperial
20 Conference on September 6, 1941.

21 "Summary. Execution of the Empire's Policy.

22 "In view of the present acute situation, es-
23 pecially the aggressive movements the United States,
24 Britain and the Netherlands have assumed; the situation
25 of Soviet Russia; and the suppression of our national

1 power; Japan will execute her Southern advance policy,
2 related in the 'principle of Japan's Policy According
3 to the Change of Situations,' as follows:

4 "a. In order to secure self-existence and
5 self-defense, Japan, with a determination for a war
6 with the United States (Britain and the Netherlands),
7 will have completed her preparations by the end of
8 October.

9 "b. Meanwhile, in pace with the above, Japan
10 will strive for the fulfillment of her demands through
11 diplomatic measures with the United States and Britain.

12 "The minimum matters of demand to be accomplished
13 in Japan's negotiations with the United States (Britain),
14 and the limit Japan is able to come to an agreement in
15 this connection will be stated on another sheet.

16 "c. If, through the above negotiations, our
17 demands have no hope of fulfillment by the beginning
18 of October, we shall immediately determine to wage war
19 against the United States (Britain and the Netherlands).

20 "All measures, save for those concerned with the
21 South, will be executed according to the pre-arranged
22 national policy, and we shall particularly endeavor to
23 check the formation of a Russo-American combined force
24 against Japan."
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1 I now offer in evidence International
2 Prosecution document No. 2507-A, which contains
3 extracts from the TOJO interrogation of February
4 23, 1946, pages 1, 2, 3, 5, and 6, and also Interna-
5 tional Prosecution document No. 2509-A, which is an
6 extract from the TOJO interrogation of March 11,
7 page 4. In each instance we offer the extracts in
8 evidence, and, as we did this morning, ask that the
9 parent document be given a number for identification.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2507 will be given exhibit No. 1136, for identi-
12 fication only.

13 (Whereupon, the document above-
14 mentioned was marked prosecution's exhibit
15 No. 1136 for identification.)

16 THE PRESIDENT: The extracts are admitted on
17 the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 2507-A will be given exhibit No. 1136-A.

20 (Whereupon, the document above
21 referred to was marked prosecution's exhibit
22 No. 1136-A and received in evidence.)

23 CLERK OF THE COURT: Prosecution's document
24 No. 2509 will be given exhibit No. 1137 for identifi-
25 cation only.

1 (Whereupon, the document above-
2 mentioned was marked prosecution's exhibit
3 No. 1137 for identification only.)

4 CLERK OF THE COURT: The excerpt therefrom,
5 likewise admitted, will be given exhibit No. 1137-A.

6 (Whereupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 1137-A and received in evidence.)

9 MR. FIBELLY: I now read from page 2, the
10 extracts from 5 and 6 of the interrogation from
11 exhibit 1136-A.

12 "Q For what purpose was the Imperial Conference
13 of 6 September called?

14 "A It was called to decide the question of what
15 national policy should be adopted in view of the
16 situation at that time. As I recall, the main ques-
17 tion was that of war or peace and what attitude should
18 be decided upon in either case.

19 "Q At this conference, it was decided to con-
20 tinue negotiations with America and hope for a break
21 by the middle ten days of October, was it not?

22 "A Yes, of course I think so, but I have no
23 materials here and it is difficult for me to make
24 categorical statements.

25 "Q It was also decided that if the break did not

1 come by the middle ten days of October that war would
2 be undertaken against America?

3 "A It was decided to plan for a break by the
4 middle ten days of October. The decision for war was
5 not made at this conference.

6 "Q Who attended -- "

7 That is all there is on that extract. I am
8 sorry.

9 Getting on to 1137-A. I read the question
10 and answer on that page, page 1 from page 4 of the
11 March 11 TOJO interrogation:

12 "Q Is it not true that, during the period
13 between 6 September 1941 and 10-20 October 1941,
14 preparations for war were pushed?

15 "A As I said before, at that conference which
16 dealt with peace or war, it was decided that both
17 peace preparations and war preparations would be
18 pushed. (Read back to the witness who agreed as to
19 its correctness.) It was only after that decision
20 that preparations were pushed."
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1 MR. FIELLY: On September 6th also the
2 Japanese Ambassador handed to the Secretary of State
3 a revised proposal. This particular proposal will
4 be treated of in detail during the testimony of
5 Mr. Ballantine later on in this period.

6 We next offer in evidence a further
7 extract from the KIDO Diary dated September 11th,
8 I. P. S. Document No. 1632W(69), in order to show
9 that on that date the defendant TOJO and KIDO dis-
10 cussed the preparations for war with the United
11 States.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 1632W(69) will receive exhibit No. 1138.

15 (Whereupon, the document above referred
16 to was marked prosecution's exhibit No. 1138
17 and received in evidence.)

18 MR. FIELLY: I now read a brief extract
19 from prosecution's exhibit 1138: the extract of
20 September 11, 1941.

21 "War Minister TOJO visited me after his
22 withdrawal from the presence of the Emperor and
23 explained the result of an investigation concerning
24 the preparations for war with the U.S.A."
25

MR. LOGAN: I would like to call the

1 Tribunal's attention to the fact that the extract
2 just read does not conform to the statement made by
3 the prosecutor before he read it. The discussion
4 was not concerning preparations for war, but was
5 concerning the result of an investigation.

6 MR. FINELLY: Concerning the preparation
7 of war.

8 I can assure you, Mr. President and the
9 Members of the Tribunal, that I will be glad to be
10 corrected at any time by the defense because I
11 have no desire to make any unfair inference in
12 connection with any document.

13 THE PRESIDENT: There seems to be no
14 substantial difference between what you said and
15 what the document revealed.

16 MR. FINELLY: I did not think there was,
17 your Honor.

18 We next offer in evidence International
19 Prosecution Section Document No. 1457-B, a telegram
20 of September 12th from NOMURA to TOYADA to show that
21 NOMURA at this time made statements to Japan in
22 connection with withdrawing her troops in China.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1457-B will be given exhibit No. 1139.

1 (Whereupon, the document above referred
2 to was marked prosecution's exhibit No. 1139
3 and received in evidence.)

4 MR. FIELLY: I shall read just the identi-
5 fying top remarks and the first two paragraphs of
6 exhibit 1139:

7 "TRANSLATION OF TELEGRAM FROM NOMURA TO
8 TOYADA, dated September 12, 1941.

9 "Top Secret by Embassy Code.

10 "From Ambassador NOMURA, Afternoon, September
11 11, Showa 16 (1941), Washington (by secret).

12 "To Foreign Minister TOYADA, Arrived at
13 the Ministry, Afternoon, September 12, Showa 16 (1941).

14 "Telegram No. 810.

15 "The difficult points of the present
16 Japanese-American negotiations for the adjustment of
17 diplomatic relations are, as you are well aware of by
18 my repeated telegrams, the problems regarding the
19 withdrawal of Japanese troops from China and stationing
20 of troops for anti-Comintern purposes, and I think
21 the U.S.A. is in the position where she cannot recognize
22 the stipulated terms between our side and the Nanking
23 Government upon this matter, not only in the light of
24 the public opinion in the country, but also from the
25 viewpoint of her obligation as a mediator toward China."

1 "Consequently in the American proposal of 21 June
2 there is included a clause to the effect that the
3 evacuation should be effected as soon as possible in
4 compliance with the stipulations to be newly agreed
5 upon between Japan and China. And her attitude having
6 been more stiffened of late, she has mentioned the
7 complete evacuation of troops within two years after
8 the restoration of peace (one of the causes of the
9 above stiffening is believed to be the result of her
10 talks with the Chinese side), and it is felt that
11 toward the new proposal advanced from our government,
12 the U.S.A. apparently shows no serious disapproval
13 in points other than that of the evacuation, against
14 which she seems to have strong opposition.

15 "And, after all, according to my observation,
16 there is a great possibility for the negotiation to
17 split on the rocks in the final stages due to this
18 evacuation problem. To avoid it, therefore, I
19 earnestly wish that following the general line of
20 the American request and without making reference to
21 the stationing of troops, you deliberate how to deal
22 with the proposal for the evacuation of troops within
23 two years after peace restoration."
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1 We next offer in evidence TOYODA's reply
2 of September 13, which is contained in International
3 Prosecution document No. 1457. This is the same wire,
4 by the way, which was introduced this morning. Do
5 you have the exhibit number (addressing the Clerk of
6 the Court)? We mentioned this morning, Mr. President
7 and Members of the Tribunal, in connection with
8 exhibit No. 1131, that there was another wire processed
9 with it that we would read when we came later in
10 September to that. This is the wire I referred to,
11 and I believe it is already in evidence with the other,
12 is it not, Mr. Clerk?

13 THE PRESIDENT: It is.

14 CLERK OF THE COURT: Yes.

15 MR. FANELLY: I will read that particular
16 wire, or paragraph 3 from that wire, on page 3, para-
17 graph 3:

18 "III. I understand that the U. S. wants
19 us to acknowledge her so-called four fundamental
20 principles. But without even settling the matters in
21 the telegram quoted at the beginning (tel. 529) of the
22 present one we are not in a position to swallow it at
23 present. Besides (if we do so) it is very much feared
24 that the world may think we did it owing to American
25 pressure as we pointed out before, and judging from

1 American views that she wants to negotiate before-
2 hand with England, Holland, China and other countries,
3 I entertain some apprehensions lest they may try to
4 revive the organization of the 'Nine Countries Treaty.'
5 So it is also not proper to do so at present. The
6 form of negotiation between Japan and the U. S.
7 should be adopted. As this is of special importance,
8 beware of it please! (We are not in a position to
9 hinder U. S. from her actual negotiation with Britain,
10 Holland and others, and in reality it is impossible
11 to do it, and again we will not concern ourselves
12 with it. At the bottom, what we want to say is that
13 we refuse to be induced to a council or an agreement
14 among numerous countries.) "

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1 MR. FIELLY: We next offer in evidence
2 International Prosecution Document No. 2536-A, the
3 report of the Cabinet meeting of September 12th
4 adopting a plan for labor mobilization so as to
5 induce a supply of sufficient labor for the increased
6 production of munitions.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2536-A will receive exhibit No. 1140.

10 (Whereupon, the document above referred
11 to was marked prosecution's exhibit No. 1140
12 and received in evidence.)

13 MR. FIELLY: I now read from prosecution
14 exhibit No. 1140:

15 "Extract from 'The Tokyo Nichi Nichi' -
16 September 13, 1941.

17 " ' TOTAL LABOR SERVICE BY PEOPLE' SYSTEM
18 DEFINITELY LAUNCHED.

19 " 'Cabinet Approves.

20 " '1941 Workers Mobilization Plan is Adopted
21 at Friday Meeting.

22 " 'As a preparatory step for the establish-
23 ment of the people's total labor service system, the
24 plan for the people's labor mobilization during 1941
25 was adopted in the regular Cabinet meeting on

1 September 12.

2 " 'The scheme, jointly formulated by the
3 Planning Board and the Welfare Office, is based on
4 the emergency labor policy decided in a recent
5 Cabinet session, and is aimed at insuring the supply
6 of sufficient labor for the increased production of
7 munitions.

8 " 'In view of the importance of the project,
9 the Cabinet Ministers present posed pointed questions
10 to Governor Lieut. General Teiichi SUZUKI of the
11 Planning Board, who explained the plan to them.

12 " 'The scheme contains concrete measures
13 for the creation of the people's total labor service
14 system'

15
16 On September 22 Foreign Minister TOYODA
17 presented to the United States Ambassador in Japan
18 the text of the basic terms of peace which Japan
19 was prepared to offer to China. This matter will be
20 dealt with in detail in Mr. Ballantine's testimony
21 later in the period.

22 On September 25 he also submitted revised
23 proposals to the United States incorporating these
24 terms of peace with China, which likewise will be
25 treated by Mr. Ballantine in his testimony.

We next offer in evidence International

1 Prosecution document 1632W(7u), an extract from the
2 KIDO Diary of September 26, this being offered to show
3 that on that date the defendant KIDO and Premier
4 KONOYE discussed at some length the possibility of
5 war being declared upon the United States on Octo-
6 ber 15.

7 THE PRESIDENT: Admitted on the usual terms.
8 Why the delay?

9 CLERK OF THE COURT: Prosecution's document
10 No. 1632W(71) will receive exhibit No. 1141.

11 (Whereupon, the document above
12 referred to was marked prosecution's exhibit
13 No. 1141 and received in evidence.)

14 MR. FIEHELLY: I now read this brief extract
15 contained in exhibit No. 1141:

16 "September 26th, 1941 - (Extract)

17 "I met Prince KONOYE at 4 p. m. and talked
18 with him until 5:15 p. m. He stated that he had no
19 confidence, and there was no choice for him but to
20 consider his resignation if the Military insisted on
21 starting a war on 15 October. I hoped that he would
22 be prudent."
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1 MR. FIELLY: As again showing war prepara-
2 tions which Japan was making, at this time we next
3 offer in evidence an extract from the KIDO Diary of
4 September 29th, International Prosecution Document
5 No. 1632W(72).

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1632W(72) will be given exhibit No. 1142.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 1142
11 and received in evidence.)

12 MR. FIELLY: I now read prosecution's
13 exhibit No. 1142, the extract dated September 29,
14 1941:

15 "I visited the Emperor from 10.55 a.m. to
16 11.35 a.m. He requested me to make an investigation
17 regarding the stock of rubber and tin in the U.S.A.,
18 the amount of rubber resources in South and Central
19 America, and other places where the United States
20 would be able to obtain those resources. Hence I
21 contacted the President of the Planning Board through
22 the Chief Secretary to the Cabinet. The President HARA
23 said that if our diplomatic parley with Washington
24 would end in an entire failure and as we would have
25 to make our grave resolution, the coming Council in

1 the Imperial presence should not be such a formal
2 one as usual, but we must have a full discussion
3 of the matter instead and include senior statesmen
4 in the Council. I promised him that I would
5 consider this carefully."

6 On October 2nd, the United States Secretary
7 of State handed to the Japanese Ambassador an oral
8 statement in connection with the pending negotiations
9 which will be explained in the evidence of Mr.
10 Ballantine.

11 We next offer in evidence an extract from
12 the KIDO Diary dated October 7th, International
13 Prosecution Document No. 1632W(75) to show that
14 as of that date the defendant TOJO was urging war
15 with the United States and that certain elements in
16 the Navy joined or agreed with him.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF COURT: Prosecution's document
19 No. 1632W(75) will receive exhibit No. 1143.

20 (Whereupon, the document above referred
21 to was marked prosecution's exhibit No. 1143
22 and received in evidence.)

23 MR. FIELLY: I now read prosecution's
24 exhibit No. 1143: -- the extract from the KIDO Diary,
25 October 7th, 1941:

1 "TOMITA, the Chief Secretary to the Cabinet,
2 visited me at 12.40 a.m. to talk about our negotiations
3 with the U.S.A. He stated as follows: 'The Army
4 was of the opinion that there was no room left for
5 the continuance of the parley, while the Navy held
6 the reverse view. But the officers of medium standing
7 of the Army and Navy were agreed in their strong
8 determination. The Navy's desire for the Premier was
9 that he should immediately declare his resolution
10 and assume leadership in order to meet the serious
11 situation. First of all, the Premier should talk with
12 the War Minister who has a resolute opinion, in order
13 to promote a better understanding between them, after
14 that a meeting between the Premier, the War Minister
15 and the Navy Minister would be desirable to settle
16 our national policy in respect of the war against
17 the U.S.A."

18 We next offer in evidence International
19 Prosecution Document No. 2593-D-4 and International
20 Prosecution Document No. 15-I. These two prosecution
21 documents constitute four parts of a whole telegram,
22 parts one and three are in the first document, 2593-D-4,
23 and parts two and four are in the second part; but,
24 as I say, that makes one complete integrated telegram.
25

THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Prosecution's document
2 No. 2593-D-4 will be given exhibit No. 1144; and
3 document 15-I--

4 THE PRESIDENT: Make it two exhibits.

5 CLERK OF THE COURT (Continuing) -- will be
6 given exhibit No. 1145.

7 (Whereupon, the documents above referred
8 to were marked prosecution's exhibits Nos 1144
9 and 1145 respectively and received in evidence.)

10 MR. FIELLY: I now read from part 2 of the
11 October 8th telegram, which would be the next to the
12 last page of exhibit No. 1145.

13 THE PRESENT: Aren't you going to read any
14 part of 1144?

15 MR. FIELLY: I will be glad to read it all
16 if the Court wants me to read it, sir. I will be
17 glad to start and read it all.

18 THE MONITOR: Mr. Fihelly, will you put the
19 earphone on, please? Will somebody tell Mr. Fihelly
20 to please put his earphone on?

21 Which document are you reading, please,
22 1144?

23 MR. FIELLY: I am now going to read the
24 entire document as the Court has requested.

25 THE MONITOR: Which document, sir?

1 MR. FIELLY: The entire document. The
2 first one is 1144 and the next one, I believe you
3 gave the number 1145. I will now read the entire
4 document.

5 THE MONITOR: Thank you, sir. Also, on the
6 leading statement, will you please follow your leading
7 statement?

8 THE PRESIDENT: I inquired whether you were
9 going to read 1144. I did not request you to do so;
10 but, perhaps you had better do so.

11 MR. FIELLY: I will be glad to do so, your
12 Honor, because of the importance of the integrated
13 part.

14 THE PRESIDENT: This is a vital stage.

15 MR. FIELLY: I now read exhibit No. 1144,
16 part 1 of four parts, from Washington to Tokyo,
17 October 8, 1941, marked "SECRET". The word "Purple"
18 is there. No. 907.

19 (Reading): "(To be handled in government code.
20 Departmental Secret) Re your #637 b.

21 "I will tell you more about this after I
22 interview the Secretary of State a little later on.
23 However, my views at present are as follows:

24 "(1) According to the American memorandum of
25 the 1st, the Americans realize that there is unanimity

1 on the various principles and fundamentals which
2 they have stuck to. However, they are dissatisfied
3 because you did not express a desire to go into a
4 detailed discussion. The Americans believe in the
5 four principles as the basis on which relations between
6 the two countries must be adjusted. The Americans
7 consider that it is necessary to achieve unanimity
8 on the various questions which have been fundamentally
9 explored by both nations in the unofficial talks held
10 so far in order to settle the Pacific question. They
11 have always felt that if conversations between the
12 leaders of the two countries are to be realized
13 immediately, it must be definitely understood that these
14 principles are to be applied to the concrete problems in
15 the Pacific, and they desire a further clarification
16 of our views."

17 The next, part 3 of 4, has the same heading,
18 October 8th, the same general markings.

19 "Judging by the impression I got from the
20 above mentioned facts and my contacts with them so far,
21 they figure on first bringing about unanimity on the
22 fundamental questions on which our two countries
23 have so far failed to see eye to eye, and then gradu-
24 ally to turn to the other matters. They evidently
25 feel that so long as there is disagreement on the

1 aforementioned points it would be vain and futile
2 to discuss the various other problems, therefore, up
3 to now the United States has done no more than
4 express her opinions on the other matters in the
5 proposal of June 11. (As I have wired you, some
6 changes were made in the last clause.)

7 "In their proposal of June 21, they made
8 it evident that they were going to stick to this
9 as the basis for negotiations. The latest reply of
10 theirs shows, I am sure, that they are entirely
11 disregarding our own proposal of the 25th. This
12 shows that they are going to stick to their ideas
13 as they stand: however, it will still be necessary
14 for us to talk through certain matters concerning
15 A. The matter mentioned in the annex of the clause
16 concerning the China incident. B. Discontinuing
17 activities designed to help CHIANG. C. The stip-
18 ulation concerning Nanking Treaty in the clause
19 concerning the China incident (an agreement between
20 Japan and China); joint mediation and the right of
21 self-protection mentioned in the clause concerning
22 our attitude toward the European war; the question
23 of eliminating the annex to the clause concerning
24 commerce between the two nations."

25 And now going to the other two parts of

1 the telegram, I read those parts from exhibit No.
2 1145:

3 "From: Washington (Nomura)

4 "TO: Tokyo

5 "October 8, 1941

6 #907 (Part 2 of 4)

7 "To be handled in government code. Depart-
8 mental Secret).

9 "Thus, they hope that we will make ourselves
10 clearer on these points. In our proposal of the
11 6th and in the explanation thereof, not only did we
12 limit them and narrow what we had discussed in our
13 informal conversations thus far, but we also cur-
14 tailed extremely the guarantees we offered concern-
15 ing the aforementioned principles. We equivocated
16 concerning guarantees that we would not engage in
17 armed aggression. We limited the area to which the
18 principle of non-discriminatory treatment would apply
19 in the Pacific, and on the excuse that China was
20 geographically near to us, we limited the very
21 principle itself. On the question of stationing and
22 evacuating troops in and from China (including French
23 Indo-China), the Americans are making some demands
24 which we in principle have objections to. Moreover,
25 they figure that they must be much surer of our

1 attitude toward the three-power pact. These points
2 you probably already know."

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MR. FINELLY: And the last part of the

telegram bearing the same date, part 4 of 4.

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"Concerning the four principles mentioned in (2) during the conversation mentioned in your #634^a, the American Ambassador talked like I had already reached an understanding with Secretary HULL on this. As I have told you in various messages, they shelved the question in both letter and spirit, but on April 16 when Secretary HULL presented me with these four points (see my #277^b), I certainly was in no position to accept such a proposal before getting instructions from my home government, nor would I give the impression that we would accept them. Please note that. Nevertheless, these are very abstract principles, and I figured that there would be some elasticity in their application. This country applies them with prudence to other foreign nations; for example, in peace conferences, discussions of principles are extremely circumlocutionary, so I do not think you need to be troubled over this."

1 There is an entry in the KIDO Diary,
2 October 9, International Prosecution's document
3 1032W(64), which we now offer in evidence to show
4 KIDO's views as to war with the United States as of
5 that date -- 1032W(76).

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's docu-
8 ment No. 1632W(76) will receive exhibit No. 1146.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1146 and received in evidence.)

12 MR. FIELLY: I now read prosecution's
13 exhibit No. 1146:

14 "Extract from Entry from Marquis KIDO's
15 Diary, 9 Oct. 41.

16 "I met Prince KONOYE at 10:30 a. m. after
17 his audience with the Emperor. He was quite uneasy
18 about the future of the parley with Washington, and
19 his hopes for a satisfactory compromise were very
20 discouraging. I expressed my opinion for his infor-
21 mation as follows:

22 "1. The resolution of the Council in the
23 Imperial presence on the 6th of September seemed to
24 me too outright. It was not the conclusion of ex-
25 haustive discussion in my opinion."

1 "2. Judging from the situation both at
2 home and abroad, the war with the U. S. A. would
3 offer us little chance of victory, so we had better
4 reconsider it.

5 "3. It would be inadvisable to declare
6 war against the U. S. A. immediately.

7 "4. The Premier should clarify his inten-
8 tion to concentrate our national efforts upon the
9 completion of the Chinese Incident.

10 "5. We should acquire freedom without pay-
11 ing any attention to economic pressure by the U. S. A.

12 "6. The Premier should demand ten or fif-
13 teen years of hard struggle on the part of our nation
14 to establish a highly defensive nation.

15 "7. If necessary, we were ready to put
16 belligerency in action to promote the completion of
17 the Chinese Incident and to use our whole military
18 force in China in order to realize our plans against
19 Kuming and Chungking.

20 "Hachiro ARITA visited me to talk about the
21 American problems and the general resignation of the
22 Cabinet."

23 THE PRESIDENT: We will recess for fifteen
24 minutes.

25 (Whereupon, at 1445, a recess

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was taken until 1500, after which the
proceedings were resumed as follows:)

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

3 THE PRESIDENT: Mr. Fihelly.

4 MR. FIELLY: Mr. President and Members of
5 the Tribunal, on October 12, 1941 there was a meeting
6 at Premier KONOYE's house concerning which we have
7 certain written documents.

8 THE PRESIDENT: Mr. Logan.

9 MR. LOGAN: If the Tribunal please, with
10 regard to the last exhibit in evidence, 1146, I
11 think it is rather important, and I would pray the
12 Tribunal's indulgence to read the defense's trans-
13 lation of that document at this time.

14 THE PRESIDENT: That would be two trans-
15 lations of every document. That is the kind of
16 language Japanese is.

17 MR. LOGAN: But the point is this, your
18 Honor: that if, later, all our corrections or some
19 of them are accepted and it appears many pages later
20 in the record, the complete document will not be
21 there. It will mean reference back to the document
22 which the prosecution has read, and it will have to
23 be corrected on that document in the record.

24 THE PRESIDENT: But we could never let you
25 say, "Well, that is the prosecution's translation.

1 Now listen to ours." That would double the length
2 of the trial. And, if we admit it for one document,
3 why not for all? We have already given you author-
4 ity -- the Tribunal has -- to go to the Language
5 Section, Mr. Logan. We cannot do any more than that.
6 We are very much concerned about the loss of time
7 involved in the translations. There is far more
8 delay here than there was in Germany on that ac-
9 count.

10 MR. LOGAN: May we have a direction to
11 this effect then, if the Tribunal please: that when
12 it comes back from the Language Section, that the
13 entire document be permitted to be read rather than
14 a reference to a page and a line? For example, here
15 is a document with many changes necessary in it,
16 and it would not make any sense if just small por-
17 tions of the original document as read were changed;
18 whereas, if we were permitted to read the entire docu-
19 ment as changed, I think that would serve the purpose.
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21 THE PRESIDENT: I am reminded by a colleague
22 that I should repeat what I told you last week: to
23 arrange these things with the prosecution out of
24 court. If you differ, go to the Translation Section;
25 if a correction is made, let the party presenting
the document read the document as corrected.

1 Mr. Fihelly.

2 MR. FIELLY: I just mentioned the fact that
3 we had certain written documents in connection with
4 this meeting in Premier KONOYE'S home on October 12.

5 We first offer the KIDO Diary entry of
6 October 12, International Prosecution document
7 1632W (77) to show what happened there.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 1632W (77) will receive exhibit No. 1147.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution's exhibit
13 No. 1147 and received in evidence.)

14 MR. FIELLY: I now read prosecution exhibit
15 No. 1147, the extract from KIDO's Diary, October 12,
16 '41:

17 "At 10 a.m. Kango KOYAMA called on me
18 to express deep resentment at the recent political
19 situation, urging all possible efforts of the
20 Premier. Major-General KATO visited my house to
21 explain the Gendarmerie's interpretation of present
22 conditions. TOMITA, Chief Secretary to the Cab-
23 inet, visited me and stated as follows, 'The War,
24 Navy and Foreign Ministers and President of the
25 Planning Board held a meeting in the Prince's house

1 at Ogikubo at 2 p.m. to discuss the adjustment of
2 diplomatic relations between the U.S.A. and Japan.
3 The War Minister calls for great resolution since
4 he sees no hope for arrival at an understanding
5 between Japan and the U.S.A.; however, that if he
6 could hear an explanation such that he could persuade
7 himself to be sure of arrival at an understanding
8 why, of course, he didn't like war. The Navy Minister
9 said that we should try to avoid war as much as
10 possible. Now this country was standing at the cross-
11 roads, having two ways to choose; one is the restora-
12 tion of friendly relations by diplomatic negotiations;
13 the other the declaration of war on the U.S.A. If
14 the former was our choice, we must bring about a
15 full understanding between the two countries by
16 convincing the U.S.A. of the sincerity of our friend-
17 ship towards her, for a war after a patched-up
18 compromise would be most undesirable. Anyhow,
19 the Premier's strong leadership was the most urgent
20 matter. The Premier expressed his firm conviction
21 of the successful conclusion of the parley, asking
22 their cooperation with his policy. The Foreign
23 Minister was of the opinion that he was not quite
24 sure of the outcome of the parley, although he could
25 not flatly deny that the meeting would end in success."

1 "They made the following agreement among themselves
2 on the advice of the War Minister: Our demands
3 regarding the stationing of troops in China should
4 not be altered; the successful results of the Chinese
5 Incident should be made secure by all means; and we
6 should further our policy based on these agreements,
7 ceasing our preparations for war."
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1 The next document which we have, relating
2 as to what took place at the meeting, is Premier
3 KONOYF's own account which is International Prose-
4 cution document No. 497 which we now offer in evi-
5 dence.

6 THE PRESIDENT: Admitted on the usual terms.
7 Mr. Blewett.

8 MR. BLEWETT: If the Court please, this
9 document appears to be a self-serving declaration by
10 a decedent.

11 THE PRESIDENT: That goes to weight only,
12 Mr. Blewett; and matters of weight or lack of weight
13 should be urged when the defense are putting their
14 case or, during their summation, at the end of their
15 case.

16 MR. BLEWETT: If I might state, your Honor,
17 the certification indicates that this matter was
18 dictated to one secretary, and the affidavit is taken
19 by another.

20 THE PRESIDENT: According to this deponent,
21 it was corrected in KONOYE's handwriting. That is
22 enough to adopt it.

23 MR. BLEWETT: It was dictated, sir, to one
24 secretary. Only portions of it were in the hand-
25 writing of the decedent.

1 THE PRESIDENT: Corrections were. The
2 corrections would be evidence of adoption by KONOYE
3 to whose handwriting this particular deponent can
4 swear.

5 MR. BLEWETT: I will enter an exception
6 sir, for the record.

7 THE PRESIDENT: The exception is noted.
8 Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 497 A will receive exhibit No. 1148.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution's exhibit
13 No. 1148 and received in evidence.)

14 THE PRESIDENT: Mr. Higgins.

15 MR. HIGGINS: With the Tribunal's permission,
16 I now read prosecution's exhibit No. 1148:
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1 "Facts Pertaining to the Resignation of
2 the 3rd KONOYE Cabinet.

3 "The 3rd KONOYE Cabinet started off with
4 the great mission of readjusting the Japanese-
5 American relations. For this reason, the retirement
6 of Foreign Minister MATSUOKA was brought about and
7 as only that was done, it can be said that all
8 efforts were solely exerted toward the accomplish-
9 ment of this great mission ever since the formation
10 of the Cabinet. However, America's attitude was
11 by no means definite. There were various opinions
12 as to why her attitude was not definite, but the
13 opinion of the War Minister was that since America's
14 basic policy is to advance into Asia, the reason for
15 America's indefinite attitude is fundamental and
16 consequently she lacks sincerity even in her negotia-
17 tion. However, we continued our negotiation with the
18 view that a temporary compromise and conciliation may
19 be possible in regard to the current situation, even
20 if our basic traditional policies may have been
21 different.

22 "Recently the negotiation reached a state
23 of temporary deadlock due to the occupation of French
24 Indo-China by our troops, but as it became known
25 that we wouldn't go any further, the situation

1 eased somewhat and the negotiation was again resumed.
2 Hence, a message was sent to President Roosevelt on
3 August 28 proposing a conference. Nevertheless,
4 since President Roosevelt, in reply to this, stated
5 that he was willing to hold a conference, but would
6 like to have a general agreement reached in regard
7 to the important matters, at least, as a premise,
8 an Imperial Conference was held on September 6 to
9 determine the basis of the counter-measure for this.

10 "As a result of the Imperial Conference,
11 it was decided to direct all our efforts toward the
12 diplomatic negotiation to the end, but to resolutely
13 assume a war policy in the event no means for the
14 conclusion of the negotiation is reached by early
15 October.

16 "Since there was a time limit of by early
17 October, the negotiation was carried on hurriedly and
18 as it didn't progress as expected, September passed
19 and October came with the negotiation still not
20 going smoothly. At about that time, the supreme
21 command group became boisterous and stated that they
22 will wait until October 15, but won't extend it beyond
23 that. Therefore, I requested the assembly of the War
24 Minister, the Navy Minister, the Foreign Minister and
25 the President of the Planning Board at OGIGAIISO for

1 a final conference on the afternoon of October 12.

2 "However, on the day before the conference,
3 Chief OKA of the Naval Affairs Bureau came and in
4 talking with him, he stated that with the exception
5 of the Naval General Staff, the brains of the Navy
6 don't want a Japanese-American war, but since the
7 Navy, herself, can not say 'she can't do it' in
8 view of her approval of the decision of the Imperial
9 Headquarters, the Navy Minister will propose to leave
10 it in the hands of the Prime Minister at tomorrow's
11 conference; so we would like you to decide on con-
12 tinuing the diplomatic negotiation.

13 "Under such circumstance, this important
14 conference was held at 2 p.m. on October 12 at OGIGAIISO.
15 When the Prime Minister in opening the conference,
16 stated:

17 "At last, we have come to the stage where
18 we must decide whether it is to be war or peace. In
19 regard to this, let us first study whether there is
20 any hope for a successful conclusion of the diplomatic
21 negotiation.

22 "War Minister TOJO, expressing the Army's
23 point of view, stated:

24 "'There is absolutely no hope for a successful
25 conclusion of the diplomatic negotiation.' "

1 "However, Navy Minister OIKAWA stated:

2 "Let us leave the decision as to whether
3 there is any hope for a successful conclusion of
4 the diplomatic negotiation in the hands of the Prime
5 Minister and the Foreign Minister and as for the
6 Navy, she will comply with that decision. If there
7 is any hope for a successful conclusion of the dip-
8 lomatic negotiation, we want the negotiation to be
9 continued. Today, we are standing on the cross-roads
10 of peace or war. Until today, we have been making
11 preparations for war on the one hand, while carrying
12 on diplomatic negotiations on the other, but today
13 we are actually confronting the crisis of peace or war.
14 That is, if we are to rely on diplomatic negotiation,
15 we would like it to be carried out thoroughly. Our
16 preparations will fall behind if our attitude is to
17 carry on diplomatic negotiation and then decide on
18 war in the midst of it because it won't go smoothly.
19 If we are to depend on diplomatic negotiation, we want
20 to make it a success at all cost. Since we are standing
21 on this important cross-road today, we want the decision
22 of the Prime Minister at this time. We want to comply
23 with this decision and go ahead.'

24 "Against this opinion of the Navy Minister,
25 the War Minister replied:

1 "The Premier, of course, is shouldering a grave res-
2 ponsibility, but we, too, are responsible as advisers.
3 Hence, the determination of this great problem cannot
4 be left solely in the hands of the Premier. I be-
5 lieve that there is no hope for a successful conclusion
6 of the diplomatic negotiation, but if the Foreign Min-
7 ister is fully confident of success, it may be given
8 further consideration. Does the Foreign Minister
9 have a confidence of success?'

10 "Since Foreign Minister TOYODA's views were
11 asked, the Foreign Minister stated:

12 "'Since there is the second party, I can't
13 say that I am confident of success, but, generally
14 speaking, the important points in the negotiation
15 with America are:

16 "'(1) The Tripartite Alliance.

17 "'(2) The economic problem in China.

18 "'(3) The question of keeping our troops/
19 T.N. in China/.

20 "'These three items are the obstacles. Of
21 these, some sort of agreement can be reached in re-
22 gard to item 1 and 2, but the third item pertaining
23 to the question of keeping our troops/T.N. in China/
24 is the most difficult one. Since America is empha-
25 tically demanding for the complete withdrawal of our

1 troops, I believe a compromise may be reached if we
2 agree to a complete withdrawal of troops as a principle
3 and station troops according to the time and place as
4 specifically designated by an agreement or something
5 between Japan and China, but I believe even this will
6 be considerably difficult.'

7 "When this opinion was expressed, the War
8 Minister, objecting emphatically, stated:

9 "We can't yield on the question of with-
10 drawal of troops. It must be done with occupation as
11 its general principle and the remaining troops with-
12 drawn. Since we have made such a tremendous sacri-
13 fice in this China Incident, it would be alright pro-
14 perly speaking, to sever her territory, but in view of
15 the KONOYE statement, that, too, cannot be done. Be-
16 sides, a complete withdrawal of troops now cannot be
17 done.'

18 "Hence, the Prime Minister stated:

19 "If the War Minister insists, as he does,
20 it is not a question of whether there is any hope for
21 a successful conclusion of the diplomatic negotiation.
22 There definitely is no hope. As for the Foreign Mini-
23 ster, he could consider it from the standpoint of the
24 general situation and yield more. Only then, can it
25 be said that there is hope for a successful conclusion

1 of the negotiation. The Navy Minister is incessantly
2 clamoring for the decision of the Premier, but I can-
3 not decide on war at this time. Since I, as expressed
4 in the opinion of the Foreign Minister, believe there
5 is still hope of success, I cannot help but adopt the
6 Foreign Minister's opinion if I must decide on one or
7 the other.'

8 "At this point, the War Minister retorted:

9 "It is still early for the Premier to cast
10 a decision. We would like to have him consider the
11 matter once more.'

12 "As it was mutually decided to reconsider the
13 matter, the conference of four and a half hours was
14 brought to an end at 6:30 p.m. However, through this
15 conference, the position of each became clear.

16 "Upon considering this matter fully, I find
17 that, if I, at the conference, had accepted the pro-
18 posal of the Navy Minister to leave it in the hands of
19 the Premier and decided on 'war' by yielding to the
20 opinion of the War Minister, the decision would have
21 stood since the Navy Minister could not have opposed
22 it and that it certainly would have brought about a
23 matter of grave concern to the Empire. On looking back,
24 I cannot help but feel my flesh creeping.

25 "On the night (8:00 - 10:30) of October 13,

1 I requested Foreign Minister TOYODA to call on me in
2 the Japanese room of my official residence. When I in-
3 quired about the subsequent developments of the negotia-
4 tion with America, he expressed the opinion that we in-
5 evitably must give up our occupation, that it wouldn't
6 matter if the withdrawal is made with a time limit or
7 summarily without it and that there is no means of
8 settlement other than this.

9 "Prior to the Cabinet meeting on the morning
10 of October 14, I requested the War Minister to call on
11 me. As a result of my deliberation and based on last
12 night's opinion of the Foreign Minister, I told him as
13 follows:

14 "In regard to the question of occupation,
15 the result is clear if done according to the War Mini-
16 ster's contention, but if we were to yield on our pre-
17 tence and take the reality, I believe that there is
18 still hope in the negotiation. At this time, I wonder
19 if we shouldn't make up our mind to readjust the Jap-
20 anese-American relationship, the future of which is
21 very risky? I deeply realize my responsibility for
22 the Sino-Japanese Incident, but with the China
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1 Incident still unsettled after four years, I wonder
2 if we should further extend our hands toward the South.
3 If it can be settled in one or two years, that is an-
4 other matter, but judging from the opinion of experts,
5 I find that no one thinks that it can be settled in
6 one or two years. The concensus of opinions, prac-
7 tically, is that if the arrow should leave the bow,
8 it may take five or ten years.'

9 "This is Count KAMEKO's story, but at the
10 time of the commencement of hostilities between Ja-
11 pan and Russia, Emperor Meiji, too, was unable to
12 make a decision. So, early on the morning of Febru-
13 ary 4, when the final Imperial conference was to be
14 held, he called in Prince ITO and asked him if there
15 was any hope of winning the war with Russia. Hence,
16 Prince ITO replied, 'There isn't any hope of winning,
17 but it may be possible to prevent the invasion of
18 Korea by the Russian Army for about a year or a year
19 and a half. In the meantime, we must request a third
20 power to intervene and end the war; but, since Eng-
21 land and France are our allies, respectively, we have
22 no third power other than America whom we can ask to
23 intervene.' Hence, it was finally decided at the Im-
24 perial conference of that day to commence hostilities,
25 but that night Prince ITO reportedly called Count

1 KANEKO and asked him to go to America immediately
2 after telling him of the above. In other words, they
3 were thinking of the ending of the war at the time of
4 the starting of the war.

5 "When Field Marshal OYAMA was about to
6 leave for Manchuria as Commander-in-Chief of the Man-
7 churian Forces, he reportedly stated, 'I will have
8 nothing to do. Mr. KODAMA will do the fighting for
9 me. But I may be of some help when the war is to be
10 ended.' The preparedness of our elders of that period
11 is worthy of note.

12 "If we should start a war with America
13 this time, it will be a real world war, and there'll
14 be no one to intervene. Even the international situ-
15 ation is very different from that of the Russo-Japan
16 War period, and even our ally, Germany, she is ex-
17 tremely powerless in the Orient.

18 "If hostilities should commence, Japan
19 will have to take the initiative and attack the
20 Philippines. As for America, since it will be the
21 first time her domain will be attacked, the flaring
22 up of her public sentiment is more than the 'Down with
23 Germany' sentiment expressed to date. The reason for
24 Lindberg's opposition to participation in the war is
25 the hopelessness of winning against Germany, but since

1 the relationship in the event of an attack on the Phil-
2 ippines by Japan is different, there is the danger of
3 such sentiment as 'Down with Hitler' being blown away
4 and changing completely into an anti-Japanese sentiment.

5 "Furthermore, since England is strengthening
6 her sentiment of resistance against Germany on the
7 strength of America's aid, it is a natural course for
8 a peace movement to stir up within England if a Jap-
9 anese -American war should break out and decrease the
10 aid to England and if Germany would undertake her
11 landing operation at this opportune time, it would be
12 fine. But, since Germany, too, has considerably de-
13 pleted her national strength in her war with Soviet
14 Russia and since naval strength will be involved if
15 a landing operation is to be undertaken, it may be
16 proper to regard that the peace feeling in Germany,
17 too, will become strong in proportion to the peace
18 feeling in England. That is, it seems as if a Japan-
19 ese-American war will hasten the peace in Europe, and
20 it must be viewed that there is the danger of peace
21 being brought about among England, America, Germany
22 and Soviet Russia at the cost of the Far East.

23 "In other words, considerable thought should
24 be given to the opening of hostilities between Japan
25 and America. Hence, I believe that it would be better

1 first to bring an end to the China Incident and to
2 have at the peace conference a reasonable voice backed
3 by a faultless Navy. What do you think?

4 "In reply to this, the War Minister stated:

5 "In view of so much sacrifice, withdrawal
6 of our troops cannot be undertaken as a principle.
7 I can't yield to this even if I were to risk my posi-
8 tion. Since America's real intention is control of
9 the Far East, if we were to make one concession, the
10 situation will probably be that she'll demand for
11 another and not know where to stop her demands.'

12 "The Premier makes such remarks because he
13 fully knows our domestic weaknesses, but since
14 America too, should have her weaknesses, I must say
15 that the Premier's view is too pessimistic.

16 "Since such was his retort, I took leave
17 of the War Minister remarking that, such being the
18 case, nothing can be done because it's a difference
19 of opinion and that I wanted him to make the same
20 statement at the Cabinet meeting.

21 "At the Cabinet meeting from 10:30 a.m. on
22 that day, the War Minister expressed his above-mentioned
23 opinion and the War Minister was the absolute master
24 of the situation with no one among the Cabinet Mem-
25 bers voicing approval or disapproval. Thus, the cab-

1 inet reached a complete deadlock.

2 "In the meantime, it became gradually known
3 within Army quarters that since the Navy, herself,
4 had no will to fight, but couldn't say so herself,
5 she was appealing to the Premier through Bureau Chief
6 OKA via Chief Secretary TOMITA for the Premier to ex-
7 press it. Consequently, the Army came forward with
8 the remark that since war with America, in the first
9 place, is a naval matter, it cannot be carried out
10 no matter how persistent the Army may be if the Navy
11 does not approve of it and that if the Navy would
12 say she can't do it if she can't do it, then we can
13 find a way to dissuade our subordinates and bring
14 order within the service with only the Premier stating
15 it.

16 "As an outcome of it, Chief MUTO of the Mili-
17 tary Affairs Bureau called on Chief Secretary TOMITA
18 and reportedly requested that the Navy be asked to
19 make a definite statement at this time. Hence, when
20 Chief Secretary TOMITA relayed this to Chief OKA of
21 the Naval Affairs Bureau, Bureau Chief OKA reportedly
22 stated that the Navy, as usual, cannot say it and that
23 she can say no more than that she will comply with
24 the decision of the Premier. Nevertheless, since the
25 Army, too, insisted that it's of no use without the

1 Navy saying it, but only vaguely stated by the
2 Premier, the attempt to break the deadlock was
3 abandoned."
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1 "However, late on the night of 14th (10:30
2 p.m. -- 00:30 a.m. of the next day), President SUZUKI
3 of the Planning Board came to OGIGAIISO as messenger
4 of War Minister TOJO. According to his statement,
5 /TOJO/ had stated:

6 "Nothing can be done since the opinions of
7 the Premier and mine (the War Minister) had clashed head
8 on. However, on inquiring more and more about the cir-
9 cumstances, I have found that it is the Navy that is
10 staggering the determination of the Premier. If only
11 the Navy would definitely say so, things would be all
12 right, but if she claims she can't say it, the situa-
13 tion will only check and counter-check itself. There-
14 fore, I have reached this conclusion. I believe that
15 there is no other alternative but to return the de-
16 cision of the recent Imperial conference back to a clean
17 slate once more by all of us, even including all of
18 the supreme command, resigning and to start anew with
19 new men coming forward. Then, if the new men coming
20 forward should decide that we won't fight, that may
21 appear to be the end of it, but the Army is straining
22 at the leash. There is no one among the Emperor's
23 subject other than Prince KONOYE who can shoulder this
24 grave crisis, but since he ought not to be troubled
25 this time in view of the circumstances of the Prince

1 to date, I believe that there is no alternative but
2 to request Prince HIGASHIKUNI to take over at this
3 time. Please relay this to the Lord Keeper of the
4 Privy Seal KIDO, also.'

5 "This is highly out of the ordinary, but it
6 is a plan. I replied that this be relayed to the Lord
7 Keeper of the Privy Seal KIDO, also. When President
8 SUZUKI called on the Lord Keeper of the Privy Seal KIDO
9 on the morning of the following day, the 15th, and in-
10 formed him of this the Lord Keeper of the Privy Seal
11 reportedly did not express approval or disapproval,
12 but it appeared as if the Lord Keeper of the Privy Seal
13 had reported this to the Emperor immediately and since
14 the Lord Keeper of the Privy Seal requested the Premier
15 to come forward and report the present situation to
16 the Emperor, I went to the palace at 4 p.m. on the 15th
17 and reported in detail the developments to date. When
18 I reported:

19 "The Navy does not want war, but she can't
20 say so in view of the decision of the Imperial Confer-
21 ence. On hearing that, I, as Premier, can't agree to
22 war all the more. I do think that the plan of the War
23 Minister to request Prince HIGASHI-KUNI to take over
24 is a means that would break the deadlocked situation,'
25 the Emperor replied:

1 "I would like to maintain peace to the very
2 end. Since the appearance of an Imperial prince would
3 make him appear to be my personal representative, it
4 would be bad for an Imperial prince to take over and
5 decide on war. If an Imperial prince takes over, he
6 must decide on peace. If it should be decided on peace,
7 will the army submit to the regulation? Besides, since
8 it is an unprecedented thing for an Imperial prince to
9 take over, the selection of Cabinet Members must be
10 done very carefully.'

11 "Thus, the Emperor seemed to have accepted
12 the resignation of the KONOYE cabinet tacitly.

13 "Generally speaking, I wonder if War Minister
14 TOJO's reason for bringing out an Imperial prince is to
15 take the issue to a strong group or to take it to a
16 weak group? According to President SUZUKI, it appears
17 to be for a change of direction, but in view of a re-
18 port that a group of advocates of positive action is
19 planning to use the Imperial prince as a figure-head
20 and carry out their positive view and since the Lord
21 Keeper of the Privy Seal requested that the intention
22 of the War Minister be ascertained once more, I called
23 President SUZUKI and had him ascertain the intention
24 of the War Minister as well as whether the Army will
25 submit to the regulation in the event it were to be

1 decided on 'peace,' a matter of concern to the Emper-
2 or. The reply of the War Minister reportedly was that;
3 he could not state definitely that the Army would sub-
4 mit to the regulation in the event it is decided on
5 'peace.' He further added, though ambiguously:

6 "Assuming that it is decided on 'peace,'
7 there wouldn't be anyone other than an Imperial prince
8 who would be able to suppress the Army.'

9 "Therefore, at 8 o'clock on the night of the
10 15th, I secretly visited the residence of Prince
11 HIGASHI-KUNI and informed him of the circumstances to
12 date. An when I told him :

13 "In connection with our desire that the
14 war must be prevented somehow, to solicit for the aid
15 of an Imperial prince is an unprecedented thing, but
16 there is no means other than this to return the deci-
17 sion of the past to a clean slate. The Lord Keeper
18 of the Privy Seal KIDO is afraid that it may affect
19 your reputation, but since it will bring trouble to not
20 only Your Highness, but also to the Imperial Household
21 if war should break out, I beg that you consider your-
22 self to be Prince MCFIFAGA and put forth your whole
23 effort at this time.'

24 His Imperial Highness stated that he would
25 like to think it over since it was a grave matter and

1 wondered if he could suppress the Army with his own
2 strength.

3 "On the 16th, I began collecting the letters
4 of resignation of the Cabinet Members from morning and
5 when I informed the Lord Keeper of the Privy Seal KIDO
6 that I was going to the palace to present them to the
7 Emperor now as I had collected all of them in the
8 afternoon, the Lord Keeper of the Privy Seal asked me
9 to hold off. Stating that because I had collected all
10 of the letters of resignation, I visited the palace
11 at 5 o'clock and explaining the reason as disagree-
12 ment of opinion within the Cabinet, I presented the
13 resignation of the entire Cabinet Members and retired
14 from the presence of the Emperor. I met the Lord Keeper
15 of the Privy Seal KIDO and inquired as to what he
16 thought of the Imperial prince. According to the Lord
17 Keeper of the Privy Seal, since His Majesty claims
18 that it would be very embarrassing, he has finally de-
19 cided to summon both, TOJO and OIKAWA, simultaneously,
20 issue the Imperial Mandate for the formation of the
21 succeeding Cabinet to one of them and order the other
22 to cooperate and, at the same time, he also issued an
23 instruction to the effect that the decision of the Im-
24 perial Conference of September 6 be reconsidered.
25

"As to whom it shall be, the Lord Keeper of

1 the Privy Seal explained that since the War Minister
2 had clashed head-on with the Premier, it would be
3 like recognizing his contention if it is given to him.
4 Hence, he believes that it would be better to take the
5 middle course and offer it to the Navy Minister --since
6 the Navy Minister actually does not want war, but this
7 has not been brought to light. The Emperor, too, has
8 been informed to that effect.

9 "However, it can be thought in this manner,
10 also. Since the problem is the Army, there would be
11 a danger of the Army springing back all the more if it
12 is offered to the Navy. Hence, wouldn't it be better
13 to offer it to the stronger side and alleviate the
14 situation? Since America is of the opinion that the
15 Army would reverse things even if decided upon by the
16 KONOYE Cabinet, she will be all the more surprised if
17 TOJO Cabinet is formed after it, in view of the fact
18 that she already is all the more convinced that it
19 will be war with the resignation of the KONOYE Cab-
20 inet. But if the TOJO Cabinet, contrary to expectat-
21 tions, should continue to carry on the negotiation, it
22 may instead make her feel relieved and bring about a
23 better result. /TN: The following sentence is crossed
24 out/ As to when it should be, I believe that it would
25 be better to have TOJO."

1 "Upon expressing my opinion thusly /TF:
2 crossed out/, the Lord Keeper of the Privy Seal asked
3 me to consider the above advantages and disadvantages
4 until tomorrow.

5 "On the morning of the 17th, I sent a message
6 to the Lord Keeper of the Privy Seal that TOJO would
7 be better (if guarantee of peace is obtained).

8 "On the 17th, the chief retainers' confer-
9 ence will be held in the palace at 1 p.m., after
10 which the Emperor is expected to summon both TOJO and
11 OIKAWA and issue the Imperial Mandate and, at the same
12 time, an instruction to the effect that the Army and
13 the Navy should cooperate and that the decision of the
14 Imperial Conference of September 6 should be recon-
15 sidered."
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1 THE PRESIDENT: You do not know when that
2 memorandum was dictated? Nothing appears on it.

3 MR. FIELLY: As to that question, Mr.
4 President, so that it can be accurately answered, I
5 would rather make further investigation. There were
6 a number of vital papers found in the KONOYE resi-
7 dence at the time of his suicide. I believe this was
8 one of those, but I would rather accurately investi-
9 gate and report to the Tribunal.

10 I now read from prosecution exhibit 1136 A,
11 one of the TOJO extracts which was introduced this
12 morning in connection with this same particular
13 meeting of October 12. I read from page 2 of the
14 exhibit, pages 5 and 6 of the interrogation, starting
15 with the last two questions and answers on the bottom
16 of page 2:

17 "Q. Who attended the meeting at KONOYE's home
18 on or about October 12, 1941?

19 "A It is hard for me, but I am sure that the
20 War Minister, the Navy Minister, and the Foreign
21 Minister was there. I am not sure whether the
22 President of the Planning Board was there or not,
23 but the three important ones were the three I have
24 mentioned.
25

"Q What was the purpose of the meeting and

1 what occurred there?

2 "A As I recall them, I think the reasons for
3 the conference were as follows: In the first place,
4 the middle ten days of October, which had been set
5 as the time by which we would strive for a favorable
6 diplomatic turn, were upon us. The Japanese proposal
7 for a meeting between Prince KONOYE and the President
8 of the United States had been turned down by America.
9 The international situation was becoming more tense
10 all the time. In these circumstances, it was neces-
11 sary for the Government of Japan to decide more
12 definitely just what its policy was to be, and I be-
13 lieve that was the basic purpose of the conference at
14 Premier KONOYE's home.

15 "Q Did you not quarrel with KONOYE at that
16 meeting?

17 "A No, it was not a quarrel. Our opinions
18 differed.

19 "Q Differed on what?

20 "A My opinion was as follows: Japan was mak-
21 ing concession after concession in the effort to
22 effect a diplomatic break before the middle ten days
23 of October, but on the other hand, America refused
24 to budge from her position and made no concessions.
25 The meeting between Premier KONOYE and the President,

1 by which it had been hoped that a political settle-
2 ment could be reached had been turned down. As War
3 Minister, my opinion was that there remained prac-
4 tically no hope of a diplomatic break and I suggested
5 that the time had come when we had better make up our
6 minds for war. The longer we delayed in making this
7 decision, the more disadvantageous the situation
8 would be for Japan if war were decided upon later.
9 I felt thus because we were now in the middle ten
10 days of October."

11 As tending to show that there was still
12 some element in the Navy against war with the
13 United States and that this situation was discussed
14 by the defendants KIDO and SUZUKI on October 13, we
15 next offer in evidence the KIDO Diary entry of that
16 date, International Prosecution document 1632W (78).

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 1632W (78) will receive exhibit No. 1149.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1149 and received in evidence.)

23 MR. FIFELLY: I now read prosecution exhibit
24 No. 1149, the extract of October 13, 1941:

25 "SUZUKI, President of the Planning Board,

1 visited me at 8 p.m. to talk about his political
2 views which might contribute in some way to the
3 making of a new turn in our political condition. I
4 expressed my opinion to him. Our conclusion of the
5 talk was this: The Premier should make an effort to
6 promote mutual understanding with the War and Navy
7 Ministers."

8 There follows another entry from the KIDO
9 Diary of October 15 which we now offer in evidence,
10 International Prosecution document No. 1632W (79),
11 as tending to show that the defendant TOJO and those
12 who desired war with the United States had brought
13 about a Cabinet crisis.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 1632W (79) will receive exhibit No. 1150.

17 (Whereupon, the document above re-
18 ferred to was marked prosecution's exhibit
19 No. 1150 and received in evidence.)

20 MR. FIHELLY: I now read prosecution exhibit
21 No. 1150, KIDO Diary extract, October 15, 1941. Or,
22 rather, it states here that it is the full entry of
23 that date. (Reading)
24
25

1 "YAKATA visited me at 9 a.m. At 9:30
2 a.m. Lieut.-General SUZUKI, President of the Planning
3 Board, visited me to deliver War Minister TOJO's
4 message, the purport of which is as follows: If
5 the Premier would not change his mind, the general
6 resignation of the Cabinet would be unavoidable.
7 And as for the succeeding Premier, although the
8 War Minister did not mention his name, he made it
9 essential that the next Premier should be able to
10 bring the Army and the Navy together, and follow the
11 Imperial will. When one considered this point, it
12 seemed very difficult to find a suitable person among
13 ordinary Japanese subjects. He mentioned Prince
14 HIGASHI-KUNI as a possibility for the next Premier.
15 To this I answered that we should be very careful
16 as it was a matter concerned with the Imperial family,
17 and if we had to ask the Prince's acceptance of the
18 premiership, a common policy between the Army and
19 the Navy should be worked out beforehand; the estab-
20 lishment of an independent policy would take prece-
21 dence of all other questions. I asked if the War
22 Minister had any accurate forecast to make on this
23 point.
24

25 "I went to the office at 11 a.m. Prince
KONOYE visited me to ask my opinion regarding the

1 HIGASHIKUNI Cabinet. I answered that it was still
2 under consideration. I requested NATSUDAIRA, Chief
3 Secretary, to study the procedure of the materializa-
4 tion of the HIGASHIKUNI plan. I visited the Emperor
5 from 1.15 p.m. to 2 p.m. to report upon the pressing
6 political situation. Premier KONOYE visited me at
7 4 p.m. to say that he could not hold his Premiership
8 any longer, for the breach with the War Minister was
9 becoming wider every day until at last the War Min-
10 ister gave vent to his discontent saying that he did
11 not like to hold any further conversations with the
12 Premier, as he was not sure if he could stifle his
13 feelings. Finally he asked my opinion regarding
14 the proposed HIGASHIKUNI Cabinet, so I told him
15 that I did not know whether the War Minister had
16 changed his opinion in order to effect a compromise
17 with the Navy or whether he intended to put the
18 Prince's shoulder to the wheel, and I had yet to know
19 the real intentions of the War Minister.

20 "I telephoned to the President of the Plan-
21 ning Board to request him to visit me. I visited the
22 Minister of the Imperial Household Department to talk
23 about the HIGASHIKUNI Cabinet plan. The Minister
24 seemed astonished and strongly objected to this plan.
25 At 4:30 p.m. SUZUKI, President of the Planning Board,

1 visited me. I asked him as to the real meaning of
2 the War Minister's intentions, but in vain. I urged
3 him to supply me with a definite report on this matter.
4 The Premier, who joined our conversation on his with-
5 drawal from the presence of the Emperor, said that
6 the Emperor had not shown any particular objection
7 to the HIGASHIKUNI Cabinet as it might be said to
8 be the outcome of necessity, not of choice.

9 "I talked with the Premier until 8:30 p.m.
10 regarding the political situation. At night SUZUKI
11 telephoned to report on the result of his conversa-
12 tion with War Minister TOJO. According to his report,
13 TOJO's purpose was to establish harmony between the
14 Army and the Navy by the influence of the Prince.
15 So I objected to the plan. The Premier also tele-
16 phoned me to say that he wanted to secure an informal
17 consent of Prince HIGASHIKUNI. I answered that it
18 would be too early to do so, though I had no objection
19 to him so long as his action was in his capacity as
20 Premier. At midnight the Premier sent me a report
21 saying that Prince HIGASHIKUNI had asked for a few
22 days consideration on his part and a meeting with War
23 Minister and the Home Minister. From 5:35 a.m.
24 to 5:50 a.m. I made a report to the Throne concerning
25 Prince KONOYE's talk and asked the Imperial opinion

1 as to the matter."

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

4 (Whereupon, at 1600, an adjourn-
5 ment was taken until Wednesday, November
6 13, 1946 at 0930.)

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1877

13 NOVEMBER 1946

I N D E X
O F
WITNESSES
(none)

I N D E X
O F
EXHIBITS

<u>Doc. No.</u>	<u>Pror. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1632W(80)	1151		Extract from KIDO's Diary dated 16 October 1941		10281
1468A	1152		KONOYE's Letter of Resigna- tion		10284
2501	1153		Parent document of TOJO interrogation of 11 Feb- ruary 1946	10289	
2501A	1153-A		Extract therefrom		10289
1632W(81)	1154		Entry from KIDO's Diary dated 17 October 1941		10291
1632W(110)	1155		Entry from KIDO's Diary dated 18 October 1941		10293
1632W(82)	1156		Re the Appointment of TOJO as Premier		10294
4160	1157		Parent document of TOJO's interrogation of 28 Janu- ary 1946	10301	
4160A	1157-A		Extract therefrom		10301

I N D E X

Of

EXHIBITS

(cont.)

<u>Doc. No.</u>	<u>Pro. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
4160B	1157-B		Extracts from the TOJO interrogation (p. 3) dated 28 January 1946		10304
4160C	1157-C		Extracts from the TOJO interrogation (pp. 4 and 5) dated 28 January 1946		10305
2510	1158		Parent document of TOJO's interrogation dated 12 March 1946	10308	
2510-A	1158-A		Extracts from TOJO's inter- rogation (pp. 1, 4, 6, 8, 9 and 10) dated 12 March 1946		10308
15-E	1159		Telegram dated 16 October 1941 from Foreign Minis- ter TOYODA to NOMURA in Washington		10309
2745	1160		Certificates of the Japanese Foreign Office re items found therein re Japanese- American Negotiations of 1941 (not read)		10311
1532D(1)	1161		Telegram dated 22 October 1941 from NOMURA to the New Foreign Minister TOGO		10312
1632W(112)	1162		Entry from KIDO's Diary dated 22 October 1941		10314
1532D(2)	1163		Telegram from TOGO to NOMURA dated 2 November 1941		10315

I N D E X

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EXHIBITS

(cont.)

<u>Doc. No.</u>	<u>Pres. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2593D(7)	1164		Telegram of 4 November 1941 from Tokyo to Washington (3 parts)		10318
2593D(8)	1165		Telegram dated 4 November 1941 from Tokyo to NOMURA		10323
1532D(3)	1166		Telegram dated 4 November 1941 from Foreign Minister TOGO to NOMURA re KURUSU being sent to the United States		10328
1449D	1167		Policy for Guiding Public Opinion on British and American Problems Agreed by the Cabinet Meeting on 4 November 1940 - Board of Information		10330
1632 ^W (83)	1168		Extract from entry of Marquis KIDO's Diary 5 November 1941		10331
790A	1169		Measures Towards Foreign Countries in Relation to the "Principle of Execution of National Policy of the Empire" which was decided at the Meeting in Presence of the Emperor on 5 November		10333
2593D(9)	1170		Telegram from Tokyo to NOMURA dated 5 November 1941		10343

I N D E X
 of
 EXHIBITS
 (cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2593D(10)	1171		Telegram from Tokyo to NOMURA dated 5 November 1941		10345
4058A	1172		Telegram from the German Foreign Office to Washington and Rome dated 8 November 1941		10351
2537A	1173		Extract from "The Tokyo Nichi-Nichi" dated 12 November 1941 commenting on Winston Churchill's Speech		10352
2593D(11)	1174		Telegram from Tokyo to Washington dated 11 November 1941		10354
990	1175		Principal Reasons Alleged for the Commencement of Hostilities Against the U. S. A. and Britain		10362
1443	1176		General Outline for Hastening the Conclusion of War Against the U. S. A., Great Britain, Netherlands and the Chungking Regime, dated 12 November 1941		10373
2593D(13)	1177		Telegram from NOMURA to Tokyo dated 14 November 1941		10376
2593D(14)	1178		Telegram of 16 November 1941 from TOGO to Washington		10380
1532D(5)	1179		Telegram from KURUSU to Foreign Minister TOGO dated 18 November 1941		10383
1532D(6)	1180		Telegram from TOGO to NOMURA dated 20 November 1941		10387

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1632W(84)	1181		Extract from Entry of Marquis KIDO's Diary dated 19 November 1941		10389
1072B	1182		Excerpts from the records of the Investigation Committee of the Privy Council re Prolongation of Anti-Comintern Pact (pp.1-7 inclusive; pp.11, 14, 15)		10391
2593D(16)	1183		Telegram from TOGO informing NOMURA and KURUSU of an extension of the negotiations deadline from 25 November to 29 November, 1941		10399
1532D(7)	1184		Telegram from NOMURA to TOGO re interview which he and KURUSU had with Mr. Ballantine and the Secretary of State on 23 November 1941		10401
1532D(8)	1185		Telegram to NOMURA from Foreign Minister TOGO dated 24 November 1941		10407
1532D(9)	1186		Telegram from TOGO to NOMURA dated 24 November 1941		10410
15-J	1187		Telegram from the Japanese Ambassador at Hanoi dated 25 November 1941 to Tokyo		10411
2593D(41)	1188		Report from the Japanese Ambassador at Bangkok to Tokyo dated 25 November 1941		10414

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2593D(19)	1189		Telegram from NOMURA and KURUSU to Tokyo dated 26 November 1941		10418
16327(85)	1190		Extract from an Entry in Marquis KIDO's Diary dated 26 November 1941		10429
15-G	1191		Extract of telephone conversation of 27 November 1941 between KURUSU and YAMAMOTO of the Foreign Office		10430
2539A	1192		Extract from "The Tokyo Nichi-Nichi" of 29 November 1941 re Cabinet Recognizes Press New System - "Journalistic Plan Proposed by Newspaper Leaders Given Approval"		10438

1
2 Wednesday, 13 November, 1946

3 - - -
4
5 INTERNATIONAL MILITARY TRIBUNAL
6 FOR THE FAR EAST
7 Court House of the Tribunal
8 War Ministry Building
9 Tokyo, Japan

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

12 - - -
13 Appearances:

14 For the Tribunal, same as before with the
15 exception that the HONORABLE JU-10-LEI, Member from
16 the Republic of China is now sitting and the HONORABLE
17 R. B. PAL, Member from India, not sitting.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.
20

21 - - -
22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 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 the accused are present
4 except OKAWA and HIRANUMA, who are represented by
5 their respective counsel. We have a certificate from
6 the prison surgeon at Sugamo certifying that the accused
7 HIRANUMA is too ill to attend today. The certificate
8 will be recorded and filed.

9 MR. FINELLY: We had reached in the chrono-
10 logical order of events yesterday, the date October 16,
11 1941.

12 We next offer in evidence a further extract
13 from the KIL0 Diary of October 16, 1941, International
14 Prosecution document 1632-W-80, which relates to
15 the resignation of the third KONOYE Cabinet.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 1632-W-80 will receive exhibit No. 1151.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1151, and was received in evidence.)

22 MR. FINELLY: I now read from prosecution
23 exhibit No. 1151:
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1 "Extract from Entry from Marquis KIDO's
2 Diary, 16 Oct 41.

3 "At 8:30 a.m. President SUZUKI visited me,
4 and we discussed the Prince's Cabinet. The reasons I
5 gave him for opposing the Prince's Cabinet are as
6 follows:

7 "1. The formation of a Prince's Cabinet
8 should be carried out only when unavoidable, for ex-
9 ample, when, even if the Army and Navy agree, force
10 of circumstance makes it necessary to have a Prince
11 of the blood solve their difficulties.

12 "2. The difficulties which were discussed
13 last night have not been solved, and the Prince should
14 not be expected to overcome them.

15 "3. In a way the formation of this Prince's
16 Cabinet would indicate that we lacked a suitable per-
17 son among our subjects, and a great problem would be
18 created if war with the U.S.A. were to break out when
19 such a Cabinet existed. There were important reasons
20 why even Prince KONOYE was prevented from carrying out
21 the policies decided at Councils in the Imperial pres-
22 ence, and if we ask a member of the Imperial House to
23 assume a responsibility he cannot fulfill, it would
24 cause the Imperial House to become an object of public
25 hatred."

1 "At 3:00 p.m. War Minister TOJO called on
2 me to report on the pressing political situation. I
3 proposed his idea of the Prince's Cabinet for the same
4 reasons which I had made clear to SUZUKI. I urged the
5 revision of the resolution of the Council in the Im-
6 perial presence, and a unified policy for the Army and
7 the Navy, two fundamental factors without which no
8 national progress could be expected.

9 "At 4:00 p.m. Prince KONOYE telephoned to
10 say that the Cabinet was going to resign 'en bloc'. I
11 was astonished by the suddenness of this announcement.
12 I visited the Emperor at 4 p.m. to report upon the
13 general resignation of the KONOYE Cabinet. At 5 p.m.
14 Prince KONOYE tendered the Cabinet Ministers' resigna-
15 tions to the Throne. I was received in audience by
16 the Emperor from 5:30 p.m. to 5:45 p.m. to answer his
17 questions regarding the succeeding Cabinet."
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1 And as a part--

2 THE PRESIDENT: It seems in the penultimate
3 paragraph you should have inserted: "I pointed out
4 that the decisions made at the Imperial Conference on
5 September 6 were rather careless, and I urged. . ."

6 MR. FIELLY: There is inserted at the bottom
7 in ink, there is a line which should have gone in the
8 fifth paragraph, as your Honor was just reading:

9 "I pointed out that the decisions made at
10 the Imperial Conference on September 6 were rather
11 careless, and I urged the revision of the resolution. . ."
12 as I read it.

13 We now offer in evidence International Prose-
14 cution document 1468-A, which is KONOYE's letter of
15 resignation.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 1468-A will receive exhibit No. 1152.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1152, and was received in evidence.)

22 MR. FIELLY: I now read prosecution exhibit
23 No. 1152.

24 "LETTER OF RESIGNATION AS PRIME MINISTER
25 BY PRINCE FUMIMARO KONOYE TO H. M. THE
EMPEROR

1 "By His Majesty's Humble Servant, Fumimaro

2 "When I, Your Majesty's humble servant un-
3 expectedly received an Imperial Command to organize
4 a Cabinet for a third time, it was my firm conviction
5 that, in order that we can manage the present politi-
6 cal situation so as to enable future national expan-
7 sion, we must find a speedy solution for the China
8 Incident by adjusting relations with the United States
9 on friendly terms. Therefore, I have expressed my
10 wishes to the United States Government soliciting an
11 opportunity for friendly parleys.

12 "Recently, however, Army Minister TOJO, who
13 judged that such negotiations could not possibly be
14 materialized before the desired time (about the middle
15 or latter part of October), and who believed the sit-
16 uation had come to a point 'When no other means can
17 be found to carry through our demands ..' found in
18 the 3rd article of 'An Outline of How to Execute the
19 National Policies of Our Empire,' which met Imperial
20 sanction following the conference in the presence of
21 His Majesty held on the 6th of September, this year,
22 has come to the conclusion that the time has arrived
23 to open war against the United States.

24 "When I consider the matter carefully, how-
25 ever, I still believe that provided we have ample

1 time, not only is it erroneous to think that all nego-
2 tiations with the United States are hopeless but that
3 even the most difficult question involved, the ques-
4 tion of withdrawing our troops, can be settled if we
5 take the attitude of yielding to her in appearance
6 by keeping for us the substance and casting away the
7 name. It is utterly impossible for Your Majesty's
8 humble servant Fumimaro, who is feeling much respon-
9 sibility ever since the outbreak of the China Inci-
10 dent, to endure plunging the nation again into a
11 titanic war the outcome of which cannot be forecast
12 when even the China Incident has not yet been settled.

13 "For these reasons Fumimaro believes that
14 now is the time for the Government and the military
15 to cooperate in unity towards materializing our ne-
16 gotiations with the United States by exerting our
17 very utmost, thus to bring about settlement with
18 China, which is now urgent necessity from the stand-
19 point of recovering national strength as well as
20 stabilizing popular morale. And if we have any de-
21 sire for advancing our national fortunes now is the
22 very time for us to step back a bit to prepare for
23 a forward leap, and to make the people struggle for-
24 ward more bravely for the sovereign and the state
25 enduring hardship and privation."

1 "I, Your Majesty's humble servant, have
2 done my best to prevail upon Army Minister TOJO by
3 laying open to him my inmost feelings. However, the
4 Army Minister persistently claimed that though he
5 perfectly understood the toil and feelings of the
6 Prime Minister, it was impossible to consent to the
7 withdrawal of troops from the standpoint of main-
8 taining their morale, and moreover, that once the
9 United States was yielded to, she would apply still
10 more overbearing measures and might even forget
11 where to stop; and that even if the China Affair was
12 settled, it was possible that a rupture might occur
13 again in two or three years; and that as internal
14 weaknesses were existent both in the United States
15 and Japan we should not lose this opportunity for a
16 war with her.

17 "I, Fumimaro, conferred with him on four
18 separate occasions but have failed to make him agree
19 with me, and am now unable to carry on the grave
20 responsibilities of assisting the Throne according
21 to my own convictions, due solely to my want of
22 abilities, for which I humbly beg Your Majesty's
23 pardon.

24 "I, Your Majesty's humble servant, beseech
25 Your Majesty to release me from this important post."

"October 16, 16th year of Showa
(1941)
"Prime Minister of Cabinet,
Prince Fumimaro KONOYE."

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1 We next offer in evidence International
2 Prosecution document 2501-A, which is an extract
3 from the TOJO interrogation of February 11, 1946,
4 pages 2 to 5, and ask that the parent document be
5 marked for identification.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2501 will receive exhibit No. 1153 for identifi-
8 cation only.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1153 for identification.)

12 THE PRESIDENT: The excerpt is admitted on
13 the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2501-A, an excerpt from the foregoing, will be
16 given exhibit No. 1153-A.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 1153-A, and was received in evidence.)

20 MR. FINELLY: I now read from prosecution
21 exhibit 1153-A, from pages 4 and 5 of the interrogation
22 found on pages 1 and 2 of the exhibit referring to
23 the general date October 17, 1941.

24 "Q Did you feel, at the time the KONOYE
25 Cabinet fell on or about 17 October 1941, that war

1 should be declared against the United States and the
2 other three nations?

3 "A At that time I felt, as War Minister,
4 that the opportune time for fighting was in danger of
5 being lost and the Imperial Conference had set the
6 middle ten days of October as the limit for waiting
7 for a favorable diplomatic break."

8 Page 5 of the interrogation extract:

9 "Q Was it not because of the fact that
10 you, as War Minister, favored war with the United
11 States that the KONOYE Cabinet fell on or about
12 17 October 1941?

13 "A Theoretically, yes. KONOYE thought
14 that a diplomatic solution was still possible if Japan
15 would withdraw troops from China, but the Army felt
16 that there would be no guarantee that the unlawful
17 acts of the Chinese, which had caused the Incident,
18 would not be resumed if the troops were withdrawn
19 before their purpose had been achieved, and the Army
20 could not bear to so withdraw the troops."

21 Following the resignation of the third
22 KONOYE Cabinet, a Senior Statesmen's Conference was
23 convened by KIDO and at this conference the defendant
24 KIDO proposed the name of the defendant TOJO as the
25 new Premier. KIDO's account of this is set forth in

1 his diary entry of October 17, 1941, which we now
2 offer in evidence, International Prosecution document
3 No. 1632-W-81.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1632-W-81 will receive exhibit No. 1154.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 1154, and was received in evidence.)

10 MR. FIELLY: I now read from prosecution
11 exhibit 1154, the KIDO Diary extract of October 17,
12 1941.

13 "At 11 a.m. Chief Secretary MATSUDAIRA
14 visited me to make arrangements for a senior state-
15 men's conference. It was held from 1:10 p.m. to
16 3:45 p.m. in the west ante-chamber of the Palace.
17 Those present were Viscount KIYCURA (92 years old),
18 Mr. WAKATSUKI, Admiral OKADA, General HAYASHI, Mr.
19 HIROTA, General ABE, Admiral YONAI, all ex-Premiers
20 and President of the Privy Council HARA. I explained
21 the situation of the general resignation. Mr.
22 WAKATSUKI recommended General UGAKI as the succeed-
23 ing Premier, and General HAYASHI discussed the
24 HIGASHIKUNI Cabinet.

25 "I asserted that the most important things

1 were the revision of the decision of the last Council
2 in the Imperial presence and the unity of opinion
3 between the Army and Navy. I suggested a TOJO
4 Cabinet as a solution of these problems, with
5 TOJO as Premier and War Minister, even though he
6 is on military service. I met no objection to my
7 proposal, Mr. HIROTA, General ABE, and Mr. HARA,
8 giving me positive approval. The meeting broke
9 up at 4 p.m. I reported to the Emperor the details
10 of the progress of the ex-Premiers Conference and
11 talked with him until 4:15 p.m. The War Minister
12 proceeded to the Palace at the request of the
13 Emperor to receive the Imperial Order for the formation
14 of a new Cabinet. This was followed by the visit of
15 Navy Minister OIKAWA to whom the Emperor gave advice
16 to the effect that the unity of opinions between
17 the Army and the Navy were very desirable. I passed
18 on to them in an ante-room the following message
19 as ordered by the Emperor. In deciding the fundamental
20 policy of our country we need not necessarily follow
21 the decisions of the Council in the Imperial presence
22 on the 6th of September, but should study carefully
23 conditions both at home and abroad."
24
25

1 We next offer in evidence an entry from the
2 KIDO Diary of October 18, 1941, International Prosecu-
3 tion document 1632-W-110, which relates to the defen-
4 dant TOJO remaining in active military service when
5 he was Premier and also being a full general.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1632-W-110 will receive exhibit No. 1155.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1155, and was received in evidence.)

12 MR. FANELLY: I now read the entry of
13 October 18, prosecution exhibit 1155:

14 "I proceeded to the Palace at 9 a.m. and was
15 received in audience by the Emperor at 9:15 to pre-
16 sent a memorial to the throne from Prince KANIN, to
17 which the Emperor gave his sanction. The memorial
18 was concerned with War Minister TOJO's remaining on
19 active service and with his promotion to full general.

20 "Went to --"

21 I agree there is nothing important in the
22 rest of it, unless someone else wants me to read it.

23 There is one statement: "War Minister TOJO
24 was received in audience at 3 and presented the list
25 of his cabinet members."

1
2 We now come to an extract from the KIDO
3 Diary of October 20, 1941, relating to the appointment
4 of TOJO as Premier and the part that the defendant
5 KIDO played in it. This is International Prosecution
6 document No. 1632-W-82, which we now offer in evidence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1632-W-82 will receive exhibit No. 1156.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1156, and was received in evidence.)
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1 MR. FANELLY: We put this entry in evidence
2 in fairness to the defendant KIDO, but it will be for
3 the Tribunal to form its own opinion as to KIDO's real
4 motives in sponsoring TOJO for the premiership. I now
5 read from prosecution exhibit No. 1156, KIDO's entry
6 of October 20, 1941:

7 "I received gracious words from His Majesty
8 on account of my efforts in connection with the cabinet
9 change. I was truly moved.

10 "I told His Majesty that one mistaken step
11 taken in the present cabinet change might have inad-
12 vertently plunged us into war. After careful consider-
13 ation I believe this to be the only way of giving a new
14 turn to the situation and had thus recommended it. His
15 Majesty understood me well replying 'As it is said you
16 know, -- 'He who will not go into the tiger's den will
17 not get the tiger cub.'

18 "I was impressed."

19 MR. LOGAN: If the Tribunal please.

20 THE PRESIDENT: Mr. Logan.

21 MR. LOGAN: We seriously object to prosecu-
22 tion making statements that he intends to show Marquis
23 KIDO's real motive. In the first place, it is assuming
24 that there are two different motives and I am quite
25 certain that these documents as submitted of entries

1 from Marquis KIDO's diary, when correctly translated
2 and correctly interpreted, will show there is only one
3 real reason, not two different reasons as the prosecu-
4 tion is trying to present to this Tribunal.

5 THE PRESIDENT: It is too early to have dis-
6 cussions about the meaning of documents. We are con-
7 fined, for the time being, to their actual wording.

8 MR. FHELLY: If I may say, Mr. President, I
9 think counsel is mistaken in saying that I made such
10 a statement. I said we were offering this entry in
11 fairness to KIDO and it was for the Tribunal to ascer-
12 tain what his real motives were. That is all I said.

13 THE PRESIDENT: You may have given the impres-
14 sion that you questioned his motives.

15 MR. FHELLY: Having reached the point where
16 the Cabinet was formed which held office at the out-
17 break of the Pacific War and for some time thereafter,
18 we desire to call the Court's attention to the posi-
19 tions, if any, held during the regime of the TOJO
20 Cabinet until the Pearl Harbor and associated attacks
21 by each of the Accused, as shown by Prosecution exhibits
22 Nos. 102 to 129, inclusive.

23 TOJO was Prime Minister, War Minister and for
24 a short time Home Minister, President of the China
25 Affairs Board and a Supreme War Councillor. TOGO was

1 Foreign Minister, Overseas Minister, Vice President
2 of the China Affairs Board and a Supreme War Councillor.
3 SHIMADA was Navy Minister and Vice President of the
4 China Affairs Board. KAYA was Finance Minister and
5 Vice President of the China Affairs Board. SUZUKI was
6 Minister of State and President of the Planning Board
7 and a member of the Committee on Thought Control and
8 the Total War Institute and Chief Director of the China
9 Affairs Bureau. HOSHINO was a Minister of State and
10 was Chief Secretary of the Cabinet. KIDO was Lord
11 Keeper of the Privy Seal. KIMURA was Vice Minister of
12 War. OSHIMA was Ambassador in Berlin and Japanese
13 member of the German-Italian-Japanese Special Council
14 in Berlin.

15 The following accused were holding naval and
16 military appointments. NAGANO was Chief of the Naval
17 General Staff and a Supreme War Councillor. MUTO was
18 Chief of the Military Affairs Board in the Foreign
19 Ministry, and SATO was his Chief Assistant and Secre-
20 tary of a number of government committees. OKA held
21 the corresponding position in the Navy Ministry as
22 Chief of the Bureau of Naval and Military Affairs and
23 Assistant to the Navy Minister in Imperial Headquarters.
24 He was also a Japanese member of the German-Italian-
25 Japanese Mixed Experts Committee in Tokyo and a

1 Councillor of the Bureau of Manchurian Affairs.
2 DOHIHARA was Chief of the Air Inspectorate and a
3 Supreme War Councillor. HATA was Commander-in-Chief
4 of the Expeditionary Force in Central China. ITAGAMI
5 was Commander-in-Chief of the Kwantung Army and
6 Ambassador to Manchukuo. MINAMI was Governor-General
7 of Korea. Of the remainder, SHIGEMITZU was an adviser
8 to the Foreign Ministry. KOISO was a general on the
9 reserve list. MATSUI, a general retired. HIRANUMA
10 and HIROTA were ex-Premiers and as such attended the
11 meetings of Senior Statesmen. The former was also a
12 member of the Thought Control Committee. OKAWA was
13 Director General of the East Asia Research Institute
14 attached to the South Manchuria Railway, while ARAKI,
15 HASHIMOTO and SHIRATORI, as well as the deceased
16 MATSUOKA, had ceased to hold any official positions.

17 THE PRESIDENT: Major Furness.

18 MR. FURNESS: If the Court please, I think
19 at least two errors were made in that statement: one,
20 that MUTO had any connection with the Foreign Office;
21 two, that during this period SHIGEMITSU held any office
22 in the government.

23 THE PRESIDENT: Captain Brooks.

24 MR. BROOKS: In the case of General KOISO, I
25 would like for the record to show that in 1940, July

1 the 22nd, the exhibit referring to General KOISO shows
2 that he retired at that time as a private citizen, did
3 not have any official or military post for a period of
4 years after 1940. Exhibit 114, to which learned
5 counsel has referred, shows that he was placed on the
6 reserve list, at his own request, on July 29, 1938,
7 and retired from military service since that period.

8 THE PRESIDENT: Mr. Howard.

9 MR. HOWARD: Mr. President, we think that the
10 prosecutor was in error when he stated Mr. HOSHINO was a
11 Minister of State at that time.

12 THE PRESIDENT: Mr. Levin.

13 MR. LEVIN: Mr. President, I would like to
14 suggest the impropriety of again referring to a matter
15 which is already in evidence. The personnel record
16 of each of the accused was put in evidence in the
17 early stages of this case. It seems to us it is a
18 matter of summation and argument to direct attention
19 to particular evidence that is already in the case,
20 and under the circumstances we object to the reference
21 to evidence that is already in.

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THE PRESIDENT: Well, it is a great convenience to the Court to have the names of the accused who are alleged to have been taking part in the more important events as we receive the evidence of those events, but only, of course, if we get correct information.

MR. FIEHELLY: We will check the record again.

MR. LEVIN: My associates call my attention to the fact that the statement with reference to General Suzuki was also inaccurate. We will correct it at the proper time.

MR. FIEHELLY: This data, Mr. President, was taken from the exhibits I have mentioned -- 102 to 129. I will be glad to go over it again and also take into consideration the statements counsel made in that connection and make any proper statement to the Court if the corrections are warranted.

THE PRESIDENT: You might revise the exhibit. Perhaps it is not quite correct.

MR. FIEHELLY: We will be glad to check on that too, your Honor.

We now offer in evidence International Prosecution document No. 4160-A, extracts from the TOJO interrogation of January 28, 1946, pages 1 and 2.

THE PRESIDENT: Admitted on the usual terms.

1 MR. FIHELLY: I ask that the basic one be
2 marked for identification.

3 CLERK OF THE COURT: Prosecution's document
4 No. 4160 will receive exhibit No. 1157 for identifi-
5 cation only.

6 (Whereupon, the document above-
7 mentioned was marked prosecution's exhibit
8 No. 1157 for identification only.)

9 CLERK OF THE COURT: And the excerpt there-
10 from, to-wit, document No. 4160-A, will receive
11 exhibit No. 1157-A.

12 (Whereupon, the document above
13 referred to was marked prosecution's ex-
14 hibit No. 1157-A and received in evidence.)

15 MR. FIHELLY: I now read the extracts from
16 prosecution's exhibit No. 1157-A from the interroga-
17 tion of January 28, 1946:

18 "Q. On 20 January 1941, Mr. Yosuke MATSUOKA,
19 who was then Foreign Minister in the Japanese Govern-
20 ment, is reported to have said to the Diet in part:

21 "Needless to say, the aim of Japanese foreign
22 policy is that of enabling all nations of the world
23 each to take its own proper place in accordance with
24 the spirit of Hakko Ichiu, the ideal which inspired
25 the foundation of our Empire. The object of the

1 Three-Power Pact, concluded between Japan, Germany,
2 and Italy, on September 27 last, is none other than
3 the realization of the same great ideal..... The
4 pact states that Germany and Italy recognize and re-
5 spect the leadership of the Japanese in the establish-
6 ment of a new order in Greater East Asia.'

7 "Q. Did you agree with this at that time?

8 "A. I do not remember whether this was spoken
9 on the main floor of the House or not, but I think
10 it is reasonable. I did agree with it at that time.

11 "Q. Did not Japan, by the terms of the Three-
12 Power Pact, also recognize the leadership of Germany
13 and Italy in the European sphere?

14 "A. Yes. I have explained before that by the
15 word 'leadership', it was intended that the one Power
16 would have the initiative. The language of the Three-
17 Power Pact differs slightly from this quotation in
18 that the words 'position of leadership' are specifi-
19 cally mentioned. One thing I would like to remind
20 you of - at that time I was not Premier, I was only
21 War Minister so I didn't have the responsibility for
22 administration.

23 "Q. You became Premier in October of 1941, did
24 you not?

25 "A. Yes.

1 "Q. Did not you and the members of your cabi-
2 net, from that time on, work and act in accordance
3 with those same principles stated, first, by MATSUOKA
4 and, secondly by the Tripartite Pact?

5 "A. Yes. Of course we did."
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1 We next offer in evidence International
2 Prosecution document No. 4160-B, which contains
3 extracts from the TOJO interrogation of January 28,
4 1946. page 3, and ask that the parent document be
5 marked for identification.

6 CLERK OF THE COURT: It is the same one.

7 MR. FIELLY: I see, it has already been
8 marked. I see. Pardon me. So we only want the
9 extract.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 4160-B will receive exhibit No. 1157-B.

13 (Whereupon, the document above
14 referred to was marked prosecution's ex-
15 hibit No. 1157-B and received in evidence.)

16 MR. FIELLY: I now read from prosecution's
17 exhibit No. 1157-B, the extract from interrogation
18 of January 28, 1946:

19 "Q Did not the sphere of influence to be
20 allotted to Germany and Italy in Europe also include
21 countries they were then at war with, such as England?
22

23 "A No. England was not, I believe, included,
24 nor were Spain or Portugal included in this sphere.
25 I believe that the general matter of what countries
were to be included in the new order in Europe and

1 the new order in Asia was probably discussed between
2 Japan and Germany based upon the distribution of
3 forces at that time.

4 "Q Then as soon as countries were conquered,
5 they were to be added to this sphere?

6 "A Yes."

7 We next offer in evidence International
8 Prosecution document No. 4160-C, which contains
9 extracts from the TOJO interrogation of January 28,
10 1946, pages 4 and 5. I understand the parent docu-
11 ment has been marked for identification.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 4160-C will receive exhibit no. 1157-C.

15 (Whereupon, the document above
16 referred to was marked prosecution's exhibit
17 no. 1157-C and received in evidence.)

18 MR. FIMBLY: I now read from prosecution's
19 exhibit no. 1157-C, questions and answers from the
20 extract of interrogation of the defendant TOJO,
21 January 28, 1946, pages 4 and 5:

22 "Extract from Interrogation of Hideki TOJO

23 "28 January 1946 p.4-5

24 "Q Then both in Europe and in Asia the sphere
25 to be included in the new order decreased or increased

1 with the military situation?

2 "A That was about the long and short of it.

3 "Q Was all of this then in accordance with the
4 spirit of Hakko Ichiu?

5 "A Yes. As I explained before, it is a con-
6 cept of virtue, not a territorial concept.

7 "Q Was the same concept of virtue to be a part
8 of the sphere to be controlled by Germany and Italy
9 in Europe?

10 "A Japan's interpretation was that it was to be
11 similar, with no exploitation or special interests.
12 In fact, in the Three-Power Treaty, it is expressly
13 stated that each country is to have its own place
14 and that there is to be co-existence and co-prosperity
15 in both the East Asiatic and European spheres.

16 "Q What reason was there to believe that Ger-
17 many and Italy would have this virtuous understanding
18 of the new order in Europe?

19 "A (Laughter by the witness.) I believe that
20 Germany and Italy, both of whom had been exploited as
21 a result of defeat in World War I, had found it nec-
22 essary in order to exist to set up a sphere within
23 which the various countries could minister to each
24 other's needs. This was a concept within the meaning
25 of the word 'virtue'."

1 "Q But this ministraton was to be done under
2 the supervision of Germany and Italy?

3 "A It was not supervision but leadership. Ger-
4 many and Italy were to have the initiative in bringing
5 about a new order of co-existence and co-prosperity of
6 all the countries concerned.

7 "Q What would happen if one or more of the con-
8 quered countries did not wish to join such an order?

9 "A I have been speaking of the treaty as it was
10 understood in Japan. When you get down to specific
11 problems like that, I cannot answer. I might say
12 that I believe that any country is not uninterested
13 in its own prosperity."
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1 We next offer in evidence International
2 Prosecution document No. 2510-A, containing extracts
3 of the interrogation of TOJO, March 12, 1946, pages
4 1, 4, 6, 8, 9, and 10. We offer that in evidence,
5 and if the parent has not been marked for identifica-
6 tion that it be marked.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2510 will be given exhibit No. 1158 for identi-
9 fication only.

10 (Whereupon, the document above
11 mentioned was marked prosecution's exhibit
12 No. 1158 for identification only.)

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: The excerpt therefrom,
15 to wit, document 2510-A, will receive exhibit No.
16 1158-A.

17 (Whereupon, the document above
18 referred to was marked prosecution's ex-
19 hibit No. 1158-A and received in evidence.)

20 MR. FIEHELLY: I now read the two questions
21 and answers contained in prosecution's exhibit No.
22 1158-A, found on page 4 of the interrogation extract,
23 page 1 of the exhibit:

24 "Q Yesterday, you explained that the policy,
25 after the 6 September 1941 Imperial Conference, was,

1 on the one hand, to negotiate for peace, and on the
2 other, to prepare for war. Did you continue that
3 policy?

4 "A Yes. I undertook the work as Premier.

5 "Q What matters were discussed and what policies
6 decided on at the Imperial Conference of 5 November
7 1941?

8 "A There wasn't any Imperial Conference on the
9 5th of November."

10 To show that at this stage of the negotia-
11 tions Japan was helping Germany as a member of the
12 Tripartite Pact, we now offer in evidence Interna-
13 tional Prosecution document No. 15-E, a wire dated
14 October 16th from TOYODA, as Foreign Minister, to
15 NOMURA in Washington.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 15-E will be given exhibit No. 1159.

19 (Whereupon, the document above
20 referred to was marked prosecution's ex-
21 hibit No. 1159 and received in evidence.)

22 MR. FIDELLY: I now read prosecution's
23 exhibit No. 1159:"

24 "From: Tokyo; To: Washington. October 16,
25 1941. #672.

1 "The Imperial Japanese Government has re-
2 peatedly affirmed to the American Government that
3 the aim of the Tripartite Pact is to contribute
4 toward the prevention of a further extension of
5 the European War. Should, however, the recent
6 tension in the German-American relations suffer
7 aggravation, there would arise a distinct danger
8 of a war between the two powers, a state of affairs
9 over which Japan, as a signatory to the Tripartite
10 Pact, naturally cannot help entertain a deep con-
11 cern. Accordingly, in its sincere desire that
12 not only the German-American relations will cease
13 further deterioration but the prevailing tension
14 will also be alleviated as quickly as possible,
15 the Japanese Government is now requesting the
16 earnest consideration of the American Government."

17
18 We next offer in evidence International
19 Prosecution document No. 2745, which is a group
20 certificate of the Japanese Foreign Office for
21 items found at the Japanese Foreign Office listed
22 therein. These items all relate to the Japanese-
23 American negotiations of 1941.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document
No. 2745 will receive exhibit No. 1160.

1 (Whereupon, the document above
2 referred to was marked prosecution exhibit
3 No. 1160 and received in evidence.)

4 MR. FIDELLY: Having described the certifi-
5 cate, I see no necessity for reading it unless the
6 Tribunal requests it.

7 THE PRESIDENT: Do not read it.
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1 MR. FIFELLY: We next offer in evidence
2 International Prosecution Document 1532-D(1), a tele-
3 gram dated October 22, 1941, from NOMURA to the new
4 Foreign Minister TOGO, as tending to show that NOMURA
5 realized that a successful termination of the negoti-
6 ations was hopeless.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1532-D(1) will receive exhibit No. 1161.

10 (Whereupon, the document above referred
11 to was marked prosecution's exhibit 1161 and
12 received in evidence.)

13 MR. FIFELLY: I now read prosecution's exhibit
14 No. 1161:

15 "Dispatched from WASHINGTON, Oct. 22, p.m.,
16 1941. Received by the Foreign Ministry Oct. 23, a.m.

17 "To: Foreign Minister TOGO

18 "From: Ambassador NOMURA

19 "(Strictly confidential. Ambassador's Code.)

20 "I have already wired you about my present
21 position. I am sure that I, too, should go out with
22 the former cabinet. I know that for some time the
23 Secretary of State has known how sincere I was, yet
24 know how little influence I have in TOKYO. I hear that
25 the President also holds the same opinion. There are

1 some Americans who trust me and say that I am the
2 hope for preventing disaster, but, alas, their
3 encouragement is not enough. Among my countrymen
4 here in the United States there are also some who
5 feel the same way, but it is a superstitious mis-
6 understanding.

7 "As for Your Excellency's instructions,
8 WAKASUGI can carry them out fully. Nor do I imagine
9 that you all have any objections at the /Foreign/
10 Ministry when I am already done with. I don't want
11 to continue this hypocritical existence, deceiving
12 other people. Please do not think I am trying to
13 flee from the field of battle, but as a man of honor
14 this is the only way that is open for me to tread.
15 Please send me your permission /to return to JAPAN/.
16 Most humbly do I beseech your forgiveness if I have
17 injured your dignity and I prostrate myself before you
18 in the depth of my rudeness."

19 The next offer in evidence an entry from
20 the KIDO Diary of October 29, 1941, International
21 Prosecution Document No. 1632-W(112) to show that
22 a liaison conference was held on this date and for
23 a rather pertinent matter contained therein.
24

25 THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

1 No. 1632-W(112) will receive exhibit No. 1162.

2 (Whereupon, the document above referred
3 to was marked prosecution's exhibit No. 1162
4 and received in evidence.)

5 MR. FIDELLY: I now read from prosecution's
6 exhibit No. 1162, the entry of October 29, 1941,
7 KIDO's Diary:

8 "At 9 a.m. General SUZUKI, President of the
9 Planning Board called on me, reported on the progress
10 of the liaison conference /Renraku Kaigi/ and we had
11 a talk. Mr. HARA, President of the Privy Council,
12 visited me at 10.30 a.m. to consult about the recom-
13 mendation to the Throne of Mr. Seihin IKEDA as a member
14 of the Privy Council. At 11.30 a.m. I heard from
15 Premier TOJO of the progress of the liaison conference,
16 the extension of the Anti-Comintern Pact and our
17 maneuvers vis a vis Yen Hsi-Shan. The Chief Aide-
18 de-Camp visited me at 12.45 p.m. and we talked
19 about the latest political situation. Had an audience
20 with His Majesty from 1.15 to 1.55. The Juichi-Kai
21 /T.N. Literally: The Party of Eleven/ was held to
22 exchange views regarding the recent political situation.
23 Those present were Prince KONOYE, HIROHATA, URAMATSU,
24 OKABE, KUROKI, SAKAI, ODA and YANAGISAWA."
25

We last mentioned the Pearl Harbor plan

1 showing that the fleet were practising at the Naval
2 War College at the early part of September, 1941.
3 I now read from page 1, paragraph 3, the last
4 eightlines of that paragraph, in connection with
5 events that were happening at this particular period.

6 "By November 1, 1941, the final test of
7 Combined Fleet Secret Operational Order No. 1
8 had been agreed upon and printing was begun.
9 The Order, together with its Annexes, detailed
10 the plans and schedules for attacks on Pearl
11 Harbor and various other British and American
12 Dutch possessions."

13 We next offer in evidence International
14 Prosecution Document 1532-D(2), a telegram from TOGO
15 to NOMURA on November 2nd to show that between the
16 time the TOJO Cabinet came into power and November
17 2nd that a number of liaison conferences were held.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 1532-D(2) will receive exhibit No. 1163.

21 (Whereupon, the document above referred
22 to was marked prosecution's exhibit No. 1163 and
23 received in evidence.)
24

25 MR. FIDELLY: I will now read prosecution's
exhibit No. 1163:

1 "To: Ambassador NOMURA

2 "From: Foreign Minister TOGO

3 "Despatched: 2 November 1941, 6:15 p.m.

4 "Telegram 722 (Ambassador Telegram)

5 "Since the formation of the new Cabinet, the
6 Government has been holding conferences for a number
7 of days with the Imperial Headquarters. We have
8 carefully considered and discussed a fundamental
9 policy for the improvement of relations between Japan
10 and America, but we expect to reach a final decision
11 at the meeting in the presence of the Emperor, on
12 the morning of the 5th, and will let you know the
13 result immediately. This will be our government's
14 last effort to improve diplomatic relations. The
15 situation is very grave. When we resume negotiations,
16 every aspect of the situation makes it urgent that we
17 reach a decision at once. This is to be strictly
18 kept only for your information. Now we trust your
19 most prudent attitude towards handling everything
20 before we take up the negotiations once more in the
21 very near future."

22 We have now reached the first days of
23 November, 1941, and I read from prosecution's exhibit
24 No. 809, page 66, to show that NAGANO, the Accused here,
25 admits himself that he gave the order on November 3rd

1 to attack Pearl Harbor.

2 I read Nos. 4, 5, 6 and 7 on page 66 of
3 that exhibit.

4 "(Note: The following paragraphs 5, 6 and
5 7 are based on the recollections of Admiral NAGANO,
6 Osami, then Chief of the Naval General Staff.)

7 "5. When was it decided to attack PEARL
8 HARBOR:

9 "3 Nov. 41. This date was set by the Chief
10 of the Navy General Staff, NAGANO, when CinC, Combined
11 Fleet, YAMAMOTO came to TOKYO

12 "6. Who made the foregoing decision?

13 "Chief of the Naval General Staff NAGANO.

14 "7. If the decision was made in conference,
15 give time of said conference and names of all persons
16 present.

17 "It was not made in conference."

18 We next offer in evidence a telegram of
19 November 4th from Tokyo to Washington, International
20 Prosecution Document No. 2593-D(7), which is offered
21 to show the tenseness in the United States-Japanese
22 relations and as also indicating that another Imperial
23 Conference was to be held on November 5th.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

1 No. 2593-D(7) will receive exhibit No. 1164.

2 (Whereupon, the document above referred
3 to was marked prosecution's exhibit No. 1164
4 and received in evidence.)

5 MR. FIELLY: I now read from prosecution's
6 document No. 1164:

7 "From: Tokyo

8 "To: Washington

9 "November 4, 1941

10 "Purple (CA) (Urgent)

11 "#725 (Part 1 of 3)

12 "Concerning my #722a.

13 "1. Well, relations between Japan and the
14 United States have reached the edge, and our people
15 are losing confidence in the possibility of ever
16 adjusting them. In order to lucubrate on a funda-
17 mental national policy, the Cabinet has been meeting
18 with the Imperial Headquarters for some days in suc-
19 cession. Conference has followed conference, and now
20 we are at length able to bring forth a counter-proposal
21 for the resumption of Japanese-American negotiations
22 based upon the unanimous opinion of the Government
23 and the military high command (ansuing Nos. 726 b
24 and 727 b). This and other basic policies of our
25 Empire await the sanction of the conference to be held

1 on the morning of the 5th.

2 "2. Conditions both within and without our
3 Empire are so tense that no longer is procrastination
4 possible, yet in our sincerity to maintain pacific
5 relationships between the Empire of Japan and the
6 United States of America, we have decided, as a result
7 of these deliberations, to gamble once more on the
8 continuance of the parleys, but this is our last
9 effort. Both in name and spirit this counter-pro-
10 posal of ours is, indeed, the last. I want you to
11 know that. If through it we do not reach a quick
12 accord, I am sorry to say the talks will certainly
13 be ruptured. Then, indeed, will relations between
14 our two nations be on the brink of chaos. I mean
15 that the success or failure of the pending discussions
16 will have an immense effect on the destiny of the
17 Empire of Japan. In fact, we gambled the fate of
18 our land on the throw of this die."

19 I only had intended to read part 1. If the
20 Court desires it, I will read the other two parts of
21 the telegram.

22 THE PRESIDENT: Yes, I think you should.

23 MR. FINELLY: All right, sir. I now read
24 part 2 of the same exhibit:

25 "From: Tokyo

1 "To: Washington From: Tokyo

2 "November 4, 1941

3 "Purple (CA) (Urgent)

4 "#725 (Part 2 of 3)

5 "When the Japanese-American meetings began,
6 who would have ever dreamt that they would drag out
7 so long? Hoping that we could fast come to some
8 understanding, we have already gone far out of our
9 way and yielded and yielded. The United States
10 does not appreciate this, but through thick and
11 thin sticks to the self-same propositions she made
12 to start with. Those of our people and of our
13 officials who suspect the sincerity of the Americans
14 are far from few. Bearing all kinds of humiliating
15 things, our Government has repeatedly stated its
16 sincerity and gone far, yes, too far, in giving in
17 to them. There is just one reason why we do this --
18 to maintain peace in the Pacific. There seems to be
19 some Americans who think we would make a one-sided
20 deal, but our temperance, I can tell you, has not
21 come from weakness, and naturally there is an end
22 to our long-suffering. Nay, when it comes to a question
23 of our existence and our honor, when the time comes we
24 will defend them without recking the cost. If the
25 United States takes an attitude that overlooks or shuns

1 this position of ours, there is not a whit of use
2 in ever broaching the talks. This time we are showing
3 the limit of our friendship; this time we are making
4 our last possible bargain, and I hope that we can
5 thus settle all our troubles with the United States
6 peaceably."

7 I now read part 3 of the same telegram, the
8 heading being the same:

9 "3. It is to be hoped earnestly that
10 looking forward to what may come at the end---at the
11 last day of Japanese-American negotiations--the Govern-
12 ment of the United States will think ever so soberly
13 how much better it would be to make peace with us;
14 how much better this would be for the whole world
15 situation.

16 "4. Your Honor will see from the considerations
17 above how important is your mission. You are at a key
18 post, and we place great hopes in your being able to
19 do something good for our nation's destiny. Will you
20 please think deeply on that and compose yourself and
21 make up your mind to continue to do your best. I hope
22 you will. Now just as soon as the conference is over,
23 I will let you know immediately, and I want you to go
24 and talk to President ROOSEVELT and Secretary HULL.
25 I want you to tell them how determined we are and

1 try to get them to foster a speedy understanding.

2 "5. In view of the gravity of these talks,
3 as you make contacts there, so I will make them here.
4 I will talk to the American Ambassador here in Tokyo,
5 and as soon as you have got the concensus of the
6 American officials through talking with them, please
7 wire me. Naturally, as these things develop, in case
8 you take any new steps, I want you to let me know
9 and get in contact with me. In this way we will
10 avoid letting anything go astray. Furthermore, lest
11 anything go awry, I want you to follow my instructions
12 to the letter. In my instructions, I want you to
13 know there will be no room for personal interpreta-
14 tion."

15 We next offer in evidence --

16 THE PRESIDENT: Those three messages from
17 Tokyo to Washington were intercepted?

18 MR. FANELLY: That is right.

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

21 (Whereupon, at 1045, a recess was
22 taken until 1100, after which the proceedings
23 were resumed as follows:)
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1 MR. CHIEF OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Fihelly.

4 MR. FIEHELLY: Mr. President, I don't know
5 whether the record shows that I answered your last
6 question just before recess. The document offered was
7 intercepted message.

8 THE PRESIDENT: The certificate I can only
9 note from the documents before me.

10 MR. FIEHELLY: We next offer in evidence
11 International Prosecution document 2593-D (8), another
12 wire of that date from TOGO to NOMURA bearing parti-
13 cularly on the attitude of the Japanese Government at
14 this stage of the negotiations, and I may say that the
15 wire itself says "Tokyo" rather than TOGO's particular
16 name being mentioned.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 2593-D (8) will receive exhibit No. 1165.

20 (Whereupon, the document above referred
21 to was marked prosecution's exhibit No. 1165 and re-
22 ceived in evidence.)

23 MR. FIEHELLY: I now read from prosecution
24 exhibit 1165: "From: Tokyo. To: Washi gton. Novem-
25 ber 4, 1941. Purple (CA) (Urgent). #726."

1 "(Part 1 of 4.)

2 "Proposal "A".

3 "1. This proposal is our revised ultimatum
4 made as a result of our attempts to meet, in so far
5 as possible, the wishes of the Americans, clarified
6 as a result of negotiations based on our proposals of
7 September 25. We have toned down our insistence as
8 follows:

9 "(1) The question of non-discrimination in trade.

10 "Should they appear not to accede to our pro-
11 posal of September 25 in this respect, insert the
12 following statement: 'The Japanese Government is
13 prepared to carry out this principle in the entire
14 Pacific area; that is to say, China as well, pro-
15 viding the principles of non-discrimination are ap-
16 plied to the entire world.'

17
18 "(2.) The question of our understanding and
19 application of the Tripartite Alliance.

20 "At the same time that you clarify to them that
21 we intend no expansion of our sphere of self-defense,
22 make clear, as has been repeatedly explained in the
23 past, that we desire to avoid the expansion of
24 Europe's war into the Pacific."

25 I now read part 2:

"(3) The question concerning the evacuation of

1 troops.

2 "We are toning down our stipulations in this
3 connection as follows:

4 "(A) The stationing and evacuation of troops
5 in China since the outbreak of the China Incident.

6 "Japanese troops which have been sent to China
7 will be stationed in North China, on the Mongolian
8 border regions, and on the Island of Hainan after the
9 establishment of peace between Japan and China, and
10 will not be evacuated until the elapse of a suitable
11 interval. The evacuation of other troops will be
12 carried out by Japan and China at the same time
13 that peace is established. In order to maintain
14 peace and order, this will be carried out within a
15 period of two years. (Note: Should the American
16 authorities question you in regard to 'the suitable
17 period,' answer vaguely that such a period should en-
18 compass 25 years.)

19
20 "(B) The stationing and evacuation of troops
21 in French Indo-China.

22 "The Japanese Government respects the territorial
23 integrity of the French possession, Indo-China. In
24 the event that a just peace is established, or that
25 the China Incident is brought to a successful con-
clusion, Japanese troops which have been dispatched

1 to French Indo-China and are there now shall be
2 evacuated.

3 "(4) As a matter of principle, we are anxious to
4 avoid having this inserted in the draft of the formal
5 proposal reached between Japan and the United States
6 (whether it is called an understanding proposal or
7 some other sort of a statement.)

8 "Part 3.

9 "2. Explanation.

10 "(1) Of course, there is the question of geo-
11 graphical proximity when we come to consider non-
12 discrimination in commerce. However, we have revised
13 our demands along this line hitherto and put the
14 question of non-discrimination on a world-wide basis.
15 In a memorandum of the American Government, they state
16 in effect, however, that it might be feasible for
17 either country within a certain specified area to
18 adopt a given policy and for the other party within
19 another specified area to adopt a complementary policy.
20 Judging from this statement, I do not believe they
21 will oppose this term. I think that we can easily
22 reach an understanding on this matter.

23 "(2) As for the question of the Three-Power
24 Pact, your various messages lead me to believe that
25 the United States is, in general, satisfied with our

1 proposals, so if we make our position even more
2 clear by saying that we will not random`y enlarge
3 upon our interpretation of the right of self-defense,
4 I feel sure that we will soon be mutually agreed on
5 this point."

6 I now read part 4 of the exhibit:

7 "(3) I think that in all probability the ques-
8 tion of evacuation will be the hardest. However, in
9 view of the fact that the United States is so
10 much opposed to our stationing soldiers in undefined
11 areas, our purpose is to shift the regions of oc-
12 cupation and our officials, thus attempting to dis-
13 pel their suspicions. We will call it evacuation;
14 but although it would please the United States for
15 us to make occupation the exception rather than the
16 rule, in the last analysis this would be out of the
17 question. Furthermore, on the matter of duration of
18 occupation, whenever pressed to give a clear state-
19 ment we have hitherto couched our answers in vague
20 terms. I want you in as indecisive yet as pleasant
21 language as possible to euphemize and try to impart
22 to them the effect that unlimited occupation does
23 not mean perpetual occupation. Summing this up,
24 Proposal A accepts completely America's demands on
25 two of the three proposals mentioned in the other

1 proposal, but when it comes to the last point con-
2 cerning the stationing and evacuation of forces, we
3 have already made our last possible concession. How
4 hard, indeed, have we fought in China for four years!
5 What tremendous sacrifices have we made! They must
6 know this, so their demands in this connection must
7 have been only 'wishful thinking.' In any case,
8 our internal situation also makes it impossible for
9 us to make any further compromise in this connection.
10 As best you may, please endeavor to have the United
11 States understand this, and I earnestly hope and pray
12 that you can quickly bring about an understanding."

13 All the 2593's, as the certificate shows,
14 are intercepted messages.

15 We next offer in evidence International
16 Prosecution document 1532 D (3), a wire of November
17 4 from Foreign Minister TOGO to NOMURA, stating that
18 KURUSU was being sent to the United States.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 1532 D (3) will receive exhibit No. 1166.

22 (Whereupon, the document above re-
23 ferred to was marked prosecution's exhibit
24 No. 1166 and received in evidence.)
25

MR. FIHELLY: I now read prosecution exhibit

1 No. 1166:

2 "From: The Foreign Minister TOGO.

3 "To : The Ambassador NOMURA, in U.S.A.

4 "Despatched: 8:50 p.m. November 4, 1941

5 (Showa 16).

6 "#730 (Ambassador Code)

7 "Re my #725

8 "In view of the gravity of the present negotia-
9 tions and in view of your request, we are sending
10 Ambassador KURUSU to you by clipper leaving Hongkong
11 on the 7th (through the kind offices of the U.S.A.
12 Government). Secretary YUKI shall accompany Am-
13 bassador KURUSU, if we can manage to get a seat for
14 him.

15 "We are despatching Ambassador KURUSU to assist
16 you in the parleys. He is carrying with him no ad-
17 ditional instructions besides what I have wired you
18 already. I want you to facilitate future talks, to
19 make arrangements so that he will be able to see the
20 President immediately upon his arrival.

21 "By the way, we are keeping Ambassador KURUSU's
22 activities strictly secret for the time being."

23 We next offer in evidence International
24 Prosecution document 1449-D. On the same date,
25 November 4th, the Cabinet met and issued instructions

1 to the Information Board in connection with releasing
2 news on preparations for war and strategic moves, as
3 set forth in this IPS document we offer in evidence.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1449-D will receive exhibit No. 1167.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1167 and received in evidence.)

10 MR. FIELLY: I now read prosecution ex-
11 hibit No. 1167:

12 "MOST SECRET

13 "Policy for Guiding Public Opinion on British
14 and American Problems.

15 "Information Plan A No. 10. Agreed by the
16 Cabinet meeting on Nov. 4, 1940. Board of Information.

17 ("Precautions for handling). Same as Information
18 Plan A No. 8.

19 "1. The suppression of reports on objective
20 facts concerning the tenseness of diplomatic re-
21 lations with Great Britain and the United States
22 shall be eased as compared with that of the past.

23 "2. We shall endeavor to guide public opinion
24 so as to raise the spirit of the people naturally and
25 to make them hold hope for the future. We shall be

1 careful not to let public opinion become a single
2 uniform pattern.

3 "3. The following types of news and speeches
4 shall be excluded:

5 "(A) Such news and speeches as will enable the
6 enemy to perceive our war preparations and strategic
7 activities.

8 "(B) Such sensational speeches and activities
9 as will cause the public to lose the pride of a great
10 people and take direct actions against residents of
11 third powers."

12 On November 5 there was held a most im-
13 portant Imperial Conference, in regard to which we
14 refer to the following document: We next offer in
15 evidence the KIDO Diary entry of November 5, 1941,
16 IPS document 1632W (83).

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1632W (83) will receive exhibit No. 1168.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1168 and received in evidence.)

23 MR. FIEHELLY: I now read from prosecution
24 exhibit No. 1168, a copy extract from the Diary
25 entry of November 5, 1941:

1 "The Council in the presence of the Emperor was
2 held at 10:30 a.m. and continued until 3:10 p.m. and
3 a policy towards the U.S.A., England, and the
4 Netherlands was decided. At 3:40 p.m. Premier TOJO
5 visited me to inform me of such matters as the for-
6 mation of the Southern Army and the dispatch of Mr.
7 KURUSU to the U.S.A. Mr. HIROSE visited me at 7 p.m."

8 I now read from prosecution exhibit 1107,
9 page 4, the list of those present at the Imperial
10 Conference on 5 November 1941:

11 "TOJO, Prime Minister and War Minister concurrently;
12 TOGO, Foreign Minister; SHIMADA, Navy Minister; KAYA,
13 Finance Minister; SUZUKI, President of Planning Board;
14 SUGIYAMA, Chief of Army General Staff; NAGANO, Chief
15 of Naval General Staff; HOSHINO, Chief Secretary of
16 the Cabinet; MUTO, Director of Military Affairs
17 Bureau, War Ministry; OKA, Director of Military
18 Affairs Bureau, Navy Ministry; TSUKADA, Vice-Chief
19 of Army General Staff; ITO, Vice-Chief of Naval
20 General Staff; HARA, President of the Privy Council."
21
22
23
24
25

1 MR. FIDELLY: We next offer in evidence an
2 undated document found at the Foreign Ministry showing
3 certain of the matters acted on and policies decided
4 on at this November 5th Imperial Conference. This
5 is International Prosecution Section document No.
6 790-A, which we now offer in evidence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution document
9 No. 790-A will receive exhibit No. 1169.

10 (Whereupon, the document above referred
11 to was marked prosecution's exhibit No. 1169 and
12 received in evidence.)

13 MR. FIDELLY: I now read prosecution's ex-
14 hibit No. 1169, headed:

15 "MEASURES TOWARDS FOREIGN COUNTRIES IN RE-
16 LATION TO THE 'PRINCIPLE OF EXECUTION OF NATIONAL
17 POLICY OF THE EMPIRE' WHICH WAS DECIDED AT THE MEETING
18 IN PRESENCE OF EMPEROR ON NOVEMBER 5.

19 "I. Towards Germany and Italy.

20 "When it is recognized that the Japanese-
21 American negotiation comes to an end and warfare is
22 inevitable (imagined to be after November 25, probably),
23 we inform Germany (Italy), without delay, Japan has an
24 intention to open hostilities against the U.S.A. and
25 Britian before long as soon as the preparation will

1 be completed and being a part of the preparation,
2 we negotiate on the following items:

3 "A. Germany's (Italy's) participation in
4 the war against the U.S.A.

5 "B. Non-separate peace making.

6 "Note: In case when Germany demands Japan's
7 participation in the war against Soviet, we answer
8 Japan cannot do it for the present. Even if the
9 Germany's participation in the war, because of it,
10 would be postponed, it cannot be helped.

11 "II. Towards Britian.

12 "We take measures previously so as to get
13 Britian to accept and to cooperate positively the sub-
14 jects concerned to Britian in the understanding which
15 is the fruit of the negotiation with America. We will
16 not adopt any other diplomatic schemes purposely to
17 keep the intention in secret.

18 "III. Towards Dutch Indies.

19 "In order to hide and camouflage our inten-
20 tion, we shall open the diplomatic negotiation at the
21 earliest opportunity with her one by one, after the
22 manner of continuing the former negotiation, princi-
23 pally aiming at the supply of necessary materials for
24 the Empire.
25

"IV. Towards the Soviet Union."

1 "We continue the negotiation founded on the
2 clause No. 1 of the 'Principle of negotiation with
3 the Soviet Union' decided at the Liaison Conference
4 between the Government and the Imperial Headquarters
5 on August 4, 1941.

6 "V. Towards Thailand.

7 "A. We request and get it to admit quickly
8 the following just before dispatching troops.

9 "Even if Thailand does not consent it, the
10 troops shall be dispatched as prearranged. However,
11 we avoid with all our might the outbreak of hostile
12 activities between Japan and Thailand.

13 "1. Passage of the Japanese military forces
14 and affording facilities for it.

15 "2. Instant execution of measures to avoid
16 conflicts between soldiers of both countries on the
17 occasion of the passage of the Japanese forces.

18 "3. Conclusion of a joint defense pact, if
19 she hopes.

20 "Note: Before the said negotiation is begun,
21 there must not be any peculiar change (in our attitude
22 towards Thailand) than usual, and we should pay at-
23 tention to hide the intention of opening a war.

24 "B. Soon after the dispatch of the Japanese
25 military forces, we make arrangements of a concrete

1 nature in that place in regards to the following
2 items:

3 "1. Concerning the passage and occupation
4 of the Japanese forces.

5 "2. Offering for the use of the Japanese
6 forces new construction and strengthening of the
7 military establishments.

8 "3. To furnish the necessary communication
9 and transportation measure and factory establishments.

10 "4. Billets and supplies for the military
11 forces passing and stationing.

12 "5. To give a loan for the necessary mili-
13 tary expenses.

14 "Note: In order to make those negotiations
15 favorable, at the negotiation of Item Nos. 1 and 2,
16 we will promise to respect her sovereignty and terri-
17 tory and, further, we will suggest in the effect that
18 'according to her attitude, we will consider to give
19 a portion of Burma or Malay to her in the future).'

20 "VI. Towards China.

21 "Paying attention to the securing of the
22 Japanese synthetic war power with which we must prepare
23 the long world war, avoiding consumption of national
24 energy and taking precautions against diminution of
25 military forces in the future, we take the following

1 measures:

2 "A. To clear away the armed forces of the
3 U.S. and Britian out of China.

4 "B. To secure the hostile concessions in
5 China (including the Peking Legation area) and the
6 important rights and interests (customs, mines, etc.)
7 of the hostile countries under our power, materially.
8 But we must be careful to diminish as far as possible
9 our personal and material burdens.

10 "Note: Though we clear up the hostile forces
11 out of the Common Concessions and Peking Legation
12 area and take them under our real power, they con-
13 tain interests which belong to the friendly countries,
14 and so we will not take such a measure as to occupy
15 them.

16
17 "C. The commencerent of the above measures
18 shall be postponed until after we open the war against
19 the U. S. and Britian, for the purpose of not exposing
20 our intention.

21 "D. The motion of belligerent rights against
22 Chungking shall not be taken in such a special manner
23 as to declare it, but we shall gain its real effect
24 materially by beginning war against the U.S. and Britian.

25 "E. Even hostile countries' rights and in-
terests which are concerned with the National Govern-

1 ment shall be secured under our power, for the present,
2 according to our necessity, and measures to arrange
3 their interests shall be taken on another occasion.

4 "F. Through measures to induce and acceler-
5 ate as strong as possible the activities of influence
6 of the Chinese in the occupied area, and endeavoring
7 to gain the people's feeling in cooperating with Japan
8 and China. We will realise gradually partial peace,
9 district by district, beginning from the possible area.

10 "G. As for the economical relations to China
11 we attach importance in gaining goods from the unoccu-
12 pied area and we adjust reasonably the existing various
13 controls."

14 Heading: "PRINCIPLE OF ACCELERATION OF TER-
15 MINATION OF THE WAR AGAINST THE UNITED STATES, BRITAIN,
16 HOLLAND AND CHIANG."

17 Sub-heading: "Foreign Office.

18 "1. To conclude arrangement with Germany and
19 Italy not to cease war individually.

20 "2. We shall manage to assist to make peace
21 between Germany and the Soviet, according to results
22 of talks between Germany and Japan, to restore the
23 continental connection between Germany and Japan and
24 readjusting, on the other hand, the relation between
25 Japan and the Soviet (if possible, we shall conclude

1 a treaty of territorial inviolability), we will take
2 measures so as to help the Soviet to advance to the
3 direction of India and Persia.

4 "3. To contribute to the settlement of the
5 Incident, we shall cut the 'Burmese and Hongkong
6 Chiang-supporting Route', and restore the concessions
7 for China, and leading and utilizing the Chinese mer-
8 chants in the South Seas regions, we shall in-
9 tensify the pressure on the Chiang Regime.

10 "4. We shall admit the Philipines' independ-
11 ence after our occupation and declare to the world as
12 fast as possible.

13 "5. We shall make a portion of Dutch Indies in-
14 dependent and secure the necessary portions for the
15 Empire.

16 "6. We shall make Burma independent and
17 stimulate and assist the independence movement of
18 India.

19 "7. We shall support the restoration of
20 Thailand's lost territories from Britain. (As for
21 French Indo-China, we shall maintain the present
22 conditions.)

23 "8. We shall not restrain the people's life in
24 the occupied area and keep strictly the policy not
25 to interfere in its internal administration. "

1 "9. When a suitable time arrives, we shall
2 make it clearly known that we shall be ready to secure
3 impartial supply of tin and rubber in the South Seas
4 regions.

5 "10. Though it is possible to take into con-
6 sideration for once to utilize Americans of German
7 descent to make public opinions of America disunited,
8 it is impractical and ineffective, as was shown in
9 the example of the former World War.

10 "11. We cannot expect much in manouever towards
11 Central and South America."
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1 MR. FIDELLY: On the same date TOGO sent a
2 telegram to NOMURA --

3 THE PRESIDENT: Dr. KIYOSE:

4 DR. KIYOSE: I have just seen the original of
5 the document just read to the Tribunal. On the certifi-
6 cate attached thereto the date is November 5, whereas
7 the date on the cover of said document is November 13.
8 Although the texts of these documents are identical --
9 just about identical -- there being two documents, we
10 would like to know which is to be admitted by the Court.
11 One of them is undated. I should like to have the
12 matter referred to the Language Arbiter or some other
13 appropriate step taken.

14 THE PRESIDENT: Have you tendered both docu-
15 ments?

16 MR. FIDELLY: Tendered both. Some of these
17 documents vary in some respects but they are all found
18 in the Japanese Government files of November 1, 1941.

19 THE PRESIDENT: Does the cover bear that date,
20 13th of November?

21 MR. FIDELLY: I will take Dr. KIYOSE's word
22 for the fact that it does. It isn't on our processed
23 copy. But I will state to the Court that between
24 November 5 and, roughly, November 13, there were about
25 six documents found in the various files of the Japanese

1 Government, some almost identical but showing the evo-
2 lution and genesis of plans of what happened in the way
3 of policy at the November 5 conference, that we think
4 are all admissible.

5 THE PRESIDENT: There is nothing to refer to
6 the Language Section.

7 DR. KIYOSE: I should like to say, your Honor,
8 that even if those documents are generally the same,
9 inasmuch as these documents have been revised from
10 time to time there are differences in the substance or
11 contents of these documents and I should think that
12 the Court should determine on one document and as to
13 which document the Court will determine upon I would
14 like to know.

15 THE MONITOR: And which one should be trans-
16 lated.

17 THE PRESIDENT: If there is any substantial
18 difference between the two upon which the defense would
19 care to rely, they may do so in the course of putting
20 their case. They have the assistance of the Language
21 Section without appealing to us.

22 MR. FIELLY: On the same date, TOGO sent a
23 telegram to NOMURA, this comes rather from Tokyo to
24 NOMURA, with regard to the proposals decided at that
25 conference. This is International Prosecution document

1 No. 2593D (9) which we now offer in evidence to show
2 that the Imperial Conference was held on November 5
3 and as tending to show that the Japanese Government
4 was making its last offer to the United States before
5 going to war.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2593D (9) will receive exhibit No. 1170.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 1170 and
11 received in evidence.)

12 MR. FANELLY: I now read prosecution's
13 exhibit 1170:

14 "From: Tokyo.

15 "To: Washington.

16 "5 November 1941

17 "(Purple-CA)

18 "#735

19 "1. Our counter proposal in the Japanese-
20 U.S. negotiations referred to in my message #725 was
21 taken up at the Imperial Conference on this, the 5th,
22 and was given approval. Therefore, will you please
23 begin the talks along the lines given in my instruc-
24 tions.

25 "2. We assume that it would meet with the

1 U.S. approval, in view of the past developments, if,
2 for the time being, the 21 June proposal -- 25 Sep-
3 tember's from our point of view -- was used as a basis
4 of these new talks. Subsequently, we feel that from
5 the standpoint of the likelihood of reaching an early
6 agreement, our Proposal A (contained in my message
7 #726) should be submitted for discussion. (As a matter
8 of fact, there are a number of points in the form and
9 in the expressions used in the U.S. proposal which do
10 not meet with our complete approval. However, we feel
11 that for convenience and speed's sake, Proposal A
12 should be submitted first.) Please, therefore, explain
13 these points to the United States and at the same time
14 have them clearly understand the circumstances contained
15 in my message #725. Thereupon, do your utmost to have
16 them accept that proposal in the shortest possible
17 time.

18 "3. If the United States expresses too many
19 points of disapproval to Proposal A and if it becomes
20 apparent that an agreement cannot be reached, we intend
21 to submit our absolutely final proposal, Proposal B
22 (Contained in my message #727). Please, therefore,
23 ascertain the U.S. attitude to Proposal A as soon as
24 possible, and advise this office. Be sure to advise
25 this office before Proposal B is submitted to the United

1 States.

2 "4. As stated in my previous message, this is
3 the Imperial Government's final step. Time is becoming
4 exceedingly short and the situation very critical.
5 Absolutely no delays can be permitted. Please bear this
6 in mind and do your best. I wish to stress this point
7 over and over.

8 "5. We wish to avoid giving them the im-
9 pression that there is a time limit or that this pro-
10 posal is to be taken as an ultimatum. In a friendly
11 manner, show them that we are very anxious to have them
12 accept our proposal."

13 On the same date, November 5, 1941, TOGO sent
14 another telegram to NOMURA, International Prosecution's
15 document 2593D (10), which was marked "Of utmost
16 secrecy," which we now offer in evidence as tending
17 to show that war was to begin very shortly with the
18 U.S.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT : Prosecution's document
21 No. 2593D (10) will receive exhibit No. 1171

22 (Whereupon, the document above referred
23 to was marked prosecution's exhibit No. 1171 and
24 received in evidence.)

25 MR. FIELLY: I now read prosecution's exhibit

1 No. 1171:

2 "From: Tokyo

3 "To: Washington.

4 "5 November 1941

5 "(Purple-CA)

6 "#736 (Of utmost secrecy).

7 "Because of various circumstances, it is
8 absolutely necessary that all arrangements for the
9 signing of this agreement be completed by the 25th of
10 this month. I realize that this is a difficult order,
11 but under the circumstances it is an unavoidable one.
12 Please understand this thoroughly and tackle the problem
13 of saving the Japanese U.S. relations from falling
14 into a chaotic condition. Do so with great determination
15 and with unstinted effort, I beg of you.

16 "This information is to be kept strictly to
17 yourself only."

18 On November 5, the same date on which the dead-
19 line was set as November 25, and on the same date that
20 the Imperial Conference was held, the defendant NAGANO
21 issued the first order which caused the Pearl Harbor
22 attack plan to be put into execution.

23 THE PRESIDENT: Mr. Logen.

24 MR. LOGAN: If the Tribunal please, with
25 respect to the last document offered in evidence, counsel

1 stated it was offered as tending to show war was to
2 begin very shortly with the U.S. In the first place,
3 I don't think that the reading of the telegram bears
4 out that statement. In the second place, he has failed
5 to read the notation at the bottom: "(D) Navy
6 Translation, November 5, 1941."

7 THE PRESIDENT: We note what you say, Mr. Logan.

8 MR. FIFELLY: I now refer, in connection with
9 November 5, as I have just stated, the date of the
10 Imperial Conference and the date of this last telegram
11 with respect to November 25 being the dead-line. I
12 now quote from exhibit 809, page 75, the order appear-
13 ing about half way down the page, November 5, 1941:

14 "From: Chief of Naval General Staff, NAGANO,
15 Osami.

16 "To: CinC Combined Fleet, YAMAMOTO.

17 "A. Because it is feared that war with the
18 United States, Great Britain and the Netherlands is
19 inevitable, it has been decided that for the sake of
20 the Empire's defense general operational preparations
21 will be completed by the first part of December.

22 "B. The Commander-in-Chief Combined Fleet
23 will carry out the necessary operational preparations.

24 "C. The details will be set forth by the
25 Chief of the Naval General Staff."

1 "Imperial Headquarters Navy Staff Section
2 Directive 1 (essentials)."

3 It will be shown in Admiral Richardson's
4 testimony later that on that same date, November 5,
5 pursuant to that particular order of NAGANO, YAMAMOTO
6 issued the second order which was the first Combined
7 Fleet Operational Order No. 1 in connection with the
8 Pearl Harbor attack.

9 On November 7 we have another order being
10 issued in connection with the Pearl Harbor attack, and
11 I now read from exhibit 809, page 77, the order of
12 November 7 in the middle of the page:

13 "Flagship NAGATO, HIROSHIMA-WAN

14 "7 November 1941

15 "YAMAMOTO, Isoroku

16 "CinC Combined Fleet.

17 "Combined Fleet Order

18 "The Task Force will gather in HITOKAPPU-WAN
19 and remain there to take on supplies until 22 November.
20 Every precaution will be taken to insure a secrecy in
21 movements.

22 "Note: About the time the above order was
23 issued, a Combined Fleet order (giving directions for
24 carrying out the Operation Policy) based on Imperial
25 Headquarters Navy Staff Section Directive 1 was also

1 issued. Detailed information as to its contents is
2 not available. (It is thought that it was about the
3 same as Paragraph 1 of Task Force Operation Order 1,
4 which was issued later)."

5 This same prosecution exhibit 809, on page 11,
6 has some other information. I read from page 11, the
7 heading of the second column:

8 "5 November

9 "Combined Fleet Secret Operation Order No. 2

10 "Y-Day will be 23 November.

11 "10 November.

12 "Combined Fleet Secret Operation Order No. 3.

13 "X-Day will be 8 December."

14 On November 10, 1941, there was issued
15 Striking Force Operation Order No. 1 for all ships to
16 complete battle preparations by November 20. I again
17 refer to prosecution's exhibit 809 and read the per-
18 tinent passage on page 10 referring to this order.
19 That passage appears in the middle of the first column
20 on the page:

21 "Flagship AKAGI, SAEKI WAN

22 "10 November 1941

23 "Striking Force Operation Order No. 1.

24 "1. All ships will complete battle prepara-
25 tions by 20 November."

1 "2. The fleet will rendezvous at TANKAN WAN
2 (HITOKAPPU BAY, LTOROFU ISLAND, KURILES).

3 "3. Inasmuch as the plans for the coming
4 operation must be kept absolutely secret, strict
5 security will be maintained in regard to them, up to
6 the time they are explained to the crew after port of
7 departure in Japan has been cleared.

8 "4. Break-down of Attack Plane Units.

9 "The AKAGI First Attack plane Unit.

10 "Unit Commander: Lieutenant Commander XX.

11 "First Carrier Attack Unit.

12 "Etc. (details not recalled by prisoner of
13 war).

14 "5. Fleet cruising formation (including
15 retiring formations).

16 "6. All transmission of messages is strictly
17 forbidden.

18 "Transmission and reception will both use the
19 Tokyo No. 1 broadcast communications system.

20 "NAGUMO, Chuichi

21 "Commanding, Striking Force.

22 MR. LOGAN: If the Tribunal please, I wish to
23 call your Honor's attention to the fact that these
24 excerpts that were just read from exhibit 809 are
25 reports which are based on the recollection of a Japanese

1 chief yeoman who was captured at Saipan.

2 THE PRESIDENT: We are aware of that fact.

3 MR. FIELLY: We next offer in evidence Inter-
4 national Prosecution Section document No. 4058A, dated
5 November 8, 1941, from the German Foreign Office to
6 Washington and Rome as bearing on the gravity of the
7 negotiations and to show that Germany was kept well-
8 informed of their status.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 4058A will receive exhibit No. 1172.

12 (Whereupon, the document above referred
13 to was marked prosecution's exhibit No. 1172 and
14 received in evidence.)

15 MR. FIELLY: I now read prosecution's exhibit
16 1172:

17 "Telegram IZ (Secret Cipher Process)

18 "Berlin, 8 November 1941.

19 "German Embassy: a) Rome. b) Washington.

20 "Reviewer: I.V.L.S./TN?/ Dr. Braun.

21 "Re: Conversation OTT-TOGO on KURUSU Mission."

22 There are some symbols appearing on the other
23 side that I will not read.

24 "Embassy Tokyo wires the following on the
25 KURUSU Mission:"

1 "Ins. /TN.??/ from Telegram No. 2354 of 6 November
2 from Tokyo from (to)" 1

3 "TOGO stated that a firm attitude on the part
4 of Japan had been expressed in the instructions for
5 KURUSU. In his negotiations with the United States
6 he was given a definite limit which he could not cross.
7 The dispatch of KURUSU was only recently decided upon,
8 as is borne out by his hurried departure itself. 1

9 "Ins. /TN.??/ from telegram No. 2354 of 6
10 November from Tokyo from ((to))' 1

11 "End of the report."

12 Erdmannsdorff is apparently the name signed
13 at the end.

14 That the British attitude was fully under-
15 stood by Japan at this time is proven by International
16 Prosecution Section document 2537A, an item dated
17 November 12, which we now offer in evidence, quoting
18 from a well-known speech of Prime Minister Churchill
19 on November 10.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 2537A will receive exhibit No. 1173.

23 (Whereupon, the document above referred
24 to was marked prosecution's exhibit No. 1173 and
25 received in evidence.)

1 THE PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: If the Tribunal please, I
3 want to object to the last and this statement as
4 argumentative and interpretation of documents not
5 embraced within the language of the document. I call
6 attention to the former statement and also to the one
7 pertaining to this document. The former one stated
8 that the document indicated that Germany was kept well-
9 informed. I merely submit that this is stretching
10 the facts.

11 THE PRESIDENT: I see nothing excessive in
12 either statement, but Mr. Cunningham's representations
13 are noted.

14 MR. FHELLY: I now read from prosecution's
15 exhibit 1173:

16 "Extract from 'The Tokyo Nichi Nichi'

17 "November 12, 1941.

18 "Churchill Claims Britain is Ready for Action
19 in India, Pacific Oceans. Will Fight Nippon if America
20 Does.

21 "London Prime Minister Declares no Negoti-
22 ations will be Conducted with Hitler or Nazi Regime;
23 Lease-Lend bill and Chungking Given Lavish Praise.

24 "Special to Mainich-Nichi Nichi.

25 "London. November 10. Prime Minister Winston

1 Churchill, in a speech at the Lord Mayor's luncheon at
2 Mansion House, warned that the war might soon spread
3 throughout the world.

4 "Should the United States be involved in a
5 war with Japan,' the Prime Minister declared, 'a
6 British declaration will follow within an hour.'

7 "We do not know whether the efforts of the
8 United States to preserve peace in the Pacific will
9 be successful.

10 "But if they fail, I take this occasion to
11 say -- and it is my duty to say--- that should the
12 United States be involved in a war with Japan, a
13 British declaration will follow within an hour."

14 We next offer in evidence a telegram dated
15 November 11, from Tokyo to Washington to NOMURA,
16 International Prosecution Section document 2593D (11),
17 which shows that the British Government -- show the
18 relationship of the British Government to the negoti-
19 ations then pending between Japan and the United States.

20 THE PRESIDENT; Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 2593 will receive exhibit No. 1174.

23 (Whereupon, the document above referred
24 to was marked prosecution's exhibit No. 1174 and
25 received in evidence.)

1 THE PRESIDENT: You may read it after the
2 recess. We will recess now until half past one.

3 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at
1330.

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

THE PRESIDENT: Mr. Fihelly.

MR. FIEHELLY: I will now read from prosecu-
tion exhibit 1174:

"From: Tokyo.

"To : Washington.

"11 November 1941

(Purple)

"#764 (In 3 parts, complete).

"1. On the 11th, the British Ambassador,
while calling on me on some other business, brought
up the subject of the conversations. He advised me
that he reported my talks of the other day (see con-
tents of 2 of my message #723*) to his home govern-
ment, to which his government replied along the fol-
lowing lines, he said:

"The British Government is not aware of the
details of the conversations being conducted in Wash-
ington. Since its success would be of interest to
Britain and Japan, it is fervently hoping for the

1 success thereof. However, unless the basis of dis-
2 cussion is first settled upon, it would be useless
3 to go ahead and enter into negotiations of the details.
4 The British Government feels that discussions as to
5 the basic principles could safely be left up to the
6 U. S. Government. However, as soon as the real ne-
7 gotiations begin, the United States is to confer with
8 Great Britain according to arrangement. Therefore,
9 when that time arrives, negotiations will be carried
10 on jointly with the United States and Japan.'

11 "2. I replied that in the matters being
12 discussed between Japan and the United States there
13 were some phases which greatly affected Great Britain.
14 In the event of an agreement between Japan and the
15 United States, Japan will simultaneously seek Britain's
16 agreement. I wish to arrange matters so that the
17 two agreements may be signed at exactly the same time.
18 In view of the fact that to do the above is necessary,
19 we have already requested the United States to give
20 their approval to the terms, I said to the British
21 Ambassador.

22 "The British Ambassador said that he was
23 not aware as to how much progress had been made be-
24 tween the United States and Japan, but he assumed
25 that they were still in the preliminary stages."

1 "I, therefore, replied that his assumption
2 may have fitted in the past, but that at present
3 they had already entered into the realm of the actual
4 negotiations. Moreover, the Imperial Government has
5 already submitted its final proposal, thus bringing
6 the negotiations to the final phase. We have made
7 this fact absolutely clear to the United States, I
8 added.

9 "I went on to say that I hear that the
10 British Prime Minister made a speech at a luncheon
11 given by the Mayor of London in which he stated that
12 though he did not know the developments in the U.S.-
13 Japanese negotiations, he would issue a warning to
14 Japan. Would it not be more to the point, I chal-
15 lenged, if, instead of making threats without knowing
16 of what he spoke, he were to try to more clearly
17 understand the issues and to cooperate in an effort
18 to clear them up? However, I said, with the U. S.-
19 Japanese talks in the phase they are today, and in
20 view of the fact that I realized that there were
21 certain relationships between the United States and
22 Great Britain, I have no intention of urging or op-
23 posing British participation in these talks at this
24 time.

25 "The Imperial Government has made the maxi-

1 mum concessions she can in drawing up its final pro-
2 posal, I explained. We are of the opinion that the
3 United States will find no objectionable points in
4 it. I believe that it will be possible to sign the
5 agreement within a week to ten days, I said. If,
6 unfortunately, the United States refuses to accept
7 those terms, it would be useless to continue the ne-
8 gotiations. Our domestic political situation will
9 permit no further delays in reaching a decision.

10 "I am making superhuman efforts at this time,
11 I pointed out, in the attempt to ride out the crisis
12 in the U.S.-Japanese and the British-Japanese rela-
13 tions. There are factions in the country which in-
14 sist that there is no need for negotiating and point
15 out the uselessness of doing so. The negotiations
16 are being continued only after these factions were
17 checked.

18 "For these reasons, it is absolutely im-
19 possible that there be any further delays.

20 "A speedy settlement can be made depending
21 entirely upon the attitude of Britain and the United
22 States, I said, and suggested that his country give
23 serious consideration to this, and cooperate in bring-
24 ing about an early agreement.

25 "In the above manner, I pointed out the

1 criticalness of the situation. The Ambassador listen-
2 ed to what I said very attentively, giving indications
3 that he was realizing for the first time how critical
4 the situation was. He advised me that he would send
5 his government a report of the above conversation
6 and that he himself would do his best to bring about
7 a speedy settlement.

8 "3. Thus, there are indications that the
9 United States Government is still under the impres-
10 sion that the negotiations are in the preliminary
11 stages and that we are still merely exchanging opin-
12 ions. This is further supported by the words of
13 President Roosevelt reported by you in your message
14 #1070** (that part in which he says that he hopes
15 that these preliminary discussions will lead to the
16 basis of the real negotiations, etc.)

17 "That the United States takes this lazy and
18 easy going attitude in spite of the fact that as
19 far as we are concerned, this is the final phase,
20 is exceedingly unfortunate. Therefore, it is my
21 fervent hope that Your Excellency will do everything
22 in your power to make them realize this fact and
23 bring about an agreement at the earliest possible
24 moments."
25

1 Some symbols below that do not seem to be
2 of importance.

3 We now come to an important group of docu-
4 ments which were found at the Japanese Foreign
5 Ministry which show action taken by Japan following
6 upon the decisions of the Imperial Conference of
7 November 5, 1941. The first of these documents
8 which we now offer in evidence is International
9 Prosecution No. 990 which is a draft of reasons for
10 war with the United States and Great Britain, dated
11 November 11, 1941, adopted at the Liaison Conference
12 of that date.

13 MR. FREEMAN: If the Tribunal please,
14 document 990 has an affidavit by General TANAKA.
15 I would like to call attention of the Tribunal to the
16 second paragraph where he certifies that to the best
17 of his knowledge and belief the attached document
18 was prepared by or under the direction of SATO,
19 Kenryo, then Chief of the Military Affairs Section
20 of the Military Affairs Bureau. He does not give
21 any basis for the grounds of his belief or any
22 reason for his statement; and I, therefore, respect-
23 fully submit that the certificate is tantamount to
24 no certification at all. It is, thus, reducing the
25 document to such a doubtful kind of evidence as to

1 be stricken by the Court or to have no probative
2 value.

3 THE PRESIDENT: We must pay regard to the
4 first paragraph in the affidavit. If he does not
5 know, who would? A Major General, Chief of the
6 Military Service Bureau; he attended meetings at
7 which the document was read; and, according to him,
8 the accused, SATO, Kenryo, was then Chief of the
9 Military Affairs Section of the Military Affairs
10 Bureau. Major General TANAKA should have a fair
11 idea who was responsible for the document.

12 MR. FREEMAN: The wording of the certifi-
13 cate there is such that he apparently was not sure.

14 THE PRESIDENT: That is a mere form.
15 Affidavits are always based on knowledge and be-
16 lief.

17 The document is admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 990 will receive exhibit No. 1175.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1175 and received in evidence.)

23 MR. FIELLY: I now read from prosecution
24 exhibit 1175: "4 or 5 parts (State Secret)" -

25 Heading:

1 "Principal reasons alleged for the commencement
2 of hostilities against the U.S.A. and Britain.

3 "(Draft)

4 "11 November SHOWA 16 (1941)

5 "Draft adopted at the Liaison Conference

6 "1. That it is the unshakable national policy
7 of our Empire to establish permanent peace by creating
8 a new order in Greater East Asia, and to voluntarily
9 contribute to world peace.

10 "2. That the China Affair aims, in accordance
11 with this national policy, to do away with all causes
12 which disturb the stability of Greater East Asia, and
13 to realize the results of co-prosperity of all peoples,
14 building upon peace on the basis of the New Order, and
15 that Japan must do all in her power to bring it to a
16 successful issue.

17 "3. That the United States and Britain have been
18 trying for a long time in the Far East to obstruct the
19 measures and actions of the Japanese Empire. Above all,
20 with the outbreak of the China Affair, they have openly
21 increased their measures of assistance of the Chungking
22 Regime and stealthily gave rein to their inordinate
23 ambition to dominate the Far East at the expense of China.
24 In addition, they have persuaded other powers to strength-
25 en the encirclement of Japan, and also adopted such

1 measures as the direct disruption of economic relations
2 with our Empire, and reinforced military preparations.
3 Thus they have threatened the security of our Empire
4 by daring to conduct virtual war operations against us.

5 "4. That our Empire, exhausting every possi-
6 ble means and putting up with the unbearable, has pro-
7 posed to the United States the peaceful settlement of
8 the situation and has already conducted negotiations
9 with the United States for the past 8 months. However,
10 there is a fundamental opposition between the assertions
11 of Japan and the United States in regard to the estab-
12 lishment of a lasting peace in the Far East. We can
13 hardly realize our national policy and can by no means
14 bring about the stability of Greater East Asia if we
15 once accede to the assertions of the United States.

16 "Under such circumstances, all the efforts
17 exerted by us during the past four years in order to
18 successfully prosecute the China Affair would come to
19 naught. This our Empire cannot tolerate from the stand-
20 point of her existence and prestige.

21 "5. That in the attitudes of the United States
22 and Britain we can read nothing but a hasty move to
23 satisfy their own inordinate ambitions, and see no
24 trace of a sincere desire on their part for world peace,
25 and to rescue mankind unfortunate disasters."

1 "Greater East Asia is now on the brink of a
2 crisis, and the existence of our Empire is in jeopardy.

3 "Such being the situation, we are compelled to
4 rise up to take up arms on the side of our allies to
5 smash all the obstacles in our way."
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1 We now refer to prosecution exhibit 878, a
2 Liaison Decision dated November 13 which was intro-
3 duced by Mr. English, and certain parts were read
4 by him. We ask permission of the Court to read the
5 exhibit because of its pertinency at this stage in
6 this same connection.
7

8 I now read from prosecution exhibit No. 878:

9 Heading:

10 "Measures to be taken towards Foreign Countries
11 relative to the Outline for the execution of National
12 Policies, which was decided at the Council in the
13 presence of the Emperor held on November 5.

14 "Liaison Conference Division

15 November 13, 1941.

16 "Policy Towards Germany and Italy.

17 "When the present negotiations with the United
18 States of America break down and a war with her becomes
19 unavoidable (presumed to be after November 25th), the
20 Japanese Government shall notify Germany (and Italy),
21 without delay, of our intention to start war against
22 the United States of America and Britain as soon as our
23 war preparations are ready, and shall open necessary
24 negotiations with them in connection with the follow-
25 ing matters, telling them that these are a part of our
war preparations: "

1 "1. Participation of Germany (and Italy)
2 in the war against the United States of America.

3 "2. No separate peace.

4 "Remarks:

5 "If we are requested by Germany to join in
6 the war against the Soviet Union, we shall reply that
7 we will not enter it for the time being. It cannot
8 be helped if, as a result of it, Germany's participa-
9 tion in the war against the United States of America
10 is delayed thereby.

11 "Policy towards Britain.

12 "Prompt measures shall be taken directly or
13 through the medium of the United States of America
14 to make Britain accept, and positively cooperate with
15 us in the matters included in the understandings
16 reached in the negotiations between Japan and the United
17 States of America.

18 "In order to conceal our intentions, no other
19 special diplomatic measures shall be taken.

20 "Policy towards the Dutch East Indies

21 "In order to help conceal and disguise our in-
22 tentions, we shall open as soon as possible a series
23 of diplomatic negotiations /with the Dutch East Indies/,
24 in the form of continuation of previous negotiations,
25 with the chief object of obtaining commodities needed

1 by our country.

2 "Policy towards the Soviet Union

3 "Diplomatic negotiations /with the Soviet
4 Union/ shall be continued in conformity with Item I
5 of the Outline of Diplomatic Negotiations with the
6 Soviet Union, which was decided at the Liaison Con-
7 fference of Imperial Headquarters and the Government
8 held on August 4th, 1941.

9 "Policy towards Thailand.

10 "1. Just before commencing the advance into
11 /Thailand/, the following demands shall be made and
12 their immediate compliance obtained:

13 "Our troops shall advance /into Thailand/, as
14 prearranged, even if our demands are rejected by
15 Thailand. However, efforts shall be made to localize
16 as much as possible military collision between Japan
17 and Thailand.

18 "(a) Right of passage of Japanese troops
19 through her territory and the grant of various facil-
20 ities incidental thereto.

21 "(b) Immediate enforcement of measures to
22 avoid possible collisions between the troops of Japan
23 and Thailand, owing to the passage of Japanese troops.

24 "(c) Conclusion of a joint defence agreement,
25 if Thailand desires it."

1 "Note: No special change in our attitude towards
2 Thailand shall be made before the commencement of the
3 negotiations. In particular, great care shall be
4 taken to conceal our plan of opening war.

5 "2. After the penetration of our troops, we
6 shall immediately open negotiations with the Government
7 of Thailand for concrete arrangements on the following
8 matters:

9 "(a) Matters concerning the passage and
10 stationing of Japanese troops.

11 "(b) Provision, construction and enlargement
12 of military establishments.

13 "(c) Provision of necessary traffic and com-
14 munication facilities as well as factory facilities.

15 "(d) Matters concerning billeting and sus-
16 tenance for the Japanese troops passing through or
17 stationed in Thailand.

18 "(e) Loans to defray necessary military ex-
19 penditure.

20 "Remarks: In the negotiations on Items 1 and
21 2, we shall definitely promise to respect her sover-
22 eignty and territorial integrity in conformity with the
23 Outline of Policies towards French Indo-China and
24 Thailand, which was decided at the Liaison Conference
25 of Imperial Headquarters and the Government held on

1 February 1st, 1941.

2 "Moreover, depending on the attitude of
3 Thailand, we shall try to turn the negotiations to
4 our advantage by suggesting that we will in future
5 consider the cession of a part of Burma or Malay to
6 Thailand.

7 "Policy towards China.

8 "The following measures shall be taken, bear-
9 ing in mind the necessity of preserving our all-round
10 fighting power to cope with a protracted world war by
11 avoiding military attrition in China as far as possible,
12 and also bearing in mind the probable decrease of our
13 military strength in the future:

14 "1. To drive out the military forces of the
15 United States of America and Britain in China.

16 "2. To place under our actual control enemy
17 concessions in China (including the Legation Quarter
18 in Peking) and important enemy interests (such as the
19 maritime customs and mines), but care shall be taken
20 to lighten as far as possible our burden in respect to
21 man-power and materials.

22 "Note: Though the International Settlements and the
23 Legation Quarter in Peking shall be brought under our
24 actual control after driving out the enemy's military
25 forces, these areas shall not be completely taken over

1 since they also include interests of countries friendly
2 to us.

3 "3. The abovementioned plans shall be carried
4 out only after the declaration of war against the United
5 States of America and Britain, lest our intentions be
6 revealed.

7 "4. Our right of belligerency against the
8 Chungking Regime shall not be obtained by a declara-
9 tion or other formalities, but the actual effect of
10 belligerency will be obtained by a declaration of
11 war against the United States of America and Britain.

12 "5. Among the enemy interests in China, even
13 those interests connected with the National Government
14 shall, if necessary, be brought under our control for
15 the time being, and adjustment made separately.

16 "6. The activities of influential Chinese in
17 the occupied area shall be encouraged and fostered as
18 far as possible, so as to win the people's mind to
19 Sino-Japanese cooperation and thereby gradually estab-
20 lish localized peace in the areas where this is possible.

21 "7. In our economic relations with China, we
22 shall lay special stress upon the acquisition of goods.
23 For this purpose reasonable adjustments shall be made
24 in the various existing restrictions."
25

1 THE PRESIDENT: Mr. Fihelly, I suppose you
2 have compared exhibit No. 1169 with the exhibit you
3 just read, 878. Is there something more than a
4 difference in wording? I think there is, but there
5 may not be.

6 MR. FIELLY: Mr. President and Members of
7 the Tribunal, as I stated to you this morning, there
8 are five or six of these documents that I have tried
9 to compare; and I found in each instance there were
10 some differences although there is the same general
11 background in many of them, and in some instances
12 the same paragraphs of the same words; but the whole
13 document has slight changes. But all of them come
14 from various departments of the Japanese Government,
15 particularly the Foreign Office, covering Liaison
16 Conferences and drafts made for same or decisions
17 arrived at at Liaison Conferences on or about
18 November 11 and November 13. Some are decisions;
19 some are drafts.

20 THE PRESIDENT: Leave it at that.

21 MR. FIELLY: There is only one more of
22 such documents, and it is a one-page document dated
23 November 12, 1941. Might I take that up, your Honor,
24 at this time?
25

THE PRESIDENT: Proceed to read it.

1 MR. FIEHELLY: I now offer in evidence Inter-
2 national Prosecution document 1443, dated November
3 12, 1941, which contains certain basic principles
4 for rapid conclusion of war against the United States,
5 Great Britain and the Netherlands.
6

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1443 will receive exhibit No. 1176.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1176 and received in evidence.)

13 MR. FIEHELLY: I now read from prosecution
14 exhibit No. 1176:

15 Heading:

16 "GENERAL OUTLINE FOR HASTENING THE CONCLUSION OF
17 WAR AGAINST THE UNITED STATES, GREAT BRITAIN, NETHER-
LANDS, AND THE CHUNKING REGIME.

18 "(FOREIGN MINISTRY
19 Dated: Nov 12 1941 (Showa 16))

20 "1. A 'No-Separate-Peace Agreement' shall be
21 concluded with both Germany and Italy.

22 "2. Through mutual consent with Germany, we
23 shall mediate for peace between Germany and the Soviet
24 Union and restore our trans-continental communication
25 with Germany. On the other hand, while adjusting our
relation with the Soviet Union, we shall take measures

1 to promote her advancement into the direction of
2 Indie and Persia.

3 "3. We shall completely cut off the supply
4 route to the Chungking Regime, and bring all the con-
5 cessions in China under Japan's power. On the other
6 hand, we shall induce and utilize the Chinese mer-
7 chants residing in the South Seas to strengthen our
8 oppression upon the Chungking Regime, thereby con-
9 tributing to the settlement of the Incident.

10 "4. The independence of the Philippine
11 Islands shall be recognized and proclaimed to the
12 world at the earliest possible occasion after the
13 occupation of the Islands.

14 "5. Independence shall be allowed to
15 part of the Dutch East Indies while other necessary
16 areas shall be maintained by Japan.

17 "6. We shall give independence to Burma
18 and thus excite and promote India's independent
19 movement.

20 "7. We shall support Thailand's movement
21 against England for the recovery of lost territories.
22 (French Indo-China shall maintain her status quo).

23 "8. Regarding our administrative policy in
24 the occupied areas, we shall not oppress the lives
25 of the people; and shall adopt, as far as possible

1 a non-interference policy towards the internal af-
2 fairs, thereby shall earn the hearts of the people.

3 "9. When the time becomes suitable, we
4 shall declare our intentions to guarantee an equal
5 supply of tin and rubber in the South Seas to the
6 United States and Great Britain.

7 "(Remarks)

8 "(1) Judging from the fact proved in World
9 War I, the policy to utilize Americans of German
10 descent for the purpose to break up the public opin-
11 ion in the United States may at least be considered,
12 but it will prove impracticable and fruitless. (2)
13 We cannot expect much from activities in Central
14 and South America."
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1 I may say, Mr. President, that this is
2 typical of the situation I have explained to the
3 Tribunal. Part of this, in substance, has been
4 read before, and other paragraphs are different.

5 I wish to offer in evidence International
6 Prosecution document 2593 D (13), a wire of November
7 14 from NOMURA to Tokyo stating that the course
8 adopted by the Japanese Government would well result
9 in war with the United States.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2593 D (13) will be given exhibit No. 1177.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1177 and received in evidence.)

16 MR. FIELLY: I now read prosecution ex-
17 hibit No. 1177:

18 "From: Washington (Nomura)

19 "To: Tokyo

20 "November 14, 1941

21 "Purple

22 "#1090 (Part 1 of 3)^a (Departmental Secret)

23 (To be handled in Government Code)

24 "I am telling Your Excellency this for your
25 own information only."

1 "I believe that I will win out in the long
2 run in these negotiations, and I will fight to the
3 end. I will do my very best with infinite patience
4 and then leave the outcome up to God Almighty. How-
5 ever, I must tell you the following:

6 "1. As I told you in a number of messages,
7 the policy of the American Government in the Pacific
8 is to stop any further moves on our part either
9 southward or northward. With every economic weapon
10 at their command, they have attempted to achieve
11 this objective, and now they are contriving by every
12 possible means to prepare for actual warfare.

13 "2. In short, they are making every mili-
14 tary and every other kind of preparation to prevent
15 us from a thrust northward or a thrust southward;
16 they are conspiring most actively with the nations
17 concerned and rather than yield on this fundamental
18 political policy of theirs in which they believe so
19 firmly, they would not hesitate, I am sure, to fight
20 us. It is not their intention, I know, to repeat
21 such a thing as the Munich conference which took
22 place several years ago and which turned out to be
23 such a failure. Already I think the apex of German
24 victories has been passed. Soviet resistance persists,
25 and the possibility of a separate peace has receded,

1 and hereafter this trend will be more and more in
2 evidence.

3 "3. The United States is sealing over-friend-
4 lier relations with China, and in so far as possible
5 she is assisting CHIANG. For the sake of peace in
6 the Pacific, the United States would not favor us
7 at the sacrifice of China. Therefore, the China prob-
8 lem might become the stumbling block to the pacifi-
9 cation of the Pacific and as a result the possibility
10 of the United States and Japan ever making up might
11 vanish."

12 Part 2 - same heading.

13 "4. There is also the question of whether
14 the officials of the Japanese Government are tying
15 up very intimately with the Axis or not. We are re-
16 garded as having a very flexible policy, ready, never-
17 theless, in any case, to stab the United States right
18 in the back. Lately the newspapers are writing in
19 a manner to show how gradually we are tying up
20 closer and closer with the Axis.

21 "5. If we carry out a venture southward
22 for the sake of our existence and our lives, it
23 naturally follows that we will have to fight England
24 and the United States, and chances are also great
25 that the Soviet will participate. Furthermore, among

1 the neutral nations, those of Central America are al-
2 ready the puppets of the United States, and as for
3 those of South America, whether they like it or not,
4 they are dependent for their economic existence on
5 the United States and must maintain a neutrality par-
6 tial thereto.

7 "6. It is inevitable that this war will be
8 long, and this little victory or that little victory,
9 or this little defeat or that little defeat do not
10 amount to much, and it is not hard to see that who-
11 ever can hold out till the end will be the victor.

12 "7. It is true that the United States is
13 gradually getting in deeper and deeper in the Atlan-
14 tic, but this is merely a sort of convoy warfare,
15 and as things now stand she might at any moment trans-
16 fer her main strength to the Pacific."
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THE PRESIDENT: Mr. Logan.

MR. LOGAN: If the Tribunal please, with respect to those some few symbols at the bottom, may we have a direction for the prosecution wherever it appears on any of these documents which were intercepted and decoded that the prosecution be required to read the dates they were translated, which are the symbols the prosecution just referred to.

MR. FIHELLY: I will be glad to do that, Mr. President. I am sure no directive will be necessary. I will be glad to do it.

This particular document, 1177, shows that it was translated, according to the number at the bottom, "trans. 11/17/41 (2)."

We now offer in evidence International Prosecution document 2593-D(14), a wire of November 16th from TOGO to Washington.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 2593-D(14) will receive exhibit No. 1178.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1178 and received in evidence.)

MR. FIHELLY: I now read prosecution's exhibit No. 1178:

1 "TOP SECRET. From: Tokyo. To: Washing-
2 ton. November 16, 1941. Purple" -- c-a- or c-o- in
3 parentheses; I can't make out just what it is.

4 "(URGENT).

5 "#---

6 "For your Honor's own information.

7 "1. I have read your #1090^a, and you may be
8 sure that you have all my gratitude for the efforts
9 you have put forth, but the fate of our Empire hangs
10 by the slender thread of a few days, so please fight
11 harder than you ever did before.

12 "2. What you say in the last paragraph of
13 your message is, of course, so and I have given it
14 already the fullest consideration, but I have only
15 to refer you to the fundamental policy laid down in
16 my #725^b. Will you please try to realize what that
17 means. In your opinion we ought to wait and see
18 what turn the war takes and remain patient. However,
19 I am awfully sorry to say that the situation renders
20 this out of the question. I set the deadline for
21 the solution of these negotiations in my #736^c--
22 and this refers, and the evidence will show it, to
23 November 25th -- "and there will be no change.
24 Please try to understand that. You see how short
25 the time is; therefore, do not allow the United

1 States to sidetrack us and delay the negotiations
2 any further. Press them for a solution on the
3 basis of your proposals, and do your best to bring
4 about an immediate solution."

5 At the bottom appears:

6 "a - See JD-;6553 in which NOMURA gives his
7 views on the general situation. Part 3 not available.

8 "b - S. I. S. # 24330 in which TOGO says that
9 conditions both within and without the Japanese
10 Empire will not permit any further delay in reaching
11 a settlement with the United States.

12 "c - S. I. S. #24373 in which TOGO says that
13 it is absolutely necessary that all arrangements for
14 the signing of this agreement be completed by the
15 25th of this month."

16 "SECRET" appears at the bottom, and under
17 that, "TOP SECRET." To the right, "Trans. 11/17/41 (S)."

18 On November 18th KURUSU sent a strong state-
19 ment as to the United States negotiations with Japan
20 and included some advice in it. This is International
21 Prosecution document 1532-D(5), which we now offer in
22 evidence.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No: 1532-D(5) will receive exhibit No. 1179.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 1179 and received in evidence.)

4 MR. FIELLY: I now read prosecution's
5 exhibit No. 1179:

6 "Despatched: 18 November 1941. P.M.

7 WASHINGTON

8 "Received: 19 November 1941. P.M.

9 Foreign Ministry

10 "Strictly Confidential -- Ambassador's Code

11 "From: Ambassador NOMURA

12 "To: Foreign Minister TOGO

13 "#1133

14 "KURUSU states:

15 "(1)-----According to the views held by
16 Ambassador NOMURA and myself, although the President
17 maintains calm attitude outwardly, we feel that the
18 President possesses keen desire to conclude the U.S.
19 -Japanese negotiation. Now, that just because the
20 other party does not take in whole-heartedly our pro-
21 posal there is no reason for an immediate conjecture
22 that it is a willingly-delayed policy. Moreover it
23 is most important at this time not to resort to ac-
24 tions that could not be amended afterwards.

25 "(2)-----Through the establishment of the

1 Revised Neutrality Law, etc., the U.S. interests
2 were all the more focused to the Atlantic, and there-
3 fore, although they are affirming preparations and
4 determination to fight Japan if compelled to, it
5 seems that they are seeking if possible to maintain
6 security in their back front by negotiating with our
7 country. In both of our interviews, with the Pres-
8 ident on the 17th and with HULL on the 18th, much em-
9 phasis was placed on the question of the Tri-Partite
10 treaty. The reason for their giving more force to
11 their assertion than is usual could be attributed
12 chiefly to the consideration given therein. That is,
13 as an assumption to U.S.-Japanese compromise, the
14 U.S. Government shall give the American public in
15 general, the impression of Japanese-German estrange-
16 ment. To do this, it is desired that utilization be
17 made regarding U.S.-Japanese joint declaration con-
18 cerning non-discrimination in trade, or to let Ja-
19 pan participate in the agreement regarding the same
20 question now being negotiated between the U.S. and
21 Britain, or to utilize messages manifesting peaceful
22 aims on the part of JAPAN as suggested by the Secre-
23 tary of State HULL in our interview of the 18th.

25 "(3)-----An acute change in the present
state of Japanese-German relations is, of course, an

1 impossibility, and in view of the aforementioned con-
2 ditions, I believe it is most important for our coun-
3 try to give the United States sufficient security pos-
4 sible so that they could all the more concentrate
5 deeply to the Atlantic, thereby enabling us to occupy
6 favourable positions in the international situation
7 that is to arrive after the war, not mentioning our
8 full scale execution of the present Sino-Japanese
9 hostilities.

10 (Part 2) In regard to the question of whether the
11 U.S. and Britain will, or will not turn the point of
12 their swords to us after the present war and start
13 suppressing us, I stated this at the Conference on
14 the 17th pointing out the bitter experience our coun-
15 try underwent during after the last World War (I)
16 and bluntly explained the suspicion embraced by a
17 group of our people toward the Anglo-Americans. To
18 this, the President unhesitatingly replied that the new
19 agreement also covers such points. (Cover it all).
20

21 "(4)-----In view of the present state of
22 affairs in our country's internal situation, I be-
23 lieve there are various difficulties to be met before
24 being able to attain some measures along the lines de-
25 sired by the United States. For the time being, as
a link to fill the lapse in time, it is most desirous

1 that a time limit be set in regard to American-
2 Japanese negotiation and to pave a way through this
3 confronting situation, I think that it is necessary
4 to ask for an assurance to import a set quantity of
5 petroleum and also the rescinding of freezing orders.
6 In my interview of the 18th, I, together with Ambassa-
7 dor NOMURA, suggested a return to the condition prior
8 to 24 July. As an equivalent to this, I think that
9 the U.S. might not consent with only our B proposal
10 stipulating the non-advancement of our armed forces
11 outside French Indo-China, and our testimony given
12 vague in condition regarding evacuation of troops
13 from French Indo-China, as evidenced by our past ne-
14 gotiation. I suggest that at this time, you will show
15 in advance, some degree of sincerity such as to com-
16 mence evacuation of troops from Southern French Indo-
17 China.
18

19 "Now, as there is the question of your in-
20 structed time limit, I would like, if possible, to
21 effect immediate disposal of the matter while the
22 President is still in Washington, which I am urgently
23 advising."
24
25

1 We next offer in evidence a cable of
2 November 19th from TOGO, Foreign Minister, to
3 NOMURA, which is International Prosecution document
4 No. 1532-D(6), which is self-explanatory.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1532-D(6) will receive exhibit No. 1180.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 1180 and received in evidence.)

11 MR. FANELLY: I now read prosecution's
12 exhibit No. 1180:

13 "To: Ambassador NOMURA in America.

14 "From: Foreign Minister TOGO.

15 "Despatch No. 43905.

16 "Despatched: 20 November 1941 - 0030.

17 "Drafted: 19 November 1941.

18 "Telegram No. 800 (Ambassador Code) Very
19 Urgent.

20 "Re my Telegram No. 799.

21 "Re paragraph 1 of my telegram No. 780,
22 Southeast Asia and South Pacific includes Dutch
23 Indies and Thailand, but not China.

24 "Re item 2 of paragraph 3, it is desirable
25 that the required quantity be decided upon by

1 agreement of both governments before the signatures
2 are affixed to this present agreement.

3 "Re paragraph 4, please bear in mind that
4 it means the cessation of aid to Chiang by the United
5 States.

6 "Re paragraph 5. Article 2 (my #801) is an
7 important concession we venture to make for the sake
8 of speeding the conclusion of the agreement.

9 "Re paragraph 6. We could not agree to
10 the principle of non-discrimination in trade being
11 applied only to China, as I have stated in my #784.

12 "Re paragraph 7, latter part of item 2.
13 As an explanation of our attitude as expressed in
14 'Japan would decide entirely independently' in case
15 the U. S. should enter the European War, you may
16 point out that the Empire can decide independently
17 as to whether or not there had been an attack,
18 without being bound to the interpretations of the
19 other countries involved in the Tripartite Treaty.
20 You may make it clear that there are no secret
21 agreements in the Tripartite Treaty. (However, you
22 will please withhold your explanation of this item
23 until you see prospects of this agreement material-
24 izing)."

25 We now offer in evidence an entry from the

1 KIDO Diary of November 19, 1941, International Prosec-
2 cution document 1632-W(84), showing the imminence of
3 war with the United States on that date.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1632-W(84) will receive exhibit No. 1181.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 1181 and received in evidence.)

10 MR. FIELLY: I now read prosecution's
11 exhibit No. 1181, Extract, KIDO Diary, November 19,
12 1941:

13 "I talked with the Emperor from 10:25 a. m.
14 to 10:50 a. m. I made a statement to the following
15 effect:

16 "The prospects of our negotiations with
17 Washington were incalculable, but if the Emperor was
18 resolved on war with America by the end of November,
19 the following situations might arise.

20 "1. The remainder of the parley would not
21 advance beyond its preliminary stage.

22 "2. The acceptance of our demands.

23 "a. Partial acceptance of our demands.

24 "b. Acceptance of half of them.

25 "c. Acceptance of the majority of them."

1 "2. The successful conclusion of our nego-
2 tiations with the U. S. A., but consent would be re-
3 quired on the part of England and the Netherlands.

4 "It would not be a good policy to plunge
5 into a war merely by reason of the fact that the
6 month of November had expired, and if we did so, the
7 unification of public opinion would be very difficult.
8 Therefore, when the Premier had to decide his final
9 attitude, he should be ordered to convene a con-
10 ference of senior statesmen in the Imperial presence."
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1 MR. FIHELLY: On November 20th, 1941,
2 NOMURA and KURUSU, by instructions of the Foreign
3 Ministry, presented to the Secretary of State what
4 turned out to be Japan's last proposal for a settle-
5 ment which was a revised form of the proposal "B"
6 agreed to in the Imperial Conference of November 5th.
7 This particular presentation will be dealt with by
8 Mr. Ballantine in his evidence.

9 Meanwhile the original Anti-Comintern
10 Pact of 1936 was about to expire and International
11 Prosecution Document 1072-B, dated November 21, 1941,
12 is now offered in evidence; and consists of excerpts
13 from the records of the Investigation Committee meeting
14 of the Privy Council showing the negotiations for its
15 renewal.
16

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1072-B will receive exhibit No. 1182.

20 (Whereupon, the document above referred
21 to was marked prosecution's exhibit No. 1182
22 and received in evidence.)

23 MR. FIHELLY: I now read prosecution's exhibit
24 No. 1182:

25 "The Excerpts from 'Records of the Investi-
gation Committee Meeting of Privy Council in re:"

1 Prolongation of Anti-Comintern Pact.'

2 "PP 1-7 inclusive; PP 11, 14, 15

3 "1. Investigation Committee Meeting, about
4 the conclusion of protocol on the prolongation of
5 Anti-Comintern Pact among Japan, Germany, Italy,
6 Hungary, Manchukuo, and Spain, and about the inter-
7 change of secret documents between Japan and Germany
8 concerning the abrogation of the secret attached
9 protocol of above pact.

10 "Held on November 21st (Friday), 1941, in
11 the Privy Council Office.

12 "Attendants: "President HARA
13 "Vice President SUZUKI
14 "Chairman of the Committee
15 ISHII, Councillor
16 "Members of the Committee:
17 "ARIFA, Councillor
18 "ISHIZUKA, Councillor
19 "MINAMI, Councillor
20 "NARA, Councillor
21 "FUTAKAMI, Councillor
22 "OBATA, Councillor
23 "TAKEKOSHI, Councillor
24 "IZAWA, Councillor
25

1 "Ministers of State Affairs:
2 "TOJO, Prime Minister, Minister
3 . of Home Affairs and War Min-
4 ister
5 "IWAMURA, Minister of Justice
6 "TOGO, Minister of Foreign
7 Affairs and concurrently of
8 Overseas Affairs
9 "Explainers:
10 "MORIYAMA, Directory-General
11 of the Legislative Bureau
12 "SATO, Councillor of the
13 Legislative Bureau
14 "MIYAUCHI, Councillor of the
15 Legislative Bureau
16 "MATSUMOTO, Director of the
17 Bureau of Treaties in the
18 Department of Foreign Affairs
19 "SAKAMOTO, Director of the
20 Bureau of European and
21 Asiatic Affairs in the De-
22 partment of Foreign Affairs
23 "NISHIMURA, Chief of the Second
24 Section of the Bureau of
25 Treaties in the Department

of Foreign Affairs

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"NEMICHI, Chief of the Third
Section of the Bureau of
East Asiatic Affairs in the
Department of Foreign Affairs

"NARITA, Chief of the First
Section of the Bureau of
European and Asiatic Affairs
in the Department of Foreign
Affairs

"YOZANO, Chief of the Second
Section of the Bureau of
European and Asiatic Affairs
in the Department of Foreign
Affairs

"IMAMATSU, Director of National
Police Bureau in the Depart-
ment of Home Affairs

"NAGANO, Chief of the Public
Order Section of National
Police Bureau in the Department
of Home Affairs

"IKEDA, Director of the Criminal
Bureau in the Ministry of
Justice; IDE, Secretary of
the Department of Foreign
Affairs

1 "HORIE, Chief Secretary

2 "MOROHASHI, Secretary

3 "TAKATSUJI, Secretary

4 "(Meeting opens at 1.35 P.M.)

5 "Chairman of the Committee ISHII declares
6 the opening of the meeting.

7 "Foreign Minister TOGO explains the circum-
8 stances leading to the settlement of this proposal
9 and the outline of the contents.

10 "Committee Member ISHIZUKA asks a question
11 about the relations between Japan and Germany re-
12 garding the South Sea regions. Foreign Minister
13 TOGO replies that Germany has already recognized
14 Japan's construction of a New Order in East Asia,
15 and as for such a problem as how to deal with Dutch
16 East Indies, consultation shall be effected by degrees.
17 MATSUMOTO, the Director of the Bureau of Treaties in
18 the Department of Foreign Affairs answers that concern-
19 ing the South Seas Mandated area, former Foreign
20 Minister MATSUOKA" -- a word blotted out -- "(and
21 German) Ambassador OTT had exchanged letters to make
22 the islands Japanese territory for a nominal compensa-
23 tion by Japan to Germany.

24 "Committee Member MINAMI asks many questions,
25 namely, "

1 "(1) He thinks that Germany's conclusion of the
2 Treaty of Territorial Inviolability with Soviet is an
3 infringement on the spirit of the preamble of the
4 Anti-Comintern Pact and, therefore, the Pact had
5 already lost its validity as far as Germany is con-
6 cerned. He asks the opinion of the authorities con-
7 cerned. Foreign Minister TOGO replies that though
8 there is clearly a close connection between the Third
9 International and the Soviet Government, still there
10 exists a slight difference between them, so, it is
11 not impossible to think of them separately, from
12 which viewpoint, Japan has concluded the neutrality
13 treaty with Soviet.

14 "(2) MINAMI asks about the change of circumstances
15 which made the Secret Protocol between Japan and
16 Germany unnecessary. Thinking of the possibility
17 of reconciliation between Germany and Soviet, he
18 doubts if it would be better to continue the Secret
19 Pact.

20 "8. Foreign Minister TOGO responds that the changes
21 in circumstances are (A) the outbreak of war between
22 Germany and Soviet and the conclusion of the Neutrality
23 Pact between Japan and Soviet, (B) Formation of alliance
24 between Japan and Germany. He adds in the case if
25 Germany would make peace with Soviet, Japan would

1 resort to different means, beforehand or at the same
2 time, to protect her interests.

3 "/P. 11 Line 4-10/ Committee Member FUTAKAMI
4 asks about Japan's present foreign relations. Foreign
5 Minister TOGO, after the explanation about the whole
6 circumstances of the Japanese-American negotiations,
7 states that America, after all, sticks to her tra-
8 ditional theory on international policy and assumes
9 an unrealistic attitude which makes it difficult to
10 come to terms; for all this, however, a compromise
11 is being attempted: As for the relation between
12 Japan and Soviet, it is going, at present, on the
13 foundation of the Neutrality Treaty.

14 "/P. 13, line 10/ Committee Member IZAWA asks
15 what are the concrete results of the Anti-Comintern
16 Pact during these five years since it was concluded.

17 "/P.14/ INAMATSU, the Director of the
18 National Police Bureau in the Department of Home
19 Affairs, answers that by mutual information and con-
20 nection, changes of the methods of communist' movements
21 or such were learned, and thus, not a few facilities
22 are given by it. Prime Minister TOJO states he will
23 utilize more and more the Anti-Comintern Pact to
24 control communism.

25 "President HARA says it is very doubtful that

1 the Anti-Comintern Pact has been used fully to realize
2 its object, and he hopes now that the Government is
3 going to prolong it, they ought to utilize it com-
4 pletely so as to destroy the Communists at the root.

5 "/15/ After this, Chairman ISHII asks the
6 Ministers and the Explainers to retire.

7 "(Ministers and Explainers go out)

8 "Then after the discussion among the com-
9 mittee members, it is decided unanimously to pass
10 it as it is with request that the Government will
11 make effort to make the Pact effective, positively
12 making the most of its provisions. The drawing of
13 the record of the investigation is committed all to
14 the chairman.

15 "Then Chairman of the Committee ISHII declares
16 the closing of the meeting.

17 "(Closed at 4.20 P.M.)"

18 THE PRESIDENT: Captain Brooks.

19 MR. BROOKS: I would like to call the attention
20 of the Tribunal that the MINAMI mentioned here as
21 Councillor is Hiroshi MINAMI and not the accused Jiro
22 MINAMI, as can be confirmed by reference to prosecution
23 exhibit No. 102 which gives the Privy Council.

24 THE PRESIDENT: That has been pointed out
25 already.

1 Mr. Levin.

2 MR. LEVIN: Mr. President, the accused
3 SUZUKI was at no time Vice-President of the Privy
4 Council, and the one named is not the accused.

5 THE PRESIDENT: We were aware of that also,
6 Mr. Levin.

7 MR. LEVIN: If attention to that reference
8 has been made, I shall not bother to call the attention
9 of the Tribunal to that fact.

10 MR. FIELLY: On November 22nd TOGO informed
11 NOMURA and KURUSU by telegram of an extension of
12 the negotiation deadline from November 25 to 29.
13 This is International Prosecution Document No. 2593-
14 D-16 which we now offer in evidence.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 2593-D-16 will receive exhibit No. 1183.

18 (Whereupon, the document above referred
19 to was marked prosecution's exhibit No. 1183 and
20 received in evidence.)

21 MR. FIELLY: I now read prosecution's exhibit
22 No. 1183:

23 Headed "TOP SECRET"

24 "From: Tokyo

25 "To: Washington

1 "November 22, 1941

2 "Purple CA (Urgent)

3 "#812

4 "To both you Ambassadors.

5 "It is awfully hard for us to consider
6 changing the date we set in my #736^a, as you know.

7 However, I know you are working hard. The Imperial
8 Government is maintaining its fixed policy and doing
9 its very best sparing no efforts to try to bring
10 about the solution we desire. We desire by all
11 means to prevent a breakdown ^b in Japanese-American
12 relations, but if within the next three or four days
13 you can finish your conversations with the Americans;
14 if the signing can be completed by the 29th;^c if
15 we can get an understanding with Great Britain and
16 the Netherlands through the exchange of notes and
17 so forth; and in short if everything can be finished,
18 despite difficulties unbelievably great, we (will?)
19 make arrangements to wait until that date. This time
20 we mean it, that the deadline absolutely cannot be
21 changed. After that things are automatically going to
22 happen. Please take this into your careful consider-
23 ation and work as hard as you have in the past. This
24 is for the information of you two Ambassadors alone.

25 "a - See S.I.S. #24373. Tokyo wires Washington

1 that because of the various circumstances it is
2 absolutely necessary that arrangements for the signing
3 of the agreement be completed by the 25th of this
4 month."

5 The trans. date: "Trans. 11/22/41 (S)
6 "TOP SECRET" at the bottom.

7 On November 23rd, NOMURA cabled TOGO an
8 account of an interview which he and KURUSU had with
9 the Secretary of State and Mr. Ballantine on that day
10 in which the recent acts of Japan were again commented
11 on. This is International Prosecution Document
12 No. 1532-D-7, which we now offer in evidence.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 1532-D-7 will receive exhibit No. 1184.

16 (Whereupon, the document above referred
17 to was marked prosecution's exhibit No. 1184 and
18 received in evidence.)

19 MR. FIELLY: I now read prosecution's exhibit
20 No. 1184:

21 "From: Ambassador NOMURA

22 "To: Foreign Minister TOGO

23 "Despatched: AM 23 November 1941, WASHINGTON

24 "Received: PM 23 November 1941, Foreign
25 Ministry."

1 "Machine cipher #1159 (Most Secret: Ambassador
2 Code)

3 "On the 22nd, I, together with Ambassador
4 KURUSU, had a meeting with Secretary of State, HULL
5 (BALIANTINE attended). The resume was as follows:

6 "The Secretary conferred with the Ambassador
7 and Ministers of Britain, Australia and the Nether-
8 lands on the 22nd, (according to the press reports,
9 about two and a half hours) and he asked for their
10 opinions on the Japanese proposals. They all said
11 that if Japan has firm intention for carrying out a
12 peaceful policy, they would naturally welcome it and
13 they would be glad to cooperate in resuming normal
14 trade relations. However, they said, Japan is express-
15 ing her peaceful intention even to the extent of
16 dispatching a special envoy while on the other side,
17 the speech of the politician and the commentary of
18 the press of Japan seem to be running in a completely
19 opposite direction, and so, there are some greatly
20 incomprehensible points in Japan's real intentions.
21 Furthermore, they pointed out that the amount of
22 Japanese petroleum imports up to the execution of the
23 freezing order took a very sudden upward swing and
24 that it wasn't to be used solely for peaceful under-
25 takings but was being stored away by the Navy."

1 Moreover, there was an opinion that it would be
2 best to lift the embargo in slow degrees. However,
3 he said, as it is expected that all the concerned
4 ambassadors and ministers will seek their home
5 government's instruction and will receive replies by
6 Monday, he will make a reply again one way or the
7 other at that time. (PART II) Then he expressed
8 much concern over the recent trend of public opinion
9 in Japan. He emphasized that the clarification of
10 peaceful intention by the Japanese Government would
11 be very important for making the American public
12 opinion accept compromise with Japan. (BALLANTINE
13 said that the conveyance abroad of sincerity of the
14 Japanese Government heads toward the Japanese them-
15 selves would be more effective than the propaganda for
16 foreign consumption sent through foreign press cor-
17 respondents and others.) He even went on to say that,
18 to speak the truth, was it not the duty of every
19 politician to strive for peace up to the very day
20 before war is unavoidable? He said that the president
21 and he made the policy of peace clear five times
22 and so it is desired that a response be made at
23 least once. Then we asked, leaving British,
24 Australian, and Dutch opinion aside for the time
25 being, what the intention of America herself was re-
garding our proposal."

1 " To this, recognizing that an item by item reply was
2 seemingly our demand, he showed a perplexed look
3 and avoided to answer. In short, he said, the desire
4 of AMERICA, BRITAIN, AUSTRALIA, etc., is to dis-
5 solve the pressing situation in the South Pacific
6 area and they are eagerly desiring that the forces
7 kept in check in the same area may be transferred
8 for action in other parts. (PART III) And he
9 said, from the viewpoint they, unfortunately, can-
10 not recognize that our proposal is sufficient. I
11 pointed out that our troop concentrations in the
12 northern part of FRENCH INDO-CHINA were aimed at
13 CHUNGKING's lifeline, therefore, they were for the
14 most part directed toward YUNNAN and were not in-
15 tended to menace the South Pacific area. Then
16 KURUSU said that the acceptance of our proposal would
17 naturally lead to the conditions desired not only by
18 AMERICA but by the other nations as well. To this,
19 he /HULL/ replied, what these countries desired lay
20 in the quick turn-about in the situation and with
21 regard to resumption of normal trade relations, a
22 gradual advance is desirable for the time being, but
23 when JAPAN's peaceful intention becomes clear, a
24 rapid change will be seen in a few days. He further
25 replied that with regard to stopping aid to CHIANG,

1 they cannot be a fair mediator if they make such
2 a promise to JAPAN, considering the case when
3 AMERICA acts as an intermediary. (PART IV) Further-
4 more, if they stop the aid with the opening of the
5 negotiations, even though they made such a promise,
6 its value will not be so high. In view of the
7 fact that in any event, the so-called aid to CHIANG
8 KAI-SHEK is not as great as it is propagandized, he
9 replied he cannot accept the insertion of the above
10 items considering the substance of Japanese pro-
11 posals which intends to improve the pressing situa-
12 tion by the solution of immediate problems and to
13 reach fundamental solution by going further on.

14 "Furthermore, he replied that the time was
15 not yet ripe for the president's mediation at present.
16 I believe that on Monday, AMERICA will submit some
17 sort of a counter proposal, but as I discerned that
18 she would seek out participation in some kind of a
19 proposal which aims to maintain peace on the Pacific
20 and promote trade, I hastened to suggest that it is
21 necessary to make the present problem on hand the
22 agreement between AMERICA and JAPAN, and take the
23 formality of making the other nations participate in
24 this, and KURUSU stated that if it was intended that
25 the above be a sort of a group organization and if it

1 was an arrangement such as to vote us down by
2 majority of voters, we would not accept such a
3 proposal. (End)"

4 THE PRESIDENT: We will recess for fifteen
5 minutes.

6 (Whereupon, at 1445, a recess was
7 taken until 1500, after which the proceedings
8 were resumed as follows:)

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

3 THE PRESIDENT: Mr. Fihelly.

4 MR. FIELLY: On November 24 the Foreign Offi-
5 ce, Tokyo, sent to NOMURA an account of the discussion
6 which was had with Ambassador Grew relating to the
7 withdrawal of troops from French Indo-China and other
8 pertinent matters which is now offered in evidence.

9 This is International Prosecution document No. 1532 D (P).

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 1532 D (8) will receive exhibit No. 1185.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1185 and received in evidence.)

16 MR. FIELLY: I shall now read prosecution
17 exhibit 1185:

18 "Supervised by: Chief of the America Bureau YAMAMOTO

19 "Person in Charge: Chief of the First Sect. of the
20 America Bureau.

21 "Drafted on November 24, 1941

22 "Cable No. 44502

23 "Despatched: 8:10 P.M. November 24, 1941

24 "Sent to Ambassador NOMURA in the U.S.A.

25 "Sent by Foreign Minister TOGO

"Subject: Negotiations between Japan and the U.S.A."

"(Conference with Ambassador GREW).

"By Code: No. 822 (Ambassador's Code)

"Re: My former telegram 821 A

"I asked the American Ambassador in Tokyo to call on me on the 23rd and explained to him according to the purport of my former telegram mentioned above. I stated at that time that the removal of the Japanese troops from the southern part of French Indo-China to the northern part is of great military significance, that our advance into the northern part of French Indo-China was originally undertaken in connection with the settlement of the China Incident, and the details of how America and Britain have frozen our capital upon our advance into southern French Indo-China. Further I related that it is now absolutely impossible to withdraw the troops entirely; that it is not only the natural, but also the only and best way for the settlement of the Chinese problem that we demand that U. S. A. not interfere with our efforts for peace, on the occasion that the American President as a mediator in connection with the Chinese problem has CHANG-Kai-Shek propose peace to Japan and Japan enters upon negotiation in acceptance of the proposal; that it is also absolutely impossible, from the point of

1 Japanese national feeling to settle the negotiation
2 between Japan and U.S.A. before this point is clar-
3 fied, and that we cannot understand why the U.S.A.
4 does not agree to this point. I added that in our
5 new proposal I have made the utmost effort to sim-
6 plify the situation and to reduce the desired terms
7 of the Japanese side in order to cooperate with the
8 U.S.A. in her peace policy and we intend to advance
9 the Japanese policy more and more peacefully accord-
10 ing to the above purport after conclusion of those
11 negotiations. The Ambassador took his leave saying
12 that he would immediately cable the above to his
13 home government."
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1 We next offer in evidence International
2 Prosecution document 1532 D (9), a telegram from TOGO
3 to NOMURA, dated November 24, which again fixes the
4 negotiation deadline as November 29 Tokyo time by the
5 statement made therein.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1532 D (9) will receive exhibit No. 1186.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1186 and received in evidence.)

12 MR. FIEHELLY: I now read from prosecution
13 exhibit 1186:

14 "Supervised by: Chief of the American
15 Bureau, YAMAMOTO.

16 "Person in charge: Chief of the First Secre-
17 tary of the America Bureau.

18 "Drafted on November 24, 1941.

19 "Cable No. 44503.

20 "Despatched 8:15 p.m. November 24, 1941.

21 "Sent to Ambassador NOMURA

22 "Sent from Foreign Minister TOGO

23 "By Code: No. 823 (Ambassador's code)

24 "To both Ambassadors

25 "The date of my former telegram No. 812 is

1 in Tokyo time.

2 "By Way of Precaution."

3 We next offer in evidence International
4 Prosecution document 15-J, a telegram from the Japan-
5 ese Ambassador at Hanoi, dated November 25, as tend-
6 ing to show that Japan was about to go to war with
7 the United States and Great Britain and to show the
8 extent and completeness of preparation.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 15-J will receive exhibit No. 1187.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit
14 No. 1187 and received in evidence.)

15 MR. FIDELLY: I now read from prosecution
16 exhibit No. 1187:

17 "From: Hanoi.

18 "To : Tokyo.

19 "25 November 1941

20 "#118

21 "(Strictly secret)

22 "We are advised by the military that we
23 are to have a reply from the United States on the
24 25th. If this is true, no doubt the Cabinet will
25 make a decision between peace and war within the

1 next day or two. It goes without saying here, of
2 course, that if the U.S.-Japanese negotiations are
3 brought to a successful termination, the various
4 enterprises shall be launched in accordance with
5 the plans which have been laid down in advance.

6 "Should, however, the negotiations not
7 end in a success, since practically all preparations
8 for the campaign have been completed, our forces
9 shall be able to move within the day.

10 "Under these circumstances, however, there
11 shall have to be some alterations in the program we
12 have laid out for the various enterprises. We shall,
13 undoubtedly, have to establish organs and conduct
14 negotiations which will not conflict with the
15 campaign. The thing that we are most concerned
16 about is whether or not, in the event of war, the
17 status quo will be maintained as far as the French
18 Indo-China's government setup is concerned. I feel
19 that it is essential that we not only be advised
20 of this, but it must be done immediately as we
21 wish to make all prearrangements as far in advance
22 as possible.

23 "If you have any opinions as to the out-
24 come of the Japanese-U.S. negotiations, will you
25 please inform this office of them together with

1 whatever other pertinent information you may deem
2 wise to impart to us.

3 "Of course, I realize that secrecy is of
4 the utmost importance. According to press reports,
5 however, the United States conferred with the repre-
6 sentatives of Britain, Australia, the Netherlands,
7 and even of China, in Washington, and hence the
8 governments of these countries are now aware of
9 the matters being discussed in the Japanese-U.S.
10 negotiations. Moreover, by means of (courier?)
11 service, the military here are aware of not only
12 our stand in the negotiations but also of the
13 general atmosphere of the said negotiations."
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1 "We feel as if we, a Foreign Office organ,
2 alone have been left out of the picture. As you
3 pointed out in your circular message #2353" -- it says
4 at the bottom "Available, dated 19 November" -- "the
5 situation is becoming exceedingly critical. Please,
6 therefore, make arrangements to advise us on these
7 points by means of either cable or by special mes-
8 senger services."

9 Below: "(D) Navy Trans.

10 11-26-41 (S-TT)"

11 On the same day the Japanese Ambassador at
12 Bangkok reported on the Foreign Office in Inter-
13 national Prosecution document 2593 D (41) which we
14 now offer in evidence for the same purpose as the
15 last telegram was offered.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 2593 D (41) will receive exhibit No. 1188.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution's exhibit
21 No. 1188 and received in evidence.)

22 MR. FIHELLY: I now read prosecution exhibit
23 No. 1188:

24 "From: Bangkok.

25 "To: Tokyo.

1 "25 November 1941

2 "(Purple)

3 "#849 (In 2 parts, complete)

4 "In the event of the Empire's taking deci-
5 sive action in a southward advance, it will of course
6 be necessary in the exercise of a belligerents rights
7 to make clear the relations of sovereign and subjects.
8 On the one hand it will be absolutely necessary to
9 bring Thai into our camp. My conversation with Pibul
10 as reported in my #834 was undertaken with this as
11 the underlying motive. If and when Japan at last
12 does make her proposals of joint defense, the follow-
13 ing three points should be made especially definite,
14 and Thai should be led to voluntarily take an atti-
15 tude of cooperation with us.

16 "(1) In the event of an attack upon Burma
17 and Malay, there would, of course, be a temporary in-
18 fringement upon the territorial sovereignty of Thai-
19 land, but after our objectives have been attained,
20 restoration would immediately be made, and the in-
21 dependence of Thai would be respected even more than
22 at present while Thai is maintaining neutrality.

23 "(2) In case she cooperates in a positive
24 way with Japan, full assurances will be given that
25 Thailand's swamp lands will be reclaimed in the areas

concerned.

1
2 "(3) In the event of Thai's assets in
3 England being frozen great fluctuation would result
4 in the value of Thai's money, but Japan would make
5 available sufficient funds to create a foundation for
6 a yen 'block' money system, and also give every con-
7 sideration to providing petroleum and other essential
8 commodities.

9 "To summarize: By cooperating with Japan
10 the racial longings of Thailand will be realized,
11 and with indivisible relations with Japan her exis-
12 tence as an independent nation will be strengthened --
13 (three lines missed) --- stop with as simple a ---
14 " as possible to the effect that 'will cooperate in
15 every way for the realization of the objectives of
16 East Asia coprosperity and stability,' while the par-
17 ticulars as necessity may require will be put into a
18 secret treaty ---

19 "Furthermore, in the light of Japan's basic
20 national policy which has for its purpose the es-
21 tablishment of an East Asia coprosperity sphere, and
22 the emancipation of the Asiatic peoples, it goes with-
23 out saying that Thailand's sovereignty must not be
24 impaired beyond the minimum limits of necessity, and
25 that her standing as an independent nation must be

1 maintained to the very last; while strictest military
2 discipline must be used to reassure the Thai populace
3 and strict control should by all means be exercised
4 over any attempts at profiteering.

5 "Have sent --- by the hand of Consul-General
6 ASADA, who has returned to Japan, but to make doubly
7 sure I am also cabling it to you.

8
9 "Available, Purple dated 21 November."

10 "Secret" at the bottom of the page, "(F)
11 Navy Trans. 11-27-41 (S-TT)."

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1 On November 26 NOMURA and KURUSU sent to
2 Tokyo by cable their last suggestion with an admis-
3 sion of failure as to the negotiations but suggested
4 or stated that Japan might gain a little time. This
5 is International Prosecution document 2593 D (19)
6 which we now offer in evidence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No., 2593 D (19) will receive exhibit No. 1189.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1189 and received in evidence.)

13 MR. FIFELLY: I now read prosecution exhibit
14 No. 1189:

15 "TOP SECRET .

16 "From: Washington

17 "To: Tokyo

18 "November 26, 1941

19 "Purple, (Extremely urgent)

20 "#1180. (Part 1 of 2)

21 "From NOMURA and KURUSU.

22 "As we have wired you several times, there is
23 hardly any possibility of having them consider our 'B'
24 proposal in toto. On the other hand, if we let the
25 situation remain tense as it is now, sorry as we are to

1 say so, the negotiations will inevitably be ruptured,
2 if indeed they may not already be called so. Our fail-
3 ure and humiliation are complete. We might suggest one
4 thing for saving the situation. Although we have grave
5 misgivings, we might propose, first, that President
6 ROOSEVELT wire you that for the sake of posterity he
7 hopes that Japan and the United States will cooperate
8 for the maintenance of peace in the Pacific (just as
9 soon as you wire us what you think of this, we will
10 negotiate for this sort of an arrangement with all we
11 have in us), and that you in return reply with a cord-
12 ial message, thereby not only clearing the atmosphere,
13 but also gaining a little time. Considering the possi-
14 bility that England and the United States are scheming
15 to bring the Netherlands Indies under their protection
16 through military occupation, in order to forestall this,
17 I think we should propose the establishment of neutral
18 nations, including French Indo-China, Netherlands India
19 and Thai. (As you know, last September President
20 ROOSEVELT proposed the neutrality of French Indo-China
21 and Thai.)

22 "ARMY 6891 25435 Secret Trans. 11-28-41 (1)

23 "TOP SECRET"

24 I now read part 2 of that same exhibit:

25 "We suppose that the rupture of the present

1 negotiation; does not necessarily mean war between
2 Japan and the United States, but after we break off,
3 as we said, the military occupation of Netherlands
4 India is to be expected of England and the United States.
5 Then we would attack them and a clash with them would
6 be inevitable. Now, the question is whether or not
7 Germany would feel duty bound by the third article of
8 the treaty to help us. We doubt if she would. Again,
9 you must remember that the Sino-Japanese incident would
10 have to wait until the end of this world war before it
11 could possibly be settled.

12 "In this telegram we are expressing the last
13 personal opinions we will have to express, so will
14 Your Excellency please be good enough at least to show
15 it to the Minister of the Navy, if only to him; then
16 we hope that you will wire us back instantly.

17 "Trans. 11-28-41 (1)

18 "TOP SECRET"
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1 On the same day, the Secretary of State
2 handed to NOMURA the last counter-proposal of the
3 United States, and this matter will be dealt with by
4 Mr. Ballantine in his testimony.

5 As showing that the Pearl Harbor attacking
6 task force left for the actual attack on Pearl Har-
7 bor on November 26, I now read from prosecution ex-
8 hibit 809, page 72, the brief but pertinent data in
9 that connection, questions 30 to 32, inclusive:

10 "30. When did the Task Force begin to form?

11 "The various forces were to leave the
12 several areas where they might be on or about 15
13 November, to proceed as single vessels or in small
14 formations and to rendezvous in TANKAPPU-WAN by
15 22 November.

16 "31. Where was the rendezvous?

17 " TANKAPPU-WAN.

18 "32. When did the Task Force get underway on
19 its mission?

20 "It sailed from TANKAPPU-WAN at 0600 hours
21 20 November."

22 In this same connection I refer to prosecu-
23 tion exhibit 1128A which is an abstract from the
24 SHIMADA interrogation of January 23, page 33, and
25 read another part of the exhibit referring to the

1 task force which rendezvoused at Tankan Bay.

2 THE PRESIDENT: Dr. KIYOSE.

3 DR. KIYOSE: I should like to refer your
4 Honor's attention to exhibit 1189 -- at the end of
5 1189. In the English text at the end of page 2 there
6 are the words "Minister of the Navy." I should like
7 to call your attention to the fact that the Minister
8 of the Navy at that time was Admiral YONAI. As a
9 matter of fact, the telegram refers at the end to,
10 in the Japanese word, "NAIDAIJIN," meaning: The
11 Lord Keeper of the Privy Seal. And, perhaps because
12 of an omission of some syllable, it was considered
13 as "YONAI," and, therefore, the words "Minister of
14 the Navy" entered into the text. I should like to
15 point out that the reference was made to the Lord
16 Keeper of the Privy Seal.

17 THE PRESIDENT: What you say is noted, Dr.
18 KIYOSE.

19 MR. FIELLY: Referring to exhibit 1128A,
20 I now read from page 78 from that exhibit. I am
21 wrong on my page number. I read the part of that ex-
22 hibit which appears on page 1 and takes in the rest
23 of the page, starting with the question, "Now, on
24 November 10, 1941" (Reading)
25

1 task force which rendezvoused at Tankan Bay.

2 THE PRESIDENT: Dr. KIYOSE.

3 DR. KIYOSE: I should like to refer your
4 Honor's attention to exhibit 1189 -- at the end of
5 1189. In the English text at the end of page 2 there
6 are the words "Minister of the Navy." I should like
7 to call your attention to the fact that the Minister
8 of the Navy at that time was Admiral YONAI. As a
9 matter of fact, the telegram refers at the end to,
10 in the Japanese word, "NAIDAIJIN," meaning: The
11 Lord Keeper of the Privy Seal. And, perhaps because
12 of an omission of some syllable, it was considered
13 as "YONAI," and, therefore, the words "Minister of
14 the Navy" entered into the text. I should like to
15 point out that the reference was made to the Lord
16 Keeper of the Privy Seal.

17 THE PRESIDENT: What you say is noted, Dr.
18 KIYOSE.

19 MR. FIDELLY: Referring to exhibit 1128A,
20 I now read from page 78 from that exhibit. I am
21 wrong on my page number. I read the part of that ex-
22 hibit which appears on page 1 and takes in the rest
23 of the page, starting with the question, "Now, on
24 November 10, 1941" (Reading)
25

1 "Q. Now, on November 10, 1941, didn't Vice-
2 Admiral NAGUMO issue aboard his flagship, aircraft
3 'Akagi' striking force operation order No. 1, which
4 ordered all forces to complete battle operations by
5 November 20, 1941?

6 "A. I think that is so.

7 "Q. Tankan (Hitokappu) Bay of Etorofu Island in
8 the Kuriles was designated in the striking force
9 order No. 1 as the rendezvous for the task force,
10 wasn't it?

11 "A. Yes.

12 "Q. Between November 21 and November 27, 1941,
13 the task force rendezvoused at Tankan Bay, didn't it?

14 "A. Yes.

15 "Q. The task force left Tankan Bay on November
16 27, 1941, and sailed East until December 4th or 5th,
17 didn't it?

18 "A. Yes.

19 "Q. Then it altered its course to the Southeast
20 toward Hawaii?

21 "A. Yes."

22
23 THE PRESIDENT: Are you going to read from
24 page 2?

25 MR. FANELLY: I might as well read the rest
of it although it fits in at a later date.

1 THE PRESIDENT: Whatever course you set out,
2 do not change because of any suggestion from me. Do
3 as you intended.

4 MR. FANELLY: I had made no definite decision
5 on it, your Honor. I will read the two or three
6 questions and answers although it does get a little
7 bit out of the present time period that we are in,
8 as of a particular date.

9 Page 2 of the exhibit:

10 "Q. Upon reaching a point approximately 250
11 miles from Hawaii the first wave of planes was
12 launched, wasn't it?

13 "A. Yes.

14 "Q. A fleet of from 20 to 30 Japanese sub-
15 marines from the Sixth Fleet was patrolling outside
16 Pearl Harbor before the strike, wasn't it?

17 "A. Yes.

18 "Q. And a fleet of some 5 or 6 midget submar-
19 ines attempted to gain entrance to the Harbor, didn't
20 it?

21 "A. Yes"

22 That the task force sailed for Pearl Harbor
23 on this date, we now refer to page 78 in exhibit 809
24 and read the very order itself providing therefor.
25 It appears at the top of the page.

1 "Combined Fleet Order

2 "The Task Force will move out of HITOKAPPU-
3 WAN on 26 November and proceed without being detected
4 to the evening rendezvous point (Lat 40° N, Long
5 170° W), set for 3 December, where refueling and
6 supply will be carried out as quickly as possible.
7 NOTE: In accordance with this order the Task Force
8 moved out of HITOKAPPU-WAN at 0600 hours on 26
9 November.

10 "Combined Fleet Dispatch Operation

11 Order _____ (essentials).

12 "Time of origin: Approximately 1730 hours,
13 2 Dec. 41.

14 "Text: X-Day will be 8 December.

15 "Task Force Ultrasecret Operation Order 1
16 (essentials).

17 "Flagship AKAGI, HITOKAPPU-WAN

18 23 Nov. 41.

19 "NAGUMO, Chuichi

20 "Task Force Commander."
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THE PRESIDENT: Mr. Brannon

MR. BRANNON: We wish to remind the Tribunal that this is not the order that was issued but the recollection of several Japanese Naval Officers.

THE PRESIDENT: This must be the order. It would require photographic memories to recollect that, but it may be as Mr. Brannon says. You can clear that up, Mr. Fihelly. Perhaps Admiral Richardson will clear it up when he comes, Mr. Fihelly, so proceed.

MR. FIELLY: This Appendix B, your Honor, is a reply to what is known as the Colonel Munson Questionnaire, some thirty or more questions that was sent to the Japanese Naval Department to answer the specific question.

MR. BRANNON: I refer to paragraph 29, on page 75, the last sentence. "The information is based on recollection and inquiries of the following three men."

THE PRESIDENT: You could go further, Mr. Brannon. "All copies of the above items were burned at the time of surrender and as a result no documents are available. The essential points in the order relative to carrying out the operations are hereby submitted." You appear to be right, Mr.

1 Brennan.

2 MR. BRENNON: I wanted to state that I may
3 be altogether in error. The prosecution appears
4 to be ready to introduce another operational order
5 that was recovered from a sunken Japanese ship, which
6 may render much of this report obsolete; therefore,
7 I have been questioning why the prosecution was
8 placing so much reliance on this memory report, when
9 they appear to have a document that actually was a
10 copy of an official Japanese order of the same
11 nature.

12 THE PRESIDENT: If by "the same nature" you
13 mean to the same effect, it will be in the interest
14 of the prosecution to use it and will be against you.

15 MR. BRENNON: I mean pertaining to the same
16 subject matter.

17 MR. FIDELLY: IPS document 17, to which the
18 counsel refers only refers to General Secret Op-
19 erational Order No. 1 and 2. That document will
20 be introduced during the testimony of Admiral
21 Richardson. I did in general state to the Court
22 this morning that it would show, not in contra-
23 distinction or in opposition to what is here stated,
24 but in direct coincidental date with date on
25 November 5th that the Operational Order No. 1 was

1 issued. Before going on to another document I did
2 just want to make this additional observation, Mr.
3 President. It was stated this morning that in a
4 certain part of a quote from this exhibit it was
5 the recollection of a Japanese yeoman of the
6 Japanese Navy. These Munson Questionnaire questions
7 are the recollection of the best men in the
8 Japanese Navy, who could answer these questions.
9 I only mean to state, not that Mr. Logan's state-
10 ment was incorrect, but that this particular answer
11 or order is in a different category because it is
12 recollection of high officers of the Japanese fleet,
13 just as to another question Mr. NAGANO gave his
14 recollection, saying that on November 3rd he de-
15 cided to attack Pearl Harbor.

16 THE PRESIDENT: Mr. Brannon.

17 MR. BRANNON: Mr. President, we do not
18 choose to make an argument of this at this time.
19 We only wish to call the Court's attention to the
20 fact that what he read was based upon the memory
21 of three Japanese Naval Officers, whether it be a
22 Munson Report, or what it is, and they are all
23 alive and in Tokyo today.

24 MR. FIDELLY: So if there is any error in
25 this answer I am sure the defense will clear it up.

1 MR. FIELLY: I now read from International
2 Prosecution document No. 1632W (85), the KIDO Diary
3 entry of November 26, to show events which were taking
4 place in Japan at that particular time.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1632W (85) will receive exhibit No. 1190.

8 (Whereupon, the document above referred
9 to was marked prosecution's exhibit No. 1190 and
10 received in evidence.)

11 MR. FIELLY: I now read from prosecution's
12 exhibit 1190; Extract from KIDO Diary, 26 November
13 1941:

14 "I met HARA, President of the Privy Council,
15 to consult with him about a Senior Statesmen's confer-
16 ence. I saw the Emperor from 11:15 a.m. to 11:45 a.m.
17 He said that as for the future outlook of the Japanese-
18 American talks it was feared to our regret that the
19 worst might come to the worst. Under these circum-
20 stances, our final decisions as to the war should be
21 carried into practice after another Senior Statesmen's
22 conference which should be convened to have broader
23 and more complete discussions on the matter. The
24 Emperor also said that he wanted to tell his idea to
25 Premier TOJO."

1 "I answered as follows: 'As we are going to
2 decide on the final course of a grave action which can
3 never be undone, Your Majesty had better freely put any
4 questions and express your opinions, so that we may not
5 rue the day when we were tempted to do such a thing.'"

6 For the same general purpose, that is, to
7 show the manner in which the negotiations were carried
8 on at this time, we now offer in evidence a telephone
9 conversation between -- of November 27, 1941, between
10 KURUSU and YAMAMOTO of the Foreign Office, this being
11 International Prosecution document 15-G.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 15-G will receive exhibit No. 1191.

15 (Whereupon, the document above referred
16 to was marked prosecution's exhibit No. 1191 and
17 received in evidence.)

18 MR. FIELLY: I now read Exhibit No. 1191
19 which is one of the intercepted diplomatic messages:

20 "Pages 188 to 191, inclusive.

21 "From: Washington

22 "To: Tokyo. (Secret)

23 "27 November 1941.(2327-2334 EST)

24 (Telephone Code)--(See JD-1: 6841) (S.I.S.

25 #25344) "

1 "Trans-Pacific Telephone.

2 "(Conversation between Ambassador KURUSU and
3 Japanese Foreign Office American Division Chief,
4 YAMAMOTO)

5 "Literal translation" given on the one side
6 and "Decode of Voice Code" given on the other.

7 "(After connection was completed:)

8 "KURUSU: 'Hello, hello. This is KURUSU.'

9 "YAMAMOTO: 'This is YAMAMOTO.'

10 "KURUSU: 'Yes, Hello, hello.'

11 "(Unable to get YAMAMOTO for about six or
12 eight seconds, he said aside to himself, or to someone
13 near him:)

14 "KURUSU: 'Oh, I see, they're make a record
15 of this, huh?'

16 "(It is believed he meant that the six second
17 interruption was made so that a record could be started
18 in Tokyo. Interceptor's machine had been started several
19 minutes earlier.)

20 "KURUSU: 'Hello. Sorry to trouble you so
21 often.'

22 "YAMAMOTO: 'How did the matrimonial question
23 get along today?'"

24 Decode of Voice Code: "'How did the negotia-
25 tions go today?'

1 "KURUSU: 'Oh, haven't you got our telegram'
2 yet? It was sent -- let me see -- at about six -- no,
3 seven o'clock. Seven o'clock. About three hours ago.'

4 "'There wasn't much that was different from
5 what Miss UMEKO said yesterday.'"

6 Decode: "'There wasn't much that was different
7 from Hull's talks of yesterday.'

8 YAMAMOTO: 'Oh, there wasn't much difference?'

9 "KURUSU: 'No, there wasn't. As before, that
10 southward matter -- that south, SOUTH -- southward
11 matter, is having considerable effect. You know, south-
12 ward matter.'

13 "YAMAMOTO: (Obviously trying to indicate the
14 serious effect that Japanese concentrations, etc. in
15 French Indo-China were having on the conversations in
16 Washington. He tries to do this without getting away
17 from the 'Miss UMEKO childbirth, marriage' character
18 of the voice code.)

19 "YAMAMOTO: 'Oh, the south matter? It's
20 effective?'

21 "KURUSU: 'Yes, and at one time, the matri-
22 monial question seemed as if it would be settled.'"

23 Decode: "'Yes, and at one time it looked as
24 though we could reach an agreement.'

25 "KURUSU: 'But -- well, of course, there are

1 other matters involved too, but -- that was it -- that
2 was the monkey wrench. Details are included in the
3 telegram which should arrive very shortly. It is not
4 very long and you'll be able to read it quickly.'

5 "YAMAMOTO: 'Oh, you've dispatched it?'

6 "KURUSU: 'Oh, yes, quite a while ago. At
7 about 7 o'clock.'

8 "(Pause.)

9 "KURUSU: 'How do things look there? Does
10 it seem as if a child might be born?'"

11 Decode: "'Does it seem as if a crisis is at
12 hand?'

13 "YAMAMOTO: (In a very definite tone): 'Yes,
14 the birth of the child seems imminent.' "

15 Decode: "'Yes, a crisis does appear imminent.'

16 "KURUSU: (In a somewhat surprised tone, re-
17 peating YAMAMOTO's statement): 'It does seem as if the
18 birth is going to take place?'"

19 Decode: "'A crisis does appear imminent?'

20 "(Pause)

21 " KURUSU: 'In which direction..!(broken off)
22 (stopped himself very abruptly at this slip which went
23 outside the character of the voice code. After a
24 slight pause he quickly recovered, then to cover up
25 the slip, continued:)"

1 "KURUSU: 'Is it to be a boy or a girl?'

2 "YAMAMOTO: (Hesitated, then laughing at his
3 hesitation took up KURUSU's cue to re-establish the
4 voice code character of the talk. The 'Boy, girl,
5 healthy' byplay has no other significance):

6 " YAMAMOTO: 'It seems as if it will be a
7 strong healthy boy.'

8 "KURUSU: 'Oh, it's to be a strong healthy
9 boy?'

10 "(Rather long pause.)

11 "YAMAMOTO: 'Yes. Did you make any statement
12 (to the newspapers) regarding your talk with Miss
13 KIMIKO today?'"

14 Decode: "'Did you make any statement regarding
15 your talks with the President today?'

16 "KURUSU: 'No, nothing. Nothing except the
17 mere fact that we met.'

18 "YAMAMOTO: 'Regarding the matter contained
19 in the telegram of the other day, although no definite
20 decision has been made yet, please be advised that
21 effecting it will be difficult.'

22 " KURUSU: 'Oh, it is difficult, huh?'

23 "YAMAMOTO: 'Yes, it is.'

24 "KURUSU: 'Well, I guess there's nothing more
25 that can be done then.'"

1 "YAMAMOTO: 'Well, yes.'

2 "(Pause.)

3 "YAMAMOTO: 'Then, today...'

4 "KURUSU: 'Today?'

5 "YAMAMOTO: 'The matrimonial question, that is,
6 the matter pertaining to arranging a marriage -- don't
7 break them off.'"

8 Decode: "'Regarding negotiations don't break
9 them off.'

10 "KURUSU: 'Not break them? You mean talks?'

11 "(Helplessly:)

12 "KURUSU: 'Oh, my.'

13 "(Pause, and then with a resigned laugh:)

14 "KURUSU: 'Well, I'll do what I can.'

15 "(Continuing after a pause:)

16 "KURUSU: 'Please read carefully what miss
17 KIMIKO had to say as contained in today's telegram.'"

18 Decode: "'Please read carefully what the
19 President had to say as contained in today's telegram.'

20 "YAMAMOTO: 'From what time to what time were
21 your talks today?'

22 "KURUSU: 'Oh, today's was from 2:30.'

23 "(Much repeating of the numeral 2)

24 "KURUSU: 'Oh, you mean the duration? Oh,
25 that was for about an hour.'"

1 "YAMAMOTO: 'Regarding the matrimonial question.'"

2 Decode: "'Regarding the negotiations.'

3 "'I shall send you another message. However,
4 please bear in mind that the matter of the other day
5 is a very difficult one.'

6 "KURUSU: 'But without anything, -- they want
7 to keep carrying on the matrimonial question. They do.
8 In the meantime we're faced with the excitement of
9 having a child born. On top of that TOKUGAWA is
10 really champing at the bit, isn't he? TOKUGAWA is,
11 isn't he?'"

12 Decode: "'But without anything, they want to
13 keep on negotiating. In the meantime, we have a crisis
14 on hand and the army is champing at the bit. You know
15 the army.'

16 "(Laughter and pause).

17 "KURUSU: 'That's why I doubt if anything
18 can be done.'

19 "YAMAMOTO: 'I don't think it's as bad as
20 that.'

21 "YAMAMOTO: 'Well, -- we can't sell a mountain.'"

22 Decode: "'Well, -- we can't yield.'

23 "KURUSU: 'Oh, sure, I know that. That isn't
24 even a debatable question any more.'

25 "YAMAMOTO: 'Well, then, although we can't
yield, we'll give you some kind of a reply to that

1 telegram.'

2 "KURUSU: 'In any event, Miss KIMIKO is
3 leaving town tomorrow, and will remain in the country
4 until Wednesday.'"

5 Decode: "'In any event, the President is
6 leaving town tomorrow, and will remain in the country
7 until Wednesday.'

8 "YAMAMOTO: 'Will you please continue to do
9 your best.'

10 "KURUSU: 'Oh, yes. I'll do my best. And
11 NOMURA's doing everything too.'

12 "YAMAMOTO: 'Oh, all right. In today's talks,
13 there wasn't anything of special interest then?'

14 "KURUSU: 'No, nothing of particular interest,
15 except that it is quite clear now that that southward --
16 ah -- the south, the south matter is having considerable
17 effect.'

18 "YAMAMOTO: 'I see. Well, then, good bye.'

19 "KURUSU: 'Good bye.'"

20 "(M) Navy Trans. 11-28-41."

21 At the bottom are certain symbols and "Outline
22 of interview on 27 November with Roosevelt-Hull-KURUSU-
23 NOMURA.

24 "Probably #1189 (S.I.S. #25441-42). (JD-1:
25 6896). Washington reports the two proposals presented
by the U.S. on 26 November."

1 Mr. FIEHELLY: To show further war-like pre-
2 parations at this time, we next offer in evidence
3 International Prosecution document 2539-A, indica-
4 ting that the Cabinet in a meeting of November 28
5 recognized and approved a new press system that put
6 the Japanese press on a war-time basis.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2539-A will receive exhibit No. 1192.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1192 and received in evidence.)

13 MR. FIEHELLY: I now read exhibit 1192: Heading:

14 "EXTRACT FROM 'THE TOKYO NICHU NICHU'
15 November 29, 1941. CABINET RECOGNIZES PRESS NEW
16 SYSTEM.

17 "JOURNALISTIC PLAN PROPOSED BY NEWSPAPER
18 LEADERS GIVEN APPROVAL.

19 "A plan for the establishment of a new system
20 in press circles, formulated by the board of
21 directors of the Press Federation, was recognized
22 in the regular Cabinet meeting on November 28.

23 "For the early execution of the scheme, an
24 Imperial ordinance concerning the creation of the
25 new system will be issued by virtue of Articles

1 16 and 18 of the National Mobilization Law.

2 "The new system is aimed at placing newspapers
3 on the wartime basis for the fulfilment of their
4 national mission as an organ of the state and the
5 people in the face of the present strained
6 situation."

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

9 (Whereupon, at 1600, an adjournment
10 was taken until Thursday, 14 November 1946, at
11 0930.)

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14 NOVEMBER 1946

I N D E X
of
WITNESSES

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SHIRAO, Tateki	10,567
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I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1532D(15)	1193		Telegram from Foreign Minister TOGO to Am- bassador NOMURA dated 28 November 1941		10442
15-H	1194		Telegram dated 29 November 1941 from Tokyo to Washington		10444
1532(10)	1195		Telegram from NOMURA to Foreign Minister TOGO dated 30 November 1941		10449
1632W(86)	1196		Extract from Entry of Marquis KIDO's Diary dated 29 November 1941		10452
2496	1197		Parent document of Inter- rogation of Defendant MACANO on 26 March 1946	10461	
2496-A	1197-A		Extract therefrom		10461
1632W(87)	1198		Entry from KIDO's Diary dated 30 November 1941		10468
2593D(22)	1199		Telegram of 30 November 1941 from Tokyo to OSHIMA		10469
2593D(23)	1200		Telephone conversation between KURUSU and YAMAMOTO on 30 November 1941		10473
2505	1201		Parent document from the TOJO interrogation of 20 February 1946	10479	

I N D E X

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E X H I B I T S

(Cont'd)

<u>Doc. No.</u>	<u>Fros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2505A	1201-A		Extract therefrom		10480
2513	1202		Parent document from the TOJO interrogation of 18 March 1946	10481	
2513A	1202-A		Extract therefrom (p.1-4)		10482
2506	1203		Parent document TOJO's interrogation of 21 February 1941	10487	
2506-A	1203-A		Extract therefrom		10487
2504	1204		Parent document - TOJO's interrogation dated 12 February 1946	10491	
2504A	1204-A		Extract therefrom		10492
2503	1205		Parent document - TOJO's interrogation dated 18 February 1946	10501	
2503A	1205-A		Extract therefrom		10501
4119	1206		Parent document - TOJO's interrogation dated 26 March 1946	10505	
4119A	1206-A		Extract therefrom		10505

I N D E X

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EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
4115	1207		Parent document of TOGO's interrogation dated 11 March 1946	10508	
4115A	1207-A		Extract therefrom		10509
2593D(26)	1208		Telegram dated 1 December 1941 from Tokyo to Washington		10516
2500	1209		Parent document of TOJO's interrogation dated 8 February 1946	10519	
2500A	1209-A		Extract therefrom		10520
1632W(88)	1210		Extract from Entry from Marquis KIDO's Diary dated 1 December 1941		10523
2593D(30)	1211		Telegram from TOGO to NOMURA (Havana) dated 2 December 1941		10524
1532D(11)	1212		Telegram dated 3 December 1941 to NOMURA to TOGO		10526
2593D(34)	1213		Telegram from NOMURA in reply to TOGO's telegram dated 3 December 1941		10528
2593D(35)	1214		Telegram from Tokyo to Hsinking dated 4 December 1941		10530
220-J	1215		Extract from Foreign Relations of the U.S.-Japan 1931-1941 Vol. II (p. 784) "Statement handed by the Japanese Ambassador NOMURA to the Secretary of State on 5 December 1941"		10532

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Ref. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1532D(12)	1216		Telegram from TOGO to NOMURA dated 6 December 1941		10534
1532D(13)	1217		Telegram from TOGO to NOMURA dated 6 December 1941		10536
2593D(39)	1218		Telegram of 7 December 1941 to NOMURA from TOGO		10537
2593D(38)	1219		Telegram from the Tokyo Foreign Office dated 7 December 1941		10538
1632 ^w (89)	1220		Extract from Entry from Marquis KIDO's Diary dated 7 December 1941		10541
200-I	1221		Cable sent by President Roosevelt to the Secretary of State Hull dated 6 December 1941		10542
2665	1222		Synchronized Time Chart for 6, 7, and 8 December 1941		10544
2581	1223		Comparative Time Table Based on Tokyo Proceeding Eastward on 7 and 8 December 1941		10549
2405	1224		Affidavit of Ambassador Joseph Clark Grew dated 23 June 1946		10551
2597	1225		Affidavit of SHIRAO, Tateki		10562

1 Thursday, 14 November, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0935.

11 - - -

12
13 Appearances:

14 For the Tribunal, same as before with the
15 exception of the HONORABLE R. B. PAL, Member from
16 India, not sitting.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

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22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 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 the accused are present
4 except OKAWA and HIRANUMA, who are represented by
5 their respective counsel.

6 We have a certificate of illness of HIRA-
7 NUMA from the Medical Superintendent of Sugamo Prison.
8 He is unable to attend today.

9 Dr. KIYOSE.

10 DR. KIYOSE: Yesterday afternoon I made a
11 remark on the words "Minister of the Navy" appear-
12 ing on page 2 of exhibit 1189. May we have this
13 term excluded? The defense counsel was able to
14 obtain the correct wording of this telegram, and
15 later I will be able to prove that my wording was
16 correct.

17 THE PRESIDENT: Your explanation yesterday
18 was accepted. There is no need for any further
19 action.

20 Mr. Fihelly.

21 MR. FIELLY: Mr. President and Members of
22 the Tribunal, we are now up to the date November 28,
23 1941.

24 As tending to show that Japan had decided to
25 go to war with the United States and was using her

1 negotiations to assist her, as shown by International
2 Prosecution document 1532-D(15), a wire of November 28
3 from Tokyo to Washington, which we now offer in
4 evidence.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1532-D(15) will receive exhibit No. 1193.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1193 and received in evidence.)

11 MR. FANELLY: I now read prosecution's
12 exhibit No. 1193:

13 "To: Ambassador NOMURA

14 "From: Foreign Minister TOGO

15 "Dispatched: 28 November 1941 8:05 P.M.

16 "Subject: Japan - United States Negotiation

17 "Telegram No. 844 (Ambassador's Code)

18 "Your telegram No. 1189 and others have
19 been received. In spite of the efforts you two am-
20 bassadors have made, it is surprising and regrettable
21 that such a proposal as the recent one had been made
22 toward Japan by the United States. It is impossible
23 for us to negotiate on the basis of their proposal.
24 With the submission of the Imperial government's
25 opinion of the American proposal (which will be

1 telegraphed in two or three days), the situation will
2 be such that there will be nothing left but to prac-
3 tically drop the negotiation. But we wish you to re-
4 frain from giving the impression to the United
5 States government that the negotiation is broken off.
6 Tell them that you are waiting instructions from the
7 home government and while not making clear to them
8 the intentions of the government, explain to them,
9 as your personal opinion, that Japanese claims have
10 been just and especially that although Japan has made
11 intolerable concessions and has taken a conciliatory
12 attitude in maintaining peace in the Pacific area,
13 the United States government has not reacted to co-
14 operate and has made the solution of the negotiation
15 extremely difficult.

16 "Furthermore, because of the aforementioned
17 situation, the measures which you have suggested in
18 your telegram No. 1180 have all been considered im-
19 proper at this time, although they had been referred
20 to the parties you mentioned. Please acknowledge the
21 above-mentioned situation.

22 "/end/"
23
24
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1 For the same purpose we offer in evidence
2 International Prosecution document No. 15-H, a wire
3 of November 29th from Tokyo to Washington.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 15-H will receive exhibit No. 1194.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1194 and received in evidence.)

10 MR. FIELLY: I will now read prosecution's
11 exhibit No. 1194, and I ask the Tribunal to pay
12 particular attention to the last paragraph, as it
13 has a connection with the following document which
14 will be introduced.

15 (Reading):

16 "(Secret)"

17 "FROM: Tokyo

18 "TO : Washington

19 "29 November 1941

20 "'857

21 "Re my #844.

22 "We wish you would make one more attempt
23 verbally along the following lines:

24 "The United States government has (always?)
25 taken a fair and judicial position and has formu-

1 lated its policies after full consideration of
2 the claims of both sides.

3 "However, the Imperial Government is at a
4 loss to understand why it has now taken the
5 attitude that the new proposals we have made
6 cannot be made the basis of discussion, but in-
7 stead has made new proposals which ignore actual
8 conditions in East Asia and would greatly in-
9 jure the prestige of the Imperial Government.

10 "With such a change of front in their at-
11 titude toward the China problem, what has be-
12 come of the basic objectives that the U. S.
13 government has made the basis of our negotia-
14 tions during these seven months? On these
15 points we would request careful self-reflec-
16 tion on the part of the United States govern-
17 ment."

18 MR. FINELLY: Now we come to the particular
19 phrase I mentioned.

20 "(In carrying out this instruction, please
21 be careful that this does not lead to anything like
22 a breaking off of negotiations.)"
23
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1 MR. LOGAN: If the Tribunal please, may I
2 inquire of the prosecution if exhibit 1193 is an
3 intercepted message?

4 MR. FIEHELLY: Mr. President, I will have
5 the book checked. I can't tell by just looking at
6 it. We have the intercepted book here, and we will
7 check it, and will inform Mr. Logan.

8 For such assistance as it may give the
9 Tribunal, we now offer in evidence International
10 Prosecution document No. 1532-D(10), a document which
11 was found in the Foreign Ministry which appears to be
12 the official copy of either this same wire which has
13 just been read or one substantially like it. Strangely,
14 the last line we have just referred to is missing from
15 the Japanese text, but the Japanese document shows
16 that there was some additional writing at one time
17 at the end of that document, and that an attempt has
18 been made to cross out and cover up that particular
19 writing. I will first offer the Japanese text from
20 1532-D(10) and read the document.

21
22 THE PRESIDENT: You will give evidence of
23 that attempt to which you refer, I take it.

24 MR. FIEHELLY: Just by showing the Court
25 the physical Japanese document.

THE PRESIDENT: Expert evidence could be

1 given on such matters. That is quite frequent
2 where erasures have been made in documents.

3 MR. LOGAN: May we have a direction at this
4 time, if your Honor please, to the prosecution to
5 refrain from making such statements in the future
6 when he is introducing documents. There is a proper
7 way of doing that, as your Honor just suggested, by
8 calling experts to show it.

9 MR. FHELLY: We have offered the document
10 and ask that it be marked, Mr. President and Members
11 of the Tribunal.

12 THE PRESIDENT: I have got a note:
13 If the document shows it, why should we need the
14 expert to depose?

15 By the use of acids and that type of thing
16 you can now very often bring up the original writing.
17 That is my experience as a Judge of the Supreme Court
18 of Queensland.

19 MR. LOGAN: If the Tribunal please, if the
20 prosecution has any evidence as to who made any change
21 in that document, if there has been a change made in
22 it, we ask that they produce evidence to that effect.

23 MR. FHELLY: This was a document, as I
24 told the Tribunal before, all this series of 1532-
25 documents were found at the Japanese Foreign Ministry.

1 We have no evidence at this time as to who made that
2 obliteration, but I believe we have a right, Mr. Pres-
3 ident and Members of the Tribunal, to introduce this
4 document which was an official document of the
5 Japanese Government and let it speak for itself.

6 THE PRESIDENT: You will save time, I think,
7 and reduce the number of protests from the defense
8 if you are satisfied, Mr. Fihelly, simply to say that
9 on this document there appears to be an erasure and
10 invite the Court's consideration of it or inspection
11 of it.

12 Apparently, it is not an erasure. It is
13 not an erasure; it is an obliteration, and you should
14 have no difficulty in restoring the original writing
15 by the use of acids or infra-rays or whatever is used
16 on those occasions; and we expect you to do it.

17 MR. FIELLY: Mr. President, I do not think
18 I used the word "erasure." I did use the word
19 "obliteration." I am sorry if the Court was misled.
20

21 THE PRESIDENT: Perhaps I assumed that it
22 was an erasure because you had made no attempt to
23 bring up the writing. You are dealing now with the
24 most important documents in the whole of this trial.
25 I do not think it is too much to say that.

MR. FIELLY: We will be glad to use every

1 means within our power to see what can be done to
2 bring that out. We had given it to different trans-
3 lators to see if they could pick up any word, and
4 were unable to get any satisfactory answer. We will
5 be glad to see what further can be done, as the Court
6 instructs.

7 Also, in view of what your Honor has said,
8 would it not be better to have this document marked
9 as a court exhibit so that it remains in custodia legis
10 in the custody of the Court.

11 THE PRESIDENT: It is already marked as an
12 exhibit. It is admitted on the usual terms, if I have
13 not already said so.

14 MR. FINLEY: What was the number of that,
15 Mr. Mantz?

16 CLERK OF THE COURT: Prosecution's document
17 No. 1532-B(10), exhibit No. 1195.

18 (Whereupon, the document above referred
19 to was marked prosecution's exhibit No. 1195
20 and received in evidence.)

21 MR. LOGAN: If the Tribunal please, the
22 other message concerning which we were just talking,
23 prosecution's exhibit 1194, is an intercepted message,
24 but it has not the date that it was translated on it.
25 May we have that from the prosecution?

1 MR. PHILLIP: If our interconnected books have
2 any such data, we will be glad to give it to Mr. Logan.

3 Mr. President, may exhibit 1195 now be read?

4 THE PROSECUTOR: It may.

5 MR. PHILLIP: I now read from prosecution
6 exhibit No. 1195:

7 "To: Ambassador TOBUKI in U.S.A.

8 "From: Foreign Minister TOCO

9 "Subject: U.S.-Japanese Negotiations

10 "Dispatched 30 November 1941 4:20 A.M.

11 "Telegram No. 657 (Ambassador Code)

12 "The my telegram No. 644 /Explanation of the
13 telegram missing in English/

14 "We wish you would make an more attempt
15 verbally along the following lines:

16 "The U. S. Government considers that it
17 is difficult for them to base discussion on our new
18 proposal of the 20th, which was drawn up after con-
19 siderable deliberation bearing in mind the claims
20 of both sides and based on our just standpoint.

21 "The Imperial Government is at a loss to
22 understand the new proposal of the 26th which has
23 ignored actual conditions in East Asia and would
24 greatly injure the prestige of the Imperial Govern-
25 ment."

1 "We cannot but hold a doubtful attitude
2 towards the fundamental plans of the American Gov-
3 ernment in the negotiations during the past seven
4 months. /sentence in the margin not translated/ On
5 these points we request careful self-reflection on
6 the part of the United States Government.

7 "(C-55)"
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1 "We cannot but hold a doubtful attitude
2 towards the fundamental plans of the American Gov-
3 ernment in the negotiations during the past seven
4 months. /Sentence in the margin not translated/ On
5 these points we request careful self-reflection on
6 the part of the United States Government.

7 "(C-55)"
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1 We next offer in evidence International
2 Prosecution document No. 1632-W(86), which is an
3 extract from the KIDO Diary of November 29, to show
4 that a meeting of Senior Statesmen was held on that
5 date in connection with the matter of war with the
6 United States.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1632-W(86) will receive exhibit No. 1196.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1196 and received in evidence.)

13 MR. FHELLY: I now read from prosecution's
14 exhibit No. 1196, the extract from the KIDO Diary,
15 November 29, 1941:

16 "From 2 p.m. to 3 p.m. the Emperor asked
17 Senior Statesmen's opinions concerning the present
18 political situation.

19 "The Emperor remarked on the difficult times
20 we were going through.

21 "Baron TOKUTSUKI said that we were equal
22 to a prolonged war with the U.S.A. in spiritual power,
23 but regarding material power we must make a careful
24 study.

25 "Admiral OKADA said that he had grave doubts

1 as to our supply capacity in regard to war materials,
2 and thought the Government's statement about this
3 matter to date was quite incomplete.

4 "Baron HIRANUMA agreed with Mr. TAKATSUKI's
5 opinion as regards the spiritual strength of the
6 Japanese nation, and urged further measures to awaken
7 patriotic sentiment.

8 "Prince KONOYE stated that it was quite re-
9 grettable that our negotiations were going to be a
10 failure in spite of our strenuous efforts since last
11 April. But he was of the opinion that there would
12 be no need to resort to a hasty war just because of
13 the rupture of the negotiations as we might be able
14 to reach a wise solution in some way or other, while
15 continuing our struggle against difficulties.

16 "Admiral YONAI said that he could not base
17 his opinion on definite data, but it was his desire
18 that we should be careful not to lose what little
19 we possess by trying to avoid becoming poorer by
20 inches.

21 "Mr. HIROTA said that although our policy
22 had been to prevent Anglo-American interference in
23 the China Incident, things had reached their present
24 situation. We should be able to seize an opportunity
25 to solve the pending problems between the two coun-

1 tries even after the commencement of hostilities, if
2 we were sincere enough in our diplomatic efforts.

3 "General H. V. S. I stated that as he had no
4 data for his opinion, he could do nothing but believe
5 the decisions of the Imperial Headquarters and the
6 government.

7 "General A. B. T. said that according to the
8 government statement the negotiations had come to
9 a deadlock in spite of strenuous efforts on our part.
10 He was sure that the Government had studied the
11 world political situation from various angles with
12 laborious minuteness, for which we were thankful.
13 But it would be quite necessary to pay much more
14 attention to the attitude of the Chinese people than
15 to the war with the U.S.A., otherwise we would lose
16 the fruits of victory in the Chinese Incident.

17 "Mr. T. KATSUKI said that the war should be
18 fought to the last, even if there was no chance to
19 win, if it was a defensive one for the cause of our
20 national existence and self-defense, but we should
21 avoid the war if we intended to realise our ideals
22 such as 'the Asiatic Co-prosperity Sphere' or 'the
23 stabilising of power in Asia', because such a war
24 would be very dangerous."
25

1 MR. LOGAN: If the Tribunal please, I realize
2 fully your decision on reference of these excerpts to
3 the Language Section, but here is a meeting that was
4 held on November 29, 1941, and as read by the prose-
5 cution it is more or less of a summary of what took
6 place. I might say that the summary here is practi-
7 cally identical with what the prosecution has ad-
8 mitted is a rough translation of the Diary. The
9 translation we have is in the first person, and not
10 in the third person; it covers two and one-half pages
11 and not one and one-half pages; and it is more ex-
12 plicit and explains fully what these various people
13 said at this meeting.

14 THE PRESIDENT: If you are not prepared to
15 refer the matter to Major Moore, Mr. Logan, and abide
16 by his decision, you then must be satisfied to give
17 this as part of the defense evidence. As I said be-
18 fore, we can never agree to allow two translations
19 to be given in the course of the prosecution's case:
20 one by the prosecution, and the other by the defense.
21 The defense translation will be received during the
22 course of the evidence for the defense, if it is
23 offered. We cannot prevent you from contesting a
24 translation at the proper time.

25 MR. LOGAN: My point is this, your Honor:

1 That here is an important conference in which
2 Marquis KIDO quotes what was said by two of the
3 accused here, and I think the Tribunal would be in-
4 terested in hearing our translation of this particu-
5 lar conference. I should think that they would want
6 to find out what our translation says. I do not
7 think it is exactly fair, your Honor, for the prose-
8 cution to be presenting rough translations of a docu-
9 ment they have had for practically a year, particu-
10 larly when it refers to this stage of the case.

11 THE PRESIDENT: Until the contrary appears,
12 we will assume that they are presenting the best
13 translation they have. You will be able to show the
14 contrary, perhaps, in the course of giving evidence
15 for the defense.

16 I have got a note here to this effect:
17 We do not want a partisan translation if there be a
18 dispute. In such case we should have one only, and
19 that is from our own Language Referee.

20 I have already said that you may approach
21 the Referee, and if he says the translation should
22 be a certain thing, then you must accept it. But,
23 as I just said, if the defense do not accept it in
24 the course of the prosecution's case, they can give
25 evidence of their translation when they are giving

1 evidence later. I hope that if any counsel is under
2 misapprehension, will he come to the lectern and tell
3 me what it is so that I may clear it up.

4 Mr. Smith.
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1 MR. SMITH. If your Honor please, in a good
2 many documents there were minor errors. We can well
3 understand how your Honor would not want to be bother-
4 ed with it frequently and have it referred to the
5 Language Section as a matter of course. But, as we
6 understand it, practically everything in this ex-
7 hibit 1195 is in error so far as the translation goes;
8 and I would like to ask your Honor, when serious mis-
9 translations occur such as this and that deal with a
10 matter of this importance, that the Translation Sec-
11 tion of the Court should give priority to the cor-
12 rection of these documents and come in as soon as it
13 is completed and reread the matter to the Court as
14 the Court's own section translates it.

15 It may be four or five months before we have
16 reached this subject in our own case; and, where we
17 are dealing with thousands of documents and counsel
18 are swamped with all these things, I submit, your
19 Honor, it is only fair that we clear as much of this
20 confusion away as we go along and as is possible in
21 the case.

22 THE PRESIDENT: Do not leave the lectern,
23 please.

24 I have already directed to be done what you
25 ask me to do now. If the defense question a trans-

1 lation when they receive it they are at liberty to
2 go to the head of the Translation Section and put
3 their representations before him. If he agrees with
4 them, he will see the prosecution, and the correction
5 will be made at the lectern by the counsel presenting
6 the document or reading it. If he does not agree
7 with them, the defense then will be able to give
8 their version in the course of giving evidence for
9 the defense.

10 As I am reminded by a colleague, I have
11 already told you that twice within the last four
12 days.

13 MR. SMITH: Your Honor, since the blanket
14 ruling, an automatic referring was made about a
15 week ago; and counsel have referred a number of
16 documents to the Translation Section, and so far
17 none of them have come back corrected.

18 THE PRESIDENT: Major Moore spoke to me about
19 this matter this morning, and it appears that he is
20 asked to make a choice between the use of these two
21 words, "hastening" and "expediting." He was quite
22 reasonable about it and, in all seriousness, wanted
23 to know whether it was worth correcting.

24 If matters like that are referred to him,
25 of course, he will never be able to do any work. He

1 will be overworked. He will never be able to com-
2 plete his work, I should say.

3 MR. SMITH: I am sure, your Honor, that
4 none of the defense counsel are taking any captious
5 attitude. All we are begging for is the substance.
6 The whole point of what I said this morning is that
7 in a document of this extreme importance, on the eve
8 of Pearl Harbor, that the matter ought to have pri-
9 ority and that the Court direct the Translation
10 Section to take this matter up immediately and to
11 come back as soon as possible with the corrections.

12 THE PRESIDENT: A colleague questions the
13 right of the defense to give evidence of their
14 translation if it is not accepted by Major Moore.
15 I will say no more about it. I will take the de-
16 cision of the whole Tribunal and abide by it faith-
17 fully.

18 (Whereupon, a discussion was had
19 off the record by the Members of the Tri-
20 bunal.)

21 THE PRESIDENT: Mr. Fiholly.

22 MR. FIHOLLY: To show that important Liaison
23 Conferences were held in these late days of November
24 1941, and for other pertinent information contained
25 therein, we now offer in evidence International

1 Prosecution document No. 2496-A, which is an extract
2 from the interrogation of the defendant NAGANO on
3 March 26, 1946, pages 11 to 13; and we ask that the
4 parent document be marked for identification.

5 CLERK OF THE COURT: Prosecution's document
6 No. 2496 will receive exhibit No. 1197 for identifi-
7 cation only.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1197 for identification.)

11 THE PRESIDENT: The excerpt is admitted on
12 the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 2496-A will receive exhibit No. 1197-A.

15 (Whereupon, the document above re-
16 ferred to was marked prosecution's exhibit
17 No. 1197-A and received in evidence.)

18 MR. FANELLY: I now read the questions and
19 answers on pages 1 and 2 of the exhibit with respect
20 to the Liaison Conferences, being near the end of
21 page 2:

22 "Q. About when, Admiral, did you place your ap-
23 proval upon the plan to attack Pearl Harbor?
24

25 "A. Either in the end of October or the beginning
of November. There was considerable argument between

the Fleets and the Naval Operational Bureau. The
1 Fleets were in favor of attacking Pearl Harbor, where-
2 as the Naval Affairs Bureau considered it too much of
3 a speculation and preferred the more conservative
4 method of waiting for the American Fleet in the South
5 Pacific Islands. Admiral YAMAMOTO was very adamant
6 in his belief in his plan to attack Pearl Harbor and
7 he threatened to resign along with his staff if that
8 plan were not carried out.
9

10 "Q. Prior to this time the plan had been perfected
11 by preliminary maneuvers at sea and also on paper at
12 the Naval Headquarters, had it not, Admiral?

13 "A. Yes, the Fleet studied it very greatly.

14 "Q. And when, Admiral, was it that you decided
15 the conflict between the Navy Affairs Bureau and Admir-
16 al YAMAMOTO in favor of the attack upon Pearl Harbor?

17 "A. I originally agreed with the Naval Operational
18 Department but as YAMAMOTO was so avid in about the
19 end of October or early part of November, as I pre-
20 viously stated, I agreed with the plan to attack Pearl
21 Harbor. The Naval Affairs Bureau were in favor of
22 using the plan that they had held for many years of
23 waiting for the American Navy in the South Pacific
24 Islands.

25 "Q. Nevertheless, Admiral, as I understand it,

1 notwithstanding the desires of the Naval Affairs
2 Bureau to adhere to the plan which had been in effect
3 for many years, you came to the conclusion that the
4 plan to attack Pearl Harbor was best and settled the
5 conflict by giving your approval to the Pearl Harbor
6 Plan, is that not correct, Admiral?

7 "A. I was for the Plan of the Naval Affairs
8 Department as that seemed to be the more logical but
9 not to have the Commander of the Fleets resign, as he
10 would have, if his plan did not go through, I thought
11 the best thing to do was to approve.

12 "Q. And you did approve, is that correct, the
13 Plan for the Pearl Harbor attack?

14 "A. Yes.

15 "Q. As I understand the situation, Admiral,
16 your approval of the same was the decisive factor in
17 carrying through the attack on Pearl Harbor, is that
18 not right?

19 "A. Yes.

20 "Q. And as I understand it, Admiral, I assume
21 that in the light of that fact, you are willing to
22 assume responsibility for the same. Is that correct,
23 Admiral?

24 "A. Naturally.

25 "Q. Admiral, about when was the fleet first

1 ordered to take position in order to carry through
2 the Pearl Harbor attack?

3 "A. The Fleets were assembled at Chiahina in
4 the middle of November. On November 26 or 27 they
5 started out for Pearl Harbor. . . .

6 "Q. Admiral, as a matter of fact, there was a
7 liaison conference held on or about November 28 or 29,
8 1941, was there not, at which there were present Pre-
9 mier TOJO, Foreign Minister TOGO, Finance Minister
10 KAWA, President of the Cabinet Planning Board SUZUKI,
11 Army Chief of Staff SUGIYAMA, Army Vice Chief of Staff
12 General TANABE, yourself as Navy Chief of Staff, Navy
13 Vice Chief of Staff Rear Admiral ITO, Communications
14 Minister TERASHIMA, Agriculture Minister ITO, the
15 Cabinet Secretary HOSHINO, General MUTO as Head of the
16 Military Affairs Section for the Army and Head of the
17 Navy General Affairs Section Vice Admiral OKA to com-
18 plete the determination for war upon the United States,
19 is that not correct?

20 "A. I am not sure of the date but I believe you
21 are correct on that. However, until the very last
22 we were hoping that peace could be established and
23 were prepared to abandon the Plan until the very last,
24 for the attack on Pearl Harbor. You can add to the
25 list the Navy Minister Admiral SHIMAZU."

1 THE PRESIDENT: Mr. Brannon.

2 MR. BRANNON: If the Tribunal please, many
3 objections to these interrogations will probably be
4 presented at the time of our defense, but the accused
5 NAGAFO has specifically requested me to inform the
6 Court that all through this particular interrogation
7 the use of the words "Naval Affairs Bureau" is in-
8 correct. Since the prosecution, I believe, is not
9 particularly stressing the usage of those words, I
10 would like to call to the Court's attention that,
11 there being no such thing as a "Naval Affairs
12 Bureau," it being really a "Military Affairs Bureau
13 of the Navy Ministry," this document may tend to
14 implicate another one of the accused who was ac-
15 tually the head of the Military Affairs Bureau of the
16 Navy Ministry.

17 If I may, I would also like to inform the
18 Court that this interrogation and, I understand, many
19 others taken by the prosecution were not submitted
20 to the defendants for these technical corrections
21 after they were taken. Consequently, on matters of
22 this kind which, while they are technical in nature,
23 may have a more forceful effect upon the reading
24 thereof, I believe they should be called to the
25 Court's attention at the time they are introduced.

1 Mr. President, some of the defense counsel
2 have been in doubt as to the proper procedure to
3 take in reference to the question and answer form of
4 these interrogations, that is, whether to object to
5 the type of question asked as being leading or
6 argumentative or assuming facts or whether to treat
7 this as an entire document and to make no objection
8 to the specific question as asked. May we request
9 an expression of the President in that regard?

10 THE PRESIDENT: Whether or not the Tribunal
11 is prepared to scan these interrogatories I cannot
12 say until I consult them. I will give no decision
13 on the matter until consulting all the Members. The
14 question is raised rather late.

15 The other matters mentioned by Mr. Brannon
16 are noted.

17 MR. OKUYAMA: I am counsel for the defendant
18 NAGANO. As there was a serious mistake in the inter-
19 rogation, I would like to point it out to the Tri-
20 bunal. As it is well known, NAGANO was Chief of
21 the Naval General Staff at the time of the Pearl
22 Harbor incident -- at the time of the outbreak of war.
23 When NAGANO was replying to the questions of the
24 prosecutor, it goes without saying that he was well
25 aware that the Naval General Staff of which he was

1 Chief was different from the Military Affairs Bureau
2 of the Navy, and he, himself, will never say "Mili-
3 tary Affairs Bureau."

4 In spite of this, the translator has trans-
5 lated the "Naval General Staff" of which he was Chief
6 as the "Naval Affairs Bureau." This illustrated how
7 little the interpreter knew of Japanese and how
8 little he knew of the system of organization of the
9 Japanese Government. Therefore, I wish to call the
10 attention of the Court to the fact that this interro-
11 gation was interpreted by an interpreter who was not
12 very familiar with the Japanese language and also was
13 not familiar with the Japanese system of government.

14 THE PRESIDENT: The right time at which to
15 give that information is in the course of giving
16 evidence for the defense. I repeat that ad nauseam,
17 perhaps, but apparently it is necessary.

18 MR. FIEHELLY: May I proceed?

19 THE PRESIDENT: Mr. Fihelly.

20 MR. FIEHELLY: We next offer in evidence
21 International Prosecution document No. 1632W (87),
22 an entry from the KIDO Diary of November 30, as tend-
23 ing to show that the plans for war with the United
24 States were still being made despite the fact that
25 some wished to avoid war.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution's document
3 No. 1632^W (87) will receive exhibit No. 1198.

4 (Whereupon, the document above re-
5 ferred to was marked prosecution's exhibit
6 1198 and received in evidence.)

7 MR. FIELLY: I now read from prosecution
8 exhibit No. 1998, the extract from the KIDO Diary
9 entry of November 30, '41:

10 "I visited the Emperor at 3:30 p.m. in re-
11 sponse to his request. He said that Prince TAKAMATSU
12 had told him that the Navy's hands were full, and it
13 appeared that he wished to avoid war, but did not
14 know what to do. I advised the Emperor to ask the
15 opinions of the Navy Minister, the Chief of the Naval
16 General Staff, and the Premier, for the situation was
17 really grave. We could not be too prudent in the
18 matter. At 6:35 p.m. I again visited the Emperor in
19 response to his request. He said that he had ordered
20 the Premier to act according to program on account of
21 the affirmative answers of the Navy Minister and the
22 Chief of the Navy General Staff concerning the ques-
23 tion as to the success of the war."

24 To show the feeling of Japan at this time
25 and to show the part that the Tripartite Pact was

1 playing in the negotiations, we now offer in evidence
2 International Prosecution document 2593D 22, the wire
3 of November 30, 1941 from Tokyo to OSHIMA.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 2593D 22 will receive exhibit No. 1199.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 1199 and received in evidence.)

10 MR. FIELLY: I now read prosecution ex-
11 hibit No. 1199:

12 "From: Tokyo

13 "To : Berlin

14 "November 30, 1941

15 "Purple

16 "#986 (Strictly Secret) (To be handled
17 in Government Code) (Part 1 of 2) (Secret outside
18 the Department)

19 "1. Japan-American negotiations were
20 commenced the middle of April of this year. Over
21 a period of half a year they have been continued.
22 Within that period the Imperial Government adamantly
23 stuck to the Tri-Partite Alliance as the cornerstone
24 of its national policy regardless of the vicissi-
25 tudes of the international situation, In the

1 adjustment of diplomatic relations between Japan
2 and the United States, she has based her hopes
3 for a solution definitely within the scope of
4 that alliance. With the intent of restraining
5 the United States from participating in the war,
6 she boldly assumed the attitude of carrying through
7 these negotiations.

8 "2. Therefore, the present Cabinet, in
9 line with your message, with the view of defending
10 the Empire's existence and integrity on a just and
11 equitable basis, has continued the negotiations
12 carried on in the past. However, their views and
13 ours on the question of the evacuation of troops,
14 upon which the negotiations rested, (they demanded
15 the evacuation of Imperial troops from China and
16 French Indo-China), were completely in opposition
17 to each other.

18 "Judging from the course of the negotiations
19 that have been going on, we first came to logger-
20 heads when the United States, in keeping with its
21 traditional ideological tendency of managing inter-
22 national relations, re-emphasized her fundamental
23 reliance upon this traditional policy in the con-
24 versations carried on between the United States
25 and England in the Atlantic Ocean. The motive

1 of the United States in all this was brought out
2 by her desire to prevent the establishment of a
3 new order by Japan, Germany, and Italy in Europe
4 and in the Far East, that is to say, the aims of
5 the Tri-Partite Alliance. As long as the Empire
6 of Japan was in alliance with Germany and Italy,
7 there could be no maintenance of friendly rela-
8 tions between Japan and the United States was the
9 stand they took. From this point of view, they
10 began to demonstrate a tendency to demand the
11 divorce of the Imperial Government from the Tri-
12 Partite Alliance. This was brought out at the
13 last meeting. That is to say that it has only
14 been in the negotiations of the last few days
15 that it has become gradually more and more clear
16 that the Imperial Government could no longer con-
17 tinue negotiations with the United States. It
18 became clear, too, that a continuation of negotiations
19 would inevitably be detrimental to our cause."

20
21 "(Part 2 of 2)

22 "3. The proposal presented by the United
23 States on the 26th made this attitude of theirs
24 clearer than ever. In it there is one insulting
25 clause which says that no matter what treaty either
party enters into with a third power it will not be

1 interpreted as having any bearing upon the basic
2 object of this treaty, namely the maintenance of
3 peace in the Pacific. This means specifically the
4 Three-Power Pact. It means that in case the United
5 States enters the European war at any time the
6 Japanese Empire will not be allowed to give as-
7 sistance to Germany and Italy. It is clearly a
8 trick. This clause alone, let alone others,
9 makes it impossible to find any basis in the
10 American proposal for negotiations. What is more,
11 before the United States brought forth this plan,
12 they conferred with England, Australia, the Nether-
13 lands, and China -- they do so repeatedly. Therefore,
14 it is clear that the United States is now in collusion
15 with those nations and has decided to regard Japan,
16 along with Germany and Italy, as an enemy."
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1 The translation date appearing on the first
2 page is "Trans. 12/1/41 (NR)"; on the second page,
3 the page I just read, "Trans. 12-1-41 (NR)."

4 We next offer in evidence International
5 Prosecution document No. 2593-D-23 which relates to
6 a telephone conversation from KURUSU to Tokyo on
7 November 30, 1941.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT. Prosecution's document
10 No. 2593-D-23 will receive exhibit No. 1200.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution's exhibit
13 No. 1200 and received in evidence.)

14 MR. FIDELLY: I now read prosecution's
15 exhibit No. 1200:

16 "From: Washington

17 "To: Tokyo

18 "30 November 1941 (2230 to 2238 EST)

19 "Telephone Code"

20
21 THE PRESIDENT: You will read it after the
22 recess, Mr. Fidelity. We will recess now for fifteen
23 minutes.

24 (Whereupon, at 1045, a recess was
25 taken until 1100, after which the proceed-
ings were resumed as follows:)

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

3 THE PRESIDENT: Mr. Fihelly, before you pro-
4 ceed I will give the decision of the Tribunal on the
5 language question. I cannot do better than repeat what
6 appears in a note drafted by one of my colleagues who
7 was fully aware of the situation. It reads: "Mr. Pres-
8 ident, while you were in Australia we were told on all
9 hands that we would be faced throughout the trial with
10 competing translations. We came to the conclusion
11 that the only way to solve such questions was to set
12 up a board of referees. The Supreme Commander Allied
13 Powers appointed one member of the board -- nominated
14 one member of the board -- the Japanese Government
15 nominated another, and a third was nominated by the
16 prosecution. All three were appointed by the Court.
17 The idea was to appoint an authoritative and impartial
18 board of experts because it was understood if we
19 allowed competing evidence and competing translations
20 the trial would be prolonged indefinitely and the
21 Judges would have no means of deciding between them
22 and would still have to rely on the decision of the
23 board of experts."

24 In view of that decision, I withdraw what I
25 said as to the right of the defense to give evidence

1 of competing translations. The defense will be con-
2 fined to an appeal to the board of referees, whose
3 decision will be final. They will go directly to the
4 board of referees instead of making application to
5 the Court for a reference thereto. In other words,
6 they will follow the procedure that I have already out-
7 lined on more than one occasion.

8 Mr. Fihelly.

9 MR. FIELLY: I will read prosecution exhibit
10 No. 1200:

11 "From: Washington

12 "To: Tokyo

13 "30 November 1941 (2230 to 2238 EST)

14 "Telephone Code.

15 "TransPacific

16 "Radio Telephone.

17 "(NOTE: Following is a preliminary condensed
18 version of conversation between Ambassador KURUSU and
19 the Japanese Foreign Office American Division Chief
20 YAMAMOTO on Sunday night)

21 "KURUSU: 'It is all arranged for us to meet
22 Hull tomorrow. We received a short one from you,
23 didn't we? Well, we will meet him in regard to that.
24 There is a longer one coming isn't there? In any case
25 we are going to see him about the short one.' (i.e.

1 telegram. The longer one is probably Tokyo's reply
2 to Mr. Hull's proposals.)

3 "YAMAMOTO: 'Yes, I see.'

4 "KURUSU: 'The President is returning tomorrow.
5 He is hurrying home.'

6 "YAMAMOTO: 'Is there any special significance
7 to this?'

8 "KURUSU: 'The newspapers have made much of
9 the Premier's speech, and it is having strong reper-
10 cussions here.'

11 "YAMAMOTO: 'Is that so.'

12 "KURUSU: 'Yes. It was a drastic statement
13 he made. The newspapers carried large headlines over
14 it: and the President seems to be returning because
15 of it. There no doubt are other reasons, but this is
16 the reason the newspapers are giving.'

17 "(Pause)

18 "'Unless greater caution is exercised in
19 speeches by the Premier and others, it puts us in a
20 very difficult position. All of you over there must
21 watch out about those ill-advised statements. Please
22 tell Mr. TANI.'

23 "YAMAMOTO: 'We are being careful.'

24 "KURUSU: 'We here are doing our best, but these
25 reports are seized upon by the correspondents and the

1 worst features enlarged upon. Please caution the
2 Premier, the Foreign Minister, and others. Tell the
3 Foreign Minister that we had expected to hear something
4 different, some good word, but instead" ("instead" it
5 is; it may be typographical) "but instead we got this."
6 (i.e. Premier's speech)

7 "(After a pause, KURUSU continues, using voice
8 code)

9 "KURUSU: 'What about the internal situation?'
10 (In Japan)

11 "YAMAMOTO: 'No particular - - (one or two
12 words faded out) - -.'

13 "KURUSU: 'Are the Japanese-American negoti-
14 ations to continue?'

15 "YAMAMOTO: 'Yes.'

16 "KURUSU: 'You were very urgent about them
17 before, weren't you; but now you want them to stretch
18 out. We will need your help. Both the Premier and
19 the Foreign Minister will need to change the tone of
20 their speeches!!!! Do you understand? Please all
21 use more discretion.'

22 "YAMAMOTO: 'When will you see them. The
23 2nd.'

24 "KURUSU: 'Let's see...this is Sunday midnight
25 here. Tomorrow morning at ten. That will be Monday

1 morning here.'

2 "(Pause)

3 "Actually the real problem we are up against
4 is the effects of happenings in the South. You under-
5 stand don't you?"

6 "YAMAMOTO: 'Yes. Yes. How long will it be
7 before the President gets back?'

8 "KURUSU: 'I don't know exactly. According
9 to news reports he started at 4:00 this afternoon.
10 He could be here tomorrow morning sometime.'

11 "YAMAMOTO: 'Well then -- Goodbye.'"

12 Certain symbols at the left bottom of the
13 page, the word "secret (1) Navy trans. 30 Nov. 1941
14 (R-5)"
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1 MR. FIELLY: As further showing the events
2 which transpired in Japan just prior to the Pearl
3 Harbor attack, and particularly in connection with
4 the sending and timing of the last note to the United
5 States and to indicate the part that certain of the
6 defendants played in them, we will now offer in evi-
7 dence a series of extracts from the interrogation of
8 the defendant TOJO.

9 We first offer in evidence International
10 Prosecution document 2505-A, which is an extract from
11 the TOJO interrogation of February 20, 1946, pages
12 2, 4, and 5, and we ask that the parent document be
13 marked for identification.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2505 will receive exhibit No. 1201 for identifi-
16 cation only.

17 (Whereupon, the document above re-
18 ferred to was marked prosecution's exhibit
19 No. 1201 for identification.)

20 THE PRESIDENT: The excerpt is admitted on
21 the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 2505-A, an excerpt from the foregoing, will re-
24 ceive exhibit No. 1201-A.

25 (Whereupon, the document above

1 referred to was marked prosecution's exhibit
2 No. 1201-A and received in evidence.)

3 MR. FIDELLY: I now read from prosecution
4 exhibit 1201-A, extract from the TOJO interrogation
5 February 20, 1946, pages 2, 4, and 5:

6 "Q What was the date of that last Liaison
7 Conference before the Imperial Conference of 1st or
8 2nd of December?

9 "A I think that last Liaison Conference be-
10 fore the Imperial Conference was on the 30th of
11 November. However, as I have said before, I am not
12 sure of the date of the Imperial Conference. I
13 rather think it was the 1st, but it may have been
14 the 2nd.

15 "(pp. 4-5)

16 "Q How many times did the Emperor ask you to
17 be certain that the note was to be delivered before
18 the attack?

19 "A Repeatedly.

20 "Q Can you give us any idea of the number of
21 times? Was it three times, six, a dozen?

22 "A I was going to the Emperor about every
23 other day and he warned me many times about it.

24 "Q What was the earliest date he warned you,
25 as you recall?

1 "A He was always warning me about matters
2 having to do with foreign relations, but I think
3 the first time he warned about the delivery of the
4 final note was just after the Imperial Conference
5 of the 1st or 2nd of December 1941.

6 "Q Was not the Emperor afraid that the actual
7 attack might take place before the note was delivered?

8 "A Yes, he was afraid of it. He said to be
9 careful to see that it did not happen."

10 For the same purpose we now offer in evi-
11 dence International Prosecution document 2513-A, which
12 is an extract from the TOJO interrogation of March
13 18, 1946, pages 1 to 4. We ask that the parent
14 document be marked for identification.

15 CLERK OF THE COURT: Prosecution's document
16 No. 2513 will be given exhibit No. 1202 for identi-
17 fication only.

18 (Whereupon, the document above re-
19 ferred to was marked prosecution's exhibit
20 No. 1202 for identification.)

21 THE PRESIDENT: The extract is admitted on
22 the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 2513-A, an excerpt from the foregoing, will be
25 given exhibit No. 1202-A.

1 (Whereupon, the document above referred
2 to was marked prosecution's exhibit No. 1202-A
3 and received in evidence.)

4 Mr. FANELLY: I now read both pages of
5 prosecution exhibit 1202-A from the TOJO interroga-
6 tion of March 18, 1946, pages 1 to 4:

7 "Q The text of the final note to America was
8 approved, first by the Liaison Conference, and
9 later by the Cabinet, was it not?

10 "A The gist of it was approved by the
11 Cabinet, but the final text was the responsibility
12 of the Foreign Minister. Of course, it is my
13 responsibility, too.

14 "Q Did not also the Liaison Conference
15 first approve the gist of it?

16 "A Yes, of course. They did.

17 "Q TOGO says that he composed the text of
18 that note on a basis of the views furnished by the
19 Liaison Conference and that the text, after being
20 written, was presented to and approved by the
21 Liaison Conference. Is this correct?

22 "A Yes.

23 "Q After this had happened, the cabinet also
24 approved it, did it not?

25 "A As I recall it, after the Liaison

1 Conference had approved it, the gist of it was given
2 to the Cabinet by the Foreign Minister, after which
3 they approved it. In any case, if my memory is
4 correct, I do not believe that the text was distributed
5 to all the members of the Cabinet.

6 "Q After TOGO and the two Chiefs of Staff
7 had decided that 1:00 P.M., 7 December 1941, Wash-
8 ington time, was to be the time for the delivery of
9 the final note, this fact was reported to and ap-
10 proved by the Liaison Conference, was it not?

11 "A No. The Liaison Conference, which I was,
12 you might say, head of, delegated to the two Chiefs
13 of Staff and the Foreign Minister the task of setting
14 a time prior to the attack. The three-man com-
15 mittee did not report back to the Liaison Con-
16 ference. I don't remember that the three-man com-
17 mittee reported back to the Liaison Conference on
18 the time. I am reporting to you the facts, but the
19 results of those facts are my responsibility.

20 "(p. 3)

21 "Q Did the Foreign Minister know of the time
22 and the day set for the attack? /Referring to the
23 Pearl Harbor attack./

24 "A Yes, the Foreign Minister knew it, too.
25 The President of the Planning Board also knew. "

1 "Q As you recall it, the Liaison Conference
2 did not approve the time set for the delivery of
3 the note nor approve of the length of time between
4 the delivery of the note and the attack?

5 "A The Liaison Conference delegated the carry-
6 ing out of this matter to the Foreign Minister and
7 the two Chiefs of Staff and, in that sense only,
8 approved.

9 "(p.4)

10 "Q In addition to the Minister of War and
11 Foreign Minister, were there any other cabinet mem-
12 bers present at the Liaison Conferences immediately
13 preceding the Imperial Conference of 1 December 1941?

14 "A I do not remember exactly, but I suppose
15 that the Commerce and Industry Minister and the
16 Communications Minister attended because raw materials
17 were involved for factories and shipping was in-
18 volved. Of course, the President of the Planning
19 Board and the Navy Minister were also there.

20 "Q Was the Minister of Finance there?

21 "A Yes, he was always at Liaison Conference
22 meetings. Those five were always there - War,
23 Navy, Planning Board, Foreign, and Finance Ministers."
24
25

1 MR. FIELLY: On the same general subject, we
2 next refer to prosecution exhibit 1158A which is a
3 further extract from the TOJO interrogation of March 12,
4 1946, and read from pages 3 and 4 of the exhibit, which
5 will be pages 9 and 10 of the interrogation extract:

6 "Q Were there any differences between TOGO
7 and the others relative to this? (Referring to the
8 delivery of the final note to the United States.)

9 "A No, there were not. They were the same --
10 to deliver it before the attack.

11 "Q Was any decision arrived at in the Liaison
12 Conference as to how long it was to be delivered before
13 the attack?

14 "A I have explained this before. The decision
15 as to the time was not made at the Liaison Conference.
16 The Supreme Command and the Foreign Minister were to
17 meet together and decide the time which would comply
18 with the diplomatic and also the strategic requirements.

19 "Q Was this delegation of authority decided
20 upon at this same final Liaison Conference?

21 "A Yes.

22 "Q Do you know that such meeting or meetings
23 were held pursuant to this delegation of authority?

24 "A No, I don't know.

25 "Q Did you learn what decision had been

1 arrived at in regard to timing by these men to whom
2 the authority had been delegated?

3 "A I did not learn precisely the time set,
4 but it was decided that the Chiefs of Staff and the
5 Foreign Minister would settle that so as to comply with
6 both the diplomatic and military requirements. It
7 was settled at the Liaison Conference that the delivery
8 of the final note would precede the attack. (Last
9 sentence of this answer read back to the witness who
10 agreed as to its correctness.)"

11 That is all I intend to read from the inter-
12 rogation.

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1 We next offer in evidence International
2 Prosecution document No. 2506-A, which is an extract
3 from the TOJO Interrogation of February 21, 1946,
4 pages two, three and four and we ask that parent
5 document be marked for identification.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2506 will receive exhibit No. 1203 for identification
8 only.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1203 for identification.)

12 THE PRESIDENT: The extract is admitted on
13 the usual terms.

14 CLERK OF THE COURT: And prosecution's
15 document No. 2506-A, an extract therefrom, will
16 receive exhibit No. 1203-A.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 1203-A and received in evidence.)

20 MR. FIELLY: I now read the entire excerpt
21 consisting of an extract from the TOJO Interrogation
22 of February 21, 1946, pages two, three and four:

23 "Q You and the Cabinet realized, did you
24 not, that the shorter the notice given the United
25 States, the more probability there was of a mishap?

1 "A It can be said so; theoretically.

2 "Q Did you and the cabinet not recognize
3 that as a practical possibility?

4 "A Yes, from the practical point of view,
5 it is also true that the shorter the time allowed,
6 the more chance of a hitch, but it is not enough to
7 leave it at that. Ambassador NOMURA was a very res-
8 ponsible official and we relied upon his carrying
9 out so grave a responsibility perfectly. Also, the
10 Foreign Office had time to study and perfect all
11 phases of the procedure in the light of its great
12 responsibility.

13 "Q Why was not the message itself sent sooner
14 to Ambassador NOMURA so that there would be sufficient
15 time?
16

17 "A I can't answer such a question as that.
18 It is a problem for the Foreign Minister. The orders
19 were that the final note was to be surely delivered.
20 Since the Foreign Ministry had such an order, the
21 question of how or why it was not carried out is a
22 technical one which is the responsibility of the
23 Foreign Minister.

24 "Q Did not you and the members of the cabinet
25 see the contents of the note before it was sent?

"A I heard the gist of it. The cabinet all

1 heard it at the Liaison Conference just preceding the
2 Imperial Conference.

3 "Q Did not you and the cabinet agree with
4 the contents of that message?

5 "A Yes, we did agree. The gist of the note
6 was explained by the Foreign Minister at the Liaison
7 Conference meeting. The whole text was not read and
8 passed about. After the meeting, the matter became
9 the responsibility of the Foreign Ministry.

10 "Q This Liaison Conference, at which the
11 gist of the final note was read, was the last one
12 before the Imperial Conference of December 1st or
13 2nd, was it not?

14 "A Yes.

15 "Q And all members present agreed with the
16 substance of the message as it was read to them?

17 "A Yes.

18 "Q Why was it that that message was not
19 sent to NOMURA until practically a week later?

20 "A I can't help it if you keep asking me
21 questions about specific matters like that that were
22 the responsibility of the Foreign Minister. I
23 can't answer them."
24

25 I read the last page, page three, of the
exhibit for identification:

1 "Q You knew the attack was going to be made
2 and approved it, did you not?

3 "A I knew that it was to take place, but
4 I did not approve it because, under the Japanese system,
5 approval by the Premier or Minister of War is not called
6 for in a problem of command.

7 "Q Regardless of approval, you were in
8 favor of such an attack being made, were you not?

9 "A I thought it would be good if it was
10 successful. I thought that if the Supreme Command
11 was confident of success that it was a good idea.

12 "Q You knew for a month or more previous to
13 the attack that Admiral YAMAMOTO's plan for a sur-
14 prise attack on Pearl Harbor had been decided on in
15 case of war with America?

16 "A No, I didn't know about it. In Japan
17 those matters are matters of command. It was a
18 strategic plan.

19 "Neither the government nor the War Minister
20 would know about a Navy operating plan. That is
21 positively the case. Command matters were kept highly
22 secret. They were the most important secrets of all.

23 "Q When did you first know that, in case
24 of war with the United States, Pearl Harbor was to
25 be attacked?

1 "A I learned at the Liaison Conference just
2 before the Imperial Conference. Before that, it was
3 very secret."

4 We next offer in evidence International
5 Prosecution document No. 2504A, containing extracts
6 from the TOJO interrogation of February 19, 1946,
7 pages one, two, four, five, six, seven, eight and
8 11. I intend to read it all with the exception of
9 page five which refers to a later matter and will be
10 read at that time.

11 I ask that the parent document be marked
12 for identification.

13 CLERK OF THE COURT: Prosecution's document
14 No. 2504 will be marked exhibit No. 1204 for identific-
15 ation only.

16 (Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 1204 for identification.)

19 THE PRESIDENT: The extract is admitted on
20 the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 2504A, an extract from the foregoing, will be
23 given exhibit No. 1204-A

24 (Whereupon, the document above
25 referred to was marked prosecution's exhibit

1 No. 1204-A and received in evidence.)

2 MR. FIHELLY: I will now read the extract
3 from 1204-A; all with the exception, as I menticned
4 of page five, which will be read later.

5 Questions from pages one and two extracts;
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1 "Q You stated at the last interrogation that
2 Japan felt that, by her final note breaking off dip-
3 lomatic relations, she acquired freedom of action from
4 the standpoint of international treaties. Did she ac-
5 quire the same freedom from the standpoint of inter-
6 national law?

7 "A I think so.

8 "Q Prior to making the attacks on the United
9 States and Great Britain, this whole matter of the re-
10 sponsibility under treaties and under international
11 law had been considered by you and the cabinet?

12 "A Of course, they were. It is important to
13 remember that this matter was the grave responsibili-
14 ty of the Foreign Ministry.

15 "Q What did the Foreign Ministry report to
16 the cabinet on the matters of treaties and inter-
17 national law prior to the cabinet making its decision?

18 "A The Foreign Minister reported only the
19 gist of it to the cabinet. What was done afterwards
20 was the sole responsibility of the Foreign Minister.

21 "Q And the gist of what was reported by the
22 Foreign Minister to the cabinet was that there was
23 nothing in the treaties or international law that pre-
24 vented the attacks on the United States and Great
25 Britain after the last note had been delivered? "

1 "A The whole cabinet attended the Imperial Con-
2 ference on the 1st or 2nd which made the decision for
3 war. Hence, the whole cabinet knew, generally speak-
4 ing, that that decision had been made, since every-
5 one attended, but the problem of how the final note
6 was to be dispatched was a technical question which
7 was handled by the Foreign Minister.

8 "Q Who informed you and the cabinet that there
9 was nothing in any treaty or in international law
10 that would preclude the attack being made on the
11 United States and Great Britain?

12 "A It was the result of my research. We had
13 been challenged and were acting in self-defense.
14 Therefore, I thought that we were not impeded from
15 the standpoint of international law or treaties.

16 "Q Did the cabinet agree with you?

17 "A Yes. They all agreed.

18 "Q Did the Foreign Ministry agree?

19 "A Yes. They also studied the question and
20 agreed.

21 "Q We will read all that back to you to make
22 sure there is no mistake as to the questions and your
23 answers.

24 "/This was done and the witness agreed as to
25 its correctness./"

1 "Q When did you begin to study these matters?

2 "A From the time that the problem arose."
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On Page 3:

1 "Q At this last Liaison Conference pre-
2 ceding the Imperial Conference of December 1st or
3 2nd, you expressed the same views on international
4 laws and treaties which you arrived at as a result
5 of your studies?

6 "A Yes.

7 "Q So that when the Liaison Conference
8 arrived at a final decision to attack America and
9 Great Britain, they had accepted your views on these
10 matters?

11 "A Yes, of course, they had.

12 "Q Who, in addition to yourself, spoke
13 at that conference, expressing similar views in
14 regard to international laws and treaties?

15 "A The Foreign Minister spoke on this
16 point since he was the one chiefly responsible,
17 and my researches resulted in my agreement with his
18 views. There was no question raised by any other
19 member present since the responsible officials had
20 made that decision.

21 "Q Prior to the attacks on Great Britain
22 and the United States, why was not a declaration of
23 war made to either?

24 "A We thought that when the final note,
25

1 implying a rupture in diplomatic relations, was de-
2 livered, that treaty procedure was finished and that
3 we acquired freedom of action. Especially on the
4 assumption of acting in self-defense in response
5 to the challenge from the Anglo-American side, we
6 thought that it was particularly appropriate."
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1 "Q How long before the actual attack was the
2 note to be delivered?

3 "A There were various opinions advanced and
4 argued about between the Chiefs of Staff and the
5 Foreign Minister. There was one idea that the
6 delivery of the note should precede the attack by
7 an hour and a half; another, that it should precede
8 it by an hour, another, by thirty minutes, and so
9 forth. I do not clearly remember what was the final
10 decision.

11 "Q But all views were to the effect that the
12 hour set for the time of the delivery of the note
13 was to be one that would not interfere with the
14 success of the surprise attack on Pearl Harbor?

15 "A It should not interfere with the success
16 of the surprise attack, but also, from the Foreign
17 Minister's point of view, the note had to be deliver-
18 ed before the attack.

19 "Q But the primary matter was to have the
20 attack a successful one, was it not?

21 "A Since it was a matter of war, the success
22 of the surprise attack was very important, but also
23 the diplomatic procedures were of great importance.
24 It was not a question of which was most important -
25 they were both extremely important. Especially

1 since the Emperor had cautioned us in regard to it,
2 the latter point was important.

3 "Q If the diplomatic procedure was so important
4 and the Emperor had specifically cautioned you about
5 it, why was it not arranged so that more notice
6 would be given to the United States?

7 "A From the standpoint of strategy, since it
8 was war, the necessity for victory had to be con-
9 sidered also, and the possibility of victory was
10 intimately related to the question of time. I
11 was extremely anxious as to the success of this
12 surprise attack. That also was a grave matter.

13 "Q We will read the answers back to you so
14 there will be no misunderstandings.

15 "/This was done and the witness agreed
16 that they were correct/."

17 Now skipping page 5 and going to page 6:

18 "Q You and the cabinet intended four surprise
19 attacks to be executed at the same time against
20 possessions of the United States and Great Britain?

21 "A The cabinet did not know. I knew, in my
22 capacity as War Minister.

23 "Q The cabinet did know that America and
24 Great Britain were going to be attacked without
25 warning? "

1 "A No. At that time they and I thought
2 that Ambassador NOMURA would have delivered the
3 note before the attack.

4 "Q How much notice did you and the cabinet
5 believe that either the United States or Great
6 Britain was going to get in this connection?

7 "A As I explained before, there were various
8 theories as to the amount of time -- an hour and a
9 half, one hour, thirty minutes. I thought that there
10 would be at least thirty minutes."

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1 We next offer in evidence International
2 Prosecution document No. 2503, which is an extract
3 from the TOJO Interrogation of February 18, 1946,
4 pages one to four, and we ask that the parent docu-
5 ment be marked for identification.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2503 will be given exhibit No. 1205 for identification
8 only.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1205 for identification.)

12 THE PRESIDENT: The extract is admitted
13 on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2503-A, an extract from the foregoing will be
16 given exhibit No. 1205-A.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 1205-A and received in evidence.)

20 MR. FIELLY: I now read prosecution exhibit
21 No. 1205, an extract from the TOJO Interrogation
22 of February 18, 1946, and read the entire amount
23 of extracts contained on page one and two of the
24 exhibit.

25 "Q Last week I was talking to Admiral

1 NOMURA and asked him if he considered the final note
2 sent by Japan to the United States a declaration
3 of war. He said that he absolutely did not. Do
4 you agree that it was not?

5 "A I think it was a final note. It was
6 a final note breaking off diplomatic relations.

7 "Q You have not answered the question.
8 Do you agree with him that it was not a declaration
9 of war?

10 "A It was a note breaking off diplomatic
11 relations but it was different from a direct declar-
12 ation of war. It was a note breaking off diplomatic
13 relations and, hence, making possible freedom of
14 action. That point is in reference to international
15 treaties. This is an important matter though and this
16 next point also applies. Japan had been challenged
17 militarily and economically by various countries,
18 especially England and America, and her existence
19 was threatened. She exercised the right of self-
20 defense."

21 Three and four extracts:

22 "Q Was not everything connected with this
23 note your responsibility and the responsibility of
24 the Cabinet?

25 "A It was my responsibility and also that

1 of the Foreign Minister.

2 "Q Didn't the cabinet know that the note
3 was to be sent and approve it?

4 "A Yes. They knew about it and of course
5 they approved it.

6 "Q What international treaties were you
7 speaking of in connection with sending the note?

8 "A I am not just sure of the names now.
9 At the time, of course I knew them, but I am not so
10 sure now. Isn't there a Hague Treaty, or something,
11 that applies to these matters?

12 "Q Did not the Hague Convention call for
13 a declaration of war prior to an actual attack?

14 "A I think that if a nation is challenged,
15 it is not restrained from exercising the right of
16 self-defense.

17 "Q You still have not answered the question.
18 I repeat: Did not the Hague Convention call for a
19 declaration of war prior to an actual attack? This
20 is a question that can be answered 'yes', or 'no',
21 or 'I don't know.'

22 "A, At that time I studied this matter
23 carefully, but now it is five years later and I have
24 not the treaty here and I don't remember too well
25 about it, but I believe that we had freedom of action

1 under international treaties.

2 "Q In connection with the attack on America
3 and Great Britain did you or the members of the cabinet
4 give any thought to the Kellogg-Briand Pact being
5 violated by Japan?

6 "A Of course, we did.

7 "Q So that you and the members of your
8 cabinet felt that it was necessary to disregard
9 treaty provisions and make the attack on America and
10 Great Britain?

11 "A No; we had regard for them, but we did
12 not feel that we were bound because of the reasons
13 I have mentioned. That applies to the Kellogg-Briand
14 Pact, too.

15 "Q So that you and the members of the cabinet,
16 because of the reasons given, felt that Japan was not
17 bound by any treaty provisions in connection with the
18 attack on the United States and Great Britain?

19 "A Yes."
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1 To show the views of the defendant TOGO on
2 these same vital matters, we next offer in evidence
3 International Prosecution document 4119, an extract
4 from the TOGO interrogation of March 26, 1946,
5 pages 4 and 7.
6

7 THE PRESIDENT: Admitted on the usual terms.

8 MR. FANELLY: And the parent document I kindly
9 ask be marked for identification.

10 CLERK OF THE COURT: Prosecution's document
11 No. 4119 will receive exhibit No. 1206 for identifi-
12 cation only; and the excerpt therefrom, bearing the
13 same document number, will receive exhibit No. 1206-A.

14 (Whereupon, prosecution's document
15 No. 4119 was marked prosecution's exhibit
16 No. 1206 for identification. The excerpt
17 therefrom, bearing the same document number,
18 was marked prosecution's exhibit No. 1206-A,
19 and was received in evidence.)

20 MR. FANELLY: I now read from prosecution
21 exhibit 1206-A, excerpt from the TOGO interrogation
22 of March 26, and read the entire exhibit, pages 1 and 2.

23 (Reading) "Q Did you have the prime
24 responsibility for the contents of the final note
25 delivered by KURUSU and NOMURA on December 7,
Washington time, to Hull?"

1 "A The note was written by the Foreign
2 Office but in accordance with the views expressed in
3 the discussions in the liaison and other conferences
4 and the note was a general summary of those views.
5 Therefore, the Foreign Office and I, as Foreign
6 Minister, cannot take the responsibility. Further-
7 more, as the matter was related to the question of war,
8 the high command naturally had to be consulted and
9 various matters discussed with them in regard to the
10 note. Such being the case, the government alone
11 cannot take the responsibility, for the high command
12 is also connected with the matter. And that being
13 the case, even within the government, I alone as
14 Foreign Minister cannot take sole responsibility on a
15 matter of such supreme or major importance.
16

17 "Q Would you name the individuals who
18 you would consider as equally responsible with you
19 for the contents of the note.

20 "A All members of the liaison conference
21 and even some members of the Cabinet who were familiar
22 with this question."

23 The first question on page 2 is this:

24 "Q Did you say anything to the Emperor
25 concerning the telegram from KURUSU and NOI'URA with
 respect to President Roosevelt?"

1 Before reading the answer to that question,
2 I would like to refer to prosecution exhibit 1189,
3 which shows that very wire, in which there is this
4 pertinent part.

5 "We might suggest one thing for saving the
6 situation. Although we have grave misgivings, we
7 might propose, first, that President Roosevelt wire
8 you that for the sake of posterity he hopes that Japan
9 and the United States will cooperate for the maintenance
10 of peace in the Pacific (just as soon as you wire us
11 what you think of this, we will negotiate for this
12 sort of an arrangement with all we have in us), and
13 that you in return reply with a cordial message, there-
14 by not only clearing the atmosphere, but also gaining
15 a little time."
16

17 I repeat the question for clarity:

18 "Q Did you say anything to the Emperor con-
19 cerning the telegram from KURUSU and NOMURA with
20 respect to President Roosevelt?

21 "A As I recall, I did not mention that
22 telegram to the Emperor in that the matter had pre-
23 viously been discussed with both KIDO and TOJO, at
24 which time the opinion was that such a step would
25 not contribute toward the satisfactory settlement of
negotiations between the two countries. therefore,

1 the matter was not reported to the Throne.

2 "Q Don't you think that the Emperor was
3 entitled to know of such a proposal?

4 "A The Emperor actually was entitled to ask
5 questions on any or all subjects, but in so far as
6 this particular telegram was concerned the general
7 view within the government was that it was not of a
8 nature that would contribute to a settlement and that,
9 such being the case, it was not worth putting so much
10 weight to and so it was not brought up to the Emperor."

11 For the same purpose, we now offer in
12 evidence International Prosecution document 4115,
13 an extract from the TOGO interrogation of March 11,
14 1946, pages 1 to 6. We ask that the parent document
15 be marked for identification.

16 CLERK OF THE COURT: Prosecution's document
17 No. 4115 will be given as No. 1207 for identifi-
18 cation only.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1207 for identification.)

22 THE PRESIDENT: The extract is admitted on
23 the usual terms.

24 CLERK OF THE COURT: The excerpt therefrom,
25 bearing the same document number, will receive

1 exhibit No. 1207-A.

2 (Whereupon, the document above
3 referred to was marked prosecution's exhibit
4 No. 1207-A, and was received in evidence.)

5 MR. FANELLY: I now read prosecution
6 exhibit 1207-A, extracts from the TOGO interrogation
7 of March 11, 1946, and will read the entire exhibit.

8 "Q Who would be considered responsible, who
9 would you consider responsible for the composition
10 of that note?

11 "A That notification, as I have previously
12 explained, was a summation of the results of the
13 studies and discussions which took place at the liaison
14 conferences regarding negotiations with the United
15 States. The note itself was written by the Foreign
16 Office, but the responsibility for the composition
17 rests with the participating members of the liaison
18 conferences. The responsibility for the contents
19 of the notification rests with the members of the
20 liaison conferences. Furthermore, the matter was also
21 reported to the Cabinet and passed the Cabinet without
22 objection.

23 "Q Could you give me the names of the inci-
24 viduals at the liaison conferences and the Cabinet
25 members who would be considered responsible for the

1 contents of the note?

2 "A As I have said at a previous meeting,
3 members of a liaison conference who were responsible
4 for the study and discussions on the matter were TOJO,
5 SHIMADA, SUGIYAMA, NAGANO, TSUKADA, ITO, KAYA, SUZUKI,
6 and the three secretaries, HOSHINO, NUTO and OKA.

7 As to the members of the Cabinet, under the constitu-
8 tion they are responsible for decisions of the Cabinet,
9 even on matters outside of the competence of their
10 respective offices.

11 "Q I understood from you that the note was
12 composed by the Foreign Office after the contents of
13 what the note should contain had been decided upon at
14 the liaison conferences. I also understand that after
15 the note was composed by the Foreign Office it was
16 presented for approval to the Cabinet on December 1,
17 1941, at which time the Cabinet approved it. Is my
18 understanding correct?

19 "A The first part of your understanding is
20 correct, that is, that the writing of the note took
21 place in accordance with the decision of the liaison
22 conference as to its contents. However, I should
23 like to make some correction as to the date.
24 December 1 was the date of the Imperial Conference,
25 at which the decision for war was made. However,

1 previous to the Imperial Conference the main points of
2 the note to be sent were reported to the Cabinet; but
3 as to the drafting of the note, that came afterwards,
4 and at a later Cabinet meeting the main points were
5 further explained and the continuation of the expla-
6 nation that was made at the former Cabinet meeting.
7 I cannot recall definitely, but it seems to be around
8 November 30, but I could have the date more definitely
9 confirmed later.

10 "Q From what you have stated would you
11 consider that the members of the Cabinet and members of
12 the liaison conference, whose names you have mentioned,
13 are equally responsible with you as regards to the
14 contents of the note and its delivery?

15 "A As to the contents of the note, I
16 think it is but natural that all the members of the
17 liaison conference are responsible. As to the Cabinet,
18 they would have at least a final responsibility in that
19 they expressed no objection, that is, from the legal
20 point of view. Of course, it all depends whether
21 you view the matter superficially or formally, or
22 whether you would like to view it more profoundly.
23 But, practically speaking, in the light of actualities
24 it might be said that there is a difference in the
25 degree of responsibility by the liaison conference and

1 the Cabinet because not all the Cabinet members
2 attended the liaison conference, but the situation
3 was such that whatever was approved by the liaison
4 conference was approved by the Cabinet. Although
5 there may be a difference in degree of responsibility,
6 the Cabinet might have at least a nominal responsibility.

7 "Q. Who knew and approved of the details con-
8 cerning the manner of the delivery of the note?

9 "A. As to the delivery of the note, instruc-
10 tions were sent previously to the Embassy in Washing-
11 ton stating that it was to be delivered at 1:00 PM,
12 December 7, Washington time, as much as possible to
13 the Secretary of State, and that all preparations be made
14 for the purpose of delivering the note at the specified
15 time. The instructions themselves were dispatched by
16 the Chief of the Cable Section of the Foreign Office.
17 Regarding the sending of such instructions, all mem-
18 bers of the liaison conference knew. It is naturally
19 a matter on which there should be no objections, and,
20 therefore, it was approved as a matter of course."

21 I will not read page 4. I see now it relates
22 to another matter.

23 THE PRESIDENT: This is a convenient break.
24 We will adjourn until half past one.

25 (Thereupon, at 1200, a recess was taken.)

1 AFTERNOON SESSION

2
3 The Tribunal met, pursuant to recess, at 1330.4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: Mr. Fihelly.

7 MR. FIELLY: We had reached, Mr. President
8 and Members of the Tribunal, the date, December 1,
9 1941, just before lunch.10 To show that there was a meeting of elder
11 statesmen held just prior to December 1st, we next
12 refer to Court exhibit 1158-A, which is an extract
13 from the TOJO interrogation of March 11, 1946, and
14 read pages 6 to 8 of the interrogation from
15 pages 1 to 2 of this exhibit.

16 (Reading):

17 "Q. When and why was a meeting of ex-premiers
18 held prior to the last Imperial Conference of 1 Decem-
19 ber 1941?
20

21 "A. You mean the Senior Statesmen?

22 "Q. Yes.

23 "A. That was convened by the Emperor.

24 "Q. When?

25 "A. It was either on the 1st or the 31st.

"Q. What was the purpose of calling that meeting?"

1 "A. The Emperor was very anxious about the
2 question of war with America and he convened them
3 in order to hear each man's opinion.

4 "Q. Who presided at that meeting?

5 "A. Let's see - those were WAKATSUKI, OKADA,
6 Senjuro HAYASHI, YONAI, Nobuyuki ABE, KONOYE, FIRANUMA.

7 "Q. You still have not answered who presided.

8 "A. I think perhaps WAKATSUKI presided. I don't
9 really know.

10 "Q. Did you make any statements at that meeting?

11 "A. Of course, I was there, too, as the Premier
12 at that time. Yes, I did. The Emperor was there and
13 heard each man's opinion in turn. I was there and from
14 time to time spoke, giving the government's point of
15 view.

16 "Q. What did you state as the government's point
17 of view?

18 "A. I explained various things, but I don't re-
19 member the details now. I explained the inevitableness
20 of war.

21 "Q. Did the Emperor make any statement at all at
22 that meeting?

23 "A. No, he only listened. This was not a con-
24 ference. It was only that the Emperor wished to hear
25 the opinion of each man."

1 "Q. Did you express your opinion before any
2 of the others expressed theirs?

3 "A. It was this way: The Army, Navy and For-
4 eign Ministers, President of the Cabinet Planning
5 Board, and I, as Premier, met with the Senior States-
6 men in the morning and explained the situation to
7 them. Then after a Court dinner with the Emperor,
8 the former Premiers and I met with the Emperor who
9 heard each man's opinion in turn. The other cabinet
10 members were not present at that time, only I from the
11 government. There was one other former Premier present
12 HIROTA."

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1 The rest of the interrogation covers matters
2 which were generally covered this morning with
3 respect to the final note and liaison conference.
4 I will not read it.

5 We next offer in evidence as tending to
6 show that Japan did not want the United States to
7 know the,real status of the negotiations, Inter-
8 national Prosecution Document No. 2593-D-26, the
9 wire of December 1st from Tokyo to Washington.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2593-D-26 will receive exhibit No. 1208.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1208 and received in evidence.)

16 MR. FIELLY: I now read prosecution ex-
17 hibit No. 1208, headed "SECRET".

18 (Reading): "From: Tokyo, To: Washington.

19 "1 December 1941

20 "(Purple-CA)

21 "#865

22 "Re my #857.

23 "1. The date set in my message #812 has
24 come and gone, and the situation continues to be
25 increasingly critical. However, to prevent the

1 United States from becoming unduly suspicious we
2 have been advising the press and others that though
3 there are some wide differences between Japan and
4 the United States, the negotiations are continuing.
5 (The above is for only your information.)

6 "2. We have decided to withhold submitting
7 the note to the U.S. Ambassador to Tokyo as suggested
8 by you at the end of your message #1124. Please
9 make the necessary representations at your end only.

10 "3. There are reports here that the Pres-
11 ident's sudden return to the capital is an effect of
12 Premier TOJO's statement. We have an idea that the
13 President did so because of his concern over the
14 critical Far Eastern situation. Please make investi-
15 gations into this matter."

16 Marked "SECRET" below.

17 In connection with translation data, "(D)
18 Navy Trans. 12-1-41 (S-TT)."

19 We next read from prosecution exhibit No.
20 1107, the data which appears at the end, page 5, as
21 to the attendance at the Imperial Conference of
22 December 1, 1941:
23
24
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1	"TOJO	Prime Minister and War Minister
2		Concurrently
3	TOGO	Foreign Minister
4	SHIMADA	Navy Minister
5	KAYA	Finance Minister
6	SUZUKI	President of Planning Board
7	IWANURA	Justice Minister
8	HASHIDA	Education Minister
9	INO	Agriculture Minister
10	KISHI	Commerce Minister
11	TERASHIMA	Communication Minister
12	KOIZUMI	Welfare Minister
13	SUGIYAMA	Chief of Army General Staff
14	NAGANO	Chief of Naval General Staff
15	HOSHINO	Chief Secretary of the Cabinet
16	LUTO	Director of Military Affairs Bureau,
17		War Ministry
18	OKA	Director of Military Affairs Bureau,
19		Navy Ministry
20	TANABE	Vice-Chief of Army General Staff
21	ITO	Vice-Chief of Naval General Staff
22		
23	HARA	President of Privy Council"
24		
25		

1 We likewise refer to Court exhibit No. 588
2 in connection with the Imperial Conference of
3 1 December 1941, and read the last page of that
4 document which relates to that particular Imperial
5 Conference, page 8.

6 (Reading): "RESOLUTION adopted through
7 the Imperial Conference on December 1, 1941.

8 "Our negotiations with the United States
9 regarding the execution of our national policy
10 adopted on November 5 have finally failed. Japan
11 will declare war on the United States, Britain, and
12 the Netherlands."

13 To give the defendant TOJO's version of
14 who attended the Imperial Conference of December 1,
15 1941, we next offer in evidence International Pros-
16 ecution Document No. 2500-A, which is an extract from
17 the TOJO interrogation of February 8, 1946, page 2;
18 and we ask that the parent document be marked for
19 identification.
20

21 CLEAK OF THE COURT: Prosecution's document
22 No. 2500 will be given exhibit No. 1209 for identi-
23 fication only.

24 (Whereupon, the document above mentioned
25 was marked prosecution's exhibit No. 1209
for identification only.)

1 THE PRESIDENT: The extract is admitted on
2 the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 2500-A, the excerpt therefrom, will be given
5 exhibit No. 1209-A.

6 (Whereupon, the document above re-
7 ferred to was marked prosecution's exhibit
8 No. 1209-A and received in evidence.)

9 MR. FIELLY: I now read prosecution exhibit
10 No. 1209-A, extract from the TOJO interrogation of
11 February 8, 1946, page 2, which appears on page 1
12 of the exhibit:

13 "Q Who attended the Imperial Conference on
14 December 1st or 2nd, 1941?

15 "A I was there as Premier; the President of
16 the Privy Council was there, and all or nearly all
17 of the other Cabinet Ministers, as I recall. The
18 two Chiefs of Staff were there. I am not sure wheth-
19 er the Assistant Chiefs of Staff were there or not,
20 but the Cabinet would know. Those were the respon-
21 sible people that were there. There were also
22 probably three other persons in the capacity of
23 secretaries for these three usually came to Imperi-
24 al Conferences. The three were the Chief Cabinet
25 Secretary, Mr. HOSHINO; the Chief of the Military

1 Affairs Section of the War Ministry, Mr. Shō MUTO,
2 who was then a Major General, I believe. (At the
3 end of the war, he was General YAMASHITA's Chief of
4 Staff); and the Chief of the Military Affairs Section
5 of the Navy Ministry, Vice Admiral OKA. These last
6 three are according to my recollection. I am not
7 positive that they were there..."

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1 To give the accused TOJO's version of who
2 presided at that Imperial Conference and the purpose
3 for which it was called, we now quote from prosecution
4 exhibit No. 1153-A, pages 2 and 3 of the interrogation,
5 page 1 of the exhibit:

6 "Q Who presided at the Imperial Conference
7 of December 1st or 2nd, 1941?

8 "A I did, as Prime Minister. The others were
9 seated down both sides of the table in accordance with
10 their court rank.

11 "Q Did you state the purpose of the meeting
12 or was it known by them before they came to the meeting?

13 "A Of course, I explained the purpose of the
14 meeting at the very first. After I had explained the
15 purpose of the meeting, each of the ministers and the
16 two Chiefs of Staff discussed the question from the
17 standpoint of his own responsibilities."
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1 To again show that war with the United
2 States was definitely decided on at this Imperial
3 Conference although the fleet had sailed on November
4 26th, we next offer in evidence an entry from the
5 KIDO Diary of December 1, 1941, International
6 Prosecution Document No. 1632-W-88.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1632-W-88 will receive exhibit No. 1210.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1210 and received in evidence.)

13 MR. FIELLY: I now read from prosecution's
14 exhibit No. 1210, extract from KIDO's Diary, 1 December
15 1941:

16 "...At 2 p.m. the Council in the presence
17 of the Emperor was held and at last the war between
18 Japan and the U.S.A. was decided upon. At 4:30 p.m.
19 the Premier visited me to consult about the Imperial
20 Proclamation of War."

21 We next offer in evidence International
22 Prosecution Document No. 2593-D-30, the wire of
23 December 2nd from TOGO to NOMURA to show the last-
24 minute steps taken by TOGO and the Foreign Office
25 preparatory to going to war.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution's document
3 No. 2593-D-30 will be given exhibit No. 1211.

4 (Whereupon, the document above re-
5 ferred to was marked prosecution's exhibit
6 No. 1201 and received in evidence.)

7 MR. FIELLY: I now read prosecution's exhibit
8 No. 1211:

9 "From: Tokyo (TOGO),"

10 "To : Havana

11 "December 2, 1941

12 "J19-K9

13 "Circular #2445

14 "Strictly Secret.

15 "Take great pains that this does not leak out.

16 You are to take the following measures immedia-
17 tely:

18 "1. With the exception of one copy of the O^a
19 and L^b code, you are to burn all telegraph codes (this
20 includes the code books for communication between the
21 three departments and the code books for Army and Navy
22 communication.

23 "2. As soon as you have completed this operation
24 wire the one word Haruna.

25 "3. Burn all secret documents and the work

1 sheets on this message.

2 "4. Be especially careful not to arouse the
3 suspicion of those on the outside. Confidential docu-
4 ments are all to be given the same handling.

5 "The above is preparatory to an emergency
6 situation and is for your information alone. Remain
7 calm --- --- ---.

8 "Also sent to Ottawa, Vancouver, Panama, Los
9 Angeles, Honolulu, Seattle and Portland.

10 Marked "SECRET" at the bottom. "Trans.
11 12/8/41 (3)"

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1 To show other steps taken by the accused
2 TOGO, at this time we now offer in evidence
3 International Prosecution Section Document No.
4 1532-D-11, a wire of December 3rd to NOMURA from
5 TOGO.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1532-D-11 will be given exhibit No. 1212.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1212 and received in evidence.)

12 MR. FIDELLY: I now read prosecution's
13 exhibit No. 1212:

14 "Telegram No. 87--" looks like "5" or "6",
15 I can't make out the last number-- "(Ambassador Code)

16 "To: Ambassador NOMURA (Washington, U.S.A.)

17 "From: Foreign Minister TOGO

18 "Despatched 3 Dec. 1941, 9:00 P.M.

19 "Most Urgent.

20 "Re:-American-Japanese Negotiations.

21 "Referring to your telegram No. 1232, we
22 request that you will respond to the American side
23 with the following purport:

24 "We consider the rumor concerning the increase
25 and strengthening of our troops in French Indo-China

1 to be caused from reports exaggerating the facts of
2 our increasing and strengthening of troops, in parts
3 of northern French Indo-China, providing against
4 Chinese troops which have been carrying on repeated
5 activities recently on the French Indo-China and China
6 borders; and, that in connection with this, of the
7 troop movements of the southern area which was just
8 natural.

9 "We have never crossed the limits of the
10 Franco-Japanese Joint Defense Protocol."

11 THE PRESIDENT: That telegram number is
12 875 according to my copy.
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1 We next offer in evidence International
2 Prosecution document No. 2593-D(34), a telegram
3 of December 3rd from NOMURA to TOGO answering the
4 last TOGO wire. NOMURA, in this document, expresses
5 strong satisfaction with the wire and asks for a reply
6 which would give some indication of Japan's peaceful
7 intentions.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 2593-D(34) will receive exhibit No. 1213.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution's exhibit
13 No. 1213 and received in evidence.)

14 MR. FIEHELLY: I now read prosecution's
15 exhibit No. 1213:

16 "SECRET" at top

17 "From: Washington (Nomura)

18 "To : Tokyo

19 "December 3, 1941

20 "Purple (Urgent)

21 "#1256 "Re your 875^a.

22 "I received your reply immediately.
23 I presume, of course, that this reply was a result
24 of consultations and profound consideration. The
25 United States Government is attaching a great deal

1 of importance on this reply. Especially since
2 the President issued his statement yesterday, it
3 is being rumored among the journalists that this
4 reply is to be the key deciding whether there will
5 be war or peace between Japan and the United States.
6 There is no saying but what the United States
7 Government will take a bold step depending upon
8 how our reply is made. If it is really the in-
9 tention of our government to arrive at a settle-
10 ment, the explanation you give, I am afraid, would
11 neither satisfy them nor prevent them taking the
12 bold step referred to - even if your reply is made
13 for the mere purpose of keeping the negotiations
14 going. Therefore, in view of what has been eluci-
15 dated in our proposal which I submitted to the
16 President on November 10th, I would like to get
17 a reply which gives a clearer impression of our
18 peaceful intentions. Will you, therefore, recon-
19 sider this question with this in mind and wire me
20 at once."

21 Footnote, -"Explanation of Japan's increase
22 of their forces in French Indo-China."

23 "SECRET"

24 At the bottom

25 "Trans. 12/7/41 (1)."

1 We next offer in evidence International
2 Prosecution Document No. 2593-D-35, a wire from
3 Tokyo to Hsinking of December 4th to show at this
4 time the Manchoukuo Government was being controlled
5 and directed by Japan.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2593-D-35 will be given exhibit No. 1214.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1214 and received in evidence.)

12 MR. FIDELLY: I now read from prosecution's
13 exhibit No. 1214:

14 "From: Tokyo

15 "To: Hsinking

16 "December 4, 1941

17 "Purple

18 "#909

19 "(Strictly Secret.)

20 "Re my #892.^a

21 "On the fourth, in a joint conference with
22 the Government Control Board, we decided upon steps
23 which we will have Manchukuo take in case the inter-
24 national situation turns critical. Differing from
25 what I said in my #873^a our policy was changed as follows:

1 " "When the Japanese Empire commences hostili-
2 ties, for the time being Manchukuo will not partici-
3 pate. Because Manchukuo is closely bound up with
4 the Japanese Empire and because England and the
5 United States and the Netherlands have not recognized
6 the Government of Manchukuo, as a matter of fact,
7 Hsinking will regard those three nations as de facto
8 enemies and treat them accordingly."

9
10 "Wherever 'England and the United States'
11 and 'English and Americans' occur in the text, we
12 changed them to 'England, the United States, and
13 the Netherlands' and 'English, Americans and Nether-
14 landers.' "

15 Footnote "Not available," the word
16 "Japanese" in parentheses, "Trans. 12/11/41 (5)."

17 We next offer in evidence International
18 Prosecution Document No. 220-J, a statement handed
19 to the Secretary of State on December 5th by
20 NOKURA to show that Foreign Minister TOGO's former
21 instructions, just read to the Court within a few
22 minutes, were carried out in Washington.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 220-J will be given exhibit No. 1215.

(Whereupon, the document above

1 referred to was marked prosecution's exhibit
2 No. 1215 and received in evidence.)

3 MR. FIDELLY: I now read prosecution's
4 exhibit No. 1215, extract from Foreign Relations of
5 the United States-Japan, 1931-1941, Volume II, page
6 784:

7 "Statement handed by the Japanese Ambassa-
8 dor (NOMURA) to the Secretary of State on December
9 5, 1941.

10 "Reference is made to your enquiry about
11 the intention of the Japanese Government with re-
12 gard to the reported movements of Japanese troops
13 in French Indo-China. Under instructions from Tokyo
14 I wish to inform you as follows:

15 "As Chinese troops have recently shown fre-
16 quent signs of movements along the northern frontier
17 of French Indo-China bordering on China, Japanese
18 troops, with the object of mainly taking precaution-
19 ary measures, have been reinforced to a certain ex-
20 tent in the northern part of French Indo-China. As
21 a natural sequence of this step, certain movements
22 have been made among the troops stationed in the
23 southern part of the said territory. It seems that
24 an exaggerated report has been made of these move-
25 ments. It should be added that no measure has been

1 taken on the part of the Japanese Government that
2 may transgress the stipulations of the Protocol of
3 Joint Defense between Japan and France."
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1 We next offer in evidence International
2 Prosecution Document No. 1532-D-12, a telegram of
3 December 6th from TOGO to NOMURA to show the detailed
4 steps which were taken by the Japanese Government in
5 connection with transmitting its final and last note
6 to the United States.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1532-D-12 will receive exhibit No. 1216.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1216 and received in evidence.)

13 MR. FIDELLY: I now read prosecution's
14 exhibit No. 1216:

15 "Cipher Telegram No. 901 (Ambassador's Code)

16 "Sent: December 6, 1941 8:30 p.m.

17 "To: Ambassador NOMURA in U. S. A.

18 "From: Foreign Minister TOGO (6th of Dec. 1941)

19 "In reference to: Outgoing Telegram No. 844

20 "1) The government has given careful delibera-
21 tion in the Imperial presence to the proposal of the
22 U.S. of the 26th of NOV. and has decided upon the
23 memorandum to America (in English) as per telegram
24 No. 902.

25 "2) It is possible that the receipt of the said

1 memorandum in its entirety (to be telegraphed in 14
2 parts), will be delayed till tomorrow as it is long.
3 However, as the situation at present is exceedingly
4 delicate, it is hoped that the receipt of it will be
5 kept strictly confidential for the time being.

6 "3) Although the exact time for presenting the
7 said memorandum to America will be telegraphed later,
8 all necessary preparations, such as arranging docu-
9 ments, etc., should be made, upon receipt of the
10 said memorandum, for presentation to America, so that
11 it can be carried out as soon as instructions for
12 such action is received."
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1 For the same purpose we now offer in evi-
2 dence International Prosecution Document No. 1532-D-
3 13, a wire of December 6th, 1941 from TOGO to
4 NOMURA.

5 THE PRESIDENT: Admitted on the usual terms,

6 CLERK OF THE COURT: Prosecution's document
7 No. 1532-D-13 will receive exhibit No. 1217.

8 ("Hereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1217 and received in evidence.)

11 MR. FIELLY: I will now read prosecution's
12 exhibit No. 1217:

13 "Cipher Telegram No. 904 (Ambassador's Code)

14 "Sent: December 6, 1941. 11:00 p.m.

15 "To: Ambassador NOMURA in U. S. A.

16 "From: Foreign Minister TOGO (6th of Dec.
17 1941)

18 "In reference to: Outgoing telegram No. 902

19 "Although it is not necessary to give this
20 caution, we trust that you will leave nothing to be
21 desired in keeping the memorandum strictly confi-
22 dential, by absolutely avoiding the use of 'typists'
23 etc. in its preparation."

24 We now offer in evidence International
25 Prosecution Document No. 2593-D-39, being a telegram

1 of December 7th from TOGO to NOMURA to show the
2 timing of the delivery of the last note as it related
3 to Pearl Harbor attack.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 2593-D-39 will be given exhibit No. 1218.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1218 and received in evidence.)

10 MR. FIELLY: We now read prosecution's
11 exhibit No. 1218:

12 "TOP SECRET

13 "From: Tokyo

14 "To: Washington

15 "December 7, 1941

16 "Purple (Urgent - Very Important)

17 "#907. To be handled in government code.

18 "Re my #902.^a

19
20 "All the Ambassador please submit to the
21 United States Government (if possible to the Secretary
22 of State) our reply to the United States at 1:00 p.m.
23 on the 7th, your time."

24 Note below "TOP SECRET, Trans. 12/7/41 (s)"
25

1 We next offer in evidence International
2 Prosecution document No. 2593-D(38), with respect to
3 wire of December 7th sent from the Tokyo Foreign
4 Office tending to show the preparations which had
5 been made and orders given to take over British and
6 other properties in China on the opening of hostili-
7 ties and particularly indicating that the Nanking
8 Government was being directed and given vital orders
9 by the Japanese Government.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2593-D(38) will receive exhibit No. 1219.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1219 and received in evidence.)

16 MR. FIELLY: I now read prosecution's
17 exhibit No. 1219:

18 "From Tokyo.

19 "To: (Circular)

20 "7 December 1941

21 "(Purple)

22 "Circular #2499 (Part 1 of 3) (Part 2 not
23 available).

24 "In the event of international crisis
25 following upon our pursuance of our national policy

1 regarding the China affair, which was decided on at
2 the liaison conference held on November 13th, the
3 following steps will be taken in China:

4 "(1) British concessions - upon issuance
5 of orders, the present force will occupy and take
6 over these areas. However, every effort will be
7 made to accomplish this and through the instrumentality
8 of existing set-ups.

9 "(2) Shanghai International Settlement and
10 the Peking Legation compounds: Upon issuance of
11 orders, our troops will take over these grounds;
12 however, without exceeding their present strength
13 they will make every effort to maintain order and
14 avoid causing confusion.

15 "Also this will be accomplished by the aid
16 of the existing set-ups and their staffs as well as
17 that of various important Chinese agencies.

18 "(3) Amoy settlement: The same procedure
19 as the above will be employed."

20 Bottom of page, the word "SECRET."

21 With respect to translation, "(A) Navy
22 Trans. 12-8-41 (6-AR)."
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1 Part 2 reads as follows, the same heading
2 as has been read for part 1:

3 "Upon declaration of war by Japan, the Nan-
4 king government will not be directed to participate
5 in war but will be directed to maintain close rela-
6 tions and absolute cooperation with Japan.

7 "(10) In maintaining close relations with
8 our country the Nanking Government will be directed
9 and guided in strengthening its morale and organiza-
10 tion so that it may help alleviate Japan's burden in
11 participating in a protracted world war.

12 "(11) Steps will be taken to propagate
13 among the people through the cooperation of the Nan-
14 king Government, the true meaning of the present war,
15 and to issue orders to maintain quiet and order among
16 the general public.

17 "(12) Regarding economic plans in China,
18 with a view to retaining and increasing mutual eco-
19 nomic self-sufficiency, the emphasis will be placed
20 on the utilization of productive powers, sollicita-
21 tion of local capital and investments, increased
22 production of commodities. For this purpose efforts
23 of every department will be made use of.

24 "Note: Those departments in the above
25 category which are connected with the Nanking Govern-

1 ment will continue to maintain even closer contact
2 with that government."

3 At the bottom: "SECRET (A) Navy Trans.
4 12-8-41 (6-AR)."

5 THE PRESIDENT: That is headed "Part 3 of
6 3, Part 2 not available."

7 MR. FIELLY: It was just called to my atten-
8 tion. The heading on page 2 is: "Circular #2499
9 (Part 3 of 3) (Part 2 not available)."

10 International Prosecution document 1632-W-89,
11 an entry of December 7 from the KIDO Diary, is next
12 offered in evidence as additional evidence of the
13 part that the defendants KIDO and HOSHINO were play-
14 ing in the fateful events of these days.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 1632-W-89 will be given exhibit No. 1220.

18 (Whereupon, the document above re-
19 ferred to was marked prosecution's exhibit
20 No. 1220 and received in evidence.)

21 MR. FIELLY: I now read prosecution exhibit
22 No. 1220:

23 "Extract from Entry from Marquis KIDO's
24 Diary, 7 December '41.

25 "December 7th, 1941 (Extract)

1 "At 9:30 p.m. HOSHINO, Chief Secretary of
2 the Cabinet, visited me to consult about the war
3 with the U.S.A. and England."

4 In a final move to avoid war, President
5 Roosevelt on December 6 cabled a personal appeal for
6 peace to the Emperor of Japan. That message will be
7 treated in detail in the testimony of Mr. Ballantine.

8 As showing the exact manner in which this
9 particular cable was sent by President Roosevelt, we
10 offer in evidence International Prosecution document
11 No. 220-I, a brief message of December 6 from Presi-
12 dent Roosevelt to Secretary of State Hull.

13 THE RESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 220-I will receive exhibit No. 1221.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution's exhibit
18 No. 1221 and received in evidence.)

19 MR. FIELLY: I now read prosecution exhibit
20 No. 1221:

21 "Extract from Foreign Relations of the
22 United States - Japan 1931-41, Vol. 11, page 784:

23 "President Roosevelt to the Secretary of
24 State. The White House, Washington (December 6, 1941).
25 Dear Cordell: Shoot this to Grew - I think it can go

1 in gray code - saves time - I don't mind if it gets
2 picked up.

3 "F.D.R."

4 Mr. President, at this time there are a
5 series of documents which will be introduced in
6 evidence by Brigadier Nolan.

7 THE PRESIDENT: Brigadier Nolan.

8 BRIGADIER NOLAN: May it please the Tri-
9 bunal, at this point the precise timing of events
10 becomes of such importance, and the confusion due to
11 the difference in nominal times at different places
12 so great that we have prepared a synchronized time
13 chart. This document has not in itself any evi-
14 dentiary value, except in so far as each item of it
15 is separately proved by the prosecution. It is a
16 convenient summary of the whole, is IPS document
17 No. 2665, which I now offer in evidence.

18 THE PRESIDENT: Mr. Logan.

19 MR. LOGAN: If the Tribunal please, this
20 document might more properly be used on a summation
21 of the case, but I do not think it should be intro-
22 duced as having any evidentiary value at this time.
23 It also contains some conclusions of events, for
24 example, No. 6, which I do not think is proper.

25 THE PRESIDENT: You said this would have no

1 value unless every item was proved as to particulars.

2 BRIGADIER NOLAN: Yes.

3 THE PRESIDENT: There is no objection to it
4 in those circumstances.

5 Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2665 will receive exhibit No. 1222.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1222 and received in evidence.)

11 BRIGADIER NOLAN: I now read from exhibit
12 1222. It is entitled

13 "TIME CHART

14 "for December 6, 7, 8, 1941."

15 It is divided under headings:

16 "TOKYO TIME PLACE LOCAL TIME EVENTS

17 December

- 18 "1. 7th 0940 Washington 1940 - 6th American
19 Press told telegram going to Emperor.
20 "2. 7th 1000 Washington 2000 - 6th Mr. Hull
21 cables Mr. Grew that telegram on way.
22 "3. 7th 1100 Washington 2100 - 6th Mr. Hull
23 sends President's message to Emperor to Mr.
24 Grew; both Mr. Hull's cables marked 'Triple
25 Priority.' By President's order message sent

in easily decipherable code.

1
2 "4. 7th 1200 Tokyo 1200 - 7th President's
3 message received in Tokyo.

4 "5. 7th 1500 Tokyo 1500 - 7th U.S. Radio
5 announces a message on the way.

6 "6. 7th 1800 Tokyo 1800 - 7th By this time
7 at latest contents of message known in Japan-
8 ese Government offices.

9 "7. 7th 2230 Tokyo 2230 - 7th Mr. Grew
10 gets the message from Mr. Hull.

11 "8. 8th 0015 Tokyo 0015 - 8th Mr. Grew
12 sees Foreign Minister TOGO, reads message to
13 him, asks for appointment to deliver it
14 personally to the Emperor, and goes home.

15 "9. 8th 0045 Shanghai 2345 - 7th The Shang-
16 hai Bund (International Settlement) occupied
17 by Japanese troops.

18 "10. 8th 0140 Kota Bahru 2400 - 7th British
19 beach defenses shelled from the sea.

20 "11. 8th 0200 Washington 1200 - 7th Mr. NOMURA
21 asks to see Mr. Hull at 1300 hours.

22 "12. 8th 0205 Kota Bahru 0025 - 8th Japanese
23 landing at Kota Bahru in Northern Malaya."

24 THE PRESIDENT: Does that continue to be the
25 same local time? No. 12 -- read the line across.

1 There may be a mistake in the paper: The difference
2 between "0205" and "0025."

3 BRIGADIER NOLAN: There is a difference,
4 I think, of almost two hours between Tokyo and Kota
5 Bahru.

6 THE PRESIDENT: You said they were the same,
7 but I do not think you mean that, Brigadier. Look
8 at No. 10.

9 BRIGADIER NOLAN: I say they are not the
10 same because item No. 10 shows a difference in the
11 two times. I will have to have that translated, Mr.
12 President, in the correct time in Kota Bahru.

13 The difference, Mr. President, lies in the
14 difference in date. In the earlier item, No. 10, it
15 will be observed that "0140, Tokyo" was "2400" on
16 the 7th in Kota Bahru. In the result, Kota Bahru
17 is one hour and forty minutes ahead of Tokyo.

18 THE PRESIDENT: The difference between mid-
19 night and 1:40.

20 BRIGADIER NOLAN: (Continuing to read)

21 "TOKYO TIME PLACE LOCAL TIME EVENTS

22 December

23 "13. 8th 0300 Washington 1300 - 7th Mr. NOMURA
24 asks for postponement of meeting with Mr.
25 Hull to 1345 hours."

- 1 "14. 8th 0305 Singora 0125-8th About this time
2 at Singora and Patani in Southern Siam, Japan-
3 ese landed and advanced towards Malayan border.
4 "15. 8th 0320-25 Pearl 0750-55 7th Attack at
5 Harbor Pearl Harbor.
6 "16. 8th 0405 Washington 1405 - 7th Mr. NOMURA
7 arrives at Mr. Hull's office.
8 "17. 8th 0420 Washington 1420 - 7th Mr. NOMURA
9 hands Mr. Hull document No. 2215 N, the docu-
10 ment terminating negotiations.
11 "18. 8th 0520 Shanghai 0420 - 8th H.M.S. Petere
12 sunk with casualties.
13 "19." is withdrawn, My Lord, from this chart.
14 "20. 8th 0610 Singapore 0430 - 8th Air Raid on
15 Singapore.
16 "21. 8th 0700 Tokyo 0700 - 8th Tokyo Radio
17 gives first announcement that hostilities
18 have begun.
19 "22. 8th 0730 Tokyo 0730 - 8th Mr. Grew
20 calls on Foreign Minister TOGO at his re-
21 quest and TOGO hands him copy of document
22 handed by Mr. NOMURA to Mr. Hull, describing
23 it as Emperor's answer to President's mes-
24 sage.
25 "23. 8th 0800 Tokyo 0800 - 8th Sir Robert

1 Craigie calls on Foreign Minister TOGO at
2 his request and is handed a copy of the same
3 document.

4 "24. 8th 0805 Guam 0805 - 8th Guam
5 attacked.

6 "25. 8th 0900 Hong Kong 0800 - 8th Hong Kong
7 attacked.

8 Between Between
9 "26. 1140 and 1200 Tokyo 1140 & 1200 Imperial
10 Rescript issued."

11 The first stage in the proof of this chart
12 is to show how the times are synchronized, for which
13 I offer in evidence IPS document No. 2581. This not
14 only shows how the times on the chart are converted
15 from local time to Tokyo time, but will enable the
16 Tribunal to convert for themselves any timed event
17 at any one of the material places into the time at
18 any other. Items, 1, 2, 3, 11, 13, 16 and 17 on the
19 chart will be proved by Mr. Ballantine.

20
21 THE PRESIDENT: This last document is ad-
22 mitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 2581 will receive exhibit No. 1223.

25 (Whereupon, the document above re-
ferred to was marked prosecution's exhibit

1 No. 1223 and received in evidence.)

2 BRIGADIER NOLAN: Exhibit 1223 is an affi-
3 davit of Philip Earl Sanders, Chief Boatswain's Mate,
4 United States Navy, "now attached to the Internation-
5 al Prosecution Section of S.C.A.P., being duly sworn,
6 depose and say that I am qualified in Navigation and
7 have recently examined United States Navy Hydro-
8 graphic Time Tables.

9 "I have examined the variations in time be-
10 tween places marked on the first line of the attached
11 Time Table and say that they are accurately set out.
12 I have, by arithmetical calculations, prepared the
13 said Time Table for the 24 hours of December 8th,
14 1941, Tokyo Time, and these calculations are, to
15 the best of my knowledge and belief, true. Varia-
16 tions in time for any other date can be calculated
17 accordingly."
18

19 Signed "Philip Earl Sanders,
20 "Chief Boatswain's Mate,
21 "United States Navy.

22 "Subscribed and sworn
23 to before me this
24 8th day of August, 1946

25 "Harryman Dorsey
"Captain, JAGD."

1 The document itself is described as a com-
2 parative time table based on Tokyo, proceeding east-
3 ward on 7 to 8 December.

4 At the top of the document it will be ob-
5 served that there are certain localities or places
6 set out. They are: "Tokyo, Pearl Harbor, Washington,
7 Greenwich, Bangkok, Kota Bahru and Singapore, Hong
8 Kong, Shanghai and Manila."

9 It will also be observed that each hour is
10 divided into five-minute periods. I will not take
11 up the time of the Tribunal in reading this document
12 which has been prepared according to the mathematical
13 calculations for the assistance of the Court.

14 THE PRESIDENT: Major Furness.

15 MR. FURNESS: May the defense inquire whether
16 the man who prepared this chart is in Tokyo and will
17 be called for cross-examination?

18 (Whereupon, a discussion was had
19 off the record by the Members of the Tri-
20 bunal.)

21 THE PRESIDENT: Can you give us any reason
22 for calling him for cross-examination?

23 MR. FURNESS: Just to inquire whether these
24 are based on any international time belts or based
25 on geographic calculations. I notice that in the

preceding exhibits most of the different times are
1 exact hours apart, but in Kota Bahru particularly
2 it was not hours apart but hours and some odd
3 minutes. In other words, whether it is based on
4 geographical calculations or on specific time belts
5 on which people would agree.

6 THE PRESIDENT: For the time being, the
7 Court can see no good reason for calling him.

8 MR. FURNESS: Could we inquire whether he
9 is in Tokyo so that, if he is, we can talk with
10 him?

11 BRIGADIER NOLAN: I have made inquiries, Mr.
12 President, and he is not in Japan.

13 We now offer in evidence IPS document No.
14 2405, an affidavit of Mr. Grew, one time the United
15 States Ambassador to Tokyo, which, in our submission,
16 proves items 4, 5, 7, 8 and 22 of the time chart
17 marked as exhibit 1222.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 2405 will receive exhibit 1224.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 1224 and received in evidence.)
24

25 BRIGADIER NOLAN: I now read exhibit No.

1 1224 omitting the preamble.

2 "Town of Manchester,)
 3 County of Essex,)
 4 Commonwealth of Massachusetts) ss.
 United States of America.)

5 "I, JOSEPH CLARK GREY, being duly sworn,
 6 on oath, depose and say:

7 "1. I was in Japan as United States Amba-
 8 sador from 6 June 1932 to 25 June 1942. At about 1500
 9 hours in the afternoon on 7 December 1941 (Tokyo time)
 10 it was announced by a radio station in the United
 11 States that the President of the United States had sent
 12 a message to the Emperor of Japan, but no information
 13 was given as to its substance or the channel of trans-
 14 mission.

15 "2. At about 2100 hours (Tokyo time) there
 16 was delivered to me a telegram, marked 'triple priority,'
 17 from Mr. Cordell Hull which had been dispatched at 2000
 18 hours on 6 December (Washington time) and received in
 19 Tokyo 7 December (Tokyo time) stating that a telegram
 20 was then being encoded containing a message from the
 21 President which I was to communicate to the Emperor
 22 at the earliest possible moment.

23 "3. At about 2230 hours (Tokyo time) 7 Decem-
 24 ber, the actual message was delivered at the United
 25 States Embassy in Tokyo. The telegram was officially

1 stamped as having been received at the Japanese tele-
2 graph office at 1200 hours and was marked 'triple pri-
3 ority' dispatched 6 December, 2100 hours (Washington
4 time). The text is printed at pages 784-6 of 'Papers
5 relating to the Foreign Relations of the United States:
6 Japan 1931-1941' Vol. II.

7 "4. I immediately caused a telephone mes-
8 sage to be sent to the Secretary to the Japanese Foreign
9 Minister TOGO, asking for an urgent appointment with
10 the Minister around midnight. The Secretary asked if
11 the matter was so urgent that it could not wait until
12 the next day, but ultimately made the appointment. As
13 soon as the telegram was decoded and typed, I took it
14 to the Minister's official residence and saw him at
15 about 0015 hours, 8 December (Tokyo time). I requested
16 an audience with the Emperor in order to present the
17 the President's message which I then read aloud and of
18 which I then handed a copy to TOGO. The latter at first
19 said that he would study the document, but when I asked
20 if that meant some doubt as to whether he would ask for
21 an audience for me, he replied that he would present the
22 matter to the Throne. He made some further remarks
23 about the Washington Conversations, but when I said
24 that I had not yet received a report of the conversa-
25 tion of 5 December and it would merely complicate

1 matters if I undertook to repeat his comments to the
2 Department, he said it was not necessary. I left him
3 at about 0030 hours.

4 "5. At about 0700 hours on 8 December (Tokyo
5 time) I was awakened by a telephone call from an official
6 of the Foreign Ministry asking me to come to see the
7 Minister as soon as possible. He said that he had been
8 trying to telephone to me ever since 0500 hours, but
9 could not get through. I arrived at the Minister's
10 official residence and saw him at about 0730 hours. He
11 said that he had seen the Emperor and handed me a copy
12 of the memorandum which is reproduced at pages 797-792
13 of the above-mentioned Volume headed 'Memorandum handed
14 by the Japanese Ambassador (TOGURA) to the Secretary
15 of State at 2:20 p.m. on 7 December 1941.' TOGO said
16 that he had seen the Emperor (at about 0300 hours I
17 understand) and that this memorandum constituted the
18 Emperor's reply to the President's message. I immedi-
19 ately reminded TOGO that I had asked for an audience
20 with the Emperor and that I still wished to present
21 the President's message to the Emperor personally. TOGO
22 merely replied that he had no desire to stand between
23 the Throne and myself. He then made a little speech
24 thanking me for my cooperation during the conversations
25 and came downstairs to see me off at the door. Not a

1 word was said about war having broken out anywhere or
2 about Pearl Harbor.

3 "6. Shortly after returning to the Embassy
4 I was informed through a newspaper bulletin (Gogai)
5 that Japan was in armed conflict with the United States
6 and Great Britain.

7 "Later in the morning of 8 December (Tokyo
8 time) an Official of the Foreign Office called at the
9 United States Embassy and read the official announce-
10 ment that armed conflict had commenced."

11
12 (Signed)

13 "JOSEPH CLARK GREW"

14 "Subscribed and sworn to before me this 23rd day of
15 June, A. D., 1946.

16 "Raymond B. Roberts, Notary Public."
17

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

20 (Whereupon, at 1445, a recess was
21 taken until 1500, after which the proceedings
22 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Logan.

4 MR. LOGAN: If the Tribunal please, in view
5 of the submission by the prosecution of a further
6 affidavit by Joseph Clark Grew, former Ambassador to
7 Japan, we renew our request that Ambassador Grew be
8 brought to this Tribunal to present himself for cross-
9 examination. This affidavit further strengthens a
10 statement that we made the other day to the effect
11 that Ambassador Grew knew many of these accused and
12 spoke with them and would be able to assist this
13 Tribunal in arriving at the facts in this case. Of
14 all the witnesses who have been named and have ap-
15 peared at this Tribunal, it seems to us that a man
16 who was in Tokyo and had his finger on the pulse of
17 the Japanese nation should be produced so that he can
18 be cross-examined.

19 THE PRESIDENT: Well, this second affidavit
20 does not make a material difference to the position
21 as it was when we dealt with the matter previously,
22 however I will leave the matter to my colleagues.

23 Mr. Higgins.

24 MR. HIGGINS: Mr. President, at Tuesday's
25 session, November 12, pages 10,249 and 10,250 of the

1 record, objection was made to the introduction of IPS
2 document No. 497, which was admitted and read as
3 prosecution exhibit No. 1148. The document described
4 the reasons for the fall of the third KONOYE Cabinet.
5 According to the certificate it was dictated by Prince
6 KONOYE to one of his secretaries, corrected by him,
7 but the certificate of authenticity was signed by a
8 different secretary. The Court asked that we make
9 an investigation and report.

10 It has been ascertained that the foregoing
11 document was obtained by IPS on 26 December 1945
12 from Lieutenant Branstad of the Interpreter-Translator
13 Section, CIS of SCAP Headquarters. It has been
14 ascertained that CIS obtained the document with a
15 number of others from the summer residence of
16 Prince KONOYE at Karuizawa on 17 December 1945, which
17 was the day following the Prince's death.

18 Investigation discloses that AkAYA, Shigeki,
19 the former secretary to whom the memorandum was
20 dictated, died in March of this year.

21 MR. LOGAN: I am sorry, your Honor, but was
22 a question addressed to me before about this Am-
23 bassador Grew matter? My radio wasn't working.

24 THE PRESIDENT: I said the second affidavit
25 did not add anything material, but I would consult

1 my colleagues.

2 MR. LOGAN: As I recall it, your Honor, may
3 I point out that in his previous affidavit it skipped
4 several months and all of a sudden we get another
5 affidavit where he testifies about December 7 and
6 December 8, and we firmly believe, in view of the
7 fact that this trial involves one of the great moments
8 in history, where we have a man who was really here
9 that he should be produced so that we can cross-examine
10 him. I understand in his previous affidavit it ends
11 at the period of about May 30, and I am not making
12 this application pro forma, may it please the Court,
13 but I urge with all the sincerity at my command that
14 he be produced.

15 MR. HIGGINS: Mr. President, it is our in-
16 formation that Mr. Grew is physically unable to make
17 the trip from the United States to Tokyo.

18 MR. FURNESS: If the Tribunal delay on this,
19 if Mr. Grew's physical condition is in issue, Colonel
20 Warren, as I said, has just returned and if he is in
21 the building tonight -- today -- he can come in and
22 tell just what Mr. Grew's condition is. He has talked
23 to Mr. Grew within the month and we are sending now
24 to ask Colonel Warren to come into the courtroom.
25

THE PRESIDENT: Why can't he be examined in

1 the United States on commission? Is it suggested
2 that we might gain something if we see him give his
3 evidence; that his credibility is in question?

4 MR. FURNESS: I am sure that his credibility
5 will be in question, but that will not be the only
6 purpose of our cross-examination. There are collateral
7 matters, and there is a long gap between the events
8 which he testified to in his first affidavit and the
9 events which he testified to in this.

10 THE PRESIDENT: If the question of his cre-
11 dibility is not raised, of course he can be effectively
12 cross-examined in the United States. I am expressing
13 my own opinions, because there are mixed views about
14 this.

15 MR. BROOKS: Mr. President and Members of
16 the Tribunal, I know in this case there are many
17 divergent opinions among the attorneys, and the
18 accused, as represented by one attorney, the interests
19 and the matters that he has specifically in mind
20 are not those of another.

21 THE PRESIDENT: If the defense want him and
22 apply to me I shall find it hard to resist the ap-
23 plication, if he is able to come.

24 MR. BROOKS: And as to the taking of the
25 matter up, we want to bring out by way of commission

1 in the United States, with all due respect to my other
2 colleagues, I don't know of any attorney that has an
3 understanding of my part of the case that I would
4 want to delegate that to, or likewise that I would
5 want to accept the responsibility for inquiring into
6 his phase of the case.

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1 THE PRESIDENT: There seems to be a majority
2 against calling him for cross-examination, but I can
3 say candidly here if you ask me to allow you to sub-
4 poena him I would find it most difficult to refuse a
5 subpoena because he can give material evidence, or you
6 may be able to show he would be able to give material
7 evidence, in your favor. You have said he can do so.

8 MR. BROOKS: Of course, the Court realizes
9 the defense doesn't feel that a subpoena for this man
10 would give us the opportunity that we would have on
11 cross-examination because we would have to treat him
12 as a hostile witness. Possibly I should say a prose-
13 cution witness rather than a hostile witness.

14 And further that in the light of one defendant
15 cross-examining on possibly a diplomatic phase or
16 military phase or economic phase, others may have
17 other matters peculiarly within their knowledge of
18 their defense that would be very important to place
19 before this Court.

20 THE PRESIDENT: Colonel Warren.

21 MR. WARREN: Thank you, Your Honor. If I
22 may be permitted a word, about ten days ago I talked
23 with Ambassador Grew in Washington, D.C. I was im-
24 pelled to believe from my conversation with him that
25 he, in common with many other persons who write books,

1 has a tendency to place a different interpretation
2 than what this Tribunal or those who read the book
3 might place upon his words.

4 THE PRESIDENT: The book isn't in evidence.

5 MR. WARREN: No, sir; no, your Honor, that is
6 true. But other documents compiled by him which are
7 contained in his book are in evidence and unquestionably
8 before the conclusion of this trial his book will
9 probably reach the evidence. And to that extent I am
10 anticipating what will come before the Tribunal.

11 However, with reference to Ambassador Grew's
12 health, of course, I am not a medical man and I can't
13 say that he is in sound physical condition. Certainly
14 he is not decrepit and he appears to be in as normal
15 health as you could possibly expect for a man of his
16 years, which I understand to be seventy-two. I don't
17 believe his health is impaired in any manner except due,
18 perhaps, to his age, and before he is characterized as
19 an invalid, unable to travel to the Orient, I think
20 that he first should be consulted himself.

21 THE PRESIDENT: Colonel Warren, Mr. Brooks
22 mentioned many matters upon which Mr. Grew might testify,
23 but I must remind you -- I have been reminded of it
24 myself -- that if he is called here for cross-examin-
25 ation you will be confined to matters arising out of his

1 examination in chief, that is to say, arising out of
2 his affidavit. If you call him as your witness,
3 though, there will be no limit of that kind, and,
4 according to the representations of some of the defense
5 counsel, at least one or more of the accused could
6 safely call him. Perhaps you had better think it over.

7 MR. WARREN: Your Honor, would the Court indulge
8 me for just one further observation. I am of the
9 opinion -- and it is purely my opinion and not a fact --
10 that Ambassador Grew would place an entirely different
11 interpretation upon the meaning of his affidavit than
12 what has appeared before the Tribunal.

13 THE PRESIDENT: That statement is wholly un-
14 warranted.

15 MR. WARREN: Perhaps I put it a little crudely.
16 I am telling the Tribunal, as I consider myself an
17 officer of this Court, that that is merely my opinion.
18 And without the opportunity of cross-examining the man
19 here before the Tribunal, I see no manner in which we
20 could bring to the Tribunal those assertions -- I mean,
21 not those assertions but the true feeling of the witness.

22 I had not in any manner meant to, as I realize
23 now, I hadn't meant to attempt to judge the consider-
24 ation of the Tribunal's feelings towards this matter
25 and I realize my remark indicated that I had. So, for

1 that matter, I ask the Court to forgive me for not hav-
2 ing had a very good choice of words. I am speaking
3 solely as to the manner in which it has been interpreted
4 by counsel in their discussions which, of course, has
5 not come to the Tribunal.

6 I have nothing further, your Honor, on the
7 matter. Thank you very much.

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1 MR. KEENAN: Mr. President, may I be per-
2 mitted briefly to state that the prosecution has
3 been at all times informed that Mr. Grew is unable
4 physically to make the trip. Mr. Grew, in the
5 humble opinion of the prosecution is a very important
6 witness, and, in view of the statement of defense
7 counsel, we will make our own inquiries forthwith
8 and if there is any practical possibility of Mr.
9 Grew being here, the prosecution will present him as
10 its witness.

11 THE PRESIDENT: I do not know whether the
12 defense are satisfied with what the Chief of Counsel
13 has said, but I repeat that, if an application is made
14 to me in chambers, we will have the question of his
15 ability to travel fully investigated.

16 I think the consensus of opinion of this
17 Tribunal, I have not gathered it fully, is that he
18 should be defense witness and not a witness for the
19 prosecution, unless the prosecution want to call him.

20 MR. LOGAN: As it is indicated, your Honor,
21 we would rather have him for cross-examination than
22 for direct-examination. I believe it is the consensus
23 of the defense attorneys that we will accept the
24 prosecution's offer to see what they can do to get
25 him here for cross-examination.

1 THE PRESIDENT: We will leave the matter
2 as it stands. It can be raised again at some
3 appropriate time.

4 BRIGADIER NOLAN: At this stage, Mr.
5 President, I desire to call as a witness, Mr. SHIRAO,
6 Tateki, whose affidavit, IPS document No. 2597,
7 the circumstances under which the delivery of the
8 telegram to Ambassador Grew was delayed will be proved,
9 and, also, item six on the chart, namely, that by
10 1600 hours and certainly by 1800 hours on December
11 7, the President's message had been decoded and its
12 contents were generally known in Japanese Government
13 offices.
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SHIRAO

DIRECT

1 T A T E K I S H I R A O, called as a witness on
2 behalf of the prosecution, being first duly
3 sworn, testified through Japanese interpreters
4 as follows:

5 THE PRESIDENT: Are you tendering this
6 affidavit directly or through the witness, Brigadier?

7 BRIGADIER NOLAN: I was tendering it through
8 the witness, Mr. President. As soon as I have had the
9 witness say he made the affidavit, I will read it my-
10 self to the Tribunal by reason of the language difficulty.

11 DIRECT EXAMINATION

12 BY BRIGADIER NOLAN:

13 Q What is your full name, please?

14 A SHIRAO, Tateki.

15 Q And where do you live?

16 A Tokyo-To, Suginami-Ku, Nishi Takaido,
17 1 Chome, 139.

18 Q What is your present employment?

19 A I am a secretary in the Communications Office.

20 BRIGADIER NOLAN: Will the Clerk have the
21 affidavit No. 2597 shown to the witness, please.

22 (Whereupon, the document above
23 referred to was handed to the witness.)

24 Q I show you a document dated 18 August 1946.
25 What is that document? Is that your affidavit, Mr.

SHIRAO

DIRECT

1 SHIRAO?

2 A Yes.

3 BRIGADIER NOLAN: I offer in evidence,
4 Mr. President, IPS document No. 2597, being the
5 affidavit of SHIRAO, Tateki.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2597 will receive exhibit No. 1225.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1225 and received in evidence.)

12 BRIGADIER NOLAN: I now read from exhibit
13 No. 1225:

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SHIRAO

DIRECT

1 "I am SHIRAO, Tateki, at present employed
2 at the Ministry of Communications in Tokyo and I live
3 at: Tokyo-to, Suginami-ku, Nishi Takaido, 1 Chome 139.

4 "In November 1941 I was in charge of the de-
5 partment of Censorship which is a section of the Minis-
6 try of Communications.

7 "On November 29th 1941, my friend Lt. Colonel
8 TOHURA Morio, who was then employed in the communications
9 section of the Chief of Staff, telephoned me at my pri-
10 vate house in the evening and told me that for security
11 reasons all foreign telegrams were to be delayed in
12 delivery by five hours. I at once telephoned to the
13 central telegraph office, and gave orders that all in-
14 coming and out-going telegrams should be delayed for
15 five hours. This applied to all telegrams except those
16 of the Japanese Government and, I think, those concern-
17 ing the German and Italian Governments. At the time I
18 did nothing more in the matter.

19 "On December 4th, having discussed the matter
20 with members of the Ministry, I issued written instruc-
21 tions to all branch telegraph offices in the Tokyo area
22 and to all other sections of my censorship staff. I do
23 not think it likely that any copy of these written in-
24 structions still exists. At no time, so far as I re-
25 member, did I ever receive written confirmation of the

SHIRAO

DIRECT

1 telephone instructions of Colonel TOIURA.

2 "On December 6th my orders from Colonel TOIURA
3 as to the delay in telegrams was varied and, in future,
4 I was told to delay the delivery by five hours and ten
5 hours on alternate days.

6 "On December 7th I know, certainly before
7 6:00 p.m. when I left the office, and I think some time
8 between four and six p.m. of the contents of the message
9 of the President of the U. S. A. to the Emperor of Japan.
10 I cannot remember, for certain, who told me, but I think
11 it was Colonel TOIURA who gave me this information in
12 the course of a conversation on the telephone that after-
13 noon. He telephoned me to say that henceforth all
14 telegrams were to be delayed by fifteen hours and I
15 gave instructions to my subordinates accordingly.

16 "It was the custom at this time for the Foreign
17 Office and for the Chiefs of Staff of the Army and of
18 the Navy to send a messenger to my department at least
19 once a day, generally in the morning, to take away
20 copies of telegrams in code which they thought might
21 interest them. As December 7th was a day of great
22 excitement, there were probably messengers in and out
23 all day, and I cannot say at what time the President's
24 telegram would have been taken away by any of these
25 messengers. I do know, however, as I have already ex-

SHIRAO

DIRECT

1 plained, that Colonel TOIURA of the War Ministry was
2 telling me the contents of the telegram probably by
3 4 o'clock and certainly by 6 o'clock that evening.

4 "I should explain that, although my depart-
5 ment is called the Department of Censorship, and was
6 therefore responsible for decoding telegrams in code, it
7 was operating for public and commercial codes only and
8 did not handle secret codes.

9 "On December 8th I was called on the telephone
10 about 4:30 a.m. by Mr. FAKAYAMA, who was Chief of the
11 Foreign Telegram Section of the Telecommunication Bureau
12 of the Ministry of Communications and, as such, my im-
13 mediate superior officer. He told me that he had re-
14 ceived an order from the Army to stop all communication
15 with Foreign Countries. I immediately telephoned the
16 order to my office, dressed and went there, arriving
17 about 6:00 a.m. There I found Colonel IURAKAMI of the
18 War Ministry, and Lt. Colonel TOIURA, waiting for me,
19 and we discussed all future control of communications.

20 "At noon on this day, the Minister of Communi-
21 cations read out to the Staff of the Ministry the Im-
22 perial Rescript of the declaration of war.

23 "I am certain of many of my times and all my
24 dates in this period as I kept a Diary, and it is after
25 refreshing my memory from this Diary that I have made

SHIRAO

DIRECT

1 the present Affidavit.

2 "I, SHIRAO, Tatchi have read the above statement in
3 English, a language which I understand. I swear on
4 my conscience that the contents of the above statement
5 are true to the best of my knowledge and recollection
6 of facts.

7
8 "Sworn and subscribed to before
9 the undersigned by the above
10 named SHIRAO, Tatchi at the War
11 Ministry Building, Tokyo, this
12 18th day of August 1946

13 /s/ "John F. Hummel
14 "Major, J.A.G.O."

15 I have no questions further to ask the
16 witness.

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SHIRAO

CROSS

THE PRESIDENT: Dr. KIYOSE.

1 DR. KIYOSE: I have three or four questions
2 to ask this witness.

3 CROSS-EXAMINATION

4 BY DR. KIYOSE:

5 Q You have stated in the last part of your
6 affidavit that you read and understand English and
7 understood the contents of this affidavit.

8 Did you write this affidavit in English?

9 A No, in Japanese.

10 Q Then, did you listen to the English trans-
11 lation of the Japanese affidavit which you made, and
12 signed that?

13 A Yes, I read the translation into English and
14 affixed my signature thereto.

15 THE MONITOR: "I was asked to read it, which
16 I did, and then signed."

17 Q Then you did not see the Japanese text of
18 this affidavit?

19 A Your question is not clear, sir.

20 Q The Japanese affidavit has been circulated
21 among us defense counsel. Have you never seen or read
22 the Japanese affidavit?
23

24 A I saw it.

25 Q There is no -- you are sure of its contents?

SHIRAO

CROSS

1 A Yes, I am.

2 Q Then I will ask you some question, basing
3 them on the Japanese text, on the Japanese affidavit.

4 Will you tell us of your position at the time,
5 in the period covered by this affidavit; that is to
6 say, will you explain in detail the organization of
7 your ministry? That is, in the first part of
8 December, 1941.

9 A At that time I occupied the position of
10 Communications Secretary or Official in the Ministry
11 of Communications; and I was assigned to the Foreign
12 Telegraph Section of the Tele-Communications Bureau
13 of the Ministry of Communications.

14 Q What is the organization immediately above
15 this bureau?

16 A That is the Tele-Communications Bureau of
17 the Ministry of Communications, and the Foreign Tele-
18 graph Section is under the Tele-Communications Bureau.

19 Q Is the Tele-Communication Bureau under the
20 direct control of the Minister of Communications, or
21 is there another intermediate agency?

22 A Yes, it is under the direct supervision of the
23 Minister.

24 THE MONITOR: "I believe."

25 Q I am asking you concerning the department

SHIRAO

CROSS

1 in which you worked. When you say "I believe," that
2 is not very exact. Do you mean you believe, or are you
3 sure?

4 A Do you mean to say that the Tele-Communications
5 Bureau is not very clear to you?

6 Q No, my question -- I asked you my question
7 because you said, "I believe" the Tele-Communications
8 Bureau was under the direct control of the Minister of
9 Communications. There is the Vice-Minister of Com-
10 munications under the Minister, so I wanted to ask you
11 whether you knew it for a fact that the Tele-
12 Communication Bureau was under, directly under, the
13 Minister of Communications?

14 THE PRESIDENT: Dr. KIYOSE, the reason for
15 these questions is far from clear. Do you suggest
16 that he was not employed as he claims he was?

17 LR. KIYOSE: Mr. President, I merely wanted
18 to ascertain where he got his orders from. That is
19 to say, I wish to ask as my next question whether or
20 not he received the order on December 7 from his
21 immediate superior, from someone from whom he should
22 receive that order, or not.

23 Q If you can, please reply to my previous
24 question. If you cannot, I shall go to my next
25 question.

SHIRAO

CROSS

1 A No, I shall try to reply. I said that the
2 Tele-Communications Bureau was under the direct charge
3 of the Minister of Communications, but in between
4 there is the office of the Vice-Minister. Therefore,
5 I must say that it also receives supervision and
6 orders of the Vice-Minister, who assists the Minister
7 in the administration of the Ministry.

8 Q You said you were employed in the Foreign
9 Telegram Section. Who was your section chief?

10 A NAKAYAMA, Jiro.

11 Q With that, the organization of the Ministry
12 has become clear.

13 In the third paragraph of your affidavit
14 you state that orders were given for all incoming
15 telegrams to be delayed for five hours. Where did
16 these orders come from?

17 A From Lieutenant Colonel TOMURA, of the Army
18 General Staff.

19 Q From about when?

20 A From the end of November.

21 Q Did Colonel TOMURA, that is to say, did the
22 Army General Staff have the right to order, to give
23 orders to you or to your section?
24

25 A No, he did not have the authority to give
orders, but we interpreted it as being the request

SHIRAO

CROSS

1 of the army.

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

4 At half past ten we will adjourn until
5 half past one.

6 (Whereupon, at 1600, an adjournment
7 was taken until Friday, 15 November 1946,
8 at 0930.)

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Board of
INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

Court House of the
War Ministry Building
Tokyo, Japan

The United States of America; the Republic of China;
the United Kingdom of Great Britain and Northern Ireland;
the Union of Soviet Socialist Republics; the Commonwealth of
Australia; Canada; the Republic of France; the Kingdom of
the Netherlands; New Zealand, India, and the Commonwealth
of the Philippines

-Against-

Generalissimo Saito; DOHMAI; MATSUOKA;
Koki; HATA; SHUNSUKE; HIRANO; KURIHARA;
Koki; HOSOKAWA; Naoki; KAWANISHI; KAWANISHI;
Koki; KIKUCHI; Koichi; KIMURA; MATSUOKA;
MATSUOKA; MATSUOKA; MATSUOKA;
Koki; MATSUOKA; Akihiro; NAGANO; Osamu;
OKAWA; OSHIMA; Hiroshi; SATO;
GENITSU; Mutsu; SHIMADA; Shigetaro;
KAWANISHI; KIKUCHI; Tetsu; TOGO; Shigenori;
KAWANISHI; KIKUCHI; Tetsu; TOGO; Shigenori;

Accused

Official Court Reporters

Jack Greenberg, Chief
Fred T. Abram
James H. Easton
Agnesette Duda
Susan Goldberg
Klaus E. Momo
John J. Smith
Daphne Spratt
Elyse Whalen
Julius Wolf
Lorraine Yelton

15 November 1946

I N D E X
Of
WITNESSES

<u>Prosecution's Witnesses</u>	<u>Page</u>
SHIRAO, Tateki (resumed)	10,581
Cross by Dr. KIYOSE (continued)	10,581 & 10,657
Cross by Mr. Brooks	10,585
Cross by Mr. Furness	10,604
TATENO, Horio	10,635
Direct by Brigadier Nolan	10,635

I N D E X
Of

EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2669A		1226	Extracts from Diary by SHIRAO, Tateki dated 29 November 1946		10,604
1420	1227		Affidavit of FREDERICK CHARLES PARR, Dated 27 March 1946		10,608
1421	1228		Affidavit of EDWARD AUSTIN IRVIN CROWDER dated 6 April 1946		10,613
1577	1229		Affidavit of Major-General ARTHUR ERNEST PERCIVAL dated 20 July 1946		10,615
1508	1230		Affidavit of Wing Commander WILLIAM HARRY FRANKLIN, dated 6 March 1946		10,618

I N D E X

Of

EXHIBITS

(Continued)

<u>Doc. No.</u>	<u>Pros No.</u>	<u>Def. No.</u>	<u>Description.</u>	<u>For Ident.</u>	<u>In Evidence</u>
1500	1231		Affidavit of SIR ORIE GARTON SARGENT, Under-Secretary of State for Foreign Affairs, dated 25 March 1946		10,621
220-H	1232		Extract from papers relating to Foreign Relations of United States. Japan; 1931 - 1941 "Memorandum of a conversation" dated 7 December 1941		10,626
1424	1233		Affidavit of HONORABLE JAMES F. BYRNES, Secretary of State, dated 6 April 1946		10,630
2543	1234		Affidavit of TATENO, Morio dated 24 July 1946		10,636
1633	1235		Phonograph record of broadcast made by TATENO, Morio made on 8 December 1941		10,639
1633-A	1235-A		Transcription of the wording of the last exhibit 1235		10,639
1657	1235-R		Official log of Broadcasting section division, news section of Radio Tokyo		10,640
1657-A	1235-C		Log of Radio News Broadcast given on 8 December 1941 (Japanese time) Japanese Broadcasting System		10,640

1 Friday, 15 November, 1946

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

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12
13 Appearances:

14 For the Tribunal, same as before with the
15 exception of the HONORABLE R. B. PAL, Member from
16 India, not sitting.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

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22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 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 the accused are present
4 except OKAWA and SHIGEMITSU. We have a certificate
5 from the Prison Surgeon of Sugamo Prison certifying
6 that the accused SHIGEMITSU is ill and unable to at-
7 tend the trial today. The certificate will be re-
8 corded and filed.

9 Will Mr. Fihelly come to the lectern, please?

10 Mr. Fihelly, the "Stars & Stripes" reports you
11 today as stating that the accused TOJO had made cer-
12 tain admissions. Sometime ago we pointed out that
13 such statements should not be made to the newspapers
14 if they amounted to telling the press what evidence
15 was about to be given by the prosecution or by the
16 defense. We don't know whether the statement you
17 made to the newspapers -- if you did make it -- falls
18 within that category. We would like to hear from you.
19 You may not have known of the statement made from
20 this Tribunal about that matter. The Tribunal's
21 statement did not appear in the "Stars & Stripes"
22 or in the "Nippon Times." You may not have been in
23 court when it was made and you may not have known
24 it had been made.
25

MR. FIEHELLY: Mr. President and Members of

1 the Tribunal, I read the article in the "Stars &
2 Stripes" this morning and I was as surprised about
3 it as probably you were to read it.

4 THE PRESIDENT: We will accept your state-
5 ment, Mr. Fihelly. We do not want to hear any more,
6 but we regret that such articles are published. We
7 resent them. They show an utter disregard for the
8 dignity of this Tribunal.

9 MR. FIEHELLY: I would like to say, Mr.
10 President and Members of the Tribunal, just as one
11 terse statement, I gave no interview to the press.

12 THE PRESIDENT: Dr. KIYOSE.

13 DR. KIYOSE: I wish to continue my cross-
14 examination.
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SHIRAO

CROSS

1 T A T E K I S H I R A O, called as a witness on be-
2 half of the prosecution, resumed the stand and
3 testified, through Japanese interpreters, as follows:

CROSS-EXAMINATION

BY DR. KIYOSE: (Continued)

4
5
6 Q. Towards the end of the session yesterday you
7 stated that you received orders to hold back the
8 message. By this did you mean that you received
9 orders from the General Staff or from some other
10 branch of the military?

A. I received orders from the General Staff.

11
12 Q. In your affidavit you mention TOMURA, Morio
13 who was posted in the General Staff. That appears
14 in the third paragraph of the first page of your af-
15 fidavit. This TOMURA was the man who requested you
16 about the telegram. On page 2 in the first sentence
17 it is specifically said that he was a member of the
18 War Ministry.

19 THE MONITOR: "First sentence" should read
20 "first line."

21 Q. (Continued) Was this mention of War Min-
22 istry an error, then?

A. Yes, it is an error.

23
24 Q. Then, as TOMURA said, in delaying the
25 foreign telegram you received orders from the chief

SHIRAO

CROSS

1 of the section controlling foreign telegrams or wire-
2 less messages in general, Tele-Communication Bureau
3 Bureau of the Communications Ministry. Were you
4 later ordered, either by the Chief of the Tele-
5 Communications Bureau of the Communication Ministry,
6 or the Chief of the Foreign Cable Section of the same
7 ministry, to hold those telegrams, or did they ap-
8 prove of your action?

9 A Concerning the treatment of foreign cables,
10 either myself or the Chief of the Foreign Cable De-
11 partment received the request from the army and we
12 received orders from nowhere else.

13 Q I wish to ask another question. I refer
14 specifically to page 1, last line of the English
15 text, wherein you state that it may have been pos-
16 sible that the President Roosevelt's message to the
17 Emperor was carried away or taken back to the office
18 of Chief of the General Staff, or the Chief of the
19 Naval Staff, by either the Chief of the General
20 Staff or the Chief of the Naval Staff. Are you
21 certain that someone, either from the army or navy,
22 Army General Staff or the Navy General Staff, took
23 away that message?
24

25 THE MONITOR: Correction. "Last line, page
1," should read "last part, page 1."

SHIRAO

CROSS

1 A I don't remember exactly whether that
2 telegram, that is, the message of President Roosevelt,
3 was taken away or not. However, telegrams of such
4 nature were to be handed over either to the army or
5 to the navy, therefore I presume that Mr. Roosevelt's
6 message had been included among the telegrams sent
7 over to them.

8 Q Further elucidation, I ask you then you
9 didn't see anyone taking away the telegram, nor did
10 you hand over the telegram yourself.

11 A Just as you say.

12 Q One more question, then. Then I wish to
13 ask you specifically; now you said that according to
14 TOMURA the message from Roosevelt to the Emperor was --

15 THE MONITOR: Correction, please. You state
16 in your affidavit that you heard something about
17 Roosevelt's message from TOMURA. Are you sure of
18 this?

19 A Concerning this point, the only thing I can
20 say is that that is what I thought and I am not sure
21 of it.

22 THE PRESIDENT: Do you recollect what you
23 said in your affidavit about that? In case you have
24 forgotten, I will remind you. In your affidavit you
25 say this: "I do know, however, as I have already

SHIRAO

CROSS

1 A I don't remember exactly whether that
2 telegram, that is, the message of President Roosevelt,
3 was taken away or not. However, telegrams of such
4 nature were to be handed over either to the army or
5 to the navy, therefore I presume that Mr. Roosevelt's
6 message had been included among the telegrams sent
7 over to them.

8 Q Further elucidation, I ask you then you
9 didn't see anyone taking away the telegram, nor did
10 you hand over the telegram yourself.

11 A Just as you say.

12 Q One more question, then. Then I wish to
13 ask you specifically; now you said that according to
14 TOMURA the message from Roosevelt to the Emperor was --

15 THE MONITOR: Correction, please. You state
16 in your affidavit that you heard something about
17 Roosevelt's message from TOMURA. Are you sure of
18 this?

19 A Concerning this point, the only thing I can
20 say is that that is what I thought and I am not sure
21 of it.

22 THE PRESIDENT: Do you recollect what you
23 said in your affidavit about that? In case you have
24 forgotten, I will remind you. In your affidavit you
25 say this: "I do know, however, as I have already

SHIKAO

CROSS

1 explained, that Colonel TOMURA of the War Ministry
2 was telling me the contents of the telegram probably
3 by 4:00 o'clock and certainly by 6:00 o'clock that
4 evening." Have you any explanation of that?

5 A I tried to remember -- I tried hard to re-
6 member what happened at that time. However, I couldn't
7 remember; my memory was foggy and I couldn't remember
8 exactly what happened, therefore I put down that I
9 may have heard it from Colonel TOMURA.

10 Q As for delaying the message, had you re-
11 ceived previous request to do so? Did you get an
12 order to delay the telegram before the 7th? You did
13 get the order to delay the telegram before the 7th,
14 didn't you? The fact that further request for de-
15 laying the message was made on December 7th, does
16 this mean that at that time a message was expected
17 from President Roosevelt, or was it due to the fact
18 that censorship became more rigid at that time?

19 A I wouldn't be able to say anything about
20 that point.

21 Q You say in your affidavit that on the 8th
22 both MURAKAMI and TOMURA visited you. Is that a fact?

23 A If I remember correctly, I believe two men
24 came from the army on that day, on the 8th, and I be-
25 lieve one of them -- I thought that one of them was

SHIRAO

CROSS

1 Lieutenant Colonel MURAKAMI and the other Lieutenant
2 Colonel TOMURA. However, as to their exact identity
3 I am not sure now.

4 DR. KIYOSE: I conclude my cross-examination.

5 THE PRESIDENT: Witness, in your affidavit
6 you say the following: "On December 6th my orders
7 from Colonel TOMURA as to the delay in telegrams
8 was varied and, in future, I was told to delay the
9 delivery by five hours and ten hours on alternate
10 days." Was December 7th a five hour or a ten hour
11 day?

12 THE WITNESS: I don't recall exactly con-
13 cerning that point.

14 THE PRESIDENT: Well you may not recall
15 exactly. What do you think?

16 THE WITNESS: I believe it may have been a
17 ten hour day.

18 THE PRESIDENT: Captain Brooks.

19 CROSS-EXAMINATION (Continued)

20 BY MR. BROOKS:

21 Q Mr. Witness, in testifying by way of af-
22 fidavit, on page 2 of exhibit 1225, the next to the
23 last paragraph, you say you kept a diary and after
24 refreshing your memory from this diary you made this
25 present affidavit. On the 7th of December, as is

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shown in document No. 2669-A of the prosecution,
which is the next one they have on their list for
introduction, is an extract from your diary.

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1 BRIGADIER NOLAN: Mr. President, it was not
2 the intention of the prosecution to introduce 2669A
3 as their document, or at all.

4 MR. BROOKS: I am sorry, your Honor, if I
5 misunderstood their intentions. I have it on my list
6 as the next one and I was going to refer to a remark
7 of the 7th of December in relation to his knowledge
8 of President Roosevelt's message as in direct contra-
9 diction of what he said in his affidavit.

10 THE PRESIDENT: But he says in his affidavit
11 that he bases his statements on his diary.

12 MR. BROOKS: That is right.

13 THE PRESIDENT: I was going to suggest, in
14 view of that, that he produce his diary.

15 MR. BROOKS: I was coming to that, your Honor.
16 I had that in mind for purposes of impeachment.

17 BRIGADIER NOLAN: Mr. President, the diary
18 is not here. Certain entries from it have been
19 processed. The prosecution has no objection to the
20 diary or to any part of it being used for the prosecu-
21 tion for any purpose they see fit.

22 THE PRESIDENT: Brigadier Nolan.

23 BRIGADIER NOLAN: The last word, sir, should
24 have been "for the defense"-- should have been
25 "defense" not "prosecution."

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MR. BROOKS: If the Tribunal please, the
1 prosecution has the document No. 2669A before them
2 and I would like for it to be -- it is an extract
3 from the diary of SHIRAO, Tateki, the witness on the
4 stand -- and I would like for him to place ~~that~~ before
5 the Court now in evidence. I would like to have it
6 placed before the Court in evidence.

7 THE PRESIDENT: Cross-examine on it.

8 BY MR. BROOKS (Continued):

9 Q Now, Mr. witness, in your diary, on the
10 document previously referred to as 2669A, on the 7th
11 of December you make the statement that "the situation
12 apparently has become most difficult as it has been
13 reported that President Roosevelt high-handedly sent
14 a personal message to his Majesty," etc.

15 Now, you said in the affidavit that you knew
16 the contents of this message. I want to ask you; did
17 you ever see this message, actually?

18 A No.

19 Q How then did you learn of its contents and
20 when?

21 A As I said before, my memory concerning that
22 point is foggy. By my diary -- according to entries
23 in my diary -- I heard it sometime in the afternoon
24 of the 7th of December from somewhere, but as to the
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1 place from where I heard the news, I am not sure.
2 Therefore, I can suppose that I either heard it from
3 Lieutenant Colonel TOMURA or from press telegrams.

4 Q Was there a radio in the office where you
5 worked that afternoon?

6 A No, there was no radio.

7 Q Did you hear of any news broadcast on that
8 afternoon of such a message of the President's?

9 A No, I didn't hear it over the radio.

10 Q Did you know that it was broadcast over the
11 radio that afternoon?

12 A I don't know whether it was broadcast or not.

13 Q At the time that you gained this knowledge
14 as to the message, do you or do you not know where the
15 message itself was? Was it still in your office?

16 A I didn't know about the whereabouts of that
17 telegram at that time.

18 Q In fact, did you ever pay any particular
19 attention to this particular message?

20 A As I did not expect to receive such an incoming
21 message, I did not pay any attention to it.

22 Q Now, in your diary of the 29th of November,
23 Showa 16, "After returning home in the evening I
24 talked over the telephone with Major TOMURA about the
25 measures to delay foreign telegrams and gave instructions

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1 to the central telegraph office accordingly." You
2 recall that.

3 Now, on November the 29th in your affidavit
4 you say this was based on security reasons -- these
5 orders that were given for delay. What were the
6 security reasons, if you know, and why was it necessary
7 for those to be placed in affect at that time? I
8 would like a report on it.

9 A I only received the order to delay the
10 telegrams; for what reason I don't know.

11 Q Well, now, in your affidavit: Paragraph 3.
12 "My friend Lieutenant Colonel TOMURA" -- skipping down
13 to where he says, starts -- "told me that for security
14 reasons all foreign telegrams were to be delayed."

15 At that time in Paragraph 2 of your affidavit
16 you were in charge of the Department of Censorship. Now,
17 do you mean to tell me that you do not know what the
18 security measures were about messages?

19 A (No response.)

20 Q Well, did you know anything about the security
21 measures at that time or not?

22 A (No response.)

23 Q Do you understand my question?

24 A The purport of your question is not clear to
25 me.

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1 Q As the one in charge of the Department of
2 Censorship you were dealing with certain orders based
3 upon security measures to be taken for the protection
4 of information, were you not?

5 A The duties of the Censorship Division were
6 to prevent secrets from leaking out and also to
7 prevent espionage activities.

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1 Q All right. Then, that was part of the
2 security, and one of the reasons for delaying delivery;
3 is that correct?

4 A When telegrams are delayed censorship can be--
5 we can censor them that much more thoroughly, and in
6 that sense it would mean a stricter enforcement of
7 censorship.

8 Q Now, this rule that was put in effect at
9 that time was not an unusual rule, was it, or a
10 special application for any particular reason?

11 A I believe it is only a common practice in
12 making stricter control, enforcing stricter control
13 over tele-communication.

14 THE MONITOR: "Control" should be "censorship."

15 THE PRESIDENT: The delay of five hours
16 ordered on the 29th of November 1944 was not a common
17 practice, was it?

18 1941, I should say.

19 THE WITNESS: I don't quite understand your
20 question. Will you repeat it again?

21 MR. BROOKS: I will ask him.

22 THE PRESIDENT: Can you recollect any other
23 occasion in 1941 when a delay of five hours was
24 ordered in relation to messages from abroad?

25 THE WITNESS: No.

1 THE PRESIDENT: Was the delay of ten hours
2 ordered on the 6th of December 1941 for alternate
3 days a common practice?

4 MR. BROOKS: If the Court please, I would
5 like to call to the Court's attention this order
6 applied to all, and I have not been trying to show
7 that that was a common practice but that previous to
8 that time there had been censorship of some -- not all,
9 but some -- and that some was a normal procedure.

10 THE WITNESS: There was no such measures taken
11 before that date.

12 Q Was there any censorship of any type before
13 November 29, any system of spot-checking?

14 A The censorship of telegrams and telephone
15 conversations was begun in July of that year and was
16 continued thereafter until November, when these spe-
17 cial measures were taken.

18 THE MONITOR: "Until the end of November."

19 Q Now, in the last paragraph on page 1 you
20 state it was the custom of the Foreign Office to send
21 a messenger once a day to take away copies of telegrams
22 in code which they thought might interest them. When
23 did this custom start; what month, what year?

24 A This practice was begun several years ago
25 but I cannot remember the exact year since it was

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1 before my entry into the Communication Ministry, several
2 years prior to that year.

3 THE PRESIDENT: Have you finished cross-
4 examining on the excerpt from his diary for the 7th
5 of December, Mr. Brooks?

6 MR. BROOKS: No, I have not, your Honor.

7 THE PRESIDENT: We require you to tender it
8 as soon as you have done so.

9 Q This practice started several years ago, and
10 yet you say that censorship was only placed on tele-
11 grams, and so forth, from July, is that correct?

12 A Yes, it is correct.

13 Q Then, I gather from that statement that cen-
14 sorship had been going on actually for years, by
15 taking away copies of messages?

16 A I don't think it is possible to call it
17 censorship as far as the Ministry of Communications
18 is concerned.

19 Q In other words, the difference lies in that
20 there was no delay of the message, is that correct?

21 A I do not think so.

22 Q And at this time it became necessary to delay
23 messages because of the critical period needed to
24 decode them and find out what was going on, is that
25 correct? And if a message contained any information

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1 of a military nature it would be stopped and not be
2 allowed to be sent, is that correct?

3 THE PRESIDENT: How does that bear on
4 President Roosevelt's message to the Emperor?

5 MR. BROOKS: Just to show that it was not a
6 deliberate plan to delay any messages to the Emperor
7 or any movement of any body or group trying to act in
8 any way to intercept, for a specific purpose, any of
9 the information being carried on between the two
10 nations.

11 THE PRESIDENT: Well, all that is irrelevant.
12 We are dealing with the treatment of the President's
13 message to the Emperor and the reasons for that treat-
14 ment. The treatment of other messages is wholly
15 immaterial and irrelevant.

16 MR. BROOKS: The prosecution, if your Honor
17 please, is trying to place, through this witness in
18 this affidavit, stress upon the fact, I think and I
19 have been led to believe, that this message was given
20 a special treatment. And in my position, I think the
21 cross-examination has shown it was treated just the
22 same as any other message, and he as such did not have
23 any knowledge of it as a special item.

24 THE PRESIDENT: In order to enable certain
25 members of the staff to meet the requirements of the

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War Office, we will adjourn now until half past one.

(Whereupon, at 1030, a recess was
taken.)

1 AFTERNOON SESSION

2
3 The Tribunal met, pursuant to recess, at
4 1330.

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

7 THE PRESIDENT: Mr. Logan.

8 MR. LOGAN: If the Tribunal please, on
9 November 12, 1946 an order was issued with respect
10 to security measures to be enforced at Sugamo Prison
11 and affecting the accused in this case. While we
12 have no desire whatsoever to interfere or to make any
13 recommendations respecting security measures, we do
14 wish to call the Tribunal's attention to the fact
15 that part of the measures taken appear to us to be
16 unreasonable and closely connected with a fair trial
17 to the accused.

18
19 From time to time we attorneys submit to the
20 accused documents affecting them for their opinions
21 and consideration. It is our understanding that all
22 of the documents of the accused, with the exception
23 of six books, booklets or pamphlets, have been taken
24 from them and put in a box away from their cell so
25 that they do not have free access to them. When they
desire a document, it is necessary to call one of the

1
2 jailers to secure the document, and they have diffi-
3 culty in describing it, and in some instances they
4 are unable to obtain the document they require. Of
5 course, any measure that is taken which would inter-
6 fere with the close cooperation between the attorney
7 and his client in so far as the client is unable to
8 secure the document would affect a just trial.

9 In addition, the accused wish that the order
10 be relaxed with respect to certain articles of cloth-
11 ing, bedding and personal effects which they con-
12 sider desirable and necessary from the standpoint of
13 sanitation and personal health. I again wish to im-
14 press upon the Tribunal that we of the defense do not
15 wish in any manner to interfere with proper security
16 measures to be taken, but we ask that they be reason-
17 able, fair and in no way tend to defeat the ends of
18 justice in so far as this trial is concerned.

19 As every minute of preparation for the trial
20 counts, we certainly would appreciate if the Tri-
21 bunal would give this matter its prompt attention.

22 THE PRESIDENT: Dr. UZAWA.

23 DR. UZAWA: Mr. President and Members of the
24 Tribunal, as representative of the Japanese counsel,
25 may I be permitted to make one request? As Mr.

1 Logan has said, we wish in no way to interfere with
2 measures concerning the rules of the prison. As,
3 Mr. President, you stated at the beginning of this
4 trial, this trial is not held for the purpose of
5 judging a Verrus or a Hastings, but the honorable
6 Members of this Tribunal have come here in order to
7 give fair and impartial judgment as representatives
8 of the victor nations in order to insure future
9 peace and righteousness for all, and to set out a
10 fair trial based on justice. The defense counsel
11 and the accused, being of the defeated side which
12 has surrendered, respectfully obey all the orders of
13 the Tribunal, and it is their earnest hope that this
14 trial will be concluded in accordance with a world-
15 wide concept of justice.
16

17 Therefore, in connection with the accused
18 who are in prison, may I request that steps be taken
19 so that, while they obey the regulations of the
20 prison, at the same time they may, according to
21 their conscience, make preparations for their
22 trial. Although, of course, I do not know how these
23 trials will be concluded, the accused will continue
24 to obey the regulations of the prison; and I hope,
25 therefore, that no measures that are unreasonable
will be taken. I conclude my request. The rest is

1 as Mr. Logan has said.

2 THE PRESIDENT: Major Furness.

3 MR. FURNESS: If the Court please, I would
4 like to stress briefly the fact that some of these
5 measures with respect to clothing, bedding, and
6 so forth, affect vitally the health of these men who
7 are on trial.

8 THE PRESIDENT: This Court has no responsi-
9 bility for security measures and will not interfere
10 with those who have responsibility for them. We
11 assume that those responsible will not do anything
12 to prejudice the fair trial of the accused.

13 After reading what counsel for the defense
14 have had to say this afternoon, we will see that what
15 counsel said is brought to their knowledge, and they
16 may give you the measure of relief that you are
17 seeking, if it is called for.

18 MR. FURNESS: My point is that it does
19 affect the fairness of the trial, sir. That is the
20 only point we are trying to make.

21 MR. BROOKS: Mr. President, Members of the
22 Tribunal.
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1 T A T E K I S H I R A O, called as a witness on
2 behalf of the prosecution, resumed the stand
3 and testified through Japanese interpreters as
4 follows:

CROSS-EXAMINATION

6 BY MR. BROOKS (Continued):

7 Q Mr. Witness, did you receive any special
8 order in regard to President Roosevelt's message to
9 make a special effort to withhold it or delay it?

10 A No, I never received a special order.

11 Q Now, referring to prosecution document No.
12 2069-A, on the 8th of December -- words extracted
13 from your diary -- at about 4:30 or 4:50 -- it is
14 hard to decipher -- a.m. "I was called to the tele-
15 phone by Foreign Telegram Section Chief NAKAYAMA
16 who told me that a request had been received from
17 the Army to stop all telegraphic communication with
18 foreign countries." Continuing the quotation:

19 "Hence, I immediately took the proper steps and
20 hastened to my office. Lieutenant Colonel MURAKAMI
21 came and informed me of the outbreak of war against
22 America and Britain. We discussed practical meas-
23 ures for control of communications, and immediately
24 began to put them into effect."
25

Now, Mr. Witness, had any of these war

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1 measures for security been in effect previous to
2 that date?

3 A As I have already said, security measures
4 were begun in July of that year; and, therefore,
5 security measures with regard to communications were
6 enforced from that time in order to prevent leakage
7 of telegrams.

8 Q That the practical measures for control of
9 communications in a war situation were not begun
10 until the 8th of December, is that correct?

11 THE PRESIDENT: He mentioned July previously.

12 A Yes.

13 Q Now, on exhibit 1225, at the bottom para-
14 graph you state that "December 7th was a day of great
15 excitement." Was that Tokyo time?

16 A Yes.

17 Q What was the great excitement of December
18 7 that required messengers in and out all day?

19 A That day was not -- I was not in a state of
20 great excitement on that day.

21 Q Then your affidavit is incorrect, is that
22 right?

23 A I believe it is somewhat exaggerated.

24 Q Now, in the paragraph just preceding that
25 you state, "I cannot remember, for certain, who told

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1 me, but I think it was Colonel TOMURA." And then
2 in the paragraph below you state, "I do know, how-
3 ever, as I have already explained, that Colonel
4 TOMURA of the War Ministry was telling me the con-
5 tents of the telegram probably by four o'clock."
6 That is a direct contradiction, Mr. Witness. Which
7 one of those statements is correct?

8 A As I have already said, I had no clear
9 recollection concerning whether or not it was
10 Lieutenant Colonel TOMURA who told me, and, there-
11 fore, I believe that the previous statement, the
12 one in which I say I am not sure, is correct.

13 THE MONITOR: Slight correction: There-
14 fore, when I say "I am sure," that is not correct.
15 I should have said "I am not sure."

16 Q Now, do you have in your possession your
17 diary referred to in this affidavit?

18 A No. I have presented it. It is with the
19 Tribunal.

20 MR. BROOKS: I have just been informed
21 that the prosecution does have the original diary.

22 THE PRESIDENT: It is not in evidence yet.

23 Q I notice on the 7th of December in an ex-
24 tract from your diary, at the end of that day you
25 said you had collected the material for tomorrow's

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1 extra lecture. Was that on security measures? What
2 was the subject of the lecture?

3 A They are the text of lectures to be given
4 at school, and they have nothing to do with this
5 question here.

6 THE MONITOR: They were.

7 Q What kind of a school?

8 A It is a school belonging to the Communica-
9 tions Ministry named "The Training Institute for
10 Officials of the Communications Ministry."

11 Q This lecture had nothing to do with any
12 orders received or emergency measures to be taken,
13 did it?

14 A They had no connection.

15 Q You say that, in your affidavit in the third
16 paragraph, Lieutenant Colonel TOMURA called you and
17 told you about the delay in foreign telegrams. Was
18 that an order or a request that he made?

19 A It was not an order but a request.

20 MR. BROOKS: If the Tribunal please, if
21 the prosecution would be so kind as to furnish me
22 a copy of this document 2669-A, I would like to
23 offer it in evidence for the purpose of impeachment.

24 THE PRESIDENT: Admitted on the usual terms.

25 MR. BROOKS: Since most of the relevant

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1 matters therein have been referred to in my cross-
2 examination, I will not read that.

3 CLERK OF THE COURT: Document No. 2669-A,
4 issued by the prosecution and introduced by the
5 defense, will be given exhibit No. 1226.

6 (Whereupon, the document above re-
7 ferred to was marked defense exhibit No.
8 1226 and received in evidence.)

9 THE PRESIDENT: Major Furness.

10 CROSS-EXAMINATION (Continued)

11 BY MR. FURNESS:

12 Q As I understand it, you heard of this mes-
13 sage some time between four and six in the after-
14 noon, is that correct?

15 A I believe that on the whole it was around
16 that time.

17 Q When you heard of it, did you make any
18 inquiry as to whether it had come into your depart-
19 ment?

20 A That telegram didn't come to me at that
21 time.

22 Q All such messages by telegram or cable from
23 abroad must necessarily come through your depart-
24 ment, must they not, at that time?

25 A The telegram itself does not come to my

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1 office but to the Communications Ministry. Only the
2 copies came there, and from there we would send it
3 to the War Ministry, the Navy Ministry and the
4 Foreign Affairs Ministry.

5 Q But, did you have authority to delay the
6 delivery of the telegram?

7 A Following the request of the Army, I sent
8 an order to the Telecommunications Bureau to do so.

9 Q Well, then, did you consult your superiors
10 or anyone else when you found that that message had
11 come to Tokyo to decide whether the delivery of such
12 an important message should be held up in accordance
13 with the general orders?

14 A Since I did not know about this so-called
15 message itself, I could not consult with my super-
16 iors about whether to delay it or not.

17 Q But you testified that you had heard from
18 someone that such a message, which must necessarily
19 come by cable and, therefore, be such to such orders,
20 had been received in Tokyo; is that correct?

21 A I did hear from somewhere that the message
22 had come, but I did not think of that. I did not
23 couple the fact that it had come with the question
24 of whether to delay it or not, in my mind.

25 Q Then, allowing it to follow that general

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1 course, wanting it to be delivered specially because
2 of its important nature, was your responsibility
3 alone; isn't that correct?

4 A If you say it was my responsibility, you
5 can say so. But, since I was simply mechanically
6 following out a request from the Army, I believe it
7 is a question whether I should bear sole responsi-
8 bility or not.

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1 Q Your following out was due to a general
2 order applying to all telegrams from abroad, is that
3 correct?

4 A Yes.

5 Q Which you had at the request of a Lieutenant
6 Colonel on the General Staff?

7 A Yes.

8 THE PRESIDENT: Copies of that last exhibit
9 should be made for the Judges. Do you propose to
10 call Colonel TOMURA, Brigadier, if he is available?
11 A colleague desires to know that.

12 BRIGADIER NOLAN: We don't know the where-
13 abouts of that officer, but I will make inquiries at
14 once.

15 THE PRESIDENT: He may or may not be prepared
16 to help you. We have that in mind.

17 BRIGADIER NOLAN: Copies of the last exhibit,
18 Mr. President, are now available for the Court.

19 We now offer in evidence, Mr. President,
20 IPS document No. 1420, the affidavit of F. C. Parr,
21 which proves item 9 of the Time Chart, exhibit 1222,
22 the first overt act of hostilities in the Pacific
23 War, and also item 18 of exhibit 1222.

24 THE PRESIDENT: I assume you are finished
25 with this witness, Brigadier?

1 BRIGADIER NOLAN: I beg your pardon.

2 THE PRESIDENT: He is released on the usual
3 terms.

4 (Whereupon the witness was excused.)

5 THE PRESIDENT: This document is admitted on
6 the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1420 will receive exhibit No. 1227.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1227 and received in evidence.)

12 BRIGADIER NOLAN: I read from exhibit 1227:
13 "I, FREDERICK CHARLES PARK, British Subject, of
14 13, The Bund, Shanghai in the Republic of China,
15 MAKE OATH and say as follows:-

16 "1. I am and at all times material hereto
17 have been a Tide Surveyor of the Chinese Maritime
18 Customs at Shanghai.

19 "2. I was on duty on the Shanghai Settlement
20 Bund on the night of December 7th and the morning of
21 December 8th, 1941. At 2345 on the night of December
22 7th, 1941, I saw Japanese personnel dressed in
23 khaki crossing the Garden Bridge over Soochow Creek
24 and running military telephone lines as they went.
25 They ran the wires alongside the Bund garden and along

the Bund pontoons.

1
2 "3. As they reached each pontoon the Chinese
3 Maritime Customs' Officers withdrew and the Japanese
4 did not cross the said Bridge in any large party but
5 in small groups, and the Japanese military were ac-
6 companied by Japanese gendarmerie.

7 "4. To the best of my knowledge and belief
8 there was no actual fighting on The Bund and no
9 Allied person was then or there shot or injured. The
10 Chinese who were standing in the neighbourhood, par-
11 ticularly those who were gathered near the Custom
12 House, were herded by the Japanese up the streets
13 leading off The Bund and thus The Bund was cleared
14 of civilians.

15 "5. The Japanese personnel were armed with
16 small arms but had no armed vehicles and the taking
17 over of The Bund continued until 0300 on December
18 8th, 1941. Prior to that time Officers of the
19 Chinese Maritime Customs returned to the Custom
20 House and reported that they had been driven from
21 their pontoons by Japanese and one of those
22 Officers reported to me that the launches at the
23 Customs Jetty had been shifted by the Japanese.

24 "6. At about 0250 on December 8th, 1941, I
25 proceeded to the Jetty for purposes of investigation

1 and found that the launches had been shifted and that
2 the Customs Jetty had been occupied by Japanese
3 soldiery.

4 "7. At 0330 on December 8th, 1941, the Customs
5 guard outside the Customs Jetty informed me that a
6 Japanese destroyer had berthed outside the Customs
7 Jetty. I proceeded to the Jetty to investigate this
8 report and was told by the Japanese that I could not
9 enter the Jetty area.

10 "8. Prior to this and at about 0230 I had
11 heard a noise behind the Custom House. I investigated
12 the cause of this noise which I found to be caused by
13 three howitzers drawn on tractors which must have
14 crossed Szechuen Road bridge and were passing along
15 Szechuen road to Avenue Edward VII. These guns
16 were mounted at the foot of Avenue Edward VII and
17 pointed towards the river and h.B.M. Gunboat
18 'Peterel.'

19 "9. At 0415 I left the Custom House to visit
20 the Customs Jetty and gave orders that the large
21 bronze gates should be closed and also ordered all
22 gates leading into the Custom House to be locked.
23 At 0420 I heard a heavy detonation South of the Cus-
24 tom House which I attributed to the howitzers opening
25 fire. Very soon I saw fire aboard H.M.S. 'Peterel'

and she was soon a mass of flames.

1
2 "10. At exactly 0423 the Japanese destroyer
3 at the Customs Jetty opened fire on H.M.S. 'Peterel'
4 with her forward main armament. Almost immediately
5 afterwards Japanese ship IDZUMO opened fire with
6 tracer ammunition.

7 "11. H.M.S. 'Peterel' was then a mass of flames
8 and was the target for Japanese guns of all calibre,
9 so that it is probable that seamen endeavoring to
10 leave the burning 'Peterel' were subjected to
11 machine gun fire.

12 "12. Next I telephoned for the Chief Fire Officer
13 of the Chinese Maritime Customs who came to the
14 Custom House at once. He then proceeded to the
15 Customs Jetty but was refused permission by the
16 Japanese to go on board the 'Poochi,' the Customs
17 Fire Float. If he had been allowed to do so, the
18 fire on H.M.S. 'Peterel' might have been dealt with.
19 I also rang up the Harbor Master but was unable to
20 locate him.

21 "13. Firing was continued by the Japanese till
22 about 0450 on December 8th, 1941, by which time
23 H.M.S. 'Peterel,' which was still burning, was in a
24 sinking condition and was drifting slowly towards the
25 Mackenzie's Wharf where she finally sank.

1 "14. A Chinese Maritime Customs Officer who was
2 stationed at Kin Lee Yuan Wharf at the material time
3 reported to me later on that a number of British
4 sailors had landed barefooted on Kin Lee Yuan Wharf
5 and had been taken prisoners by the Japanese.

6 "15. After firing had ceased I observed that
7 the howitzers were withdrawn along Szechuen Road and
8 that the Japanese continued to occupy the Settlement,
9 but there was no more firing.

10 "16. The U.S.S. 'Wake' was taken down stream
11 at about 0830 on December 8th, 1941, by the Japanese
12 with her crew still aboard.

13 "ALL of which is true to the best of my knowledge
14 and belief.

15 "SWORN by the above named

16 FREDERICK CHARLES PARR at H.B.M. Consulate-)
17 General at Shanghai in the Republic of)
18 China on the 27th day of March, 1946.) /s/
) F.C.Parr"

19 THE PRESIDENT: Mr. Logan.

20 MR. LOGAN: If the Tribunal please, the
21 defense asks that this witness be produced for cross-
22 examination.

23 THE PRESIDENT: The Tribunal will consider
24 the application.

25 BRIGADIER NOLAN: In connection with item

1 18 of exhibit 1222, being the Time Chart, we now
2 offer in evidence IPS document No. 1421, the affidavit
3 of Edward Austern Irwin Crowder, R.N.V.R., which gives
4 the name of one fatal casualty in the loss of H.M.S.
5 Peterel. Clearly there were many others, but their
6 names cannot be traced with certainty.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1421 will receive exhibit No. 1228.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1228 and received in evidence.)

13 BRIGADIER NOLAN: With the permission of the
14 Tribunal and if there is no objection from counsel
15 for the defense, I will not read this document in
16 its entirety but summarize it for the convenience
17 of the Tribunal. It discloses the names of three
18 casualties of H.M.S. Peterel admitted to the hos-
19 pital Ste. Marie at Shanghai on 8 December 1941, all
20 suffering from gunshot wounds, and that Engineer
21 James Dunbar, wounded by shrapnel in the left femur,
22 died in that hospital on the 12 December 1941.

23 THE PRESIDENT: Admitted on the usual terms.

24 BRIGADIER NOLAN: With your permission, Mr.
25 President, may I go on?

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THE PRESIDENT: You may proceed.

CLERK OF THE COURT: Prosecution's document

No. --

THE PRESIDENT: I have admitted this affidavit,
that is all. I haven't seen any further document to
admit.

1 BRIGADIER NOLAN: We now offer in evidence
2 IPS Document No. 1577, the affidavit of General
3 Percival, which proves items 10, 12 and 20 on exhibit
4 1222. I might mention that items 10 and 12 on the Time
5 Chart were also dealt with in the evidence of Colonel
6 Wild at pages 5352 to 5355 of the record on the 10th
7 of September last, and that Colonel Wild also proved
8 item 14 of the Time Chart at pages 5355 to 5357 of the
9 record of this Tribunal.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 1577 will receive exhibit No. 1229.

13 (Whereupon, the document above referred
14 to was marked prosecution's exhibit No. 1229 and
15 received in evidence.)

16 BRIGADIER NOLAN: I read from exhibit 1229:

17 "I, Major-General Arthur Ernest Percival, CB,
18 DSO, OBE, MC, of 'Westfield', Westland Green, Little
19 Hadham in the County of Hertford make oath and say as
20 follows:-

21 "1. From May 1941 until my capture by the
22 Japanese in February 1942 I was General Officer Command-
23 ing Malaya.

24 "2. At about 2345 hours on the 7th December
25 1941, beach defence troops on the Badang and Sabak

1 Beaches, the point of junction of which at Kuala Paamat
2 was about one-and-a-half miles northeast of Kota Bharu
3 Airfield, reported ships anchoring off the coast.

4 "3. Shortly after this beach artillery
5 opened fire and the Japanese ships started shelling
6 the beaches.

7 "4. At about 0025 hours on the next day
8 (8th December 1941), the leading Japanese troops landed
9 at the junction of Badang and Sabak Beaches.

10 "5. By about 0100 hours after heavy fighting
11 they had succeeded in capturing the adjacent pill-boxes,
12 manned by troops of the 3rd/17th Dogras.

13 "6. The garrison of the pill-boxes during
14 the fighting inflicted very heavy casualties upon the
15 enemy before they were eventually wiped out almost to
16 a man.

17 "7. At about 0430 hours on the 8th December
18 1941, a Japanese air formation raided the Singapore
19 Area. It had probably come from French Indo-China, a
20 distance of about 700 miles. The air-raid warning
21 had been sounded, but Singapore was not completely
22 blacked-out when the aircraft arrived.

23 "8. Bombs were dropped by this formation on
24 the Seletar and Tengah airfields, and in the city area.
25 Damage, however, was slight.

1 "9. This was the first indication that
2 citizens of Singapore had that war had broken out in
3 the Far East."

4 Signed: "A. F. Percival, Major General.

5 "Sworn by the said Arthur Ernest Percival
6 at 6 Baldack Street, Ware in the County of Hertford
7 this 20th day of July 1946."

8 Before Hugh Gisby, a Commissioner of Oaths.

9 There are other certificated appended which
10 I will not read.

11 MR. LOGAN: The defense requests the production
12 of Major General Percival for cross-examination.

13 THE PRESIDENT: Mr. Logan, were the last two
14 applications for witnesses really serious? We know
15 they have testified to serious matters but is their
16 testimony seriously questioned? Have you any informa-
17 tion upon which you could hope to cross-examine with
18 any success? You will be confined in cross-examination
19 to matters arising out of the affidavit in each case.

20 MR. LOGAN: Our position, your Honor, is this,
21 that the prosecution has deemed the information con-
22 tained in this affidavit of sufficient importance to
23 prove before this Tribunal.

24 THE PRESIDENT: That isn't the test. Many
25 essential matters are matters about which no question

1 could seriously be raised.

2 MR. LOGAN: Secondly, we have consistently
3 opposed the introduction of evidence of this type through
4 affidavits where no statement is made by the prosecu-
5 tion as to whether or not the witnesses are available.
6 And, thirdly, your Honor, since we just received this
7 affidavit within the last few days we must preserve
8 our rights and we have to investigate to determine
9 whether the statements contained therein are true.

10 THE PRESIDENT: At present we see no necessity
11 for ordering the attendance of either of the two last
12 deponents, Major General Percival or Frederick Charles
13 Parr.

14 BRIGADIER NOLAN: We now offer in evidence
15 1PS document No. 1508, the affidavit of Wing Commander
16 Franklin, which proves the names of some of the earliest
17 British casualties to Khota Bharu. There were, as
18 appears from General Percival's affidavit, also Indian
19 casualties on the beach, but their names cannot be
20 identified.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 1508 will receive exhibit No. 1230.

24 (Whereupon, the document above referred
25 to was marked prosecution's exhibit No. 1230 and

1 received in evidence.)

2 BRIGADIER NOLAN: I read from exhibit 1230,
3 being the affidavit of Wing Commander William Harry
4 Franklin, No. 44442, Royal Air Force, late Senior
5 Personnel Staff Officer, Far East Command, who makes
6 oath and says as follows:

7 "1. The names contained in Paragraph 2 here-
8 of I have extracted from a copy of a report submitted
9 by Wing Commander R. H. Davis, No. 1 Squadron, R.A.A.F.
10 which Squadron was in action at Kota Bharu, Malaya on
11 8th December 1941, and on which day these casualties
12 occurred. I, as Senior Personnel Staff Officer, Far
13 East Command, would be responsible for the reporting
14 of these casualties by signal to Air Ministry, London,
15 and Air Board, Melbourne, and to the best of my recollec-
16 tion, this was done.

17 "2. The following officers and N.C.O's of the
18 R.A.A.F. are reported 'Missing, Believed killed in
19 action' on 8th December, 1941:-

20 "Flight Lieutenant John Christopher Ramshaw.

21 "Flight Lieutenant John Graham Leighton Jones.

22 "Flying Officer Donald Alexander Dowie.

23 "Flying Officer Ronald Hewitt Siggins.

24 "Aus. 3382 Sgt. Coldrey Jeffrey Cyril.

25 "Aus. 407307 Sgt. Walters David Ward.

1 "Aus. 404294 Sgt. Hedges Graham John.

2 "Aus. 407309 Sgt. White, Garet Sidney.

3 "3. I have been informed by the Casualties
4 Staff, Overseas Headquarters, R.A.A.F., London, that
5 Flying Officer Donald Alexander Dowie was subsequently
6 reported Prisoner of War and has now been repatriated
7 to Australia."

8 "Sworn by the said William Harry Franklin at
9 29, Queen Anne's Gate in the City of Westminster this
10 sixth day of March 1946.

11 "Before me: F. G. Fletcher."

12 Signed: "W. H. Franklin."

13 We now offer in evidence IPS document No. 1500,
14 an affidavit of the Under-Secretary of State for Foreign
15 Affairs with its exhibit, to show the diplomatic rela-
16 tions of Great Britain and Japan at the time of these
17 attacks.

18 THE PRESIDENT: Mr. Smith.

19 MR. SMITH: If your Honor please, we object
20 to this affidavit. It consists entirely of conclusions.
21 It foreswears the issue in this case and determines
22 the very matter that the Court must determine as an
23 ultimate question of fact in this case. We make the
24 further point that the international treaties and con-
25 ventions referred to are inapplicable in the case of

1 a war for self-preservation and self-defense.

2 THE PRESIDENT: I think deponent is obviously
3 speaking from hearsay but that doesn't necessarily
4 exclude his affidavit. I can't say he draws conclu-
5 sions. I don't think that is a fair interpretation.

6 Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 will receive exhibit No. 1231.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 1231 and
11 received in evidence.)

12 BRIGADIER NOLAN: I read from exhibit 1231:

13 "I, Sir Orme Garton Sargent, K.C.M.B., C.B.,
14 Permanent Under-Secretary of State for Foreign Affairs,
15 hereby certify:-

16 "1. That the Japanese Government did not,
17 before the opening of hostilities by the Japanese forces
18 on December 8th, 1941, against the British territories
19 in South East Asia, have recourse to the good offices
20 or mediation of one or more friendly Powers, for the
21 purpose of effecting a settlement, by peaceful means,
22 as provided for in Article 2 of the Hague Convention
23 of 1899 for the Pacific Settlement of International
24 Disputes, of the differences that existed at December
25 8th, 1941, between the Japanese Government and the

1 a war for self-preservation and self-defense.

2 THE PRESIDENT: I think deponent is obviously
3 speaking from hearsay but that doesn't necessarily
4 exclude his affidavit. I can't say he draws conclu-
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17 before the opening of hostilities by the Japanese forces
18 on December 8th, 1941, against the British territories
19 in South East Asia, have recourse to the good offices
20 or mediation of one or more friendly Powers, for the
21 purpose of effecting a settlement, by peaceful means,
22 as provided for in Article 2 of the Hague Convention
23 of 1899 for the Pacific Settlement of International
24 Disputes, of the differences that existed at December
25 8th, 1941, between the Japanese Government and the

1 Government of the United Kingdom and of other members
2 of the British Commonwealth of Nations, and that the
3 Japanese Government did not submit or offer to submit
4 these differences to mediation, enquiry, arbitration,
5 or any other method of peaceful settlement referred to
6 in the said Convention, except in so far as may appear
7 from negotiations or discussions which the Japanese
8 Government conducted with the Government of the United
9 States of America.

10 "2. That the Japanese Government did not,
11 before the said opening of hostilities on December 8,
12 1941, deliver to the Government of the United Kingdom
13 or to any representative of that Government, or to the
14 Government of any other member of the British Common-
15 wealth of Nations, any previous explicit warning in
16 the form either of a declaration of war, giving reasons,
17 or of an ultimatum with a conditional declaration of
18 war, in accordance with the provisions of the Hague
19 Convention of 1907 relative to the opening of hostili-
20 ties. A certified copy of a protest on this point,
21 addressed to the Japanese Charge d'Affaires, dated
22 the 8th December 1941, is annexed to this certificate
23 and marked 'A.'

24 "3. That the Japanese Government did not,
25 as provided for in the Treaty of 1921 between the

1 British Empire, France, Japan, and the United States
2 of America, relating to their Insular Possessions and
3 Insular Dominions in the Pacific Ocean, before December
4 8th, 1941, invite the Government of the United Kingdom
5 to participate with the Governments of the other High
6 Contracting Powers in a joint conference, to which the
7 whole subject of any controversy arising out of any
8 Pacific question and involving the rights of the High
9 Contracting Powers in relation to their insular posses-
10 sions and insular dominions in the region of the Pacific
11 Ocean could be referred for consideration and adjust-
12 ment.

13 "(SEAL)" Signed: "O.G. SARGENT"

14 "London

15 "Foreign Office, London, S.W. 1.

16 "25th March, 1946.

17 Exhibit A:

18 "Outfile

19 "Foreign Office, S.W.1.

20 "8th December, 1941

21 "Sir," (this is addressed to Mr. Shinich

22 KASHIMURA)

23 "On the evening of December 7th His Majesty's
24 Government in the United Kingdom learnt that Japanese
25 forces, without previous warning either in the form of

1 a declaration of war or of an ultimatum with a condi-
2 tional declaration of war, had attempted a landing on
3 the coast of Malaya and bombed Singapore and Hong Kong.

4 "2. In view of these wanton acts of unprovoked
5 aggression, committed in flagrant violation of inter-
6 national law, and particularly of Article 1 of the Third
7 Hague Convention, relative to the opening of hostilities,
8 to which both Japan and the United Kingdom are parties,
9 His Majesty's Ambassador at Tokyo has been instructed
10 to inform the Imperial Japanese Government in the name
11 of His Majesty's Government in the United Kingdom that
12 a state of war exists between the two countries.

13 "I have the honour to be with high consideration,

14 "Sir,

15 "Your obedient Servant,

16 Signed: "Winston S. Churchill.

17 "I, Sir Orme Garton Sargent, K.C.M.G., C.B.,
18 Permanent Under-Secretary of State for Foreign Affairs,
19 Hereby certify that the foregoing is a true copy of a
20 document preserved in the Archives of the Foreign Office,
21 London."

22 Signed: "O. G. Sargent.

23 "London,

24 "Foreign Office, London, S.W.1.

25 "25th March, 1946."

1 MR. SMITH: If your Honor please, this affi-
2 davit is chiefly notable for what he omits. We ask
3 that this witness be called for cross-examination.

4 THE PRESIDENT: The Tribunal sees no reason
5 for calling him.

6 BRIGADIER NOLAN: The next two witnesses,
7 Mr. President, will be introduced by my colleague,
8 Mr. Fihelly.

9 THE PRESIDENT: Mr. Fihelly.

10 MR. FIELLY: Mr. President, Members of the
11 Tribunal:

12 Before going into the two documents, I would
13 like to correct in a slight manner exhibit 1194 which
14 was one of the intercepted messages introduced yester-
15 day. Mr. Logan called to our attention that our
16 English copy of that intercepted message has no time
17 translation data at the bottom. We checked with the
18 original intercepted book and there should appear at
19 the bottom symbol "F Navy Trans. 3 Nov. 1941" and
20 in parenthesis "C-TT." end of parenthesis.

21 We next offer in evidence Internation Prose-
22 cution document 220H which, in conjunction with
23 Mr. Ballentine's evidence, which will follow shortly,
24 will prove items 13, 16 and 17 of the Time Chart,
25 exhibit 1222. Mr. Ballentine will deal fully with the

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Japanese document and demonstrate that it does not approach or resemble a declaration of war. Item 15, the attack on Pearl Harbor in the Time Chart, will be fully dealt with in the testimony of Admiral Richardson and partly, also, in the testimony of Mr. Ballantine as to the time.

We offer International Prosecution document No. 220H in evidence.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 220H will receive exhibit No. 1232.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1232 and received in evidence.)

THE PRESIDENT: Read it after the recess. We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows.)

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

3 THE PRESIDENT: Mr. Fihelly.

4 MR. FIELLY: We now read from prosecution
5 exhibit 1232:

6 "Extract from 'Papers relating to the Foreign Relations
7 of the United States. Japan: 1931-1941., Vol. II,
8 pp 786-7

9 "Memorandum of a Conversation

10 ("Washington), December 7, 1941

11 "The Japanese Ambassador asked for an appoint-
12 ment to see the Secretary at 1:00 p.m. but later tele-
13 phoned and asked that the appointment be postponed to
14 1:45 as the Ambassador was not quite ready. The Am-
15 bassador and Mr. Kurusu arrived at the Department at
16 2:05 p.m. and were received by the Secretary at 2:20.

17 "The Japanese Ambassador stated that he had
18 been instructed to deliver at 1:00 p.m. the document
19 which he handed the Secretary, but that he was sorry
20 that he had been delayed owing to the need of more
21 time to decode the message. The Secretary asked why
22 he had specified one o'clock. The Ambassador replied
23 that he did not know but that that was his instruction.
24 The Secretary said that anyway he was receiving the
25 message at two o'clock. After the Secretary had read

1 two or three pages he asked the Ambassador whether
2 this document was presented under instructions of the
3 Japanese Government. The Ambassador replied that it
4 was. The Secretary as soon as he had finished reading
5 the document turned to the Japanese Ambassador and said:

6 "I must say that in all my conversations with
7 you (the Japanese Ambassador) during the last nine
8 months I have never uttered one word of untruth. This
9 is borne out absolutely by the record. In all my fifty
10 years of public service I have never seen a document
11 that was more crowded with infamous falsehoods and dis-
12 tortions on a scale so huge that I never imagined until
13 today that any Government on this planet was capable
14 of uttering them."

15 "The Ambassador and Mr. Kurusu then took their
16 leave without making any comment.

17 "A copy of the paper which was handed to the
18 Secretary by the Japanese Ambassador is attached.

19 "J(oseph) W. B(allentine)."

20 That copy will be treated by Mr. Ballantine.

21 At the bottom appears a footnote:

22 "*The Japanese attack on Pearl Harbor, Hawaii,
23 took place on December 7, 1941, at 1:20 p.m., Wash-
24 ington time (7.50 a.m., Honolulu time), which was Dec-
25 ember 8, 3.20 a.m. Tokyo time. On December 8 at 6 a.m.

1 Tokyo time (December 7, 4 p.m. Washington time), the
2 Japanese imperial headquarters announced that war be-
3 gan as of 'dawn' on that date."
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1 We next offer in evidence the International
2 Prosecution document 1424, the affidavit of Secretary
3 of State Byrnes, which deals with the diplomatic
4 position of the United States and Japan at the time
5 of the Pearl Harbor attack.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1424 will receive exhibit No. 1233.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1233 and received in evidence.)

12 MR. FANELLY: I now read prosecution exhibit
13 No. 1233:

14 "DEPARTMENT OF STATE

15 "UNITED STATES OF AMERICA

16 "DISTRICT OF COLUMBIA, TO WIT:

17 "I, James F. Byrnes, Secretary of State, being
18 first duly sworn, do hereby, according to my best know-
19 ledge and belief, make affidavit as follows:

20 "1. That I am the duly designated and quali-
21 fied Secretary of State of the United States of America.

22 "2. That the Japanese Government in 1941
23 approached this Government with a proposal for an agree-
24 ment providing for a pacific settlement covering the
25 whole Pacific area, and accordingly conversations were

1 entered into. Various drafts and counterdrafts of pro-
2 posals were exchanged, but no reconciliation of views
3 on a number of fundamental points was reached. While
4 the conversations were still in progress the Japanese
5 Government on November 20 presented this Government
6 with an extreme proposal which this Government could
7 not accept. It offered the Japanese Government on Nov-
8 ember 26 as an alternative a plan of a broad but simple
9 settlement, as a basis for further conversations looking
10 to an agreement. On December 7 the Japanese Govern-
11 ment made a reply announcing its intention to break
12 off negotiations, but more than an hour prior to de-
13 livery of that reply it attacked without any warning
14 American territory in Hawaii.

15 "3. That Japan did not on or before December
16 7, 1941, so far as the Government of the United States
17 is aware, have recourse to the good offices or media-
18 tion of any friendly power, or to arbitration of pend-
19 ing questions at issue with the Government of the United
20 States prior to Japan's making an armed attack
21 on the United States.

22 "4. That the Government of Japan did not on
23 or before the time of the attack on Pearl Harbor deliver
24 to the Government of the United States any previous or
25 explicit warning either in the form of a declaration of

1 war or an ultimatum with a conditional declaration
2 of war.

3 "5. That, except as set forth in paragraph
4 numbered two, Japan made no effort to reach a pacific
5 settlement in 1941 of issues on which there were diff-
6 erences between Japan and the United States.

7 "Given under my hand the official seal of the
8 Department of State this 6th day of April, 1946.

9 "

10 James F. Byrnes
Secretary of State

11 "Subscribed and sworn to before me, a Notary"
12 and date.

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1 THE PRESIDENT: Mr. Smith.

2 MR. SMITH: If the Court please, at the time
3 the event as sworn to by Mr. Byrnes occurred he was
4 a senator of the United States and occupied no office
5 in the State Department. So, on the general grounds
6 which I so often said, we ask that this witness be
7 called for cross-examination.

8 THE PRESIDENT: The application is refused.

9 MR. FIELLY: Mr. President and Members
10 of the Tribunal, my colleague, Brigadier Nolan, will
11 carry on at this point.

12 THE PRESIDENT: Brigadier Nolan.

13 Mr. Logan.

14 MR. LOGAN: If the Tribunal please, in view
15 of the refusal to call Honorable James F. Byrnes,
16 may we ask that paragraphs 4 and 5 of this affidavit
17 be stricken out as conclusions and, further, that they
18 endeavor to decide issues which are before this Tribunal.

19 THE PRESIDENT: I suppose you are claiming
20 he is swearing to an issue; a breach of the Geneva
21 Convention of 1907. The Court will consider the applica-
22 tion.

23 BRIGADIER NOLAN: May it please the Tribunal,
24 item 19 on exhibit 1222 has lost much of its importance
25 in view of the evidence of Colonel Wild as to the

1 earlier invasion of Siam at Singora and Patani as a
2 means of getting behind the British defenses on the
3 Malayan border, and for the purposes of the record
4 we withdraw item 19 from exhibit 1222.

5 I now call as a witness to prove Item 21,
6 TATENO, Morio, whose affidavit we will offer to the
7 witness, IPS document No. 2543.

8 THE PRESIDENT: I understand that item 19
9 was withdrawn yesterday.

10 BRIGADIER NOLAN: I did withdraw it, Milord,
11 but it did not go over the radio in Japanese and I
12 was asked to make another statement to that effect.
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TATENO

DIRECT

1 M O R I O T A T E N O , called as a witness on
2 behalf of the prosecution, being first duly
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 BY BRIGADIER NOLAN:

7 Q What is your full name, please?

8 A My name is TATENO, Morio.

9 Q And where do you live?

10 A I live in Tokyo-to Suginami-ku Koenji
11 7 Chome 984.12 Q And what is your occupation in the month of
13 December, 1941?14 A I was then an announcer of the Tokyo Radio
15 Station.16 Q I show to you International Prosecution
17 document No. 2543. What is the document which has
18 been handed to you by the Marshal of the Court?19 A I cannot understand what you mean very well.
20 This is my affidavit.21 BRIGADIER NOLAN: I offer in evidence, Milord,
22 International Prosecution document 2543, being the
23 affidavit of TATENO, Morio, sworn to on the 24th day
24 of July, 1946.

25 THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Prosecution's document
2 No. 2543 will be given exhibit No. 1234.

3 (Whereupon, the document above re-
4 ferred to was marked prosecution's exhibit
5 No. 1234 and received in evidence.)

6 BRIGADIER NOLAN: I read from exhibit No.
7 1234:

8 "I, TATENO, Morio, do swear on my con-
9 science that the following is true:

10 "I, TATENO, Morio, was on the night of
11 December 7th/8th, 1941, employed as a announcer at
12 Radio Tokyo. My hours on duty that night were from
13 6:00 p. m. on the 7th to 10:00 a. m. on the 8th of
14 December. During the night, the Chief of the News
15 Section, YOKOYAMA, Shigetou, made an inspection of
16 all personnel on duty and gave us to believe that
17 important news would be given at any moment.

18 "A few minutes before 7:00 a. m. on
19 December 8, TANAKA, Junnosuke, whose duty it was to
20 receive the news by telephone from the Imperial
21 Headquarters and prepare the script for broadcast-
22 ing, answered the telephone in my presence. I wit-
23 nessed his listening on the telephone and writing
24 something down in his own handwriting. What he had
25 written was handed to me as my script with instructions

TATENO

DIRECT

1 to broadcast it at 7:00 a. m., December 8th.

2 "I have listened to Document 1633 and have
3 seen Document 1657, the first of which is a phono-
4 graph record, the second of which is the official
5 log of the news broadcast and from these documents
6 have refreshed my memory that the actual time of my
7 broadcast was made at 0700 hours, December 8, 1941,
8 on the wave-length of world pick-up instead of 6:00
9 a. m. as announced in Document 1633. The statement
10 in my broadcast that Imperial Headquarters had an-
11 nounced the outbreak of hostilities at 6 o'clock
12 that morning is, I believe, untrue and I believe that
13 my broadcast was the first publication of this news.
14 The time of 6:00 a. m. was probably placed on the
15 original draft document of which I received a copy
16 from Mr. TANAKA via the telephone and was merely
17 allowing an hour before the actual broadcast, the
18 script of which was sent to Radio Tokyo a few moments
19 before it was meant to be broadcast.

20 "Refreshing my memory by listening to
21 Document 1633, I believe the following is a fair
22 translation in English which language I understand
23 sufficiently to read of the script which I read on
24 the radio at 0700 on December 8, 1941. I have
25 noticed that on the actual record the time of my

TATENO

DIRECT

1 broadcast is given as 6:00 a. m. This, as "I have
2 previously mentioned, is incorrect and the first
3 broadcast of this news was not before 0700 hours.
4 The following is a text in English of my broadcast.

5 "We now present you an urgent news. Here's
6 the news. The Army and Navy Sections of Imperial
7 Headquarters jointly announced at 6 o'clock this
8 morning, December 8, that the Imperial Army and
9 Navy forces have entered into a state of hostilities
10 with the American and British forces in the Western
11 Pacific at dawn today. This was the announcement
12 made public by the Army and Navy Sections of the
13 Imperial Headquarters.'

14 "TATENO, Morio (SEAL)

15 "Sworn and subscribed to before the under-
16 signed by the above named TATENO, Morio at the Radio
17 Tokyo, this 24th day of July, 1946.

18 "/s/ John F. Hummel

19 Major . J. A. G. D."
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TATENO

DIRECT

1 I offer in evidence IPS document No. 1633,
2 a phonograph record of the broadcast which this
3 witness made at 0700 hours on December 8th.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1633 will be given exhibit No. 1235.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 1235 and received in evidence.)

10 BRIGALIER NOLAN: We offer in evidence
11 OPS document No. 1633-A, a transcription of the word-
12 ing of the last mentioned exhibit which was No. 1235.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 1633-A will be given exhibit No. 1235-A.

16 (Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 1235-A and received in evidence.)

19 BRIGADIER NOLAN: We offer in evidence IPS
20 document No. 1657, being the official log of the
21 broadcasting section division, news section of Radio
22 Tokyo.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1657 will be given exhibit No. 1235-B.

TATENO

DIRECT

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 1235-B and received in evidence.)

4 BRIGADIER NOLAN: We offer in evidence IPS
5 document No. 1657-A, being the official log of news
6 broadcasts of the morning of December 8, 1941.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1657-A will receive exhibit No. 1235-C.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1235-C and received in evidence.)

13 BRIGADIER NOLAN: I now read from exhibit
14 1235-A: --

15 THE PRESIDENT: Brigadier Nolan, there may be
16 some confusion in the numbering of the documents. We
17 are not sure.

18 BRIGADIER NOLAN: Milord.

19 CLERK OF THE COURT: Prosecution's document
20 No. 1633, to wit, a phonograph record was given exhibit
21 No. 1235. The translation of the record, prosecution's
22 document No. 1633-A was given exhibit No. 1235-A.

23 THE PRESIDENT: The "A" is missing here.

24 CLERK OF THE COURT: The radio log on the
25 record of broadcast, being document No. 1657, was

TATENO

DIRECT

1 given exhibit No. 1235-B.

2 THE PRESIDENT: 1235-B, is it not?

3 CLERK OF THE COURT: Yes, sir.

4 And the excerpts therefrom, noted as 1657-A,
5 was given exhibit No. 1235-C.

6 BRIGADIER NOLAN: Reading from exhibit
7 No. 1235-A: --

8 THE PRESIDENT: I understand that some of the
9 Judges have an exhibit No. 1236-B. Some of my brothers
10 say they have document No. 1657-B. I want to make
11 sure of that.

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BRIGADIER NOLAN: May I proceed?

THE PRESIDENT: You may.

BRIGADIER NOLAN: I now read exhibit No.

1235-A:

"1941.

"(1) December 8, 6:00 A. M. News of war outbreak.

"(2) December 8, 11:40 A. M. Attack on Hongkong. 11:50 A. M. Landings on Malay.

"(3) December 8, 1:00 P. M. Air-raid on Hawaii and others.

"Recorded by the Japan Broadcasting Association.

"AK-464

"1 JO-505

"(1) December 8, 5:00 P. M. Air-raid in the Philippines Areas.

"(2) December 8, 9:00 P. M. Air-raid on aerodromes in the Philippines.

"(3) December 8, 9:00 P. M. Advance into Thailand (Siam).

"Recorded by the Japan Broadcasting Association.

"AK-464

"2 JO-507.

1 "Special news will be announced."

2 "Special news will be announced."

3 "Announcement by the Army and Navy Sections
4 of the Imperial General Headquarters, December 8,
5 6:00 A. M.

6 "The Imperial Army and Navy entered into a
7 state of war with the American and British forces in
8 the Western Pacific before dawn today, the 8th. It
9 was so announced this morning by the Army and Navy
10 Sections of the Imperial General headquarters.

11 "Our forces commanded the attack on Hong-
12 kong before daybreak this morning.

13 "Announcement by the Army and Navy Sections
14 of the Imperial General Headquarters today at 11:40
15 A. M. As soon as our forces entered a state of war
16 before dawn today, the 8th, our forces lost no op-
17 portunity in opening an attack on Hongkong.

18 "Next:

19 "Our forces carried out landing operations
20 on the Malayan Peninsula.

21 "Announcement by the Army and Navy Section
22 of the Imperial General Headquarters at 11:50 A. M.
23 Our forces under close Army-Navy cooperation, carried
24 out a surprise landing operation in the Malay Penin-
25 sula area early this morning of the 8th and are now

1 steadily expanding our battle achievements.

2 "Announcement by the Navy Section of the
3 Imperial General Headquarters:

4 "1. The Imperial Navy carried out a de-
5 termined air-raid against the U. S. Fleet and air
6 forces in the Hawaiian area before dawn today, the
7 8th.

8 "2. The Imperial Navy sank the British
9 gunboat, "PETORE" /phonetic/ at Shanghai before day-
10 break today, the 8th. The U. S. gunboat, 'WAKE,' also
11 surrendered to us at the same time.

12 "3. The Imperial Navy bombed Singapore
13 before daybreak today, the 8th, reaping huge war
14 successes.

15 "4. The Imperial Navy bombed enemy military
16 establishments in DAVAO, WAKE and GUAM early this
17 morning, the 8th.

18 "Announcement by the Army Section of the
19 Imperial General Headquarters issued at 5:00 P. M.

20 "Our Army Air Force attacked en masse enemy
21 strategic points in the Philippines early this morn-
22 ing of the 8th, inflicting great damages upon them.

23 "The next is also an announcement made at
24 5:00 P. M.

25 "The Army Air Force in the South China Area

1 also raided enemy air-fields, early this morning of the
2 8th, north of Hongkong and strafing at low altitudes
3 on this airfield, they set fire to 12 of the 14 planes
4 on this field. We suffered no casualties.

5 "Our Army and Navy Air Forces reaped large
6 war successes in the air-raids made in the Philip-
7 pines.

8 "Announcement by the Army and Navy Sections
9 of the Imperial General Headquarters at 9:00 P. M.

10 "Today, the 8th, the Imperial Army and Navy
11 Air Forces in close cooperation raided enemy air
12 forces and principal enemy air fields in the Philip-
13 pines and 4 planes at IBA /phonetic/ and 50 to 50
14 planes at CLARK FIELD were shot down. Our casualties
15 were 2 planes. This is the announcement made at 9:00
16 P. M. by the Army and Navy Sections of the Imperial
17 General Headquarters.

18 "Announcement by the Army and Navy Sections
19 of the Imperial General Headquarters at 9:00 P. M.

20 "Under close cooperation, the Imperial Army
21 and Navy commenced friendly advancement into Thailand
22 /Siam/ this afternoon of the 8th. This is an announce-
23 ment made by the Army and Navy Sections of the Im-
24 perial General Headquarters at 9:00 P. M. Regarding
25 the passing of Japanese troops through her country,

1 Thailand facilitated their passage. This afternoon,
2 at 12:30 P. M., negotiations in regard to this has
3 been concluded between Japan and Thailand and the
4 Imperial Army and Navy commenced friendly advance
5 into Thailand this afternoon."
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TATENO

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1 I now read from exhibit No. 1235-C:

2 "Title - Log of Radio News Broadcasts Given

3 on Dec. 8 (Japanese Time), Japan Broadcasting System.

4 "Book Title - Broadcasting Division News

5 Section

6 "Broadcasted at 6:20 a.m. by Announcer UMINO

7 "Foreign 27

8 "December 8, 6:20 a.m. broadcast

9 "Broadcaster: Mr. UMINO, Announcer

10 "Orders for general mobilization have been

11 issued at HONG KONG

12 "NEW YORK - DOMEI - very urgent. According

13 to AP telegram from HONG KONG to NEW YORK, it is said

14 that orders for general mobilization have been issued

15 at HONG KONG.

16

17 "East. 2

18 "BANGKOK, DOMEI -- As the crisis in the FAR

19 LAST grows, GREAT BRITAIN, in trying daily to arouse

20 anti-Japanese feelings in THAILAND through the media

21 of the press and the radio, has become frantic. How-

22 ever, recently, the general public of THAILAND has lost

23 faith in her very malicious propaganda. On the con-

24 trary, an anti-British feeling is growing among them.

25 "That is to say, on the one hand, the BANGKOK

TATENO

DIRECT

1 telegram of the 30th, by the REUTER news agency,
2 threatens THAILAND by reporting that 50,000 Australian
3 soldiers have completed preparations for a THAILAND
4 invasion, and on the other hand it fabricated false
5 news against JAPAN, cunningly trying to create an anti-
6 Japanese atmosphere. However, the results were re-
7 versed; important officials in the THAILAND government
8 are extremely indignant at such malicious propaganda
9 by GREAT BRITAIN which they considered as being cal-
10 culated to disturb the strict neutrality of the coun-
11 try.

12 "Again, in the city of BANGKOK towards the
13 end of last month, rumours were current that the Japane-
14 se were freely using yen notes at restaurants and
15 other places. However, in regard to this, a THAILAND
16 radio commentator denied the rumor by saying,

17 "Although there is a rumour that the Japane-
18 se are using yen notes, an investigation by govern-
19 ment authorities revealed that this was utterly false.
20 If yen notes are being used, perhaps a certain country
21 is probably using nationals who look like Japanese in
22 order to arouse anti-Japanese feelings."

23 "He thus indirectly hinted at the British
24 false propaganda. Thus, at present, faith in GREAT
25 BRITAIN has suddenly been lost and anti-British feelings

TATENO

DIRECT

1 are spreading everywhere like wild-fire. GREAT BRITAIN,
2 being confused by this, is trying every means to alle-
3 viate anti-British feelings, and is extremely watchful
4 against the development of THAILAND's pro-Japanese
5 tendency.

6 "Political 4

7 "The second Central Joint Conference of the
8 Imperial Rule Assistance Association will finally meet
9 today for a scheduled 5-day period in the great con-
10 ference hall on the fourth floor of the headquarters.

11 "In view of the extreme urgency of the present
12 situation in the Southwest Pacific, the present con-
13 ference is a regular national meeting for preparedness,
14 which endeavors to concentrate the general will of
15 100,000,000 people, to unify the entire nation, and to
16 set up a system to overcome national difficulties.
17 Furthermore, the headquarters of the Assistance Associa-
18 tion, through these speeches are faced with the policy
19 of elevating the morale of the people to overcome nat-
20 ional difficulties, together with the unification of the
21 general will of 100,000,000 people. And since the
22 government is actively endeavoring to express their be-
23 lief and determinations in regard to the over-coming
24 of national difficulties, and to disseminate the Imper-
25 ial will to the people, the results of this present

TATENO

DIRECT

1 Joint Conference is attracting much attention.

2 "Today, on the first day of the conference, the
3 opening ceremony is to be held from 9:30 a.m., when
4 Prime Minister TOJO will make a formal address as Presi-
5 dent of the Assistance Association. At the general meet-
6 ing which is to be opened at 10, Foreign Minister TOGO
7 and Navy Minister SHIMADA is scheduled to request that
8 they be allowed to express their respective opinions in
9 order to stir up the people. Next, from 11:20 a.m.,
10 each representative will make a speech. Today, the dis-
11 cussions will be on the subjects: Part I, the elevation
12 of the national morale and the establishment of a nation-
13 al belief in the promotion of Asia, and Part II, the est-
14 ablishment of a system for national mobilization. After
15 their conclusion, the conference is scheduled to ad-
16 journ at 5:00 p.m. Now, on the one hand, President TOJO's
17 address at the opening ceremony will be relayed from the
18 Assistance Association conference hall at 9:30 a.m. to-
19 gether with the account of the opening ceremony, and the
20 speeches of each Minister of State will be recorded and
21 broadcast with the NEWS broadcast. On the other hand,
22 the speeches of the members at the Joint Conference will
23 be recorded if deemed fit and broadcast from 8:15 tonight.

24 "East 4

25 "PEKING - DOFEI -- Colonel William ASHERST,

TATENO

DIRECT

1 the commander of the U. S. Marines stationed in
2 PEKING, and 119 men will finally make a general with-
3 drawal. Day after tomorrow, the 10th, the first party
4 consisting of 40 men, and on the 12th, the second party
5 consisting of 80, will take special trains leaving from
6 CHLNMEN Station of Peking for CHINGHUANGTAO. There,
7 the party, together with 58 men who had previously
8 withdrawn from TIENTSIN, is scheduled to leave for
9 MANILA via SHANGHAI.

10 "Foreign 26

11 "BERLIN - DOMLI -- The German Headquarters
12 yesterday announced as follows:

13 "The Soviet forces on the outskirts of LENIN-
14 GRAD attempted to break through German positions with
15 the co-operation of tanks and fighter planes, but met
16 with failure by German counter-attack. German bom-
17 bardment of Leningrad's vital military installations
18 were also continued yesterday.

19 "German mine-sweepers fought a heroic sea
20 battle with the English mosquito fleet in the English
21 channel, sinking one, and seriously damaging another.
22
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TATENO

DIRECT

1 "Off the coast of CYRENAICA a German
2 submarine sighted an English convoy, seriously
3 damaging one transport ship and one merchantman.
4

5 "German airforces executed a night bom-
6 bardment of English airbases on Malta, night before
7 last, and destroyed hangers and barracks.

8 "In the week of November 29 to December
9 5, the Soviet airforces lost 228 planes, 139 of
10 which were lost in air combats.

11 "The German Headquarters have made such
12 an announcement.

13 "HELSINKI-DONEI -- The Finnish Head-
14 quarters announced night before last that Finnish
15 forces fighting in eastern Karelia captured KALMYK,
16 a strategic point on the MURMANSK railway north of
17 Lake Onega, and besieged and annihilated Soviet for-
18 ces in that area.

19 "Special News

20 7:00 and 7:18 a.m. broadcast

21 Broadcaster - Announcer TATENO

22 Announcement by the Army and Navy Sections
23 of the Imperial General Headquarters, 6:00 a.m.,
24 December 8.

25 "The Imperial Army and Navy entered a state
of war with the armed forces of the U.S.A. and GREAT

TATENO

DIRECT

1 BRITAIN in the west Pacific before dawn today, the
2 8th.

3 "This morning the Imperial General Head-
4 quarters announced to the above effect. Since impor-
5 tant news may follow, we request all listeners not
6 to switch off their radios.

7 "Special news

8 "7:41 and 8:30 a.m. broadcasts

9 Broadcaster - Announcer TATENO

10 "Special News

11 "December 8 (Monday)

12 7:41 and 8:30 a.m. broadcast

13 "As already reported in Special news and
14 Regular News broadcasts, the Imperial Army and Navy
15 entered a state of war with the armed forces of the
16 U.S.A. and Great Britain in the west Pacific before
17 dawn today.

18 "Next, announcement by the Army and Navy
19 Sections of the Imperial General Headquarters at 6:00
20 a.m. this morning:

21 "The Imperial Army and Navy entered a state
22 of war with the armed forces of the U.S.A. and Great
23 Britain in the west Pacific.

24 "The Army and Navy Sections of the Imperial
25 General Headquarters made announcements to the above

TATENO

DIRECT

1 effect.

2 "Since our forces opened hostilities against
3 the armed forces of both America and Great Britain in
4 the west Pacific before dawn this morning, the Govern-
5 ment held an emergency Cabinet meeting at 7 a.m. to-
6 day at the official residence of the Prime Minister,
7 attended by Prime Minister TOJO and all other minist-
8 ers of State excepting Foreign Minister TOGO. In the
9 beginning, Navy Minister SHIMADA gave a report of the
10 process of the battle with the armed forces of the
11 U.S. and Great Britain and based on this report, the
12 Government decided on the policy to be adopted. The
13 meeting was adjourned at 7:20.

14 "December 8 (Monday)

15 "Foreign 6

16 "Next, news gathered up to now will be
17 assembled and announced.

18 "WASHINGTON - Domei -- Ambassadors NOMURA
19 and KURUSU visited the State Department at 2:20 p.m.
20 of the 7th or 4:20 a.m. of the 8th, Japanese time,
21 and handed Japan's reply to Secretary of State HULL.

22 "At 7:30 this morning, Foreign Minister TOGO
23 summoned American Ambassador GREW to his official
24 residence, and handed him the same formal reply of
25 Japan as was handed to Secretary of State HULL in

TATENO

DIRECT

1 WASHINGTON. Then, at 7:45 a.m. he summoned British
2 Ambassador CRAIGIE and explained to him the substance
3 of this reply.

4 "December 8 (Monday)

5 "Foreign 3

6 "According to a Washington dispatch by Domei,
7 Secretary of State HULL told Ambassadors NOHURA and
8 KURUSU who visited the State Department on the 7th,
9 JAPAN's reply to my note is unsatisfactory.

10 "December 8 (Monday)

11 "Foreign 4

12 "NEW YORK - Domei -- According to an U.P.
13 telegram that reached NEW YORK from PANAMA, the PANAMA,
14 Government has issued an order for the arrest of all
15 Japanese residents in PANAMA.

16 "December 8 (Monday)

17 "Foreign 1

18 "President ROOSEVELT has ordered the U.S.
19 Army and Navy into action.

20 "WASHINGTON - Domei - very urgent -- President
21 ROOSEVELT ordered the U.S. Army and Navy to immediately
22 execute the already prepared order for action.

23 "December 8 (Monday)

24 "Foreign 2

25 "WASHINGTON - Domei - very urgent. -- Setting

TATENO

DIRECT

1 the date as of the 8th, U. S. Secretary of War STIMSON
2 announced, in the afternoon of the 7th, that he had
3 issued an order for general mobilization to the entire
4 U. S. Army.

5 "December 8 (Monday)

6 "Foreign 5

7 "President ROOSEVELT summoned an emergency
8 Cabinet meeting.

9 "WASHINGTON - Domei -- President ROOSEVELT
10 summoned an emergency Cabinet meeting at 8:30 p.m.
11 of the 7th.

12 "After the closing of the Cabinet meeting,
13 President Roosevelt is expected to confer with Cong-
14 ressional leaders of the Democratic and the Republican
15 parties.

16 "December 8 (Monday)

17 "Foreign 27.

18 "An Order for General Mobilization has been
19 issued in HONG KONG.

20 "NEW YORK - Domei. -- very urgent.

21 "According to an AP telegram from HONGKONG
22 which reached NEW York, an order for general mobili-
23 zation has been issued in HONGKONG."
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TATENO

CROSS

1 I will omit the reading of the usual
2 certificate.

3 That is all I have to ask the witness,
4 Mr. President.

5 THE PRESIDENT: Dr. KIYOSE.

6 CROSS-EXAMINATION

7 BY DR. KIYOSE (Continued):

8 Q I ask the witness concerning the announce-
9 ment of the news. Does announcement of news means
10 it was announced by the Army and Navy Section of
11 the Imperial General Headquarters?

12 A The time at which the news is announced
13 either at or by the Imperial Headquarters is to be
14 taken as the time of announcement of the Imperial
15 news.

16 THE INTERPRETER: Correction to previous
17 question: I am asking you concerning the time of
18 the announcement. Was not the time of the announce-
19 ment the time which was announced by Army and Navy
20 Section of Imperial General Headquarters?

21 Q I believe that it requires some time to take
22 the announcement to the broadcasting station after
23 the Imperial General Headquarters announced it, is
24 that so?
25

TATENO

CROSS

1 A Yes.

2 Q Then I believe that if you received the news
3 at seven, seven would not be the time when the news
4 was announced, is that correct?

5 A It was customary to indicate time of release,
6 time of the news with respect to the news released
7 by either Army or the Navy.

8 Q I cannot understand. Your answer is not very
9 clear. What I am questioning you is this: The time
10 that you received the announcement, the press release
11 is not actually the time the press release was made,
12 and the time when the press release is actually made
13 is the time when Imperial General Headquarters
14 gathered members of the press and read the announce-
15 ment to them, is that not so?

16 A It is so in ordinary cases, but, as I told
17 you before, it sometimes so happens that time of
18 announcement is indicated beforehand by the Army
19 or the Navy.

20 THE MONITOR: When it concerns the Army news,
21 the time the news is said to be announced by the
22 Army is -- we are told by the Army what time to say
23 the Army released such and such a news.

24 Q That was also a question on which I intended
25 to ask you, but I shall pass to another question,

TATENO

CROSS

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which is this: Since you received the announcement at seven o'clock, and since it takes some time to receive an announcement at the broadcasting station after such announcement is actually made, does it not follow that the announcement was not made at seven o'clock?

THE MONITOR: Slight correction: When you receive the news from the Army General Headquarters, the time that you received may be seven o'clock, but the fact that a slight lapse of time takes place after you receive it and when it is announced, is it not true that seven o'clock in that case cannot be considered the release time?

A It requires only a few minutes for the news item to reach us from Imperial Headquarters. Therefore, in ordinary cases, we would have announced it as a news item released at six o'clock -- seven o'clock. However, in this particular case, it was indicated specifically that this news item was to be released to be read to have been released at six o'clock instead of seven.

Q. I may be repeating myself, but since in your affidavit you say that you received orders to broadcast this at seven o'clock, it must follow that you received the announcement itself before seven, even

TATENO

CROSS

1 if it was only a few minutes before?

2 A As it is stated in my affidavit, I received
3 the telegram call -- rather we received a telephone
4 call from the Imperial Headquarters several minutes
5 before seven. We received a telephone call at
6 the Press Section -- from the Press Section of
7 Imperial Headquarters several minutes before seven.

8 Q Then when you say that it is true that the
9 announcement was broadcast at seven o'clock, but
10 that the rest is incorrect, that is also somewhat --
11 that is not a correct statement, is that not so?

12 THE PRESIDENT: In view of the fact that
13 the actual attack on Pearl Harbor took place
14 hours before, we fail to see the real significance
15 of this cross-examination.

16 DR. KIYOSE: Mr. President, I am questioning
17 him on this because I believe that we Japanese heard
18 the announcement somewhat earlier than seven, and I
19 do not believe that the Army would deliberately tell
20 a lie. However, I shall pass to my next question.

21 THE PRESIDENT: What is the difference between
22 six and seven for this purpose?

23 DR. KIYOSE: It would appear this witness'
24 testimony would give the impression that when he
25 made his announcement at seven, he was told to tell

TOTENO

CROSS

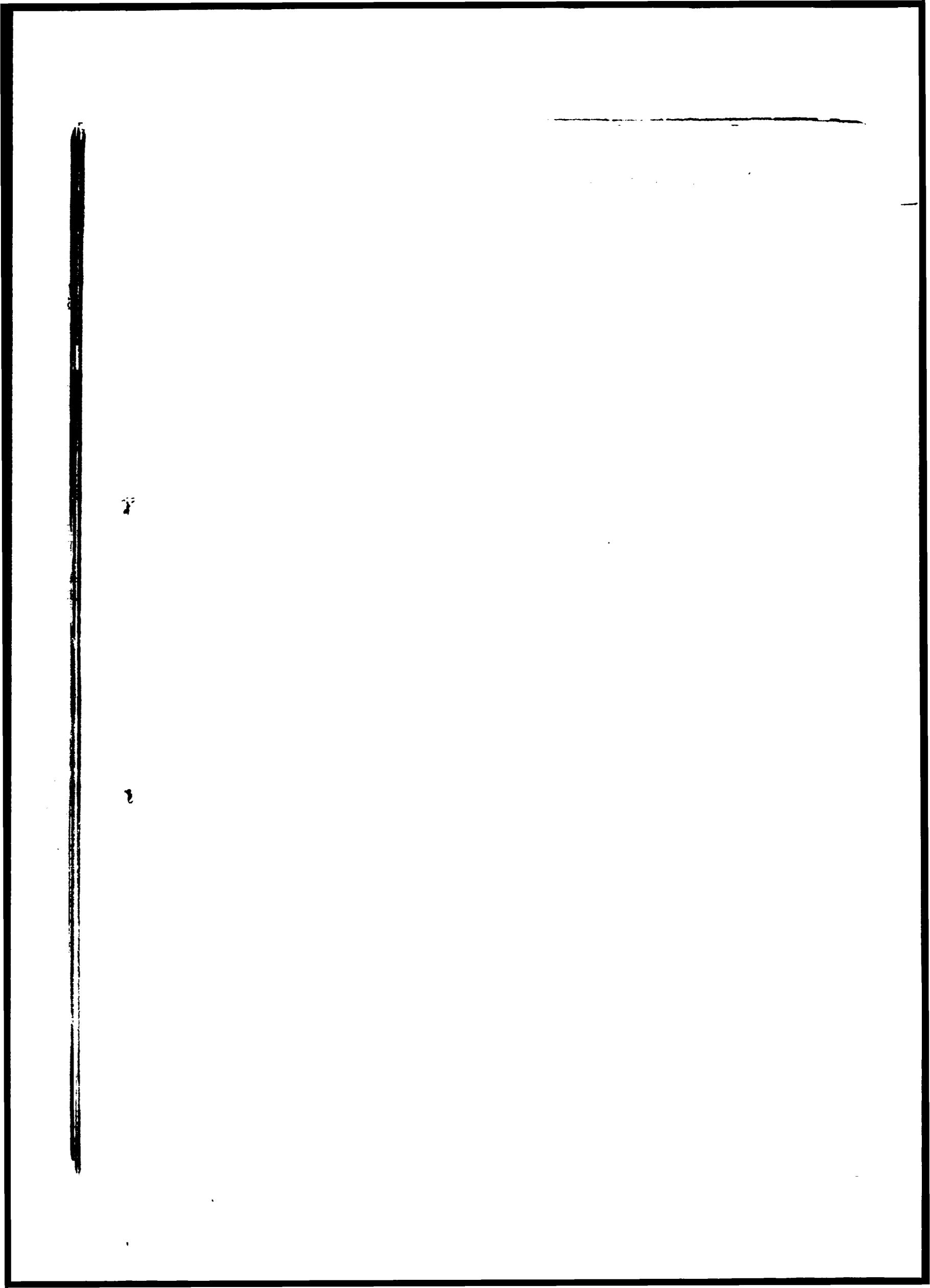
1 the world that the announcement was actually made
2 at six o'clock; that is to say, as if the Army
3 had deliberately instructed him to tell a lie,
4 and I believe that for the Army, this is an impor-
5 tant matter.

6 THE PRESIDENT: Well, it is nearly four
7 o'clock. We will adjourn now until half-past nine
8 on Monday morning.

9 (Whereupon, at 1557, an adjournment
10 was taken until Monday, 18 November 1946, at
11 0930.)

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18 NOVEMBER 1946

I N D E X

Of

WITNESSES

<u>Prosecution's Witnesses</u>	<u>Page</u>
FATENO, Mario (resumed)	10,671
Cross by Dr. KIYOSE (continued)	10,671
Fallantine, Joseph W.	10,712
Direct by Mr. Keenan	10,712

I N D E X

Of

EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2175	1236		Affidavit of Sir Robert Craisie		10673
2580	1237		Affidavit of Petty Officer Sanders		10678
1530	1238		Affidavit of Major General Christopher Maltby		10680
1632W(90)	1239		Extract from Entry from Marquis EIDC's Diary dated 8 December 1941		10683
2362-A	1240		Text of Imperial Rescript dated 8 December 1941		10685
1078	1241		Records of the Meeting of the Inquiry Committee of the Privy Council on 8 December 1941		10690

I N D E X

Of

EXHIBITS

(Cont.)

<u>Doc. No.</u>	<u>Proc. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2593D(40)	1242		Telegram from Berlin to Tokyo		10701
2499	1243		Parent document of TOJO's interrogation dated 7 February 1946	10705	
2499-A	1243-A		Extract therefrom		10705
2508	1244		Parent document of TOJO's interrogation dated 1 March 1946	10706	
2508-A	1244-A		Extract therefrom		10707
2215	1245		Affidavit of Joseph W. Ballantine	10711	10714
2215	1245-A		Exhibit "D" from above Affidavit		10755
2215	1245-B		Exhibit "E" from above Affidavit		10764
2215	1245-C		Exhibit "F" from above Affidavit		10772
2215	1245-D		Exhibit "G" from above Affidavit		10778
2215	1245-E		Exhibit "H" from above Affidavit		10782
2215	1245-F		Exhibit "I" from above Affidavit		10792
2215	1245-G		Exhibit "J" from above Affidavit		10795

Monday, 18 November, 1946

- - -

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

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, same as before with the
exception of the HONORABLE K. K. PAI, Member from
India, not 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 the accused are present
4 except OKAWA and SHIGEMITSU, who are represented by
5 their respective counsel. We have a certificate from
6 the Prison Surgeon at Sugamo that the accused
7 SHIGEMITSU is unable to attend the trial today on
8 account of illness. The certificate will be recorded
9 and filed.

10 Major Furness.

11 MR. FURNESS: If the Tribunal please, I would
12 like to request a correction in open court of the
13 record, which appears on page 10,559. In answer to
14 a request from the President of the Tribunal as to
15 whether Mr. Grew's credibility would be in question
16 on cross-examination it is reported on line 4 of that
17 page that I stated, "I am sure that his credibility will
18 be in question." What I said was, "I am not sure that
19 his credibility will be in question." I therefore
20 request that this change be made in the official re-
21 cord. I am sure that the Court did not misunderstand
22 me, from the later questions I asked, but since the
23 error appeared in the public press I would like to
24 have it corrected for this record.

25 THE PRESIDENT: Several members of the

1 Tribunal, including myself, that that you, Major Fur-
2 ness, said you were not certain. The correction will
3 be made.

4 Major Moore.

5 LANGUAGE ALBITER (Major Moore): Mr. President,
6 if the Tribunal please, I would like to offer some
7 language corrections.

8 Referring to exhibit 1065, record page
9 9,875, line 15, after "our conclusion" insert "to
10 endeavor to realize this. (period) That we," and
11 so forth. Line 16, substitute "make careful study in
12 order to" for "bend every effort." Line 18, sub-
13 stitute "not interfere with" for "we ought to en-
14 deavor to realize."

15 Exhibit 1089, record page 9,998. Prosecu-
16 tion translation is accepted.

17 Exhibit 1090, record page 10,000, line 5,
18 substitute "talk of responsibility was not the point"
19 for "it was still" to the end of the sentence.

20 Exhibit 1093, record page 10,021, line 8,
21 insert "a little past four o'clock" before "Foreign
22 Minister." Line 20, insert "it seems to me there
23 has been a difference." Line 21, delete "foreign."
24 Line 23, substitute "problem" for "war." Line 25,
25 after "country" delete "it was desirable" and..

1 insert "as the Foreign Minister at today's visit may
2 present his views on measures to be taken to cope
3 with the situation I have asked, though audacious on
4 my part."

5 Page 10,022, line 2, delete from "or not"
6 to end of sentence and substitute "and if not, His
7 Majesty should talk to the Foreign Minister so as to
8 impress him with the fact that his desire is to have
9 matters handled through the Premier. This matter is
10 very important and there must be careful consultation
11 with the Premier." Line 9, substitute "quite worried"
12 for "please to point out." Line 15, delete complete
13 sentence beginning "His Majesty."

14 Page 10,023, line 2, substitute "this day" for
15 "yesterday."

16 Exhibit 1094, record page 10,024, prosecu-
17 tion translation is accepted.

18 Exhibit 1093, record page 10,037, line 9,
19 delete "German Soviet War" through "calm and
20 prudent" and substitute "German Soviet War," (comma)
21 the calm and prudent attitude of the Kwantung Army."
22 Line 12, "Ambassadors" to the end of the sentence to
23 read "Ambassadors in this country to their home
24 countries regarding the German Soviet War."

25 The Japanese stenciled copy in this case

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1 should read "HOMFO" and not "SHIRA."

2 Exhibit 1112, record page 10,156, line 10,
3 delete "understanding reached between France and
4 Japan" and substitute "above."

5 Exhibit 1115, record page 10,162, line 5,
6 before "TATSUDAika" insert "Chief Secretary."

7 Page 10,163, line 13, after "by himself" in-
8 sert "about 11:30 o'clock." Line 14 and 15, delete
9 "on me," after "at Hayama" insert "with the Lord
10 Keeper of the Privy Seal."

11 Page 10,164, line 20, after "Government" in-
12 sert "he considered this would have a bad effect."
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Exhibit 1116, record page 10,165. line 11,
delete "as;" line 12, after "Ministry" insert "(period)
In regard to the selection of a Premier of the next
Cabinet;" line 15, between "and" and "ask their opinion"
insert "the Lord Keeper of the Privy Seal will."
line 16, substitute "is" for "was;" delete "for the
post" to the end of the sentence.

Exhibit 1125, record page 10,186 line 12,
delete "(period)" insert "or;" line 14 and 15, delete
"we were" to "friendship" and substitute "there are
several means to be tried regarding the relationship;"
line 16, after "deliberate" insert "patiently;" line 17,
substitute "urge" for "demand."

Exhibit 1129, record page 10,196: line 23,
delete "would be" to "way of" and substitute "may lead
to political differences and cause anxiety in;" line
25, insert "I said" before "If the U.S. ..." Page 10,197:
line 1, delete "decisive;" line 2, after "out of oil"
insert "our oil on hand will not last two years at the
longest;" line 5, substitute "a thorough discussion"
for "an understanding;" line 7, substitute "held" for
"secured;" line 9, delete "for the Government;" line 10,
delete "en bloc."

Exhibit 1130, record page 10,199: line 9,
substitute "thorough conferences" for "a meeting;"

1 line 12, substitute "it is very difficult" for "we are
 2 not strong enough." Page 10,200; line 3, substitute
 3 "only" for "chief," substitute "in our neighborhood
 4 without" for "after we were cut off from our;" line 12,
 5 delete "against Japan;" before "The long distance"
 6 insert "If so, in spite of our access to oil;" line 14,
 7 after "Menace of" insert "US and British;" line 17,
 8 substitute "on this point" for "about oil supplies;"
 9 line 19, after "our defect" insert "because of shortage
 10 of oil;" line 23, delete from "to exercise" to end of
 11 sentence and substitute "to make the same decision
 12 as we did in the case of the Three Power interference
 13 after the Sino Japanese War."

14 Exhibit 1134, record page 10,215: line 1,
 15 after "General Staff" insert "(command) and had promised
 16 to consult with the Lord Keeper of the Privy Seal."

17 Exhibit 1143, record page 10,233: line 5,
 18 after "Navy held" substitute "There is here and desires
 19 further diplomatic efforts;" line 12, after "resolute
 20 opinion" delete to end of sentence and substitute
 21 "(period" Then he should state his own opinion before
 22 the War, Navy and Foreign Ministers and ask their
 23 cooperation;" line 11, after "talk" insert "fully."

24 My attention has been called to a mistake
 25 I made in reading, if the Tribunal please. In

1 exhibit 1129, record page 10196, line 23; it should
2 be "political difficulties."

3 That is all.

4 THE PRESIDENT: Most, if not all, of those
5 corrections are necessary but they have taken nearly
6 half an hour to make. Two points arise: whether
7 translations from Marquis FIDO's Diary should not be
8 revised before being tendered, and whether a simultaneous
9 translation of what you are saying should not be put
10 over the IBM where the alterations are lengthy.

11 LANGUAGE ARBITER (Major Moore): As to the
12 second point, sir, it should have been done and I am
13 sorry it was not done. The facilities were not at hand
14 at the time. The defense was calling for the corrections
15 and we thought that we should present them this morning.

16 THE PRESIDENT: Well, translations into English
17 from Marquis FIDO's diary should be revised by our
18 Language Section.

19 LANGUAGE ARBITER (Major Moore): I presume,
20 sir, that means what has not been corrected up to this
21 time.

22 THE PRESIDENT: Any translations by the same
23 person if the defense insist. The suggestions I make
24 all are in the interest of saving time.

25 LANGUAGE ARBITER (Major Moore): May I make

1 one request of the Tribunal: that the defense be asked
2 to give to the Language Section their translation of
3 Marquis FIDO's Diary.

4 THE PRESIDENT: If what I have suggested more
5 than once during the past week is carried out, namely,
6 the defense on detecting an error approach you, there
7 will be no need for these corrections. The document
8 will be read as you have revised it.

9 Mr. Logan.

10 MR. LOGAN: If the Tribunal please, we will
11 be glad to comply with your last order providing the
12 prosecution comply with the excerpts they intend to
13 use about three or four days ahead of time because it
14 takes a great deal of time to make our own translations
15 of these documents.

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1 THE PRESIDENT: Dr. KIYOSE.

2 DR. KIYOSE: Continuing cross-examination
3 where I left off at the last session, I wish to ask
4 a few remaining questions in order to test the accu-
5 racy of this witness' testimony.
6

7 - - - -

8 F O R I C T A T E N O, called as a witness on
9 behalf of the prosecution, resumed the stand
10 and testified through Japanese interpreters
11 as follows:

12 CROSS-EXAMINATION

13 BY DR. KIYOSE (Continuing):

14 Q In the last paragraph of your affidavit you
15 say, "I believe the following is a fair translation
16 in English. . .of the script which I read," etc., etc.

17 Did you compare the English text with the
18 Japanese?

19 A Yes, I compared them to each other.

20 Q In the Japanese text the words, the phrase,
21 "We present you a special news" is repeated twice,
22 whereas in the English text we only have it once.

23 A I noticed that point at the time I checked
24 the translation, but I left it as it was because it
25 didn't change the meaning, whole meaning of the text.

Q In the Japanese text the announcement is

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1 said to have been released by the army and navy units
2 of the Imperial General Headquarters. Is that not a
3 mistake?

4 A I believe it was in Japanese, Navy and Army
5 Section of the Imperial Headquarters.

6 Q In actuality the Japanese text carries the
7 word "unit." You have overlooked it.

8 DR. KIYOSE: That is all.

9 MR. LOGAN: No further cross-examination.

10 THE PRESIDENT: Brigadier Nolan.

11 BRIGADIER NOLAN: May the witness be excused,
12 Mr. President, on the usual terms?

13 THE PRESIDENT: He may be released on the
14 usual terms.

15 (Whereupon, the witness was excused.)

16 BRIGADIER NOLAN: If it please the Tribunal,
17 we now offer in evidence IPS document No. 2175, an
18 affidavit by Sir Robert Craigie, then British Ambas-
19 sador to Tokyo, in order to prove item 23 of the time
20 chart, exhibit 1222.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 2175 will receive exhibit No. 1236.

24 (Whereupon, the document above
25 referred to was marked prosecution's exhibit

1 No. 1236, and was received in evidence.)

2 BRIGADIER POLAN: I read from exhibit 1236:

3 "I, ROBERT LESLIE CRAIGIE, G.C.M.G., form-
4 erly His Britannic Majesty's Ambassador to Japan,
5 take oath and say as follows:

6 "(1) I was British Ambassador to Japan
7 from 3rd September, 1937 to 8th December 1941.

8 "(2) At 0745 hours on 8th December, 1941,
9 at which time I had received no intimation whatever
10 of any state of war or of any attack having been made
11 on any British or United States forces or possessions,
12 I received a telephone message requesting me to call
13 on Foreign Minister TOGO at his official residence at
14 0800 hours which I did. He informed me that the
15 Japanese Government had decided to break off negoti-
16 ations with the United States Government and handed
17 me a copy of the memorandum which is reproduced on
18 pages 787/792 of 'papers relating to the Foreign Re-
19 lations of the United States and Japan 1931/1941'
20 volume 11, headed 'Memorandum handed by the Japanese
21 Ambassador NOMURA to the Secretary of State at 2:20
22 p.m. 7th December, 1941', another copy of which, he
23 said, had just been handed to my American colleague.
24 Hastily perusing it I discovered there was not a
25 word in it about war."

1 "(3) Having expressed the regret and dis-
2 approval with which I had learnt that the Japanese
3 Government had taken so serious a step as to break off
4 the Washington discussions, I questioned the Foreign
5 Minister about reports which had been broadcast on
6 the British wireless late the previous evening that
7 Japanese warships and transports were proceeding west-
8 wards across the Gulf of Siam, adding that the re-
9 port, if true, could not but carry the most serious
10 implications. His reply was that reports had reached
11 him of large concentrations of British and Indian
12 troops on the frontier of Siam, disposed for pur-
13 poses of attack, and that Japanese warships had ac-
14 cordingly been ordered to patrol off the coast of
15 Indo-China. I reminded the Minister of a statement
16 I had made to him on the 5th December to the general
17 effect that there was no question whatever of any
18 attack being made by British troops against Siamese
19 territory so long as Siam's independence was respected
20 by Japan. TOGO answered, as he had done on the 5th
21 instant, that he had asked urgently for a report from
22 the Japanese Ambassador in Bangkok as to the facts
23 about these rumoured troop movements and that he was
24 not really in a position to discuss this matter until
25 that report had been received. I insisted that, as

1 a Japanese convoy was already on its way, the matter
2 had become one of the utmost urgency; and I request-
3 ed that orders should be sent immediately to ensure
4 that no initiative was taken by the Japanese forces
5 on the spot until we had time to discuss the matter
6 further, adding that I would answer for it that no
7 initiative would be taken by the British forces. It
8 was, I said, essential at this critical juncture that
9 the movement of Japanese forces in the area should be
10 fully controlled from Tokyo. The Minister replied
11 that naturally Japanese troop movements would be so
12 controlled. As I was leaving, TOGO observed that I
13 would know how hard he had worked to prevent a break-
14 down of the Washington conversations and secure an
15 amicable solution of the problem which faced all three
16 Powers in Eastern Asia. He expressed warm apprecia-
17 tion of my own efforts on behalf of Anglo-Japanese re-
18 lations and regretted that things should now have
19 come to such a pass. Not a word was said about war
20 having broken out or any attacks having already been
21 made on any British possessions or ships.

22
23 "(4) On my return to the Embassy at about
24 0830 hours I was informed for the first time that the
25 Japanese wireless had announced at about 0800 hours
that war-like operations against Britain and the

1 United States had commenced. After visiting the
 2 United States Embassy I found on my return to the
 3 British Embassy an official of the Japanese Ministry
 4 of Foreign Affairs who had arrived at about 1130 hours.
 5 He delivered a communication from the Foreign Minister
 6 notifying me that, as from the 8th December, a state
 7 of war existed between Great Britain and Japan.

8
 9 "Sworn by the said Robert Leslie)
 10 Craigie at Wikfield in the)
 11 County of Sussex this twenty) "R. L. Craigie
 12 first day of May, One thousand) (signed)"
 13 nine hundred and forty six.)

14
 15 "Before me

16 "H. Basil Harrison (signed)

17 A Commissioner for Oaths."
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1 THE PRESIDENT: Mr. Smith.

2 MR. SMITH: If your Honor please, the defense
3 requests that former Ambassador Craigie be called
4 for purposes of cross-examination.

5 THE PRESIDENT: Do you contest his affidavit?
6 You will be confined to it if he is called by the
7 prosecution.

8 MR. SMITH: We do contest the affidavit in so
9 far as the picture is painted of absolute innocence
10 that a war was imminent or was about to take place;
11 and the defense cannot agree with the narrow view the
12 Court takes of the scope of cross-examination in the
13 case.

14 THE PRESIDENT: It purports to be a bare state-
15 ment of facts. There is no suggestion of an opinion
16 anywhere.

17 MR. SMITH: Your Honor, it is not so much
18 what these witnesses say in the affidavits; it is what
19 they fail to say.

20 THE PRESIDENT: In those circumstances the
21 defense had better consider in calling him.

22 MR. SMITH: With all deference, your Honor,
23 we think we have the right to cross-examination,
24 which has been a common, ordinary right ever since the
25 days of King John and the Magna Carta in 1215.

1 THE PRESIDENT: Always in proper cases,
2 Mr. Smith.

3 MR. SMITH: Well, your Honor, I do not
4 want to prolong a discussion. It has been said that
5 this trial is--

6 THE PRESIDENT: The Tribunal is against
7 you, Mr. Smith. Your application is dismissed.

8 BRIGADIER NOLAN: We now offer in evidence
9 IFS document No. 2580, an affidavit by Petty Officer
10 Sanders to prove item 24 of the time chart, exhibit 1222.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 2580 will receive exhibit No. 1237.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 1237, and was received in evidence.)

17 BRIGADIER NOLAN: Exhibit 1237 reads as
18 follows:

19 City of Tokyo,)
20)
21 Japan.)

22 "PHILIP ERLE SANDERS, Chief Boatswain's Mate
23 of the United States Navy, now attached to the Inter-
24 national Prosecution Section of S.C.A.P., being first
25 sworn according to law, deposes and says:

"I am a Chief Boatswain's Mate, United States

1 Navy, and was so employed on December 8, 1941, when I
2 was detailed as Commanding Officer of U.S.S. Y.P. 16
3 at Guam.

4 "Just before 0800 hours, Guam time, I re-
5 ceived information by radio of the Japanese attack on
6 Pearl Harbor, and at precisely 0800 hours I reported
7 to the Beech Master for orders.

8 "At about 0802 hours a formation of eight
9 Japanese war planes came through the clouds and levelled
10 off for a bombing run. The first bombs dropped at
11 approximately 0805 hours in the vicinity of the Cable
12 Station and Pan-American compound. Several men were
13 wounded by shrapnel and machine gun fire.

14
15 "Subscribed and sworn to before me,
16 this 9th day of August, 1946.

17 "HARRY W. DORSEY,

18 "CAPTAIN, JAGD."

19 Signed "PHILIP E. SANDERS

20 "C.P.H. U.S.N."
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1 We now offer in evidence IFS document
2 No. 1530, the affidavit of Major General Christopher
3 Maltby, to prove item 25 of the time chart, exhibit 1222.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1530 will receive exhibit No. 1238.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 1238, and was received in evidence.)

10 BRIGADIER HOLLAN: I read from exhibit 1238:

11 "I, Major General Christopher Michael MALTBY,
12 M.C. of Greenacre, Sheroditch Taunton, in the County
13 of Somerset, make oath and say as follows:

14 "1. In December 1941 I was the General Offi-
15 cer Commanding British troops in China, and was sta-
16 tioned at HONGKONG.

17 "2. At about 0445 hours on the 8th December
18 1941 Intelligence sources reported hearing on a TOKYO
19 broadcast code instructions to their nationals that
20 war with Great Britain and the United States was im-
21 minent at any moment.

22 "3. By about 0645 hours the garrison had been
23 informed that the British Empire and Japan were at war.

24 "4. Command Headquarters moved into under-
25 ground battle Headquarters."

1 "5. At 0800 hours Japanese aircraft dive
2 attacked the KAI TAK airfield coming down to 60 feet
3 and showing first class standard.

4 "6. This attack destroyed or damaged the
5 following grounded aircraft:

6 "R. A. F. 3 destroyed
7 1 seriously damaged
8 1 slightly damaged
9 "CIVIL Clipper and 7 others
10 (D.C. 23's) Condors and others.

11 "7. SHANSHUIPO barracks were also attacked
12 and bombed from the air. But few casualties were
13 caused through the maximum deployment.

14 "8. The approximate casualties suffered
15 during the attack on HONGKONG were:

16	"Killed or died of wounds.	British Officers	74
17		British Other Ranks	595
18		Indian Other Ranks	376
19		Total	1045

20
21 Signed "C.M. Maltby, Major Gen.
22 late G.O.C. Br. Troops
23 in China."
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1
2 "SWORN by the above said Christopher Michael Maltby
3 at Taunton in the County of Somerset this 19th day
4 of July 1946.

5 "BEFORE ME

6 "F. Wormersley Clarke

7 "A Commissioner for Oaths."
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1 Finally, with regard to the time chart,
2 exhibit 1222, we offer in evidence IPS document
3 No. 1632-1-90 from KIDO's Diary. The last portion
4 of it proves iter 26. The earlier parts have not
5 been separately entered on the time chart.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1632-1-90 will receive exhibit No. 1239.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1239, and was received in evidence.)

12 BRIGADIER NOLAN: I read from exhibit 1239:
13 "Extract from Entry from Marquis KIDO's
14 Diary, 8 December 1941

15 "At 12.40 a.m. Foreign Minister TOGO
16 telephoned me to consult about the treatment of the
17 personal telegram from President Roosevelt to the
18 Emperor, which had been brought by Ambassador Grew.
19 I advised him to consult the Premier as regards its
20 diplomatic effect and procedure. I said that as
21 for a visit to the Throne, there would be no need of
22 hesitation to make one for the Emperor would not mind
23 granting an audience even at midnight.

24 "I was informed that Foreign Minister TOGO
25 had proceeded to the palace, so I went to the office

1 at 2.40 a.m., to see him. When I was going up the
2 Akasaka slope, I saw the rising sun above a building
3 there. I thought it was symbolic of the destiny of
4 this country now that we had entered the war against
5 the U.S.A. and England, the two greatest powers in
6 the world. I closed my eyes and prayed for the success
7 of our Navy planes making an attack upon Pearl Harbour
8 at that time.

9 At 7.30 a.m. I met the Premier, the Chief
10 of the Army General Staff, and the Chief of the Navy
11 General Staff. I heard from them great news relative
12 to the success of the surprise attack upon Hawaii and
13 felt that the Gods had come to our aid. I saw the
14 Emperor at 11.40 a.m. and talked with him until 12
15 noon. I was very much impressed by the self-possessed
16 attitude of the Emperor on this day. The Imperial
17 Proclamation of War was issued.
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1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: If the Tribunal please, may I
3 call your attention to the fact that this, too, is a
4 rough or screen translation, and it is quite apparent
5 on its face as read by the prosecutor that it is
6 incorrect, because I never knew that the sun rose
7 in Tokyo at 2:40 a.m., and, furthermore, there are
8 some lines omitted which are quite significant; and I
9 ask that your Honors withhold forming any opinions as
10 to the inferences or implications that can be drawn
11 from the prosecution's exhibit.

12 THE PRESIDENT: Well, Brigadier, on account
13 of its great importance and possible implications it
14 should really be revised by our Language Section.

15 We refer it to the Language Section.

16 BRIGADIER NOLAN: Yes, sir.

17 We next offer in evidence IPS document
18 No. 2362-A, which is the text of the Imperial Rescript
19 of December 8, 1941.
20

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 2362-A will receive exhibit No. 1240.

24 (Whereupon, the document above
25 referred to was marked prosecution's exhibit
No. 1240, and was received in evidence.)

1 BRIGALIER MCLAN: I read from exhibit 1240,
2 entitled "Imperial Rescript."

3 "WE, by grace of heaven, Emperor of Japan,
4 seated on the Throne of the line unbroken for ages
5 eternal, enjoin upon ye, Our loyal and brave subjects:

6 "We hereby declare war on the United States
7 of America and the British Empire. The men and officers
8 of Our Army and Navy shall do their utmost in prosecu-
9 ting the war, Our public servants of various departments
10 shall perform faithfully and diligently their appointed
11 tasks, and all other subjects of Ours shall pursue
12 their respective duties; the entire nation with a
13 united will shall mobilize their total strength so
14 that nothing will miscarry in the attainment of our
15 war aims.

16
17 "To insure the stability of East Asia and
18 to contribute to world peace is the far-sighted policy
19 which was formulated by Our Great Illustrious Imperial
20 Grandsire and Our Great Imperial Sire succeeding Him,
21 and which We lay constantly to heart. To cultivate
22 friendship among nations and to enjoy prosperity in
23 common with all nations has always been the guiding
24 principle of Our Empire's foreign policy. It has
25 been truly unavoidable and far from Our wishes that
Our Empire has now been brought to cross swords with

1 America and Britain. More than four years have passed
2 since the government of the Chinese Republic, failing
3 to comprehend the true intentions of Our Empire, and
4 recklessly courting trouble, disturbed the peace of
5 East Asia and compelled Our Empire to take up arms.
6 Although there has been re-established the National
7 Government of China, with which Japan has effected
8 neighbourly intercourse and co-operation, the regime
9 which has survived at Chungking, relying upon American
10 and British protection, still continues its fractricidal
11 opposition. Eager for the realization of their inordinate
12 ambition to dominate the Orient, both America and
13 Britain, giving support to the remaining /T.N. Chungking/
14 regime, have, under the false name of peace, aggravated
15 the disturbances in East Asia. Moreover, these two
16 Powers, inducing other countries to follow suit,
17 increased military preparations on all sides of Our
18 Empire to challenge us. They have obstructed by every
19 means our peaceful commerce, and finally resorted to
20 a direct severance of economic relations, menacing
21 gravely the existence of Our Empire.

22 "Patiently have We waited and long have We
23 endured, in the hope that Our Government might
24 retrieve the situation in peace. But our adversaries,
25 showing not the least spirit of conciliation, have

unduly delayed a settlement; and in the meantime,

they have intensified the economic and military

1 pressure to compel thereby Our Empire to submission.

2 This trend of affairs would, if left unchecked, not
3 only nullify Our Empire's efforts of many years for
4 the sake of the stabilization of East Asia, but also
5 endanger the very existence of Our nation. The
6 situation being such as it is Our Empire for its
7 existence and self-defence has no other recourse but
8 to appeal to arms and to crush every obstacle in its
9 path.
10

11 "The hallowed spirits of Our Imperial Ancestors
12 guarding Us from above, We rely upon the loyalty and
13 courage of Our subjects in Our confident expectation
14 that the task bequeathed by Our Forefathers will be
15 carried forward, and that the sources of evil will
16 be speedily eradicated and an enduring peace immutably
17 established in East Asia, preserving thereby the
18 glory of Our Empire.

19 "The 8th day of the 12th month of the 16th
20 year of Showa.

21 "HIROHITO

22 "(Imperial Sign Manual. Imperial Seal)

23 "December 8th, Showa 16, /1941/

24 "Hideki TOJO, Prime Minister, and Concurrently
25

1 Minister of Home Affairs and War Minister

2 "Kunihiko HASHIDA, Minister of Education

3 "Teiichi SUZUKI, Minister without Portfolio

4 "Hiroya INO, Minister of Agriculture and
5 Forestry and Concurrently Minister of Overseas Affairs

6 "Chikahiko KOIZUMI, Minister of Welfare

7 "Michiyo IWAMURA, Minister of Justice

8 "Shigetaro SHIMADA, Minister of the Navy

9 "Shigenori TOGO, Minister of Foreign Affairs

10 "Ken TERASHIMA, Minister of Communications

11 "Okinori KAYA, Minister of Finance

12 "Nobusuke KISHI, Minister of Commerce and

13 Industry

14 "Yoshiaki HATTA, Minister of Railways."

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We next offer in evidence IFS document
1 No. 1078, which relates to events transpiring at the
2 meeting of the Investigation Committee, Privy Council,
3 on December 8, to show that at least from December 1,
4 1941, on, the negotiations with the United States
5 were continued only for the sake of Japanese war
6 strategy.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 1078 will receive exhibit No. 1241.
10

11 (Whereupon, the document above
12 referred to was marked prosecution's exhibit
13 No. 1241, and was received in evidence.)

14 BRIGALIER NOLAN: I read from exhibit 1241,
15 being the "Records of the Meeting of the Inquiry
16 Committee of the Privy Council on December 8, 1941."

17 "Inquiry Committee Meeting Concerning
18 Declaration of War against America and England.

19 "Dec. 8, 1941 (Monday) 7:30 a.m. all the
20 councillors of the Privy Council (except Councillor
21 KANEMO) meet in the East Third Waiting Hall in the
22 Imperial Palace. Naval Minister SHIMADA reports on
23 the starting aspect of the war opened against America
24 and England. While he is reporting the Council
25 receives the Emperor's reference bill for their

1 deliberation pertaining to the above subject.

2 President HARA announces the general committee meet-
3 ing and the meeting opens at once.

4 "Members present."

5 With the permission of the Tribunal, I will
6 only read the names of the accused members who were
7 present, and may I point out that the names MINAMI
8 and ARAKI are not the accused MINAMI and ARAKI in
9 this case. The accused present were TOJO, CHINADA,
10 TOGO, KAYA, SUZUKI, NUTO, and OKA.

11 "(Meeting opened at 7:45 a.m.)

12 "Chairman SUZUKI declared that the meeting
13 come to order.

14 "Premier TOJO explains the reason why,
15 at last, they have been obliged to deal with this
16 bill.

17 "Comm. member ICHII asks in regard to the
18 time of declaration of war.

19 "TOJO answers that it shall be done as
20 seen as the Imperial sanction is obtained on this
21 subject.

22 "KUBOTA questions regarding the relation-
23 ship between negotiations with America and treatment
24 of this subject. To this Premier TOJO answers that
25 at their meeting in the Emperor's presence on

1 December 1st, war against America, England and
2 Holland was decided on. Therefore, these negotia-
3 tions were continued only for the sake of strategy.

4 "SHIMIZU asks whether or not war is to
5 be declared against Holland; also he asks what
6 will be the attitude of Siam. TOJO replies that
7 Japan will not declare war against Holland in
8 view of future strategic convenience. As for
9 Siam the Japanese Government is in the course of
10 negotiations with her for concluding an Alliance
11 Pact.

12 "MINAMI asks what attitude Germany will
13 assume in relation to the Tripartite Alliance,
14 following the disposition of this subject. To
15 this TOJO and SAKAMOTO, Chief of the Europe and
16 Asia Bureau, reply that, as far as the German
17 Government is concerned, as soon as Japan declares
18 war against America and England, Germany and Italy
19 will also assume the same attitude as Japan, and
20 they will not make a separate peace. In fact, they
21 are preparing the draft of an agreement therefor.

22 "NARA asks what will be the attitude of
23 Soviet Russia. TOJO replies that relationship
24 between Japan and Soviet Russia at present stands
25 on the basis of the Neutrality Pact, but as to the

1 treatment of the same he expects special care to
2 be taken. As to the general situation, Soviet
3 Russia is now fighting against Germany, so she
4 will not avail herself of the Japanese southward
5 advance. Also, she will not make any ready move
6 following America's plotting which is naturally
7 expected. Further, if Soviet Russia grants America
8 use of her territory in the East, that means
9 Russia makes Japan her enemy; therefore, she cannot
10 easily make such a decision. In the future Japan
11 shall never fail to keep an increasingly close
12 watch over Russian activities.

13 "SUGAHARA asks about the budget distri-
14 bution of expenses incurred in connection with
15 this proposition. Finance Minister KANA explains
16 that it will be drawn upon a special account of
17 Emergency War Expense just as in the case of the
18 China Incident.

19 "Committee member FUKAI debated on the
20 fact that, under the present currency system,
21 disposition of required funds will be easily
22 made for the time being, but in regard to materials
23 required thoughtful planning is necessary; so he
24 inquires the Government's opinion regarding it.
25 TOJO replies that, in conclusion based on views

1 from all angles it is not necessary to have much
2 anxiety so far as material supplies are concerned
3 and as for financing and money circulation they
4 shall be treated with most careful attention to
5 their bearing on materials.

6 "Committee member FUTAGAMI says that
7 according to the draft for an Imperial edict
8 which is accompanying this project for reference,
9 it seems as though action of war is started from
10 our side and so, he asks, if it does not give
11 America an excuse for her declaring war. To
12 this Premier TOJO answers that action of war may
13 have been started from our side, the cause of
14 the war is really nothing but the fact that
15 America gave various economic pressures to Japan.
16 FUTAGAMI further asks if accuracy is lacking in
17 using the words, 'America' and 'England' in the
18 draft for the Imperial edict. Foreign Minister
19 TOJO and Chief of the Treaty Bureau MATSUOKO
20 answer that there are precedents that they used
21 such words as, 'China,' 'Russia,' and 'Germany'
22 in edicts of declaration of war. In the announce-
23 ment documents to enemy countries the government
24 will use regular names of the countries involved,
25 and there is no fear of arising misunderstanding.

1 "Committee member TAKIGUCHI expresses
2 hope that there will be no lack of attention
3 regarding food plans. Committee member IZUMI
4 expresses hope that they will do their best to
5 try to bring about an effective unification of
6 the national mind.

7 "Committee member IKEDA and Committee
8 member KUBOTA say that it will not be good to
9 leave any doubtful point in the Imperial edict
10 and so it will be better to avoid using the word,
11 'America.' To this Foreign Minister TOGO replies
12 that it is known all over the world and it is
13 clear that America means the United States of
14 North America.

15 "Chairman SUZUKI considers that questioning
16 has been finished by the above discussion and he
17 asks the Government Ministers and Explaining Members
18 to leave.

19 "(Ministers and Explaining Members leave.)

20 "Then as the result of conference among
21 the committee members it was unanimously decided
22 to approve this proposition as it is.

23 "Thereupon Chairman SUZUKI declared the
24 adjournment of the meeting.

25 "(Meeting adjourned at 9:55 a.m.)"

1 "General Outline of the Privy Council
2 Attending to Business at the Time of Declaration
3 of War against America and England."

4 THE PRESIDENT: We will hear that after
5 the recess, Brigadier.

6 We will recess for fifteen minutes.

7 (Thereupon, at 1045, a recess
8 was taken until 1105, after which the pro-
9 ceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Brigadier Nolan.

4 BRIGADIER NOLAN: I continue reading from
5 Exhibit No. 1241:

6 "The international situation surrounding
7 the China Incident had become tense and diplomatic
8 negotiations with England and America had been
9 driven close to the breaking point. The Cabinet
10 anticipated that it might happen that war would be
11 declared at the same time with the opening of
12 hostilities. Concerning procedures to be taken
13 at such a time MORIYAMA, Chief of Legislative
14 Bureau privately had conferred with HORIE, Chief
15 Secretary of Privy Council. On December 7 (Sunday)
16 at 4 p.m. MORIYAMA phoned to HORIE saying that he
17 wanted to have a talk with HORIE concerning an
18 urgent treatment of affairs to face the tense
19 situation at hand, and asked him to come and have
20 a meeting in the official residence of Premier
21 at 7:30 p.m. HORIE at once notified Secretary
22 MOROHASHI by phone and MOROHASHI notified Secretary
23 TAKETSUJI accordingly. Further, Procurator NOTTA
24 and Commissioner NODA were notified of the meeting
25 by a messenger. So at 7:30 p.m. everyone came to

1 meet in the Premier's official residence. At
2 8 p.m. in the office room of Chief of the Legis-
3 lative Bureau they were informed of details of the
4 matter by HORIYAMA, Chief of the Legislative Bureau.
5 Owing to the disruption of Japan-America conference
6 a critical situation was brought about and Japanese
7 Army and Navy were to begin action early in the
8 morning, next day, and the government would pre-
9 sent, during the next day, declaration of war
10 against America and England for Imperial sanction.
11 Therefore, they had Procurator HOTA, etc. go on to
12 prepare a bill pertaining to this matter and at
13 the same time Chief Secretary HORIE informed HARA,
14 President of Privy Council, and SUZUKI, Vice-Pres-
15 ident of Privy Council, by phone of the above fact,
16 receiving instructions from them, he made arrange-
17 ments for holding a meeting of the Privy Council,
18 and then they went home at 11 p.m. After that
19 the two Secretaries HOROHASHI and TAKATSUJI moved
20 to the official residence of the Cabinet Chief
21 Secretary and in a room there they set on preparing
22 an inquiry and report draft on the matter of declara-
23 tion of war against America and England. They
24 finished writing after 12 p.m. and had a nap.
25

"It was a fairly cold day and was not

1 clear either.

2 "A little after 7 a.m. December 8
3 (Monday) Cabinet Secretary IWADA informed the
4 two secretaries of the fact that it had been
5 decided to ask for Imperial sanction for declara-
6 tion of war against America and England. The
7 two Secretaries at once passed this information
8 on to the Chief Secretary. Further they sent
9 telephone message to the President, Vice-President
10 and each Councillor asking them to come and meet
11 in the East Third Hall of the Imperial Palace to
12 consider an urgent matter at 7:30 a.m. By the
13 appointed time all the members of Privy Council
14 (except Councillor KANEKO) and the Chief Secretary
15 and others of Privy Council got together there,
16 when Navy Minister SHIMADA reported on the out-
17 break of war against America and England at Hawaii
18 and Malaya. While he was reporting they received
19 a draft of the Imperial ratification pertaining
20 to the declaration of war against America and
21 England. President HAMA announced the General
22 Committee Meeting. At once the meeting opened.
23 Since the bill was an extremely urgent one it was
24 discussed in a hurry, the Committee Meeting adjourn-
25 ing at 9:55 a.m. Following this at 10:50 with the

1 Emperor's presence a plenary meeting was held and
2 it was unanimously approved. At once the resolution
3 was presented to the Emperor. The time was exactly
4 11 a.m. The sun was shining brilliantly and the
5 weather was very clear."
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BRIGADIER NOLAN: The next offer in evidence
International Prosecution Document No. 2593-D(40),
being part of exhibit 603 for identification, which
is a wire from Berlin to Tokyo dated 8 December,
relating to Germany and Italy declaring war on the
United States.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 2593-D(40) will receive exhibit No. 1242.

(Thereupon, the document above re-
ferred to was marked prosecution's exhibit
No. 1242 and received in evidence.)

BRIGADIER NOLAN: I read from exhibit 1242:

"SECRET

"From: Berlin

"To: Tokyo

"December 8, 1941

"Purple. (Priority)

"#1437. Limited distribution. Re my #143(9).^a

"At 1:00 p.m. today (8th) I called on Foreign
Minister Ribbentrop and told him our wish was to have
Germany and Italy issue formal declarations of war on
America at once. Ribbentrop replied that Hitler was
then in the midst of a conference at general headquarters
discussing how the formalities of declaring war could

1 be carried out so as to make a good impression on the
2 German people, and that he would transmit your wish to
3 him at once and do whatever he was able to have it
4 carried out promptly. At that time Ribbentrop told
5 me that on the morning of the 8th Hitler issued orders
6 to the entire German Navy to attack American ships
7 whenever and wherever they may meet them.

8 "It goes without saying that this is only
9 for your secret information."

10 My colleague, Mr. Fihelly, will now introduce
11 three short documents.

12 THE PRESIDENT: Mr. SAHMONJI.

13 MR. SAHMONJI: I call the Court's attention
14 to the fact that the time mentioned in this is Berlin
15 time, which is nine hours later than Tokyo time.

16 THE PRESIDENT: That is noted.

17 Mr. Fihelly.

18 MR. FIEHELLY: Mr. President and Members of
19 the Tribunal, we now offer in evidence International
20 Prosecution Document No. 2499-A, which is a TOJO
21 interrogation extract of February 7, 1946, page 5,
22 as showing that the defendant TOJO admitted his re-
23 sponsibility for the Pearl Harbor attack and the
24 attacks made at or about the same time on American
25 and British possessions, and also to show that he felt

1 his Cabinet and the Army and Navy Chiefs of Staff
2 were jointly responsible with him.

3 THE PRESIDENT: Mr. Blewett.

4 MR. BLEWETT: If the Court please, under
5 Section III, Article 13-a of the Charter, it is
6 provided that "All purported admissions or statements
7 of the accused are admissible." Hitherto, under
8 that provision no objection was made to leading
9 questions.

10 THE PRESIDENT: How can you examine a
11 suspect except by leading questions? He was
12 examined as a suspect, I take it.

13 MR. BLEWETT: I was just about to suggest,
14 your Honor, that this paper has been introduced as
15 an interrogatory.

16 THE PRESIDENT: Not in the sense of an
17 interrogatory in civil proceedings; but in criminal
18 proceedings it is quite common -- it is the usual
19 thing -- for the police to interrogate suspects, and
20 the answers are tendered in evidence -- the questions
21 and the answers are tendered in evidence.

22 MR. BLEWETT: Well, hitherto, your Honor,
23 we did not object to leading questions under the
24 consideration that at one time I think your Honor
25 ruled that this was either an admission or a statement

1 and not an interrogatory in the true sense of the
2 word.

3 THE PRESIDENT: It is not an interrogatory
4 in the use of the term in civil proceedings, in the
5 sense that it is used in civil proceedings, I should
6 say.

7 MR. BLEWETT: Of course, your Honor, in the
8 Court neither myself nor any defense counsel was
9 present at the time at the taking of these interro-
10 gatories; so, therefore, we could not interpose an
11 objection.

12 THE PRESIDENT: What was done here is
13 ordinarily done in ordinary criminal investigations
14 everywhere in the world, so far as I am aware.
15 The police approach the suspects and examine them.
16 Sometimes, if the suspect asks for a solicitor --
17 in fact, invariably, the police send for one.

18 MR. BLEWETT: I felt, sir, that in this
19 particular document that I should make objection
20 as I have ascertained that there is quite a
21 difference in meaning between the word "responsible"
22 in English and in Japanese. In this case the pros-
23 ecutor uses the words "primarily responsible".
24 Therefore, I feel obliged, sir, to object to this
25 particular document, and the first and third questions

1 on the succeeding document, if it is placed in
2 evidence.

3 THE PRESIDENT: You are raising now a
4 question as to the meaning of an expression, not
5 as to the accuracy of its translation; so there
6 is nothing to refer to the Language Section. The
7 accused, if he gives evidence, can tell us what
8 he meant by the term he used.

9 MR. FIELLY: We ask that document 2409-A
10 be marked in evidence and the parent document marked
11 for identification.

12 CLERK OF THE COURT: Prosecution document
13 No. 2499 will be given exhibit No. 1243 for identi-
14 fication only.

15 (Whereupon, the document above
16 mentioned was marked prosecution's exhibit
17 No. 1243 for identification only.)

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: The excerpt therefrom,
20 to wit. document No. 2499-A. will be given exhibit
21 No. 1243-A.

22 (Whereupon, the document above re-
23 ferred to was marked prosecution's exhibit
24 No. 1243-A and received in evidence.)

25 MR. FIELLY: I now read prosecution's

1 exhibit No. 1243-A, the extract from the TOJO
2 interrogation of February 7, 1946, page 5:

3 "Q. So that you realize that you are the
4 one primarily responsible for the December 1941 attacks
5 on Pearl Harbor and American and British possessions.

6 "A. Yes, I am responsible.

7 "Q. And the other parties whom you have
8 mentioned are responsible, along with you, for those
9 attacks?

10 "A. From the standpoint of assistance to
11 the Throne /he hitsu/, the Cabinet is jointly respon-
12 sible and, hence, the other cabinet members bear
13 responsibility; however, I, as Senior Member, am the
14 one chiefly responsible. The Army Chief of Staff and
15 the Navy Chief of Staff also bear responsibility."

16 We next offer in evidence International
17 Prosecution Document No. 2508-A, which is the TOJO
18 interrogation of March 1, 1946, pages 7 and 8, to
19 show that the defendant TOJO had knowledge of the
20 attacks made on Pearl Harbor, Malaya, Hongkong and the
21 Philippines for some time prior to the actual attacks
22 being made. We ask that the parent document be marked
23 for identification.

24 CLECK OF THE COURT: Prosecution's document
25 No. 2508 will receive exhibit No. 1244 for identification

1 only.

2 (Whereupon, the document above mentioned
3 was marked prosecution's exhibit No. 1244
4 for identification.)

5 THE PRESIDENT: The extract is admitted on
6 the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 2508-A, the excerpt, will be given exhibit No.
9 1244-A.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1244-A and received in evidence.)

13 MR. FANELLY: I now read prosecution's
14 exhibit No. 1244-A, an extract from the TOJO
15 interrogation of March 1, 1946, pages 7 and 8:

16 "Q Did you not know of any of the other
17 attacks which were going to be made on December 8th
18 simultaneously with the Pearl Harbor attack?
19

20 "A The Pearl Harbor attack was a Navy
21 operation and I knew only that if the attack went
22 smoothly that it would begin at such and such a
23 time. The Malaya, Hongkong, and Philippines at-
24 tacks were joint operations and, hence, as War
25 Minister, I knew about them.

"Q How early did you know about each of them,

1 that is Pearl Harbor and the others?

2 "Q I knew about the Pearl Harbor attack from
3 the time of the Liaison Conference just preceding
4 the Imperial Conference of 1 December 1941. I knew
5 about the other attacks some five or six days be-
6 fore the Liaison Conference met.

7 "Q Did you not, as Premier, know of and approve
8 the attacks which were made on Pearl Harbor, Hong-
9 kong, Malaya and the Philippines on or about 7 or
10 8 December 1941?

11 "A Of course. I did know about them and ap-
12 prove."

13 Lastly, I read from prosecution's exhibit
14 No. 1204-A, page 5. It will be shown in Admiral
15 Richardson's testimony that some 2342 American
16 officers and enlisted men and some 54 civilians
17 were killed in the Pearl Harbor attack. To show
18 the defendant TOJO's justification as of that date
19 for the Pearl Harbor attack and for the killing of
20 Americans, we now read from page 5 of that extract
21 -- page 5 of the exhibit, page 8 of the extract:

22 "Q Do you not agree that the attack made
23 under such circumstances was nothing but murder
24 and not warfare?

25 A No, I don't agree. I think it was legal

1 defense in the face of challenge.

2 "Q Do you, as a Japanese, feel proud of the
3 fact that several thousand Americans were killed
4 at Pearl Harbor in this manner?

5 "A No, I am not proud of it.

6 "(Session adjourned at 12:25 for luncheon.)

7 *****

8 "(Session resumed at 1345 hours.)"

9 Further statement by the defendant TOJO:

10 "A I should like to make a supplementary
11 explanation of my answer to the last question as to
12 whether I was proud that several thousands of
13 Americans were casualties as a result of the attack
14 on Pearl Harbor.

15 "I sympathize with those who died, but Japan
16 had been challenged and so she took justifiable self-
17 defense. The English and American Governments had
18 menaced Japan militarily and economically and they
19 should have had a suitable attitude of readiness.
20 Furthermore, the attack was against military ob-
21 jectives."

22 That finishes our documentary evidence.

23 Mr. Keenan, Chief of Counsel, will now
24 present evidence.

25 THE PRESIDENT: Mr. Chief of counsel.

1 MR. KEENAN: We now present to the Court
2 our next witness, Mr. Ballantine.

3 We believe it fair to set forth our con-
4 tention that the evidence adduced will show him to
5 be eminently qualified as an expert on the subject
6 of international relations in the Far East, particu-
7 larly those having to do with the United States of
8 America, Japan and China. For such reason, his
9 testimony which this Tribunal has already permitted
10 to be given in the form of a prepared statement,
11 designated an affidavit, will on such account in-
12 clude his own conclusions and those of his associates
13 in the State Department.

14 His statement will also contain description
15 of facts and circumstances employing at times lan-
16 guage designed to not alone clarify but to characterize.
17 Events and conclusions stated will be those arrived at
18 and those acted upon as the basis for the position
19 and procedure adopted. Many of his conclusions will be
20 documented by exhibits, the first three of which (A to
21 C, inclusive) have already been introduced in evidence,
22 the balance of which (from D to N, inclusive) will be
23 offered in evidence as a series of documents intro-
24 duced at appropriate times during his testimony.
25 Mr. Ballantine will describe briefly the nature of

1 the documents. With the Court's permission, these
2 exhibits will be read by counsel.

3 Mr. Ballantine.

4 I now offer for identification only I. P. S.
5 document No. 2215.

6 CLERK OF THE COURT: Prosecution document
7 No. 2215 will receive exhibit No. 1245 for identifi-
8 cation only.

9 (Whereupon, the document above
10 mentioned was marked prosecution's exhibit
11 No. 1245 for identification only.)
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1 MR. KEENAN: This is the affidavit of Mr.
2 Ballantine.

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3
4 J O S E P H W. B A L L A N T I N E, called as a
5 witness on behalf of the prosecution, being
6 first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KEENAN:

7
8
9 Q Mr. Ballantine, will you proceed to read
10 your statement.

11 A (Reading) "I, Joseph W. Ballantine, having
12 been duly sworn on oath, depose and say:

13 "I entered the Foreign Service of the
14 United States in June 1909, and thereafter served
15 continuously up to date at various diplomatic and
16 consular posts and in the Department of State. From
17 1909 until 1928 I served continuously either at the
18 American Embassy at Tokyo or in consular posts in
19 the Japanese Empire. From 1928 to 1930 I served in
20 the Department of State."

21
22 MR. LOGAN: May I interrupt, if the Tri-
23 bunal please? I did not realise that counsel was
24 having Mr. Ballantine read the statement. We wanted
25 to enter objections to it.

THE PRESIDENT: He has already put the

BALLANTINE

DIRECT

1 statement in the form of an affidavit, but he is
2 now giving evidence on oath from the box, as I under-
3 stand.

4 MR. LOGAN: He is reading from the affi-
5 davit.

6 THE PRESIDENT: If that is not correct,
7 then, before he reads from that affidavit, it must
8 be tendered in evidence.

9 MR. LOGAN: That is what I was waiting for
10 the prosecution to do.

11 THE PRESIDENT: He could identify the affi-
12 davit as his and say it is true, and then it could
13 be read by somebody else, Mr. Chief of Counsel.

14 MR. KEENAN: Will the Clerk please have the
15 last exhibit, 1245 marked for identification, handed
16 to the witness, Mr. Ballantine?

17 (Whereupon, a document was handed

18 to the witness.)

19 BY MR. KEENAN (Continued):

20 Q Is that your affidavit, the exhibit just
21 handed to you, Mr. Ballantine?

22 A That is.

23 Q Are the contents therein true?

24 A Yes.

25 MR. KEENAN: I now offer the exhibit in

BALLANTINE

DIRECT

1 evidence, if the Court please, marked for identifica-
2 tion No. 1245.

3 THE PRESIDENT: Admitted on the usual terms.

4 (Whereupon, the document above re-
5 ferred to, previously marked prosecution's
6 exhibit No. 1245 for identification, was
7 received in evidence.)

8 MR. LOGAN: If the Tribunal please, I wish
9 to make objection before it is admitted. In the
10 first place, if the Tribunal please, this witness,
11 I understand, is fully conversant with both the
12 English and the Japanese language. We do not have
13 the same reasons that have been used heretofore
14 where witnesses have testified by affidavit due to
15 language difficulties.

16 In the second place, the affidavit itself
17 contains many immaterial and irrelevant matters
18 going back as far as 1895. We believe it contains
19 conclusions which are within the province of this
20 Court of determination. It quotes copiously from
21 numerous documents, some of which have already been
22 introduced in evidence. It is, therefore, repeti-
23 tious.

24 And lastly, we believe that a witness of
25 Mr. Ballantine's qualifications should give his

BALLANTINE

DIRECT

1 evidence in response to questions and not by virtue
2 of a carefully prepared affidavit which has been,
3 perhaps, drawn, revised and again revised, in which
4 event the defense is seriously prejudiced by such
5 a method of procedure.

6 In all probability, less time would be con-
7 sumed if this witness were examined by question and
8 answer form rather than by reading of his affidavit
9 in so far as the cross-examination would be con-
10 cerned.

11 THE PRESIDENT: Mr. Smith.

12 Mr. Chief of Counsel.

13 MR. KILFAN: Mr. President, it is proper to
14 bring to the attention of the Tribunal at this time
15 that the very matters that have consumed a little
16 time this morning before the Court have already been
17 settled in Chambers in an order issued by this Court
18 permitting this procedure to be followed.

19 THE PRESIDENT: I authorized this proce-
20 dure, of course, subject to what my colleagues might
21 decide to the contrary, but I did not authorize this
22 particular statement. I would not see it; that would
23 be prepared later.

24 The only decision we can give on this
25 application is that we will pay careful regard to

BALLANTINE

DIRECT

1 what counsel for the defense have said, to what Mr.
2 Logan said, and what you have said, Mr. Smith, and
3 we will disregard anything which is not properly
4 in evidence. That has been our decision on similar
5 matters previously, and there is no occasion to
6 change it.

7 MR. SMITH: If your Honor please, I would
8 like to make a brief objection on behalf of Mr.
9 HIROTA. Of all the prize affidavits we have had in
10 this case, this seems to be the worst in that all
11 these broad, sweeping, grand conclusions --

12 MR. KEENAN: I object. I ask that counsel
13 be admonished by the Court to refrain from making
14 such remarks now or in the future and all other times.

15 THE PRESIDENT: Counsel do make such re-
16 marks. There is nothing particularly objectionable
17 to what Mr. Smith says; but his action in trying to
18 get the decision of the Court reopened is objection-
19 able. We have given our decision, and we are not
20 going to modify it.

21 As to the objection to this evidence being
22 given by statement in writing or by affidavit, the
23 following seems to me to be very pertinent in a note
24 from a colleague, and I propose to read it:

25 "Far from being prejudiced, the accused,

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1 having had advance copies of the evidence, have been
2 enabled to check each statement and to test its truth
3 in cross-examination. They have been advantaged."

4 Mr. Chief of Counsel.

5 MR. SMITH: May I answer your Honor's last
6 statement which has put a new issue in this case?

7 THE PRESIDENT: No.

8 MR. SMITH: I ask your Honor to allow me a
9 special exception in refusing to hear the grounds
10 for my objection and your Honor's last remark to
11 me.

12 THE PRESIDENT: You may have your exception.
13 What I stated from the note is a mere observation
14 that has been made previously and which has been
15 repeated for the common knowledge. No decision is
16 involved; it is a mere statement of fact.

17 Mr. Chief of Counsel.

18 BY MR. KEENAN. (Continued):

19 Q Will you proceed?

20 A (Reading) "From 1930 to 1934 I served as
21 Consul-General at Canton, China; from 1934 to 1936
22 I served as Consul-General at Mukden, Manchuria; from
23 July to December 1936 I served temporarily at the
24 American Embassy in Tokyo as First Secretary; and
25 from March 1937 to date I have served continuously

1 in the Department of State. Up to September 20, 1945
2 I was on duty in the Office of Far Eastern Affairs of
3 the Department of State. Between December 1944 and
4 September 1945 I was Director of that office. Since
5 September 1945 my position has been that of Special
6 Assistant to the Secretary of State.

7 "The matters herein deposed to are mainly
8 within my personal knowledge, otherwise they are mat-
9 ters with which I am familiar from records of the
10 Department of State.

11 "During practically all of my career in the
12 foreign service, I have dealt with Far Eastern Affairs
13 and have followed closely the course of Japanese-
14 American relations. Up until 1931 the relations be-
15 tween the United States and Japan were generally friend-
16 ly and the American Government and people consistently
17 had an attitude of good will toward the government and
18 people of Japan. The Japanese occupation of Manchuria
19 caused an impairment of these relations.
20

21 "It is essential to an understanding of the
22 true significance of the conversations which took place
23 in 1941 between the representatives of the Japanese
24 and American Governments looking to a peaceful settle-
25 ment of the Pacific question to have clearly in mind
the background of the political situation in and re-

1 relating to the Far East.

2 "Almost from the outset of Japan's emergence
3 as a modern state she had been pursuing a policy of
4 military aggrandisement. For the most part, except
5 during certain brief periods when forces of moderation
6 appeared to be in the ascendancy, the intervals be-
7 tween one aggressive step and the next were but periods
8 of consolidation.

9 "In 1895, following Japan's successful war
10 against China, Japan annexed Formosa and tried un-
11 successfully to establish a foothold in Manchuria.

12 "In 1905, after the Russo-Japanese war, Japan
13 established herself securely in Manchuria by acquiring
14 a lease of the Kwantung territory and ownership of
15 the South Manchuria Railway. At that time Japan also
16 acquired southern Sakhalin.

17 "In 1928, following the advent of the TANAKA
18 Cabinet in 1927, Japan adopted a so-called 'positive'
19 policy toward China under which it manifested an in-
20 creasing disposition to intervene in China's internal
21 affairs.

22 "In 1931 Japan invaded Manchuria and subse-
23 quently established there a puppet regime under the
24 name of 'Manchukuo.' By that action, which was a fla-
25 grant violation of the Nine-Power Treaty, Japan broke

1 away from the policy of cooperation agreed upon in
2 the Washington Conference treaties.

3 "The opposition of the American Government
4 to Japan's course was reflected in the identic notes
5 which the United States Government delivered to the
6 Japanese and the Chinese Governments, dated January 7,
7 1932, stating that the United States could not admit
8 the legality of any situation de facto; that it did
9 not intend to recognize any treaty or agreement be-
10 tween China and Japan which might impair U.S. treaty
11 rights, including those relating to Chinese sover-
12 eignty and the open door policy; and that it did not
13 intend to recognize any situation, treaty, or agree-
14 ment brought about contrary to the Kellogg Pact.

15 "Although the United States was not a member
16 of the League of Nations, it cooperated with the League
17 in relation to the Manchurian question.

18 "In a note addressed to the Secretary of
19 State dated February 21, 1934, Mr. HIROTA, Japanese
20 Minister for Foreign Affairs, stated that he believed
21 that no question existed between the United States
22 and Japan 'that is fundamentally incapable of amicable
23 solution.' The Secretary of State in his reply ex-
24 pressed concurrence in that view and emphasized the
25 belief of the American Government in adjustments of

1 questions by pacific means. The exchange of messages in
2 question is quoted on pp. 127 - 129 inclusive, Foreign
3 Relations of the United States - Japan, 1931-1941,
4 Volume I.

5 "Nevertheless, on April 17, 1934, the Japa-
6 nese Foreign Office spokesman gave out a truculent
7 official statement known as the 'Umei' statement. In
8 that statement, Japan made clear a purpose to compel
9 China to follow Japan's dictate and to permit other
10 countries to have relations with China only as Japan
11 allowed. A copy of that statement is annexed as
12 Exhibit A.

13 "On December 29, 1934, while HIROTA was still
14 Foreign Minister, Japan gave formal notice of its in-
15 tention to withdraw at the end of 1936 from the Naval
16 Limitation Treaty signed at Washington on February 6,
17 1922."

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1 THE PRESIDENT: If there is an annexure to
2 this affidavit, it should be read at this stage
3 unless there is some good reason for not reading it.

4 MR. KEENAN: The only reason, Mr. President,
5 that it is not read now is that it has already been
6 offered to this Court, and I did not think the Court
7 would like to have it done twice.

8 THE PRESIDENT: We would like particulars
9 of it. Frankly, I do not recollect its being read.
10 We would like particulars of it.

11 MR. KEENAN: With the Court's permission --

12 THE PRESIDENT: It must have been a long
13 time ago, Mr. Chief of Counsel.

14 MR. KEENAN: I am sure that it was offered
15 in evidence; but, that it has been read to the Court,
16 I am not positive.

17 Defense counsel, Mr. President, calls to
18 my mind -- states that there are several different
19 versions of the Amau Statement. It is not very long;
20 it is a page. And, to avoid any question about it,
21 I would be very glad to comply, to read it, with
22 the Court's permission.

23 THE PRESIDENT: We have had short, important
24 documents read twice.

25 MR. KEENAN: The Amau Statement:

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1 "UNOFFICIAL STATEMENT BY THE JAPANESE
2 FOREIGN OFFICE, April 17, 1934."

3 I believe this is already in the hands of
4 the translator, and this light is now showing. I
5 would like to inquire if the translation section is
6 having any difficulty following me.

7 THE MONITOR: Mr. Keenan, We are ready now.
8 We can proceed, sir.

9 MR. KEENAN: (Reading)

10 "The following is an English translation
11 unofficially issued by the Japanese Foreign Office
12 of the unofficial statement issued by the Foreign
13 Office on April 17, 1934, known as the 'Amau State-
14 ment':

15 "Owing to the special position of Japan in
16 her relations with China, her views and attitude re-
17 specting matters that concern China, may not agree
18 in every point with those of foreign nations; but it
19 must be realized that Japan is called upon to exert
20 the utmost effort in carrying out her mission and in
21 fulfilling her special responsibilities in East Asia.

22 "Japan has been compelled to withdraw from
23 the League of Nations because of their failure to
24 agree in their opinions on the fundamental principles
25 of preserving peace in East Asia. Although Japan's

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1 attitude toward China may at times differ from that
2 of foreign countries, such differences cannot be
3 evaded, owing to Japan's position and mission.

4 "It goes without saying that Japan at all
5 times is endeavoring to maintain and promote her
6 friendly relations with foreign nations, but at the
7 same time we consider it only natural that, to keep
8 peace and order in East Asia, we must even act alone
9 on our own responsibility and it is our duty to per-
10 form it. At the same time, there is no country but
11 China which is in a position to share with Japan the
12 responsibility for the maintenance of peace in East
13 Asia. Accordingly, unification of China, preserva-
14 tion of her territorial integrity, as well as res-
15 toration of order in that country, are most ardently
16 desired by Japan. History shows that these can be
17 attained through no other means than the awakening
18 and the voluntary efforts of China herself. We
19 oppose, therefore, any attempt on the part of China
20 to avail herself of the influence of any other
21 country in order to resist Japan: We also oppose
22 any action taken by China, calculated to play one
23 power against another. Any joint operations under-
24 taken by foreign powers even in the name of technical
25 or financial assistance at this particular moment

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1 after the Manchurian and Shanghai Incidents are
2 bound to acquire political significance. Undertak-
3 ings of such nature, if carried through to the end,
4 must give rise to complications that might eventually
5 necessitate discussion of problems like fixing spheres
6 of influence or even international control or division
7 of China, which would be the greatest possible mis-
8 fortune for China and at the same time would have the
9 most serious repercussion upon Japan and East Asia."

10 THE PRESIDENT: Could we have the exhibit
11 number of the statement, if it is already tendered?

12 MR. KEEMAN: I can bring it to you immedi-
13 ately at the beginning of next session. I have all
14 those exhibits.

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

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

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AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at
1330.

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

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THE PRESIDENT: Mr. Chief of Counsel.

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J O S E P H W. B A L L A N T I N E, called as a
witness on behalf of the prosecution, resumed
the stand and testified as follows:

12

DIRECT EXAMINATION

13

BY MR. KEENAN (Continued):

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MR. KEENAN: For the convenience of the Court,
the Ammu Statement which I am now reading is exhibit
935. It is found on page 9389 of transcript of record,
4 November. Resuming from the document:

"Japan, therefore must object to such under-
takings as a matter of principle, although she will
not find it necessary to interfere with any foreign
country negotiating individually with China on ques-
tions of finance or trade, as long as such negotiations
benefit China and are not detrimental to the maintenance
of peace in East Asia.

"However, supplying China with war planes,

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1 building aerodromes in China and detailing military
2 instructors or military advisors to China or contract-
3 ing a loan to provide funds for political uses, would
4 obviously tend to alienate the friendly relations be-
5 tween Japan and China and other countries and to dis-
6 turb peace and order in East Asia. Japan will oppose
7 such projects.

8 "The foregoing attitude of Japan should be
9 clear from the policies she has pursued in the past.
10 But, on account of the fact that positive movements
11 for joint action in China by foreign powers under one
12 pretext or another are reported to be on foot, it is
13 deemed not inappropriate to reiterate her policy at
14 this time."

15 THE WITNESS: (Reading)

16 "On December 29, 1934, while HIROTA was still
17 Foreign Minister, Japan gave formal notice of its
18 intention to withdraw at the end of 1936 from the
19 Naval Limitation Treaty signed at Washington on
20 February 6, 1933."

21 MR. LOGAN: If the Tribunal please, I object
22 to the witness reading the next sentence in that para-
23 graph and the paragraph which follows it on the ground
24 they are conclusions, and, certainly, those conclusions
25 are something which the Court should determine and

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1 this witness should not be permitted to read them.

2 THE PRESIDENT: The witness certainly has drawn
3 conclusions which the Court, of course, will draw for
4 itself. He has also sworn to issues but, as I said
5 before, we are going to disregard all those things.
6 He has sworn to a violation of the Nine-Power Pact
7 which, I think, is an issue raised by the Indictment.

8 MR. KEENAN: Mr. President, might I respectfully
9 advise the Tribunal of the position of the prosecu-
10 tion, that this witness is more than an expert. He is
11 the representative of the United States of America
12 at these prime negotiations preceding the outbreak of
13 war and while, of course, none of his comments, de-
14 ductions or conclusions are offered as being in any
15 manner attempting to convince the Court of the truth
16 of what he is saying, those facts will be determined,
17 of course, by this Honorable Court from the evidence
18 before it, but he is setting forth the views of him-
19 self and his colleagues authorized to represent the
20 United States in the exploratory conversations and in
21 the attitude and proceedings thereafter which may be
22 of interest to the Court.

23 MR. LOGAN: Our difficulty, your Honor, is
24 that we appreciate your ruling that you intend to
25 disregard conclusions, but when the affidavit is

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1 completed we don't know which conclusions the Court
2 has disregarded. We hope that you disregard the same
3 conclusions we would like to have disregarded, but we
4 don't know.

5 THE PRESIDENT: Well, it is a pity that he is
6 purposed to swear to the breach of the Nine-Power Pact.
7 He could have stated the facts from which we might have
8 drawn the conclusion that there had been a breach.

9 MR. KEENAN: He is stating, Mr. President,
10 the position of the United States of America taken
11 in the month of June and July, August and September
12 and later in 1941 with no desire or purpose of
13 attempting through his testimony --

14 THE PRESIDENT: Take this last statement.
15 It may be the fact but it is not for him. "Following
16 the giving of that notice, Japan proceeded energetically
17 to increase her armaments, preparatory to launching
18 her invasion in China." We can be trusted to draw
19 our own conclusions from the other evidence. There
20 is such evidence.

21 MR. KEENAN: I have been unsuccessful,
22 Mr. President, in making clear our theory that we are
23 not attempting to have this witness fore swear an issue.
24 We are attempting to have him state the background as
25 it appeared to the Secretary of State of the United

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1 States at the time those negotiations or exploratory
2 conversations were being had.

3 THE PRESIDENT: But that doesn't render his
4 conclusions any more acceptable or admissible. It is
5 an explanation but not a justification. I think the
6 position --

7 MR. KEENAN: The prosecution, in its judgment,
8 differs sharply with the views as expressed by the
9 President of the Court on that subject, and for that
10 reason offered this evidence. If it had believed that
11 the Court did not believe it to be proper to show the
12 position taken by the United States of America and
13 the reasons why its officials took that position,
14 this evidence would not have been tendered. We thought
15 it competent then, we think it competent now. The
16 Court, of course, will rule.

17 THE PRESIDENT. Well, now, Mr. Chief of Counsel,
18 I can assure you that I am expressing not my own view
19 but that of the whole Tribunal, as far as I am aware,
20 with one exception probably. I shall read what I
21 regard as being the view of the majority of the Tri-
22 bunal. I didn't write it; it was handed to me, but
23 it is in accordance with what I have been saying.
24 "The defense should be satisfied if we regard only
25 facts deposed to by Mr. Ballantine. All inferences

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1 and conclusions made by him we will ignore. We can
2 ourselves draw all necessary inferences and conclusions.

3 MR. KEENE: I would think, Mr. President,
4 that the parts that are referred to in this affidavit
5 which the Court itself has adverted to are statements
6 of facts with the exception, of course, of the allega-
7 tion that it was the claim of the United States of
8 America that the Nine-Power Pact was broken. That was
9 the intention of this affidavit, to set forth that
10 the United States of America claimed that the Nine-Power
11 Pact was flagrantly violated.

12 THE PRESIDENT: I referred also to the
13 following passage: "Following the giving of that notice,
14 Japan proceeded energetically to increase her armaments,
15 preparatory to launching her invasion in China." That
16 is a conclusion from facts inasmuch as it states the
17 reason for the preparation, for the increase in arma-
18 ments. However, that is only one of many such things
19 and, perhaps, the smallest of them all.

20 MR. KEENE: One thing, Mr. President, I
21 think is -- we can all be reasonably secure in, and
22 that is that this Court will not be prejudiced by any
23 unwarranted conclusion or any inference that may be
24 drawn. We are not addressing a jury.

25 THE PRESIDENT: Perhaps what the witness is

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1 saying, Mr. Chief of Counsel, would be less objection-
2 able if he made it clear that he was giving, for what
3 it was worth, the motives or reasons that actuated
4 the United States Government, but it doesn't so appear.

5 MR. KEENE: It will so appear, Mr. President,
6 in this affidavit.

7 THE PRESIDENT: If the reasons for the attitude
8 of the United States Government at any time or times
9 becomes relevant to any issue, of course those reasons
10 may be given.

11 MR. KEENE: Mr. Ballantine, were the state-
12 ments made in the affidavit which you prepared and from
13 which you are reading the conclusions and presumptions
14 of fact upon which the officials of the United States
15 Government acted?

16 THE WITNESS: They were.

17 MR. KEENE: Are you stating the position,
18 having participated with Mr. Cordell Hull in the --

19 MR. LOGAN: If the Court please.

20 MR. KEENE: Just a minute. I would like to
21 finish the question.

22 MR. LOGAN: The witness was about to answer.

23 MR. KEENE: In other words, Mr. Ballantine,
24 having taken part in these discussions with the
25 President and Secretary of State at the times mentioned

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1 in 1941, are you stating the position of the Government
2 of the United States on these matters?

3 THE WITNESS: I am.

4 MR. LOGAN: If the Tribunal please, we object
5 to the form of the question asked by the Chief Prose-
6 cutor and also object to the fact that this witness is
7 endeavoring to interpret for the Court his own affidavit,
8 and if he has answered the question we ask that it be
9 stricken out.

10 THE PRESIDENT: The only course open to the
11 Tribunal is to allow the witness to proceed to read his
12 statement and the Court, of course, will disregard
13 all his conclusions but will confine itself to his
14 statement of facts. If there is any particular con-
15 clusion which you think we should accept, you may press
16 for its acceptance separately, Mr. Chief Prosecutor,
17 but I don't think there will be any. To that extent,
18 Mr. Logan's objection is upheld.

19 MR. FILLER: Mr. President, I think I ought
20 to explain that this affidavit was prepared chiefly
21 by my distinguished, learned, and beloved colleague,
22 Mr. Comyns Carr, who is ill and I am taking his place
23 at the present time, and by Mr. Ballantine.

24 Will you please proceed to read the affidavit?

25 THE WITNESS: (Reading) "In July 1937, with

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1 HIROTA again Foreign Minister, Japan deliberately
2 took advantage of a minor incident between Chinese and
3 Japanese forces at a point near Peiping and began
4 flagrantly to invade China on a huge scale. She poured
5 into China immense armies which spread fan-like over
6 great areas, including industrial and other key centers.
7 These armies raped, robbed, murdered and committed all
8 kinds of lawless acts. Particularly barbarous were
9 the outrages in Nanking following occupation of that
10 city by Japanese military on December 13, 1937. Public
11 opinion in the United States was shocked by these out-
12 rages.

13 "Subsequent to the renewed Japanese armed
14 attack on China, beginning on July 7, 1937, relations
15 between the United States and Japan steadily deterior-
16 ated. The Japanese military forces completely dis-
17 regarded in their acts suggestions made by the United
18 States and other governments that reasonable consider-
19 ations be given by them to the safety, rights and
20 interests of nationals of third countries in China.
21 American public opinion became outraged by the methods
22 and strategy employed by the Japanese military and
23 became gradually more and more critical of Japan. The
24 United States Government looked with thorough disfavor
25 upon the current manifestations of Japanese foreign

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1 policy and upon the methods employed by the Japanese
2 military in pursuit of their policy.

3 "On August 10, 1937, the United States made
4 an offer of American good offices in the dispute be-
5 tween Japan and China, but the attitude of the Japanese
6 Government was such that nothing came of it."

7 MR. KEENAN: That is exhibit 950 in this record.

8 THE WITNESS: (Reading)

9 "On October 6, 1937, the American Government
10 protested that the action of Japan in China was incon-
11 sistent with the principles which should govern rela-
12 tionships between nations and was contrary to the
13 provisions of the Nine-Power Treaty and of the Briand-
14 Kellogg Pact.

15 "In November 1937 the United States partici-
16 pated with eighteen other nations in a conference held
17 at Brussels to 'study peaceable means of hastening the
18 end of the regrettable conflict which prevails' in
19 the Far East. The conference was held in accordance
20 with a provision of the Nine-Power Treaty of 1922.
21 The reported refusals of the Japanese Government to
22 participate in the conference effectively prevented
23 efforts to bring about an end to the conflict by
24 mediation and conciliation. On November 24 the confer-
25 ence suspended its sittings."

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1 "On December 12, 1937, Japanese aircraft bombed
2 and sank the U.S.S. Pency in the Yangtze River.

3 "To gain public support in Japan for its pro-
4 gram of military expansion, slogans were used, such
5 as 'the new order in Greater East Asia' and 'the East
6 Asia Co-Prosperity Sphere.' The United States and
7 other countries were charged with attempting to choke
8 Japan's development. That charge was entirely unfounded
9 except as it applied to American and British opposition
10 to Japan's courses of aggression.

11 "On July 26, 1939, the Government of the
12 United States notified the Japanese Government of its
13 intention to terminate the Treaty of Commerce and
14 Navigation of 1911. It was felt that this treaty was
15 not affording adequate protection to American commerce
16 either in Japan or in Japanese occupied portions of
17 China, while at the same time the operation of the most-
18 favored-nation clause of the treaty was a bar to the
19 adoption of retaliatory measures against Japanese
20 commerce. The treaty, therefore, terminated on January
21 26, 1940."

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1 "During the entire period of the undeclared
2 war between Japan and China there was on the part of
3 the Japanese Government and the Japanese authorities
4 in China flagrant disregard for and violation of
5 American rights and interests and the jeopardizing
6 of American lives. American property was invaded,
7 occupied, and taken over by the Japanese military
8 authorities. In many instances American property
9 was bombed and American citizens placed in jeopardy
10 of their lives. Discriminatory restrictions were
11 placed upon American enterprise and trade in China.
12 Japanese censorship of and interference with American
13 mail and telegrams and restrictions upon freedom of
14 trade, residence and travel by Americans subjected
15 American interests to continuing serious inconven-
16 iences and hardships. Notwithstanding repeated
17 representations and protests by the American Govern-
18 ment and notwithstanding repeated and categorical
19 assurances by the Japanese Government that equality
20 of opportunity on the Open Door in China would be
21 maintained and that American rights would be respected,
22 violations of American rights and interests continued.

23 "The imposition by the Japanese authorities
24 of restrictions upon the movement and activities of
25 Americans in China operated to place Japanese

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1 interests in a preferred position in China and
2 was discriminatory in its effect upon legitimate
3 American interests. The imposition by the Japanese
4 authorities of exchange controls, compulsory
5 currency circulation, tariff revision and monopolistic
6 protection implied an assumption on the part of the
7 Japanese authorities that the Japanese Government
8 or the regimes established and maintained in China
9 by Japanese armed forces were entitled to act in
10 China in a capacity such as flows from rights of
11 sovereignty and to disregard the established rights
12 and interests of other countries, including the
13 United States.

14 "The Japanese Prime Minister, in a public
15 statement November 3, 1938, said in part: 'All
16 countries of the world should have a clear recog-
17 nition regarding the new situation in the Far East.
18 History shows clearly that peace and independence
19 in China have been frequently renaced as the result
20 of the struggle for supremacy among foreign powers
21 which was based on imperialistic ambitions. Japan
22 sees the necessity of effecting a fundamental re-
23 vision in this situation and desires to establish
24 a new peace fabric in Far East on the basis of
25 justice. It goes without saying that Japan will

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1 not exclude cooperation of foreign Powers. Neither
2 she intends to damage the legitimate rights of the
3 third Power in China. If the Powers understand
4 the real intentions of Japan and devise a policy
5 in accordance with the new situation in the Far
6 East, Japan does not grudge to cooperate with them
7 for peace in the Far East.' He did not, however,
8 define what he meant by policies 'in accordance
9 with the new situation in the Far East.' (U. S.
10 Foreign Relations -- Japan - 1931-1941, Volume I
11 page 480.)"

12 MR. KEEMAN: That is exhibit 220-C in
13 this record.

14 THE WITNESS: (Continuing)

15 "In September 1939 the Government of
16 the United States protested to the Japanese Govern-
17 ment against a large-scale propaganda campaign
18 against Western nations, including the United States,
19 undertaken by Japanese agencies in areas of China
20 under Japanese control. In pronouncements and
21 manifestos issued by puppet regimes at Peiping
22 and Nanking it was sought to persuade Chinese
23 people that the difficulties and burdens which
24 the hostilities had brought upon the native popu-
25 lation should be blamed upon the Western nations,

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1 including the United States. Strong anti-American
2 feeling was fostered in various places, anti-
3 American parades were organized, and anti-American
4 banners and posters were displayed.

5 "In August and September 1940 it came
6 to the knowledge of the Department of State that
7 Japan had concluded an agreement with Vichy France
8 under which Japanese troops moved into northern
9 Indo-China. The Acting Secretary of State on
10 September 20, 1940, informed the Japanese Ambassador
11 that the Ambassador himself could be under no
12 misapprehension as to the very serious disquiet
13 and very open opposition which the action threaten-
14 ed by Japan in Indo-China would create in the minds
15 of the members of the United States Government
16 and on the part of public opinion generally in
17 the United States.

18 "In September 1940, Japan entered into
19 the Tripartite Pact with Germany and Italy. In
20 the view of the Government of the United States
21 that alliance was aimed directly at the United
22 States. It was designed to discourage the United
23 States from taking adequate measures of self-defense
24 until both Japan and Germany had completed their
25 program of conquest in Asia and Europe, when they

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1 could turn on the United States then standing alone.
2 The Secretary of State in commenting on September
3 30, 1940, to the British Ambassador on the sub-
4 ject of that alliance observed that the relations
5 among Germany, Italy and Japan, each having a
6 common objective of conquering certain areas of
7 the world and each pursuing identical policies of
8 force, devastation, and seizure, had been during
9 recent years on the 'basis of complete understanding
10 and of mutual cooperation' for all practical purposes.

11 "After the autumn of 1940 it became clearly
12 apparent that the Japanese military leaders had
13 embarked upon a program for the conquest of the
14 entire Far East and Western Pacific area. That
15 program was referred to by euphemistic slogans
16 such as the 'New Order in Greater East Asia' and
17 'the Greater East Asia Co-prosperity Sphere.'
18 They went out with force and entered into collabor-
19 ration with Hitler to establish a new world order,
20 arrogating to themselves a sphere which embraced
21 an area occupied by nearly half of the population
22 of the world.

23 "During all these years the Government
24 of the United States consistently sought to remind
25 the Japanese Government of the traditional friendship

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1 and mutually profitable relations between the two
2 countries and to keep before the Japanese Government
3 in the most tactful manner possible the principles
4 which should form the basis of worthwhile relation-
5 ships between nations. The Government of the
6 United States also sought to dissuade Japan from
7 her courses by pointing the way to just and honorable
8 alternatives which would have assured Japan what she
9 professed to seek - national security and economic
10 prosperity.

11 "It was also necessary to bear in mind
12 in entering upon the conversations with the Japanese
13 in 1941, Japan's long record of duplicity in inter-
14 national dealings.

15 "In 1904, Japan guaranteed Korea's inde-
16 pendence and territorial integrity. In 1910, Japan
17 annexed Korea.

18 "In 1908, Japan pledged with the United
19 States to support the independence and integrity
20 of China and the principle of equal opportunity
21 there. In 1915, Japan presented to China the
22 notorious 'twenty-one demands.'"
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24
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1 "In 1918, Japan entered into an inter-
2 allied arrangement whereby forces, not exceeding
3 about 7,000 by any one power, were to be sent to
4 Siberia to guard military stores which might be sub-
5 sequently needed by Russian forces, to help the Rus-
6 sians in the organization of their own self-defense,
7 and to aid the evacuating Czechoslovakian forces in
8 Siberia. The Japanese military saw in this enter-
9 prise an opportunity in which they were eventually
10 unsuccessful, to annex eastern Siberia and sent more
11 than 70,000 troops.

12 "In the Nine-Power Treaty of 1922, Japan
13 agreed to respect China's sovereignty, independence
14 and territorial and administrative integrity. Japan
15 also agreed to use its influence to establish the prin-
16 ciple of equal opportunity there. Japan's whole
17 course in China since 1931 of military occupation
18 and economic domination was in violation of those
19 pledges.

20
21 "On November 21, 1932, Mr. MATSUOKA, then
22 Japanese delegate to the League of Nations, said:
23 'We want no more territory'. By the end of 1932
24 Japanese forces had occupied the whole of Manchuria,
25 and in subsequent years they moved southward and
westward occupying a vast area of China."

1 "On July 27, 1937, Prince KONOYE, then
2 Japanese Premier, said: 'In sending troops to North
3 China, of course, the Government has no other pur-
4 pose, as was explained in its recent statement, than
5 to preserve the peace of East Asia.' In order to
6 'preserve the peace of East Asia,' Japanese forces
7 for four years had carried warfare and suffering over
8 the greater part of China.

9 "On October 28, 1937, the Japanese Foreign
10 Office said, 'Japan never looks upon the Chinese
11 people as an enemy . . . ' Japan showed its friendly
12 feeling for China by bombing Chinese civilian popu-
13 lations, by burning Chinese cities, by making mil-
14 lions of Chinese homeless and destitute, by mistreat-
15 ing and killing civilians, and by acts of horror and
16 cruelty.

17
18 "On April 15, 1940, Mr. ARITA, then Japanese
19 Minister for Foreign Affairs, said the 'Japanese Gov-
20 ernment cannot but be deeply concerned over any dev-
21 elopment . . . that may affect the status quo of the
22 Netherlands East Indies.' Following the occupation
23 of the Netherlands by Germany that spring, Japan
24 sent a Commercial Commission to the Indies which
25 asked concessions so far reaching that, if granted,
they would have reduced the Indies practically to a

1 Japanese colony.

2 "After the renewal of Japan's undeclared
3 war against China in July 1937, Japanese civilian
4 leaders time and again gave assurances that American
5 rights would be respected. Time and again the Jap-
6 anese military acted in violation of those assurances.

7 "Time and again the Japanese gave assur-
8 ances that American lives and property in China would
9 be respected. Yet there were reported in steadily
10 mounting numbers cases of bombing of American proper-
11 ty with consequent loss or endangering of American
12 lives.

13 "Time and again, the Japanese gave assur-
14 ances that American treaty rights in China would be
15 respected. Unnumbered measures infringing those
16 rights were put into effect in Japanese-occupied
17 areas. Trade monopolies were set up, discriminatory
18 taxes were imposed, American properties were occupied,
19 and so on. In addition, American nationals were
20 assaulted, arbitrarily detained, and subjected to
21 indignities.

22 "In 1931-1933, while Japan was carrying for-
23 ward its program of aggression, the American Govern-
24 ment was moving steadily ahead in advocacy of world
25 support of sanctity of treaties and peaceful processes."

1 "On May 16, 1934, the Secretary of State
2 had a general conversation with Japanese Ambassador
3 SAITO, one of many conversations in which he endea-
4 vored to convince the Japanese that their best in-
5 terests lay in following policies of peace.

6 "Three days later, the Secretary of State
7 talked again with the Japanese Ambassador. During
8 the conversation, the Ambassador repeated the form-
9 ula which his Government had been putting forward
10 publicly for some weeks to the effect that Japan had
11 a superior and special function in connection with
12 the preservation of peace in Eastern Asia. The Sec-
13 retary of State brought to the Japanese Ambassador's
14 attention the clear implications contained in the
15 Japanese formula of the intention on the part of Ja-
16 pan to exercise an overlordship over neighboring
17 nations and territories.

18 "During the winter of 1940 and the spring
19 of 1941, it was apparent that the Japanese military
20 leaders were starting on a mission of conquest of the
21 entire Pacific area west of a few hundred miles of
22 Hawaii and extending to the South Seas and to India.
23 The Japanese were out with force in collaboration with
24 Hitler to establish a new world order, and they thought
25 they had the power to compel all peaceful nations to

1 come in under that new order in the half of the world
2 they had arrogated to themselves.

3 "In March 1941, just as I was about to pro-
4 ceed to China to assume the post of Counselor of Em-
5 bassy there, I was instructed by the Secretary of
6 State to remain in Washington for consultation in
7 connection with a suggestion which had been inform-
8 ally brought to the attention of the President and
9 the Secretary of State through the medium of private
10 Americans and Japanese that the Japanese Government
11 would welcome an opportunity to alter its political
12 alignments and modify its attitude toward China. It
13 was represented that if an agreement could be achieved
14 with the U. S. which would offer Japan security, this
15 would enable the moderate elements in Japan to gain
16 control of the domestic political situation there.
17 It was further represented that there was adequate
18 support in the Japanese Government for an agreement
19 with the U. S. which would provide, among other things,
20 for practical nullification of Japan's alliance with
21 the Axis and for settlement of the conflict between
22 China and Japan on terms which would give complete
23 recognition by Japan of the 'open door' in China, pro-
24 vided that Japan received similar treatment elsewhere
25 in the Far East. It was also represented that the

1 Japanese people were weary of the hostilities with
2 China and that most elements in Japan were prepared
3 for a recasting of Japan's policies along liberal
4 and peaceful lines.

5 "Welcoming these suggestions, but also
6 with the history as above summarized in mind, the
7 President and the Secretary of State during March and
8 April, 1941, several times discussed with the Japan-
9 ese Ambassador the subject of effecting an improve-
10 ment in the relations between the United States and
11 Japan.

12 "On May 12, the Japanese Ambassador pre-
13 sented as under instructions a proposal for a gen-
14 eral settlement between the two countries covering
15 the entire Pacific area. A copy of that document is
16 annexed as Exhibit B."
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1 MR. KEENAN: That, if the Court please,
2 is exhibit 1070, found on page 9891 of transcript
3 of record for 7 November 1946. It is a very long
4 document, and I do not believe the Court would care
5 to have it repeated at this time.

6 THE PRESIDENT: No, I do not think there is
7 occasion to do so, so far, Mr. Chief of Counsel.

8 THE WITNESS: (Continuing)

9 "The terms which Japan intended to propose
10 to China were indicated only through reference to the
11 'KONOYE principles.' Inasmuch as the 'KONOYE princi-
12 ples' had been made the basis of a so-called treaty
13 between Japan and the Wang Ching-Wei Regime in Novem-
14 ber 1940, which had placed Japan in a position of
15 overlordship with respect to the Wang Regime, the
16 Secretary of State sought to induce the Japanese to
17 state precisely the terms which they had in mind as a
18 basis of Japan's negotiations with China, but the
19 Japanese Ambassador and his associates constantly
20 avoided making definite commitments by constant resort
21 to vague generalities. In the course of conversations
22 with me and with other officers of the Department,
23 Colonel Hideo IWAKURO, the Special Military Adviser
24 to the Japanese Ambassador, explained that the areas
25 where stationing of Japanese troops in China was con-

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1 completed under a provision for 'defense against
2 Communistic activities through collaboration of the
3 two countries /China and Japan/' included Inner
4 Mongolia and the adjacent regions of China proper,
5 comprehending a line of communication to the sea as
6 far south as Tsingtao which thus meant Japanese mili-
7 tary domination of the five northern provinces of Hopci,
8 Shantung, Shansi, Chehar, and Suiyuen, with an aggregate
9 area of more than 400,000 square miles and an estimated
10 population of more than 80,000,000. This territory was
11 in addition to Manchuria and the province of Jehol which
12 Japan had brought under her control some years earlier.
13 The Military Advisor declared to me that this stationing
14 of Japanese troops in China was an absolute condition
15 of any settlement with China.

16 "Notwithstanding the various objectionable
17 features of the Japanese Government's proposal, in view
18 of the world situation the Government of the U. S. de-
19 cided to explore thoroughly every possible means, start-
20 ing with the Japanese proposals, of coming to an agree-
21 ment. The Secretary of State on numerous occasions at
22 which I was present emphasized to the Japanese Ambassa-
23 dor that this Government was aware of the difficult
24 internal situation which the Japanese Government faced
25 and was prepared to be patient and to give the Japanese

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1 Government ample time to bring Japanese public opinion
2 into line in support of a liberal broad-gauge program,
3 such as the Secretary of State and the Japanese Ambas-
4 sador had been discussing in their conversations. The
5 Japanese representatives expressed surprise that this
6 Government should raise with them the points in regard
7 to the terms of settlement which Japan proposed with
8 China as they regarded the settlement of the China
9 affair as a matter which concerned only China and Japan.
10 The Secretary of State pointed out in numerous conver-
11 sations that a peaceful settlement between Japan and
12 China was an essential element in furthering the ob-
13 jective which the U.S. and Japan had in mind, namely,
14 the peace of the Pacific, and that if the U.S. should,
15 as the Japanese proposed, suggest that China enter
16 negotiations with Japan, this Government could not
17 divest itself of a certain degree of responsibility
18 with regard to the basis of the proposed negotiations
19 and the general conformity of Japan's proposed terms
20 with the principles which this Government supports.
21 On May 28, in response to questions asked by the Sec-
22 retary of State, the Japanese Ambassador indicated that
23 withdrawal of the Japanese troops from China follow-
24 ing a settlement with China, would not include Japa-
25 nese troops retained in China for 'cooperative defense

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1 against Communism,' and that he was unable to state
2 how many troops Japan would propose retaining or to
3 define the precise areas in which these troops would
4 be stationed. The Japanese Ambassador, in reply to
5 further questions by the Secretary of State, said
6 that he did not believe that the Far East had pro-
7 gressed to a point where other arrangements would be
8 feasible. The Secretary of State also, on Mar 28,
9 made it clear that the Japanese proposed formula with
10 reference to Japan's relations to the Axis did not
11 adequately clarify Japan's peaceful intention toward
12 the U. S., should the U. S. through acts of self-
13 defense become involved in war with Germany. He em-
14 phasized that such clarification was needed, especially
15 to off-set statements being made by Japanese officials
16 in justification of Japan's Axis obligations and that
17 if we made an agreement with Japan, critics would, un-
18 less the Japanese Government had adequately clarified
19 its attitude on this point, assert that there was no
20 assurance as to Japan's position vis-a-vis the U. S.

21 "The question of what Japan meant by 'economic
22 cooperation' between China and Japan was also discussed.
23 As the informal conversations proceeded, it was evi-
24 dent that Japan intended to retain a preferred economic
25 position for herself in China, while at the same time

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1 trying to obtain for herself in the southwestern Paci-
2 fic area economic rights such as it was unwilling that
3 a Third Power should enjoy in China. The Secretary
4 of State made it clear that retention by Japan of a
5 preferred position in China would be inconsistent with
6 the principle of non-discrimination in international
7 commercial relations to which this Government was com-
8 mitted, which it believed to be essential for a last-
9 ing peace in the Pacific, and which the Japanese had
10 said they approved.

11 "On June 6, the Secretary of State informed
12 the Japanese Ambassador that he had received the im-
13 pression, from the successive Japanese revisions of
14 their proposal and from recent manifestations of the
15 Japanese Government's attitude, that the Japanese Govern-
16 ment was disposed (1) to stress Japanese alignment with
17 the axis; (2) to avoid giving a clear indication of an
18 intention to place Japan's relations with China on a
19 basis which would contribute to a lasting peace in the
20 Far East; and (3) to veer away from clear-cut commit-
21 ments in regard to policies of peace and of non-dis-
22 criminatory treatment which were the fundamentals of a
23 sound basis for peace in the Pacific."
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1 "The Japanese pressed for a complete reply
2 to their proposals of May 12. Accordingly, on
3 June 21, the Ambassador was given the American Govern-
4 ment's view in the form of a tentative redraft of
5 their proposals. A copy of that document is appended
6 as Exhibit C."

7 MR. KEENAN: Exhibit C in this document
8 is, in this case, exhibit 1092, found on page 10,004
9 of the transcript of the record for the date of
10 8 November 1946.

11 THE WITNESS: "There is annexed as Exhibit D
12 a comparison in parallel columns between such provisions
13 of the Japanese proposal of May 12 and the American
14 counterdraft of June 21, as represented material and
15 essential differences."

16 MR. KEENAN: I intended, if the Court please,
17 to follow a procedure of having each individual
18 exhibit from D to N separately identified and offered
19 in evidence, one by one. So I, therefore, offer in
20 evidence this exhibit D, and ask that it be offered
21 for identification at this time.

22 THE PRESIDENT: Admitted.

23 Mr. Logan.

24 MR. LOGAN: If the Tribunal please, there
25 is nothing on this document nor in the affidavit to

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1 indicate who drew it or from where it came.

2 THE PRESIDENT: I take it the witness did.

3 MR. KEENAN: Mr. President, I suggest that
4 might be a little technical, but I can clear it up
5 right away.

6 Mr. Ballantine, can you tell us who drew up
7 this draft, exhibit D?

8 THE WITNESS: I drew it up myself, by taking
9 the essential provisions to show just what the
10 differences were on these essential points. I drew
11 it up myself.

12 CLERK OF THE COURT: Prosecution's document
13 No. 2215-D will receive exhibit No. 1245-A.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 1245-A, and received in evidence.)

17 MR. KEENAN: I understand that that has been
18 admitted in evidence?

19 THE PRESIDENT: Yes.

20 MR. KEENAN: I would like at this time, if the
21 Court please, for the Court's convenience, to have
22 counsel permitted to read paragraph by paragraph
23 where there are counter-paragraphs, the Japanese
24 Government's draft, and have the witness respond as to
25 the American Government's counter-draft, merely for

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1 convenience in presentation if it meets with the
2 Court's approval.

3 THE PRESIDENT: You may follow that course.
4 for the time being, Mr. Chief of Counsel.

5 MR. KEENAN: "Japanese Government's Draft of
6 May 12.

7 "II. The attitude of both Governments toward
8 the European War."

9 THE WITNESS: It is the same heading, American
10 Draft.

11 "II. The attitude of both Governments toward the
12 European War."

13 MR. KEENAN: "The Governments of the United
14 States and Japan make it their common aim to bring
15 about the world peace; they shall, therefore, jointly
16 endeavour not only to prevent further extension of the
17 European War but also speedily to restore peace in
18 Europe."

19 THE WITNESS: There is no counterpart to
20 that paragraph in the American draft.

21 MR. KEENAN: "The Government of Japan maintains
22 that its alliance with the Axis Powers was, and is,
23 defensive and designed to prevent the nations which
24 are not at present directly affected by the European
25 War, from engaging in it."

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1 THE WITNESS: The first paragraph of the
2 American draft is the counterpart:

3 "The Government of Japan maintains that the
4 purpose of the Tripartite Pact was, and is, defensive
5 and is designed to contribute to the prevention of an
6 unprovoked extension of the European War."

7 MR. KEENAN: "The Government of Japan
8 maintains that its obligations of military assistance
9 under the Tripartite Pact between Japan, Germany and
10 Italy will be applied in accordance with the stipula-
11 tion of Article 3 of the said Pact."

12 THE WITNESS: There is no counterpart in the
13 American counter-draft to this paragraph 3.

14 MR. KEENAN: "The Government of the United
15 States maintains that its attitude toward the European
16 War is, and will continue to be, directed by no such
17 aggressive measures as to assist any one nation
18 against another. The United States maintains that it is
19 pledged to the hate of war, and accordingly, its
20 attitude toward the European War is, and will continue
21 to be, determined solely and exclusively by considera-
22 tions of the protective defense of its own national
23 welfare and security."

24 THE WITNESS: The second paragraph is the
25 counterpart to that, the second paragraph plus the

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1 note;

2 "The Government of the United States maintains
3 that its attitude toward the European hostilities is and
4 will continue to be determined solely and exclusively
5 by considerations of protection and self-defense: its
6 national security and the defense thereof.

7 "Note (There is appended a suggested draft
8 of an exchange of letters as a substitute for the
9 Annex and Supplement on the Part of the Government
10 of the United States on this subject which constituted
11 a part of the draft of May 31, 1941. For discussion
12 of the fundamental question underlying this whole
13 section, vide the Oral Statement handed the Japanese
14 Ambassador on June 21.)

15 "(See also suggested exchange of letters
16 Annex 3.)"

17 Now, that note is not my note. That note was
18 embodied in the communication that was delivered to
19 the Japanese representatives.

20 MR. KEENAN: I might state to the Court at
21 this time in offering this exhibit that it is intended
22 solely for the purpose of aiding the Court and everyone
23 else in setting forth the differences, as the prosecu-
24 tion believes them to be, of the different suggestions
25 made by the one country, revised or accepted or refused

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1 by the other. It has no other evidentiary value
2 whatsoever.

3 THE PRESIDENT: One of my colleagues points
4 out that this exhibit 1245-A is made up of exhibits
5 1070 and 1092, both of which have been read. The
6 Tribunal does not desire that any more of exhibit 1245-A
7 be read.

8 MR. KEENAN: I thought perhaps the Court
9 would so order, and that is why I made the suggestion
10 to further explain the exhibit.

11 THE PRESIDENT: Well, I told you to proceed
12 to read it for the time being, Mr. Chief Prosecutor.

13 MR. KEENAN: Yes.

14 THE PRESIDENT: But that is how it has
15 reacted on the Court.

16 MR. KEENAN: Yes, your Honor.

17 (Addressing the witness) Will you proceed
18 to read the affidavit.

19 THE WITNESS: "On June 22, Germany attacked the
20 Soviet Union, and in July the American Government began
21 receiving reports that a large Japanese military
22 movement into southern Indo-China was imminent. This
23 Japanese movement threatened the Philippine Islands
24 and British and Dutch possessions in the western
25 Pacific area. It also threatened vital trade routes."

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1 " Officers of the Department of State immediately
2 brought these reports to the attention of the Japanese
3 Ambassador, pointed out the inconsistency between
4 such a military movement and the conversations which
5 were then proceeding, and requested information
6 as to the facts. On July 23, the Japanese
7 Ambassador stated in explanation that Japan needed to
8 secure an uninterrupted source of supplies and to insure
9 against encirclement of Japan militarily. The Acting
10 Secretary of State, Mr. Welles, replied that the
11 agreement which was being discussed between American
12 and Japanese representatives, would give Japan far
13 greater economic security than she could gain by
14 occupying Indo-China. He pointed out that the United
15 States policy was the opposite of an encirclement
16 policy. He said that the United States could only
17 regard the action of Japan as constituting notice that
18 Japan was taking the last step to proceeding on a
19 policy of expansion and conquest in the region of
20 the South Seas. He told the Ambassador, under instruct-
21 ions from the Secretary of State, that under those
22 circumstances, the Secretary could not see any basis
23 for pursuing further the conversations with the
24 Japanese Ambassador."

25 THE PRESIDENT: We will recess now for

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1 " Officers of the Department of State immediately
2 brought these reports to the attention of the Japanese
3 Ambassador, pointed out the inconsistency between
4 such a military movement and the conversations which
5 were then proceeding, and requested information
6 as to the facts. On July 23, the Japanese
7 Ambassador stated in explanation that Japan needed to
8 secure an uninterrupted source of supplies and to insure
9 against encirclement of Japan militarily. The Acting
10 Secretary of State, Mr. Welles, replied that the
11 agreement which was being discussed between American
12 and Japanese representatives, would give Japan far
13 greater economic security than she could gain by
14 occupying Indo-China. He pointed out that the United
15 States policy was the opposite of an encirclement
16 policy. He said that the United States could only
17 regard the action of Japan as constituting notice that
18 Japan was taking the last step to proceeding on a
19 policy of expansion and conquest in the region of
20 the South Seas. He told the Ambassador, under instruct-
21 ions from the Secretary of State, that under those
22 circumstances, the Secretary could not see any basis
23 for pursuing further the conversations with the
24 Japanese Ambassador."

25 THE PRESIDENT: We will recess now for

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1 fifteen minutes.

2 (Whereupon, at 1445 a recess was
3 taken until 1505, after which the proceedings
4 were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. Chief of Counsel.

4 THE WITNESS (Reading):

5 "On July 24, President Roosevelt made a proposal
6 to the Japanese Government that Indo-China be regarded
7 as a 'neutralized' country. That proposal envisaged
8 Japan's being given the fullest and freest opportunity
9 of assuring for herself a source of food supplies and
10 other raw materials which--according to Japanese acc-
11 counts--Japan was seeking to obtain. The Japanese Gov-
12 ernment did not accept the President's proposal, and la-
13 rge Japanese forces were moved into Southern Indo-China.

14 "The Japanese move into southern Indo-China was
15 an aggravated, overt act. It created a situation in
16 which the risk of war became so great that the United
17 States and other countries concerned were confronted no
18 longer with the question of avoiding such risk but from
19 then on with the problem of preventing a complete under-
20 mining of their security. It was essential that the Un-
21 ited States make a definite and clear move in self-
22 defense.

23
24 "Accordingly, on July 26, 1941, President Roose-
25 velt issued an executive order freezing Chinese and Jap-
anese assets in the United States. That order brought

1 under the control of the Government all financial and
2 import and export trade transactions in which Chinese or
3 Japanese interests were involved. The British and Neth-
4 erlands Governments took similar steps. The effect of
5 this was to bring about very soon virtual cessation of
6 trade between the United States and Japan.

7 "Thereafter, on August 3, the Japanese Ambassad-
8 or inquired whether it might not be possible for the res-
9 sponsible heads of the two governments to meet with a
10 view to discussing means for reaching an adjustment of
11 views. After reviewing briefly the steps which had led
12 to a discontinuance of the informal conversations, the
13 Secretary of State said it remained to the Japanese Gov-
14 ernment to decide whether it could find means of shaping
15 its policies along lines which would make possible an ad-
16 justment of views.

17 On August 23 the President was given a message
18 from the Japanese Prime Minister, Prince KONOYE urging
19 that a meeting of the heads of the two Governments be
20 arranged to discuss all important problems by Japan and
21 the United States covering the entire Pacific area. Ac-
22 companying that message was a statement containing assur-
23 ances, with several qualifications, of Japan's peaceful
24 intent. Copies of the message and accompanying statement
25 are annexed as Exhibit E. "

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1 MR. KEENAN: Exhibit E is tendered in evidence.

2 THE PRESIDENT: Admitted.

3 CLERK OF THE COURT: Prosecution's document
4 No. 2215-E will receive exhibit No. 1245-B.

5 (Whereupon, the document above re-
6 ferred to was marked prosecution's exhibit
7 No. 1245-B and received in evidence.)

8 MR. KEENAN: Unless the Court so requires,
9 this document being lengthy, it will not be read at
10 this time.

11 THE PRESIDENT: It is not already read?

12 MR. KEENAN: It has not been read before.

13 THE PRESIDENT: We would like for you to
14 read it, Mr. Chief Counsel, if it has not been read
15 already.

16 MR. KEENAN (Reading): "THE JAPANESE PRIME
17 MINISTER (PRINCE KONGYE) TO PRESIDENT ROOSEVELT."

18 "27 August 1941.

19 "I deeply appreciate the courtesy of Your
20 Excellency in delivering personally to Ambassador
21 NOMURA the reply of the United States Government to the
22 proposal of the Japanese Government regarding a meeting
23 between your Excellency and myself.

24 "In the face of universal warlike turmoil
25 Japan and the United States are the last two major Powers

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1 who hold the key to international peace. That the two
2 nations should fall in the worst of relations at this
3 time would mean not only a disaster in itself, but
4 also the collapse of world civilization. Japan is
5 solicitous for the maintenance of the peace of the
6 Pacific and the peace of the world and she desires,
7 therefore, to improve Japanese-American relations.

8 "The present deterioration of the Japanese-
9 American relations is largely due, I feel, to a lack
10 of understanding which has led to mutual suspicions and
11 misapprehensions, and also encouraged the machinations
12 and maneuvers of Third Powers.

13 "Without first eliminating such causes, it
14 is impossible to expect adjustment of Japanese-American
15 relations. This is why I wish to meet Your Excellency
16 personally for a frank exchange of views.

17 "The preliminary informal conversations, dis-
18 rupted July last, were quite appropriate both in spirit
19 and content. But the idea of continuing those conver-
20 sations and to have their conclusion confirmed by the
21 responsible heads of the two Governments does not meet
22 the need of the present situation which is developing
23 swiftly and may produce unforeseen contingencies.

24 "I consider it, therefore, of urgent necessity
25 that the two heads of the Governments should meet first

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1 to discuss from a broad standpoint all important prob-
2 lems between Japan and America covering the entire
3 Pacific area, and to explore the possibility of saving
4 the situation. Adjustment of minor items may, if
5 necessary, be left to negotiations between competent
6 officials of the two countries, following the meeting.

7 "Such is my aim in making the present pro-
8 posal. I sincerely hope my views in this regard are
9 fully understood and reciprocated by Your Excellency.

10 "Because of the nature of the meeting as
11 stated above, I would prefer that it will take place
12 as soon as possible.

13 "Tokyo, 7 August 27, 1941.

14 "Statement by the Japanese Government Handed
15 by the Japanese Ambassador (NOHURA) to President Roose-
16velt on August 28, 1941.

17 "The Japanese Government has received the
18 communication conveyed by the Secretary of State and
19 the President of the United States to the Japanese
20 Ambassador on August 17, 1941. The Japanese Government
21 desires to state its views as follows:

22 "The Japanese Government profoundly regrets
23 that despite the pledge it has given heretofore as well
24 as its repeated explanations concerning Japan's actions
25 and measures in the foreign field, the United States

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DIRECT

1 Government continues to entertain misgivings.

2 "The United States Government mentions certain
3 situations and measures which it regards as inimical
4 to a peaceful settlement in the Pacific area. In an
5 atmosphere of world crisis and international confusion,
6 it is sometimes difficult to ascertain when an event
7 is a cause and when it is a consequence.

8 "Then a nation is obstructed in the path
9 of natural and peaceful development or when the means
10 of its existence is threatened, not only is it imper-
11 ative that that nation should take defensive measures,
12 but it is also required to do so for the maintenance
13 of a just peace. This was the motivating policy of the
14 Japanese Government.

15 "Meanwhile, the United States had taken certain
16 measures which could be interpreted in Japan as indica-
17 tive of a continuing unfriendly pressure at variance
18 with the then current amicable conversations.

19 "The United States Government certainly
20 regards some of its actions as merely counter-measures
21 against Japan's policy and procedures which were considered
22 as conflicting with American interests and principles.
23 On the other hand, to the Japanese Government these
24 procedures were determined by considerations of self-
25 protection for meeting national requirements or removing

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DIRECT

1 environmental and political obstacles against national
2 security.

3 "With admirable modesty of mind, the Government
4 of the United States has seemed frequently unaware that
5 its words and policies are automatically weighted with
6 the immense power of America's accomplished facts,
7 natural endowment and potential might. The President
8 of the United States, and the Secretary of State, in
9 their own unquestioning adherence to the ways of
10 peaceful procedures, might find it difficult to believe
11 that other nations, anywhere, could consider themselves
12 threatened by the United States.

13 "Yet, as long as there is lacking the assuage-
14 ment of that possible threat, there will be some less
15 favorably endowed (especially in essential resources)
16 who will feel compelled to consider defensively their
17 relations with the United States.

18 "In consequence, the Japanese Government wel-
19 comes the invitation by the Government of the United
20 States to an exchange of views in regard to basic poli-
21 cies and attitudes as the foundation of an understanding
22 that will condition lasting and extensive peace in the
23 Pacific area. For such peace, the Government of Japan
24 is ready: for such a united effort toward a peaceful
25 settlement covering the entire Pacific situation the

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1 Government of Japan, like the Government of the United
2 States, would be proud to make sacrifices.

3 "Japan's measure in Indo-China was intended
4 to accelerate the settlement of the China Incident;
5 and at the same time it was calculated to remove all
6 menace to the peace of the Pacific and to secure to
7 Japan an equitable supply of essential materials.

8 It was a measure of self-defense the Japanese Government
9 felt obliged to take. But the Japanese Government
10 has no intention of threatening thereby other countries.

11 "Therefore, the Japanese Government is pre-
12 pared to withdraw its troops from Indo-China as soon
13 as the China Incident is settled or a just peace is
14 established in East Asia.

15 "Furthermore, in order to remove all possible
16 doubt in this regard, the Japanese Government reaffirms
17 herewith its repeated declaration that its present
18 action in Indo-China is not a preparatory step for
19 military advance into neighboring territories. The
20 Japanese Government believes the above pledge will
21 suffice to clarify also Japan's intentions toward
22 Thailand.

23 "As regards Soviet-Japanese relations, the
24 Japanese Government declares likewise that Japan will
25 take no military action as long as the Soviet Union

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1 remains faithful to the Soviet-Japanese neutrality
2 treaty and does not menace Japan or Manchoukuo or take
3 any action contrary to the spirit of the said treaty.
4 On the other hand, the Japanese Government sincerely
5 hope that the United States Government will avoid any
6 action that might give rise to a fear of menace to
7 Japan through collaboration with the Soviet Union.

8 "In a word, the Japanese Government has no
9 intention of using, without provocation, military
10 force against any neighboring nation.

11 "Quite properly, discussions between the
12 Japanese Government and the Government of the United
13 States directed toward ascertaining if there existed
14 a basis for negotiations for a peaceful settlement
15 covering the entire situation,-- such discussions would
16 naturally envisage the working out of a progressive
17 program, obtainable by peaceful methods. The Japanese
18 Government shares fully that view with the Government
19 of the United States.

20 "It is also stated by the United States Govern-
21 ment that no proposals or suggestions affecting the
22 rights and privileges of either the United States or
23 Japan would be considered except as these might be in
24 conformity with the basic principles to which the
25 United States has long been committed. The fundamental

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1 national policy long cherished by the Japanese Government
2 is again in full agreement on that point.

3 "Regarding the principles and directives set
4 forth in detail by the American Government and envisaged
5 in the informal conversations as constituting a program
6 for the Pacific area, the Japanese Government wishes to
7 state that it considers these principles and the practical
8 application thereof, in the friendliest manner possible,
9 are the prime requisites of a true peace and should be
10 applied not only in the Pacific area but throughout the
11 entire world. Such a program has long been desired
12 and sought by Japan itself.

13 "The Japanese Government now confidently
14 hopes that from the larger viewpoint of a constructive
15 world peace, and in the light of the current inter-
16 national situation, past differences may be merged in
17 an agreement of principles and a cooperative effort
18 based on order and justice. The meeting of the
19 responsible heads of our respective Governments would
20 confirm and give such sanction to our purposes that
21 peace in the Pacific would be instituted by that meeting.

22 "(Foreign Relations, Vol. II, p. 572-575)"
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1 THE WITNESS (Reading): "The President in his
2 reply given on September 3 suggested that there take
3 place immediately in advance of the proposed meeting
4 preliminary discussions on fundamental and essential
5 questions on which agreement was sought and on the
6 manner in which the agreement would be applied. A copy
7 of this reply is annexed as exhibit F."

8 MR. KEENAN: The prosecution offers in
9 evidence exhibit F of this affidavit.

10 THE PRESIDENT: Admitted.

11 CLERK OF THE COURT: Prosecution document
12 No. 2215 will receive exhibit No. 1245-C.

13 ("Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1245-C and received in evidence.)

16 MR. KEENAN (Reading): "'President Roosevelt's
17 Reply to the Japanese Prime Minister (Prince KONOYE),
18 Handed to the Japanese Ambassador (NOMURA on Sep-
19 tember 3, 1941.

20 "I have read with appreciation Your Excel-
21 lency's message of August 27, which was delivered to me
22 by Admiral NOMURA.

23 "I have noted with satisfaction the senti-
24 ments expressed by you in regard to the solicitude of
25 Japan for the maintenance of the peace of the Pacific

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1 and Japan's desire to improve Japanese-American re-
2 lations.

3 "I fully share the desire expressed by you
4 in these regards, and I wish to assure you that the
5 Government of the United States, recognizing the
6 swiftly-moving character of world events, is prepared
7 to proceed as rapidly as possible toward the consumma-
8 tion of arrangements for a meeting at which you and I
9 can exchange views and endeavor to bring about an ad-
10 justment in the relations between our two countries.

11 "In the statement which accompanied your
12 letter to me reference was made to the principles to
13 which the Government of the United States has long
14 been committed and it was declared that the Japanese
15 Government considers these principles and the practi-
16 cal application thereof, in the friendliest manner
17 possible, are the prime requisites of a true peace
18 and should be applied not only in the Pacific area
19 but throughout the entire world and that such a
20 program has long been desired and sought by Japan
21 itself.

22 "I am very desirous of collaborating with
23 you in efforts to make these principles effective in
24 practice. Because of my deep interest in this matter
25 I find it necessary that I constantly observe and take

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1 account of developments both in my own country and
2 in Japan which have a bearing upon problems between
3 our two countries. At this particular moment I can-
4 not avoid taking cognizance of indications of the
5 existence in some quarters in Japan of concepts
6 which, if widely entertained, would seem capable
7 of raising obstacles to successful collaboration
8 between you and me along the line which I am sure
9 we both earnestly desire to follow. Under these
10 circumstances, I feel constrained to suggest, in
11 the belief that you will share my view, that it
12 would seem highly desirable that we take precaution,
13 toward ensuring that our proposed meeting shall prove
14 a success, by endeavoring to enter immediately upon
15 preliminary discussion of the fundamental and
16 essential questions on which we seek agreement.
17 The questions which I have in mind for such prelim-
18 inary discussions involve practical application of
19 the principles fundamental to achievement and
20 maintenance of peace which are mentioned with more
21 specification in the statement accompanying your
22 letter. I hope that you will look favorably upon
23 this suggestion.'

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25 "(Foreign Relations, Vol. II, p. 591-592)"

THE WITNESS (Reading): "It was felt by

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1 the American Government that the President could go to
2 such a meeting only if there were first obtained tent-
3 ative commitment offering some assurance that the
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1 meeting could accomplish good. Neither Prince KONOYE
2 nor any of Japan's spokesmen provided anything tangi-
3 ble. They held on to the threat against the United
4 States implicit in the Tripartite Alliance. They would
5 not state that Japan would refrain from attacking the
6 United States if it became involved through acts of
7 self-defense in the European War. The Japanese had
8 already refused to agree to any preliminary steps
9 toward reverting to peaceful courses, as for example
10 adopting the President's proposal of July 24 regard-
11 ing the neutralization of Indo-China. Instead they
12 steadily moved on with their program of establish-
13 ing themselves more firmly in Indo-China. They would
14 not budge from their insistence in any peace agreement
15 with China upon terms based on principles which were
16 embodied in a so-called treaty of 1940 with the puppet
17 Wang Ching-wei regime at Nanking and which included
18 the stationing for an indefinite period of large
19 bodies of Japanese troops in wide areas of China and
20 the control by Japan of strategic industries and
21 economic facilities in China -- terms which would
22 have given Japan a permanent stranglehold over China.
23 Inasmuch as months of closeup conversations with the
24 Japanese had failed to move them on these points, it
25 would have been illusory to expect that a meeting

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1 between the President and the Prime Minister would
2 have resulted in Japan's giving dependable pledges
3 such as would have assured a peaceful settlement.
4 It was clear that unless the proposed meeting pro-
5 duced concrete and clear-cut commitments toward
6 peace, the Japanese would have distorted the signifi-
7 cance of such a meeting in such a way as to have a
8 discouraging effect upon the Chinese; if it had
9 resulted merely in endorsing general principles, the
10 Japanese in the light of their past practices could
11 have been expected to utilize such general principles
12 in support of any interpretation which Japan might
13 choose to place upon them; and if it did not produce
14 an agreement, the Japanese leaders would have been
15 in position to declare that the United States was
16 responsible for the failure of the meeting."

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1 "On September 6 the Japanese Ambassador pre-
2 sented a new draft of proposals. These proposals
3 were much narrower than the assurances given in the
4 statement communicated to the President on August
5 28. A copy of this proposal is annexed as exhibit
6 G."

7 MR. KEENAN: Prosecution offers in evidence
8 exhibit of this affidavit G.

9 THE PRESIDENT: Admitted.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2215-G will receive exhibit No. 1245-D.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit
14 1245-D and received in evidence.)

15 MR. KEENAN: With the Court's permission,
16 Mr. Higgins will read this exhibit.

17 MR. HIGGINS: Mr. President, I read prose-
18 cution exhibit No. 1245-D.

19 "DRAFT PROPOSAL HANDED BY THE JAPANESE
20 AMBASSADOR (NOMURA) TO THE SECRETARY OF STATE ON
21 SEPTEMBER 6, 1941.

22 "The Government of Japan undertakes:

23 "(a) That Japan is ready to express
24 it concurrence in those matters which were already
25 tentatively agreed upon between Japan and the United

1 States in the course of their preliminary informal
2 conversations;

3 "(b) that Japan will not make any military
4 advancement from French Indo-China against any of
5 its adjoining areas, and likewise will not, without
6 any justifiable reason, resort of military action
7 against any regions lying south of Japan;

8 "(c) that the attitudes of Japan and
9 the United States towards the European War will be
10 decided by the concepts of protection and self-defense,
11 and, in case the United States should participate
12 in the European War, the interpretation and execution
13 of the Tripartite Pact by Japan shall be independently
14 decided;

15 "(d) that Japan will endeavor to bring
16 about the rehabilitation of general and normal
17 relationship between Japan and China, upon the
18 realization of which Japan is ready to withdraw
19 its armed forces from China as soon as possible
20 in accordance with the agreements between Japan
21 and China;

22 "(e) that the economic activities of
23 the United States in China will not be restricted
24 so long as pursued on an equitable basis;

25 "(f) that Japan's activities in the

1 Southwestern Pacific Area will be carried on by
2 peaceful means and in accordance with the principle
3 of non-discrimination in international commerce,
4 and that Japan will cooperate in the production and
5 procurement by the United States of natural resources
6 in the said area which it needs.

7 "(g) that Japan will take measures
8 necessary for the resumption of normal trade re-
9 lations between Japan and the United States, and in
10 connection with the above-mentioned, Japan is ready
11 to discontinue immediately the application of the
12 foreigners' transactions control regulations with
13 regard to the United States on the basis of reciprocity.

14 "The Government of the United States
15 undertakes:

16 "(a) that, in response to the Japanese
17 Government's commitment expressed in point (d)
18 referred to above, the United States will abstain
19 from any measures and actions which will be pre-
20 judicial to the endeavour by Japan concerning the
21 settlement of the China Affair;

22 "(b) that the United States will re-
23 ciprocate Japan's commitment expressed in point
24 (f) referred to above;

25 "(c) that the United States will suspend

1 any military measures in the Far East and in the
2 Southwestern Pacific Area;

3 "(d) that the United States will immedi-
4 ately upon settlement reciprocate Japan's commit-
5 ment expressed in point (g) referred to above by
6 discontinuing the application of the so-called
7 freezing act with regard to Japan and further by
8 removing the prohibition against the passage of
9 Japanese vessels through the Panama Canal."

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1 THE WITNESS: (Reading)

2 "On September 25, the Japanese Government
3 presented to Ambassador Grew a complete new draft of
4 the Japanese proposals and urged that an early reply
5 be made. The new redraft did not indicate any modi-
6 fication of the attitude of the Japanese Government
7 on fundamental points. A copy of this proposal is
8 annexed as exhibit H."

9 MR. KLEMAN: And now, if the Court please,
10 offered in evidence by the prosecution.

11 THE PRESIDENT: Admitted.

12 CLERK OF THE COURT: Prosecution's document
13 No. 221^r-H will receive exhibit No. 1245-E.

14 (Whereupon, the document above re-
15 ferred to was marked prosecutor's exhibit
16 1245-E and received in evidence.)

17 MR. KLEMAN: With the Court's permission, I
18 proceed to read it:

19 "JAPANESE PROPOSALS SUBMITTED TO THE AMERICAN AMBASSADOR
20 IN JAPAN (GREW) ON SEPTEMBER 25, 1941

21 "Tokyo, September 25, 1941.

22 "The Governments of Japan and of the United
23 States accept joint responsibility for the initiation
24 and conclusion of a general agreement of understanding
25 as expressed in a joint declaration for the resumption

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1 of traditional friendly relations.

2 "Without reference to specific causes of
3 recent estrangement, it is the sincere desire of both
4 Governments that the incidents which led to the deter-
5 ioration of the amicable sentiment between their
6 countries should be prevented from recurrence and cor-
7 rected in their unforeseen and unfortunate consequences.

8 "It is the earnest hope of both Governments
9 that, by a cooperative effort, Japan and the United
10 States may contribute effectively toward the establish-
11 ment and preservation of peace in the Pacific area and,
12 by the rapid consummation of an amicable understand-
13 ing, encourage world peace and arrest, if not dispel,
14 the tragic confusion that now threatens to engulf civil-
15 ization.

16 "For such decisive action, protracted nego-
17 tiations would seem ill-suited and weakening. Both
18 Governments, therefore, desire that adequate instru-
19 mentalities should be developed for the realization of
20 a general understanding which would bind, meanwhile,
21 both Governments in honor and in fact.

22 "It is the belief of both Governments that
23 such an understanding should comprise only the pivotal
24 issues of urgency and not the accessory concerns which
25 could be deliberated later at a conference."

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1 "Both Governments presume to anticipate
2 that they could achieve harmonious relations if certain
3 situations and attitudes were clarified or improved;
4 to wit:

5 "1. The concepts of Japan and of the United
6 States respecting international relations and the char-
7 acter of nations.

8 "2. The attitudes of both Governments
9 toward the European War.

10 "3. Action toward a peaceful settlement
11 between Japan and China.

12 "4. Commerce between both nations.

13 "5. Economic problems in the Southwestern
14 Pacific area.

15 "6. The policies of both nations affecting
16 political stabilization in the Pacific area.

17 "Accordingly, the Government of Japan and
18 the Government of the United States have come to the
19 following mutual understanding and declaration of policy:

20 "1. The concepts of Japan and of the United
21 States respecting international relations and the char-
22 acter of nations.

23 "Both Governments affirm that their national
24 policies are directed toward the foundation of a lasting
25 peace and the inauguration of a new era of reciprocal

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1 confidence and cooperation between the peoples of
2 both countries.

3 "Both Governments declare that it is their
4 traditional, and present, concept and conviction that
5 nations and races compose, as members of a family, one
6 household living under the ideal of universal concord
7 through justice and equity; each equally enjoying rights
8 and admitting responsibilities with a mutuality of in-
9 terests regulated by peaceful processes and directed to
10 the pursuit of their moral and physical welfare, which
11 they are bound to defend for themselves as they are
12 bound not to destroy for others; they further admit
13 their responsibilities to oppose the oppression or ex-
14 ploitation of other peoples."

15 "II.. The attitudes of both Governments toward
16 the European War.

17 "Both Governments maintain it their common
18 aim to bring about peace in the world, and, when an
19 opportune time arrives, they will endeavor jointly for
20 the early restoration of world peace."
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1 THE PRESIDENT: You omitted a paragraph,
2 Mr. Chief of Counsel.

3 MR. KEENAN: I am sorry.

4 THE PRESIDENT: It is the last paragraph
5 of I.

6 MR. KEENAN: (Reading)

7 "Both Governments are firmly determined
8 that their respective traditional concepts on the
9 character of nations and the underlying moral prin-
10 ciples of social order and national life will con-
11 tinue to be preserved and never transformed by for-
12 eign ideas or ideologies contrary to those moral
13 principles and concepts."

14 Thank you.

15 "II. The attitudes of both Governments
16 toward the European War.

17 "Both Governments maintain it their com-
18 mon aim to bring about peace in the world, and,
19 when an opportune time arrives, they will endeavor
20 jointly for the early restoration of world peace.

21 "With regard to developments of the situ-
22 ation prior to the restoration of world peace, both
23 Governments will be guided in their conduct by con-
24 siderations of protection and self-defense; and, in
25 case the United States should participate in the

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1 European War, Japan would decide entirely independent-
2 ly in the matter of interpretation of the Tripartite
3 Pact between Japan, Germany and Italy, and would like-
4 wise determine what actions might be taken by way of
5 fulfilling the obligations in accordance with the said
6 interpretation.

7 "III. Action toward a peaceful settle-
8 ment between Japan and China.

9 "Both Governments, taking cognizance of
10 the fact that the settlement of the China Affair
11 has a vital bearing upon the peace of the entire Pa-
12 cific area and consequently upon that of the world,
13 will endeavor to expedite a rapid realization of the
14 settlement of the said Affair.

15 "The Government of the United States, rec-
16 ognizing the effort and the sincere desire on the
17 part of the Japanese Government concerning the peace-
18 ful settlement of the China Affair, will, with the
19 intention of facilitating the realization of the
20 settlement, render its good offices in order that the
21 Chungking Government may promptly enter into negoti-
22 ations with the Government of Japan for a termination
23 of hostilities and a resumption of peaceful rela-
24 tions, and will refrain from resorting to any meas-
25 ures and actions which might hamper the measures and

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1 efforts of the Government of Japan directed toward
2 the settlement of the China Affair.

3 "The Government of Japan maintains that
4 the basic general terms of peace for the settlement
5 of the China Affair will be in harmony with the prin-
6 ciples embodied in the KONOYE statement, and those
7 agreements between Japan and China and those matters
8 which have been put into effect in accordance with
9 the said statement; that the economic cooperation be-
10 tween Japan and China will be carried on by peaceful
11 means and in conformity with the principle of non-
12 discrimination in the international commercial rela-
13 tions and also with the principle of especially close
14 relationship which is natural between neighboring
15 countries; and that the economic activities of third
16 Powers in China will not be excluded so long as they
17 are pursued on an equitable basis.

18 "Note: There is appended a draft of the
19 basic terms of peace between Japan and China.

20 "IV. Commerce between Japan and the
21 United States.

22 "Both Governments agree to take without
23 delay measures necessary for resuming normal trade re-
24 lations between the two countries.

25 "Both Governments guarantee each other

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1 that they will, as the first of the meas-
2 ures envisaged in the preceding paragraph, discontin-
3 ue immediately the measures of freezing assets now
4 being enforced, and that they will supply mutually
5 such commodities as are, respectively, available and
6 required by either of them.

7 "IV. Economic problems in the Southwestern
8 Pacific area.

9 "Both Governments mutually pledge them-
10 selves that the economic activities of Japan and the
11 United States in the Southwestern Pacific area shall
12 be carried on by peaceful means and in conformity
13 with the principle of non-discrimination in the in-
14 ternational commercial relations in pursuance of the
15 policy stated in the preceding paragraph, both Govern-
16 ments agree to cooperate each with the other towards
17 the creation of conditions of international trade and
18 international investment under which both countries
19 will have a reasonable opportunity to secure through
20 the trade process the means of acquiring those goods
21 and commodities which each country needs for the
22 safeguarding and development of its own economy.

23 "Both Governments will amicably cooperate
24 for the conclusion and execution of agreements with
25 the Powers concerned in regard to the production and

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1 supply, on the basis of non-discrimination, of such
2 specific commodities as oil, rubber, nickel, and tin.

3 "VI. The policies of both nations affect-
4 ing political stabilization in the Pacific area.

5 "Both Governments, taking cognizance of the
6 fact that it is a matter of vital importance to stab-
7 ilize promptly the situation in the Southwestern Pac-
8 ific area, undertake not to resort to any measures
9 and actions which may jeopardize such stabilization.
10 The Government of Japan will not make any armed ad-
11 vancement, using French Indo-China as a base, to any
12 adjacent area thereof (excluding China), and upon the
13 establishment of an equitable peace in the Pacific
14 area, will withdraw its troops which are now stationed
15 in French Indo-China.

16 "The Government of the United States will
17 alleviate its military measures in the Southwestern
18 Pacific area.

19 "Both Governments declare that they respect
20 the sovereignty and territorial integrity of Thailand
21 and Netherland East Indies, and that they are pre-
22 pared to conclude an agreement concerning the neutral-
23 ization of the Philippine Islands when its indepen-
24 dence will have been achieved.

25 "The Government of the United States guaran-

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1 does non-discriminatory treatment of the Japanese
2 nationals in the Philippine Islands."

3 "(Foreign Relations, Vol.II, p. 673-640)"
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1 "Text of Basic Japanese" --

2 THE PRESIDENT: That is not handed in, nor is
3 it part of the original.

4 MR. KEENAN: That is not a part. Apparently
5 that is an appendix which was proposed to be offered,
6 and I will withdraw it at this time

7 (To the witness) Proceed.

8 THE WITNESS: (Reading)

9 "The Japanese Government had separately on
10 September 22 communicated to Ambassador Grew a state-
11 ment in regard to the terms of peace which it pro-
12 posed to offer China. A copy of that statement is
13 annexed as exhibit I."

14 MR. KEENAN: And offered in evidence by the
15 prosecution.

16 THE PRESIDENT: Admitted.

17 CLERK OF THE COURT: Prosecution's document
18 No. 2215-I will receive exhibit No. 1245-F.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution's exhibit
21 No. 1245-F and received in evidence.)

22 MR. KEENAN: (Reading)
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1 "THE JAPANESE MINISTER FOR FOREIGN AFFAIRS
2 (TOYODA) TO THE AMERICAN AMBASSADOR IN JAPAN (GREW).

3 "1. Neighborly friendship.

4 "2. Respect for sovereignty and territorial
5 integrity.

6 "3. Cooperative defense between Japan and
7 China.

8 "Cooperation between Japan and China for
9 the purposes of preventing communistic and other
10 subversive activities which may constitute a menace
11 to the security of both countries and of maintaining
12 the public order in China.

13 "Stationing of Japanese troops and naval
14 forces in certain areas in the Chinese territory for a
15 necessary period for the purposes referred to above and
16 in accordance with the existing agreements and usages.

17 "4. Withdrawal of Japanese armed forces.

18 "The Japanese armed forces which have been
19 dispatched to China for carrying out the China Affairs
20 will be withdrawn from China upon the settlement of the
21 said affairs, excepting those troops which come under
22 point 3.

23 "5. Economic cooperation.

24 "(a) There shall be economic cooperation
25 between Japan and China, having the development and

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1 utilization of essential materials for national defense
2 in China as its principal objective.

3 "(b) The preceding paragraph does not mean
4 to restrict any economic activities by third Powers
5 in China so long as they are pursued on an equitable
6 basis.

7 "6. Fusion of the Chiang Kai-shek regime
8 and the Wang Ching-wei Government.

9 "7. No annexation.

10 "8. No indemnities.

11 "9. Recognition of Manchoukuo.'

12 "(Foreign Relations, Vol. II, p. 633)"
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THE WITNESS: (Reading)

1 "On October 2, the Secretary of State gave to
2 the Japanese Ambassador a memorandum of an 'oral
3 statement' reviewing significant developments in
4 the conversations and explaining this Government's
5 attitude toward various points in the Japanese pro-
6 posals which did not appear to this Government to be
7 consistent with the principles to which the United
8 States was committed. A copy of that 'oral state-
9 ment' is annexed as exhibit J."
10

11 MR. KERNAN: And offered in evidence by the
12 prosecution.

13 THE PRESIDENT: Admitted.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2215-J will receive exhibit No. 1245-G.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution's exhibit
18 No. 1245-G and received in evidence.)

19 MR. KEENAN: Mr. Higgins will read it, if
20 it please the Court.

21 THE PRESIDENT: Mr. Higgins.

22 MR. HIGGINS: I read prosecution exhibit
23 No. 1245-G:
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BALLANTINE

DIRECT

1 "ORAL STATEMENT HANDED BY THE SECRETARY
2 OF STATE TO THE JAPANESE ALBASSADOR (NOMURA) ON
3 OCTOBER 2, 1941.

4 "(Washington) October 2, 1941

5 "Reference is made to the proposals of the
6 Japanese Government communicated on September 6, 1941,
7 by the Japanese Ambassador to the Secretary of State,
8 and to statements relating thereto subsequently com-
9 municated to this Government by the Japanese Govern-
10 ment.

11 "Thoughtful study has been given to the
12 communications to which reference is made, and in
13 connection with that study careful review has been
14 made of other communications previcusly received
15 from the Japanese Government on the same subject.
16 On the basis of this study observations are offered
17 as follows:

18 "The Government of the United States wel-
19 comed, as affording a possible opportunity for further-
20 ing the broad-gauge objectives and principles of a
21 program of peace, the Japanese Government's suggest-
22 ions made through its Ambassador here in the early
23 part of August that there be held a meeting of the
24 responsible heads of the Japanese Government and of
25 the Government of the United States to discuss means

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1 for bringing about an adjustment of relations between
2 the United States and Japan and that there be resumed
3 the informal conversations which had been in prog-
4 ress between the two countries to ascertain whether
5 there existed a basis for negotiations relative to
6 a peaceful settlement covering the entire Pacific
7 situation.

8 "Accordingly, in the reply made by the
9 President on August 17, 1941, to the Japanese Am-
10 bassador the view was expressed that such informal
11 conversations would naturally envisage the working
12 out of a progressive program attainable by peaceful
13 means; that such a program would involve the appli-
14 cation in the entire Pacific area of the principle of
15 equality of commercial opportunity and treatment,
16 thus making possible access by all countries to raw
17 materials and to all other essential commodities,
18 and there were described the advantages which would
19 flow to all countries, including Japan, from the
20 adoption of such a program. In conclusion, it was
21 stated that if the Japanese Government were in posi-
22 tion to embark upon a peaceful program for the
23 Pacific along the lines of the program and principles
24 to which the United States is committed, this Govern-
25 ment would be prepared to consider resumption of the

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DIRECT

1 informal exploratory discussions and would be glad
2 to endeavor to arrange a suitable time and place to
3 exchange views.

4 "In the light of the broad purposes and
5 fundamental principles which this Government holds,
6 it was gratifying to the President and the Govern-
7 ment of the United States to receive the message of
8 the Prime Minister and the statement of the Govern-
9 ment of Japan on August 28, 1941, containing state-
10 ments expressing Japan's desire and intent to pursue
11 courses of peace in harmony with the fundamental
12 principles to which the people and Government of the
13 United States are committed. In its statement the
14 Japanese Government gave, with some qualifications,
15 broad assurances of its peaceful intent, including
16 a comprehensive assurance that the Japanese Govern-
17 ment has no intention of using without provocation
18 military force against any neighboring nation. The
19 Japanese Government declared that it supported the
20 program and principles which had been briefly out-
21 lined by the President not only as applicable to the
22 Pacific area but also as a program for the entire
23 world.

24 "The Government of the United States, while
25 desiring to proceed as rapidly as possible with

BALLANTINE

DIRECT

1 consideration of arrangements for a meeting between
2 the heads of state, felt it desirable, in order to
3 assure that that meeting would accomplish the ob-
4 jective in view, to clarify the interpretation of cer-
5 tain principles and the practical application thereof
6 to concrete problems in the Pacific area. It has
7 not been the purpose of this Government to enter into
8 a discussion of details; this Government has felt,
9 however, that the clarification sought would afford
10 a means of expediting our effort to arrive at a meet-
11 ing of minds.

12 "On September 3, 1941, the President in
13 giving reply to the Japanese Ambassador expressed in
14 earnest desire of the Government of the United States
15 to collaborate in efforts to make effective in practice
16 the principles to which the Japanese Government made
17 reference. The President reiterated the four princi-
18 ples regarded by this Government as the foundation
19 upon which relations between nations should properly
20 rest. Those principles are:

21 "1. Respect for the territorial integrity
22 and the sovereignty of each and all nations.

23 "2. Support of the principle of non-inter-
24 ference in the internal affairs of other countries.

25 "3. Support of the principle of equality,

BALLANTINE

DIRECT

1 including equality of commercial opportunity.

2 "4. Non-disturbance of the status quo in
3 the Pacific except as the status quo may be altered
4 by peaceful means.

5 "The President pointed out that in order
6 to bring about any satisfactory settlement of Pacific
7 questions it was highly important to reach a community
8 of view and a clear agreement upon certain points with
9 respect to which fundamental differences of opinion
10 between our two Governments had developed in the in-
11 formal conversations; and the President requested an
12 indication of the present attitude of the Japanese
13 Government with regard to those fundamental questions.

14 "On September 6, the Prime Minister of Japan
15 in a conversation with the American Ambassador at Tokyo
16 stated that he subscribed fully to the four principles
17 above mentioned.

18 "The foregoing developments and assurances,
19 together with other statements made by the Japanese
20 Government, seemed to justify this Government in con-
21 cluding that the Japanese Government might be expected
22 to adhere to and to give practical application to a
23 broad progressive program covering the entire Pacific
24 area. It was, therefore, a source of disappointment
25 to the Government of the United States that the pro-

BALLANTINE

DIRECT

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2 "4. Non-disturbance of the status quo in
3 the Pacific except as the status quo may be altered
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11 formal conversations; and the President requested an
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15 in a conversation with the American Ambassador at Tokyo
16 stated that he subscribed fully to the four principles
17 above mentioned.

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19 together with other statements made by the Japanese
20 Government, seemed to justify this Government in con-
21 cluding that the Japanese Government might be expected
22 to adhere to and to give practical application to a
23 broad progressive program covering the entire Pacific
24 area. It was, therefore, a source of disappointment
25 to the Government of the United States that the pro-

BALJANTINE

. DIRECT

1 proposals of the Japanese Government presented by the
2 Japanese Ambassador on September 6, 1941, which the
3 Japanese Government apparently intended should con-
4 stitute a concrete basis for discussions, appeared to
5 disclose divergence in the concepts of the two Govern-
6 ments. That is to say, those proposals and the sub-
7 sequent explanatory statements made in regard thereto
8 serve, in the opinion of this Government, to narrow
9 and restrict not only the application of the principles
10 upon which our informal conversations already referred
11 to had been based but also the various assurances given
12 by the Japanese Government of its desire to move along
13 with the United States in putting into operation a
14 broad program looking to the establishment and main-
15 tenance of peace and stability in the entire Pacific
16 area."

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BALLANTINE

DIRECT

1 "As has already been said, the various
2 broad assurances given by the Japanese Premier and
3 the Japanese Government are highly gratifying. In
4 putting forward its attitude of peaceful intent to-
5 ward other nations, the Japanese Government qualified
6 its assurances with certain phrases the need for
7 which is not easily understood. It is difficult to
8 conceive of there developing under present circum-
9 stances in any of the territories neighboring French
10 Indo-China, in Thailand or in the Soviet Union any
11 aggressive threat or provocation to Japan. The in-
12 alienable right of self-defense is, of course, well
13 recognized by all nations and there could arise in
14 some minds a question as to just what the Japanese
15 Government has in view in circumscribing its assur-
16 ances of peaceful intent with what would seem to be
17 unnecessary qualifying phrases.

18 "In the informal conversations there was
19 tentatively arrived at a formula in regard to econom-
20 ic policy (Section V of the draft understanding),
21 which provided that Japanese activity and American
22 activity in the Pacific area shall be carried on by
23 peaceful means and in conformity with the principle
24 of non-discrimination in international commercial
25 relations. In the Japanese Government's proposals of

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1 September 6 and in subsequent communications from the
2 Japanese Government the commitments contained in that
3 formula were restricted to the countries of the South-
4 west Pacific area (not the Pacific area as a whole).
5 In reference to China, the Japanese Government states
6 that it will respect the principle of non-discrimina-
7 tion, but the explanation given in regard to this
8 point would seem to be open to the implication that
9 the Japanese Government has in mind some limitation
10 upon the application of this principle occasioned by
11 reasons of Japan's geographical propinquity to China.

12 "Obviously, it would not be likely to serve
13 the purpose affirmed by the Japanese Government or by
14 this Government if either the United States or Japan
15 were to pursue one course or policy in certain areas
16 while at the same time pursuing an opposite course or
17 policy in other areas.

18 "This Government has noted the views of the
19 Japanese Government in support of its desire to sta-
20 tion troops for an indeterminate period in certain
21 areas of China. Entirely apart from the question of
22 the reasons for such a proposal, the inclusion of such
23 a provision in the proposed terms of a peaceful settle-
24 ment between Japan and China at a time when Japan is
25 in military occupation of large areas in China is

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1 open to certain objections. For example, when a
2 country in military occupation of territory of another
3 country proposes to the second country the continued
4 stationing of troops of the first country in certain
5 areas as a condition for a peaceful settlement and
6 thus for the withdrawal of the occupationary forces
7 from other areas, such procedure would seem to be out
8 of keeping with the progressive and enlightened
9 courses and principles which were discussed in the in-
10 formal conversations and thus would not, in the
11 opinion of this Government, make for peace or offer
12 prospects of stability.

13 "It is believed that a clear-cut manifesta-
14 tion of Japan's intention in regard to the withdrawal
15 of Japanese troops from China and French Indo-China
16 would be most helpful in making known -- in particu-
17 lar to those who might be inclined to be critical --
18 Japan's peaceful intentions and Japan's desire to
19 follow courses calculated to establish a sound basis
20 for future stability and progress in the Pacific area.

21 "With reference to the attitude of each
22 country toward the European war, this Government has
23 noted with appreciation the further step taken by the
24 Japanese Government to meet the difficulties inherent
25 in this aspect of the relations between the two count-

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1 ries. It is believed that it would be helpful if
2 the Japanese Government could give further study to
3 the question of possible additional clarification of
4 its position.

5 "In the exchanges of views which have taken
6 place between the two Governments in an effort to
7 reach an agreement in principle upon fundamental
8 questions in order to prepare the ground for the pro-
9 posed meeting of the responsible chiefs of government,
10 this Government has endeavored to make clear that what
11 it envisages is a comprehensive program calling for
12 the application uniformly to the entire Pacific area
13 of liberal and progressive principles. From what
14 the Japanese Government has so far indicated in re-
15 gard to its purposes this Government derives the im-
16 pression that the Japanese Government has in mind a
17 program which would be circumscribed by the imposition
18 of qualifications and exceptions to the actual appli-
19 cation of those principles.

20 "If this impression is correct, can the
21 Japanese Government feel that a meeting between the
22 responsible heads of government under such circum-
23 stances would be likely to contribute to the advance-
24 ment of the high purposes which we have mutually had
25 in mind?"

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1 "As already stated, this Government wel-
2 comed the assurances contained in the statement of the
3 Japanese Government which accompanied the Japanese
4 Prime Minister's message to the President of the
5 United States that the Japanese Government subscribed
6 to the principles which have long been advocated by
7 this Government as the only sound basis for stable
8 international relations. This Government believes
9 that renewed consideration of these fundamental
10 principles may be helpful in our effort to seek a
11 meeting of minds in regard to the essential questions
12 on which we seek agreement and thus lay a firm founda-
13 tion for a meeting between the responsible heads of
14 the two Governments. The subject of the meeting pro-
15 posed by the Prime Minister and the objectives sought
16 have engaged, and continue to engage, the close and
17 active interest of the President of the United States,
18 and it is the President's earnest hope that discussion
19 of the fundamental questions may be so developed that
20 such a meeting can be held. It is also the President's
21 hope that the Japanese Government shares the convic-
22 tion of this Government that, if the Governments of
23 Japan and of the United States are resolved to give
24 those principles practical and comprehensive applica-
25 tion, the two Governments can work out a fundamental

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1 rehabilitation of the relations between the United
2 States and Japan and contribute to the bringing about
3 of a lasting peace with justice, equity and order in
4 the whole Pacific area."

5 THE PRESIDENT: We will adjourn now until
6 half-past nine tomorrow morning.

7 (Whereupon, at 1608, an adjourn-
8 ment was taken until Tuesday, 19 November
9 1946 at 0930.)

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19 NOVEMBER 1946

I N D E X
Of
WITNESSES

<u>Prosecution's Witnesses</u>	<u>Page</u>
Ballantine, Joseph W. (resumed)	10809
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Cross by Mr. Blakency	10850

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2215	1245-H		Exhibit "K" of Affidavit of Joseph W. Ballantine		10811
2215	1245-I		Exhibit "L" from above affidavit		10815
2215	1245-J		Exhibit "M" from above affidavit		10825
2215	1245-K		Exhibit "N" from above affidavit		10830

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

THE PRESIDENT: All the accused are present except OKAWA, who is represented by his counsel. That will be taken to be the case at all future sessions of this Court until I announce otherwise

Mr. Chief of Counsel.

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JOSEPH W. BALLANTINE, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

DIRECT EXAMINATION (Continued)

MR. KEENAN: Mr. Ballantine, will you proceed with your testimony.

THE WITNESS: "The Japanese, soon after receiving this Government's memorandum of October 2, redoubled their emphasis upon the need of haste in reaching an agreement. They offered new formulas for dealing with limited and specific problems, and they stated that Japan had now placed all of its cards on the table and they had gone as far as they could in the direction of making so-called 'concessions.' In their new formulas, there was not discernible any evidence that the Japanese Government was moving even one step toward committing itself to courses of peace

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1 and that it contemplated receding even one step from
2 insistence upon full attainment of its declared
3 objectives -- which were, in effect, political, economic,
4 and cultural domination of the entire western Pacific
5 area and China. After the new Japanese Cabinet, headed
6 by General TOJO, came into office on October 17, the
7 Japanese became even more insistent in urging, upon
8 this Government a quick decision on the Japanese
9 Government's proposals, but, while pressing this
10 Government for a decision, the Japanese Government
11 showed no willingness to effect any fundamental
12 modification of the Japanese position and no desire
13 to apply practically in actual situations the basic
14 principles of justice and equity essential to the
15 building of a lasting peace in the Pacific.

16 "Although throughout the conversations with
17 the Japanese representative, the Secretary of State
18 repeatedly made it clear that the American Government
19 would consult with the Governments of the United
20 Kingdom, Australia, China and the Netherlands before
21 entering into actual negotiations with the Japanese
22 Government affecting the interests of those governments,
23 at no time did the Secretary of State make any statement
24 to Japanese representative which would have warranted
25 the Japanese in assuming that in the informal conversations

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DIRECT

1 the Secretary of State was delegated to speak or act
2 for the other powers mentioned.

3 "On November 15, Mr. Saburo KURUSU, whom the
4 Japanese Government had decided to send to assist
5 the Japanese Ambassador in the conversations, reached
6 Washington. Shortly thereafter, on November 20,
7 the Japanese Ambassador and Mr. KURUSU presented to
8 the Secretary of State a proposal which, on its face,
9 was extreme. A copy of that proposal is annexed as
10 exhibit K."

11 MR. KEENAN: And with the permission of the
12 Court we offer it in evidence.

13 THE PRESIDENT: Admitted.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2215-K will receive exhibit No. 1245-H.

16 (Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 1245-H and received in evidence.)

19 MR. KEENAN: With the permission of the Court
20 the prosecution would read this exhibit.

21 THE PRESIDENT: Read it, Mr. Chief Prosecutor.

22 MR. KEENAN: (Reading)

23 "Draft Proposal Handed by the Japanese
24 Ambassador (HOLURA) to the Secretary of State on
25 November 20, 1941."

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1 "1. Both the Governments of Japan and the
2 United States undertake not to make any armed advance-
3 ment into any of the regions in the Southeastern Asia
4 and the Southern Pacific area excepting the part of
5 French Indo-China where the Japanese troops are
6 stationed at present.

7 "2. The Japanese Government undertakes to
8 withdraw its troops now stationed in French Indo-
9 China upon either the restoration of peace between
10 Japan and China or the establishment of an equitable
11 peace in the Pacific area.

12 "In the meantime the Government of Japan
13 declares that it is prepared to remove its troops now
14 stationed in the southern part of French Indo-China
15 to the northern part of the said territory upon the
16 conclusion of the present arrangement which shall later
17 be embodied in the final agreement.

18 "3. The Government of Japan and the United
19 States shall cooperate with a view to securing the
20 acquisition of those goods and commodities which the
21 two countries need in Netherlands East Indies.

22 "4. The Governments of Japan and the United
23 States mutually undertake to restore their commercial
24 relations to those prevailing prior to the freezing of
25 the assets."

BALLANTINE

DIRECT

1 "The Government of the United States shall
2 supply Japan a required quantity of oil.

3 "5. The Government of the United States
4 undertakes to refrain from such measures and actions
5 as will be prejudicial to the endeavors for the
6 restoration of general peace between Japan and China."
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BALLANTINE

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1 THE WITNESS: (Reading) "Before and after
2 presenting that proposal, Ambassador NOMURA and
3 Mr. KURUSU talked emphatically about the urgency of
4 the situation and intimated vigorously that this was
5 Japan's last word and if an agreement along those
6 lines was not quickly concluded ensuing developments
7 might be most unfortunate.

8 "Acceptance by the American Government of the
9 Japanese proposal of November 20 would have meant con-
10 coment by the United States of Japan's past aggressions,
11 assent by the United States to unlimited courses of
12 conquest by Japan in the future, abandonment by the
13 United States of its whole past position in regard to
14 the most essential principles of its foreign policy in
15 general, betrayal by the United States of China, and
16 acceptance by the United States of a position as a
17 silent partner aiding and abetting Japan in her effort
18 to create a Japanese hegemony in and over the western
19 Pacific and eastern Asia; it would have destroyed the
20 chances of asserting and maintaining American rights
21 and interests in the Pacific; and in its final analysis
22 would have meant a most serious threat to American
23 national security. Japan also clung to her vantage
24 point in Indo-China which threatened the security of
25 the countries to the south and menaced vital trade

BALLANTINE

DIRECT

1 routes. Their conditional offer to withdraw troops
2 from southern Indo-China to northern Indo-China was
3 meaningless as they could have brought those troops
4 back to southern Indo-China within a day or two, and
5 furthermore they placed no limit on the number of troops
6 they might continue to send there.

7 "On November 26, the Secretary of State made
8 a reply to the Japanese representatives in the form of
9 two documents, the first, an outline in a tentative
10 form of a proposed basis for agreement between the
11 United States and Japan, and the second, an explanatory
12 statement in regard to it. A copy of that document is
13 annexed as Exhibit L."

14 MR. KEENAN: Prosecution offers said exhibit
15 in evidence.

16 THE PRESIDENT: Admitted.

17 CLERK OF THE COURT: Prosecution's document
18 No. 2215-L will receive exhibit No. 1245-I.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1245-L, and was received in evidence.)

22 MR. KEENAN: (Reacting)

23 "Washington, November 26, 1941.

24 "The representatives of the Government of the
25 United States and of the Government of Japan have been

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1 carrying on during the past several months informal and
2 exploratory conversations for the purpose of arriving
3 at a settlement if possible of questions relating to
4 the entire Pacific area based upon the principles of
5 peace, law and order and fair dealing among nations.
6 These principles include the principle of inviolabil-
7 ity of territorial integrity and sovereignty of each
8 and all nations: the principle of non-interference in
9 the internal affairs of other countries; the principle
10 of equality, including equality of commercial opportun-
11 ity and treatment; and the principle of reliance upon
12 international cooperation and conciliation for the pre-
13 vention and pacific settlement of controversies and for
14 improvement of international conditions by peaceful
15 methods and processes.

16 "It is believed that in our discussions some
17 progress has been made in reference to the general
18 principles which constitute the basis of a peaceful
19 settlement covering the entire Pacific area. Recently
20 the Japanese Ambassador has stated that the Japanese
21 Government is desirous of continuing the conversations
22 directed toward a comprehensive and peaceful settlement
23 in the Pacific area; that it would be helpful toward
24 creating an atmosphere favorable to the successful out-
25 come of the conversations if a temporary modus vivendi

DALLANTINE

DIRECT

1 could be agreed upon to be in effect while the conver-
2 sations looking to a peaceful settlement in the Pacific
3 were continuing. On November 20 the Japanese Ambassador
4 communicated to the Secretary of State proposals in re-
5 gard to temporary measures to be taken respectively by
6 the Government of Japan and by the Government of the
7 United States, which measures are understood to have
8 been designed to accomplish the purposes above indicated.

9 "The Government of the United States most
10 earnestly desires to contribute to the promotion and
11 maintenance of peace and stability in the Pacific area,
12 and to afford every opportunity for the continuance of
13 discussions with the Japanese Government directed toward
14 working out of a broad-gauge program of peace through-
15 out the Pacific area. The proposals which were pre-
16 sented by the Japanese Ambassador on November 20 con-
17 tain some features which, in the opinion of this Govern-
18 ment, conflict with the fundamental principles which
19 form a part of the general settlement under considera-
20 tion and to which each Government has declared that
21 it is committed. The Government of the United States
22 believes that the adoption of such proposals would
23 not be likely to contribute to the ultimate objectives
24 of ensuring peace under law, order and justice in the
25 Pacific area, and it suggests that further effort be

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1 made to resolve our divergences of views in regard
2 to the practical application of the fundamental prin-
3 ciples already mentioned.

4 "With this object in view the Government of
5 the United States offers for the consideration of
6 the Japanese Government a plan of a broad but simple
7 settlement covering the entire Pacific area as one
8 practical exemplification of a program which this
9 Government envisages as something to be worked out
10 during our further conversations.

11 "The plan therein suggested represents an ef-
12 fort to bridge the gap between our draft of June 21,
13 1941 and the Japanese draft of September 25 by making
14 a new approach to the essential problems underlying a
15 comprehensive Pacific settlement. This plan contains
16 provisions dealing with the practical application of
17 the fundamental principles which we have agreed in
18 our conversations constitute the only sound basis for
19 worthwhile international relations. We hope that in
20 this way progress toward reaching a meeting of minds
21 between our two Governments may be expedited."

22 "Document Handed by the Secretary of State to the
23 Japanese Ambassador (HONURA) on November 26, 1941.
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BALLANTINE

DIRECT

1 "Strictly Confidential

2 Tentative and Without

3 Commitment.

"Washington, November 26, 1941

4 "Outline of Proposed Basis for Agreement Between the
5 United States and Japan

6 "Section I

7 "Draft Mutual Declaration Policy

8 "The Government of the United States and the
9 Government of Japan both being solicitous for the peace
10 of the Pacific affirm that their national policies are
11 directed toward lasting and extensive peace throughout
12 the Pacific area, that they have no territorial designs
13 in that area, that they have no intention of threaten-
14 ing other countries or of using military force aggres-
15 sively against any neighboring nation, and that, accord-
16 ingly, in the national policies they will actively
17 support and give practical application to the follow-
18 ing fundamental principles upon which their relations
19 with each other and with all other governments are
20 based.

21 "(1) The principle of inviolability of terri-
22 torial integrity and sovereignty of each and all nations.

23 "(2) The principle of non-interference in
24 the internal affairs of other countries.

25 "(3) The principle of equality, including

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equality of commercial opportunity and treatment.

"(4) The principle of reliance upon international cooperation and conciliation for the prevention and pacific settlement of controversies and for improvement of international conditions by peaceful methods and processes.

"The Government of Japan and the Government of the United States have agreed that toward eliminating chronic political instability, preventing recurrent economic collapse, and providing a basis for peace, they will actively support and practically apply the following principles in their economic relations with each other and with other nations and peoples:

"(1) The principle of non-discriminating in international commercial relations.

"(2) The principle of international economic cooperation and abolition of extreme nationalism as expressed in excessive trade restrictions.

"(3) The principle of non-discriminatory access by all nations to raw material supplies.

"(4) The principle of full protection of the interests of consuming countries and populations as regards the operation of international commodity agreements."

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"(5) The principle of establishment of such institutions and arrangements of international finance as may lend aid to the essential enterprises and the

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BALLANTINE

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1 continuous development of all countries and may permit
2 payments through processes of trade consistent with the
3 welfare of all countries.

4 "Section II

5 "Steps To Be Taken By the Government of the United
6 States and by the Government of Japan.

"The Government of the United States and the
Government of Japan propose to take steps as follows:

"1. The Government of the United States and
the Government of Japan will endeavor to conclude a
multilateral non-aggression pact among the British
Empire, China, Japan, the Netherlands, the Soviet Union,
Thailand and the United States.

"2. Both Governments will endeavor to con-
clude among the American, British, Chinese, Japanese,
the Netherland and Thai Governments an agreement where-
under each of the Governments would pledge itself to
18 respect the territorial integrity of French Indo-China
and, in the event that there should develop a threat
19 to the territorial integrity of Indo-China, to enter
20 into immediate consultation, with a view to taking
21 such measures as may be deemed necessary and advisable
22 to meet the threat in question. Such agreement would
23 provide also that each of the Governments party to the
24 agreement would not seek or accept preferential treat-

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DIRECT

1 ment in its trade or economic relations with Indo-
2 China and would use its influence to obtain for each
3 of the signatories equality of treatment in trade
4 and commerce with French Indo-China.

5 "3. The Government of Japan will withdraw
6 all military, naval, air and police forces from China
7 and from Indo-China.

8 "4. The Government of the United States
9 and the Government of Japan will not support--militar-
10 ily, politically, economically--any government or regime
11 in China other than the National Government of the
12 Republic of China with capital temporarily at Chung-
13 king.

14 "5. Both Governments will give up all extra-
15 territorial rights in China, including rights and
16 interests in and with regard to international settle-
17 ments and concessions, and rights under the Boxer
18 Protocol of 1901.

19 "Both Governments will endeavor to obtain
20 the agreement of the British and other governments
21 to give up extra territorial rights in China, including
22 rights in international settlements and in concessions
23 and under the Boxer Protocol of 1901.

24 "6. The Government of the United States and
25 the Government of Japan will enter into negotiations

BALLANTINE

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1 for the conclusion between the United States and
2 Japan of a trade agreement, based upon reciprocal
3 most-favored-nation treatment and reduction of trade
4 barriers by both countries, including an undertaking
5 by the United States to bind raw silk on the free
6 list.

7 "7. The Government of the United States and
8 the Government of Japan will, respectively, remove
9 the freezing restrictions on Japanese funds in the
10 United States and on American funds in Japan.

11 "8. Both Governments will agree upon a plan
12 for the stabilization of the dollar-yen rate, with the
13 allocation of funds adequate for this purpose, half to
14 be supplied by Japan and half by the United States.

15 "9. Both Governments will agree that no
16 agreement which either has concluded with any third
17 power or powers shall be interpreted by it in such a
18 way as to conflict with the fundamental purpose of
19 this agreement, the establishment and preservation of
20 peace throughout the Pacific area.

21 "10. Both Governments will use their influence
22 to cause other governments to adhere to and to give
23 practical application to the basic political and eco-
24 nomic principles set forth in this agreement."
25

BALLANTINE

DIRECT

1 THE WITNESS: (Reading) "Although, it
2 subsequently appeared, the Japanese treated the
3 November 26 proposal as finally disposing of the ques-
4 tion of negotiating a peaceful settlement covering the
5 Pacific area, they kept up the appearance of continuing
6 negotiations right down to December 7.

7 "On December 2, the President directed that
8 inquiry be made at once of the Japanese Ambassador and
9 Mr. KURUSU in regard to the reasons for continued
10 Japanese troop movements into Indo-China. On December 5,
11 the Japanese Ambassador called and presented to the
12 Under Secretary of State, Mr. Welles, a reply to the
13 President's inquiry of December 2 containing the
14 specious statement that Japanese reinforcements had
15 been sent to Indo-China as a precautionary measure
16 against Chinese troops in bordering Chinese territory.
17 On December 6, President Roosevelt telegraphed a per-
18 sonal appeal to the Emperor of Japan that the 'tragic
19 possibilities' in the situation be avoided. At the
20 President's express direction the message was sent in
21 the 'gray' code, a non-confidential code which the
22 Japanese would have no difficulty in deciphering. In
23 order to assure prompt decoding and delivery by
24 Ambassador Grew of that message, a brief telegram was
25 sent him shortly in advance to be ready for a message

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1 to the Emperor which was being put on the wires. The
2 alerting message was dispatched on December 6 at 8 p.m.;
3 the message to the Emperor at 9 p.m. There is annexed
4 as Exhibit M a copy of the message to the Emperor."

5 MR. KEENAN: The exhibit is tendered in
6 evidence.

7 THE PRESIDENT: Admitted.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2215-M will receive exhibit No. 1245-J.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 2215-M, and was received in evidence.)

13 MR. HIGGINS: I will read prosecution's
14 exhibit No. 1245-J.

15 "'President Roosevelt to Emperor Hirohito
16 of Japan'

17 "'(Washington), December 6, 1941

18 "'Almost a century ago the President of
19 the United States addressed to the Emperor of Japan
20 a message extending an offer of friendship of the
21 people of the United States to the people of Japan.
22 That offer was accepted, and in the long period of
23 unbroken peace and friendship which has followed,
24 our respective nations, through the virtues of
25 their peoples and the wisdom of their rulers have

1 prospered and have substantially helped humanity.

2 "Only in situations of extraordinary
3 importance to our two countries need I address to
4 Your Majesty messages on matters of state. I feel I
5 should now so address you because of the deep and
6 far-reaching emergency which appears to be in formation.

7 "Developments are occurring in the Pacific
8 area which threaten to deprive each of our nations
9 and all humanity of the beneficial influence of
10 the long peace between our two countries. Those
11 developments contain tragic possibilities.

12 "The people of the United States, believing
13 in peace and in the right of nations to live and let
14 live, have eagerly watched the conversations between
15 our two Governments during these past months. We
16 have hoped for a termination of the present conflict
17 between Japan and China. We have hoped that a peace
18 of the Pacific could be consummated in such a way
19 that nationalities of many diverse peoples could
20 exist side by side without fear of invasion; that
21 unbearable burdens of armaments could be lifted
22 for them all; and that all peoples would resume
23 commerce without discrimination against or in favor
24 of any nation.
25

"I am certain that it will be clear to

1 Your Majesty, as it is to me, that in seeking these
2 great objectives both Japan and the United States
3 should agree to eliminate any form of military threat.
4 This seemed essential to the attainment of the high
5 objectives.

6 "More than a year ago Your Majesty's
7 Government concluded an agreement with the Vichy
8 Government by which five or six thousand Japanese
9 troops were permitted to enter into Northern French
10 Indo-China for the protection of Japanese troops
11 which were operating against China further north.
12 And this Spring and Summer the Vichy Government
13 permitted further Japanese military forces to enter
14 into Southern French Indo-China for the common
15 defense of French Indo-China. I think I am correct
16 in saying that no attack has been made upon Indo-
17 China, nor that any has been contemplated.

18 "During the past few weeks it has become
19 clear to the world that Japanese military, naval
20 and air forces have been sent to Southern Indo-
21 China in such large numbers as to create a reasonable
22 doubt on the part of other nations that this contin-
23 uing concentration in Indo-China is not defensive
24 in its character.

25 "Because these continuing concentrations

1 in Indo-China have reached such large proportions
2 and because they extend now to the southeast and
3 the southwest corners of that Peninsula, it is only
4 reasonable that the people of the Philippines, of
5 the hundreds of Islands of the East Indies, of Malaya
6 and of Thailand itself are asking themselves whether
7 these forces of Japan are preparing or intending
8 to make attack in one or more of these many directions.

9 "I am sure that Your Majesty will under-
10 stand that the fear of all these peoples is a legiti-
11 mate fear in as much as it involves their peace
12 and their national existence. I am sure that Your
13 Majesty will understand why the people of the United
14 States in such large numbers look askance at the
15 establishment of military, naval and air bases
16 manned and equipped so greatly as to constitute
17 armed forces capable of measures of offense.

18 "It is clear that a continuance of such
19 a situation is unthinkable.

20 "None of the peoples whom I have spoken
21 of above can sit either indefinitely or permanently
22 on a keg of dynamite.

23 "There is absolutely no thought on the
24 part of the United States of invading Indo-China
25 if every Japanese soldier or sailor were to be

1 withdrawn therefrom.

2 "I think that we can obtain the same
3 assurance from the Governments of the East Indies,
4 the Governments of Malaya and the Government of
5 Thailand. I would even undertake to ask for the
6 same assurance on the part of the Government of
7 China. Thus a withdrawal of the Japanese forces
8 from Indo-China would result in the assurance of
9 peace throughout the whole of the South Pacific
10 area.

11 "I address myself to Your Majesty at
12 this moment in the fervent hope that Your Majesty
13 may, as I am doing, give thought in this definite
14 emergency to ways of dispelling the dark clouds.
15 I am confident that both of us, for the sake of the
16 peoples not only of our own great countries but for
17 the sake of humanity in neighboring territories,
18 have a sacred duty to restore traditional unity
19 and prevent further death and destruction in the
20 world.

21 "FRANKLIN D. ROOSEVELT

22 "(Foreign Relations, Vol. II, p. 784-786)"
23
24
25

BALLANTINE

DIRECT

1 THE WITNESS: (Reading) "The press was
2 informed by the White House at about 7.40 p.m. on
3 December 6 of the fact that a message to the Emperor
4 was being dispatched.

5 "On Sunday, December 7, at about 12 o'clock
6 noon, the Secretary of State, in response to a telephone
7 request from the Japanese Ambassador, made an appoint-
8 ment to receive the Ambassador and Mr. KURUSU at 1 p.m.
9 Shortly after 1 p.m., the Ambassador and Mr. KURUSU asked
10 by telephone that the appointment be postponed until
11 1.45 p.m. They arrived at the Department of State at
12 2.05 p.m. and were received by the Secretary at 2.20 p.m.
13 The Japanese Ambassador said that he had been instructed
14 by his Government to deliver a paper at 1 p.m., but
15 that difficulty in decoding the message had delayed
16 him. He then handed the Secretary a document, a copy
17 of which is annexed as Exhibit N."

18 MR. KEENAN: Exhibit N is tendered to the
19 Tribunal in evidence.

20 THE PRESIDENT: Admitted.

21 CLERK OF THE COURT: Prosecution's document
22 No. 2215-N will receive exhibit No. 1245-K.

23 (Whereupon, the document above
24 referred to was marked prosecution's exhibit
25 No. 1245-K, and was received in evidence.)

BRIEFING

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1 MR. HIGGINS: I read Prosecution exhibit
2 No. 1245-K.

3 "Memorandum Handed by the Japanese Am-
4 bassador (NOMURA) to the Secretary of State at 2.20
5 P. M. on December 7, 1941.

6 "1. The Government of Japan, prompted by
7 a genuine desire to come to an amicable understand-
8 ing with the Government of the United States in order
9 that the two countries by their joint efforts may
10 secure the peace of the Pacific Area and thereby
11 contribute toward the realization of world peace, has
12 continued negotiations with the utmost sincerity
13 since April last with the Government of the United
14 States regarding the adjustment and advancement of
15 Japanese-American relations and the stabilization
16 of the Pacific Area.

17 "The Japanese Government has the honor
18 to state frankly its views concerning the claims
19 the American Government has persistently maintained
20 as well as the measures the United States and Great
21 Britain have taken toward Japan during these eight
22 months.

23 "2. It is the immutable policy of the
24 Japanese Government to insure the stability of East
25 Asia and to promote world peace and thereby to enable

BALLANTINE

DIRECT

1 all nations to find each its proper place in the
2 world.

3 "Ever since China Affair broke out owing
4 to the failure on the part of China to comprehend
5 Japan's true intentions, the Japanese Government
6 has striven for the restoration of peace and it has
7 consistently exerted its best efforts to prevent the
8 extention of war-like disturbances. It was also
9 to that end that in September last year Japan con-
10 cluded the Tripartite Pact with Germany and Italy.

11 "However, both the United States and
12 Great Britain have resorted to every possible
13 measure to assist the Chungking regime so as to
14 obstruct the establishment of a general peace
15 between Japan and China, interfering with Japan's
16 constructive endeavours toward the stabilization
17 of East Asia. Exerting pressure on the Netherlands
18 East Indies, or menacing French Indo-China, they
19 have attempted to frustrate Japan's aspiration
20 to the ideal of common prosperity in cooperation with
21 these regions. Furthermore, when Japan in accordance
22 with its protocol with France took measures of
23 joint defence of French Indo-China, both American
24 and British Governments, wilfully misinterpreting
25 it as a threat to their own possessions, and

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DIRECT

1 inducing the Netherlands Government to follow suit,
2 they enforced the assets freezing order,, thus
3 severing economic relations with Japan. While
4 manifesting thus an obviously hostile attitude,
5 these countries have strengthened their military
6 preparations perfecting an encirclement of Japan,
7 and have brought about a situation which endangers
8 the very existence of the Empire.

9 "Nevertheless, to facilitate a speedy
10 settlement, the Premier of Japan proposed, in
11 August last, to meet the President of the United
12 States for a discussion of important problems
13 between the two countries covering the entire
14 Pacific area. However, the American Government,
15 while acceding in principle the Japanese proposal,
16 insisted that the meeting should take place after
17 an agreement of view had been reached on fundamental
18 and essential questions.

19 "3. Subsequently, on September 25th
20 the Japanese Government submitted a proposal based
21 on the formula proposed by the American Government,
22 taking fully into consideration past American
23 claims and also incorporating Japanese views.
24 Repeated discussions proved of no avail in pro-
25 ducing readily an agreement of view. The present

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1 cabinet, therefore, submitted a revised proposal,
2 moderating still further the Japanese claims re-
3 garding the principal points of difficulty in the
4 negotiation and endeavoured strenuously to reach
5 a settlement. But, the American Government, ad-
6 hering steadfastly to its original assertions,
7 failed to display in the slightest degree a spirit
8 of conciliation. The negotiation made no progress.

9 "Therefore, the Japanese Government,
10 with a view to doing its utmost for averting a
11 crisis in Japanese-American relations, submitted
12 on November 20th still another proposal in order
13 to arrive at an equitable solution of the more
14 essential and urgent questions which, simplifying
15 its previous proposal, stipulated the following
16 points:

17
18 "(1) The Governments of Japan and the
19 United States undertake not to dispatch armed
20 forces into any of the regions, excepting French
21 Indo-China, in the Southeastern Asia and the
22 Southern Pacific area.

23 "(2) Both Governments shall cooperate
24 with the view to securing the acquisition in the
25 Netherlands East Indies of those goods and com-
modities of which the two countries are in need."

BALLANTINE

DIRECT

1 "(3) Both Governments mutually under-
2 take to restore commercial relations to those pre-
3 vailing prior to the freezing of assets.

4 "The Government of the United States shall
5 supply Japan the required quantity of oil.

6 "(4) The Government of the United States
7 undertakes not to resort to measures and actions
8 prejudicial to the endeavours for the restoration
9 of general peace between Japan and China.

10 "(5) The Japanese Government undertakes
11 to withdraw troops now stationed in French Indo-
12 China upon either the restoration of peace between
13 Japan and China or the establishment of an equitable
14 peace in the Pacific Area; and it is prepared to
15 remove the Japanese troops in the southern part
16 of French Indo-China to the northern part upon
17 the conclusion of the present agreement.

18 "As regards China, the Japanese Government,
19 while expressing its readiness to accept the offer
20 of the President of the United States to act as
21 'introducer' of peace between Japan and China as
22 was previously suggested, asked for an undertaking
23 on the part of the United States to do nothing
24 prejudicial to the restoration of Sino-Japanese
25 peace when the two parties have commenced direct

BALLANTINE

DIRECT

1 negotiations.

2 "The American Government not only re-
3 jected the above-mentioned new proposal, but made
4 known its intention to continue its aid to Chiang
5 Kai-shek; and in spite of its suggestion mentioned
6 above, withdrew the offer of the President to act
7 as so-called 'introducer' of peace between Japan
8 and China, pleading that time was not yet ripe for
9 it. Finally on November 26th, in an attitude to
10 impose upon the Japanese Government those prin-
11 ciples it has persistently maintained, the American
12 Government made a proposal totally ignoring Japanese
13 claims, which is a source of profound regret to the
14 Japanese Government.

15 "14. From the beginning of the present
16 negotiation the Japanese Government has always
17 maintained an attitude of fairness and moderation,
18 and did its best to reach a settlement, for which
19 it made all possible concessions often in spite
20 of great difficulties. As for the China question
21 which constituted an important subject of the
22 negotiation, the Japanese Government showed a most
23 conciliatory attitude. As for the principle of
24 non-discrimination in international commerce,
25 advocated by the American Government, the Japanese

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1 Government expressed its desire to see the said
2 principle applied throughout the world, and de-
3 clared that along with the actual practice of this
4 principle in the world, the Japanese Government would
5 endeavour to apply the same in the Pacific Area
6 including China, and made it clear that Japan had
7 no intention of excluding from China economic activ-
8 ities of third powers pursued on an equitable basis.
9 Furthermore, as regards the question of withdrawing
10 troops from French Indo-China, the Japanese Government
11 even volunteered, as mentioned above, to carry out
12 an immediate evacuation of troops from Southern
13 French Indo-China as a measure of easing the sit-
14 uation.

15 "It is presumed that the spirit of con-
16 ciliation exhibited to the utmost degree by the
17 Japanese Government in all these matters is fully
18 appreciated by the American Government.

19 "On the other hand, the American Govern-
20 ment, always holding fast to theories in disregard
21 of realities, and refusing to yield an inch on its
22 impractical principles, caused undue delay in the
23 negotiation. It is difficult to understand this
24 attitude of the American Government and the Japanese
25 Government desires to call the attention of the

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1 American Government especially to the following
2 points:

3 "1. The American Government advocates
4 in the name of world peace those principles
5 favorable to it and urges upon the Japanese
6 Government the acceptance thereof. The peace
7 of the world may be brought about only by
8 discovering a mutually acceptable formula
9 through recognition of the reality of the
10 situation and mutual appreciation of one
11 another's position. An attitude such as
12 ignores realities and imposes one's selfish
13 views upon others will scarcely serve the
14 purpose of facilitating the consummation of
15 negotiations."

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BALLANTINE

DIRECT

1 "Of the various principles put forward by
2 the American Government as a basis of the Japanese-
3 American Agreement, there are some which the Japanese
4 Government is ready to accept in principle, but in
5 view of the world's actual conditions, it seems only
6 a utopian ideal on the part of the American Government
7 to attempt to force their immediate adoption.

8 "Again, the proposal to conclude a multi-
9 lateral non-aggression pact between Japan, United States
10 Great Britain, China, the Soviet Union, the Netherlands
11 and Thailand, which is patterned after the old concept
12 of collective security, is far removed from the reali-
13 ties of East Asia.

14 "2. The American proposal contained a stipu-
15 lation which states--'Both Governments will agree that
16 no agreement, which either has concluded with any third
17 power or powers, shall be interpreted by it in such a
18 way as to conflict with the fundamental purpose of
19 this agreement, the establishment and preservation of
20 peace throughout the Pacific area'. It is presumed that
21 the above provision has been proposed with a view to
22 restrain Japan from fulfilling its obligations under
23 the Tripartite Pact when the United States participates
24 in the War in Europe, and, as such, it cannot be accepted
25 by the Japanese Government.'"

BAILANTINE

DIRECT

1 "The American Government, obsessed with its
2 own views and opinions, may be said to be scheming
3 for the extension of the war. While it seeks, on the
4 one hand, to secure its rear by stabilizing the Pacific
5 Area, it is engaged, on the other hand, in aiding Great
6 Britain and preparing to attack, in the name of self-
7 defense, Germany and Italy, two Powers that are striv-
8 ing to establish a new order in Europe. Such a policy
9 is totally at variance with the many principles upon
10 which the American Government proposes to found the
11 stability of the Pacific Area through peaceful means.

12 "3. Whereas the American Government, under
13 the principles it rigidly upholds, objects to settle
14 international issues through military pressure, it is
15 exercising in conjunction with Great Britain and other
16 nations pressure by economic power. Recourse to such
17 pressure as a means of dealing with international rela-
18 tions should be condemned as it is at times more in-
19 humane than military pressure.

20 "4. It is impossible not to reach the con-
21 clusion that the American Government desires to main-
22 tain and strengthen, in coalition with Great Britain
23 and other Powers, its dominant position it has hither-
24 to occupied not only in China but in other areas of
25 East Asia. It is a fact of history that the countries

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1 of East Asia for the past hundred years or more have
2 been compelled to observe the status quo under the
3 Anglo-American policy of imperialistic exploitation
4 and to sacrifice themselves to the prosperity of the
5 two nations. The Japanese Government cannot tolerate
6 the perpetuation of such a situation since it directly
7 runs counter to Japan's fundamental policy to enable
8 all nations to enjoy each its proper place in the
9 world.

10 "The stipulation proposed by the American
11 Government relative to French Indo-China is a good
12 exemplification of the above-mentioned American policy.
13 Thus the six countries, --Japan, the United States, Great
14 Britain, the Netherlands, China and Thailand,-- except-
15 ing France, should undertake among themselves to re-
16 spect the territorial integrity and sovereignty of
17 French Indo-China and equality of treatment in trade
18 and commerce would be tantamount to placing that ter-
19 ritory under the joint guarantee of the Governments
20 of those six countries. Apart from the fact that such
21 a proposal totally ignores the position of France, it
22 is unacceptable to the Japanese Government in that such
23 an arrangement cannot but be considered as an exten-
24 sion to French Indo-China of a system similar to the
25 Nine-Power Treaty structure which is the chief factor

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1 responsible for the present predicament of East Asia.

2 "15. All the items demanded of Japan by the
3 American Government regarding China such as wholesale
4 evacuation of troops or unconditional application of
5 the principle of non-discrimination in international
6 commerce ignored the actual conditions of China, and
7 are calculated to destroy Japan's position as the
8 stabilizing factor of East Asia. The attitude of the
9 American Government in demanding Japan not to support
10 militarily, politically or economically any regime
11 other than the regime at Chungking, disregarding there-
12 by the existence of the Nanking Government, shatters
13 the very basis of the present negotiation. This de-
14 mand of the American Government falling, as it does,
15 in line with its above-mentioned refusal to cease from
16 aiding the Chungking regime, demonstrates clearly the
17 intention of the American Government to obstruct the
18 restoration of normal relations between Japan and
19 China and the return of peace to East Asia.

20 "15. In brief, the American proposal con-
21 tains certain acceptable items such as those concern-
22 ing commerce, including the conclusion of a trade
23 agreement, mutual removal of the freezing restrictions,
24 and stabilization of yen and dollar exchange,
25 or the abolition of extra-territorial rights in
China. On the other hand,

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1 however, the proposal in question ignores Japan's
2 sacrifices in the four years of the China Affair,
3 menaces the Empire's existence itself and disparages
4 its honour and prestige. Therefore, viewed in its
5 entirety, the Japanese Government regrets that it can-
6 not accept the proposal as a basis of negotiation.

7 "16. The Japanese Government, in its desire
8 for an early conclusion of the negotiation, proposed
9 simultaneously with the conclusion of the Japanese-
10 American negotiation, agreements to be signed with
11 Great Britain and other interested countries. The
12 proposal was accepted by the American Government.
13 However, since the American Government has made the
14 proposal of November 26th as a result of frequent
15 consultation with Great Britain, Australia, the Nether-
16 lands and Chungking, and presumably by catering to the
17 wishes of the Chungking regime in the questions of
18 China, it must be concluded that all these countries
19 are at one with the United States in ignoring Japan's
20 position.

21
22 "17. Obviously it is the intention of the
23 American Government to conspire with Great Britain and
24 other countries to obstruct Japan's efforts toward
25 the establishment of peace through the creation of a
new order in East Asia, and especially to preserve

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1 Anglo-American rights and interests by keeping Japan
2 and China at war. This intention has been revealed
3 clearly during the course of the present negotiation.
4 Thus, the earnest hope of the Japanese Government to
5 adjust Japanese-American relations and to preserve and
6 promote the peace of the Pacific through cooperation
7 with the American Government has finally been lost.

8 "The Japanese Government regrets to have to
9 notify hereby the American Government that in view
10 of the attitude of the American Government it cannot
11 but consider that it is impossible to reach an agree-
12 ment through further negotiations.

13 "Washington, December 7, 1941."

14 "(Foreign Relations, Vol. II, p. 787-792.)"
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BALLANTINE

DIRECT

THE WITNESS (Reading):

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2 "The Japanese message was not a declaration
3 of war with reasons or an ultimatum. It was not even
4 a declaration of intention to sever diplomatic rela-
5 tions.

6 "The allegations in the Japanese message are
7 contrary to fact. Since the outset of the conversations
8 between the two governments, the effort of the Japanese
9 Government was directed toward inducing the United States
10 to surrender its basic policy, while the Japanese Govern-
11 ment maintained intact its policy of aggression and
12 force. The immutable policy of the Japanese Government
13 to ensure the stability of East Asia was predicated upon
14 establishing at the outset a complete Japanese military
15 and economic stranglehold over China, calling for Japa-
16 nese control over strategic Chinese industries and facil-
17 ities, referred to euphemistically in terms such as
18 'economic cooperation with China,' and retention in large
19 areas of China for an indefinite period of large Japa-
20 nese garrisons to protect Japan's holdings, a stipula-
21 tion cloaked under the innocent sounding provision 'joint-
22 defense against Communism.' These terms were embodied
23 in the so-called 'treaty' of 1940 between Japan and the
24 puppet Wang Ching-wei regime. The Japanese Government
25 sought to obtain American assent to the imposition of

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1 these terms on the Chinese Government. At no time
2 did the Japanese Government budge from insistence
3 upon these terms, and for the Japanese Government to
4 speak of making the utmost concessions is a monstrous
5 distortion of the facts. It was because of this
6 intransigent position of the Japanese Government that
7 it would heed no suggestion looking toward an amicable
8 adjustment of its differences with China. The conten-
9 tion that the Japanese Government's proposal of Septem-
10 ber 25 was based upon the American proposal is not sus-
11 tained by a comparison of the two proposals. An analy-
12 sis of the essential characteristic of the Japanese
13 proposal of November 20 has already been presented above.

14 "Refusal on the part of China to come to
15 agreement with Japan of Japan's terms was due not to
16 failure on the part of China to understand Japan's
17 true intentions, as alleged, but to the fact that
18 Japan's true intentions were clearly understood by
19 China. The American policy of assisting the Chinese
20 Government was inspired by a desire to prevent Japan
21 from coercing China with a peace settlement under
22 which China would become completely dominated by Japan.
23 The policy of the United States and its friends, in-
24 cluding the imposition of freezing measures, was one
25 of self-defense against the publicly proclaimed Japa-

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1 nose policy of general aggression. The offer of the
2 Government of the United States, contained in its
3 proposal of June 21, under which the 'President of
4 the United States will suggest to the Government of
5 China that the Government of China and the Government
6 of Japan enter into a negotiation on a basis mutually
7 advantageous and acceptable for a termination of hos-
8 tilities and resumption of peaceful relations' was of
9 course made contingent upon Japan's entering into a
10 general agreement along the lines of the June 21 pro-
11 posal and was never withdrawn. The American Govern-
12 ment's proposal of November 26 represented a practical
13 application of principles which had been under dis-
14 cussion during months of negotiations, and was nothing
15 new; it offered Japan various benefits which would have
16 been welcomed by any country bent on pursuing peaceful
17 courses. Such delay as occurred in the conversations
18 arose entirely from the firm adherence of the Japanese
19 Government to its fixed policies of aggression. It is
20 not clear what is meant by the Japanese contention that
21 the American proposal for a multilateral non-aggression
22 pact was far removed from the realities of East Asia,
23 unless it was that the proposal conflicted with the
24 Japanese plan for establishing Japanese domination of
25 the entire Western Pacific area. The charge that the

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1 United States was scheming for an extension of the
2 war was, on its face, preposterous. The charge that
3 the United States, in conjunction with Great Britain,
4 was exercising economic pressure in order to deal with
5 international relations refers obviously to the freez-
6 ing measure which was resorted to as a necessary measure
7 of self-defense after Japan had launched its large-
8 scale forward military movement into Southern Indo-
9 China so as to imperil the security of American, Brit-
10 ish and Dutch territory. The charge that the United
11 States desired to maintain and strengthen its alleged
12 dominant position in China is, on its face, absurd as
13 the United States never sought nor did it ever have a
14 dominant position in China or in the Far East. With
15 regard to the contention that the United States sought
16 to obstruct the creation by Japan of a new order in
17 East Asia, it is of course true that the United States
18 was consistently opposed to Japan's pretensions to
19 the arrogation to itself of a position of military
20 dominance throughout the Far East and the western
21 Pacific area.

22
23 "The Secretary of State read the Japanese
24 document, turned to the Japanese Ambassador, and said,
25 "I must say in all my conversations with you /the
Japanese Ambassador/ during the last nine months I

BALLANTINE

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1 have never uttered one word of untruth. This is
2 borne out absolutely by the record. In all my fifty
3 years of public service I have never seen a document
4 that was more crowded with infamous falsehoods and
5 distortions--infamous falsehoods and distortions on a
6 scale so huge that I never imagined until today that
7 any government on this planet was capable of uttering
8 them.'

9 "The Ambassador and Mr. KURUSU then took
10 their leave without making any comment.

11 "This interview, as later appeared, took
12 place more than an hour after the Japanese armed forces
13 had struck without warning at Pearl Harbor and over
14 two hours after an actual Japanese landing in Malaya
15 and four hours after they had crossed the boundary of
16 the International Settlement at Shanghai. These facts
17 were not mentioned by NOMURA and KURUSU."

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1 MR. KEENAN: You may cross-examine.

2 MR. WARREN: If the Tribunal please, the
3 Tribunal has already stated that it would not take
4 into consideration any conclusions of the witness.
5 At the conclusion of the testimony of this witness
6 the defense believes that his master affidavit, not
7 the documents which he introduced in support thereof,
8 but his master affidavit in its entirety, not only
9 amounts to a conclusion of the witness, but in addi-
10 tion, to a summation, a summation of the prosecution's
11 viewpoint on this matter, and is not the testimony of
12 the witness. We, therefore, ask that the master affi-
13 davit only, not including the exhibits, be stricken
14 from the record for that reason, so that the defense
15 will not have to contend with it in this cross-examina-
16 tion.

17 THE PRESIDENT: There is much in the affidavit
18 that is admissible, much that is not. We gave our
19 decision yesterday, and we are not going to review it.

20 Major Blakeney.

21 CROSS-EXAMINATION

22 BY MR. BLAKENEY:

23 Q Who prepared your affidavit, Mr. Witness?

24 A I prepared it largely myself from the records.

25 Q That is to say, you wrote it yourself?

BALLANTINE

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1 A Largely myself.

2 Q Since I note that approximately sixty-five
3 per cent of it is taken verbatim from the Department
4 of State's "Peace and War" or its "Diplomatic Rela-
5 tions" or Mr. Hull's Statement to Congress, may I
6 assume that you wrote those documents also?

7 A There were a number of people that collabo-
8 rated in the drafting or preparation of the documents.
9 I was one of those people.

10 Q As one of the staff of the Office of Far
11 Eastern Affairs of the Department of State in 1941,
12 did you participate rather extensively in the Japan-
13 ese-American conversations?

14 A I was present at most of the conversations
15 between the Secretary of State and the Japanese rep-
16 resentatives.

17 THE PRESIDENT: Speak closer to the micro-
18 phone, please, Mr. Ballantine.

19 The IBM is out of order. We will recess
20 for fifteen minutes.

21 (Whereupon, at 1045, a recess
22 was taken until 1100. after which the
23 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: This Court will not sit on
4 Thanksgiving Day which is Thursday of next week.
5 That is because it has been decreed a holiday by the
6 Supreme Commander.

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7 Will the reporter kindly repeat the last
8 three questions and answers?

9 (Whereupon, the official court
10 reporter read as follows:)

11 "Q Who prepared your affidavit, Mr. Witness?

12 "A I prepared it largely myself from the
13 records.

14 "Q That is to say, you wrote it yourself?

15 "A Largely myself.

16 "Q Since I note that approximately sixty-five
17 per cent of it is taken verbatim from the Department
18 of State's 'Peace and War' or its 'Diplomatic Rela-
19 tions' or Mr. Hull's Statement to Congress, may I
20 assume that you wrote these documents also?

21 "A There were a number of people that collabor-
22 ated in the drafting or preparation of the documents.
23 I was one of those people.

24 "Q As one of the staff of the Office of Far
25 Eastern Affairs of the Department of State in 1941,

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1 did you participate rather extensively in the Japan-
2 ese-American conversations?

3 "A I was present at most of the conversations
4 between the Secretary of State and the Japanese
5 representatives.

6 THE PRESIDENT: Speak closer to the micro-
7 phone, please, Mr. Ballantine.

8 The I. B. N. is out of order. We will
9 recess for fifteen minutes.

10 BY MR. BLAKENEY (Continued):

11 Q Did you also, then, Mr. Witness, attend to
12 the drafting of proposals and counter proposals and
13 other documents submitted in the course of these
14 conversations?

15 A I collaborated as one of a team in the
16 drafting of documents.

17 Q Was that team under your direction?

18 A That team was under the direction --
19 constant direction of the Secretary of State him-
20 self, and I was the most junior member of the three
21 principal advisers of the Secretary of State on Far
22 Eastern matters.

23 Q May we have the names of the other two,
24 please?

25 A Stanley K. Hornbeck, adviser -- political

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1 adviser, and Maxwell Hamilton, Chief of the Division
2 of Far Eastern Affairs.

3 Q You were, then, however, quite familiar with
4 the course and progress of the conversations, were
5 you not?

6 A Yes.

7 Q The explanation of these conversations given
8 in your affidavit commences with the suggestion which
9 had been informally brought to the attention of the
10 Secretary of State. This you say was followed by
11 discussions between the Secretary of State and the
12 President and the Japanese Ambassador.

13 A Yes.

14 Q And you then referred to the Japanese pro-
15 posal of the 12th of May, which is exhibit B to your
16 affidavit. Was there not actually a preceding draft
17 proposal of some nature?

18 A There was a draft proposal brought inform-
19 ally to the Secretary of State on April 9.

20 Q That is the document, is it not, which has
21 been introduced in this case as exhibit No. 1059,
22 entitled "Proposal Presented to the Department of
23 State Through the Medium of Private American and
24 Japanese Individuals on April 9, 1941"?

25 A Yes.

BALLANTINE

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1 Q And the existence of this document then
2 explains the references in your exhibit B to amend-
3 ments to the original draft proposal, does it not?

4 A That is correct.

5 Q Can you tell us who prepared this original
6 draft presented on the 9th of April, 1941?

7 A I do not know. It would be just an assump-
8 tion on my part.

9 Q Well, let me put it this way: Who were the
10 private individuals, American and Japanese, whom
11 you knew to be working on this question and who dis-
12 cussed it with the Department of State?

13 A The private individuals were a Mr. WIKAWA,
14 Takao and a Colonel IWAKURO, and a Father Drought of
15 the Maryknoll Mission, and also, I believe, Bishop
16 Walsh of the Maryknoll Mission.

17 Q Was Postmaster General Walker also one of
18 that group?

19 A As far as I know, he didn't participate in any
20 drafting; he simply acted as medium for communica-
21 tions.

22 Q Bishop Walsh and Father Drought had visited
23 Japan either early in 1941 or late in 1940, had they
24 not?

25 A According to what Father Drought told me,

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1 he and Bishop Walsh had visited Japan in the latter
2 part of 1940.

3 Q Did they also tell you that while in Japan
4 they had had talks with Premier KONOYE and other
5 individuals in high offices?

6 A They told me that they had talks with high
7 individuals. I do not recall definitely whose names
8 they specifically mentioned except Mr. MATSUOKA.
9 They did mention him specifically, I recall definite-
10 ly.

11 Q Then you do not know whether these people
12 prepared the original draft proposal, but they were
13 interested in it and working on the matter.

14 A That is correct.

15 Q How was this draft actually brought to the
16 attention of the President and the Secretary of
17 State?

18 A If I recall correctly, it was delivered to
19 the Secretary of State by the Postmaster General,
20 but I couldn't swear to that.

21 Q In discussing the matter, you used several
22 times the expression "it was represented that."
23 May I ask who made these representations? I am re-
24 ferring to paragraph six of page 7 of your affidavit.
25

A It was represented -- my information on it

BALLANTINE

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1 was derived from Father Drought; and, from what he
2 told me, he had got his word from WIKAWA.

3 Q Mr. WIKAWA was a private citizen connected
4 with a bank in New York, was he not?

5 A So far as I know, at that time he was not;
6 he was connected with the Cooperative Banks in
7 Japan.

8 Q After this draft proposal came into the
9 hands of the Department of State, it was discussed,
10 was it not, between Secretary Hull and Ambassador
11 NOMURA?

12 A It was discussed on April 14 and April 16
13 as the record in Foreign Relations will show.

14 Q Ambassador NOMURA told Secretary Hull that
15 he was aware of the existence and nature of this
16 draft, did he not?

17 A Yes. He said he collaborated with these
18 private individuals.

19 Q However, there was no suggestion that the
20 draft had official standing, was there?

21 A That is correct.

22 Q On either side.

23 Now, leaving the question of this draft out
24 of consideration for the moment, I ask you at whose
25 initiative the Japanese-American conversations were

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1 commenced?

2 A I think you will find in the record on --
3 some time in March that Mr. Hull and Ambassador
4 NOMURA had agreed that such efforts to be made to
5 improve Japanese-American relations were to be
6 considered a joint initiative.

7 Q Isn't it a fact that so far as the records
8 show, the subject was first raised by President
9 Roosevelt in talking with Ambassador NOMURA on the
10 14th of February, 1941?

11 A I don't know how far you could go on that.
12 It would normally lead between the Ambassador coming
13 to present his credentials to the President -- the
14 President would take the lead in a conversation of
15 that nature.

16 Q Well, the point that I am asking you to con-
17 firm is that, whatever would usually happen, on this
18 occasion the President did, in effect, invite Am-
19 bassador NOMURA to initiate informal discussions
20 with the Secretary of State.

21 A Well, I think that record speaks for
22 itself.

23 Q In any event, may we assume that the record
24 as published in the Department of State's "Foreign
25 Relations" is correct?

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1 A Yes.

2 Q Have you any information as to the light in
3 which the Japanese representatives -- the Ambassador
4 and others -- viewed the draft proposal of the 16th
5 of April and, specifically, whether they viewed it
6 as being an American proposal or a Japanese proposal
7 or a private individuals' proposal?

8 A I think the Secretary of State made it
9 perfectly clear to the Japanese Ambassador that it
10 was not an American proposal because he explained
11 that there were some parts in it we could accept,
12 some parts that would require revision, some parts
13 we couldn't accept.

14 Q May I ask whether Secretary Hull also re-
15 quested Ambassador NOMURA to obtain instructions from
16 his government on the basis of this draft proposal
17 before conversations should start?

18 A As I recall, Mr. Hull said to Ambassador
19 NOMURA that he could not have official conversations
20 except on a proposal that the Japanese Ambassador
21 presented under instructions. I think that he also
22 left to the Ambassador the question of whether he
23 wanted to get instructions on that particular pro-
24 posal.

25 Q And Ambassador NOMURA then did later state

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1 that he had been authorized to commence discussions,
2 did he not?

3 A He did so when he presented the draft of
4 May 12.

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1 Q The draft of the 12th of May purports to be
2 a proposal of amendments to the original text of the
3 16th of April. Do you consider that there are sig-
4 nificant differences between the two drafts?

5 A In the first place, the question of whether
6 it is an amendment or a redraft is a matter to be
7 inferred from their explanatory statement. There are
8 quite a few differences, however, between the April 9
9 draft and the May 12 draft.

10 Q In your affidavit you have undertaken a com-
11 parison of the draft of the 16th of May with the
12 American counter proposal of the 21st of June. /s
13 I understand from this comparison, what you designate
14 as essential differences of substance between the two
15 drafts fall into three broad classes. These are, first,
16 the question of the attitudes of the respective
17 governments toward the European War, or what we might
18 call the Tripartite Pact question. Is that so?

19 A That is one.

20 Q Second, the question of Chinese-Japanese
21 relations and the settlement of the China Affair. Is
22 that another?

23 A That is correct.

24 Q And, thirdly, the question of the economic
25 activities of the two nations in the Pacific area and

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1 especially with reference to non-discriminatory
2 commercial opportunity in China.

3 A Well, the third I would modify to say non-
4 discriminatory -- the principle of non-discrimination
5 in international intercourse throughout the Pacific
6 area.

7 Q Very well. We will accept your amendment.
8 Then these three main questions represented, as of
9 that time, the fundamental points of difference between
10 the two governments, did they?

11 A That is correct.

12 Q And is it also correct that, broadly speaking,
13 these three questions furnished the subject matter of
14 the conversations from beginning to end?

15 A Except as created by the new situation, by
16 Japan's movement into southern Indo-China. There was
17 the Indo-China question and the resulting freezing
18 measures which added two further topics.

19 Q Then it was these three questions which I
20 have mentioned, plus the Indo-China and freezing of
21 assets question which you have added, which finally
22 resulted in the failure of any agreement?

23 A I would say so except that these questions
24 were -- represented applications of principles of
25 peace which caused the failure to reach an agreement.

BALLANTINE

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1 Q Yes. That is to say that, as usually occurs
2 in diplomatic negotiations, the principles were agreed
3 upon but the applications could not be agreed upon.
4 Is that so?

5 A Well, even the fundamental principles, there
6 were no clear-cut commitments by the Japanese.

7 Q In any event, let us discuss these points of
8 difference scriptim, and first the Tripartite Pact
9 question. Now, is this a fair statement of the problem
10 involved, that the problem on our side was to convince
11 the Japanese that our involvement, which we foresaw, in
12 the European War was being brought about by the demands
13 of American self-defense, and that in a situation so
14 brought about the Japanese should agree not to consider
15 themselves bound to action under the Tripartite Pact?

16 A Our problem was to -- we envisaged an agreement
17 for peace covering the entire Pacific area. One of
18 the possibilities through which war might come in the
19 Pacific area was if Japan, interpreting its obligations
20 under the Axis, thought it might have to attack us
21 if we got involved in the European War. We wanted to
22 make perfectly clear to the Japanese our concept of
23 becoming involved through acts of self-defense.

24 THE PRESIDENT: Mr. Ballantine, to save time
25 will you kindly speak in short sentences and pause for

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1 translation at the end of each sentence?

2 Q Had you finished your answer?

3 A Yes.

4 Q The differences between the parties on this
5 point eventually turned on the definition of self-
6 defense, did they not?

7 A No. The difference turned on the failure of
8 the Japanese to give us any assurance that we would
9 not -- that Japan's obligations under the Tripartite
10 Pact, as she interpreted herself, did not require Japan -
11 or might not require Japan to attack us. There was no
12 difference in the concept that each country must be
13 its own judge of its own self-defense.

14 Q Did not the Japanese negotiators, time after
15 time, state to the officials of the Department of State
16 that they did dissent from the American contention that
17 each nation had a right to judge the requirements of
18 self-defense?

19 A I don't recall any contention of that nature.

20 Q So there shall be no misunderstanding whatever,
21 I will put it still more specifically. Did not Amba-
22 sadors NOMURA and KURUSU repeatedly state to Secretary
23 Hull and to you that they could not accept the American
24 definition of self-defense because it was too broad?

25 A There was no difference on the point that each

BALLANTINE

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1 nation must be the judge of what should constitute its
2 own self-defense. What the Japanese representatives
3 said was they could not, in an agreement, give us a
4 blank check and agree not to attack us on our concept
5 of self-defense.

6 Q Attack us, that is, if we became involved in
7 the European War acting in self-defense?

8 A They said that if we became involved in the
9 European War they would independently make their own
10 interpretations of what their obligations were under
11 the alliance.

12 Q But we said that if, acting in self-defense,
13 we became involved in that war there was no room for
14 interpretation of their obligations.

15 MR. KEENAN: Mr. President, I would like to
16 enter an objection to the question in that form unless
17 Mr. Blakeney explains whom he means by "we". He is
18 representing Japanese defendants accused in this case.

19 MR. BLAKENEY: I have been an American all my
20 life and I still speak as one.

21 THE PRESIDENT: The objection, of course, was
22 to your making a statement to the witness instead of
23 putting a question to him. You can use your own dis-
24 cretion as to the extent to which you will identify
25 yourself with your Japanese clients.

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1 MR. BLAKENEY: I will be glad, if the Tribunal
2 desires, to add "is that not so."

3 THE WITNESS: May I have the question repeated
4 again?

5 (Whereupon, the question was read by
6 the official court reporter as follows: "But we
7 said that if, acting in self-defense, we became
8 involved in that war there was no room for inter-
9 pretation of their obligations, is that not so?")

10 A We wanted clarification from the Japanese as
11 to what their attitude was, what they would do in case
12 we became involved through acts of self-defense, and we
13 explained clearly what we meant by self-defense.

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

16 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

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

THE PRESIDENT: Major Blakeney.

J O S E P H W. B A L L A N T I N E, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

CROSS-EXAMINATION

BY MR. BLAKENEY (Continued):

MR. BLAKENEY: May I ask the reporter to read the last answer.

(Whereupon, the answer was read by the official court reporter as follows: "We wanted clarification from the Japanese as to what their attitude was, what they would do in case we became involved through acts of self-defense, and we explained clearly what we meant by 'self-defense.'")

Q Then I ask you again whether the Japanese response was not in effect this: That they agreed unconditionally to the existence of the right of

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1 self-defense, but could not accept your explanation
2 of its scope?

3 A The right of self-defense was not at issue
4 nor was the question as to its -- our definition as to
5 its scope at issue. The question of their giving
6 us any commitments after we explained what our
7 attitude was.

8 Q But did they not explain to you that the
9 reason that they could not give that commitment was that
10 they could not give you a blank check for anything
11 which you might call self-defense.

12 A That is correct, but I should like to explain.
13 The Japanese came to us and asked for an agreement
14 covering peace in the whole Pacific area. There was one
15 factor which might be likely to cause a disruption of
16 that peace. Japan was a member of the Tri-Partite
17 Alliance. There was a possibility that we might
18 become involved in the war in the Atlantic. We wanted
19 to ascertain from them their attitude, their obligations
20 under the Pact as it affected that possibility.

21 Q And your position was, the position of the
22 United States was, was it not, that certain acts were
23 being taken which in the view of the United States were
24 self-defense?

25 A Certain acts were being taken or might be taken

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1 in the future.

2 Q And the United States was requesting Japan
3 to agree that if such acts of self-defense were taken
4 in the future and did lead to involvement in the
5 European war, that Japan would not be committed to
6 action under the Tri-Partite Pact; is that a correct
7 statement?

8 A That is only part of the story. The rest
9 of the story is that we didn't ask for a new agree-
10 ment. Japan came to us and asked for an agreement;
11 so when they proposed us this proposal of May 12,
12 we wanted clarification on that point.

13 Q And the Japanese wanted clarification on the
14 point of how far you contended that your right of
15 self-defense extended; did they not?

16 A We volunteered that information to them at
17 the outset.

18 Q How far did the right of self-defense extend?

19 MR. KEENAN: I object to that question, Mr.
20 President, as being an improper one.

21 THE PRESIDENT: Do you mean to ask him whether
22 the extent of the right was discussed and decided upon?

23 MR. BLAKENEY: Yes, sir, I do.

24 THE WITNESS: I think that that right of
25 self-defense is made clear in that speech that Mr. Hull

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1 made, which is in the record.

2 Q That is Mr. Hull's speech of the 24th of
3 April, 1941?

4 A I am not very good at remembering dates, but
5 I believe that is correct.

6 Q At any rate, was that the speech wherein he
7 stated that the defense of the United States called
8 for resistance wherever resistance would be most
9 effective?

10 A I didn't quite get the point of your ques-
11 tion.

12 May I have it repeated, please.

13 (Whereupon, the last question was
14 read by the official court reporter.)

15 A (Continuing) That is correct.

16 Q Did he also point out in that speech that
17 the United States need not await an attack on the
18 American continent to call into exercise that right of
19 self-defense?
20

21 MR. KEENAN: If the Court please, the
22 prosecution objects to that on the ground that the
23 speech is in evidence, speaks for itself, and there
24 is no point in having this witness repeat certain
25 parts of it.

MR. BLAKENEY: The witness is not being asked

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1 to repeat anything. He referred to the speech
2 for his definition and I am asking him if the definition
3 from that speech, as I stated it, is correct.

4 THE PRESIDENT: You can ask him whether
5 Mr. Hull is correctly reported in that speech, if
6 you really challenge its accuracy.

7 MR. BLAKENEY: I do not challenge its
8 accuracy, sir. I am trying to make sure that the
9 witness refers to the definition in the speech which
10 I am offering to him as being the State Department's
11 definition presented to the Japanese.

12 THE PRESIDENT: The objection is upheld if that
13 is so.

14 Major Blakeney, I do not want to interfere
15 with the cross-examination, or I should say the Tribunal
16 does not, but it does appear to me at all events if
17 you put to this witness the things which you say
18 NOMURA and KURUSU said to him, or to Mr. Hull, and
19 which do not appear in the exhibits, you will give us
20 the maximum assistance. We will get very little
21 assistance from any academic discussion about the mean-
22 ing of self-defense, or the right to it.

23 MR. BLAKENEY: I propose doing what your Honor
24 suggests, but I should like to point out that I think
25 this witness can give us great assistance in one other

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1 way. I think that we laymen, or at least this
2 layman, require considerable assistance in under-
3 standing diplomatic negotiations, and here you have
4 an expert on the subject.
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1 THE PRESIDENT: From what I told you yester-
2 day I think you should have inferred that we are not
3 treating him as an expert; that is, as a person who
4 can draw conclusions for us.

5 There is no diplomatic language, really;
6 there may be a diplomatic style. But we reserve the
7 right to give our meaning to the words used without
8 any help from any diplomat.

9 MR. BLAKENEY: Perhaps the term "expert" was
10 ill-chosen. I meant to suggest that this witness
11 actually conducted many of these negotiations, many
12 of the conversations which do not appear in the pro-
13 posals and counter-proposals but supplement them.

14 THE PRESIDENT: It may occur to the Members
15 of the Tribunal that the Japanese put all they had to
16 say in writing. If you have been instructed that
17 something has been left out, something that was said
18 to Mr. Hull or to Mr. Ballantine, you may put it to
19 him to see whether he accepts it or not.

20 MR. BLAKENEY: Obviously, sir, it was not all
21 put in writing, because the witness has testified at
22 length about informal conversations which went on over
23 a period of six months.

24 THE PRESIDENT: There will be, of course, much
25 reiteration, and there will be much stating of the

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1 same thing in different ways. But we can rest assured
2 that the Japanese did not fail to put in writing any-
3 thing that was really material; unless you are
4 instructed that something material was omitted and
5 was known to Mr. Hull or to the witness.

6 MR. BLAKENEY: No, sir, I am not instructed to
7 that effect. But my position, which I apparently haven't
8 yet clearly stated, is that the negotiations, them-
9 selves, the conversations, are material. Many of
10 these documents on their face seem to say that the
11 parties were in agreement, but we know that they were
12 not. And I am trying to get--

13 THE PRESIDENT: It is going to be most
14 difficult for us to pass over the documents and rely
15 on conversations which the witness may or may not
16 recollect.

17 MR. BLAKENEY: I do not ask the witness for
18 his memory of the conversations. They are recorded.

19 THE PRESIDENT: Then you are asking him to
20 interpret for us the writings which record them. We
21 will not let him do it.

22 MR. BLAKENEY: I am asking him to narrow down
23 for the Tribunal the actual issues in dispute so we
24 can see what they came to.
25

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1 BY MR. BLAKENEY (Continued):

2 Q We were speaking of self-defense. Was the
3 American position on the scope of the right of self-
4 defense also defined in a speech by President Roose-
5 velt given over the radio on the 27th of May 1941?

6 MR. KEENAN: Mr. President, I object to
7 that question. There is nothing clearer than that
8 the President of the United States is the chief execu-
9 tive of that government. What he says is recorded in
10 writing and speaks for itself, and this Court can
11 interpret the language as well as either this witness
12 or counsel for the defense.

13 MR. BLAKENEY: I do not ask him to interpret.
14 I ask him whether it is a fact that there was such a
15 speech defining the right of self-defense.

16 MR. KEENAN: Mr. President, if I may be per-
17 mitted to observe, the speech is in the record. It is
18 an exhibit in this case. I would suggest again that
19 counsel is indirectly attempting to do that which I
20 understood the Court said it did not wish to be done.
21 Therefore, I object.

22 THE PRESIDENT: Are you referring to a speech
23 already in evidence, Major Blakeney?

24 MR. BLAKENEY: Well, frankly, sir, I do not
25 know. There are one thousand two hundred some odd

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1 exhibits, and I am just not sure.

2 MR. KEENAN: Mr. President, we have a speech
3 in the record of President Roosevelt dated in October.
4 That may be a different one that Major Blakeney is
5 referring to.

6 THE PRESIDENT: Mention the date of the speech
7 to the witness.

8 Q 27th of May, 1941.

9 A I do not have any present recollection of
10 that speech.

11 Q Do you remember any speech of President
12 Roosevelt in the spring of 1941 in which he stated
13 that the United States will decide for itself whether
14 and when and where our American interests are attacked
15 or our security threatened?

16 A I have no clear recollection of any speech
17 at any particular time.

18 Q Do you agree that acceptance of the American
19 definition of the right of self-defense required
20 foreign nations to give advance approval to America's
21 involvement in the European War as self-defense when-
22 ever and however it might have come about?

23 THE PRESIDENT: He told you the definition
24 recognized by the State Department was in Mr. Hull's
25 speech; and it will be for us to say what it means.

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1 Q When the United States War Council, so-called,
2 and the Cabinet of the United States on various occa-
3 sions, such as the Cabinet meeting of the 7th of November
4 1941, discussed the possibility of ourselves attacking
5 Japan, was that considered in the light of an act of
6 self-defense?

7 MR. KEENAN: The prosecution objects to
8 that question as being without the scope of the cross-
9 examination, proper **cross**-examination.

10 MR. BLAKENEY: It seems to me that the scope
11 of proper **cross**-examination of the witness who conducted
12 these negotiations involving these questions is any-
13 thing concerning the interpretation of the question --
14 not of documents, but the question.

15 THE PRESIDENT: We will permit him to testify
16 only as to what was said and done during the
17 negotiations.
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1 Q Was any such statement as that made to you
2 by Secretary of State Hull or any other American
3 official -- high official?

4 A No.

5 Q I refer to the Executive Order of the 26th
6 of July, 1941, freezing Japanese assets in the
7 United States referred to on page 10 of your affidavit,
8 paragraph 3. You stated that, if I understand you
9 correctly, that this executive order was an act of
10 self-defense. Was this action, freezing assets, taken
11 jointly by agreement with the governments of other
12 nations?

13 A I do not know.

14 Q Do you know whether that action of the
15 United States Government was followed on the following
16 day -- was adopted on the following day by the govern-
17 ments of Great Britain and the Netherlands?

18 A I merely know that that action was either
19 followed or taken about the same time by these two
20 other governments.

21 Q Are you able to state whether the effect of
22 the British and Dutch action upon trade between those
23 nations and Japan was the same as the effect of the
24 American action upon Japanese-American trade; that is,
25 to bring about its virtual cessation?

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10 self-defense. Was this action, freezing assets, taken
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20 other governments.

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22 the British and Dutch action upon trade between those
23 nations and Japan was the same as the effect of the
24 American action upon Japanese-American trade; that is,
25 to bring about its virtual cessation?

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1 A I do not know.

2 Q Do you know whether the effect of the war
3 in Europe had been to bring about a virtual cessation
4 of trade between Japan and European countries?

5 THE PRESIDENT: That is, beyond the scope
6 of the affidavit, which is confined to the United
7 States position.

8 MR. BLAKENEY: Well, possibly he does not
9 know, but he does testify in his affidavit about the
10 freezing of assets by Great Britain and the Nether-
11 lands.

12 THE PRESIDENT: The American freezing.

13 Q Well, let me sum it up this way: Do you
14 know whether after the freezing of assets by these
15 governments Japan was in effect cut off from commercial
16 intercourse with all of the world except those parts
17 of Asia adjacent to her?

18 A I have no direct knowledge of the fact. I
19 have not seen any trade figures, but it would be just
20 a matter of assumption.

21 Q Do you know whether it is correct to say
22 that the result of the freezing of assets by these
23 various nations and the consequent cessation of trade
24 had the effect of reducing Japan's foreign trade by
25 about seventy-five per cent? Pardon me, I meant to

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1 say "imports", not "foreign trade."

2 A I don't think I have ever made a calculation
3 of that.

4 Q Are you able to say that that is approximately
5 correct without making a calculation?

6 A Well, I would make it within a much wider
7 range than that. It might be seventy-five percent,
8 but then it might be, for all I know, it might be
9 fifty-five per cent.

10 Q Then is it not true that the freezing of
11 assets with the consequent cessation of trade to
12 Japan constituted economic warfare upon Japan?

13 THE PRESIDENT: He is invited to express an
14 opinion, and we do not want his opinions.

15 Q Did the State Department know in taking the
16 steps toward freezing of Japanese assets that such
17 steps would inevitably drive Japan to seek elsewhere
18 and perhaps in other ways the necessary imports and
19 raw materials upon which to operate?

20 A One could hardly know in advance what some-
21 body else is going to do.

22 Q Did not the Department of State consider it
23 highly probable that Japan would be compelled so to do?

24 A Not necessarily, because at that time the
25 President offered Japan a peaceful alternative to the

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1 course that she was pursuing.

2 Q What offer do you refer to?

3 A His offer for the neutralization of Indo-China
4 of July 24th.

5 Q But I refer to the time when it was decided
6 to impose the assets freezing order, and I ask you
7 whether the State Department did not consider it
8 highly probable then that with the imposition of that
9 order and its consequent effects Japan would turn
10 elsewhere to secure the necessary trade and supplies?

11 A That was only one alternative. The other
12 put by the President's offer in regard to Indo-China
13 was still pending. It was only two days since the
14 offer was made.

15 Q Well, mention of the Indo-China question
16 brings up another point. You knew, of course, the
17 Japanese contention and complaint that Japan was
18 being encircled?

19 A We had heard a great deal about that.

20 Q Now was there not in truth an A, B, C, D,
21 American, British, Chinese, Dutch cooperation on the
22 subject of Japan and Pacific relations?

23 A Naturally, in the situation then prevailing,
24 it was necessary or desirable that the countries
25 affected would consult with each other about means of

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self-defense.

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2 Q Then you of the Department of State did know
3 that from, say January 1941, there had been military
4 cooperation among these nations plus Australia with
5 respect to possible action against Japan?

6 A I would say military consultations.

7 Q And did you of the Department of State know
8 during the year 1941 that the joint defense plans of
9 those nations were the only plans in existence for
10 military defense of American Pacific territories?

11 A I do not know that any particular plans of
12 consultation were the only plans for defense.

13 Q Now, of course, the United States never accepted
14 the implications of the term "encirclement," did it?

15 A The Acting Secretary of State told the
16 Japanese Ambassador that the American policy was the
17 opposite of encirclement policy.

18 C Nevertheless, accepting or rejecting the
19 concept of encirclement, must we not concede that there
20 was a basis in fact for the Japanese view that there
21 existed the A, B, C, D combination for action against
22 her?

23 MR. KEENAN: Mr. President, the prosecution
24 objects to that question as being without the scope --
25 proper scope of cross-examination. This witness is

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1 offered to tell what he knew and what he saw and
2 what he heard with reference to conversations leading
3 towards peace. Now he is being asked about military
4 combinations without the scope of the State Department
5 or without the scope of his direct examination.

6 THE PRESIDENT: He is asked in effect to assume
7 the Japanese had a certain view, and then he is asked
8 whether on that assumption there was not a basis for
9 that view. That does not appear to be a proper question
10 to put in cross-examination.

11 You, Major Blakeney, should know upon what
12 the Japanese based their view, if they held it, and
13 you should put to the witness that such were the facts;
14 but you cannot properly ask him whether the Japanese
15 view, if they held it, was properly held.

16 MR. BLAKENEY: I do not insist on the question
17 at all, sir, but I should like to point out that the
18 witness has testified in chief in very sweeping terms
19 as to the attitude of the Department of State in
20 negotiating.

21 THE PRESIDENT: I told you the Tribunal would
22 disregard everything in the affidavit except statements
23 of fact; that we would disregard his opinions, and only
24 to his opinions can you justly apply the term "sweeping."

25 Q Well, let us return to the negotiations. Cn

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1 the question of the Tripartite Pact, did the positions
2 of the parties gradually draw closer together?

3 A No.

4 Q We were referring to your comparison of the
5 draft proposals of the 12th of May and the 21st of
6 June. Meanwhile, however, have you not omitted one
7 of the intervening drafts, that of the 31st of May?

8 That is the American draft of the 31st of May.

9 A I did omit that in my affidavit.

10 Q Was there any particular reason for
11 its omission except that you considered it of little
12 importance?

13 A Well, our June 21st draft was up to the time
14 of our November 26th proposal, our last complete pro-
15 posal. It represented the end of the thinking out
16 and the discussions together of their original pro-
17 posal of May 12th and, therefore, I thought to save
18 time that I would make a comparison between those two
19 proposals.

20 Q This draft, however, I refer to the 31st of
21 May draft, does appear in the Department of State's
22 "Foreign Relations," Volume II, does it not?

23 THE PRESIDENT: Have you seen Exhibit 1078,
24 Major Blakeney?

25 MR. BLAKENEY: Which is that, sir?

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1 THE PRESIDENT: It bears on that question.

2 MR. BLAKENEY: 1078? I do not recognize it
3 by number, sir.

4 THE PRESIDENT: It is the proposal of the
5 31st of May, by Mr. Hull to Ambassador NOMURA.

6 MR. BLAKENEY: That is the document in
7 question, and I wish to ask the witness to confirm
8 that it contains this statement concerning the Tri-
9 partite Pact question.

10 THE PRESIDENT: The document speaks for
11 itself, Major. We do not want his elucidation of it.

12 MR. BLAKENEY: I do not know any way to
13 call the Tribunal's attention to the point I am
14 trying to cross-examine unless I can call it to his
15 attention.

16 THE PRESIDENT: Very well, proceed.

17 Q Very well. Then the 31st of May draft was
18 redrafted in your June proposal, was it not?

19 A That is correct.

20 Q And was it on the basis of this June draft,
21 or the May draft, or both, that on the 28th of August
22 Ambassador NOMURA said to Secretary Hull that he did
23 not feel there would be any difficulties about the
24 Tripartite Pact question at the proposed Roosevelt-
25 KONOYE meeting?

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1 A I do not know the basis of NOMURA's contention.

2 Q Well, the June draft proposal was the then
3 current one, if any was, was it not?

4 A That is correct.

5 Q Do you remember that at that time, in dis-
6 cussing the proposed meeting between President Roose-
7 velt and Premier Prince KONOYE, that Ambassador NOMURA
8 said that the Japanese people regarded their adherence
9 to the Axis as merely nominal?

10 A I do not recall that definitely at that time,
11 but I do know that there was a great deal of confusion
12 and conflict between what they would say at one time
13 and another time.

14 THE PRESIDENT: We will recess for fifteen
15 minutes.

16 (Whereupon, at 1445, a recess was taken
17 until 1500, after which the proceedings were
18 resumed as follows:)

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

3 THE PRESIDENT: Major Blakeney.

4 BY MR. BLAKENEY (Continued):

5 Q During the negotiations on the subject of
6 the Tripartite Pact, was it the position of the
7 Department of State that Japan should be required
8 formally to abrogate the Pact?

9 A As far as I know, we never took any position
10 on that point, only we didn't want any situation or
11 interpretation of that Pact which was inconsistent
12 with the peace agreement which the Japanese sought
13 for the Pacific.

14 Q Then the Department of State was requiring,
15 and would have been satisfied, would it, merely with
16 such an interpretation by Japan of the Pact as would
17 not be in conflict with the peaceful settlement in
18 the Pacific?

19 A I think I can answer that question best by
20 referring you to the point -- I believe it was point
21 9 -- in the steps to be taken by the two countries in
22 the November 26 proposal.

23 Q Yes. That is, then, what was demanded was
24 an interpretation, not a denunciation of the Pact.

25 A I think that that provision -- the wording

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1 speaks for itself. But, when you use the word
2 "demand," that should -- you should consider that
3 in reference to the paragraph in our explanatory
4 statement, the penultimate paragraph of the explana-
5 tory statement, the paragraph before the last.

6 Shall I read that provision?

7 Q If you will just tell us what page it is
8 on.

9 A It is on page 2 of exhibit L.

10 Q Yes. I think you need not read it.

11 Do you remember what your representative in
12 Japan, Ambassador Grew, advised the Department on the
13 29th of September relative to the Tripartite Alliance?

14 A I would have to have my memory refreshed on
15 that point.

16 Q I refer especially to the following words of
17 Ambassador Grew as taken from his book "Ten Years in
18 Japan," page 441; that the Ambassador points out that
19 in regard "to Japan's Axis relations the Japanese
20 Government, though refusing consistently to give an
21 undertaking that it will overtly renounce its alliance
22 membership, actually has shown a readiness to reduce
23 Japan's alliance adherence to a dead letter by its
24 indication of willingness to enter formally into ne-
25 gotiations with the United States."

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1 Do you now recollect that despatch of Mr.
2 Grew's?

3 A Yes, I recollect it.

4 Q What was the view of the Department on that
5 suggestion of Mr. Grew's?

6 A With regard to that point, there needed to
7 be something much more definite and concrete.

8 Q "Much more definite" -- what?

9 A "And concrete."

10 Q Was anything more definite and concrete
11 offered thereafter by the Japanese Ambassadors?

12 A I believe that KURUSU said at one time that
13 Japan might do something to outshine the other
14 alliance, but that wasn't made any more explicit
15 than that.

16 Q Did not the Department of State understand
17 that remark of Mr. KURUSU's as meaning that the con-
18 clusion of an agreement for general peace in the
19 Pacific would so unequivocally fix Japan's orienta-
20 tion that the Tripartite Pact would be a dead
21 letter?

22 A We didn't reach that point in the conversa-
23 tions. We didn't reach a point where all the other
24 things were so clear that we would have to reach a
25 decision on this one remaining question. There were

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1 too many outstanding questions. The Japanese
2 proposals were being successfully narrowed down.

3 Q You see, Mr. Witness, you repeat that the
4 Japanese proposals were being narrowed, but I am
5 trying to find the basis of fact for that statement.
6 I am asking you now whether the Japanese representa-
7 tives did not give a series of different suggested
8 phraseologies for the interpretation of this Tri-
9 partite Pact in the endeavor to meet the American
10 position.

11 A The furthest they got was to say that they
12 would interpret the Pact independently.

13 Q Did they explain "irdependently" of whom?

14 A Well, from the context it was clear that
15 they meant to imply that they weren't under German
16 domination and that they were an independent nation,
17 and that they would reach their own decision without
18 reference to Germany. I suppose that's what they
19 meant.

20 Q Was not that explanation of an intention to
21 interpret the Pact independently considered by the
22 Department of State to be sufficient evidence of
23 Japan's desire to escape from the Tripartite Pact
24 without formally denouncing it?
25

A We had no basis for reaching that conclu-

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1 sion. At one time, I believe, the Secretary of
2 State said that the Cabinet of Japan might change,
3 and what might go for one Cabinet might not go for
4 the next Cabinet.

5 Q Let me call your attention to exhibit J
6 to your affidavit which is the oral statement handed
7 by the Secretary of State to the Japanese Ambassador
8 on the 2nd of October.

9 THE PRESIDENT: That is exhibit No. 1245-G.

10 Q (Continuing) I refer to page 4 of para-
11 graph 2 thereof where the language is that, with
12 reference to the Tripartite Pact -- I am paraphras-
13 ing -- "this Government has noted with appreciation
14 the further step taken by the Japanese Government
15 to meet the difficulties inherent in this aspect of
16 the relations between the two countries."

17 Now, if the Japanese position in this
18 matter was being consistently narrowed, what was
19 the further step which was noted with appreciation?
20

21 A The position of the Japanese Government was
22 being consistently narrowed primarily in regard to
23 commitments of peaceful intent -- they were qualifi-
24 cations, and also in regard to qualifications in
25 regard to non-discrimination of international inter-
course. The very next sentence after the one you

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1 quoted shows clearly that the American Government was
2 not satisfied with the step that the Japanese Govern-
3 ment had taken.

4 Q Yes, I was going to ask you about that. The
5 American Government was not satisfied, and yet here
6 it clearly states that some progress had been made,
7 does it not?

8 A I think you will note the general tone of
9 that note. We tried to be as conciliatory and
10 friendly as possible. The first sentence should be
11 interpreted in the light of that atmosphere that we
12 were trying to create.

13 Q Well, now, Mr. Witness, that first sentence
14 either does or does not mean what it says. Which is
15 it?

16 A You will note the very first paragraph of
17 that communication we had in mind, that Japanese
18 proposal of September 6, was what we were largely
19 addressing ourselves to. The Japanese proposal of
20 September 6 is contained in exhibit G; and under C
21 of that report the Japanese had gone a little further
22 in their proposal of May 12. That is the last
23 clause, C: "In case the United States should par-
24 ticipate in the European War, the interpretation
25 and execution of the Tripartite Pact by Japan shall

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1 be independently decided." I can't say positively
2 at this late date that that was the point to which
3 we were referring, but I think that that was, that
4 they had taken this further step.

5 Q Yes. Well, that's what I was trying to
6 get at there, that they had not narrowed their
7 position at that point as the State Department said.

8 Now, on the 10th of November, Ambassador
9 NOMURA called on President Roosevelt, did he not,
10 and at that time read to him a memorandum?

11 A That is correct.

12 Q I note that this memorandum also is not
13 included with your affidavit or referred to therein,
14 from which fact I infer that the Department of State
15 considered it of little importance in the negotia-
16 tions.

17 A Perhaps you will recall that among these
18 intercepted Japanese telegrams which were released
19 at the time of the Pearl Harbor Inquiry there was
20 a telegram of November 5. That telegram will not be
21 in this "Foreign Relations." It will be in this
22 volume that was -- it was the first exhibit in the
23 Pearl Harbor Inquiry. I don't know whether it is in
24 evidence here or not. In that telegram there was an
25 instruction to Ambassador NOMURA in regard to the

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1 question of stationing troops in China which shows
2 a complete lack of good faith because he was in-
3 structed to make specious explanations of their
4 reasons for wanting to state, and be vague and
5 indefinite as to what they wanted. In the light of
6 that aspect of the situation, that had to be taken
7 into consideration in connection with any Japanese
8 proposals that were being made to us about that
9 time.

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1 Q Well, if I follow you, then, your answer is
2 "Yes," you didn't consider this of much importance.

3 A You couldn't take any one point at a time;
4 you had to consider the whole situation as a whole.

5 Q My question was why you omitted the Japanese
6 proposal in question from your discussion of the
7 negotiations in your affidavit. I did not suppose
8 there was any reason for your omitting it; that you
9 considered it of little importance. I wonder if that
10 is correct.

11 A We were at that time exploring the whole
12 field.

13 Q Yes, but why was this document not mentioned
14 in your affidavit, Mr. Witness?

15 A That was one of many documents that were
16 not mentioned in my affidavit, because it was one,
17 in my judgment, of lesser importance.

18 Q Yes, so I assume. Now, in connection with
19 the Tripartite Pact, I want to call your attention
20 to the occasion when this document was presented by
21 Ambassador NOMURA to President Roosevelt on the 10th
22 of November. Do you remember that at that time in
23 discussing with the President the matter of the
24 Tripartite Pact the Ambassador said as follows:
25 This is in Foreign Relations, Volume 2, page 716.

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1 "The present circumstances under which Japan is
2 placed do not permit my Government to go any further
3 to write in black and white than what is proposed in
4 the draft of September 25th, which I have just quoted.
5 All I have to ask you is to read between the lines
6 and to accept the formula as satisfactory."

7 A Isn't there a line there that the Ambassador
8 erased?

9 Q Yes. That is what I want to ask you about.
10 The last sentence in the publication is lined out and
11 is followed by the notation, "deleted by Ambassador
12 NOMURA." Was any explanation given of why he de-
13 sired it deleted?

14 A I wasn't at that conversation, and if any
15 explanation was made to me I don't recall it.

16 Q Now, continuing on the matter of the Tri-
17 partite Pact for just a moment, was there any feeling
18 in the Department of State by say November that the
19 parties were measureably near to agreement of the
20 Tripartite question alone?

21 A I don't recall that there was any such
22 feeling. As I say, we were trying to look at this
23 question as a whole and getting a little closer,
24 slightly closer on one point without getting any
25 nearer on other points. I don't think that they

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1 attached too much importance to any single point
2 because we were so far apart on many of those ques-
3 tions as a whole.

4 MR. KEENAN: Mr. President --

5 THE PRESIDENT: Mr. Chief of Counsel.

6 MR. KEENAN: For the purpose of keeping this
7 cross-examination confined within proper limits with
8 reference to inquiry about the Tripartite, I res-
9 pectfully call the Court and counsel's attention to
10 exhibit 1245-K, which is the note from Japan de-
11 livered to Secretary Hull approximately an hour after
12 Pearl Harbor was attacked on December 7, 1941. On
13 page 4, paragraph 2, of this last official document
14 from the Government of Japan the language is as
15 follows: "The American proposal contained a stipu-
16 lation which states both governments will agree that
17 any agreement which either has concluded with any
18 third power or powers shall be interpreted by it in
19 such a way as a conflict with the fundamental pur-
20 pose of this agreement, the establishment and pre-
21 servation of peace throughout the Pacific area. This
22 version, with the above provision, has been proposed
23 with a view to restrain Japan from fulfilling its
24 obligation under Tripartite Pact when the United
25 States participates in the war in Europe and as

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1 such it would not be accepted by the Japanese Gov-
2 ernment."

3 Mr. President, in the face of that what is
4 the purpose of consuming all of this time in at-
5 tempting to find out from this witness what was
6 the position of Japan with reference to the Tri-
7 partite Pact?

8 THE PRESIDENT: I take it you are objecting
9 to the cross-examination about the Tripartite
10 Pact?

11 MR. KLEMAN: Yes.
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1 MR. BLAKENEY: Well, I can state my position
2 very shortly about that. The witness states repeatedly
3 in his affidavit that the Japanese position became
4 extreme, that it became narrowed, or that the State
5 Department considered that to have occurred. Since
6 the witness is the man, as the prosecution assures us,
7 who was the official representative of the United States
8 of America in these negotiations, I think we can
9 cross-examine him to find the factual basis for those
10 statements. He has told us that there were three large
11 points of difference between the two nations. We are
12 examining now about one of them.

13 THE PRESIDENT: Is there anything to be gained
14 by it in view of the very explicit terms of that last
15 document received in evidence? Japan's adherence to
16 that pact is made clear beyond any question. And what
17 does it matter if you establish that during the course
18 of the negotiations the Japanese may not have expressed
19 that view so clearly?

20 MR. BLAKENEY: There is, of course, no question
21 whatever that in the end Japan adhered to the Tripartite
22 Fact. I am not contending that.

23 THE PRESIDENT: Not merely that, but they
24 suggest there they had that adherence throughout. If
25 that be the fact, were they sincere in what they may

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1 have said in the course of the negotiations to modify
2 that?

3 MR. BLAKENEY: Of course, the contention is
4 not made that the Japanese ever, at any given time,
5 were not adherent to the Tripartite Pact. That is not
6 the question. They continued as an adherent to the
7 Pact because no agreement superceding it was ever
8 reached. I am trying to find why it was not reached.

9 THE PRESIDENT: In the fact of that very clear
10 declaration delivered to the Secretary of State on the
11 7th of December, 1941, the cross-examination would
12 appear to be quite unhelpful and the objection is un-
13 held. I cannot say it is irrelevant in view of the
14 affidavit, but it is wholly immaterial.

15 MR. BLAKENEY: Do I understand then that cross-
16 examination on no aspect of negotiations concerning
17 the Tripartite Pact is permitted? That is, I do not
18 understand the scope of the objection and the ruling
19 and I should like direction.

20 THE PRESIDENT: In view of the very explicit
21 statement to which I have just referred, the attitude
22 of the Japanese as to the Tripartite Pact in the course
23 of the negotiations becomes wholly immaterial. I should
24 say the apparent attitude. Immateriality is a ground
25 for excluding evidence.

BALLANTINE

CROSS

1 MR. BLAKENEY: Yes. Of course, I should like
2 to point out that when the time comes that the defense
3 has the opportunity to go into the question of this
4 apparent attitude mentioned by your Honor, the oppor-
5 tunity for cross-examination will be gone.

6 THE PRESIDENT: That does not make the cross-
7 examination material.

8 MR. BLAKENEY: Very well.

9 BY MR. BLAKENEY (Continued):

10 Q Now, let us return to consider the second of
11 the big points of difference between the two nations
12 in these conversations. This was, I believe you said,
13 the question of the settlement of the China Affair
14 within which is included the question of stationing
15 Japanese troops in China. Is it correct to say that, of
16 all, this was the question which most concerned and
17 interested the United States in the problem of this
18 Pacific settlement?

19 A I wouldn't say that, no.

20 Q Well, perhaps we had better simply say this,
21 then, that it was a problem which loomed very large,
22 which was raised on the American side, and which, in
23 the end, proved to be one of the chief stumbling blocks
24 to agreement. That much is correct, is not it?

25 A That is correct.

BALLANTINE

CROSS

1 Q Now, in order to attempt to define clearly
2 the problem involved, I call your attention to the
3 following language on page 14 of your affidavit, para-
4 graph 3, that: "The immutable policy of the Japanese
5 Government to ensure the stability of East Asia was
6 predicated upon establishing at the outset a complete
7 Japanese military and economic stranglehold over China,
8 calling for Japanese control over strategic Chinese
9 industries and facilities, referred to euphemistically
10 in terms such as 'economic cooperation with China,'
11 and retention in large areas of China for an indefinite
12 period of large Japanese garrisons to protect Japan's
13 holdings."

14 THE PRESIDENT: Answer the question tonight,
15 please. Did you finish that question?

16 MR. BLAKENEY: No, sir.

17 THE PRESIDENT: You had better repeat it in
18 the morning.

19 We will adjourn now until half past nine.

20 (Whereupon, at 1600, an adjournment
21 was taken until 0930, Wednesday, 20 November
22 1946, at 0930.)

23 - - - -
24
25

20 Jan

20 NOVEMBER 1946

I N D E X
Of
WITNESSES

Prosecution's Witnesses

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I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
92		1246	Excerpt from the Department of State's publication "Foreign Relations" Vol. I, (pp.709-710): "Disposition of Japanese Forces" and the document headed "From Japanese Ambassador NOMURA to the Secretary of State dated 7 November 1941"	10914	10918

1 Wednesday, 20 November, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12 Appearances:

13 For the Tribunal, same as before with the
14 exception of the HONORABLE R. B. PAL, Member from
15 India, not sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 The Accused:

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

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Blakenev.
4

5 - - -

6 J O S E P H W. B A L L A N T I N E, called as a
7 witness on behalf of the prosecution, resumed
8 the stand and testified as follows:

9 CROSS-EXAMINATION

10 BY MR. BLAKENEY (Continued):

11 Q At yesterday's recess, we were just starting
12 to discuss the China question. I was commencing a
13 question which I will ask the reporter to repeat.

14 (Whereupon, the official court

15 reporter read as follows:)

16 "Q Now, in order to attempt to define clearly
17 the problem involved, I call your attention to the
18 following language on page 14 of your affidavit, para-
19 graph 3, that: 'The immutable policy of the Japanese
20 Government to ensure the stability of East Asia was
21 predicated upon establishing at the outset a complete
22 Japanese military and economic stranglehold over
23 China, calling for Japanese control over strategic
24 Chinese industries and facilities, referred to
25 euphemistically in terms such as 'economic cooperation
with China,' and retention in large areas of China

BALLANTINE

CROSS

1 for an indefinite period of large Japanese garrisons
2 to protect Japan's holdings.'"

3 Q (Continuing) Now, you refer in your affi-
4 davit on a number of occasions to the fact that this
5 policy, as you say, was immutable, that from it the
6 Japanese never budged, and that for them to speak of
7 making the utmost concessions from it is monstrous.
8 Am I correct so far?

9 A That is correct.

10 Q Now, first as to the question of Japanese
11 control of Chinese industries: This actually merged,
12 did it not, in the conversations into the discussion
13 of non-discrimination in international trade in
14 general?

15 A Well, it merged in the sense it is all part
16 of the large question. The fact of the matter was
17 that these controls that Japan exercised -- these
18 special companies with monopolistic rights which
19 were given title under the regime -- Japanese spon-
20 sored regimes -- had monopolized industry. Those
21 operations in that way frustrated the operation of
22 free enterprise -- competitive enterprise. As a
23 result, American trade and enterprise in those areas
24 were stifled and could only operate in very very
25 narrow grooves, if at all.

BALLANTINE

CROSS

1 Q Yes. Well, all I am asking you now is
2 whether that question was not discussed as one of the
3 aspects of unrestricted commercial intercourse in
4 general.

5 A The best explanation of the American Govern-
6 ment's position on that is contained in a memorandum
7 handed to the Japanese Ambassador on November 15,
8 1941. The whole story is there.

9 Q Well, I am afraid we do not quite understand
10 each other. I am not asking you for the American
11 position; I am asking you whether, as a mechanical
12 thing in these conversations, this was not discussed
13 as one of the aspects, perhaps the most important
14 aspect, of the question of unrestricted internation-
15 al trade in general -- mechanically speaking, I mean.

16 A In the memorandum in question, the clear
17 relationship of the subject as a whole -- the parts
18 are given in that memorandum.

19 Q Yes. Well, I think we are in agreement
20 there, and we will come back to that. I want to set
21 that aside for now and return to it.

22 The other question in connection with China
23 is that of stationing of Japanese troops there, is
24 it not?
25

A That question, also the demand that the

BALLANTINE

CROSS

1 Japanese made that we withdraw aid from Chiang Kai-
2 shek.

3 Q Yes. Now, on the question of stationing of
4 Japanese troops in China, had the Department of State
5 any objection on principle to the stationing of
6 foreign troops in certain parts of China for pro-
7 tecting foreign interests and maintaining order?

8 A There were certain treaty rights that
9 foreign powers had acquired, Boxer Protocol, for
10 example. We were trying to get gradually away from
11 all of that. In our proposal of November 26 we re-
12 ferred to getting away from that.

13 Q As a matter of fact, was not the United
14 States one of the nations which was maintaining
15 troops in China under the Boxer Protocol?

16 A That is correct. We maintained about --
17 Legation Guards to the extent of about a thousand --
18 between a thousand and, at a maximum, two thousand,
19 I believe.

20 Q But, if I understand correctly, the object-
21 ion to the Japanese proposal in regard to stationing
22 of troops in China was on the grounds of the number
23 of troops, the extent of the area in which they were
24 to be stationed, and the duration of their stay.

25 A The objection was that ever since 1936

BALLANTINE

CROSS

1 Japan had made this demand, and it is one of the
2 causes that brought on the extended hostilities. If
3 we were going to have a stabilizing peace in the Far
4 East, it was necessary to have such arrangements as
5 Japan had entered into by amicable negotiations
6 with China.

7 Q Well, did the Department of State object
8 to the Japanese making an amicable arrangement with
9 China for the stationing of troops to protect their
10 legitimate interests in China?

11 A There were two points there: One was the
12 very great vagueness of the Japanese as to what they
13 wanted. The areas were indeterminate; the number of
14 troops were indeterminate; the length of time was
15 indeterminate; there was no clear-cut expression of
16 what they wanted. It was a blank check.

17 THE PRESIDENT: Do pause at the end of each
18 sentence, Mr. Ballantine. Even if the interpreters
19 do succeed in repeating what you say without any
20 interruption, it does impose a great strain on them,
21 and they get tired quickly under those conditions.

22 A (Continuing) The second point was the well
23 known fact that the Chinese Government had shown
24 itself opposed to acceding any such provision.

25 Q All right. Now, that vagueness about

BALLANTINE

CROSS

1 details is what I was asking you about. Is it true
2 that, so far as these conversations were concerned,
3 your first official intimation of the extent of the
4 Japanese claims was given you by Colonel IWAKURO;
5 that is, the explanation by him referred to on page
6 8, paragraph 2 of your affidavit?

7 A That is correct. But, two or three days
8 later the Japanese Ambassador had a talk with the
9 Secretary of State.

10 Q Yes, I understand that. But, now, what I
11 want to ask you is, is it these terms explained by
12 Colonel IWAKURO from which you say the Japanese
13 never budged?

14 A Certainly, what Colonel IWAKURO said to me
15 was never withdrawn.

16 Q I am not asking you whether his words were
17 withdrawn; I am asking you whether the Japanese in
18 any subsequent proposals receded from the position
19 there stated by him.

20 A To the best of my knowledge, they did not.

21 Q Well, let us see a moment: One of Colonel
22 IWAKURO's points, I believe, was that Japanese troops
23 were to remain in North China and Inner Mongolia to
24 defend against a communist menace; is that correct?

25 A That is correct.

BALLANTINE

CROSS

1 Q And for the additional purpose of maintain-
2 ing order in areas adjacent to Japan in the sense of
3 geographical proximity.

4 A That's what he said.

5 Q It was a fact, was it not, that communistic
6 activities did exist in those areas and that the
7 Central Government of China was unable to maintain
8 order?

9 A It is true that communistic activities did
10 exist. I would not want to pass on whether the
11 Chinese Government had an untrammelled opportunity
12 to maintain order itself.

13 Q Well, with the knowledge which the State
14 Department possessed of the conditions as they then
15 were in that area, surely the principle of maintain-
16 ing Japanese troops there to protect whatever legiti-
17 mate interests the Japanese had must have been accept-
18 able.

19 A There was a great deal of confusion as to
20 what were legitimate interests and what were inter-
21 ests acquired as a result of the forcible occupation
22 of North China.

23 Q Yes. That is why I used the word "legitimate."
24 I mean legitimate according to the definition of the
25 Department of State.

BALLANTINE

CROSS

1 A That's a very difficult question to answer.
2 It is a question of whether you should maintain
3 troops for protecting interests. The Boxer Protocol
4 didn't make any provision for that other than main-
5 taining contact with the legations and protecting
6 the legations.

7 Q Well, let's come to the details of the
8 problem: What was the United States position as
9 expressed during these conversations on the time
10 limit in connection with stationing of Japanese
11 troops in China?

12 A Our position was that we expected to allow
13 the Japanese to have a reasonable time under exist-
14 ing conditions to effect evacuation of the large
15 forces in China.

16 Q Very good. Now, there was objection also,
17 was there not, to the number of troops? Perhaps
18 that is not very clear. I mean the number of troops
19 which, as explained by Colonel IWAKURO, would prob-
20 ably be retained in China.

21 A We did not think that, if we had explained
22 to Chiang Kai-shek what Colonel IWAKURO wanted, that
23 Chiang Kai-shek -- the Chinese Government would be
24 willing to accept any such terms as that.

25 Q The number of Japanese troops in China, of

BALLANTINE

CROSS

1 course, was abnormally large at that time because
2 there was a war in progress, was it not?

3 A Yes.

4 Q Now, did the Department of State recognize
5 from the outset of these conversations that, owing
6 to internal conditions in Japan, it was to be ex-
7 pected that the reaching of any agreement on this
8 point would be very difficult?

9 A The Secretary of State explained time and
10 again that he was prepared to be patient.

11 Q Therefore, I suppose it is fair to state
12 that the Department would not have entered upon these
13 conversations at all had it been determined to insist
14 on immediate unconditional withdrawal of all troops.

15 A We entered upon the conversations because
16 the Japanese Government had informed us that they
17 wanted a peaceful settlement covering the entire
18 Pacific area.

19 Q Yes. But I mean practically speaking --
20 not discussing the rights or wrongs, but practically
21 speaking, the Department of State surely must have
22 recognized from the very beginning that it would be
23 impossible to get any agreement for immediate un-
24 conditional withdrawal of all troops. That you know,
25 did you not?

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1 A Japanese had told us at the outset of these
2 difficulties, and you will note in our proposal of
3 June 21 we had the terms under there, "Subject to
4 Further Discussion." We were prepared to explore
5 the subject with them thoroughly and reasonably.

6 Q Yes. Well, I think we are in agreement.
7 You say you were prepared to explore the subject of
8 terms of withdrawal, and that's what I mean, if you
9 were not insisting on unconditional, immediate,
10 total withdrawal. That is correct, is it not?

11 A That's right.

12 Q Now, as I understand it, little progress
13 was made on this point down to the beginning of
14 November, approximately.

15 A That is correct.

16 Q It is true you do say on page 11 of your
17 affidavit, paragraph 4, that "a new draft of pro-
18 posals presented by the Japanese on the 6th of
19 September was much narrower than the last preceding
20 document." Inasmuch, however, as that last preceding
21 document was the assurance of the 27th of August
22 which does not mention this question, I assume that
23 you do not mean that the September proposal narrowed
24 the Japanese position on this point.

25 A I was considering the two documents as a

BALLANTINE

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1 whole.

2 Q Yes. Now, yesterday we discussed the pro-
3 posal handed by the Japanese Ambassador to the
4 Secretary of State on the 7th of November, 1941.

5 A I don't recall that we did. I thought we
6 discussed the proposal that he made to the President
7 on November 10.

8 Q Yes. But, on the 10th of November, did not
9 the Ambassador discuss with the President the same
10 proposal which he had presented to the Secretary of
11 State on the 7th of November?

12 A I would have to refresh my memory on the
13 November 7 proposal.

14 MR. BLAKENEY: I now tender for identifica-
15 tion an excerpt from the Department of State's publi-
16 cation "Foreign Relations," Volume I, pages 709 - 710.

17 CLERK OF THE COURT: Defense's document,
18 entitled "Disposition of Japanese Forces," and the
19 document headed "From Japanese Ambassador NOMURA to
20 Secretary of State, November 7, 1941," is given
21 exhibit No. 1246 for identification only.

22 (Whereupon, the document above re-
23 ferred to was marked defense's exhibit No.
24 1246 for identification.)
25

BALLANTINE

CROSS

1 Q I now ask that you be handed exhibit 1246,
2 Mr. Witness, and that you examine it and state if
3 you can whether this is the document under discussion.

4 (Whereupon, exhibit No. 1246 was
5 handed to the witness.)

6 A Yes, that is correct.

7 Q You testified yesterday that no mention of
8 this proposal was made in your affidavit for certain
9 reasons, and I think particularly because you felt it
10 of no particular importance in the sum total of the
11 conversations.

12 A If I recall correctly, I was referring to
13 the November 10 document.

14 Q Perhaps I misunderstood you. I thought you
15 just told me that this document handed to the
16 Secretary of State on the 7th of November was the
17 same as the one handed to the President on the 10th
18 of November.

19 A I didn't mean to say that. I meant to say
20 I understood you to say that the November 10th docu-
21 ment was the same as that referred -- was referred to
22 on the memorandum given to the Secretary of State on
23 November 7th.

24 Q Well, tell me then, if you will, why you
25 omit mention of this document, exhibit 1246, from

BALLANTINE

CROSS

1 your affidavit.

2 A For two reasons. One: Because while we
3 were giving consideration to this document, this
4 intercept of the Japanese Government of November 5 --
5 about November 5, I don't remember the exact date --
6 came in. That intercept made it clear that the re-
7 presentations being made to us on the troop question
8 were not being made in good faith. The second reason
9 is that you will note that in this proposal they in-
10 jected in the Island of Hainan, which was entirely
11 a new question, so instead of bringing us nearer
12 it injected a new question which left us just where
13 we were.

14 MR. BLAKESLEY: Yes. Well, I think this
15 proposal is of some interest on this question and I
16 now tender in evidence exhibit No. 1246, identified
17 by the witness.

18 MR. HIGGINS: I object to the offering of
19 evidence on the part of the defense at this time,
20 because the prosecution has not finished presenting
21 its case.

22 THE PRESIDENT: You overlooked for the time
23 being, I think, Mr. Higgins, that the defense counsel
24 is at the lectern cross-examining. He is not in-
25 terrupting you to put in evidence. In any national

BALDANTINE

CROSS

1 court he would be completely within his rights and
2 I do not see why he is not within them here.

3 MR. HIGGINS: Mr. President, I don't have
4 before me the Charter, but as I recall the Charter
5 sets out the order for the procedure here, and at
6 the conclusion of the prosecution's case then the
7 defense may present evidence.

8 THE PRESIDENT: The Charter, of course,
9 does not bear on this at all. It is the general
10 practice in every national court that I am aware of
11 for the defense to cross-examine and in the course
12 of so doing draw attention to documents. If the
13 witness being cross-examined acknowledges the docu-
14 ment it is tendered as a matter of course.

15 I have a note from a colleague from a
16 British Dominion, "if the cross-examination is
17 relevant, and this is, then documents may be ten-
18 dered to the witness and through him to the Court."
19 I completely agree. However, this is not a British
20 court or an American court and I will take the view
21 of my colleagues and, of course, carry it out.

22 MR. HIGGINS: May I say this, Mr. President,
23 we recognize the right of the defense to cross-examine
24 and have before the witness any document whether it
25 is in evidence before or not. For that reason I

BALLANTINE

CROSS

1 made no objection to the offering of the document for
2 identification and the subsequent cross-examination
3 of the witness on the basis of that document, but
4 the defense goes further than that and offers the
5 document itself in evidence.

6 THE PRESIDENT: We have the view in any
7 Australian or New Zealand court, I will confine it
8 to that --

9 MR. HIGGINS: Or American.

10 THE PRESIDENT: The document is admitted
11 on the usual terms.

12 CLERK OF THE COURT: Defense document here-
13 tofore described is given exhibit No. 1246 and ad-
14 mitted according to order of Court.

15 (Whereupon, the document previously
16 marked defense exhibit No. 1246 for identifi-
17 cation was received in evidence.)

18 MR. BLAKENEY: I do not desire to read it
19 at this time unless the Tribunal desires to hear it.

20 THE PRESIDENT: Well, it should go into the
21 transcript for our convenience. This is the time.

22 MR. BLAKENEY: I am sorry, sir, I do not
23 understand whether you mean to read it into the
24 transcript.

25 THE PRESIDENT: Read it, yes.

BALLANTINE

CROSS

1 MR. BLAKENEY: (reading):

2 "Document handed by the Japanese Ambassador
3 (I.O.I.U.H.A.) to the Secretary of State on November 7,
4 1941. (Tentative translation).

5 "DISPOSITION OF JAPANESE FORCES.

6 "(a) Stationing of Japanese forces in China
7 and the withdrawal thereof:"

8 THE PRESIDENT: Let me make sure. The wit-
9 ness acknowledges that this was handed by KOMURA
10 to the Secretary of State on that date? That is
11 the fact that makes it admissible.

12 MR. BLAKENEY: That is correct, is it not?

13 THE WITNESS: That is correct.

14 MR. BLAKENEY: I continue the reading:

15 "With regard to the Japanese forces that have
16 been despatched to China in connection with the China
17 Affair, those forces in specified areas in North
18 China and Mengchiang (Inner Mongolia) as well as
19 in Hainan-tao (Hainan Island) will remain to be
20 stationed for a certain required duration after the
21 restoration of peaceful relations between Japan and
22 China. All the rest of such forces will commence
23 withdrawal as soon as general peace is restored
24 between Japan and China, and the withdrawal will
25 proceed according to separate arrangements between

BALLANTINE

CROSS

1 Japan and China and will be completed within two
2 years with the firm establishment of peace and order.

3 "(B) Stationing of Japanese forces in French
4 Indo-China and the withdrawal thereof:

5 "The Japanese Government undertakes to guarantee
6 the territorial sovereignty of French Indo-China.
7 The Japanese forces at present stationed there will
8 be withdrawn as soon as the China affair is settled
9 or an equitable peace is established in East Asia.

10 "PRINCIPLE OF NON-DISCRIMINATION.

11 "The Japanese Government recognizes the prin-
12 ciple of non-discrimination in international com-
13 mercial relations to be applied to all the Pacific
14 areas, inclusive of China, on the understanding that
15 the principle in question is to be applied uniformly
16 to the rest of the entire world as well."

17 BY MR. BLANEY: (Continued)

18 Q Now, Mr. Witness, is this the proposal
19 which you referred to on page -- I am sorry, I
20 withdraw that question.

21 Now, in this proposal also there is again no
22 specific mention of the time of withdrawal of troops,
23 the number of troops to remain, and the other points
24 which were giving concern in the conversations, is
25 there?

HALLARTINE

CROSS

1 A That is correct.

2 Q But were these points explained in the
3 conversations by the two Japanese Ambassadors?

4 A We had to read all their explanations in
5 the light of the instruction that was sent to Am-
6 bassador NOHURA.

7 Q Well, then, there were explanations given?

8 A Such explanations as were given are fully
9 there in the record. I don't recall exactly what
10 was said.

11 Q Well, do you recall, for example, that in
12 this conversation on the 18th of November with
13 Secretary Hull Ambassador NOHURA stated as follows:
14 In answer to the question of the Secretary how many
15 soldiers the Japanese wanted to retain in China the
16 Ambassador replied that possibly 90 per cent would
17 be withdrawn. Do you remember that?

18 A I recall that.

19 Q Secretary Hull then asked, did he not, how
20 long the remaining 10 per cent of the troops would
21 be stationed in China?

22 A I recall that too.

23 Q Do you recall the Ambassador's answer to
24 that?

25 A I would have to have my memory refreshed

B.L.L.M.TINE

CROSS

1 on what he said.

2 Q I ask you whether you remember that the
3 Ambassador gave no definite answer to that? Such,
4 I assure you, is the record.

5 A Well, that is correct, then.

6 Q Nevertheless, you of the Department of State
7 did know, did you not, what answer Ambassador NOMURA
8 would have given if he had been pressed on the point?
9 You knew what his instructions were from his home
10 government, did you not?

11 A That is correct.

12 Q And in connection with these intercepts of
13 Japanese diplomatic correspondence, let me ask you a
14 question or two. From what time had the Department
15 of State had access to such intercepted, decrypto-
16 graphed and translated messages?

17 A I don't recall definitely, but probably
18 at least as early as the spring of 1941.

19 Q That is to say, then, that throughout the
20 entire or substantially the entire course of these
21 conversations you had access to that material?

22 A I am not positive, but I think so.

23 Q So that during this period, or at all events
24 the latter part of it, you knew not only what the
25 Japanese Ambassador was saying to you, but you knew

B.LLANTINE

CROSS

1 | what his government was authorizing or instructing
2 | him to say, did you not?

3 | A Well, in so far as we got intercepts. We
4 | don't know what messages failed to be intercepted;
5 | we don't know what messages he received by mail.
6 | Other sources we don't know.

7 | Q Then, in conducting the conversations on your
8 | side, the Department of State's side, did you take
9 | into account not only the formal conversations but
10 | also your knowledge of the intercepted messages at
11 | all times?

12 | A The intercepted messages in general were
13 | corroboratory evidence of what we generally knew
14 | from other sources. Naturally, we had to take them
15 | into consideration.

16 | Q Did you yourself or other members of the
17 | Department staff able to read them see the Japanese
18 | texts of these messages, or did they come to you
19 | only in English?

20 | A They came to us only in English.

21 | Q Then, to be quite specific, may I under-
22 | stand that so far as you know no member of the De-
23 | partment of State staff did read these messages in
24 | Japanese.

25 | THE PRESIDENT: Didn't he say they were

PALLANTINE

CROSS

1 tendered in English?

2 MR. BLAKENEY: He said they came to them
3 in English, but I wish, sir, to be quite specific that
4 in no other way were they read in Japanese.

5 THE PRESIDENT: They may never have been
6 in Japanese.

7 Q Do you know whether they were in Japanese
8 originally?

9 A Some of them were in Japanese I know.

10 Q And I repeat, if I may, so far as concerns
11 those which were in Japanese is it quite definite
12 that no member of the Department of State read them
13 and understood them in Japanese?

14 A Well, I can only speak to the best of my
15 knowledge and belief that at that time, during 1941,
16 there was no member of the Department of State that
17 was reading them, or did read any of them in Japanese.

18 THE PRESIDENT: Do you read Japanese?

19 THE WITNESS: I do.

20 THE PRESIDENT: Did you see any of them in
21 Japanese?

22 THE WITNESS: Not at that time.

23 THE PRESIDENT: But you didn't read them
24 in Japanese?

25 THE WITNESS: No.

1 MR. BLAKENEY: (Continued).

2 Q Then to return to the question of stationing
3 of troops in China, from which we divaricated
4 momentarily, what, if you remember, did the Depart-
5 ment of State know at the time from the intercepted
6 correspondence was the instruction which Tokyo had
7 given Ambassador NOMURA with regard to what he should
8 say would be the period for which Japanese troops
9 should be stationed in China?

10 A It is a long time since I have refreshed my
11 memory on that particular telegram, but I think he
12 was told to give some agreeable explanation, some
13 reference to a vague period of years, but I don't
14 recall definitely at this moment.

15 THE PRESIDENT: We will recess for fifteen
16 minutes.

17 (Whereupon, at 1045, a recess was
18 taken until 1100, after which the proceedings
19 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Blakeney.

4 BY MR. BLAKENEY: (Continued)

5 Q Would it refresh your memory, Mr. Witness,
6 if I told you that the United States Government print
7 of the intercepted message, 4th of November, shows
8 that Ambassador NOMURA was instructed to answer that
9 such a period should encompass 25 years?

10 THE PRESIDENT: Mr. Chief of Counsel.

11 MR. KEENAN: Mr. President, solely for the
12 purpose of complying with the Charter for a speedy
13 trial, I object to this as being an attempt at this
14 time for the defense to untimely assert its defense
15 and invade the proper province of cross-examination.

16 THE PRESIDENT: What is the purpose of cross-
17 examination if it is not to invade the province of the
18 prosecution to the extent that the cross-examiner
19 is allowed to do so? Objections must be taken on
20 specific grounds. That is not one. It is overruled.

21 Q (Continuing) Please answer the question.

22 A It refreshes my memory to that extent.

23 Q When the explanation was given by Ambassador
24 NOMURA to Secretary Hull on this point, did Secretary
25 Hull consider it of insufficient interest to ask the

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1 Ambassador what the period would be?

2 A I do not know what is in the mind of the
3 Secretary, but I think that that intercepted message,
4 to understand the spirit of it, should be read as a
5 whole.

6 Q Well, leaving aside the question of bad faith,
7 as shown by the intercepted message which I am coming
8 to in a moment; was the period of 25 years considered
9 in itself unreasonable by the Department?

10 A We didn't consider each of these small points
11 individually. We considered the proposition as a
12 whole.

13 Q I do not quite understand how you consider
14 it as a whole without considering details; but consider-
15 ing it as a whole, did you consider the 25-year
16 period to be unreasonable?

17 A That would have to be taken into consideration
18 with the other elements in the situation -- the total
19 number of troops and the places where they are to be
20 stationed, and so forth.

21 Q Well, it is those factors that I am trying
22 to consider and we have considered some of them. Now,
23 this factor alone, if I understand you correctly, this
24 proposal alone was not unreasonable -- considered by
25 itself?

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1 A So far as I know, none of us reached any
2 conclusion in regard to this point by itself, or any
3 other point by itself.

4 Q Now, let me ask you whether in fact this was
5 not the first time during the conversations that the
6 Japanese side had made any mention of even accepting
7 the principle of eventual withdrawal of all troops
8 from China?

9 A I do not recall that. So far as I recall,
10 the principle of withdrawal of troops except for those
11 to be stationed for joint defense against communism
12 was accepted from the beginning.

13 Q Yes, but was this not the first time during
14 the conversations that the principle of eventual
15 withdrawal of the remaining troops had been stated
16 by the Japanese -- had been accepted by the Japanese?

17 A Possibly so.

18 Q Certainly then, this represented a concession
19 from the original view-point of Colonel IWAKURO; did it
20 not?

21 A Yes, but you have to balance that against
22 the new element of putting in troops for the same
23 purpose in Hainan Island.

24 Q Did Secretary Hull or other officials of the
25 Department raise the question of the stationing of

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1 troops in Hainan in conversations with the Japanese
2 Ambassador at this time?

3 A I do not recall that he did.

4 Q Then, apparently the question of stationing
5 of troops in Hainan was not, after all, so seriously
6 regarded by the Department of State?

7 A That doesn't follow at all.

8 Q The other points of difference were raised
9 by the Secretary, were they not, in conversations?

10 A He raised points about the general proposition,
11 yes.

12 Q Certainly this mass of conversations was about
13 particulars, was it not?

14 A I am talking about after November 7.

15 Q Let me ask you in passing; on this point of
16 stationing of troops in China by the Japanese, what
17 concessions, if any, did the United States ever offer
18 to make?

19 A The United States did not ask for any agree-
20 ment from Japan. We thought existing agreements would
21 take care of the situation if they were lived up to
22 by Japan. We adhered to our principles.
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1 Q Here is a subsidiary question, that of the
2 stationing of Japanese troops in Indo-China. The
3 original Japanese position which was maintained until
4 September was that the troops would be withdrawn from
5 Indo-China upon the conclusion of the China Affair, was
6 it not?

7 A That is right.

8 Q Meanwhile, however, the Japanese advance
9 into southern Indo-China occurred in July, and the
10 question of troops in southern Indo-China thereafter
11 was one of the most serious concerns in the conversa-
12 tions, was it not?

13 A That is correct.

14 Q The stationing of troops in northern Indo-
15 China, in and of itself, caused far less alarm than
16 the stationing of troops in southern Indo-China, did
17 it not?

18 A Well, the stationing of troops in Indo-China,
19 taking in conjunction all the circumstances and the
20 position where Japan was in a position to threaten
21 the Philippines and the other neighboring countries,
22 made it a much more serious matter.

23 Q Are we to understand that the Japanese never
24 made any concessions on the question of the stationing
25 of troops in Indo-China?

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1 A I think that is correct.

2 Q Did they not offer, by their proposal of the
3 27th of September, that they would not advance from
4 Indo-China except against China?

5 A Are you referring to the proposal of Septem-
6 ber 25, or September 6?

7 Q Yes, I am sorry, it is the 25th of September.

8 THE PRESIDENT: Well, don't get him to repeat
9 the evidence already given unless you are testing his
10 credibility.

11 MR. BLAKENEY: Well, sir, I am testing his
12 credibility, I suppose, because he said there were no
13 concessions and I am trying to point out in his own
14 evidence some things I think he will have to admit are
15 concessions, and perhaps he won't admit it.

16 THE WITNESS: Will you please repeat your
17 question?

18 Q Well, let's pass that one by and I will ask
19 you another one. I will ask you this, whether the
20 25th of September proposal by the Japanese did not
21 contain the new offer, now first made, to withdraw all
22 troops from China -- from Indo-China upon either the
23 settlement of the China Affair or the establishment
24 of an equitable peace in the Pacific?
25

MR. KEENAN: Mr. President, the prosecution

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1 objects on the ground that obviously this document
2 speaks for itself if we are to keep these proceedings
3 within the bounds of reason.

4 THE PRESIDENT: We wish you to avoid reading
5 evidence already given. At the same time, although we
6 are bound to conduct a speedy trial, it is subject
7 always to conducting a just one. There can be no
8 more important witness in that box than a man who
9 purports to tell us the attitude of America on peace
10 and war at a critical period. If you confine your
11 cross-examination to getting from him what he knows
12 as to that attitude, we will not interfere.

13 Q The important word in my last question
14 was "new."

15 A What?

16 Q New.

17 A The new point there was an equitable peace
18 in the Far East. I don't think that adds anything
19 whatsoever to the other thing, because you couldn't
20 have an equitable peace in the Far East without a
21 settlement of the China Affair. Also, the term
22 "equitable" -- who is to decide which is to be
23 equitable? It was clearly implication that that was
24 to be unilaterally determined by Japan.

25 Q Was it not understood by the Department of

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1 State that the conclusion of this agreement which was
2 then under discussion would be considered by the
3 Japanese to be an equitable peace in the Pacific?

4 A We hadn't reached any meeting of minds at
5 all on the fundamental principles which were to
6 govern the peace in the Far East.

7 Q I understand that perfectly. But my question
8 is not that. Was it not the clear understanding
9 throughout these conversations, on both sides, that
10 if the conversations eventuated in an agreement, that
11 agreement would constitute the consummation of the
12 equitable peace in the Pacific?

13 A Of course, that is true; but that phrase,
14 that additional clause, added nothing to the situation.
15 It would have been the same whether that clause had
16 been added or not.

17 Q Well, I think we can leave that question to
18 be decided by the Tribunal.

19 Now, thereafter, on the 20th of November, the
20 Japanese presented their proposal for a modus vivendi
21 to which you refer in your affidavit on page 12,
22 paragraph 5, as being a proposal which on its face
23 was extreme. I want to ask you whether the offer in
24 that document, which is in evidence here as
25 exhibit 1245-H, to withdraw, upon the conclusion of

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1 the present agreement, all troops now stationed in
2 southern Indo-China, was not a totally new concession
3 from the Japanese side never before mentioned?

4 A If you can call it a concession; it is per-
5 fectly meaningless.
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1 Q Will you tell me why if, as you say, the
2 stationing of Japanese troops in southern Indo China
3 was a matter of such grave concern the Japanese
4 agreement to withdraw them forthwith upon the con-
5 clusion of the agreement was meaningless?

6 A I don't quite understand your question.

7 Q Why was it meaningless?

8 A Because there was no limit placed on the
9 number of Japanese troops that they could bring into
10 China. If they withdrew them from southern Indo-
11 China to Northern Indo China. they could have brought
12 a 100,000 into northern Indo-China and brought those
13 troops back to southern Indo-China within a few days.

14 THE PRESIDENT: That appears in his affidavit.

15 Q Did not the Department of State consider that
16 the agreement to withdraw from southern Indo-China
17 included the agreement not to return there?

18 A There was no limit on the total number
19 of troops that Japan could put in Indo-China. They
20 could, if they were in a position to get back to
21 southern Indo-China to threaten us.

22 THE PRESIDENT: Did I understand you to say
23 you treated this offer as insincere for two reasons,
24 the occupation of Hainan Island and the intercepted
25 messages?

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1 THE WITNESS: Yes.

2 Q Was the question of the number of troops
3 to be stationed in northern Indo-China even mentioned
4 by the Department of State to the Japanese Ambassa-
5 dors at the time of this proposal?

6 A I recall definitely that the point that
7 the troops could be brought back into southern Indo-
8 China in a day or two was mentioned, but I don't re-
9 call the fact whether there was no limit placed on
10 the number of troops stationed in northern Indo-China
11 was brought to their attention. The record will show
12 that, whether it was so or not.

13 Q Now, turning to the question of the pro-
14 posed insincerity of the Japanese proposal, as I
15 understand, the Department of State felt that the
16 Japanese offer was not made in good faith and that,
17 therefore, any agreement which might be made would
18 have no value; is that correct?

19 A To which offer are you now referring?

20 Q We are speaking of the 20th of November
21 proposal.

22 A Well, I had made no statement in regard to
23 that. I spoke about the November 7th.

24 Q I am sorry. I did not mean to misquote you.
25 Let me ask from what time did the Department

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1 of State feel that the Japanese were insincere on
2 their side of the conversations, from what time?

3 A It depends upon to what you are referring.
4 We certainly felt they were insincere in regard to
5 the question of withdrawal of troops as from November
6 7th. I don't recall that the question ever arose
7 specifically in regard to this November 20th proposal.

8 Q Well, as I understand, the thing which has oc-
9 curred to vitiate your belief in the Japanese sincerity
10 was knowledge of the intercepted message of the 4th
11 of November, that is, message 726, which we have
12 mentioned before; is that correct?

13 A Yes.

14 Q Then may we assume that from that time
15 forward the Department of State had no confidence
16 in the Japanese sincerity?

17 A Naturally, we were on our guard from that
18 point on.

19 Q Would I then be correct if I said that from
20 that time on as far as the Department of State was
21 concerned you were not really negotiating because you
22 had no confidence that any agreement obtained would
23 be of any value?

24 A I don't think that is correct. We were on
25 our guard. We naturally wanted to have things,

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1 commitments provided, and we were unwilling to ac-
2 cept vague expressions, and we wanted dependable com-
3 mitments.

4 THE PRESIDENT: It was still possible for
5 the Japanese to give you evidence of good faith?

6 THE WITNESS: I think it would have been
7 still possible.

8 THE PRESIDENT: By withdrawing troops?

9 THE WITNESS: By withdrawing troops or any
10 other practical evidence of an intention to follow
11 peaceful courses.

12 Q Have you ever had occasion since that time
13 to see the Japanese original of this message No. 726?

14 A Is that the intercept to which you are re-
15 ferring?

16 Q Yes, it is.

17 A Yes, I did.

18 Q When did you see the Japanese, the copy?

19 A Some years later.

20 Q When you saw the Japanese copy did you
21 discover that numerous mistakes had been made in either
22 decryptographing or translating?

23 A As I recall now, I don't think I saw the whole
24 of the Japanese. I saw the first part that related to,
25 "This is our revised ultimatum."

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1 Q The message actually was in four parts, was
2 it not?

3 A Well, I don't recall now.

4 Q Then you did not read enough of the Japanese
5 copy so that you can confirm or deny that the original
6 Japanese is, in effect, a totally different document
7 from the intercept as it came to you in November, 1941?

8 A That is correct.

9 Q Now, let us turn briefly to the question of
10 non-discriminatory commercial intercourse throughout
11 the Pacific area, this being the third of the major
12 points of difference between the two nations. In order
13 to pass rapidly over the earlier stages of the con-
14 versation on this point, may I correctly state that
15 at various times a number of American suggestions for
16 amendment to the various Japanese proposals were ac-
17 cepted -- accepted, I mean, in the sense of being
18 embodied by the Japanese themselves in later draft
19 proposals?

20 A Some of the wordings were embodied, but they
21 were largely, in effect, nullified by the various
22 qualifications the Japanese put in; for example, the
23 applicability of the mutual guarantees of carrying on
24 economic activity by peaceful means was at first
25 limited in both the Japanese and American versions,

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1 was it not, to the Southwest Pacific area?

2 A Well, I haven't got the May 1931 draft be-
3 fore me. I don't recall definitely what our wording
4 was in our paper.

5 Q In any event, in the American draft of the
6 21st of June were not these guarantees for the first
7 time expressed as to be extended to the Pacific area
8 instead of the Southwest Pacific area? I refer to
9 exhibit 1092 in evidence.

10 A Yes, there the provision is for -- covers
11 the Pacific area.

12 Q Finally, after this question had remained un-
13 settled for some time, did not the Japanese Government
14 by this proposal of the 10th of November make the
15 following statement: "That the Japanese Government
16 recognizes the principle of non-discrimination in inter-
17 national commercial relations to be applied to all of
18 the Pacific areas, inclusive of China, on the understand-
19 ing that the principle in question is to be applied
20 uniformly to the rest of the entire world as well."
21 This is quoted from exhibit 1246 in evidence.

22 A That is correct.

23 Q On the same day, in conversation with Presi-
24 dent Roosevelt, did not Ambassador NOMURA point out to
25 the President that -- I quote -- "The Secretary of State
has repeatedly pointed out to me that it has been his

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1 long-cherished scheme to see the application of the
2 principle throughout the whole world.

3 Q Do you recall that?

4 A Yes, now that you recall it to my mind.

5 Q Do you know whether that had or had not been
6 the position of Secretary Hull as alleged by Ambassador
7 NOMURA?

8 A Would you mind reading that passage again for
9 me, please?

10 Q "The Secretary of State has repeatedly pointed
11 out that it has been his long-cherished scheme to see
12 the application of the principle throughout the whole
13 world."

14 A Yes, that was a consistent position of the
15 Secretary of State.

16 Q Nevertheless, do you remember that in his oral
17 statement handed to the Japanese Ambassador on the 15th
18 of November Secretary Hull pointed out that the last
19 sentence of the Japanese proposal sets forth a condi-
20 tion the meaning of which is not entirely clear?

21 The oral statement is to be found on page 734,
22 Volume II, Foreign Relations.

23 A That is correct.

24 Q "Which principle," he went on to say, "I assumed
25 was not meant to bind the United States to responsibility

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1 for practices outside of its jurisdiction, or practices
2 by other nations?

3 A That is correct.

4 Q Now, had not Japanese Minister WAKASUGI already
5 confirmed to you in a conversation held on the 13th of
6 November that this assumption of Secretary Hull was
7 correct?

8 A Well, I would have to have my memory refreshed
9 on that. If it is in the record it is correct.

10 Q Let me try to refresh your memory by reading
11 you the excerpt from the memorandum of this conversation
12 at page 730 of Volume II of Foreign Relations.

13 "Mr. WAKASUGI said that what the Japanese
14 Government meant" by this phrase in question "was that
15 the principle would be applied by the United States and
16 by Japan, and did not refer to the universal application
17 of those principles by all countries. Mr. Ballantine
18 asked whether this was not a very important point to
19 be brought out clearly and authoritatively."

20 Do you recall that conversation?

21 A I do.

22 Q Now, in view of those proposals and conver-
23 sations, did not the Department of State consider that
24 there had been a meeting of minds on this point subject
25 only to securing the authoritative, that is to say, the

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1 written provisions to that effect from the Japanese
2 Government?

3 A The fact of the matter is we never got a
4 reply to our memorandum of November 15, and KURUSU,
5 on November 18, made statements to the Secretary which
6 threw doubt on how far the Japanese Government could
7 ever go in the matter.

8 Q Will you tell us as well as you are able to
9 remember what those statements of Mr. KURUSU were?

10 A That statement is in the record of the memo-
11 randum of conversation. My recollection is that he
12 said that at the present time the Japanese Government
13 couldn't do anything about exchange controls that they
14 had imposed in China, that he could make no promises as
15 to what the Japanese Government could do after the war,
16 and that he made no definite reply when the Secretary of
17 State asked whether the Japanese Government could commit
18 itself in principle to those points.

19 I should prefer to have that taken directly
20 from the record, for I am not sure of my memory always.

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

23 (Whereupon, at 1200, a recess was taken.)
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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330.

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

7 THE PRESIDENT: Major Blakeney.

8 - - -

9 J O S E P H W. B A L L A N T I N E, called as a
10 witness on behalf of the prosecution, resumed
11 the stand and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BLAKENEY (Continued):

14 Q And then, after the occasion which we last
15 spoke of, was there any further discussion of the
16 question of non-discriminatory commercial intercourse?

17 A You mean after November 18?

18 Q Yes.

19 A I don't recall. I would have to refresh my
20 mind on that.

21 Q Now, I wish to turn to another subject, that
22 of modus vivendi. Before we embark on this, perhaps
23 you had better describe the meaning of the term
24 "modus vivendi" as it was used in these conversations.
25

THE PRESIDENT: It is not a technical term

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1 even in diplomatic negotiations. We do not want him
2 to tell us what it means.

3 Q The Japanese proposed modus vivendi of the
4 26th of November was given consideration by the
5 State Department or not? I mean, of course, the 20th
6 of November.

7 A Of course, it was given consideration. We
8 studied it very carefully.

9 Q Did it seem to offer to the State Department
10 any possibility of settlement of the current issues?

11 A It did not. Our observations on it are con-
12 tained in my affidavit.

13 Q The observation in your affidavit, of which
14 I should like to have your explanation, is that this
15 proposal on its face was extreme. That is, in saying
16 that it was extreme, do you mean what you have gone
17 on to say in your next paragraph, that is, your top
18 paragraph on page 13?

19 A Yes. I think that that statement on the top
20 of page 13 describes considerations that compelled us
21 to feel it was extreme.

22 Q Aside from those considerations, did you
23 feel that the Japanese, in presenting this modus
24 vivendi, were insincere as you did feel that they
25 were in presenting their immediately preceding

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1 proposal?

2 A This proposal acceptance by us would, we
3 thought, give Japan just what they wanted, what they
4 were seeking. It showed their position. It showed
5 their position. We had no reason to believe that
6 that would be unacceptable to them.

7 Q Was there objection on the part of the
8 Department of State to the principle or idea of a
9 modus vivendi at that time?

10 A No. If there was something that we could
11 have done that would have been practically possible,
12 that from our own consideration and the consideration
13 of other powers affected could have helped brought --
14 bring Japan into line and bring support in Japan to
15 a more peaceful course, we would have been very glad
16 to consider what we could have done. The record shows
17 that the Secretary of State told the Japanese that.

18 Q The United States Department had been making
19 it clear throughout the conversations, had it not,
20 that it would consult other interested governments
21 when, in its judgment, the time had come when that
22 would be profitable?

23 A We had made it clear to the Japanese repre-
24 sentatives that, when we thought there was a basis for
25 an agreement, then we would consult with the other

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1 powers.

2 Q In fact, had the other interested powers
3 been consulted prior to, say, the middle of
4 November?

5 A They had not been consulted in regard to
6 the contents of any proposed agreement. They knew
7 that conversations were taking place, but they had
8 not been consulted in regard to the contents of any-
9 thing, as far as I recall.

10 Q After receipt of the Japanese proposal of
11 the 20th of November, did not Secretary Hull on the
12 22nd meet with the Ambassadors of Great Britain,
13 China and the Netherlands and discuss the situation?

14 A I don't remember the exact date, but be-
15 tween -- somewhere between the 22nd and the 24th,
16 including the 24th, he did consult with them.

17 Q Was the Japanese modus vivendi proposal of
18 the 20th discussed at that time?

19 A I wasn't present at the conversations, and
20 I don't know -- with the other representatives, and
21 I do not know just what exactly was discussed; but
22 it will be in the record what the contents of those
23 discussions were.

24 Q Where does one find that record?

25 A That's all published in "Foreign Relations

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1 of the United States and Japan, 1931 - 1941,"
2 Volume II. I beg your pardon. I'd like to correct
3 that. It is in the Pearl Harbor record. I don't
4 think that those conversations with the other powers
5 were published at that time.

6 Q After that meeting of whatever date it may
7 have been, did the Department of State consider pre-
8 senting a modus vivendi of its own to Japan?

9 A Yes. Consideration was given in the Depart-
10 ment of State to the presentation of a modus vivendi.

11 Q Was it felt in the Department that a modus
12 vivendi plan could be drawn which might be acceptable
13 to Japan?

14 A No. We tried out the best we could do, but
15 we felt all along it was very short of what Japan
16 had been asking. The Japanese had indicated very
17 clearly that the November 20 proposal was their last
18 word, and they wouldn't take anything less than that;
19 and we thought it was extremely unlikely that they
20 would accept even the maximum that it might be pos-
21 sible for us to offer.

22 Q Nevertheless, did not the Department go so
23 far as to draft a proposal for such a modus vivendi?
24

25 A They made successive drafts of such a pro-
posal -- three successive drafts.

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1 Q Do you know whether these successive drafts
2 were discussed among the President, the Secretaries
3 of State, War and Navy, and the Chief of Staff of
4 the Army and Chief of Naval Operations?

5 A Yes. The whole plan of the proposed modus
6 vivendi was discussed.

7 Q Up until what date was it still not decided
8 whether the modus vivendi proposal would be presented?

9 A Certainly up to November 25.

10 Q Was it not, in fact, generally understood
11 in Washington among these officials whom I have
12 mentioned, as late as the 25th and, perhaps, even on
13 the morning of the 26th, that the modus vivendi
14 proposal would probably be offered to Japan?

15 A I don't know definitely what their under-
16 standing was and how long they understood that, but
17 they knew that we were considering it.

18 Q Do you know whether any of the drafts of
19 that modus vivendi proposal are published?

20 A They were all made public in the Pearl
21 Harbor Inquiry conducted by the Joint Committee.

22 Q If the Department of State considered the
23 Japanese proposal of the 20th an ultimatum, as I
24 believe you said it did, this was considered as a
25 reply to the ultimatum, was it not? That is not

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1 very clear. Let me add: In saying "this was the
2 reply," I mean, whatever was next presented to the
3 Japanese would be the reply.

4 A Yes. Our November 26th proposal was a
5 reply.

6 Q As a reply rejecting the ultimatum, which
7 you regarded the note of the 20th to be, it was,
8 in effect, the termination of the conversations,
9 was it not?

10 A I can't agree with that conclusion.

11 Q Well, let's investigate it a little: You
12 state on page 13, paragraph 3 of your affidavit that
13 "it subsequently appeared, the Japanese treated
14 the November 26 proposal as finally disposing of the
15 question of negotiating for a peaceful settlement."
16 How long subsequently did that appear so far as the
17 Department of State was advised?

18 A Well, we knew from the intercepts that the
19 Japanese Government regarded the conversations for
20 a peaceful settlement was over, but the Japanese were
21 told to keep up appearances as if the conversations
22 were still going on.

23 Q Then, from the date of receipt by the
24 Department of State of the intercepted message
25 No. 844 from Tokyo to Washington, dated the 28th of

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1 November, you had that information.

2 A That is correct.

3 Q As a rule, how long after transmission did
4 the Department of State receive these diplomatic
5 messages?

6 A I believe, on the face of those messages
7 it indicates the date of translation. We usually
8 got them within a day or two of the date of trans-
9 lation.

10 Q Well, now, however the Japanese treated the
11 United States message of the 26th of November, cer-
12 tainly the State Department knew that it did consti-
13 tute a rupture of negotiations or conversations, did
14 it not?

15 A You mean at what time?

16 Q I mean at the time of delivery of that note.

17 A No, I cannot agree with your conclusion
18 there.

19 Q Let me rephrase it. Perhaps I didn't make
20 it clear: Against the background of those months
21 of conversations, was not the inevitable effect of
22 the note of the 26th of November to terminate the
23 negotiations?
24

25 THE PRESIDENT: You are in the realm of
opinion again, Major Blakeney. What was the natural

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1 effect is for us, really.

2 MR. BLAKENEY: The original question was
3 prefaced by the words, "Was it not the belief of the
4 Department of State that." That is what I am asking
5 him. Not "what was the natural effect?" but "what
6 did the Department of State consider to be the
7 effect?"

8 THE PRESIDENT: You may ask him what the
9 Department thought or did.

10 BY MR. BLAKENEY (Continued):

11 Q Will you, then, state what the Department
12 thought on that question?

13 A The Department thought, as a result of the
14 months of conversation, that it was unlikely that
15 the Japanese Government would accept our proposal of
16 November 26; but there was always a chance, and the
17 proposal seemed to us of a character which any peace-
18 loving nation would have been glad to accept.

19 Q Did Secretary Hull state on the morning of
20 the 27th of November to Secretary of War Stimson
21 that "I have broken it off. Matters are now in the
22 hands of the Army and the Navy"?

23 A I think that's in the record. I'm not sure
24 of the exact wording he used, but he used wording
25 to indicate that he thought that the situation had

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1 become very serious.

2 Q Then do you know that Secretary Hull made
3 substantially similar statements on the following day
4 or days to the British Ambassador and to the American
5 War Council?

6 A Well, he made statements to the War Council
7 and to the British Ambassador on the following day
8 that he thought that Japan might break out at any
9 moment in some surprise attack at any point.

10 Q Yes. But, more specifically, do you know
11 that he made the statements on those days, in effect,
12 "I have washed my hands of the matter. It is in the
13 hands of the Army and the Navy."?

14 A I recall very clearly Mr. Hull saying to
15 me "within this present year," that he never used the
16 expression, "I have washed my hands of it."

17 Q Then, if Secretary Stimson testified that
18 he did, Secretary Stimson was mistaken, wasn't he?

19 MR. KEENAN: Mr. President, the prosecution
20 objects to that question as being improper.

21 THE PRESIDENT: To whom do you suggest Mr.
22 Hull made that statement?

23 MR. BLAKENEY: I suggest that the record
24 shows that he made it to Mr. Stimson.

25 THE PRESIDENT: You do not suggest he made

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1 it to the Japanese, do you?

2 MR. BLAKENEY: No, sir. That is not the
3 point at all. I was trying to determine the belief
4 of official Washington of the effect of the note of
5 the 26th. However, I do not think it worthwhile to
6 dispute over the exact word because there will be
7 abundant evidence later of what words were used.

8 THE PRESIDENT: You can ask him anything
9 he knows was said to Mr. Stimson or anything he
10 heard was said to him.

11 BY MR. BLAKENEY (Continued):

12 Q May I ask it this way, since I am not try-
13 ing to test your memory but just to get the facts:
14 Do you not know that it was the general viewpoint
15 among these high officials in Washington that the
16 note of the 26th of December -- of November could
17 only have the effect of breaking off negotiations
18 with Japan?

19 A I can be specific on one point. Mr. Hull
20 did say, "The matter is now in the hands of the Army
21 and Navy."

22 THE PRESIDENT: To whom did he say it?

23 THE WITNESS: He said that to a number of
24 high officials. He said it, I believe, to Mr.
25 Stimson, but he said it in the meeting of the War

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1 Council. Mr. Hull's best recollection of what he
2 said is contained in a letter that he wrote to
3 Justice Roberts on December 30, 1941, which is just
4 a few days after the event.
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1 Q During the months of August and September,
2 1941, was there not a discussion between the Japanese
3 and American negotiators concerned of a proposed meet-
4 ing between President Roosevelt and Premier KONOYE?

5 A That is correct.

6 Q President Roosevelt regarded this proposal
7 for a meeting as, in his words, "a step forward,"
8 did he not?

9 A I don't recall that statement, but it
10 probably may be in the record.

11 Q Would it refresh your recollection if I told
12 you that on the 28th of August, when the original
13 suggestion was delivered by the Ambassador of Japan
14 to the President for such a meeting, that that was the
15 President's reaction to it?

16 A I think that probably was his reaction because
17 even as late as 15th of December he told Congress that
18 he would have been glad to have traveled thousands of
19 miles to have effected an agreement with Japan.

20 Q The meeting never finally took place, did it?

21 A That is right. That is correct.

22 Q In explaining in your affidavit, page 11,
23 the American reasons for inability to adopt this
24 proposal, you dwell on the effects which might have
25 been expected to result from the failure of the

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1 proposed meeting. I am quite sure, however, that
2 equal consideration must have been given to the
3 prospects of success of such an extraordinary meeting
4 between the President and the Premier?

5 A We had given careful consideration to that,
6 but we had concluded that unless we reached an agree-
7 ment in advance on essential principles and their
8 application, that the meeting would result -- would
9 not be productive of results.

10 Q Especially since you say months of close-up
11 conversations with the Japanese Ambassador had failed
12 to produce results?

13 A That is correct.

14 Q Now I ask you whether this very fact was not
15 so much the more reason for making the effort through
16 this meeting of the highest responsible officials to
17 secure the concrete and clear-cut commitments from
18 Japan which were desired?

19 A The chances, in the light of the circumstances,
20 of getting anywhere when the Japanese had so clearly
21 failed to move on these fundamental points were so
22 dim that naturally we had to give important consider-
23 ation to what the effects would be if no agreement
24 resulted, and those effects seemed very certain.

25 Q Prince KONOYE was Premier at that time?

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1 A That is correct.

2 Q Was there a feeling in the State Department
3 that Prince KONOYE was a representative of a liberal --
4 moderate group in Japan which might be the best hope
5 for achieving the peace desired?

6 A What loomed largest in the consideration of
7 the Department of State was that the military party
8 was dominant in Japan.

9 Q Was the Department at that time aware
10 of the line of thought that the best way to destroy
11 the dominance of the military party was to encourage
12 the moderate party in some way?

13 A Yes, we had heard that before.

14 Q And the further suggestion that a measure of
15 agreement with the United States would probably be the
16 best means of establishing the moderates firmly in
17 control of Japan?

18 A That argument had also been brought up in
19 April by these friends, unofficial Japanese and American
20 friends, when these proposals were first brought to
21 us; but the proposals they brought did not seem to,
22 without considerable revision, to offer a prospect
23 for agreement.

24 Q In fact, such a meeting had been one of the
25 ingredients in the original draft of the 16th of April,

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1 had it not?

2 A That is correct.

3 Q So far as concerns the desirability of such
4 a meeting between the President and the Premier,
5 Ambassador Grew in Tokyo expressed to the Department,
6 did he not, a great enthusiasm for and hopefulness
7 concerning such a meeting?

8 A That is so; but he was only reporting from
9 the viewpoint of Tokyo as he himself stated.

10 Q And from the viewpoint of Tokyo did he not
11 feel that, in his own words: "The good which might
12 flow from such a meeting is incalculable"?

13 A There is no question about what Mr. Grew
14 reported in his telegram. It has been published.
15 It is in the record.

16 Q I should like to ask you also whether the
17 Department took into consideration this further sug-
18 gession of Ambassador Grew contained in his long
19 telegram to the Department of the 29th of September
20 reviewing the whole situation, wherein, speaking of
21 the proposed meeting, he says this: He raises the
22 questions whether the United States is not now given
23 the opportunity to halt Japan's program without war
24 or an immediate risk of war; and, further, whether
25 through failure to use the present opportunity, the

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1 United States will not face a greatly increased risk
2 of war. The Ambassador states his firm belief in an
3 affirmative answer to these two questions?

4 A We gave capital consideration to that as well
5 as all other suggestions of Ambassador Grew.

6 Q Did the Department consider further at that
7 time the likelihood also referred to by Ambassador
8 Grew that Prince KOIJOYE would be in a position to
9 give to the President more directly explicit and
10 satisfactory engagements than his Ambassador could do?

11 A We did not see how -- what explicit commit-
12 ments that would be of a satisfactory character could
13 be given in the light of the failure to reach an
14 agreement on so many fundamental points during all
15 those months of conversation.

16 Q In any event, the meeting did not occur
17 because of the facts which you have stated in your
18 affidavit?

19 A And also for the many considerations stated
20 in our communication of October 2nd and in further
21 explanations made in the published record.

22 Q Then with the closing of the question of a
23 meeting between the President and Premier, the con-
24 versations were thrown back to the same state approximate-
25 ly in which they started, were they not?

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1 A We never closed the question of a meeting
2 with the Premier.

3 Q Well, perhaps I should have said, with the
4 final decision by the State Department to send its
5 answer to the proposal for a meeting?

6 A In our communication of October 2nd, we
7 indicated that we were still willing to have the
8 meeting, and we asked for further consideration to
9 be given to certain points that we mention in that
10 communication. We never got anything further back
11 on that point from the Japanese.

12 Q Now, returning to the 26th of November,
13 you say that despite the Japanese construction of
14 the note of that day, they kept up the appearance
15 of continuing negotiations right down to December 7th?

16 A That is correct.

17 Q In what way does your keeping up the appear-
18 ance of continuing negotiations differ from continuing
19 negotiations?

20 THE PRESIDENT: That answer will not help.
21 We know the difference.

22 Q Well, did the Japanese present additional
23 proposals of any nature?

24 A There was a conversation on December 21st
25 between -- well, there were conversations. I do not

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remember the exact dates, following November 26th.

1 Q At those conversations were additional
2 proposals of any nature presented by the Japanese?

3 A There was a proposal outstanding by us on
4 November 26th, and they intimated to us that a reply
5 would be received in due course.

6 Q Well, what in general was the subject matter
7 of the conversations after that date?

8 A Well, that is clearly recorded in the record.
9 I do not want to undertake to give a resume of that
10 thing offhand without reading over the record.

11 Q Well, I am not making any such demands on
12 you. I am just trying to find out in a general way
13 what went on, which you refer to as "keeping up the
14 appearance of continuing negotiations."

15 THE PRESIDENT: Were you influenced by their
16 demeanor or by the intercepted messages or by what
17 they were doing at Hainan?

18 THE WITNESS: We were influenced by the
19 intercepted messages.
20

21 Q Did any of those intercepted messages show
22 that additional proposals or propositions were received
23 from Tokyo to be delivered in the effort to conclude
24 negotiations?

25 A I do not recall definitely, but I am inclined

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1 to think not.

2 Q Did the Japanese Ambassador after that time
3 call upon the Department of State with additional
4 explanations of one point or another which had been
5 under discussion, and which they stated they had been
6 instructed by their Government to make?

7 A If I recall correctly, I think on December 2nd
8 the Japanese Minister suggested to the Under Secretary
9 of State that we go back to the original proposals
10 and counter-proposals. I may be wrong about that;
11 but, if I remember correctly, he made some such suggestion.

12 Q Did the Japanese Ambassador during that period
13 on at least one occasion state to the Department that
14 they had been instructed by Tokyo to request full re-
15 consideration by the American Government because the
16 state of affairs was so perilously close to disaster?

17 A I believe the Japanese Ambassador did say
18 he urged full reflection by the United States Government.
19 I do not recall the exact wording or the rest of it.

20 Q Were you aware from any of the intercepted
21 correspondence that the Japanese had arranged that, in
22 the event of a successful conclusion to the negotiations,
23 their fleet should be recalled and emergency military
24 measures canceled up to the actual moment of attack?

25 A I have no clear recollection of that.

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1 Q I believe that in your affidavit you do not
2 undertake to say why the Department of State considered
3 that the Japanese were pretending to continue negoti-
4 ations. Can you tell us what the Department's view
5 of that was?

6 A First, we had the information of the inter-
7 cepts; and secondly, by no positive act did the
8 Japanese indicate that there was any change in the
9 situation.

10 Q I am sorry. My question was not clear. The
11 question is this: Can you tell us whether the Depart-
12 ment of State formulated any belief as to the reason
13 why the Japanese were pretending to continue negotiations,
14 if they were only pretending?

15 A I think that that is one of the bases for the
16 conclusion by the Secretary of State that the Japanese
17 might break out in fresh acts of aggression at any
18 point over widely separated areas.

19 Q I am sorry. We are still not talking about
20 the same thing. The Department believed that the
21 Japanese were in bad faith, professing to be continuing
22 negotiations, is that correct?

23 A That is correct.

24 Q Now, for what reason did the Department believe
25 that the Japanese were doing that? What did they

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1 believe was the reason for which the Japanese were
2 doing it?

3 A I am sorry. I tried to make clear that they
4 were doing that for reasons that they were contemplating
5 fresh acts of aggression in their own chosen time.

6 Q And the negotiations, or the appearance of
7 negotiations, were designed, did you think, to conceal
8 the military preparations?

9 A Not to conceal military preparations. Those
10 had been obvious since July, this tremendous forward
11 movement from Japan southward into Indo-China to await
12 some chosen time for some act.

13 THE PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1445, a recess was
16 taken until 1500, after which the proceedings
17 were resumed as follows:)

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

3 THE PRESIDENT: Major Blakeney.

4 BY MR. BLAKENEY: (Continued)

5 Q After the decision was reached on the 25th
6 or 26th of November not to present the modus vivendi
7 proposal to Japan, but to present the note which was
8 finally delivered -- I am sorry, not after that, but
9 at the time your decision was reached, can you tell
10 me very briefly what were the reasons and considera-
11 tions underlying the American change of viewpoint as
12 represented by that note?

13 A I don't know what you mean by change of
14 viewpoint.

15 Q Did not the American note of the 26th of
16 November represent a departure from some of the
17 points of agreement which had been reached earlier
18 in the course of the conversations?

19 THE PRESIDENT: If you are referring to
20 earlier agreements in evidence. Major Blakeney, the
21 answer is for us to give, not the witness.

22 MR. BLAKENEY: I refer to the entire pre-
23 ceding body of documents, some of which are in evi-
24 dence, and conversations, very few, if any, of which
25 are in evidence.

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1 THE PRESIDENT: Yes?

2 MR. BLAKENEY: Shall he answer?

3 THE PRESIDENT: Yes.

4 A I think the reasons given for our November
5 26th communication are fully set forth in the ex-
6 planatory statement that accompanied it.

7 Q You refer, do you, to the oral statement
8 which is a part of exhibit "L" to your affidavit,
9 that is Court exhibit 1245-1?

10 A That's correct.

11 Q Coming to the message sent by the Presi-
12 dent of the United States on the 6th of December to
13 the Emperor of Japan, you are doubtless familiar
14 with the evidence already introduced in this trial
15 concerning the delay in the delivery of that message,
16 are you not?

17 A Only to the extent that there was a delay.
18 I don't know the details.

19 Q Was it the belief of the Department of
20 State that there would have been a difference in the
21 ultimate outcome if that message had been delivered
22 say ten hours earlier?

23 A So far as I know, there was no conclusion
24 reached on that point by the Department of State.

25 Q Is it a fact that the only concrete request

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1 or suggestion contained in that message was the
2 request that the Emperor should give thought to ways
3 of dispelling the dark clouds then prevailing?

4 MR. KEENAN: Mr. President, the prosecution
5 objects to this witness being asked to interpret for
6 the Court. That message speaks for itself.

7 MR. BLAKENEY: I will withdraw the question.
8 It is perhaps improper.

9 Q What did the Department of State consider
10 this message to contain in the way of a new proposal
11 designed to solve the differences between the two
12 countries?

13 THE PRESIDENT: The Department is bound by
14 its own words which we construe. Even the Department
15 cannot give it a meaning different from that which it
16 bears according to the words used.

17 MR. BLAKENEY: I point out, sir, that the
18 message is not that of the Department, but of the
19 President. I am trying to find out --

20 THE PRESIDENT: The same applies to him.

21 Q Did the Department draw this message, Mr.
22 Witness?

23 A The message was partly drafted in the White
24 House, partly in the State Department. There were
25 contributions by both sides.

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1 Q In contributing its advice, suggestions, or
2 whatever it did contribute to the drafting of the
3 message did the Department of State do so with con-
4 fidence that the message might have a chance of
5 achieving something towards settling the differences
6 between the two countries?

7 A We thought that the chances were very slim
8 that it would accomplish anything, but in view of the
9 desperate situation we did not want to overlook the
10 slightest chance.

11 Q Was the situation considered notably more
12 desperate on the 6th of December than on the 26th of
13 November?

14 A The Japanese fleet had already sailed from
15 that extreme southern part of Indo-China. We were
16 in imminent danger. The situation was right then
17 upon us.

18 Q When was that information available in the
19 Department of State?

20 A I believe it was about noon on the 6th.

21 Q At the time of the despatch of the President's
22 message were the authorities of the Department of
23 State and other departments already in possession of
24 the Japanese -- in possession of information that
25 the Japanese note which would constitute a de facto

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1 rupture of relations was on the way?

2 A Do you refer to the Japanese message of
3 December 7th, which was delivered on December 7th?

4 Q Yes. I am asking whether at the time
5 the President's message was despatched the Department
6 of State was aware that that Japanese message later
7 delivered on the 7th was on the way.

8 A I am sure that nobody in the State Department
9 or in the White House knew that at the time. I think
10 the Pearl Harbor record shows very conclusively that
11 we did not know about it.

12 Q Perhaps I can refresh your recollection by
13 suggesting to you that the record of the Pearl Har-
14 bor Committee to which you refer shows that by three
15 o'clock on the afternoon of the 6th the State Depart-
16 ment had the so-called pilot message, announcing the
17 imminent despatch of the final Japanese note -- of
18 what we later came to know as the final Japanese
19 note?

20 A That pilot message contained no hint of the
21 content of the note that finally came, and even then
22 the last part of the note, part 14, even that con-
23 tained nothing indicating a de facto rupture of
24 diplomatic relations.

25 Q Well, take one question at a time. Do you

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1 remember that the pilot message was available in the
2 State Department by three o'clock in the afternoon
3 of December 6th?

4 A I do not. I have no recollection of it,
5 but I do have a recollection that the Pearl Harbor
6 record indicated that it was received there at that
7 time.

8 Q And the so-called pilot message told you, did
9 it not, that a very long, the 14 part answer, to the
10 last American proposal was being sent?

11 MR. KEENAN: Mr. President, the prosecution
12 objects to this question and asks that the pilot
13 message be defined, especially in view of this last
14 question.

15 THE PRESIDENT: What do you understand by it,
16 Witness?

17 A I understand by a pilot message, was a
18 message to the effect that the Japanese Government's
19 answer was on its way.

20 Q And since reading the intercepted message
21 No. 844 of the 28th of November, which you pre-
22 viously testified to, did not the Department of
23 State know that when that answer came it would be as
24 reported in message 844, a de facto rupture of re-
25 lations?

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1 A That would only be an assumption and you
2 couldn't take a chance on assumptions in a very
3 critical situation like this.

4 Q I don't understand the assumption. I ask
5 you whether after reading that Japanese message,
6 stating that the answer would constitute a de facto
7 rupture of relations, the State Department did not
8 so understand it?

9 A Would you kindly read to me the text of
10 that pilot message?

11 MR. BLAKENEY: May I do so.

12 THE PRESIDENT: I didn't catch his last
13 answer.

14 MR. BLAKENEY: He requested me to read the
15 text of the pilot message and I will be glad to do
16 so, if the Tribunal desires.

17 THE PRESIDENT: Is it a long message?

18 MR. BLAKENEY: No, sir. It is quite short.

19 THE PRESIDENT: Well, he should recollect
20 what effect it had when they got it. It would be
21 difficult for him to forget a message like that.

22 (Whereupon, the Marshal of the Court
23 handed a paper to the witness.)

24 THE WITNESS: I don't see anything in that
25 message about a de facto rupture of relations with the

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1 United States.

2 THE PRESIDENT: Was that the message sent?

3 MR. BLAKENEY: I quoted that phrase from
4 message No. 844 of the 28th of November.

5 MR. KEENAN: Mr. President, is it clear to
6 the Court that there were two messages, one, I be-
7 lieve, a short message, that a message was coming
8 and secondly, the final note?

9 THE PRESIDENT: Clear as day, but i.r.
10 Blakeney should tender that pilot message if the
11 witness says that was the message received.

12 MR. BLAKENEY: I will be very glad to do so,
13 sir, except I haven't it abstracted for introduction.
14 I will tender it tomorrow.

15 THE PRESIDENT: Read it.

16 MR. BLAKENEY: Reading from the report of
17 the Congressional Committee Investigating Pearl Har-
18 bor, page 433:

19 "(1) The government has deliberated deeply
20 on the American proposal of the 26th of November, and
21 as a result we have drawn up a memorandum for the
22 United States contained in my separate message No.
23 902 (in English.)

24 "(2) This separate message is a very long one.
25 I will send it in 14 parts and I imagine you will

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1 receive it tomorrow. However, I am not sure. The
2 situation is extremely delicate and when you re-
3 ceive it I want you to please keep it secret for the
4 time being.

5 "(3) Concerning the time of presenting this
6 memorandum to the United States I will wire you in
7 a separate message."

8 THE PRESIDENT: That sounds familiar. It
9 may be already in evidence.

10 MR. BLAKENEY: Shall I read the remaining
11 one sentence.

12 THE PRESIDENT: Read the rest.

13 MR. BLAKENEY: (reading)

14 "However, I want you in the meantime to put it
15 in nicely drafted form and make every preparation to
16 present it to the Americans just as soon as you re-
17 ceive instructions."

18 THE PRESIDENT: That message was to whom
19 from whom?

20 MR. BLAKENEY: Although it isn't shown in
21 the place from which I read it, I can state that it
22 was from Tokyo to the Ambassador in Washington.

23 THE PRESIDENT: My colleague tells me it
24 is exhibit 1216.

25 MR. BLAKENEY: I am informed also that the

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1 telegram No. 844 to which I have been referring is
2 exhibit No. 1193.

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1 Q Now, Mr. Witness, my question was: The
2 President's message to the Japanese Emperor was sent,
3 was it not, some hours after this so-called pilot
4 message, exhibit 1216, was available in the Department
5 of State?

6 A Although the record apparently shows that
7 that pilot message was delivered to the Department of
8 State at 3 p.m. on the 6th, so far as I was able to
9 check up at the time of the Pearl Harbor inquiry, no
10 one of us had any definite recollection of having seen
11 it at that hour or at that time, nor have we any
12 definite recollection of when that message was received--
13 was seen by us.

14 Q Do you happen to know when the President's
15 message was sent?

16 A Message to the Emperor?

17 Q Yes.

18 A At nine o'clock.

19 Q Nine o'clock of the evening?

20 A That is in the affidavit.

21 Q Is it a fact that neither Secretary Hull,
22 Secretary Stimson, nor Secretary Knox had any con-
23 fidence in the prospect of achieving anything by that
24 message and attempted to dissuade the President from
25 sending it?

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1 THE PRESIDENT: How is that relevant or ma-
2 terial, Major Blakeney?

3 MR. BLAKENEY: There has been a great deal
4 made here in the prosecution's evidence of the ques-
5 tion of delay in delivery of the message. In the
6 opening statement of this phase of the case it was
7 stated that prompt delivery might have changed the course
8 of history. I think the intention with which the
9 message was drafted and sent and the belief or lack
10 of belief in its efficacy by those who were responsible
11 for it is quite material in view of that statement.

12 If the Tribunal is inclined to consider the
13 question of delay in delivery of the message as of no
14 importance, I have no further interest.

15 THE PRESIDENT: We are completely at a loss
16 to know how the delay in the Japanese post office in
17 Tokyo has any light thrown upon it by the opinions of
18 the three Cabinet Ministers you name.

19 MR. KEENAN: Mr. President, since there has
20 been interjected into this conversation the question
21 of the sincerity of the sender, who was the late
22 President of the United States, we respectfully ask
23 the Tribunal, irrespective of the exact materiality,
24 not to shut off any comment from the witness on this
25 point.

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1 THE PRESIDENT: We could only do that by the
2 agreement of both parties. We are confined to the
3 evidence which is relevant and material.

4 MR. KEENAN: I assume, Mr. President, there is
5 a purpose in the question -- if it is to challenge the
6 sincerity or the integrity of the President of the
7 United States, by whomever ~~made~~ ^{made} or where, I respectfully
8 request the Court to permit the question to be answered.

9 THE PRESIDENT: The genuineness of the message
10 certainly is material. You may ask any question
11 tending to show that it was not genuine.

12 But the real point about the delay is as stated
13 in a memorandum received from a colleague: "If it was
14 intentionally delayed, then it is suggested that he
15 who delayed it feared it might avert a war on which he
16 was determined."

17 I cannot see how the attitude of the three
18 Cabinet Ministers named bears on the sincerity of the
19 President or on the cause of the delay in Tokyo.

20 MR. BLAKENEY: If the only attempt to prove
21 is that whoever delayed the message thought that he was
22 averting a war, I have no interest. But I have been
23 attempting to elicit evidence from those best placed,
24 I should think, to know as to whether there was
25 actually any prospect that the delivery of this

BALLANTINE

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1 message at any time would have changed the course of
2 history. That is the charge we are trying to meet.

3 THE PRESIDENT: In other words, you are
4 asking him for an opinion which we think is beyond
5 his province.

6 MR. BLAKENEY: Very well.

7 Q Coming to the final Japanese note delivered
8 in Washington on the 7th of December, you say that it
9 was not a declaration of war with reasons or an ulti-
10 matum, and so forth. Upon first reading that note in
11 intercepted form at the White House on the night of
12 the 6th of December, do you know, did President Roose-
13 velt say, "This means war"?

14 A I know that one officer testified to that
15 effect.
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1 Q Do you know whether all high-ranking officials
2 in Washington concerned in the matter, specifically
3 the Secretaries of State, War, Navy and the Chiefs
4 of Staff, upon first reading this intercepted message
5 were of the same opinion.

6 A I do not know. Things were moving so fast
7 at that time. Many of the higher offices of the
8 Government didn't receive the intercepts in time. By
9 the time that we received the message from the Japanese
10 Pearl Harbor had already happened.

11 Q When did the Department of State first receive
12 the intercepted copy of that message?

13 A Well, Part 14 I would say somewhere around ten
14 o'clock. I didn't see any of it before that time.

15 Q Ten o'clock a.m. or p.m. of what day?

16 A Ten o'clock a.m. on the 7th.

17 Q Did the intercepted message which was delivered
18 to the White House on the evening of the 6th of December
19 include Part 14?
20

21 A I think that the record will show that Part
22 14 wasn't even received or decoded until the early
23 morning hours of the 7th.

24 Q Then, if the President of the United States
25 formed his judgement of the effect of the note with-
out seeing Part 14, is it correct to say that the first

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1 13 parts of the note in effect -- the first 13 parts
2 of the note gave the impression that war was inevitable?

3 A It would be difficult for me to answer that.
4 I mean, I can only speak for myself, because I didn't
5 compare notes. I can only give my own opinion, if
6 that is of any use.

7 Q Did you know that even before the delivery
8 to the Japanese of the United States note of the 26th
9 of November that the President and other high officials
10 in Washington were expecting hostilities with Japan,
11 perhaps as early as the first of December?

12 MR. KEENAN: Mr. President, the prosecution
13 objects to that question. It might be that the people
14 in the United States expected to be attacked by Japan
15 for many, many years before, but that is not the issue
16 before this Court.

17 THE PRESIDENT: He is asked whether he knew
18 whether the President and others expected an attack.
19 He may answer.

20 A All I know is what the Secretary of State said;
21 that Japan might be -- was apt to break out in an
22 attack in any direction.

23 Q As you and the State Department read inter-
24 cepted Japanese diplomatic messages from about the 26th
25 of November, did it not become increasingly clear that

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1 whatever note might eventually be delivered by Japan
2 would probably be the last and would mean war?

3 A Not necessarily. I mean it was a very strong
4 likelihood of that, but it was not one hundred per
5 cent conclusions. I'd like to explain that it wouldn't
6 be the note that would mean war, it was the general
7 situation, the forward movement that was going on --
8 the heavy troop movement down southward, all those
9 signs. It wasn't a question of a note, it was the
10 question of a situation.

11 Q Nevertheless, when you knew that a note was
12 coming which would have the effect of rupturing
13 negotiations, was not the appearance of that note
14 considered of especial significance?

15 A Characteristics of that note were very well
16 described by the Secretary of State to the Japanese
17 Ambassadors.

18 Q Now, I am not asking you about the characteristics
19 of it, I am asking you whether in the situation as it
20 then stood, the arrival of a note of that character
21 breaking off negotiations certainly did not indicate
22 war?

23 THE PRESIDENT: He can tell us only what the
24 American authorities thought, not what he personally
25 thinks.

BALLANTINE

CROSS

1 A I think in the minds of many of the American
2 authorities the note was connected with the dispatch
3 of this large Japanese armada which had sailed
4 a day previous and of which we had gotten word on the
5 noon of the 6th -- this huge armada which was sailing
6 southward or westward in the general direction towards
7 British or American or Dutch territories. I am sure
8 that Mr. Hull has testified to that effect.

9 Q Well, that is just what I mean, that in the
10 situation as it had then developed, the Japanese note
11 intercepted and available some time on the 6th, regard-
12 less of its wording, actually constituted, and was
13 understood by the American high authorities to constitute
14 a declaration of war, did it not?

15 A I don't know that any American officials
16 expressed the opinion that it constituted a declaration
17 of war. Things were happening so fast at that time; this
18 armada had already sailed.

19 Q Now, as to the delivery of that note to the
20 Department of State, you have made the point in your
21 affidavit that it was delivered to Secretary Hull at
22 a time which was after the attack on Pearl Harbor. Are
23 you aware of the fact from reading intercepted diplomatic
24 correspondence that it was the direction of the Japanese
25 Foreign Office to Ambassador NOMURA that the note should

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1 be delivered at 1 p.m. in Washington?

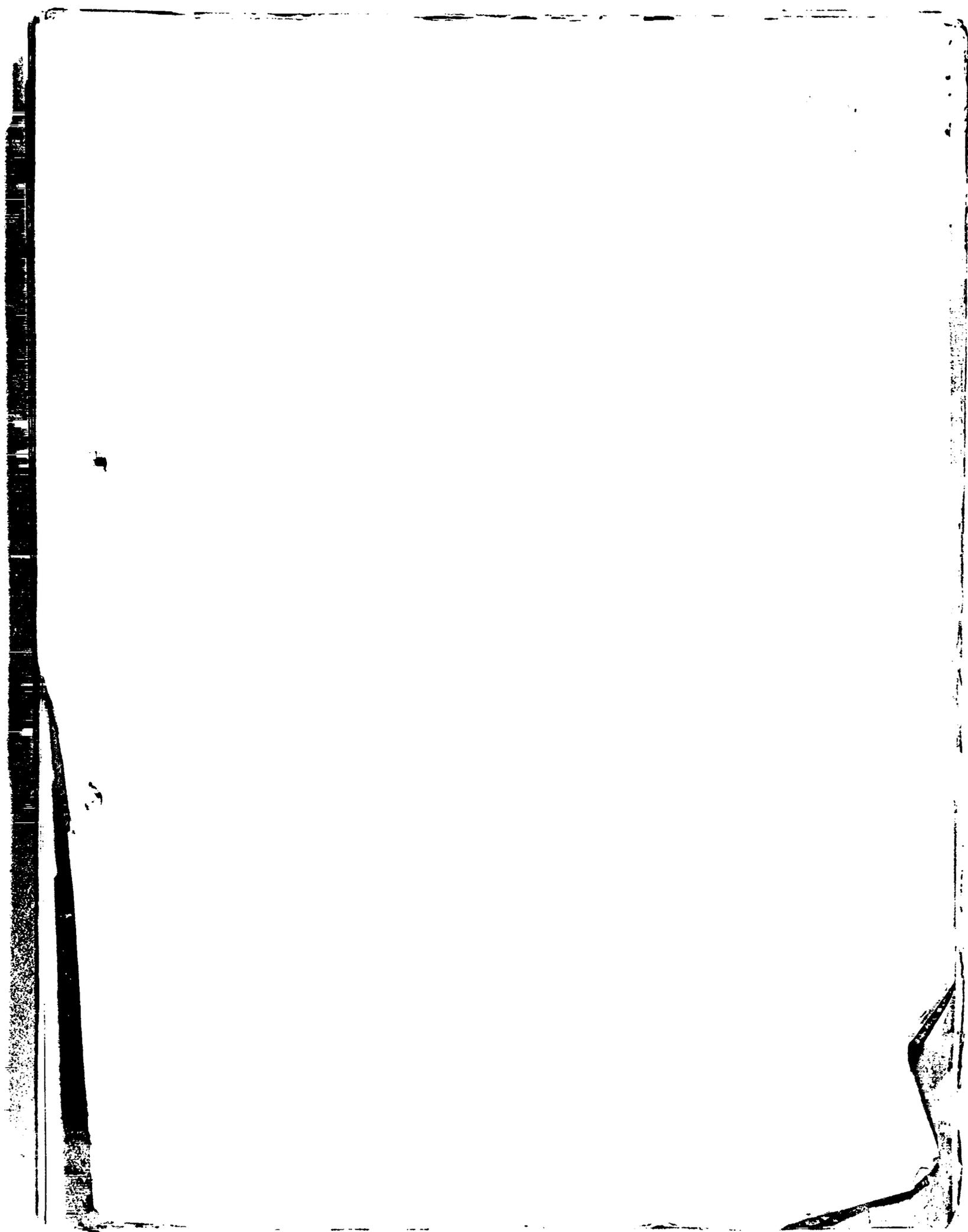
2 A Yes, we saw the intercept on the morning
3 of the 7th that the direction said it should be
4 delivered at 1 p.m.

5 THE PRESIDENT: We will adjourn until half
6 past nine tomorrow morning.

7 (Whereupon, at 1600 the proceedings
8 were adjourned until Thursday, 21 November 1946
9 at 0930.)

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21 NOVEMBER 1946

I N D E X
O F
WITNESSES

<u>Prosecution's Witnesses</u>	<u>Page</u>
Ballantine, Joseph W. (resumed)	10986
Cross by Mr. Blakeney (continued)	10986
" " Mr. Blewett	10994
" " Mr. Cunningham	11017
" " Mr. Warren	11035
" " Mr. Smith	11052

I N D E X
O F
EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
93		1247	Answer handed to Mr. Grew in Tokyo and by him forwarded to the Department of State (From Report of the Joint Committee on the Investigation of the Pearl Harbor Attack - Congress of the United States) (pp.441-442)	10987	10987
*		1248	Mr. AMAU's Book	11060	

1 Thursday, 21 November, 1946

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

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

12 - - -

13 Appearances:

14 For the Tribunal, same as before with the
15 exception of the HONORABLE R. B. PAL, Member from
16 India, not sitting.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

19 The Accused:

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

22 - - -

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

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

3 THE PRESIDENT: Major Blakeney.

4 - - -

5 J O S E P H W. B A L L A N T I N E, called as a
6 witness on behalf of the prosecution, resumed
7 the stand and testified as follows:

8 CROSS-EXAMINATION

9 BY MR. BLAKENEY (Continued):

10 Q We were discussing at yesterday's adjourn-
11 ment the delivery of the final Japanese note on the
12 7th of December. I have just one more question on
13 that, and that is this: You remember that Ambassador
14 NOMURA originally made his appointment for one
15 o'clock specifically to call on Secretary Hull at
16 the Department of State.

17 A That's correct.

18 Q And, upon arriving at a later hour, made
19 explanation that he had been delayed for certain
20 reasons.

21 A That is correct.

22 Q Now, in regard to the message of President
23 Roosevelt to the Emperor, what answer was received
24 to that?

25 A I'm not very clear about that other than

BALLANTINE

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1 what Mr. Grew may have received in Tokyo.

2 Q I should like to hand you a document and
3 ask you whether you can identify it as the answer
4 handed to Mr. Grew in Tokyo and by him forwarded to
5 the Department of State (handing document to witness).
6 I should have said this was defense document No. 93.

7 A Yes, I have seen this document before. I
8 have seen this message before.

9 MR. BLANKNEY: I now offer for identification
10 defense document No. 93.

11 CLERK OF THE COURT: Defense document No.
12 93 will be given exhibit No. 1247 for identification
13 only.

14 (Whereupon, the document above re-
15 ferred to was marked defense's exhibit No.
16 1247 for identification.)

17 MR. BLANKNEY: Exhibit No. 1247, constituting
18 an excerpt from the report of the Joint Committee on
19 the investigation of the Pearl Harbor attack, is
20 offered in evidence.

21 THE PRESIDENT: Admitted on the usual terms.

22 (Whereupon, defense's exhibit No.
23 1247 was received in evidence.)

24 MR. BLANKNEY: I do not propose to read it
25 into the record unless the Tribunal so desires.

BALLANTINE

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1 THE PRESIDENT: Read it, please.

2 MR. BLANKNEY: May I inquire whether the
3 Language Section is prepared to make a simultaneous
4 translation?

5 THE MONITOR: Yes, we are, sir.

6 MR. BLANKNEY: (Reading)

7 "At 7 a.m., December 8 (Japan time) Ambassador Crew
8 was awakened by a telephone call from an official of
9 the Japanese Foreign Office who requested him to call
10 on Foreign Minister TOGO as soon as possible (ex. 30
11 p. 403). When Ambassador Crew arrived, Foreign Minis-
12 ter TOGO, 'grim and formal,' handed him the Japanese
13 Government's memorandum breaking off the negotiations.
14 The Foreign Minister said that he had been in touch
15 with Emperor Hirohito, who desired that the memoran-
16 dum be regarded as his reply to President Roosevelt's
17 message. Ambassador Crew reported to the State De-
18 partment that the Foreign Minister thereupon made to
19 him the following oral statement:

20
21 "His Majesty has expressed his gratefulness and
22 appreciation for the cordial message of the
23 President. He has graciously let known his
24 wishes to the Foreign Minister to convey the
25 following to the President as a reply to the
President as a reply to the latter's message.

VALLANTINE

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1 "Some days ago, the President made inquiries re-
2 garding the circumstances of the augmentation
3 of Japanese forces in French Indo-China to which
4 His Majesty has directed the Government to re-
5 ply. Withdrawal of Japanese forces from French
6 Indo-China constitutes one of the subject mat-
7 ters of the Japanese-American negotiations.
8 His Majesty has commanded the Government to
9 state its views to the American Government
10 also on this question. It is, therefore, de-
11 sired that the President will kindly refer to
12 this reply.

13 "Establishment of peace in the Pacific, and con-
14 sequently of the world, has been the cherished
15 desire of His Majesty for the realization of
16 which he has hitherto made his Government to
17 continue its earnest endeavors. His Majesty
18 trusts that the President is fully aware of
19 this fact." (ex. 178)"
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BY MR. BLAKENEY (Continued):

1 Q Now, lastly, Mr. Witness, I want to ask you
2 one or two questions about the modus vivendi proposal.
3 Is it correct that the United States draft modus
4 vivendi proposal prepared in the days prior to the
5 26th of November included provision for supply of
6 some petroleum to Japan?

7 A That is correct, a small quantity for
8 civilian uses.

9 Q That small quantity for civilian uses, was
10 it not a far more limited provision than the equiva-
11 lent provision contained in the Japanese modus
12 vivendi proposal of the 20th of November?

13 A It is very small, indeed, compared to what
14 the Japanese indicated in one of their intercepts
15 they were going to ask for.

16 Q Was this petroleum question one of the vital
17 differences between the two nations at that time?

18 A I don't know exactly what you mean.

19 Q I mean, was it one of the problems which
20 seemed most difficult of solution?

21 A Well, the Japanese Government had asked in
22 their proposal of November 20 for such petroleum as
23 Japan might require. That presented great difficult-
24 ties for us.
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on this petroleum question at all likely.

1 A When Japan moved into southern Indo-China
2 in a position to attack us, we couldn't see our way
3 clear to give Japan petroleum for that purpose.

4 Q If the petroleum question was one on which
5 the parties were so far from agreement, did the
6 State Department believe that there was any real
7 prospect of an agreement on the modus vivendi at all?

8 A We thought there was very little prospect
9 of any acceptance by Japan of the modus vivendi that
10 had been drafted.

11 Q Do you remember Secretary Hull saying some-
12 thing about their being one chance in three that it
13 would be acceptable?

14 A He said, I believe, "not more than one chance
15 in three."

16 Q Yes, I believe that's correct. Nevertheless,
17 Secretary Hull did urge it upon the Chinese Ambassador
18 on the 25th of November, did he not, saying that "we
19 have been carrying on conversations and making some
20 progress so far"?

21 A Yes, he proposed it to the Chinese Ambassador.

22 Q So that the Department felt, did it not, that
23 there was some reasonable prospect that the presenta-
24 tion of the modus vivendi would result in the achieve-
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BALLANTINE

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1 ment of further progress?

2 A He didn't think there was a reasonable
3 prospect. He thought there might be a very slight
4 prospect of the thing -- the proposal was a worth-
5 while proposal, but he didn't think there was very
6 much chance of the Japanese accepting it. The Japan-
7 ese had given a very clear indication in their inter-
8 cepts that that November 20 was their minimum pro-
9 posal, and what we were offering was chicken feed
10 compared with what they were asking.

11 Q You already said, I believe, that modus
12 vivendi was never presented.

13 A I don't remember whether I said it or not,
14 but that is a fact.

15 Q Would it be correct to say that it was not
16 presented finally because of the opposition of the
17 Chinese as expressed by the Chinese Ambassador?

18 A That was one important factor in the situa-
19 tion. There were other factors.

20 Q At this time, however, the position of the
21 Department of State was, was it not, that it was not
22 acting for the other interested nations?

23 A The proposed modus vivendi -- our proposed
24 modus vivendi called for certain steps in cooperation
25 by these other countries. It could not have been

BALLANTINE

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1 carried out by the United States alone.

2 Q The modus vivendi draft was thought of, was
3 it not, in the Department of State, as being merely
4 a continuation of the previous conversations?

5 A The modus vivendi was a part of the whole
6 proposal. The communication of November 26 -- the
7 whole communication was a part of that, too, of which
8 the modus vivendi was to be just one part. What we
9 envisaged was that during the life of the modus
10 vivendi we would carry on conversations toward the
11 objectives of a permanent peaceful agreement.

12 Q And those conversations would have been a
13 continuation of the conversations which had been in
14 progress, would they?

15 A That is correct.

16 MR. BLANNEY: That is all. Thank you.

17 - - -

18 THE PRESIDENT: Mr. Blewett.

19 MR. BLEWETT: If the Court please, I shall
20 restrict my inquiry to matters not heretofore covered
21 wherever possible.

22 THE PRESIDENT: We expected that.
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24
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CROSS-EXAMINATION (Continued)

BY MR. BLEWETT:

Q Mr. Ballantine, what do you mean by the phrase "Japan attacked against us" as far as the region of Indo-China is concerned?

A Could you tell me where that passage is, please?

Q Just a moment ago, sir, in answer to a question by the examiner with reference to petroleum you used those words.

A In southern Indo-China, Japan placed herself in a position where she stood over the Philippine Islands, was able to have threatened vital trade routes affecting our trade with the Far East, and she was also in a position to threaten the territories of our friends who were resisting aggression.

Q Then you had in mind, in part at least, our business interests.

A Our business interests were a very small part of the consideration. The main part was, the Far Eastern region is a region of great production of strategic commodities such as tin and rubber which we used in great quantities.

Q You referred to 1905 with regard to Japanese investment in Manchuria. Did not Japan invest in and

BALLANTINE

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CROSS-EXAMINATION (Continued)

BY MR. BLEWETT:

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A Could you tell me where that passage is, please?

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A Our business interests were a very small part of the consideration. The main part was, the Far Eastern region is a region of great production of strategic commodities such as tin and rubber which we used in great quantities.

Q You referred to 1905 with regard to Japanese investment in Manchuria. Did not Japan invest in and

BALLANTINE

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1 develop Manchuria at that time under a recognized
2 treaty agreement?

3 A Would you tell me where that passage is,
4 please?

5 Q There is just a reference to it on the first
6 page near the bottom.

7 A I fail to find that reference. I said, "In
8 1905 Japan established herself securely in Manchuria
9 by acquiring a lease to the Kwantung territory and
10 ownership of the South Manchuria Railway."

11 Q Well, doesn't that mean that they entered
12 into a treaty or agreement legally?

13 A Yes.

14 Q Now, is it not a fact that in the early stages
15 of the negotiations the attitude of the United States
16 with regard to the withdrawal of troops in China was
17 quite reasonable which later became limited?

18 THE PRESIDENT: Suggest to him, Mr. Blowett,
19 why it was reasonable in the first place and why it
20 became limited later, if you can. Maybe he has told
21 us all he knows about that, and we do not want these
22 things repeated.

23 MR. BLOWETT: I expect to follow that, if
24 your Honor please, with regard to developments along
25 about that time, in '41.

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1 BY MR. BLIVETT (Continued):

2 Q Did the United States continue to aid China
3 under lend-lease or other legislation during the
4 pendency of the negotiations?

5 A You mean during the period of the conversa-
6 tions?

7 Q Yes, sir.

8 A That is correct.

9 Q Now, prior to June 22, 1941, the United States
10 agreed with Japan as far as suggestions for the re-
11 tention of troops against communistic activity as is
12 evidenced by the draft.

13 A That is not correct.

14 Q Just a moment. Well, then, maybe I better
15 go back to that if you say it is incorrect. I was
16 under the impression that according to the drafts and
17 according to your testimony that prior to June 22 the
18 United States did have some understanding with regard
19 to the retention of troops so far as communistic
20 activities were concerned.

21 A You will note that in exhibit 3 of my
22 affidavit, page 4, Roman numeral III, Arabic numeral
23 2. we have in parenthesis "cooperative defense against
24 injurious communistic activities, including stationing
25 of Japanese troops in Chinese territory" close

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1 BY MR. BLIVETT (Continued):

2 Q Did the United States continue to aid China
3 under lend-lease or other legislation during the
4 pendency of the negotiations?

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7 Q Yes, sir.

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10 agreed with Japan as far as suggestions for the re-
11 tention of troops against communistic activity as is
12 evidenced by the draft.

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15 go back to that if you say it is incorrect. I was
16 under the impression that according to the drafts and
17 according to your testimony that prior to June 22 the
18 United States did have some understanding with regard
19 to the retention of troops so far as communistic
20 activities were concerned.

21 A You will note that in exhibit 3 of my
22 affidavit, page 4, Roman numeral III, Arabic numeral
23 2, we have in parenthesis "cooperative defense against
24 injurious communistic activities, including stationing
25 of Japanese troops in Chinese territory" close

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1 parenthesis, "Subject to further discussion."

2 Q Well, that implies, of course, that there was
3 some discussion regarding that proposition.

4 A We have been having discussions -- we had
5 been having discussions on that question from the very
6 beginning almost to the end.

7 Q Was there or not any change in the attitude
8 of the State Department subsequent to Germany's attack
9 on Russia?

10 A Our attitude on that question was the same from
11 the beginning to the end.

12 Q Did you or anyone in the State Department
13 have any notice of the imminence of Germany's attack
14 on Russia prior to June 21, 1941?

15 A Yes; certainly. That is a matter of public
16 record, that the Acting Secretary of State informed
17 the Russian Government that we had intimation that
18 Germany was going to attack Russia.

19 Q Did that fact have any bearing or influence
20 on the question of the removal of troops from China
21 so far as the draft of June 21 was concerned?

22 A That never entered our minds at all.

23 Q Was the draft of June 21 considered in any
24 way in line with the supposition that the attempted
25 German landing in England was not a near prospect?

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1 A I didn't quite clearly understand your ques-
2 tion.

3 Q Was the question of whether or not an attempted
4 landing of Germany on English soil considered in any
5 way in the negotiations or in the drawing up of the
6 draft of June 21?

7 A It certainly was not in my mind and I heard
8 no reference to it from anybody else.

9 Q Was there, at any time, any serious consider-
10 ation by the State Department relative to the recog-
11 nition of Manchukuo?

12 A Our position right along was that that was a
13 question between China and Japan. If China were
14 voluntarily, through amicable negotiations, willing to
15 agree to it we had nothing to say. Our position is
16 clearly stated in the June 21 draft: Amicable
17 negotiations in regard to Manchukuo.

18 Q Then your Department would not have objected
19 to it?

20 A As far as I know. If there had been peaceful
21 negotiations, without duress, and China had been will-
22 ing to agree to it, I don't think that anybody would
23 have had anything to say. That is just my personal
24 feeling. That is the clear implication of this draft.
25

 Q Am I correct or not, then, in assuming that

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1 there was a change of attitude in so far as the November
2 26 draft was concerned, inasmuch as it insisted that
3 all negotiations must be made with Chungking?

4 A We consistently took the position that the
5 National Government of China, with temporary capital
6 at Chungking, was the government which we recognized
7 and that was the government of China. We never changed
8 in that position.

9 Q Did not the economic plan of Japan concerning
10 China, Japan and Manchukuo, conform to the tendency
11 among nations at that time?

12 A Conform to the tendency of the Axis Powers,
13 a tendency which we were doing our best to change.

14 Q Were there not other trade blocs, so-called
15 trade barriers, in existence among other nations out-
16 side the Axis?

17 A I believe there were. I am not an expert
18 on that subject.

19 Q Can you tell us whether or not, as an official
20 of the State Department, if the United States was unable
21 to break these trade barriers elsewhere, was it not
22 insisting upon a unilateral obligation for Japan by
23 insisting upon free trade between China and Japan?
24

25 A You used the word "insisting." I would like
to make a little explanation of that point.

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1 THE PRESIDENT: That is argumentative.

2 MR. BLEWITT: I think I asked the witness,
3 your Honor, if he could answer that as an official of
4 the State Department. He is attempting to, sir.

5 THE PRESIDENT: You are asking him can he
6 provide an argument as an official. We don't want
7 that. We want fact from him.

8 Q Do you have, Mr. Ballantine, from your long
9 stay in Japan and China, any particular prejudice
10 toward the Chinese as opposed to the Japanese?

11 A I hope I have no prejudice against any people.

12 Q Did you write any other books, pamphlets or
13 articles, other than your Japanese grammar?

14 A I don't recall any published articles or
15 pamphlets.

16 Q I think you stated that, in your cross-exam-
17 ination, with regard to the removal of troops, in one
18 instance the Department did not consider it seriously
19 because it would not be approved by Chiang Kai-shek.
20 Is that correct?

21 A I believe that what I said was that whatever
22 formulas we had received from the Japanese, there were
23 no formulas that we thought on that question that we
24 had received that Chiang Kai-shek would accept.

25 Q Was there not a very strong, influential

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1 business group in the United States that opposed any
2 agreement between Japan and the United States that did
3 not exclude all troops from China?

4 THE PRESIDENT: He can speak only for the State
5 Department. We don't want his opinion about what the
6 American people thought independently of that.

7 MR. BLEWETT: I meant to specify that, your
8 Honor, but I overlooked it.

9 Q I meant, was there any pressure brought upon
10 your Department by any business group or individuals
11 with regard to an agreement between Japan and China
12 or the United States?

13 A There was not.

14 Q Were there not reports received by you, as
15 director of Far Eastern Affairs, indicating that Japan
16 was becoming largely a competitive nation?

17 A I wasn't director of Far Eastern Affairs at
18 that time.

19 Q Well, then, in your capacity in the State
20 Department as adviser.

21 A I suppose from time to time there were ques-
22 tions raised by trade groups in regard to Japanese
23 trade, but those -- if there were they went to our
24 economic people and I don't know much about that. In
25 any case, that had no bearing upon the conversations

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1 or our attitude toward the thing which was governed by
2 the fixed principles of the United States which have
3 been traditional in our Far Eastern policy and the
4 most complete embodiment of which is found in the
5 Nine-Power Treaty of 1922. Those principles we wanted
6 to see carried out in any new agreement which the
7 Japanese Government asked us for. We weren't seeking
8 any new agreement. We were satisfied with the exist-
9 ing agreement. Thus, when the Japanese came to us
10 and asked us for a new agreement, we said that we would
11 be willing providing it conformed to our fixed principles.

12 Q Were there not references in the discussions
13 to the contemplated action of Congress as concerns
14 this treaty or agreement?

15 A Naturally we had to consider what kind of an
16 agreement we could carry Congress with.

17 Q Is it not a fact, Mr. Ballantine, that
18 Madame Chiang Kai-shek has many very influential
19 friends in Washington and in the United States?

20 THE PRESIDENT: That is beyond the scope of
21 the affidavit.

22 Q Regarding the freezing order of July, 1941,
23 what was the meaning of the State Department in term-
24 ing it a move for self-defense?

25 A Well, when a desperado gets in position to

BALLANTINE

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1 shoot you, you don't want to give him ammunition for
2 that purpose.

3 Q Was not that order considered by the State
4 Department as practically the waging of economic war-
5 fare?

6 A I think the State Department recognized that
7 economic measures of that character could only be taken
8 in a very serious situation, but then we were concerned
9 at that moment with a very imminent and overt act which
10 necessitated our taking steps of self-defense.

11 Q Do not the records of your department indicate
12 that most wars in history have been economic?

13 THE PRESIDENT: He need not answer that ques-
14 tion.

15 Q Can you tell us, Mr. Ballantine, from your
16 Department's knowledge of the psychology of the Japanese
17 generally, might not this action of freezing be con-
18 sidered by the Japanese as an act of hostility?

19 A We were concerned, as I said before, then
20 with this question of self-defense which, in view of
21 the imminence of the peril that was created by Japan's
22 move into southern Indo-China -- that consideration
23 over-rode any other consideration in the situation.
24 I think I explained that in my affidavit.

25 Q Well, what I wanted to know, if you can tell

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1 me, is, from your knowledge of the Japanese people,
2 how that action was received out here, not what the
3 attitude of the United States was concerning it.

4 THE PRESIDENT: He isn't here as possessing
5 any expert knowledge of the Japanese. In any case, I
6 suppose the Tribunal can be trusted to form its own
7 conclusions as to the purpose and effect of freezing.

8 MR. DEWITT: Yes, sir.

9 Q I assume, however, Mr. Ballantine, that it
10 must have had some deterrent as regards to the negoti-
11 ations, did it not?

12 A The Secretary of State had already suspended
13 the conversations before the freezing order, and after
14 the freezing order it was the Japanese who came back
15 to us and asked that the conversations be resumed.

16 Q Was the entry of Japanese troops into Indo-
17 China concluded under an agreement or not?

18 A We don't know the nature of all the factors
19 that went into that situation. That was between the
20 Japanese and Hitler and the Vichy Government.

21 Q Well, was there not a formal treaty drawn up
22 and signed by the parties involved?

23 A My understanding is that there was.

24 Q Was it not considered at the time of the nego-
25 tiations that an actual state of war existed between

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1 Japan and China, regardless of the terms?

2 A Obviously. Very large scale hostilities had
3 been going on for four years.

4 Q Could or could not Japan have been justified
5 in sending troops to Indo-China as a measure against
6 the Chinese?

7 THE PRESIDENT: That calls for an opinion
8 which we don't want from the witness.

9 Q Representations were made to the Department
10 of State by someone early in April, 1941, that Japan
11 was prepared to enter into an agreement nullifying the
12 Tripartite Pact. Do you recall who made those repre-
13 sentations, Mr. Ballantine, and whether or not they were
14 ever reduced to writing or any document?

15 A As I indicated -- or perhaps I didn't --
16 Father brought told me orally that that was what his
17 Japanese contacts had said to him. He got nothing in
18 writing from any authoritative source on that.

19 Q There is no document or any record of that
20 conversation or that proposal anywhere in the Depart-
21 ment? Throughout the negotiations there seems to be
22 some indication with reference to President Roosevelt and
23 Secretary Hull that there was a variance between the
24 representations made by the accredited representatives
25 of Japan and the Japanese press. Did your Department

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1 feel that these ambassadors were authorized to execute
2 an agreement if a meeting of the minds had occurred?

3 A If a meeting of minds had occurred and we had
4 proceeded to negotiations, then there would have been
5 full powers communicated, exchanged between the two
6 governments as to whom the negotiators would be. That
7 question, therefore, never arose.

8 THE PRESIDENT: We will recess for fifteen
9 minutes.

10 (Thereupon, at 1045, a recess was taken
11 until 1100, after which the proceedings were resumed
12 as follows.)
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1 MARSIAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Blewett.

4 BY MR. BLEWETT (Continued):

5 Q Are you familiar, Mr. Ballantine, with Mr.
6 Hull's testimony before the Pearl Harbor Committee?

7 A I am.

8 Q Is it true that he stated that these negoti-
9 ations were taken up for the purpose of peace in the
10 Pacific and at the same time to get time for armament
11 of the U.S.A.?

12 A I'd like to refresh my memory on the exact
13 quotation of his statement.

14 Q He stated --

15 THE PRESIDENT: Mr. Blewett, be careful
16 when you purport to say what Mr. Hull said that you
17 quote his exact words. You may have done so.

18 MR. BLEWETT: I have a quotation, sir, that
19 I think is correct from that statement, but if the
20 witness does not recognize that, sir, I will not
21 pursue it.

22 THE PRESIDENT: He may if you put Mr. Hull's
23 exact words.

24 MR. HIGGINS: Mr. President.

25 THE PRESIDENT: Mr. Higgins.

BALLANTINE

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1 MR. HIGGINS: I object to this testimony. It
2 is not an act of Mr. Hull as Secretary of State, but
3 as a witness before some investigating committee and
4 the report of that would be the best evidence of what
5 Mr. Hull said, if he did make a statement.

6 THE PRESIDENT: Mr. Blewett is pursuing
7 the conventional course. We cannot very well stop him.
8 We do not want the whole of that inquiry in evidence.
9 The witness has said he is familiar with what Mr.
10 Hull said.

11 MR. HIGGINS: There is no evidence that Mr.
12 Ballantine was present.

13 THE PRESIDENT: Hearsay is admissible in this
14 Tribunal.

15 MR. BLEWETT: I read, sir, from page 554 of
16 Congressional Investigation of Pearl Harbor Attack
17 of the 27th, just one paragraph, sir:

18 "But our policy was not to say 'no' to the
19 Japanese ultimatum of November 20. It was not to
20 remain silent even. It was to grab at every straw in
21 sight in an effort to keep up the conversations and
22 to give time to our armies and navies here and among
23 our future allies, to make further preparation and also
24 to show our continuing interests in peace."

25 Q Was that a concept of the State Department's

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1 policies at that time?

2 THE PRESIDENT: During the negotiations.

3 MR. BLEVETT: Yes.

4 A I think you will find a similar statement in
5 the summary of conversations in the record of "Foreign
6 Relations, United States-Japan, 1931 to 1941." It
7 was our desire and our hope to meet the expectations
8 of the American people who desired peace. We wanted
9 to keep alive the spark of peace to the last split
10 second. We wanted to clutch at every straw that might
11 make possible the continuance of peace. Surely there
12 was nothing inconsistent between that objective and
13 giving our armed forces and those of our friends
14 time to prepare adequately for self-defense.

15 Q Could you, therefore, confidently have any great
16 discernment or realization that an agreement could be
17 reached under such circumstances?

18 THE PRESIDENT: Did the Department think that
19 one could be reached under those circumstances?

20 THE WITNESS: Under those circumstances we
21 would be all the more anxious to take anything that
22 was possible, but surely we weren't going to sacrifice
23 our principles.
24

25 Q Did the President of the United States, in his
Navy Day speech on October 27, 1941, infer that the

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1 United States was ready to fight Japan?

2 THE PRESIDENT: Put it this way: "Did the
3 President make this observation on that date;" then
4 quote his exact words, if it is not already in evidence,
5 and I do not think it is.

6 MR. BLEWETT: We have sent to Washington for
7 a copy of the speech, sir -- for an excerpt -- but
8 it has not been received by us as yet. I do not know
9 whether the prosecution has it. I think the witness
10 is familiar with the speech however, your Honor. If
11 he says not, I shall not pursue the question.

12 THE WITNESS: I am not familiar with the
13 speech.

14 THE PRESIDENT: We want nothing but the exact
15 words used in these speeches.

16 MR. BLEWETT: I understand, sir.
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1 Q Are you familiar with the speech of
2 Mr. Churchill shortly thereafter at the Lord Mayor's
3 dinner, which excerpt has been admitted in evidence
4 here?

5 A I would have to have my memory refreshed on
6 that.

7 MR. BLEETT: If your Honor insists, I do not
8 have the exhibit handy so I am unable to read it. May
9 I quote one portion of it to the witness and see if he
10 recalls that?

11 THE PRESIDENT: Are you going to ask him what
12 was the effect of Mr. Churchill's words on the American
13 State Department? I do not see why you should ask the
14 question because his speech is in evidence.

15 Q In view of these manifestations throughout
16 the attempted negotiations, including the freezing
17 order, embargoes, aid to China, was it inconceivable
18 to your Department that Japan might have had some doubts
19 as to the United States' sincerity?
20

21 THE PRESIDENT: Can he testify as to the
22 Japanese doubts without expressing an opinion unless
23 they told him that they had them and what they were?

24 MR. BLEETT: I would assure, sir, that there
25 must have been some indication of their attitude
throughout these long discussions.

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1 THE PRESIDENT: He told us yesterday that he
2 wasn't affected by their demeanor. Apart from that,
3 we have only their words and their actions.

4 MR. BLEWETT: Well, if your Honor please, the
5 witness might possibly be an expert in so far as his
6 knowledge of the Japanese psychology may be concerned.

7 THE PRESIDENT: For the time being we recognize
8 no such experts.

9 Q Was it unreasonable, in the opinion of the
10 State Department, to feel -- cross out "feel" -- as
11 regards Japanese preparations for war, inasmuch as
12 the United States was undergoing the same process at
13 the time?

14 A United States was not out in force on a course
15 of widespread aggression. Our self-defense prepara-
16 tions began to take place a long time after the Japanese
17 forward movement began.

18 Q If the foreign policy of the State Department
19 was positive in May or June 1941, why was it not set
20 forth explicitly; and if not received or not accepted
21 by Japan, why were not these negotiations closed and
22 concluded?

23 A The American Government was sincerely and
24 earnestly desirous of working for peace to the last
25 possible moment at anything the Japanese care to us

BALLANTINE

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1 and said they wanted a peaceful settlement. We explored
2 patiently and up to the end the possibilities of peace.

3 Q May we assume from your affidavit, Mr. Ballan-
4 tine, that at no time during the course of these nego-
5 tiations were the Japanese representatives sincere?

6 THE PRESIDENT Well, that again asks him to
7 express an opinion on the state of mind of the Japanese.
8 He has already dealt with that very fully.

9 MR. BLEWETT: I got that intimation from his
10 affidavit, your Honor, that that was his expression,
11 that that was his opinion, that they were not sincere,
12 at no time. Of course, he can answer that. If not,
13 why that is so. But that is the impression I received
14 from reading the affidavit.

15 THE PRESIDENT: Let him answer.

16 A It is difficult to elaborate on what I have
17 already said. We had to take into consideration, when
18 we entered into the conversations, Japan's past record.
19 At the outset of the conversations there was nothing
20 particularly that indicated insincerity. But as con-
21 versations progressed, it was difficult to reconcile
22 these assertions of their peaceful desires with the
23 specific formulas that they proposed for settlement.

24 Q Would or not, in your opinion -- if the
25 Japanese Government had accepted the terms of

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1 November 26, 1941, would that not have practically
2 made a subjugated state or nation of Japan?

3 THE PRESIDENT: That is a matter of opinion
4 for us, not of fact for him.
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1 Q Mr. Ballantine, did you write or dictate
2 this affidavit personally?

3 THE PRESIDENT: That was answered almost
4 at the beginning of the cross-examination.

5 MR. BLEWETT: It is my recollection, sir,
6 that it has, but I thought at that time he referred
7 to the preparation of it.

8 THE PRESIDENT: Well, it is a short answer.
9 Get it from him.

10 MR. BLEWETT: It is not important, sir.
11 I will waive it, if your Honor thinks that --

12 THE PRESIDENT: Let him answer.

13 A Yes, I dictated that affidavit.

14 Q Now could not your statement in great part
15 be based upon a reconstruction of happenings and
16 events in the light of Pearl Harbor; and could they
17 not have been formed on what appears to you to be
18 a deliberate prepared policy, but what actually
19 constituted a sincere effort to effect an agreement
20 by Japan for peace and economic security?

21 THE PRESIDENT: If we understand that
22 question rightly, you are still asking for his
23 opinion.

24 MR. BLEWETT: Well, your Honor, hindsight
25 sometimes creates -- may not create the proper viewpoint

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1 in a situation. The past events may be strongly
2 indicative of a course of action, but I am simply
3 asking the witness if this prepared statement might
4 not have been made on a reconstructive basis.

5 THE PRESIDENT: I suppose he acted on every
6 bit of knowledge he possessed including the war. You
7 are asking him, in effect, what sort of an affidavit
8 would he have drafted or have signed if Pearl Harbor
9 had never happened. That is purely hypothetical.

10 MR. BLEWETT: I am endeavoring, your Honor,
11 to point it more specifically to the attitude of
12 these representatives of Japan while these negotiations
13 were going on. Now, after all these years, and
14 after the developments, it may strongly indicate
15 that they were insincere.

16 THE PRESIDENT: Has not the Court to decide
17 that in the light of all of the evidence before it
18 without any assistance from Mr. Ballantine's opinion?

19 MR. BLEWETT: I believe your Honor is
20 correct in that, sir. That concludes my questioning.

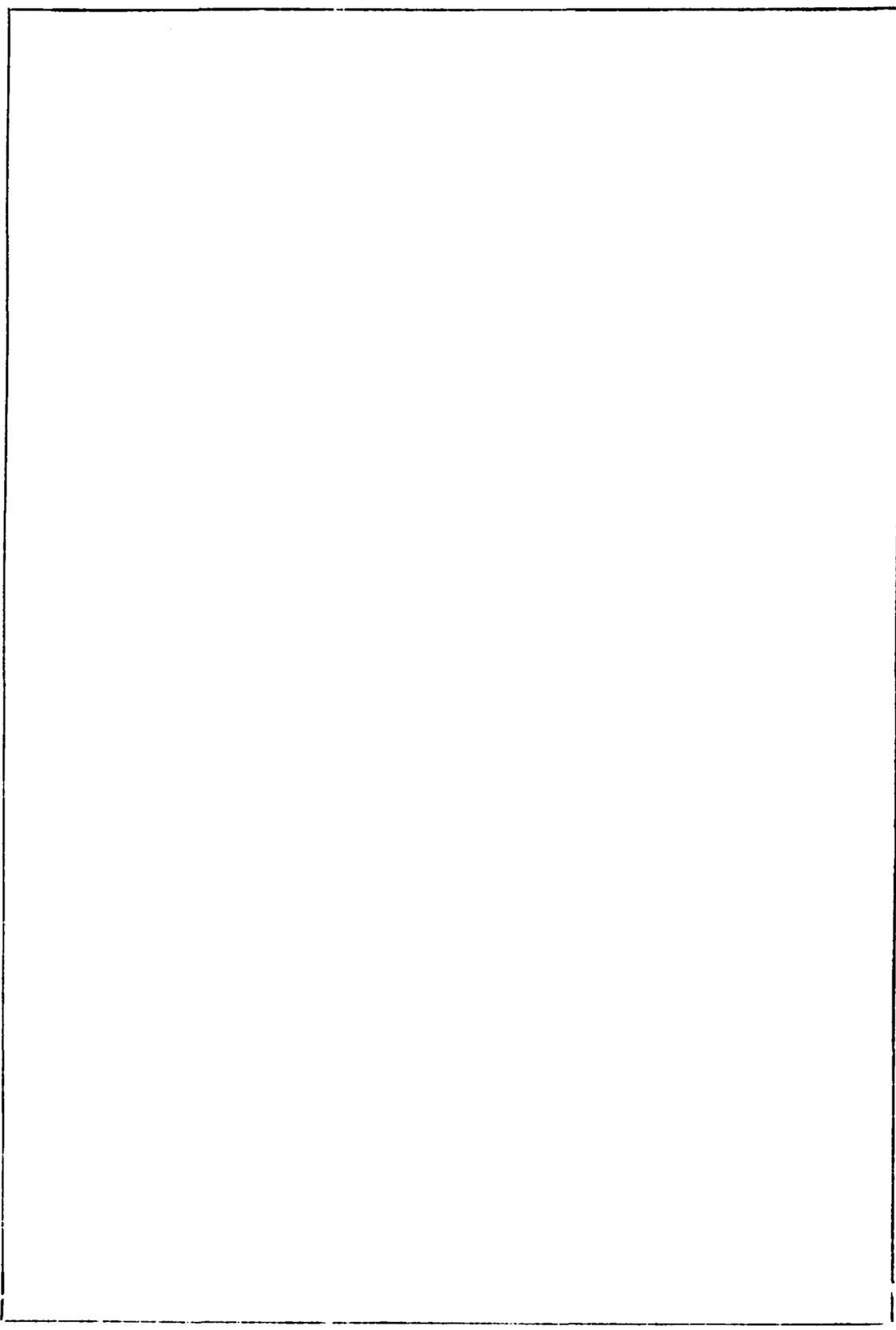
21 THE PRESIDENT: Mr. Cunningham.

22 CROSS-EXAMINATION (Continued)

23 BY MR. CUNNINGHAM:

24 Q If the Tribunal please: Mr. Witness, were
25 you present, Mr. Ballantine, at all of the Hull-Stimson

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1 conferences concerning Japanese-American relations
2 while the negotiations were going on?

3 A I was not present at any of the conferences
4 between Mr. Hull and Mr. Stimson.

5 Q Then do you know from the records of the
6 State Department on what date -- exact date -- Mr.
7 Hull declared to Mr. Stimson that negotiations were
8 no longer useful?

9 A I do not recall the words which you quote
10 at all.

11 Q Yesterday, you testified that Mr. Hull had
12 told to Mr. Stimson in effect that the negotiations
13 were through. Can you tell us the exact date of
14 that conversation?

15 A I said yesterday that Mr. Hull had said:
16 "The matter is now in the hands of the Army and Navy."
17 If I recall correctly, he said that on November 27th.
18 In any case, the facts are set forth in the Pearl
19 Harbor Inquiry.

20 Q What I am getting to, Mr. Ballantine, is:
21 If Mr. Hull, according to the records of the State
22 Department, made any preparatory remarks at any other
23 time during the negotiations to Mr. Stimson before
24 this final conversation?
25

A As I said, I was not present at any of the

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1 conversations or conferences between Mr. Hull and
2 Mr. Stimson. My knowledge of what was said is
3 derived either from what Mr. Hull told me personally
4 afterwards, or from the records in connection with
5 the Pearl Harbor Inquiry; and I could not undertake
6 to give any clear sequence of those statements
7 without refreshing my mind from the Pearl Harbor
8 record.

9 Q Now let us go to the American State Depart-
10 ment's attitude toward the Tripartite Pact. Would
11 you say that it was definitely the foreign policy
12 of Mr. Hull and the State Department to totally
13 divorce Japan from Germany in the event of the
14 extension of the war in Europe to include the United
15 States' participation?

16 A Japan came to us and asked for an agreement
17 covering peace in the Pacific area. Naturally,
18 before concluding such an agreement, we wanted to
19 make sure that Japan would not attack us if we got
20 involved in Europe.

21 Q That does not answer my question, Mr.
22 Ballantine. Would you say that it was definitely the
23 foreign policy of Mr. Hull and the State Department
24 to totally divorce Japan from its responsibilities
25 under the Tripartite Pact to Germany in the event

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1 the United States became involved in the European
2 war?

3 THE PRESIDENT That involves the determina-
4 tion by the witness of Japan's responsibilities to
5 Germany and Italy under the Tripartite Pact.

6 MR. CUNNINGHAM: May the witness answer?

7 THE PRESIDENT: No. He can say whether it
8 was the desire of America to keep Japan out of a
9 war should the United States become involved in one
10 in Europe -- the desire of the State Department --
11 and he gave his answer in the second part of the
12 last answer.

13 Q Well, Mr. Ballantine, was this policy that
14 was expressed to the Japanese Ambassadors all through
15 the negotiations?

16 A I don't know what you mean by "this policy".

17 Q The policy which you have expressed.

18 A We made our position clear to the Japanese
19 from the very outset of the conversations.

20 Q Was it the position of the State Department
21 that if Japan had made an agreement to annul the
22 responsibilities under the Tripartite Pact that that
23 would constitute a breach of that pact?

24 A Mr. Hull repeatedly told the Japanese that
25 he would leave it to the Japanese what they could do.

1 Q Was the failure of the parties to agree on
2 the interpretation of the responsibilities of Japan
3 under the Tripartite Pact one of the controlling
4 factors in the two parties' inability to complete
5 the negotiations?

6 A I would put it this way: The failure --
7 our failure to obtain clarification from the Japanese
8 as to what they would do in case we became involved
9 in the war in the Atlantic was one of the factors
10 which made it difficult for us to reach an agreement.

11 Q Did not -- was not the Pact in effect when
12 Germany and Russia went to war and Japan not joining
13 Germany, didn't that give the United States sufficient
14 basis for determining whether or not Japan would go
15 to war in the event of further extension of the
16 European war?

17 THE PRESIDENT: It is not for him to answer
18 that.

19 THE WITNESS: I did not understand you,
20 Mr. President.

21 THE PRESIDENT: It is not for you to answer
22 that. You are asked to weigh up considerations and
23 give your own opinion, do you realize it?

24 Q During these negotiations, had not the
25 State Department understood that Germany considered

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1 a virtual state of war existed between the United
2 States and Germany from President Roosevelt's Navy
3 Day speech and other acts that were committed after
4 that and before that?

5 THE PRESIDENT: Read that question to me,
6 Mr. Reporter, please.

7 (Whereupon, the last question was
8 read by the official court reporter.)

9 THE PRESIDENT: He may answer if he can.

10 A I don't know what Germany considered.

11 Q The State Department was carrying on diplo-
12 matic relations with Germany at that time, were they
13 not?

14 A We had diplomatic relations.

15 Q Now, Mr. Ballantine, we will go to another
16 subject. What did the State Department have in mind,
17 or what was their plan or program in the event these
18 negotiations failed?

19 A I don't know that any conclusion had been
20 reached on that. The Japanese had said that in the
21 event of failure of the negotiations, that the conse-
22 quences would be most unfortunate. We felt that we
23 could go so far, and if we could not go any further,
24 we would just stand and take the consequences.

25 Q In your answer to Mr. Blewett you suggested

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1 that unless the arrangements or the fixed policy of
2 the United States as settled by the 1922 Conference
3 were carried out, that you could not make an agreement.
4 Now this fixed policy, as you have expressed it, it
5 was the opinion of the State Department that unless
6 this fixed policy was carried out, even if it meant
7 war, is that correct?

8 A It meant that we were unwilling to surrender
9 our principles no matter what the consequences.

10 Q Did it not also mean that even in the light
11 of the changed circumstances between the time of the
12 fixed policy was settled until the time the negotiations
13 were going on, you would not go beyond a certain
14 limit even if it meant war?

15 A The changed circumstances were Japan's
16 breaking away from the Nine-Power Treaty of which
17 she was a party. Our position on that is abundantly
18 set clear in a note which we addressed to the Japanese
19 Government on December 30, 1938, which I believe is
20 in evidence before this Tribunal.

21 THE PRESIDENT: We will adjourn until half-
22 past one.

23 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330.

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

7 THE PRESIDENT: Mr. Cunningham.

8 - - -

9 J O S E P H W. B A L L A N T I N E, called as a
10 witness on behalf of the prosecution, resumed
11 the stand and testified as follows:

CROSS-EXAMINATION

12
13 BY MR. CUNNINGHAM (Continued):

14 Q Mr. Ballantine, we go now to the question
15 of to what extent were the Japanese-American negoti-
16 ations which were going on made public at the time?

17 A They were not made public.

18 Q Well, was Germany, with whom diplomatic rela-
19 tions continued until December 11, 1941, kept informed
20 or were the negotiations purposely kept from them by
21 both sides at the request of the USA?

22 A We were conducting informal, exploratory
23 conversations to determine whether a basis for a
24 negotiation existed. The stage of the negotiation
25 was never reached.

BALLANTINE

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1 Q Did the Department of State feel that a
2 basis of negotiation had never been arrived at?

3 A That is correct.

4 Q Were the B,C,D Powers kept informed of all
5 the conversations and exploratory conferences?

6 A They were informed that we were having in-
7 formal, exploratory conversations. But, no -- they
8 were not given any information in regard to the con-
9 tents of those things except in connection with the
10 Japanese-proposed modus vivendi and our proposed
11 modus vivendi. I do not recall definitely whether
12 the exact Japanese proposal of November 20 -- whether
13 they were informed of the details of that. I am not
14 sure about that.

15 Q Did the State Department express its
16 official dissatisfaction at MATSUOKA's expression of
17 view concerning the negotiations which came to the
18 attention of the German officials?

19 A I am not clear to what you refer.

20 Q In a speech by MATSUOKA in which he discussed
21 the negotiations, was there not an official protest
22 or suggestion made by the United States that these
23 negotiations be kept secret?

24 A In so far as I recall, no representations
25 were made to the Japanese Government or to the

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1 Japanese representatives requesting that the conver-
2 sations be kept secret. On the contrary, it was the
3 Japanese who asked us or who impressed upon us the
4 desirability that the conversations be kept secret.

5 Q Was this Foreign Minister TOYODA or Foreign
6 Minister MATSUOKA's policy?

7 A I don't know whose policy it was.

8 Q Did the State Department consider that
9 Germany was within her rights in asking Japan to
10 adhere to the responsibilities under the Tripartite
11 Pact in the event America entered the European
12 War?

13 A I don't know that the State Department gave
14 consideration to that.

15 Q Now we pass to another question, Mr. Ballan-
16 tine. During your course of negotiations as an
17 official of the State Department, did any other
18 nation offer its good offices in mediation of the
19 differences between the United States and Japan?

20 A The only thing I recall of that nature was
21 a conversation between the Australian representative
22 and the Secretary of State Hull towards the latter
23 part of November. He proposed to have a talk with
24 the Japanese representatives. Mr. Hull said he had
25 no objection but thought that nothing would come of it.

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1 Q Who was this gentleman or official?

2 A I believe that Mr. Richard Casey was the
3 Australian Minister at that time.

4 THE PRESIDENT: Did Mr. Casey claim that he
5 was acting at the instance of Japan?

6 THE WITNESS: He did not.

7 THE PRESIDENT: The only relevance of that
8 question put by Mr. Cunningham is its bearing on
9 the Hague Convention of 1907.

10 BY MR. CUNNINGHAM (Continued):

11 Q Can you name, Mr. Beattie, any leader
12 or power suggested in any of the deliberations on
13 the United States or Japan's side, which had not taken
14 a stand on the war at the time, which could have
15 judged the matter and settled the differences
16 impartially? If so, who was that power, and what
17 was the influence?

18 A That question never arose at the time.

19 Q Was any attempt made by the State Department
20 or Japan at the beginning of the negotiations to
21 arbitrate or submit the differences to an impartial
22 body?

23 A I don't know what Japan did. The State
24 Department -- the Japanese came to us and asked for
25 an agreement, and we entered into conversations

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1 toward that agreement. The question didn't arise.

2 Q Then you considered the possibility of war
3 only on one side. That calls for your opinion, and
4 I will withdraw that.

5 Had not Great Britain and the Netherlands
6 and Canada and other countries shown their willing-
7 ness to stand by the decision of the United States
8 on these matters?

9 A I have no knowledge that those governments
10 gave the United States a blank check to settle
11 things for them in any way. What we had envisaged
12 was that, after reaching what we thought was a basis
13 of an agreement, that we would go to these other
14 powers and discuss the matter with them then.

15 Q Did you or Mr. Hull or any other official
16 in the State Department have any conferences with
17 the British and other Ambassadors and representatives,
18 keeping them informed of the developments?

19 A Mr. Hull had conferences with the diplomatic
20 representatives of the friendly powers from time to
21 time. I can't recall offhand the exact details of
22 what he said. But, so far as I know, there was no
23 discussion of the details of the progress of the
24 conversations in regard to the points involved
25 therein.

BALLANTINE

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1 Q Were they not disposed to leave the details
2 of the negotiations in the hands of Mr. Roosevelt and
3 the Secretary of State, Mr. Hull?

4 A As I have said before, we hadn't got up to
5 any negotiations.

6 Q Let us revert to the Chinese-Japanese rela-
7 tions. Was the State Department in a position to
8 present a plan on August 10, 1937 that the Japanese-
9 United States relations concerning China were such
10 that America could act as mediator for China and
11 Japan settlement?

12 A My understanding is that we did not offer
13 mediation; we merely offered good offices.

14 Q Was this to promote the interests of the
15 United States or for some other purpose?

16 A It was for the purpose of restoring and main-
17 taining peace.

18 Q All of these transactions between the United
19 States and Japan were carried on uninterrupted regard-
20 less of who occupied the Cabinet or the main govern-
21 mental posts in the Japanese Government; is that
22 correct?

23 A Are you referring to conversations in 1941?

24 Q I am referring to the general course of
25 Japanese-American relations over the period of years

BALLANTINE

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1 testified to by you in your affidavit.

2 A We pursued a consistent policy towards
3 Japan throughout our relations, irrespective of what
4 group or power -- party might be in power in Japan.

5 Q Were your negotiations solely with the
6 officials in power, or were there other negotiations
7 during that period with economic and industrial and
8 other interests?

9 A Negotiations of the State Department were
10 with the Japanese Government.

11 Q From your answer to Mr. Blewett, I believe
12 it was, or Mr. Blakency, you suggested that Mr. Grew
13 was only giving the point of view of Tokyo, and I
14 wondered if it was official Tokyo which you were
15 expressing the view about.

16 A What I intended was, Mr. Grew was giving the
17 viewpoint as he saw it from where he was in Tokyo.

18 Q In response to a question by Mr. Blewett
19 you suggested that America began preparation for war
20 a long time after the Japanese forward movement began.
21 Can you give us the date at which the State Depart-
22 ment determined that "movement began"?

23 A I don't know if the State Department made
24 any official determination as to when that forward
25 movement began.

BALLANTINE

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1 Q Then how can you set the time at which the
2 United States began preparation for war?

3 A In the autumn of 1940, Japan concluded an
4 alliance with Hitler's Germany and with Italy. If
5 you will read some of the speeches of some of the
6 Japanese leaders following that alliance and read
7 the speeches of the German representatives, you will
8 see many references to the creation of a New Order
9 throughout the world. It was a world movement of
10 conquest.

11 Q Then how can you set the time when the
12 United States began preparation for war? That's my
13 question.

14 A It is perfectly clear that the United
15 States was a peace loving nation, that the United
16 States was not coveting anybody else's territory or
17 was not out on a course of aggression. It is per-
18 fectly clear that our nation did not want war even
19 as late as the summer of 1941. The extension of
20 the Selective Service Act was passed by only one
21 vote in the House of Representatives.

22 Q When did the State Department notify the
23 War Department that they better get ready for war?

24 A The Secretary of State, the Secretary of War
25 and the Secretary of the Navy and the President were

BALLANTINE

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1 in consultation throughout the administration. I
2 don't know when any particular statement was made in
3 regard to the matter.

4 Q I just want to know what you mean when you
5 say, "A long time after the Japanese forward movement
6 began, the United States began preparation for war."

7 A Japanese invasion of Manchuria in 1931 was
8 in clear violation of the Nine-Power Treaty. That
9 certainly was a forward movement.

10 Q That's what you said in your affidavit, Mr.
11 Ballantine. But, was that ever decided by a tribunal
12 or any body created for the purpose of determining a
13 legal liability under the Nine-Power Pact?

14 A I think the League of Nations had something
15 to say about that.

16 Q Well, it looks like we are stymied on that
17 question. Let's go to the next:

18 Did not the State Department consider that
19 wire tapping and interception of mail and messages
20 was an unfriendly act not countenanced between friend-
21 ly nations and contrary to international law?

22 THE PRESIDENT: If wire tapping was the
23 cause of the war and there could be a justification
24 for it, there might be something in that question.

25 MR. CUNNINGHAM: My only reason in asking

BALLANTINE

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1 that was to show that there was bad faith in the
2 transaction. How could there be good faith --

3 THE PRESIDENT: I cannot argue with you at
4 this stage, Mr. Cunningham. But, it is not a prac-
5 tical viewpoint.

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BY MR. CUNNINGHAM: (Continued)

Q Now, about the intercepted messages. Were the intercepted messages transmitted immediately to the State and War Departments from the time the interception began?

A They were communicated to the State Department when they were translated.

Q And were they then transmitted to the War and Navy Departments immediately?

A The War and Navy Departments were on the receiving end -- were on the sending end. The State Department was on the receiving end.

Q That was my understanding, Mr. Ballantine, but I merely wanted to show that those departments had received the messages.

Mr. Ballantine, when the exploration of a basis for negotiations began was it understood by the State Department officials that if an agreement were not reached that a state of war would ensue?

A No.

Q When did that conclusion -- when was that conclusion arrived at by the State Department?

THE PRESIDENT: They didn't arrive at any. He gave you a negative answer. You asked him whether war would be decided upon if the negotiations failed.

BALLANTINE

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1 he said that there was no such decision. That is
2 the end of it.

3 Mr. CUNNINGHAM: A few qualification ques-
4 tions, your honor, that were passed over in the be-
5 ginning.

6 Q Mr. Ballantine, is your appearance here
7 voluntary? Did you ask to be sent here as a witness?

8 A I did not.

9 Mr. CUNNINGHAM: That is all.

10 THE PRESIDENT: Colonel Warren.

11 Mr. WARREN: If the Tribunal please.

12 CROSS-EXAMINATION (Continued)

13 BY Mr. WARREN:

14 Q Now, in answer to a question by Mr. Cun-
15 ningham you stated in substance that it was perfectly
16 clear that late in the year of 1941 that the United
17 States did not want war.

18 A That is a fact.

19 Q Were you speaking of the people of the
20 United States or the men in high stations, such as
21 Cordell Hull and President Roosevelt and his ad-
22 visers?

23 A I am speaking of both.

24 Q Now, I will ask you if you are familiar
25 with a statement by President Roosevelt as early as

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CROSS

1 October 8, 1940, in which he stated, and I quote,
2 that if the Japanese attacked Thailand and the Kra
3 Peninsula or the Dutch East Indies we would not enter
4 the war; that if they even attacked the Philippines
5 he doubted whether we would enter the war, but that
6 they could not always avoid making mistakes and
7 that as the war continued and the area of operations
8 expanded, sooner or later they would make a mistake
9 and we would enter the war.

10 A I have no recollection of such a statement.

11 Q Do you recall a Cabinet meeting on November
12 25th, which was attended by Secretary Hull, Secretary
13 Knox, Secretary Stimson, General Marshall, Admiral
14 Stark -- rather, I said Cabinet meeting; I meant a
15 conference -- in which the situation was discussed
16 and at that time they started on the problem as, I
17 am quoting, how we should maneuver ~~them~~, the Japanese,
18 into the position of firing the first shot without
19 allowing too much danger to ourselves?

20 A Are you referring to Mr. Stimson's report
21 in 1945 of that conference?

22 Q I am referring to a meeting that took place
23 on November 25th, which is referred to in the in-
24 vestigations of that committee with reference to
25 Pearl Harbor.

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1 A I have read the record of that Pearl Harbor,
2 but in 1941 I had no knowledge whatsoever of any
3 content of such a meeting such as you read.

4 Q I am referring only to your statement that
5 nobody in high place in the United States as late as
6 1941 wanted war. Now, are you familiar with the
7 discussions that Cordell Hull, together with other
8 men, had with the President of the United States with
9 reference as to whether or not the people of the
10 United States would back them if they determined upon
11 a course of war against Japan?

12 A I am sure that neither Cordell Hull nor the
13 President ever had in mind an aggressive war against
14 Japan.

15 Q I am not asking for your opinion. I am
16 asking you if it isn't a fact that those discussions
17 took place.

18 A I have no knowledge of discussions of the
19 nature you have described other than what I read
20 in the Pearl Harbor report.

21 Q As one of a team of advisers to Secretary
22 Hull, were you not informed of the opinion and the
23 ultimate aim of these men in high stations?
24

25 A I was informed that it was the aim of these
men in high station that they should strive for peace

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1 to the very last.

2 Q With reference to that, are you acquainted
3 with a Stanley Hornbeck?

4 A I am.

5 Q What was his position at the time you were
6 on this advisory commission relative to Cordell Hull?

7 THE PRESIDENT: He has already told us. He
8 can say it again.

9 MR. WARREN: I didn't hear your Honor's re-
10 mark.

11 THE PRESIDENT: He already told us of his
12 position, but he can repeat it.

13 MR. WARREN: Your Honor, perhaps the question
14 is misunderstood. I mean what was his position re-
15 lative to Cordell Hull, not his official position -
16 as to friendship, and so forth.

17 THE PRESIDENT: Well, you didn't suggest
18 friendship.

19 A I am not in a position to testify as to any-
20 thing more than his position in the State Department.

21 Q Is it not true that Mr. Hornbeck was more
22 in the confidence of Cordell Hull than any other per-
23 son in the State Department, dealing with Far Eastern
24 questions?

25 A Mr. Hull made his own decisions. In

BALLANTINE

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1 conferences Mr. Hornbeck, Mr. Hamilton and myself,
2 were all treated as equals.

3 THE PRESIDENT: You told us before you were
4 the junior of the three, but you were still treated
5 as an equal.

6 THE WITNESS: That's right.

7 Q I take it you are perfectly familiar
8 with the numerous memoranda prepared by Mr. Hornbeck
9 and for Mr. Hull that got rather wide circulation
10 through the State Department, concerning Japan and
11 our relations with Japan, were you not?

12 A I was.

13 Q Those memoranda dealt with the economic
14 strangulation that was being placed on Japan by the
15 United States Government in connection with other
16 governments, did they not, for the most part?

17 A Mr. Hornbeck's memoranda dealt with a great
18 variety of subjects.

19 Q Quite right, but almost invariably is it
20 not true that they refused -- I mean rather, that
21 in his memoranda he refused to credit Ambassador
22 Grew and Mr. Dooman's advice on the situation in
23 Japan and the Far East?

24 A I wouldn't concur in any such generaliza-
25 tion.

BALLANTINE

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1 Q We will put it on the major issues to which
2 you have testified.

3 A I don't think that even on the major issues
4 that it would be fair, without a considerable amount
5 of thought and review of those memoranda, to make
6 such a statement.

7 Q Now, with reference -- I ask you if you were
8 familiar with the memoranda he wrote concerning the
9 strangulation by economic sanctions against them --
10 rather, not sanctions but economical strangulation of
11 Japan -- to force Japan to do what the United States
12 wanted Japan to do. Are you familiar with that?

13 A I don't recall such a memoranda.

14 Q Do you know what happened to his memoranda as
15 soon as war was declared?

16 A I do not.

17 Q Is it not a fact that it was common knowledge
18 in the State Department that a mad scramble was made
19 to recover all of those memoranda and keep them from
20 the knowledge of the American people?

21 A It certainly wasn't within my knowledge.

22 Q Do you know whether a single one of those
23 memoranda appear in any record in the State Department
24 at the present time?

25 A I think you have to make a distinction between

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CROSS

1 two kinds of memoranda: memoranda which are in the
2 official records and a personal memoranda. So far as
3 I know, the memoranda in the official records is still
4 there. I do know that all the recorded memoranda in
5 which the Pearl Harbor Committee was interested were
6 made available to them.

7 Q Do you not also know that in all the mass
8 of material given to the Pearl Harbor Investigating
9 Committee that not a single one of Mr. Hornbeck's
10 memoranda was produced, his official memoranda relat-
11 ing to the subjects we have under discussion?

12 A I distinctly recall a number of his memoranda
13 on these subjects being mimeographed by the Pearl Harbor
14 Committee.

15 Q Were these the memoranda in which he spoke
16 very freely concerning his attitude toward Japan?

17 A I have no definite recollection of the con-
18 tents of those memoranda.

19 Q Precisely. Now I will ask you if Cordell
20 Hull and Mr. Hornbeck were not opposed from the very
21 outset to having President Roosevelt meet with Prince
22 KONOYE in an attempt to settle the differences between
23 the two nations?

24 A Mr. Hull was ninety-nine and nine-tenths
25 per cent of the State Department. Mr. Hull's attitude

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1 on that thing is made clear in the record. That is
2 to say that he felt, as we all felt, that some clear
3 commitments by Japan on general principles and their
4 application should be arrived at prior to a meeting.

5 Q As a result of his attitude he used his in-
6 fluence to dissuade President Roosevelt from having a
7 meeting, is that not true?

8 A As far as I know, the President and Mr. Hull
9 had exactly the same attitude on that proposed meeting.

10 Q Are you acquainted with the real off the record
11 proceedings and discussions with President Roosevelt
12 about that and his discussion with Admiral NOMURA?

13 A I was not present at any discussions which
14 the President had with the Japanese representatives,
15 therefore I only know what is on the record.

16 Q Now, what I am interested in, of course, is
17 your personal knowledge of these matters, because we
18 have the record. I will ask you this: if in that
19 instance his dissuasion, or his concurrence with the
20 President, whichever it may have been -- if he didn't
21 refuse to follow the advice of his Ambassador here in
22 Japan?

23 THE PRESIDENT: He covered this yesterday.
24 Can he say more?

25 MR. WARREN: Your Honor, I think so. Here is

BALLANTINE

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1 my reason for it.

2 THE PRESIDENT: Ask him.

3 MR. WARREN: What?

4 THE PRESIDENT: Ask him.

5 A All I can say is this, that Mr. Grew's
6 recommendations, what he stated, is in the record.
7 Mr. Hull's position from the beginning, and the
8 President's position are crystal clear. I don't know
9 what I can add to them.

10 Q You could add a great deal if you would con-
11 cerning your personal knowledge of the workings and
12 cross-workings of the State Department there and the
13 opinions of some and the opinions of others that you
14 must have come in contact with.

15 THE PRESIDENT: You must not suggest the
16 witness is suppressing anything.

17 MR. WARREN: Well, I don't mean that, your
18 Honor.

19 THE PRESIDENT: Unless you can put to him
20 something which you know he is suppressing, or believe
21 he is.

22 MR. WARREN: Your Honor, I am sorry. The
23 man asked me a question and I see that he didn't under-
24 stand what I was driving at and I merely told him. I
25 don't think he is suppressing anything because I don't

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1 think he is that type of man. I think he is very
2 truthful.

3 Q Why did Mr. Hull suddenly abandon the modus
4 vivendi?

5 A As Mr. Hull explained in his Pearl Harbor
6 testimony very clearly, the Chinese were very much
7 opposed to it. We felt, or Mr. Hull felt that it would
8 be a very discouraging factor on the Chinese, who were
9 being very hard pressed, might cause their resistance
10 to collapse. The other powers were lukewarm toward
11 it. There was a strong body of opinion in the United
12 States who we felt would be opposed to it.

13 THE PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1445, a recess was
16 taken until 1500, after which the proceedings
17 were resumed as follows:)

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

3 THE PRESIDENT: Colonel Warren.

4 MR. WARREN: Thank you, sir.

5 BY MR. WARREN (Continuing):

6 Q I don't know whether you have been asked
7 this question or not: Is it not a fact that one of
8 the reasons advanced to President Roosevelt by the
9 State Department for not wanting to talk with Prince
10 KONOYE was the fact that the State Department did not
11 believe that the Army and Navy in Japan would back
12 Prince KONOYE?

13 A All I can say is that it was the belief of the
14 President -- as far as I know, because I didn't talk
15 to him -- and of the Secretary of State that the
16 Japanese Government, whoever happened to be the spokes-
17 man at that time, was not likely to yield on the courses
18 which it was pursuing.

19 Q May I take your answer to mean that that was
20 one of the reasons advanced for not wanting the meeting?

21 THE PRESIDENT: You are asked, what was
22 President Roosevelt's attitude?

23 MR. WARREN: No, your Honor, I am asking him
24 if that wasn't one of the reasons advanced by the
25 State Department to President Roosevelt to get him to

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1 change his mind about the meeting.

2 A Well, all I know about the matter is what is
3 in the record. I don't know of any -- I don't know
4 the contents of any conversations which Mr. Hull may
5 have had with the President other than what is in the
6 record.

7 Q Well, is that in the record?

8 A In the record is what the President said in
9 his messages and his communications to the Japanese.

10 Q Is it not true that the State Department
11 informed Ambassador Grew that such was the case and
12 that they did not believe that any agreement made by
13 Prince KONOYE would be backed up by the Army and Navy?

14 A I do not know of any instructions sent by the
15 Department of State other than -- of that nature other
16 than those reporting or communicating the contents of
17 the statements that we had given to the Japanese. At
18 least, I cannot recall any at the present moment.

19 Q Now, I am referring specifically to things
20 that occurred outside the record in the informal talks
21 or informal telegrams that went back and forth.

22 A All our telegrams to Mr. Grew were official
23 telegrams and I think all of them -- I am sure all of
24 them were made available to the Pearl Harbor Committee;
25 and I do not recall any such message.

BALLANTINE

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1 Q Is it not true that the Japanese Government
2 had gone so far as to have a ship under steam in Tokyo
3 Bay with the highest Navy and Army officers obtainable
4 ready to accompany Prince KONOYE at any time that
5 Mr. Hull or the President would say the word?

6 A That is what they told us.

7 Q Is it not also true that Prince KONOYE
8 informed Ambassador Grew that a failure to bring about
9 the meeting would mean a fall of his Cabinet, and that
10 unquestionably he was the last person in Japan who
11 could possibly bring about a situation where peace
12 might be restored between the two nations?

13 A Well, I don't remember the exact words, but
14 generally something to that effect Mr. Grew reported
15 to us.

16 Q Yes. Mr. Grew also reported that he believed
17 Prince KONOYE was telling the truth, and that the
18 situation was extremely grave and action should be
19 taken on it, did he not?

20 A If I recall correctly, he reported to that
21 general effect.
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1 Q It was common knowledge within the State
2 Department, was it not, that abandonment of the pro-
3 posed modus vivendi and the note which was substituted
4 by Mr. Hull for the modus vivendi would end negotiations
5 with Japan; wasn't that generally known?

6 A None of the matters relating to the con-
7 versations were matters of common knowledge in the
8 Department. It was -- the knowledge was confined to
9 a very few persons.

10 Q That is what I thought. But those persons
11 did not then nor of their own volition have they since
12 made a full disclosure to the American people of their
13 negotiations, have they?

14 A Would you mind repeating that question?

15 Q Will the reporter read the question.

16 (Whereupon, the last question was
17 read by the official court reporter.)

18 A There is only one person to make a statement
19 of action by the Department of State, that is the
20 Secretary of State. I consider that the Secretary of
21 State has made a very full statement -- complete
22 statement.

23 Q When, and where is it? When did he make it
24 and where is it?

25 A I would say Foreign Relations Japan, 1931 to

BALLANTINE

CROSS

1 1941, which was published as soon as we could get
2 the publication together afterwards, and also the
3 Pearl Harbor record. I think the President's report
4 on December 15 -- I think the Joint Committee
5 of Congress, December 15, 1941, was -- We got together
6 as much material as we could hurriedly to make that
7 public, also.

8 Q Do you know whether the publication that you
9 refer to has all of the official documents contained
10 in it?

11 A I believe that the publication on Foreign
12 Relations contains all the material matter affecting
13 Japan and the United States alone. The conversations
14 with third powers were not included at that time,
15 because of the war situation. In the Pearl Harbor
16 record all the material was made available to the
17 Committee, even that which had not been put in before.

18 Q Who edited the publication to which you refer
19 and determined the matters which were material?

20 A The Division of Publications in the Department
21 edited the material which they thought might be of
22 interest to historians, and in the Pearl Harbor record
23 the question of selection was left entirely to the
24 Joint Committee.

25 Q Isn't it true that in the Pearl Harbor

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1 investigation that after the testimony of Mr. Grew
2 and before Mr. Dooman was called to the stand that the
3 majority of the Committee decided that they would not
4 investigate anything further with reference to the
5 State Department other than what dealt directly with
6 matters immediately preceding and following Pearl
7 Harbor?

8 A To the best of my knowledge Mr. Dooman never
9 testified in the Pearl Harbor Committee and I know
10 nothing about the matter which you -- the rest of the
11 matter to which you refer.

12 Q You do know that Mr. Dooman was subpoenaed,
13 don't you?

14 A No.

15 Q Where is Mr. Dooman? What is Mr. Dooman's
16 official position at the present time, if any, if you
17 know?

18 A So far as I know, Mr. Dooman has retired from
19 the Foreign Service.

20 Q Did he ever tell you the reason why?

21 A If he did, I don't recall them.

22 Q Did Mr. Hull submit himself to cross-examination
23 on his negotiations prior to Pearl Harbor and in the
24 Pearl Harbor Committee?

25 A Mr. Hull was not cross-examined by the Committee.

BALLANTINE

CROSS

1 However, Mr. -- Senator Ferguson sent him a question-
2 naire of over a hundred questions to which he gave
3 written replies.

4 Q Is it true, if you know, that a report was
5 prepared by Ambassador Grew and his counselor, Mr.
6 Dooman, during their internment after the commencement
7 of hostilities, which was their last report to the
8 State Department that Mr. Hull refused to accept?

9 A I know nothing of a report of that description.
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1 Q Now, notwithstanding Mr. Grew's report to
2 the State Department with reference now to Prince
3 KONOYE's being ready to come over, what reason did
4 you members of the State Department have for dis-
5 regarding his recommendations?

6 THE PRESIDENT: He has already given that
7 answer more than once.

8 MR. WARREN: I am sorry. That question was
9 handed to me by another counsel. I did not think he
10 had answered it, your Honor.

11 MR. SMITH: If the Court please:

12 THE PRESIDENT: Mr. Smith.

13 CROSS-EXAMINATION (Continued)

14 BY MR. SMITH:

15 Q Mr. Ballantine, were you in Tokyo in April,
16 1934?

17 A I was not.

18 Q You have a paragraph in your affidavit on
19 page 2 which reads: "Nevertheless, on April 17, 1934,
20 the Japanese Foreign Office spokesman gave out a
21 truculent official statement known as the 'AI'AU'
22 statement. In that statement Japan made clear her
23 purpose to compel China to follow Japan's dictates
24 and to permit other countries to have relations with
25 China only as Japan allowed. A copy of that statement

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1 is annexed as exhibit A."

2 Isn't it an error to refer to the AMAU
3 statement of April 17, 1934 as an official statement
4 of the Japanese Foreign Office? If you will look at
5 your exhibit A, it is headed, "AMAU Statement --
6 Unofficial Statement by the Japanese Foreign Office."

7 A I would think that that unofficial statement--
8 my understanding of that is it was an unofficial state-
9 ment in English of a statement that had been made by
10 Mr. AMAU. I may be wrong about that.

11 Q Your affidavit appears to be based on
12 personal knowledge, and am I to understand that you
13 do not know anything about the subject of your own
14 personal knowledge?

15 A I said in paragraph 2 of my affidavit:
16 "The matters herein deposed to are mainly within my
17 personal knowledge, otherwise they are matters with
18 which I am familiar from records of the Department
19 of State."

20 Q The paragraph I have just read out of your
21 affidavit, was that written by you?

22 A I think, if I recall correctly, it was
23 suggested to cover all such possibilities of matters
24 that I should clarify in the situation, and I think
25 the wording -- the exact wording is my own wording.

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CROSS

1 Q Well, the same wording appears in the
2 statement given in testimony of Mr. Hull before the
3 Pearl Harbor Investigating Committee. Can we assume
4 that you wrote that statement from Mr. Hull's testi-
5 mony?

6 A If I recall correctly, the idea was sug-
7 gested to me by counsel here, and I wrote my own word-
8 ing independently of having before me or having in
9 mind any similar statement by Mr. Hull. I don't even
10 recall now that he had a similar statement in his
11 testimony.

12 Q After 1934 you came to Tokyo as First
13 Secretary under Ambassador Grew; is that correct?

14 A Yes, in 1936 I was temporarily on duty
15 here for four months.

16 Q When you made the statement which I read out
17 of your affidavit, did you have in mind an official
18 communication from Ambassador Grew to the Secretary
19 of State, found in Foreign Relations Volume I, page 227,
20 and exhibit 936 in this case, which reads as follows:

21 "This morning I had an interview with the
22 Foreign Minister. Mr. HIROTA referred, on his own
23 initiative, to the subject of the AMAU statement --"

24 THE MONITOR: Mr. Smith, can you give us
25 the prosecution document on that?

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MR. SMITH: 936.

1 THE MONITOR: Is that the P. D. number?

2 MR. SMITH: No, that is the exhibit number.
3 Prosecution Document No. 219P(23). It is not very
4 long.

5 THE MONITOR: All right, sir.

6 Q (Continuing) "--regarding the attitude of
7 Japan toward foreign assistance to China, and said that
8 he wished to clarify that statement to me in confidence.
9 He told me that under questioning by newspaper men,
10 AMAU had given out the statement without his knowledge
11 or approval, and that the world had received a wholly
12 false impression of Japanese policy, that Japan had
13 no intention whatever of seeking special privileges
14 in China, of encroaching upon the territorial and
15 administrative integrity of China, or of creating
16 difficulties for the bona fide trade of other countries
17 with China. Various foreign activities have tended
18 to disturb peaceful conditions in China, and Japan
19 is naturally very much interested in those peaceful
20 conditions owing to her nearness to China. But that
21 does not mean that there is any intention or desire
22 on the part of Japan to claim a privileged position in
23 derogation of the rights and responsibilities to which
24 the signatories of the Nine-Power Treaty are entitled.
25

BALLANTINE

CROSS

1 The policy--"

2 THE PRESIDENT: Oh, you are reading too much.

3 MR. SMITH: I am down to the last sentence,
4 your Honor.

5 THE PRESIDENT: Well, you have read too
6 much already. You are not going to do that here.
7 If that document is too lengthy, you should deal
8 with it in another way. You should endeavor to
9 summarize it. This is not a case in which it is
10 necessary to use the exact words of the person
11 talking.

12 MR. SMITH: There is one more short sentence,
13 your Honor.

14 Q (Continuing) "The policy of Japan is
15 complete observance and support of the provisions of
16 the Nine-Power Treaty in every respect."

17 Now my question is whether you had that
18 document of Mr. Grew in mind when you made that
19 statement in your affidavit?

20 A I had it in mind, but I also had in mind
21 the subsequent manifestations of Japanese policies
22 and action in China.

23 Q Mr. AMAU as the so-called spokesman of the
24 Foreign Office occupied a position analagous to the
25 American State Department of a chief of the Press

BALLANTINE

CROSS

1 Section, is that not right?

2 A The Chief of the Press Section in the State
3 Department is never spoken of as the spokesman of the
4 State Department. The spokesman of the State Depart-
5 ment is the Secretary of State.

6 Q Well, will you agree that Mr. AMAU was not
7 the Foreign Minister of Japan when he made this
8 statement?

9 A Well, certainly I will agree.

10 Q Have you read Mr. Grew's book "Ten Years in
11 Japan", especially as it deals with this AMAU state-
12 ment?

13 A I read it when it first came out, but I
14 don't recall definitely.

15 Q I will read a short sentence to see if it
16 refreshes your recollection. Referring to the AMAU
17 statement, he says:

18 THE PRESIDENT: Page?

19 MR. SMITH: Page 128, your Honor.

20 Q (Continuing) "It is difficult these days to
21 judge whether AMAU is regarded in Japan as an enfant
22 terrible or a hero. It rather depends on whether
23 you seek opinions from the camp of the moderates or
24 that of the chauvinists." Does that refresh your
25 recollection about the matter?

BALLANTINE

CROSS

1 A I have no recollection of it.

2 Q Well, then, would you explain in detail why
3 you chose to accept an unofficial statement of a
4 Foreign Office spokesman in preference to what the
5 Prime Minister of Japan said on the subject to
6 Mr. Grew?

7 A In the first place, Mr. AMAU's statement
8 that he made was never repudiated publicly by the
9 Japanese Government so far as I recall. Mr. HIROTA's
10 statement was a private statement, not a public state-
11 ment. Finally, as I have already stated, subsequent
12 developments in Japanese policies in China bore out
13 that AMAU's statement seemed to represent more clearly
14 what was -- what conformed more closely to subsequent
15 developments in Japanese policy.

16 Q Are you aware that on April 21st, 1934,
17 Mr. AMAU made another unofficial statement to the
18 newspapermen in which he expressed desire -- I mean
19 surprise -- at the interpretation which the press had
20 placed upon his statement of April 17th. Are you
21 familiar with that statement?

22 A Nevertheless, subsequent developments and
23 manifestations of Japan's policy in China would bear
24 out the interpretation that was made, which would seem
25 to be the sound one.

BALLANTINE

CROSS

1 Q I have just had handed to you Mr. AMAU's
2 own notebook as to the statement he gave out on
3 April 21, 1934. I would like to have you read it
4 and see if you remember that statement?

5 A I do not recall having read this before,
6 but I do not think that this explanation helps very
7 much. There is, for example, a passage in here,
8 "We should not forget for a moment that Japan,
9 serving as the only cornerstone for the edifice of
10 the peace of East Asia, bears the entire burden of
11 responsibilities."

12 Q What else do you find in there that does not
13 help us any?

14 THE PRESIDENT: You need not answer.

15 MR. SMITH: Well, your Honor, the witness
16 has now read a part of a statement he has not identi-
17 fied. I would like to offer it for identification so
18 as to bring some order out of this situation.

19 THE PRESIDENT: Tender the book for identi-
20 fication. Is that the book?

21 MR. SMITH: That was obtained from Mr. AMAU,
22 who is now in Sugamo Prison. It is his own book,
23 and we will have to return it. It would be much
24 better to give it an identification number and allow
25 me to put an excerpt in for the benefit of the Clerk

BALLANTINE

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1 tomorrow morning.

2 THE PRESIDENT: Where you read from a
3 book or a document without tendering it, we expect
4 it to be marked for identification, and that means
5 custody by the Court.

6 MR. SMITH: Your Honor, could we have a
7 photostat substituted for the article in the book?
8 It does not make any difference to me how it is
9 handled, but I assume that Mr. AMAU wants his note-
10 book back.

11 THE PRESIDENT: You may make copies, not
12 necessarily a photostat.

13 CLERK OF THE COURT: Shall I mark it for
14 identification?

15 MR. SMITH: Will you, please?

16 THE PRESIDENT: It must be marked now.

17 CLERK OF THE COURT: Defense document No. 94,
18 identified as Mr. AMAU's book, will receive exhibit
19 No. 1248 for identification only.

20 ("hereupon, the document above
21 mentioned was marked prosecution's exhibit
22 No.1248 for identification only.)

23 THE PRESIDENT: We will adjourn until half
24 past nine tomorrow morning.
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("hereupon, at 1600, an adjournment
was taken until Friday, 22 November, 1946, at
0930.)

- - - -

22 NOVEMBER 1946

I N D E X
Of
WITNESSES

<u>Prosecution's Witnesses</u>	<u>Page</u>
Eallantine, Joseph W. (resumed)	11063
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" " Mr. Brannon	11092
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" " Mr. S. OKAMOTO	11127

I N D E X
Of
EXHIBITS
(none)

1 Friday, 22 November, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12 Appearances:

13 For the Tribunal, same as before with the
14 exception of the HONORABLE R. B. PAL, Member from
15 India, not sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 The Accused:

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

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
25

BALLANTINE

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M 1 MARSHAL OF THE COURT: The International
O 2 Military Tribunal for the Far East is now in session.
R 3

S 4 THE PRESIDENT: Mr. Smith.
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A 9 J O S E P H W. B A L L A N T I N E, called as a
b 10 witness on behalf of the prosecution, resumed
r 11 the stand and testified as follows:
a 12
m 13

14 CROSS-EXAMINATION

15 BY MR. SMITH (Continued):

16 Q Mr. Ballantine, irrespective of whether the
17 Amau Statement of April 17, 1934, was authorized or
18 not, are you aware that it had the approval in the
19 English Parliament of Sir John Simon, who was Foreign
20 Minister of State at that time?

21 THE PRESIDENT: Sir John Simon's opinion
22 does not appear to me to be relevant, Mr. Smith.

23 MR. SMITH: I assume your Honor automatically
24 allows me an exception to the ruling.

25 THE PRESIDENT: You haven't even bothered to
tell me why you think it is relevant.

MR. SMITH: I didn't mean to take that at-
titude, your Honor. This Amau Statement was played
up in the American press as a so-called Japanese
Monroe Doctrine.

THE PRESIDENT: Well, its quality isn't a

BALLANTINE

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1 matter to be determined by the opinion of Sir John
2 Simon, so you may have your exception.

3 Q In April, 1934, are you aware of the fact
4 that there several hundred thousand people of Japanese
5 descent living in China proper, that is, excluding
6 Manchuria?

7 A I don't know the approximate number of
8 Japanese residents in China in 1936.

9 Q You lived in China for some time. What
10 years were they?

11 A I lived in China from 1930 to 1936.

12 Q And do you mean to say you can't even give
13 us a rough idea as to how many people of Japanese
14 descent were living in China, excluding Manchuria?

15 THE PRESIDENT: That appears to be beyond
16 the scope of his affidavit.

17 MR. SMITH: If your Honor please, it is
18 impossible to read this Amou Statement, even assuming
19 it was an authorized statement, which it isn't, as
20 we will show in our own case, without knowing the
21 background and the situation in the Government, the
22 disunity and lack of stability everywhere in China.

23 THE PRESIDENT: You may prove those things
24 if you can when you are giving evidence, but we don't
25 think that you should be allowed to question this

BALLANTINE

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1 witness along those lines.

2 MR. SMITH: Well, your Honor, there is more
3 to it than what I have said. It involves the question
4 of the protection and safety of Japanese nationals
5 living in China and their property interests.

6 THE PRESIDENT: This man is not here to be
7 examined on the history, political institutions and
8 geography of China, so far as those matters are be-
9 yond the scope of his affidavit, and these matters you
10 mention are.

11 MR. SMITH: Well, could I also call to your
12 attention the fact that in the paragraph dealing with
13 the hostilities which commenced after July 7, 1937, the
14 witness has described it as an invasion and wholly
15 unjustified. What I am inquiring about is relevant
16 on this point and also relevant to the larger issue.

17 THE PRESIDENT: Those matters are far too
18 remote. You must accept our decision, Mr. Smith.

19 MR. SMITH: If your Honor please, I had a
20 long series of questions along that line, and in
21 deference to your Honor's ruling, why of course, I
22 won't put the questions. I assume your Honor, has
23 chopped off that whole line of questions.

24 THE PRESIDENT: The Tribunal has done so,
25 if the questions to follow are of the same nature

BALLANTINE

CROSS

1 as those just disallowed.

2 Q In 1911 Japan and the United States made a
3 Treaty of Commerce and Navigation, is that correct?

4 A That is correct.

5 Q And that treaty was simply a renewal and
6 extension of a treaty which had been in force for
7 some forty or fifty years prior to 1911, is that
8 correct?

9 A It was a revision -- it was a replacement
10 for the previous commercial treaty, which I believe
11 was 1899, but I am not sure. It was somewhere in
12 the 1890's.

13 Q That treaty, in short, provided for the right
14 of citizens of both countries to reside and travel
15 in each other's territory and to lease houses, com-
16 mercial buildings, manufacturing establishments, and
17 so forth. Is that a short summary of that treaty?

18 THE PRESIDENT: Neither the validity nor
19 the effect of that treaty is in issue here, is it?

20 MR. SMITH: I didn't put it in issue, your
21 Honor. The prosecution did, in the last paragraph of
22 page 3 of this man's affidavit.

23 THE PRESIDENT: What does it say?

24 MR. SMITH: That paragraph says:

25 "On July 26, 1939, the Government of the United

BALLANTINE

CROSS

1 States notified the Japanese Government of its in-
2 tention to terminate the Treaty of Commerce and
3 Navigation of 1911. It was felt that this treaty
4 was not affording adequate protection to American
5 commerce either in Japan or in Japanese occupied
6 portions of China, while at the same time the opera-
7 tion of the most-favored-nation clause of the treaty
8 was a bar to the adoption of retaliatory measures
9 against Japanese commerce.

10 THE MONITOR: Will you give me the page
11 number, Mr. Defense Counsel?

12 MR. SMITH: Page 3, last paragraph, page 3.

13 THE PRESIDENT: These delays in interpreting
14 are imposing a great strain on the Court, and on all
15 of us, I think, so do your best to prevent them.
16 Speak in short sentences and speak clearly. It so
17 happens the Japanese we are listening to now is not
18 a part of the proceedings at all, but a broadcast to
19 the public of what we are saying, but yet we have all
20 these delays, but counsel must cooperate with us to
21 prevent them.

22 MR. SMITH: If your Honor's statement is
23 directed to me, I am cooperating, and what I was
24 just saying was merely reading the affidavit. I
25 understand the translators have a Japanese copy of

BALLANTINE

CROSS

1 Mr. Ballantine's affidavit and when I referred to the
2 last paragraph on page 3, all they had to do was
3 refer to that.

4 THE PRESIDENT: The questions that you were
5 putting to the witness do not appear to me to be
6 directed to elucidating anything he has said in his
7 affidavit.

8 Q When the United States terminated the treaty,
9 which took effect on January 26, 1940, the Japanese
10 Government took no action by way of retaliation against
11 the United States. Is that statement true?

12 A I don't know what retaliation is in that
13 situation; what would be the nature of retaliation
14 for the lapse of a treaty.

15 Q I mean the Japanese Government took no action
16 by law or regulation to exclude citizens of the United
17 States from Japan and occupied territory or to de-
18 prive them of the right to live in homes and own
19 places of business. That is what I mean.

20 A In our note to the Japanese Government of
21 October 6, 1938, which I believe is an evidence here,
22 there was a long recital of the manners in which the
23 Japanese Government had discriminated against and
24 had violated the rights of Americans in occupied
25 areas in China. The record is published.

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1 Q Well, treat my question as repeated and
2 please give me an answer to it.

3 A I was simply trying to state that this ques-
4 tion of Japanese violation of American rights was
5 continuous even before and during and after the lapse
6 of that treaty.

7 Q I will repeat my question for the third time
8 and ask you to please give me an answer to the
9 question.

10 A I must not have understood your question
11 correctly, then. I would like to have the question
12 repeated.

13 THE PRESIDENT: Mr. Reporter, will you re-
14 peat it?

15 (Whereupon, the official court reporter
16 read the question, as follows: "Q I mean the
17 Japanese Government took no action by law or
18 regulation to exclude citizens of the United
19 States from Japan and occupied territory, or to
20 deprive them of the right to live in homes and
21 own places of business. That is what I mean.")

22 THE PRESIDENT: That is a statement, not a
23 question. He need not reply to a statement.

24 L.H. SMITH: If your Honor please, the ques-
25 tion preceded what the reporter just read, and

DALLANTINE

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1 besides that, it was asked in the form of an in-
2 terrogation and in the form of a rising voice. It
3 was asked in a question form. Does your Honor want
4 me to repeat that question?

5 THE PRESIDENT: I don't want you to repeat
6 your statement. Put a question. The inflections of
7 your voice are not noted in the transcript, nor are
8 they appreciated by me.

9 Q I am asking you a question, and answer
10 whether it is correct or not: When the Treaty of
11 Commerce and Navigation of 1911 between Japan and the
12 United States was terminated on January 26, 1940,
13 whether the Japanese Government thereafter took any
14 action by law or regulation to deprive American
15 citizens of the right to travel and reside in Japan
16 and occupied territories and to live in houses and
17 own places of business?

18 A I don't know of any laws or ordinances that
19 were passed by the Japanese following the lapse of
20 the treaty affecting the rights and residence of
21 Americans in Japan or occupied territories.

22 Q At the time this treaty was terminated, is
23 it true that there were 110,000 persons of Japanese
24 descent living in the United States, 99 per cent of
25 whom lived in the Pacific Coast States of California,

BALLANTINE

CROSS

1 Oregon and Washington?

2 A I believe that there were somewhat over a
3 hundred thousand people of Japanese descent living
4 in the United States at that time. As to what pro-
5 portion lived in the three Pacific States I don't
6 know exactly.

7 Q Well, you are familiar with the fact that
8 the great bulk, the great preponderance of those
9 people, lived in the three states I have mentioned,
10 is that true?

11 A That is correct.

12 Q And of those persons of Japanese descent
13 about 65 per cent were native born, and, therefore,
14 citizens of the United States, is that correct?

15 A I don't know exactly what percentage, but
16 I think your statement is probably correct.

17 Q And is it true that still left some 40,000
18 persons of Japanese descent living in the three
19 Pacific Coast states I have mentioned, who had been
20 made ineligible to United States citizenship since
21 1924, is that correct?

22 A There probably were about 40,000 people who
23 were ineligible to citizenship.

24 Q Are you familiar with the fact that the
25 States of California, Oregon and Washington passed

BALLANTINE

CROSS

1 alien land laws, going back to 1913, and those laws
2 were progressively strengthened up to 1923 against
3 alien Japanese owning any land, leasing land, share-
4 cropping, or anything of that sort?

5 A I know there were such land laws in force.

6 Q Then you also knew that while the Treaty of
7 1911 was in force, it being the supreme law of the
8 land, it limited that state legislation as it applied
9 to alien Japanese, is that correct?

10 A I understand that was the case.

11 Q So that after the Treaty of 1911 was de-
12 nounced those state laws were vigorously applied to
13 alien Japanese in the United States, is that correct?

14 A I am not sure about that. I don't know
15 what the effect was on that -- state laws.
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1 Q Are you familiar with the fact that there has been
2 a whole series of litigation in California in recent
3 years which have deprived alien Japanese of leases,
4 property and that sort of thing since this treaty was
5 denounced?

6 A I am not very well versed in that subject.

7 Q When was it -- When did the State Department
8 direct the Panama Canal Commission to close the Panama
9 Canal to Japanese shipping?

10 A I don't know that the Panama Canal was closed
11 to Japanese shipping. If I recall correctly, in July
12 1941 there was some delay in shipping because precedence
13 was given to clearing the Canal for ships carrying
14 strategic commodities that we needed for our self-
15 defense. Some representation was made by the Japanese
16 Embassy to the State Department in 1941 which appears
17 in the record. I haven't had occasion to read it for
18 a long, long time, therefore, my memory on the facts
19 is not very clear.

20 Q Do you know anything about the nature of the
21 direction given with respect to Japanese shipping in
22 the Panama Canal, and if so, when did it occur?

23 A I know nothing about the matter other than
24 contained in that official -- in the official record,
25 in Volume 2. I believe it is in United States Foreign

BALLANTINE

CROSS

1 Relations, and my memory on that is not very fresh.
2 I'd have to have my memory refreshed on that.

3 Q Well, you do recall that Japanese shipping
4 was restricted from using the Panama Canal for a
5 number of months before Pearl Harbor?

6 A I don't know for how long. I believe a very
7 short period, because all Japanese shipping was being
8 recalled to near-sea waters from overseas and I don't
9 think there was much Japanese shipping in the Atlantic
10 after July.

11 Q What was the date, the earliest date, the
12 State Department knew that Japanese shipping had been
13 recalled?

14 A I think it was early in July, 1941.

15 Q And would it refresh your recollection if
16 I suggested that restrictions were put on Japanese
17 shipping in the Canal as early as October, 1940?

18 A It would not.

19 Q Well, the restrictions on the use of the Canal
20 was just one part of this economic war of the United
21 States and other nations allied with it were carrying
22 on against Japan, is that correct?

23 A The question of the use of the Panama Canal,
24 whereby we gave precedence to vessels carrying strategic
25 commodities, was a part of self-defense.

BALLANTINE

CROSS

1 Q And when you speak of "strategic commodities,"
2 you refer not only to ships of the United States,
3 but also the British and Dutch and the French ships
4 from all over the world, is that right?

5 A I am referring to the ships of countries
6 resisting the world-wide movement of aggression and
7 the American Republics, as well as the American ships.

8 Q And at the time that the restrictions on
9 Japanese shipping went into affect the State Department
10 was aware that Japan had important export customers
11 in Mexico, Central America, Colombia, Brazil and the
12 Argentine, all nations whose ports of entry were on
13 the Atlantic side, is that correct?

14 A I don't know the extent to which the Panama
15 Canal was used by Japanese shipping trading with South
16 America.

17 Q One of the reasons in denying the use of the
18 Canal, was it not, was to keep the Japanese from getting
19 any oil out of Mexico and Colombia?

20 A I never heard that reason advanced.

21 Q Will you tell us when the Suez Canal was
22 closed to Japanese shipping?

23 THE PRESIDENT: Mr. Chief of Counsel.

24 MR. KEENAN: I have hesitated to object to this
25 line of questioning, but it seems to me it is now

BALLANTINE

CROSS

1 getting far beyond the scope of the affidavit, and I,
2 therefore, object to it as anticipating the defense,
3 if it is material. I do not think all the time of
4 this Court should be taken asking geographical points.
5 We pointed out various actions of other nations. I,
6 therefore, object.

7 THE PRESIDENT: Mr. Chief of Counsel, I can-
8 not reprimand defense counsel and not reprimand you
9 when you violate the red signal.

10 MR. KEENAN: I am sorry, Mr. President. I
11 didn't realize that I was violating the red light.

12 THE PRESIDENT: What have you to say on the
13 objection, Mr. Smith?

14 MR. SMITH: It is not a matter of geography.
15 Yesterday it was gone into fairly extensively, but not
16 enough to suit me, as to this military and economic
17 encirclement of Japan for many months before Pearl
18 Harbor.

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BALLANTINE

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1 THE PRESIDENT: You may give that evidence
2 in the course of the defense evidence. I have told
3 you that repeatedly. But is it fairly within the
4 scope of this man's affidavit? He is an American
5 official.

6 MR. SMITH: Well, your Honor, this affidavit
7 covers everything under the sun, especially when you
8 read some implications into it, and the way it is drawn.
9 I don't know how this Court can say that anything is
10 not relevant, especially as it bears on the sincerity
11 of the American and Allied position in dealing with
12 Japan in 1941.

13 THE PRESIDENT: I told you more than once that
14 we would disregard the affidavit so far as it indulged
15 in opinions. All we want from this witness is what was
16 said and done by the State Department in Washington,
17 and please cross-examine with that in view. I know you
18 can cross-examine as to credit, but these questions
19 are not directed to credit but to the issues, or they
20 are intended to be.

21 MR. SMITH: Well, your Honor, with all
22 deference to your statement that the Court will ignore
23 conclusions, I still do not know where I stand and
24 what is in this affidavit and what is outside of it.

25 THE PRESIDENT: I am sure, Mr. Smith, that you

FALLAFTINE

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1 recognize an opinion or a conclusion when you see it
2 in print. We do.

3 MR. SMITH: Your Honor, as the point is apt
4 to arise time and time again, I would like to point
5 out some other aspects of this affidavit. For
6 example, in this affidavit it says that Japan has
7 been following a policy of military aggrandizement
8 ever since it emerged as a modern state.

9 THE PRESIDENT: That is a conclusion which we
10 utterly disregard.

11 MR. SMITH: Well, your Honor, if we could have
12 a similar statement it would greatly simplify it. For
13 example, 1895, dealing with the Japanese annexation of
14 Formosa, and 1905, the Russian-Japanese War, if that
15 is going--

16 THE PRESIDENT: Observe that red light.

17 MR. SMITH: If those matters could be stricken
18 out it would simplify the case. If they are going to
19 stand, I have perhaps four hundred questions to ask him
20 to justify Japan's position.

21 THE PRESIDENT: American counsel have told me
22 that by striking out they don't mean expunging. You
23 can rest assured that we have struck out those con-
24 clusions and opinions in that sense.

25 MR. SMITH: Thank you, your Honor. Does your

BALLANTINE

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1 Honor rule the witness cannot answer as to when the Suez
2 Canal was closed?

3 THE PRESIDENT: Cross-examine him on any
4 statement of fact in the affidavit, not on any opinion.

5 Q Well, I am asking you if you know as a fact
6 when the Suez Canal was closed to Japanese shipping?

7 THE PRESIDENT: That is not in his affidavit.

8 Q When did the United States and the Dutch and
9 the British embargo the shipment of petroleum,
10 gasoline and scrap iron, aircraft designs, and so forth,
11 to Japan?

12 A It will take a long time to tell that. It is
13 all in the record. And because these different steps
14 were taken at different times, I don't know what steps
15 the other governments took.

16 Q Didn't you tell us yesterday that the action
17 of the United States in putting these economic embargoes
18 on was followed within a day by similar action by the
19 Dutch and British and that the United States would have
20 not acted had it not been for a concert?

21 THE PRESIDENT: If he contradicts himself,
22 leave it to comment later. It is not necessary to point
23 out what he said yesterday in fairness to him, if he did
24 say something different.

25 Q When these embargoes on oil and scrap iron

BALDANTINE

CROSS

1 and a great many other things went on, did the Depart-
2 ment of State estimate how long it would take for such
3 economic blockade to bring Japan to its knees?

4 A No conclusion was reached on that subject at
5 all.

6 Q Well, you knew in the Department of State at
7 the time these embargoes went on that it would be a
8 matter, at most, of two or three years to stifle the
9 economy of Japan and even to force her to withdraw
10 armies from China and capitulate there; is that correct?

11 A As I said yesterday, those measures were taken
12 in self-defense. No conclusion was reached as to how
13 long or what the precise effect upon Japan would be.

14 Q Well, you knew in 1940 in the State Department
15 that Japan couldn't exist for long without petroleum,
16 cotton, wool, and food, did you not?

17 A Everybody knew that Japan was not self-
18 sustaining in many of these commodities.

19 Q Do you know when the British mined Singapore
20 Strait?

21 THE PRESIDENT: It does not arise out of his
22 affidavit. We will recess for fifteen minutes.

23 (Whereupon, at 1045, a recess was taken
24 until 1100, after which the proceedings were
25 resumed as follows:)

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

3 THE PRESIDENT: Mr. Smith.

4 BY MR. SMITH (Continued):

5 Q Mr. Reporter, would you repeat the last
6 question to the witness?

7 THE PRESIDENT: I disallowed that as not a-
8 rising out of the affidavit. It refers to alleged
9 mining of the Straits of Singapore by the British.

10 Q Can you tell us when the United States
11 acquired military bases in Iceland and Greenland,
12 the Azores and leases in British territory for the
13 construction of air fields?

14 THE PRESIDENT: That does not arise out of
15 the affidavit. The defense can give that evidence
16 later.

17 Q Can you tell us when the United States trans-
18 ferred fifty American destroyers to Great Britain?

19 THE PRESIDENT: You know very well, Mr. Smith,
20 that the ruling on the last question covers this.

21 MR. SMITH: Well, your Honor, I would like
22 to defend these questions, if I may.

23 THE PRESIDENT: There is no obligation
24 on us to allow you to put those questions simply
25 because you prepare them. I do ask you to act

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1 reasonably. I want to avoid any sharp differences
2 with counsel.

3 MR. SMITH: Your Honor, I never contended
4 because I prepared the question, every court had
5 to allow it; but I would like to be heard on the
6 question of its relevancy.

7 THE PRESIDENT: I said you could cross-
8 examine him on statements of fact in his affidavit.
9 The cross-examination that you are attempting is
10 not limited to that.

11 MR. SMITH: Your Honor, I would like to
12 make an objection that this Tribunal has applied such
13 a narrow rule with respect to cross-examination,
14 a rule narrower than any national court in the
15 United States or Canada has ever applied.

16 THE PRESIDENT: You may make that submission,
17 but my colleagues on this Bench from the United States
18 and Canada do not take that view.

19 MR. SMITH: And I would also like to add,
20 your Honor, that these defendants are being deprived
21 of a fair trial as guaranteed by the Charter because
22 of an undue restriction on the right of cross-examin-
23 ation.

24 THE PRESIDENT: You must abide by the Court's
25 ruling. I am not going to argue it with you.

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1 Q Mr. Ballantine, are you aware that in
2 November 1941 the Congress of the United States
3 voted to repeal important sections of the Neutrality
4 Law thus permitting the arming of merchant ships
5 of the United States and their sailing into any
6 combat zone or belligerent port in the world?

7 THE PRESIDENT: How does that arise out
8 of the affidavit?

9 MR. SMITH: It bears on, your Honor, the
10 good faith of the negotiations carried on in 1941,
11 and it also bears on what the Japanese could reason-
12 ably apprehend were the intentions of a concert of
13 nations.

14 THE PRESIDENT: The Tribunal does not take
15 that view, Mr. Smith.

16 Q When did the United States begin
17 supplying arms, ammunition, aircraft, trucks and
18 food to the Kai-Shek regime in China?

19 THE PRESIDENT: The same objection applies
20 to that. You can give evidence of all of these
21 things. Do not talk about a fair trial being denied
22 to you. I am afraid that is not meant for our ears,
23 but for the ears of the public outside.

24 MR. SMITH: Your Honor, I seriously resent
25 what your Honor just said to me. I am not talking

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1 for the press; and what I am talking about aid to
2 Kai-Shek is known all over the world. It is a
3 matter of common knowledge.

4 THE PRESIDENT: If it is, why put matters --
5 all matters of common knowledge to this witness?
6 If you are allowed to put one matter, why not
7 another?

8 MR. SMITH: Well, in order to save time and
9 to pay due respect to your Honor's ruling, I had
10 a long series of questions dealing with aid to
11 the Kai-Shek regime, the efforts to keep the Burma
12 road open and military assistance on construction.

13 Q Mr. Ballantine, these complaints that the
14 United States Government lodged with the Japanese
15 Government with respect to violation of the Nine-
16 Power Treaty dealt in the main with the competitive
17 conditions among merchants of different countries
18 in China, is that correct?

19 A They dealt with the whole range of American
20 rights and interests in China.

21 Q Well, the great bulk of the complaints that
22 the State Department received from American merchants
23 and traders, when analyzed, really boiled down to
24 the fact that the Americans could not compete with
25 the Japanese because of their low prices and quality

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1 of their goods, is that right?

2 THE PRESIDENT: How does that arise out
3 of the affidavit?

4 MR. SMITH: It arises out of the affidavit
5 in many places, your Honor. The Witness has said
6 there has been flagrant violation of the Nine-Power
7 Pact, that they got no equality of treatment in
8 China. I want to show that these complaints,
9 when they were analyzed, were nothing more than
10 the fact that they could not meet stiff competition.

11 THE PRESIDENT: I told you that had been
12 stricken from the affidavit as an opinion or con-
13 clusion.

14 Q With further respect to the Nine-Power
15 Treaty, was the State Department aware for a number
16 of years before Pearl Harbor that China was opposed
17 to any nation having any extraterritorial rights
18 on Chinese soil?

19 THE PRESIDENT: What statement of fact in
20 the affidavit is that based on? You may be able
21 to point one out. I cannot recall one.

22 MR. SMITH: Well, your Honor, the United
23 States has long since realized the futility of
24 trying to maintain a territorial foothold in China.
25 They have withdrawn their United States District

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1 Court, have subjected their own citizens to Chinese
2 law.

3 THE PRESIDENT: You are not there to give
4 evidence, but to refer to the affidavit.

5 MR. SMITH: The main point, as it touches
6 the affidavit, and the point I am trying to make,
7 is that the Nine-Power Treaty was practically a
8 dead letter long before Pearl Harbor because of the
9 Chinese attitude and the acquiescence in it by
10 most governments.

11 THE PRESIDENT: You can give that evidence
12 at the proper time. Now, at the present time, you
13 are staging a holdup by putting questions you know
14 must be disallowed on the Court's previous rulings.

15 MR. SMITH: I would like to have your Honor
16 allow me a special exception to the remark that I
17 am holding this Court up. I deny it emphatically.

18 THE PRESIDENT: You have an exception on
19 my refusal to allow those questions you have been
20 putting.

21 Q In the early negotiations with the Japanese
22 in the spring of 1941 is it true that the Japanese
23 spokesman and also the Civilian Committee asked
24 the State Department to act as an "introducer" of
25 peace in China?

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1 A The proposal that the President of the
2 United States suggested to the Government of China
3 that it enter into negotiations for a peaceful
4 settlement with Japan arose right at the very
5 outset of the conversations, and we agreed to that
6 subject to an agreement on a general Pacific settle-
7 ment.

8 Q Did the State Department ever change its
9 attitude about assuming a role of an introducer
10 of peace?

11 A As I stated in my affidavit, that offer
12 was never withdrawn.

13 Q Well, in your later -- the later proposals
14 of the State Department to the Japanese, especially
15 the one of November 26th, did not purport to act --
16 I am asking you this as a question -- did not purport
17 to act as an introducer of peace between China
18 and Japan, but the United States was going to
19 settle the whole China war for China without China
20 being consulted at all, is that correct?

21 THE PRESIDENT: The witness has already
22 dealt with that, but let him answer again.

23 A That is not correct.

24 Q Would you answer, Mr. Ballantine, as to
25 what the true situation was, particularly as to

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1 whether you were going to merely assume the role
2 of an introducer, and let China and Japan work
3 out their own problem, or the United States was
4 unilaterally going to settle the whole China war?

5 A A careful reading of the explanatory state-
6 ment which accompanied our November 26 proposal
7 should make the situation abundantly clear. We pro-
8 posed going ahead with the conversations along the
9 basis of that proposal; when we reached a tentative
10 agreement, then we would take up the subject with
11 the other governments affected.

12 Q But, as I read the November 26, 1941 pro-
13 posal, the State Department's position was that
14 every Japanese soldier in China should be withdrawn.
15 Now, my question is, if that came about, what would
16 there be left to settle between China and Japan
17 with respect to the war?

18 THE PRESIDENT: We do not want the witness'
19 opinion. The matter is one for comment by counsel
20 later.

21 Q Well, is it a fact that in the November 26
22 proposal the State Department practically abandoned
23 the idea of acting as an introducer of peace?

24 A No. The fact that no mention was made of
25 it in that thing doesn't rule it out. We had these

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1 matters outstanding. We never withdrew the offer.

2 THE PRESIDENT: This cross-examination, when
3 relevant, is repetitive. Other defense counsel have
4 covered this ground.

5 Q In the November 26 proposal, as I remember
6 it, among other things you offered to Japan to nego-
7 tiate a reciprocal trade agreement binding raw silk
8 on the free list; is that correct?

9 A Yes. There was a provision calling for bind-
10 ing raw silk on the free list.

11 Q Are you familiar with the tariff history of
12 the United States since 1921 and the Tariff Act since
13 then as it related to Japanese imports into the
14 United States?

15 A I am not an authority on the American tariff
16 policy or tariff legislation.

17 Q Do you recall the fact that in the Tariff
18 Act of 1921 -- these are all United States laws --
19 the Emergency Tariff Act of 1922 and the Hawley-Smoot
20 Tariff Act of 1930 --

21 THE PRESIDENT: He does not purport to know
22 anything about the tariff of the United States. He
23 told you that. You must take his answer.

24 MR. SMITH: Your Honor, I am trying to
25 explore what he does know about it. After all, he

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1 was one of those who put this provision in, and I
2 want to show that this proposal to enter into a re-
3 ciprocal trade agreement was nothing but sham in view
4 of the history which preceded it.

5 THE PRESIDENT: If you want to say those
6 unpleasant things about your own country, wait until
7 you are giving evidence. Do not try to get it im-
8 properly from this witness because he does not know.

9 BY IR. SMITH (Continued):

10 Q Were you informed, or the State Department
11 informed, on December 6 or the early morning of
12 December 7, 1941, Washington time, that some twenty-
13 four hours previously an American destroyer had depth-
14 charged and sunk a Japanese submarine some distance
15 off Pearl Harbor?

16 A If it was a fact, I don't know about it.

17 Q Were you informed in a despatch from the
18 White House, that is, informed in the State Depart-
19 ment, on November 28, 1941 that Secretary Stimson
20 had seen President Roosevelt that morning and had
21 stated to the President that he was "inclined to feel
22 that the warning given in August by the President
23 against further moves by the Japanese toward Thai-
24 land justified an attack without further warning,
25 particularly as their new movement southward indi-

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1 cated that they are about to violate that warning,
2 and that, on the other hand, he realized that the
3 situation could be made more clean-cut from the point
4 of view of public opinion if a further warning were
5 given, and further, that it is axiomatic that the
6 best defense is offense."

7 Did you get that message in the State Depart-
8 ment on that day?

9 A I never heard of the matter or any matters
10 of that nature except what I read in the Pearl Harbor
11 report, I mean, in the Pearl Harbor Congressional
12 Hearing.

13 Q You do know that Secretary of War Stimson
14 did so testify in the Pearl Harbor Investigation.

15 A Yes. I have read Secretary Stimson's testi-
16 mony in the Pearl Harbor Investigation.

17 MR. SMITH: That concludes my examination,
18 your Honor, and I want to take this occasion to assure
19 you most humbly that I had no intention of holding
20 this Court up. I never had any such intention during
21 the twenty-two years I've been a lawyer.

22 THE PRESIDENT: I accept your explanation,
23 Mr. Smith, and I hope that in the future we shall have
24 no differences.
25

Mr. Brannon.

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1 CROSS-EXAMINATION (Continued)

2 BY MR. BRANNON:

3 Q I have just a short question or two, Mr.
4 Ballantine.5 In 1940 did the State Department advocate
6 the use of the fleet in influencing Japan in regard
7 to foreign policies?8 A The fleet, as well as all agencies of the
9 American Government, as far as they can be instruments
10 of foreign policy, are so utilized. It is always the
11 case.12 Q Then, other than across-the-table talk,
13 economic sanctions and measures, are you stating that
14 the United States State Office took into consideration
15 the use of the fleet for whatever purpose they might
16 have had in mind at the time?17 A As I understand it, that's what a fleet is
18 for, is an agency of national policy.19 Q Am I correct in stating that some time in
20 the early portion of 1940 the American Pacific Fleet
21 moved from the west coast of the United States to
22 Hawaii?
2324 THE PRESIDENT: Why not leave these fleet
25 movements to Admiral Richardson, if he can tell us?
I am sure he can, Mr. Brannon.

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1 MR. BRANNON: Mr. President, I was seeking
2 to establish, perhaps, the fact that the fleet move-
3 ment was due to a suggestion of the State Department
4 and that that matter may not properly be within the
5 Admiral's knowledge. Would not Mr. Ballantine, as a
6 State Department official, be properly in a position
7 to answer that, if anyone?

8 THE PRESIDENT: Answer, if you can, Mr.
9 Ballantine.

10 A So far as I know, I do not know of any fleet
11 movement that was made in response to any suggestion
12 of the State Department.

13 Q The President of the United States
14 primarily is the head of the State Department, is he
15 not?

16 THE PRESIDENT: I think we can take judicial
17 notice of the United States Constitution.

18 Q As a State Department official, do you know
19 whether or not the President of the United States
20 attached significance to the movement of the fleet
21 at that time?

22 A As the Commander-in-Chief of the Navy, the
23 President attached important significance to the
24 movements of fleets at all times.

25 Q Do you know whether or not the President

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1 stated to State Department officials that he had so
2 ordered the movement of the fleet for its effect on
3 Japan?

4 A I am sorry, but I don't have any exact or
5 definite knowledge of that -- dates and times of
6 those matters.

7 MR. BRANNON: That is all as far as I am
8 concerned. Mr. Brooks has a few questions.

9 MR. BROOKS: Mr. President and Members of
10 the Tribunal.

11 CROSS-EXAMINATION (Continued)

12 BY MR. BROOKS:

13 Q Mr. Witness, on the first page of your affi-
14 davit, in the fifth paragraph you state that the
15 State Department -- I assume that's what you were
16 talking of -- took into consideration the background
17 of the political situation.

18 A That is correct

19 Q (Continuing) And that it is essential to
20 an understanding of the true significance of the con-
21 versations to have that well in mind.

22 A That is correct.

23 Q Now, would you agree that there could be no
24 understanding of the merits of the controversy that
25 was in progress over the Manchurian domination with-

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1 out some consideration, first, of the nature of the
2 government which was opposed to Japan; second, of the
3 provocation under which Japan acted; third, of the
4 character of the Japanese activities; and fourth, of
5 the final purposes by which the Japanese were ani-
6 mated at that time?

7 THE PRESIDENT: You are assuming provocation
8 in one of those questions, Captain Brooks. It is
9 not fair to the witness to put it in that form.

10 MR. BROOKS: I am assuming that the witness,
11 since, in his affidavit, stated that from 1909 until
12 1928 he had been serving in consular posts in Japan,
13 would have read the Japanese newspapers and would
14 have known the various acts and atrocities. If he
15 does not know and wishes to discard that knowledge,
16 well, I would like for him to speak.

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

19 (Whereupon, at 1200, a recess was
20 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

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

THE PRESIDENT: Mr. Brooks.

- - -

J O S E P H W. B A L L A N T I N E, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

CROSS-EXAMINATION

BY MR. BROOKS (Continued): If the reporter will read back to the witness starting with the question where I dealt with the merits of the controversy in the Manchurian situation.

(Whereupon, the official court reporter read the question, as follows:)

"Q: Now, will you agree that there could be no understanding of the merits of the controversy that was in progress over the Manchurian domination without some consideration, first, of the government which was opposed to Japan; second, of the provocation under which Japan acted -- "

MR. BROOKS: If any. You might add that.

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1 THE REPORTER (Continuing): "Second, of the
2 provocation, if any, under which Japan acted; third,
3 of the character of Japanese activities; and fourth,
4 of the final purposes by which the Japanese were
5 animated at that time?"

6 THE PRESIDENT: I think we are all of the
7 opinion that you should put several questions cover-
8 ing that one.

9 MR. BROOKS: I will do so.

10 Q Mr. Ballantine, to what extent did your
11 department investigate as to the actual conditions
12 existing, and what was the sources of the knowledge
13 as to the conditions in the Far East, that you
14 utilized?

15 THE PRESIDENT: He could never undertake to
16 tell you all they had in mind about the Far East.

17 MR. BROOKS: I am going to break it down.

18 Q Did you send, for instance --

19 THE PRESIDENT: I think, Captain Brooks, I
20 must confine you this way: You must suggest to him,
21 if you can, that in considering the position they
22 overlooked certain matters, naming them.

23 MR. BROOKS: Thank you, your Honor.

24 Q Now dealing, Mr. Ballantine, with the first
25 part of the general question, as to the nature of

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1 the government which was opposed to Japan -- did
2 your department consider that the government of
3 China at that time was really effective and respon-
4 sible? I am speaking of the authority that you
5 recognized in the Nanking government.

6 A The Nanking government was the government
7 that was recognized by the government of the United
8 States, as well as all other governments at that
9 time.

10 Q However, it was a fact, was it not, that its
11 authority actually extended over but a small fraction
12 of the territory and the people of China, did it
13 not?

14 THE PRESIDENT: That is really a matter of
15 opinion as to how far that government was effective,
16 geographically and otherwise. You can ask him
17 whether he took into account the position in China,
18 but you can hardly ask him to state fully what it was.

19 Q Well, Mr. Ballantine, the State Department
20 knew, did they not, and did they not consider that
21 in the territory in issue in Manchuria that the
22 young marshal, Chang Hsueh-Liang, by right of
23 inheritance from his father was actually the one
24 that was effective and responsible in that area, and
25 that at that time, even in the south, that the

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1 authority of the Nanking government was effectively
2 challenged by what was known as the Canton govern-
3 ment?

4 A I consider that our government of the United
5 States was well informed on the situation throughout
6 China and took into careful considerations all the
7 circumstances involved.

8 Q Your department urged Japan to deal only
9 with the leader, Chiang Kai-shek, at all times. Is
10 that not so?

11 THE PRESIDENT: Well, he has already made
12 that clear. They did.

13 Q And did your department not have knowledge
14 that the widow of Sun Yat Sen, the real founder of
15 the Chinese Republic, had denounced the government
16 which you were urging them to deal with at that
17 time?

18 A I don't think it is a question of whether
19 any unofficial person's views would have affected
20 the position of the government in regard to their
21 attitude towards China to a very large extent.

22 Q From a diplomatic viewpoint that might be
23 so, but I am talking about the sincerity and the
24 practicability of the discussions, and trying to
25 arrive at a peaceful solution of the problem, and it

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1 is my understanding from your testimony thus far
2 that the State Department's attitude was that things
3 were well in 1922 as a result of those conferences,
4 and that you were not recognizing any change in the
5 facts and circumstances to alter and move from that
6 position. Is that correct?

7 A We did not consider that there were any cir-
8 cumstances that called for revision or reconsidera-
9 tion of the Nine-Power Treaty.

10 Q Now, the Japanese rise in Manchuria dated
11 from this treaty negotiated in 1915, but really had
12 their origin in earlier agreements with both China
13 and Russia. Is that not right?

14 A Certain rights dated from certain times.
15 The treaty that Japan contracted with China in 1905
16 was one of them.

17 Q Your department knew that for some years
18 after the period 1922 that the Chinese had been
19 endeavoring to nullify these treaties by a system-
20 atic violation of certain provisions. Did they not?

21 I call your attention to some of them that were
22 contended by the Japanese, I imagine, in your con-
23 versations with them. As the building of the rail-
24 way lines parallel to the South Manchurian Railway,
25 the raising of the duty on Fuchan coal, although the

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1 price had been fixed by a formal agreement, and
2 the enlistment of business men in a campaign of
3 boycott against Japanese interests, and the advance-
4 ment of the campaign of propaganda which led to many
5 persecutions and the killing of guards and many
6 other incidents, I think numbering around three
7 hundred at that time, with which I imagine you were
8 familiar, were you not?

9 A I know that there were claims by one side
10 and counter-claims. I don't think that the United
11 States undertook to pass upon the merits of those
12 claims. What we advocated was their adjustment by
13 peaceful processes by the two countries.

14 Q Now, Mr. Ballantine, your representatives
15 did tell you of the protests -- of the diplomatic
16 protests made by the Japanese as to the invasion
17 of these rights, did they not, by the Chinese?

18 A I think we were informed by diplomatic
19 representatives of what was going on on both sides.

20 Q Do you know why the Chinese evaded settle-
21 ment of these diplomatic issues?

22 THE PRESIDENT: That assumes they did so
23 evade.

24 MR. BROOKS: I would like to change that.

25 Q Do you know if the Chinese persistently

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1 evaded settlement of these diplomatic issues:

2 A As I say, our government didn't undertake
3 to pass upon the merits of the claims and counter-
4 claims of the two sides.

5 Q Do you know the approximate number of cases,
6 as cited by the Japanese, as being outstanding at the
7 time of the Manchurian Incident September 18, 1931?

8 A I do not recall.

9 Q There was several hundred, were there not?

10 A I don't know how many there were.

11 Q Did you take any of those cases in considera-
12 tion in considering the actions of the Japanese
13 following September 18, 1931?

14 THE PRESIDENT: He could not unless he
15 determined the merits first, and he says he didn't.

16 Q Is the President's statement correct, in
17 view of that -- of your knowledge?

18 A Of course.

19 Q Under the treaties the Japanese had certain
20 extra-territorial rights which had led them to invest
21 over a billion dollars in Manchuria, had they not,
22 previous to '31?

23 THE PRESIDENT: That is beyond anything
24 that was said or done or decided in the State Depart-
25 ment, and he is limited to that.

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1 Q I asked you this question, Mr. Ballantine,
2 because you state in your affidavit it is essential
3 to an understanding of the true significance of the
4 conversations which took place.

5 THE PRESIDENT: I told you, Captain Brooks,
6 how we regard his affidavit. My colleagues assure
7 me they take the view that it is purely argumenta-
8 tive.

9 Q Was there any discussion in these conversa-
10 tions as to the investments and the amount of in-
11 vestments made by Japan?

12 A I do not recall that there was any par-
13 ticular discussion of investments in Manchuria dur-
14 ing the conversations.

15 Q Was there any comparison made by the Japanese
16 diplomats in their conversations with you and your
17 department between their position and their actions
18 in Manchuria as being analagous to those of the
19 United States in Nicaragua or in Cuba?

20 THE PRESIDENT: That involves a judgment.
21 It is outside the scope of the affidavit.

22 Q Well, did he --

23 THE PRESIDENT: We are not trying what
24 happened in Nicaragua or any of those South American
25 or other places.

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1 MR. BROOKS: If your Honor please, I don't
2 think they need trial. I hadn't finished what I was
3 getting at, Mr. Ballantine, was did they advance any
4 of the justifiable reasons, any defense of their
5 actions in Manchuria, as was utilized by the United
6 States in actions that they took when their interests
7 were in question?

8 A I am afraid I don't get all the parts of
9 that question together. There seem to be two or
10 three parts that are disconnected and I can't get
11 them very well.

12 Q Well, did the Japanese not urge or insist that
13 their actions were an exercise of police power for
14 the purpose of protecting their property and their
15 people, and it was not war? One point.

16 THE PRESIDENT: That is an issue for us and
17 he can not swear it.

18 Q The point I am making is a question of
19 whether the Japanese emissary that was carrying on
20 these conversations made that an insistence and is
21 a fact, and I think he can testify as to the facts.

22 THE PRESIDENT: He can tell us anything
23 they said during the negotiations.

24 MR. BROOKS: That's what I asked him.

25 A Well, they advanced many reasons why they

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1 wanted these items that they asked for in the con-
2 versations, such as the stationing of troops, and
3 they also spoke of the sacrifices they had made
4 during the last four years of fighting with China.

5 Q Now, in these discussions, Mr. Ballantine,
6 didn't the representatives of Japan, discussing the
7 Manchurian situation, state, to summarize it, that
8 Japan needed and wanted a stable government that
9 would respect the treaty obligations, and that there
10 was no limit placed by the Japanese on the method of
11 assuring that stable government, was there?

12 A I don't recall that the Manchurian situation
13 was discussed in those conversations. There was, of
14 course, a point about the recognition of Manchukuo
15 in their proposals, but I don't think there was any
16 discussion of that subject. At least I don't recall
17 it.

18 Q Then their position in Manchuria was not
19 considered by the Department of State. Am I to gain
20 that from your statement? Or was it left to be later
21 discussed?

22 A I can only say that there was no discussion
23 in the conversations about that subject. The subject
24 of Manchuria and Japan's claims in regard to Manchuria
25 was something that the Department of State had been

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1 considering for years.

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1 Q Now, the Department of State in considering
2 this problem, did they make any private investigations
3 as to the conditions there, either economically or
4 politically?

5 THE PRESIDENT: You would be advised by
6 your representatives in those countries, no doubt. You
7 would not need to make private inquiries, would you?
8 What do you have consuls for?

9 MR. BROOKS: Can he answer the question?

10 Q (Continuing) I mean besides your regular official
11 channels?

12 A Our official channels seemed adequate for
13 us. If it hadn't been adequate we would have increased
14 them.

15 Q Did you utilize the reports of any commissions
16 or other bodies making investigations from a commercial
17 standpoint, in those areas?

18 A We gave most careful consideration to the
19 Lytton Report, for example.

20 Q And was that the only report that you utilized
21 as a basis for arriving at your conclusions later?

22 A Well, we had our consular and diplomatic reports
23 and the Lytton Report. I can't think -- recall any
24 other at this moment that we had.

25 Q Were you familiar, Mr. Ballantine, with the

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1 O'Ryan commission headed by General O'Ryan of New
2 York?

3 A I recall that he was engaged by the Japanese
4 and went out to make an investigation for them.

5 Q That was also a joint enterprise with some
6 American business interests in New York, was it not,
7 that he was representing?

8 A If that is so, I didn't know about it.

9 Q Did you or any of your Department ever have
10 any discussion with any members of that commission?

11 A I don't recall. I believe that General
12 O'Ryan did come down to the State Department and see
13 somebody down there.

14 Q Did they not make available to your Department
15 the report and the information that they had obtained?

16 A If he did, I don't recall seeing it.

17 Q Did you know Mr. Willis J. Abbott who
18 was editor-in-chief of the Christian Science Monitor?

19 THE PRESIDENT: There is no limit to the length
20 of a cross-examination of this type if it is permitted.
21 You could ask him about opinions of every man in
22 America.

23 MR. BROOKS: I am asking him, your Honor, in
24 following up the questions to refresh his memory as to
25 the commissions and reports that they used that were

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1 unofficial, and I was suggesting to him this last man
2 because he is a prominent American newspaperman who
3 made that investigation to present a fair and unbiased
4 view of the problem.

5 THE PRESIDENT: There are hundreds of prominent
6 newspapermen throughout the world who gave their
7 attention to these things and surely you are not going
8 to ask him his opinion of those or what influence they
9 had in Washington.

10 MR. BROOKS: I am asking him for this reason:
11 That in these cases here that I have cited these men
12 had information that could have been available to
13 the State Department, and in fact, may have been offered
14 but I do not believe was ever used as I have gained
15 so far by him, that was available to them.

16 THE PRESIDENT: No doubt the press of America
17 entertained a variety of opinions and expressed them,
18 perhaps pressed them, but is he to tell us all those
19 things? Why should they go outside the reports of
20 their trained advisors on the spot?

21 (Addressing the witness) Did you consider
22 the views of journalists?

23 THE WITNESS: We did.

24 THE PRESIDENT: Was your judgement determined
25 by the opinions of influential newspapermen?

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1 THE WITNESS: Our opinions were determined
2 by consideration of our consular reports, other reports
3 and we also gave consideration to reports of journalists.
4 They were not determined by reports of journalists.

5 BY MR. BROOKS (Continued):

6 Q Or by any one of those particular things in
7 particular, were they?

8 A They were not. Our conclusions were not
9 determined by any one set of reports.

10 Q However, the facts as reported were considered
11 and reflected in your conclusions, were they not?

12 A We tried to give full consideration to all
13 facts.

14 Q Now, did you --

15 THE PRESIDENT: The State Department
16 would have files of all the leading newspapers of
17 America at all events?

18 THE WITNESS: It does have.

19 Q But the particular man, Mr. Abbott, that I
20 asked you about had been there to make a study and
21 make a report. Did you see his report?

22 A I don't recall it. That must have been a long
23 time ago.

24 Q That was in December of 1931.

25 A That's a long time ago.

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1 Q Now, I want to ask you in considering the
2 Manchurian invasion and its effect on your discussions
3 later on: Is it not true that all of your conclusions
4 as to that were based entirely upon the Lytton Report?

5 A No.

6 Q Is it not true that your Department had taken
7 the stand to try to maintain the conditions of 1922
8 and would not consider investigating the facts as to
9 the changing events in history of the times after that?

10 A I think our Government gave consideration to
11 all the facts, also the facts connected with the
12 character -- circumstances of Japan's invasion of
13 Manchuria.

14 Q Did you -- your Department -- examine into the
15 facts that had happened just previous to the Manchurian
16 Incident?

17 A As I say, we had full reports from our consular
18 representative of pertinent facts and we gave them care-
19 ful study and consideration.

20 Q Did these reports deal with the invasion
21 of the extra-territorial rights of Japan or any other
22 nation?

23 A I think these reports dealt with all aspects
24 of these questions.

25 Q In January 1932 China made another effort

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1 to cancel extra-territorial rights of other nations
2 than Japan, did she not?

3 THE PRESIDENT: How is that relevant to any
4 issue here?

5 MR. BROOKS: I want to know if the State
6 Department considered this attempt to repudiate certain
7 of China's own treaties at that time in light with the
8 same -- similar effect that she had with Japan previous
9 to that time, if they considered that.

10 THE PRESIDENT: We must confine ourselves
11 to China's attitude to Japan.

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1 Q Yet they asked the government that was
2 repudiating these treaties -- asked Japan to deal with
3 a government that was repudiating these treaties
4 and to deal with her as being able and effective to
5 assume the responsibility for her property and people
6 in these areas.

7 THE PRESIDENT: The witness need not answer.

8 MR. BROOKS: I base that, your Honor, upon
9 the assumption that it was either due to a misunder-
10 standing of the facts or circumstances, or there would
11 be some other reason for it.

12 THE PRESIDENT: We cannot undertake to decide
13 all the disputes between nations here.

14 Q Your Department did know that Japan had
15 attempted to negotiate a settlement of this controversy
16 originally with the young marshal, did they not?

17 A I have no clear recollection of that.

18 Q From the reports and information that you had
19 from these areas, do you know why it was that Japan
20 considered it necessary to negotiate with the young
21 marshal for the settlement of the controversy rather
22 than with the government at Hanking by taking that up
23 with the League of Nations?
24

25 THE PRESIDENT: We do not want him to tell us
Japan's attitude. You can tell us that in the course

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1 of giving evidence later.

2 MR. BROOKS: My question asks him as to the
3 effectiveness of the young marshal's control.

4 THE PRESIDENT: That, again, involves a
5 judgment. It is not for a diplomat.

6 MR. BROOKS: As it was known by their Depart-
7 ment from their official reports as well as otherwise,
8 they should know who was effective to deal with.

9 THE PRESIDENT: They said they treated
10 Chungking, meaning Nanking, as the effective government
11 in those days. Chungking was at the time of Pearl
12 Harbor and thereabouts.

13 Q What did the reports at this time, your offi-
14 cial reports, show as to the effectiveness of dealing
15 with Chungking in relation to dealing with the young
16 marshal?

17 I had better ask that this way, Mr. Ballantine:
18 If an agreement had been made by Japan with
19 the Nanking Government at that time, from the informa-
20 tion that you had as to your official reports, do you
21 think that it would have been effective and settled the
22 controversy?

23 THE PRESIDENT: I told you repeatedly we
24 won't accept his opinion, so don't ask for it.
25 Please spare me the necessity to have to repeat that

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1 again. I have repeated it twenty times today.

2 MR. BROOKS: I think that is all I have at
3 this time, your Honor.

4 THE PRESIDENT: Mr. Logan.

5 MR. LOGAN: If the Tribunal please.

6 CROSS-EXAMINATION (Continued)

7 BY MR. LOGAN:

8 Q Mr. Ballantine, up to the imposition of
9 sanctions by the United States, isn't it a fact that
10 Ambassador Grew pointed out that when these embargoes
11 went into effect against Japan, that the relations
12 between the United States and Japan would probably go
13 downhill and would in all probability lead to war?

14 A I don't recall exactly the exact time or the
15 exact wording of references made by Mr. Grew on that
16 subject. I do know that he did make them.

17 Q And he was your representative on the spot,
18 and after receipt of this advice, did the State Depart-
19 ment take into consideration that the imposition of
20 embargoes would in all probability make future nego-
21 tiations with Japan impossible?

22 A As I have already stated, the conversations
23 with the Japanese had been suspended when the freezing
24 measures were adopted. After the freezing measures
25 were adopted the Japanese came around and asked to

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have the conversations resumed.

1 Q I realize that, Mr. Ballantine. But the
2 point I am trying to make is that after you received
3 this advice from Mr. Grew to the effect that embargoes
4 might lead to war, the State Department, nevertheless,
5 put through the recommendation that embargoes be put
6 on the goods, with the knowledge that after the embar-
7 goes were placed it would be more difficult to continue
8 or even reopen negotiations with the Japanese? In
9 other words, Mr. Ballantine, it created another prob-
10 lem for consideration in any negotiations; isn't that so?
11

12 A The Japanese move into southern Indo-China
13 had also created another problem for consideration.

14 Q When you say "another problem," I assume by
15 that that you agree with me that this embargo question
16 did create another problem; is that right?

17 A That is correct.

18 Q Now, on October 9, 1941, Ambassador Grew also
19 reported to the State Department that the frozen credit
20 policy of the United States was driving Japan into
21 national bankruptcy, and that she would be forced to
22 act, is that correct?

23 A There, again, I don't recall the exact wording,
24 but I believe it is substantially correct.

25 Q So that, Mr. Ballantine, the observation made

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1 by Mr. Grew prior to the time the embargoes were
2 imposed, his prediction at that time, actually came
3 true; isn't that so?

4 A I don't recall that his previous representations
5 to which you refer said that Japan would be driven into
6 national bankruptcy.

7 Q I am referring to the fact that he stated
8 that she would be forced to act. That is what I had
9 in mind.

10 A Well, the two things are quite different. One
11 is your references to "national bankruptcy," the other is
12 "forced to act." Japan always had the opportunity
13 before her of reverting to peaceful courses.

14 THE PRESIDENT: I think, Mr. Logan, we are
15 covering the same ground again. We have been over this.

16 Q Yesterday, Mr. Ballantine, in answer to a
17 question as to why Mr. Hull suddenly abandoned the modus
18 vivendi, you stated that you -- or, Mr. Hull felt that
19 it would be a very discouraging factor on the Chinese,
20 who were being hard-pressed.

21 Did the State Department also at that time
22 discuss the advantage to the United States of keeping
23 the Japanese Army occupied in China if the incident
24 between Japan and China was not terminated at that time?

25 A One of the paramount considerations before us,

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1 in accordance with our fixed national policy, was to
2 aid nations resisting aggression.

3 Q Will you answer the question, please?

4 A I thought my answer would have covered your first
5 question.

6 MR. LOGAN: Will the stenographer please
7 repeat it?

8 (Whereupon, the question was read
9 by the official court reporter.)

10 A I don't recall that that subject was discussed.

11 THE PRESIDENT: We will recess for fifteen
12 minutes.

13 (Whereupon, at 1445, a recess was
14 taken until 1500, after which the proceedings
15 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Logan.

4 BY MR. LOGAN (Continued):

5 Q Mr. Ballantine, yesterday when a question
6 was directed to you -- it may have been today -- yes-
7 terday, about a statement that had appeared in your
8 affidavit with respect to the AMAU statement, you
9 stated that if you recalled correctly that the idea
10 of putting that in your affidavit was suggested by
11 counsel here, and that you wrote your own wording of
12 it independently of having before you or having in
13 mind any similar statement by Mr. Hull. Now, isn't
14 it a fact, Mr. Ballantine, that that statement is
15 taken word for word out of Mr. Hull's prepared state-
16 ment which he submitted to the hearings before the
17 Congressional Investigation with the exception of
18 the fact that you used the word "AMAU" whereas Mr.
19 Hull used the words, "hands off China"?

20 A In my statement yesterday I was referring
21 to the statement I made on the first page of my
22 affidavit. Apparently, the first page of my affi-
23 davit has gotten torn off here, and I cannot check
24 on it, but it was a statement in regard to my --

25 (Whereupon, a document was handed

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1 to the witness.)

2 A (Continuing) -- I was referring to the third
3 paragraph of my statement on page 1.

4 Q Well, the record indicates, Mr. Ballantine,
5 that you were referring to the statement I just re-
6 ferred to? If I read this to you it might refresh
7 your recollection on it.

8 A Then it is a complete --

9 THE PRESIDENT: Is it worthwhile wasting
10 time on it, Mr. Logan? As he drafted his affidavit,
11 no doubt he had before him papers, perhaps including
12 Mr. Hull's statement. Why couldn't he adopt Mr.
13 Hull's language, if it expressed the position as he
14 saw it?

15 Q Well, isn't it usual, Mr. Ballantine, that
16 quotation marks be given to extracts from other docu-
17 ments, particularly in diplomatic circles?

18 THE PRESIDENT: Oh, that is a matter of
19 ethics at most. It does not affect us.

20 Q I will ask you, Mr. Ballantine, who
21 selected the passages which you used in your affi-
22 davit from Mr. Hull's prepared statement? Was it
23 you or counsel for the prosecution?

24 A It was I who selected practically all, if
25 not all. I do not recollect exactly, but practically

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1 all I selected myself.

2 Q And was that selection made, Mr. Ballantine,
3 with the idea of presenting to this Tribunal that
4 part of Mr. Hull's testimony which would be more
5 favorable to the prosecution's case?

6 THE PRESIDENT: Well, you know what Mr.
7 Hull said, and you know what is in the affidavit.

8 MR. LOGAN: I appreciate that, your Honor,
9 but my point is this: That here we have a witness
10 who comes ten thousand miles to testify at this
11 trial, and he presents to the Tribunal an affidavit
12 in which he does not state that much, if not most,
13 of the affidavit is taken from Mr. Hull's testimony;
14 and in addition to that, he omits that part of Mr.
15 Hull's testimony which has not been put in evidence
16 by the prosecution and which we contend is favorable
17 to the accused in this case.

18 THE PRESIDENT: Well, you can put it in
19 later. There will be ways of doing it without
20 calling Mr. Hull.

21 MR. LOGAN: Well, it is my understanding,
22 your Honor, that this witness is supposed to present
23 the entire attitude of the State Department -- not
24 a one-sided attitude.

25 THE PRESIDENT: Well, you can put to him

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1 the things which you think he should have included
2 in his affidavit from Mr. Hull's statement, in a
3 short form, I mean.

4 Q I just want to call to your attention,
5 Mr. Ballantine, among other things which you o-
6 mitted was Mr. Hull's discussion of the embargo
7 on page 412 of his record, his mention of the
8 Selective Service Act which was passed in the United
9 States' preparation for war, and his statement with
10 respect to the pressure which was brought upon
11 Japan from other countries. I would also like to
12 call your attention to the bottom of page 12 of
13 your affidavit --

14 THE PRESIDENT: You will make your question
15 too long unless you let him answer the first part,
16 Mr. Logan.

17 What have you to say about the Selective
18 Service Act --you said something yesterday about it --
19 and the pressure brought by other countries?

20 THE WITNESS: Was there a question addressed
21 to me, Mr. President? I did not understand it.

22 THE PRESIDENT: It is suggested that you
23 are suppressing the truth, that you omitted any
24 reference to Mr. Hull's statement about the Selective
25 Service Act and the pressure brought on Japan by

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other countries.

1 THE WITNESS: I had no thought whatever
2 of suppressing the truth. I certainly received no
3 suggestion from counsel as to the omission or in-
4 clusion of any of these portions. I was trying to
5 make this affidavit as concise as possible, and I
6 used the selection -- used my best judgment as to
7 what would be most appropriate for this occasion.
8

9 MR. LOGAN: We will accept that, Mr. Bal-
10 lantine.

11 Q Will you now turn to page 12 of your af-
12 fidavit, at the bottom of the page. You make this
13 statement, which is a direct quotation from Mr. Hull's
14 prepared statement on page 430 of the record:

15 "On November 20 the Japanese Ambassador
16 and Mr. KURUSU presented to me a proposal which,
17 on its face, was extreme."

18 But, you omit the next sentence in Mr.
19 Hull's testimony, wherein he said: "I knew, as did
20 other high officers of the Government, from inter-
21 cepted messages supplied to me by the War and Navy
22 Department that this proposal was the final Japan-
23 ese proposition and an ultimatum."

24 In the last paragraph of your page 12 of
25 your affidavit, however, you say:

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1 "Before and after presenting that proposal,
2 Ambassador NOMURA and Mr. KURUSU talked emphatically
3 about the urgency of the situation and intimated
4 vigorously that this was Japan's last word and if
5 an agreement along these lines was not quickly
6 concluded ensuing developments might be most un-
7 fortunate."

8 Now, is that last sentence in your affi-
9 davit intended by you to take the place of the
10 sentence I read to you from Mr. Hull's prepared
11 statement?

12 A I had before me not only Mr. Hull's state-
13 ment, but also the statement contained in our summary
14 of conversations that we prepared shortly after Pearl
15 Harbor. I had no particular motives in using one
16 instead of the other. I do not remember what con-
17 siderations I had on that. I had no reason -- I mean
18 I have no reason for omitting the Secretary's state-
19 ment. I had those both before me, and I leaned
20 towards this other statement, and did not see any
21 need of both of them.

22 Q Do I understand, Mr. Ballantine, that
23 that last paragraph on page 12 of your affidavit
24 came from some other memorandum?

25 A I don't know about the exact wording, but

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1 I think it follows pretty closely what appears in
2 the summary of conversations in Foreign Relations,
3 United States-Japan, 1931 to 1941.

4 Q Can you tell us with whom Ambassador NOMURA
5 and Mr. KURUSU had these talks which I referred to
6 in that last paragraph on page 12?

7 A They had these talks with the Secretary of
8 State, at which I was present.

9 Q Now, Mr. Ballantine, aside from the quota-
10 tions which you have presented in your affidavit from
11 Mr. Hull's testimony and statements from other memo-
12 randa which you have not designated, the balance of
13 your affidavit is your own personal opinion, isn't
14 that so? I mean, pardon me -- may I explain that a
15 little bit -- I mean by that that it is an opinion
16 which you drew up while you were here and which has
17 never been submitted to the State Department for
18 its approval?

19 THE PRESIDENT: Ignore his opinion, Mr.
20 Logan. We are doing so.

21 MR. LOGAN: I am doing that, your Honor,
22 but I want him to state that that is his opinion,
23 and not the State Department's opinion which he has
24 in that affidavit, if that be the fact.

25 THE PRESIDENT: He can tell if it is the

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1 State Department's opinion, yes.

2 MR. LOGAN: If your Honor please, I am
3 asking him if the balance of that affidavit, aside
4 from the statements which he has incorporated from
5 Mr. Hull's testimony and from other documents, I am
6 asking him if the balance of that affidavit which he
7 has submitted here is his own opinion and not the
8 opinion of the State Department:

9 THE PRESIDENT: That is an allowable
10 question, certainly.

11 A I take full responsibility for the con-
12 tents of this affidavit. I will say that I did show
13 this affidavit in its entirety to associates of mine
14 in the State Department. This affidavit, however,
15 has never been officially cleared with the State De-
16 partment.

17 MR. S. OKAMOTO: I am OKAMOTO, Shoichi,
18 counsel for the defendant, MUTO, Akira.

19 THE PRESIDENT: Mr. OKAMOTO.

20 MR. S. OKAMOTO: Owing to the efforts of
21 American defense attorneys, the extent of my cross-
22 examination has become very narrow, and I have only
23 a few simple questions to ask.
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CROSS-EXAMINATION (Continued)

1 BY MR. S. OKAMOTO:

2 Q On page 1, paragraph 4 of your affidavit,
3 you state as follows: "During practically all of my
4 career in the foreign service, I have dealt with Far
5 Eastern Affairs and have followed closely the course
6 of Japanese-American relations. Up until 1931 the
7 relations between the United States and Japan were
8 generally friendly and the American Government and
9 people consistently had an attitude of good will
10 toward the government and people of Japan. The
11 Japanese occupation of Manchuria caused an impairment
12 of those relations." I wish to ask you two or three
13 questions concerning this paragraph.
14

15 In your capacity as an official of the State
16 Department and also through the studies in foreign
17 affairs which you made are you aware that there was
18 an American named Bates in the employ of the Japanese
19 Foreign Office -- as an adviser of the Japanese
20 Foreign Office?

21 A I know Mr. Dennison personally.

22 THE MONITOR: Correction: Mr. Dennison.

23 THE PRESIDENT: I thought he said "Bates."

24 THE MONITOR: Mr. President, the correction
25 was overlooked, and it has been made just now. The

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1 correction is: "Mr. Denrison" instead of "Mr. Bates."

2 Q Do you know that Mr. Dennison worked in the
3 Foreign Office from 1880 to 1914, which covered both
4 the period of the Sino-Japanese War and the Russo-
5 Japanese War?

6 A I do not know the exact years that he was
7 in the Foreign Office, but I know he was there a long
8 time.

9 Q Have you heard that he was held in great
10 respect by Foreign Ministers MUTSU and KOMURA?

11 A I understand that that was the case.

12 Q Are you aware that Mr. Dennison participated
13 in the drafting of the Sino-Japanese Peace Treaty?

14 A I believe I recall that, yes.

15 Q Are you aware that the Japanese ultimatum
16 to Russia, just before the outbreak of the Russo-
17 Japanese War, was penned solely upon the responsibility
18 of Mr. Dennison?

19 A I didn't know that.

20 Q Are you aware that in 1899 John Hay
21 enunciated the Open Door Policy towards China?

22 A I am familiar with that.

23 Q Was the Russian southward advance in Man-
24 churia contrary to this Open Door principle before
25 the Russo-Japanese War?

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1 THE PRESIDENT: Oh, that is hardly within
2 the scope of the affidavit.

3 MR. S. OKAMOTO: I am trying to dissect his
4 statement regarding the so-called friendly relations
5 between the United States and Japan and wish to clear
6 up his statement regarding that.

7 THE PRESIDENT: You are not doing it in this
8 way.

9 MR. S. OKAMOTO: Then I shall change my
10 question.

11 Q I wish to question you concerning the
12 Japanese Exclusion Act, concerning which Mr. Smith
13 asked you previously. Is it not a fact that this
14 Act, which was passed in 1923 -- 1922, greatly ex-
15 cited the Japanese people -- 1923?

16 THE PRESIDENT: That is beyond the scope of
17 the affidavit as it is to be read now.

18 Q Then I shall ask you a very short question:
19 You have stated that up until 1931 the relations be-
20 tween the United States and Japan were generally
21 friendly. However, did you not receive information
22 that, owing to the Oriental Exclusion Act, the
23 Washington Conference, the Naval Limitation Treaty,
24 and the Nine-Power Pact, as far as Japan was con-
25 cerned she considered herself oppressed to quite a

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1 degree by the United States?

2 A My understanding is that the Japanese Govern-
3 ment entered voluntarily into those treaties referred
4 to.

5 Q And what about the trend of Japanese public
6 opinion?

7 THE PRESIDENT: That is beyond the scope of
8 the affidavit.

9 MR. S. OKAMOTO: Then I shall again change
10 my question.

11 Q On page 2 of your affidavit, in paragraph
12 seven you state as follows: that after "Japan gave
13 formal notice of its intention to withdraw at the end
14 of 1936 from the Naval Limitation Treaty," "Japan
15 proceeded energetically to increase her armaments,
16 preparatory to launching her invasion in China."
17 What do you mean by the word "energetically"?

18 THE PRESIDENT: It speaks for itself. There
19 is no need to answer.

20 Q I shall ask you concerning another point:

21 THE PRESIDENT: In any event, that part of
22 the affidavit was disallowed as expressing an opinion.
23 It goes on: "preparatory to launching her invasion
24 in China."

25 Q (Continuing) I shall question you concerning

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1 another point: In your affidavit you state that
2 Japan was waging an undeclared war against China.
3 Did the United States State Department consider, even
4 in war time, that Japan was still waging an unde-
5 clared war?

6 A I don't quite understand the question.

7 Q In your affidavit you have used the phrase
8 "undeclared war." Before drawing up this affidavit,
9 that is, during the period of the Sino-Japanese con-
10 flict, did the American State Department recognize
11 that an undeclared war existed between Japan and
12 China and conduct its foreign affairs accordingly?

13 A Yes. We knew that the Japanese Government
14 had not declared war against China, that is, before
15 1941, and that we had to take the facts into consider-
16 ation that hostilities on a large scale were going on.

17 Q Then, were the provisions of the Neutrality
18 Act put into effect?

19 A No.

20 Q If you recognized that an undeclared state
21 of war existed, was it a mistake not to have put the
22 provisions of the Neutrality Act into effect?

23 . THE PRESIDENT: That is an opinion which
24 he is not invited to give.

25 Q Then I shall ask you, as a matter of fact,

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1 was the Neutrality Act not put into effect?

2 A As I said before, the Neutrality Act was not
3 put into effect.

4 Q Then, is it a fact that it follows that
5 material to aid the Chiang Regime was sent in large
6 quantities, and also including weapons?

7 A Yes. It was our policy to assist the Chinese
8 Government, and we assisted in sending such materials
9 as we could.

10 Q But, is it not also a fact that England on
11 the 19th of July, 1939, as a result of the ARITA-
12 Craigie conversations, recognized that a state of war
13 existed in China and agreed not to aid the Chinese
14 side, and agreed to let this be known to the English
15 people?

16 THE PRESIDENT: Well, that is really outside
17 the scope of the affidavit. He does not speak for
18 Great Britain.

19 But, do you know?

20 THE WITNESS: Well, I do know for three
21 months the Burma Road was closed by the British.

22 Q Was not the United States note abrogating the
23 Commercial Treaty -- the Treaty of Commerce and Navi-
24 gation with Japan as a means of trying to influence
25 Great Britain?

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1 THE PRESIDENT: That requires an opinion.

2 MR. S. OKAMOTO: I wish to ask whether
3 America was not stimulated by this action of Great
4 Britain and thus served notice of the abrogation of
5 the Commerce and Navigation Treaty, and that the
6 United States did this in order to check or to re-
7 strain Britain from that policy.

8 THE PRESIDENT: What was the view of the
9 State Department?

10 THE WITNESS: I don't know of any considera-
11 tions entering into the abrogation of the Commercial
12 Treaty other than those stated in my affidavit.

13 BY MR. S. OKAMOTO (Continued):

14 Q I shall ask you on another point: You have
15 written in your affidavit of the Siberian Expedition.
16 Did not Japan send troops to Siberia upon the invita-
17 tion of America?

18 THE PRESIDENT: That is outside the scope
19 of the affidavit. At least you may point out some-
20 thing in the affidavit that warrants it. I cannot
21 recall anything.

22 MR. S. OKAMOTO: It is on page 14 of the
23 Japanese text. I am trying to find out what page
24 it is on in the English text from my colleagues.
25

THE MONITOR: At the top of page 6 in the

BALLANTINE

CROSS

English text.

1 THE PRESIDENT: Yes. A colleague has sent
2 me this note. I think it is correct, too. He said,
3 "they were entitled to send seven thousand and did
4 send seventy thousand, or something like that."

5 Answer the question, if you can.

6 A I think that the actual, initial proposal
7 did come from the United States.

8 Q However, in 1920 America sent Japan notice
9 that she was withdrawing her troops --
10

11 THE MONITOR: Correction: But, in January,
12 1920, America withdrew her own troops without con-
13 sultation with Japan and sent merely notice to that
14 effect to Japan.

15 THE PRESIDENT: Do you know that?

16 A I believe that is correct.

17 Q Did Baron SHIDEHARA, then Japanese Ambassa-
18 dor to Washington, protest to the State Department?
19 Did not Baron SHIDEHARA protest, saying that "a
20 unilateral withdrawal of troops -- that America's
21 unilateral withdrawal of troops was uncalled for and
22 that hereafter Japan will be at liberty whether she
23 chooses to remain or to withdraw her troops"?

24 A I do not recall that.

25 Q Towards the end of page 16 of the Japanese

BALLANTINE

CROSS

text --

1 THE MONITOR: This is still page 6 of the
2 English text.

3 Q (Continuing) in paragraph 6 of page 6 you
4 state: "On April 15, 1940, Mr. ARITA, then Japanese
5 Minister for Foreign Affairs, said" et cetera, et
6 cetera, and then "Following the occupation of the
7 Netherlands by Germany that spring, Japan sent a
8 Commercial Commission to the Indies which asked con-
9 cessions so far reaching that, if granted, they would
10 have reduced the Indies practically to a Japanese
11 colony."
12

13 THE PRESIDENT: We decided to ignore that
14 opinion. You may do so.

15 MR. S. OKAMOTO: Thank you.

16 Q Page 8 of your affidavit, the third para-
17 graph of the English text, you state as follows:
18 "Notwithstanding the various objectionable features
19 of the Japanese Government's proposal, in view of the
20 world situation the Government of the United States
21 decided to explore thoroughly every possible means,
22 starting with the Japanese proposals, of coming to
23 an agreement. The Secretary of State on numerous
24 occasions at which I was present emphasized to the
25 Japanese Ambassador that this Government was aware of

BALLANTINE

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1 the difficult internal situation which the Japanese
2 Government faced and was prepared to be patient and
3 to give the Japanese Government ample time to bring
4 Japanese public opinion into line in support of a
5 liberal broad-gauge program, such as the Secretary of
6 State and the Japanese Ambassador had been discussing
7 in their conversations."

8 What information had the State Department
9 received concerning the difficult internal situation
10 of the Japanese Government of which you speak?

11 A We had received information from these
12 unofficial Japanese representatives; we had had
13 constant -- had representations made to us about these
14 liberal forces ready to come forth if we'd only be
15 patient; and many other representations of that
16 character.

17 THE PRESIDENT: Will you be much longer,
18 Mr. OKAMOTO?

19 MR. S. OKAMOTO: I still have a few more
20 questions to ask.

21 THE PRESIDENT: We will adjourn now until
22 half-past nine on Monday.

23 (Whereupon, at 1600, an adjourn-
24 ment was taken until Monday, 25 November
25 1946 at 0930.) - - - -

BALLANTINE

CROSS

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2 Government faced and was prepared to be patient and
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4 Japanese public opinion into line in support of a
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6 State and the Japanese Ambassador had been discussing
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9 received concerning the difficult internal situation
10 of the Japanese Government of which you speak?

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12 unofficial Japanese representatives; we had had
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25-10-16

25 NOVEMBER 1946

I N D E X
of
WITNESSES

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I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
6257	1249		Affidavit of James O. Richardson, Admiral, USN (Ret)	11173	11238
6250	1250		Memorandum of Conversations between the American and Japanese Delegations, 29 October, 1934, at Claridges		11178
6251	1251		Book entitled "The Department of State Conference Series No. 24, the London Naval Conference 1935"	11180	

I N D E X

O f

E X H I B I T S

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
6251-A	1251-A		Excerpt from above book entitled "The Department of State Conference Series No. 24, the London Naval Conference 1935"		11180
17	1252		Combined Fleet Top Secret Operation Orders No. 1, 2, and 7		11193
6254-A	1253-A		Aerial Reconnaissance Photographs of Wotje Island taken by U. S. Navy Photographic Intelligence Unit		11200
6254-B	1253-B		Ditto		11200
6254-C	1253-C		Japanese Blueprint Map of Wotje Island dated 10 November 1940, captured by American Forces landing at Kwajalein in February 1944		11200
6255	1254		Book entitled "Japanese Messages Concerning Military Installations, Ship Movements, etc."	11204	
6255-A	1254-A		Excerpt therefrom		11205
6258	1255		Sketch Map of Pearl Harbour after the Attack of 7 December 1941 (JICPOA D-1071)		11206

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
6255-C	1256		Message from Tokyo (TOGO) to Honolulu (RIYOJI) dated 15 November 1941		11209
6255-D	1257		Message from Honolulu (KITA) to Tokyo dated 18 November 1941		11210
6255-E	1258		Message from Tokyo (TOGO) to Honolulu dated 2 December 1941		11211
6256-A	1259		Affidavit of Otto Kuehn dated 1 January 1942		11213
6256-B	1260		Affidavit of Otto Kuehn dated 3 January 1942 (1941)		11213
6255-F	1261		Message from Honolulu (KITA) to Tokyo dated 3 December 1941		11216
6255-G	1262		Message from Honolulu to Tokyo dated 5 December 1941		11220
6255-H	1263		Message dated 6 December 1941 from Honolulu to Tokyo (#253)		11221
6255-I	1264		Message from Honolulu to Tokyo dated 6 December 1941 (#254)		11224
1627	1265		"Allied Translator and Interpreter Section, Supreme Commander for the Allied Powers Research Report No. 132 dated 1 December 1945, the Pearl Harbour Operation"		11227

1 Monday, 25 November, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12 Appearances:

13 For the Tribunal, same as before with the
14 exception of the HONORABLE R. B. PAL, Member from
15 India, not sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 The Accused:

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

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, INTFE.)
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1 MARSHAL OF THE COURT: The International Military
2 Tribunal for the Far East is now in session.

3 THE PRESIDENT: Major Moore.

4 LANGUAGE ARBITER (Major Moore): Mr. President,
5 if the Tribunal please, I beg leave to present some
6 language corrections. Copies of what I am about to
7 read are presented for the convenience of the Tribunal.

8 Exhibit 1117, record page 10,166, line 26, the
9 sentence beginning "The Emperor" should read "As stated
10 by the Vice Lord Chamberlain, I received the Imperial
11 order to give a reply after gathering your Excellency's
12 opinion."

13 Line 17, delete from "saying that" to "Army and"
14 and substitute "as a person good for the military and
15 capable of exercising general control over all lines
16 of..."

17 Line 25, after "GHQ" transpose "in the palace."

18 THE PRESIDENT: Insert "in the palace" in this
19 document.

20 LANGUAGE ARBITER (Major Moore): I regret, sir,
21 that that word should be transposed, since the words are
22 taken from the following sentence and carried over into
23 the sentence before. The punctuation mark was in error.

24 After "YONAI said" should read "no other person
25 than Prince KONOYE would do."

1 Page 10,168, line 12, after "Cabinet" insert
2 the sentence "After his audience, I met and talked with
3 him."

4 Exhibit 1146, record page 10,242, line 2, after
5 "abroad" should read "it is very difficult to predict
6 the outcome of war with the U.S.A. So we had better..."
7 and so forth.

8 Line 7, paragraph 4, should read "Rather it
9 should be made clear that the termination of the China
10 Incident is the first consideration."

11 Line 12, paragraph 6, should read "The people
12 should be made to understand the necessity for ten
13 or..." and so forth.

14 Line 12, insert "and" between "nation" and "to
15 establish."

16 Exhibit 1147, record page 10,247, line 14,
17 delete from "bring about" to line 12 "for a" and
18 substitute "do it thoroughly. To turn to..."

19 Line 22, after "parley" insert "and hoped to con-
20 tinue to act with this idea."

21 Page 10,248, line 2, delete from "Our demands"
22 to end of sentence and substitute "In Japanese American
23 relations:

24 "1. We should not change our policy of station-
25 ing troops in China or of other policies connected with

1 it.

2 "2. We should not entertain anything that might
3 affect the result of the China Incident.

4 "With these points in view, it should be found
5 out whether negotiations can be successful within the
6 time set by the High Command. When this has been ascer-
7 tained the matter should be settled through diplomacy.
8 Such being the case, all operational preparations be
9 discontinued. The Foreign Minister should study the
10 above to find out whether it is possible or not."

11 Exhibit 1150, record page 10,276, line 1,
12 "YAMATA" should read "YATE (YAKATA)."

13 Line 7, delete "The War Minister did not mention
14 his name" and substitute "it may not be well to desig-
15 nate the next Premier."

16 Line 10, substitute "not depart from" for
17 "follow."

18 Line 20, substitute "a prudent" for "an inde-
19 pendent."

20 Line 23, after "on this point" insert "then
21 added that the matter needs to be studied carefully."

22 Page 10,277, line 6, after "situation" insert
23 "At 2:00 p.m. YAMAZAKI, Chief of the Metropolitan Police
24 Board came and spoke to me on current political affairs."
25

Line 15, delete "that I did not" and substitute

1 "what I stated to President SUZUKI this morning. As
2 I had yet to..."

3 Line 18, delete from "and I had" to end of
4 sentence.

5 Page 10,279, line 5, after "said that" delete
6 to end of sentence and substitute "when he made a report
7 to the Emperor on the proposed plan. His Majesty said
8 that if the Army and the Navy agreed upon the peace-
9 ful policy and it is the outcome of necessity to have
10 the Prince's Cabinet, then there was no alternative
11 but to approve the plan."

12 Line 23, substitute "Lord Keeper of the Privy
13 Seal" for "Home Minister."

14 Line 24, delete from "I made" to end of sen-
15 tence and substitute "I was received in audience by
16 the Emperor; His Majesty gave me his opinion on the
17 proposed premiership of Prince NIGASHIKUNI reported
18 to him by the Premier."

19 Exhibit 1151, record page 10,282, line 12,
20 paragraph 2, should read "According to what developed
21 since last night, the difficulties have not been solved
22 and a member of the Imperial family should never be
23 asked to overcome these obstacles."

24 Page 10,283, line 4, after "SUZUKI" insert "I
25 pointed out that the decisions made at the Imperial

1 Conference on September 6 were rather careless and..."
2 and so forth.

3 Line 6, delete from "a unified policy" to
4 "factors" and substitute "I also stressed the necessity
5 of true unity between the Army and the Navy. I
6 stressed the fact that this was the least our country
7 is asking for..." and so forth.

8 Exhibit 1154, record page 10,291, line 17,
9 delete "Viscount."

10 Line 18, delete "Admiral" and "General."

11 Line 19, delete "General" and "Admiral."

12 Line 21, delete from "Mr. WAKATSUKI" to end
13 of sentence and substitute "Except for the recommenda-
14 tion of General UGAKI by Baron WAKATSUKI and the sug-
15 gestion of a Cabinet under a member of the Imperial
16 family by General HAYASHI, no one had a definite opinion."
17

18 Page 10,292, line 2, after presence insert
19 "September 6."

20 Line 6, substitute "active duty" for "military
21 service."

22 Line 15, delete sentence beginning "This was
23 followed..." and substitute "Subsequently, he summoned
24 Navy Minister OIKAWA and talked with him regarding
25 cooperation between the Army and Navy."

Line 20, "His Majesty has talked to you in

1 regard to cooperation between the Army and Navy."

2 Line 21, substitute "you" for "we."

3 Exhibit 1181, record page 10,389, line 20,
4 paragraph 1, should read "Remain as at present without
5 advancing beyond its preliminary stage."

6 Paragraph 2, "Partial acceptance of our demands."

7 Paragraph 3, "Acceptance of a very small
8 portion of our demands."

9 Page 10,390, line 4, delete paragraph and
10 substitute:

11 "Thus several phases of the situation must be
12 foreseen and it would appear that there is left enough
13 ground for controversy with regard to our rushing into
14 the war headlong on the mere automatic grounds that the
15 last day of the month of November has passed. If we did
16 so it is feared that it might exercise an undesirable
17 influence on the unification of public opinion in the
18 future. Accordingly, I advised His Majesty, when the
19 Premier solicits His Majesty's final decision, if circum-
20 stances require, the Premier should be ordered to hold
21 the council in the Imperial presence with the partici-
22 pation therein of all the senior statesmen.

23 Exhibit 1190, record page 10,430, line 1,
24 delete from "as it is" to end of sentence and substi-
25 tute "Once the final decision is made this time it

1 would truly be the last and irretrievably final one.
2 Thus if there should be any doubt or any better idea
3 to surmount the difficulties in your Majesty's mind,
4 I pray that your Majesty be pleased to elucidate the
5 same without the least reserve and take appropriate
6 steps which your Majesty might not repent of afterwards.

7 "I therefore pray that your Majesty command the
8 Premier without reserve."

9 Exhibit 1210, record page 10,523, line 17,
10 substitute "against" for "between Japan and..."

11 Line 10, after "visited me" read "to discuss
12 the Imperial Rescript to Declare War."

13 THE PRESIDENT: Thank you, Major.

14 LANGUAG^E ARBITER (Major Hoops): That is all.
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BALLANTINE

CROSS

1 J O S E P H W. B A L L A N T I N E, called as a
2 witness on behalf of the prosecution, resumed
3 the stand and testified as follows:

4 CROSS-EXAMINATION (Continued)

5 THE PRESIDENT: Mr. OKAMOTO.

6 MR. S. OKAMOTO: I am OKAMOTO, Shoichi. I
7 shall continue my cross-examination from where I left
8 off on Friday.

9 May I have the last reply read?

10 (Whereupon, the answer of the witness
11 was read by the official court reporter from the
12 transcript of the record of 22 November 1946 as
13 follows:

14 "A We had received information from these
15 unofficial Japanese representatives; we had had
16 constant -- had representations made to us about
17 these liberal forces ready to come forth if we'd
18 only be patient; and many other representations
19 of that character.")

20 BY MR. S. OKAMOTO (Continuing):

21 Q My last question to you on Friday afternoon
22 concerned the words in your affidavit which spoke of
23 the difficult internal situation faced by the Japanese
24 Government. What did the State Department consider this
25 difficult internal situation to be?

PALLANTINE

CROSS

1 THE PRESIDENT: Well, that has been answered,
2 really.

3 MR. S. OKAMOTO: Did the witness answer to a
4 question put by some other counsel? I am asking you,
5 Mr. President.

6 THE PRESIDENT: You have already heard the
7 witness' answer.

8 MR. S. OKAMOTO: I beg your pardon, sir. Did
9 he answer to this question -- did another counsel put
10 the same question to him?

11 THE PRESIDENT: No. He said, in effect, the
12 internal difficulties that he heard about were from
13 representations about liberal forces that would be
14 ready to come forth if the Americans would only be
15 patient.

16 To shorten the proceedings I will ask you to
17 repeat what you have said in another form, if necessary.

18 Did you hear anything about internal
19 difficulties, apart from some liberal movement in Japan?

20 THE WITNESS: What I was referring to entirely
21 was a conflict between so-called forces that wanted to
22 pursue existing policy and moderate forces in Japan.

23 THE PRESIDENT: The only differences you heard
24 about were political differences?

25 THE WITNESS: That is correct.

EXHIBIT

CROSS

1 Q Would such things as I am going to say also
2 come within the scope of what you referred to as the
3 difficult internal situation; that is to say, I would
4 like to question you on what follows in your affidavit
5 concerning public opinion in Japan; that is to say,
6 was not such an opinion current in Japanese circles as
7 this: At the time Japan was faced by a -- because of
8 the narrowness of her territory, she was faced with
9 over-population so that she had to expand either by
10 emigration or by trade expansion. In spite of this
11 necessity, the United States excluded Japanese immi-
12 grants. And while we leave aside the question of bloc
13 economies in other parts of the world for a moment,
14 is it not rather unfair only to insist on an open-door
15 policy in China?

16 THE PRESIDENT: You need not answer that ques-
17 tion. That invites you to express an opinion on a long
18 statement of alleged fact by the counsel.

19 The witness is not here to give opinions of
20 that kind. We refuse to hear his opinions. We have
21 already decided to do so.

22 MR. S. OKAMOTO: Mr. President, I am sorry to
23 infringe upon the Court's time, but I was not stating
24 my opinion. I was stating the facts regarding Japanese
25 public opinion from various documents of the time and

PALMANTINE

CROSS

1 from my own recollection in the shortest possible form.

2 THE PRESIDENT: You are not at liberty to put
3 the question that you put to him. I have repeatedly
4 said that we are not accepting this witness' opinions,
5 whether they be for Japan or against Japan, or against
6 Japanese or for Japanese.

7 MR. S. OKAMOTO: I shall strictly obey the
8 President's order regarding opinions. What I wish
9 to ask the witness is what view the State Department
10 took of this trend in Japanese public opinion, of the
11 facts concerning the State Department's views.

12 THE PRESIDENT: You are assuming facts there.
13 You may ask him what influenced the Department in the
14 course of the negotiations.

15 MR. S. OKAMOTO: I shall do so, sir.

16 Q Mr. Witness, what was the trend of Japanese
17 opinion which influenced the State Department in the
18 course of its negotiations and which was a basis for
19 the State Department in forming its opinion as these
20 negotiations went along?

21 THE PRESIDENT: Have you told us all you know
22 about that? If so, you need not repeat what you have
23 said already.

24 THE WITNESS: I might add one brief comment.
25 We felt that we had taken care of legitimate feelings

BALLANTINE

CROSS

1 of the Japanese press by having at mind at all times
2 offering Japan a peaceful alternative.

3 THE PRESIDENT: Was that communicated to the
4 Japanese negotiators?

5 THE WITNESS: That was communicated.

6 THE PRESIDENT: We want to know what was said
7 and done by the State Department in the course of the
8 negotiations to the extent that you have not already
9 told us.

10 Yes, Mr. OKAMOTO; have you any further
11 questions?

12 Q Was the original proposals for a Japanese-
13 American agreement not welcomed by high officials of
14 the State Department because it was first presented
15 by Japanese acting in an unofficial capacity as well
16 as American friends of Japan who were also acting in
17 an unofficial capacity?

18 THE PRESIDENT: Have you told us all you know
19 about that?

20 THE WITNESS: I think I have told all I know
21 about that.

22 THE PRESIDENT: You need not add to it.

23 Q On page 10, paragraph 2, of your affidavit,
24 you state that America made a proposal to the Japanese
25 for the neutralization of Indo-China -- French Indo-China.

PALLANTINE

CROSS

1 Did the State Department realize at the time that
2 French Indo-China was pro-American and that the
3 neutralization of Indo-China would not help Japan to
4 gain anything at all -- pro-British and pro-American
5 neutralization -- was pro-British and pro-American?

6 THE PRESIDENT: That also assumes that they
7 were.

8 MR. S. OKAMOTO: I shall correct myself.

9 Q Would not the neutralization of Indo-China
10 have made it difficult for Japan to import goods?

11 THE PRESIDENT: He is not asked to express
12 any opinion.

13 Q Did the State Department think so?

14 THE PRESIDENT: What did they communicate to
15 the Japanese about that?

16 A The President of the United States spoke
17 at great length with the Japanese Ambassador, pointing
18 out especially that by that proposal the Japanese would
19 get all that they wanted in the way of materials which
20 they required.

21 MR. S. OKAMOTO: I shall try to prove this
22 point later.

23 Q On the day before the freezing act, President
24 Roosevelt in a speech at Washington before the Civilian
25 Volunteer Committee of the Office of Civilian Defense,

BALLANTINE

CROSS

1 stated that the reason why America had permitted
2 Japan to import oil hitherto was in order to prevent
3 Japan from moving into French Indo-China -- correction:
4 into the Dutch East Indies. If America had prohibited
5 the export of oil a year earlier we would have been
6 engaged in war from that time. Do you remember this
7 statement?

8 A I remember what the President said on that
9 occasion. But I can't speculate as to whether we
10 would or would not have been in war. That I don't know.

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1 THE PRESIDENT: That statement about avoiding
2 war is purely a gratuitous one by counsel. It is
3 really an attempt to give evidence; but no amount
4 of correction seems to prevent Japanese counsel and,
5 perhaps, other counsel from making those statements.
6 Counsel are confined to asking questions. They
7 must not make statements.

8 MR. S. OKAMOTO: I was merely quoting from
9 President Roosevelt's words, and concerning whether
10 America would or would not have gone to war a year
11 earlier. I was merely quoting President Roose-
12 velt's exact words.

13 THE PRESIDENT: Well, you were badly
14 interpreted then. I certainly got the impression
15 and everybody else, the witness included, that you
16 were not doing so.

17 MR. S. OKAMOTO: I shall put this question
18 in a new form.

19 Q Do you remember that on July 23, 1941,
20 President Roosevelt made a speech as follows before
21 the Civilian Volunteer Committee of the Office of
22 Civilian Defense --

23 THE PRESIDENT: Well, now, you have heard
24 what the speech was and you have already told us
25 you did not remember.

BALLANTINE

CROSS

1 MR. S. OKAMOTO: I shall not continue this
2 line further.

3 Q I call your attention to paragraph 3 of
4 page 10 of your affidavit. You state that the
5 Japanese move into southern Indo-China was an
6 aggravated overt act. Skipping a few lines, you
7 state that it was essential that the United States
8 make a definite and clear move in self-defense.

9 THE PRESIDENT: They are opinions which we
10 have disregarded. You need not cross-examine upon
11 them.

12 Q I wish to ask you whether this was the
13 opinion of the State Department? Will you reconsider
14 this matter? Is it not true that you have stated
15 here the opinion of the State Department and not
16 your own?

17 THE PRESIDENT: We will allow you to answer
18 that. He apparently wants that. I do not know how
19 it will help him. I think it will injure him if it
20 is answered a certain way.

21 A That was the opinion of the State Department
22 in which I fully concurred.

23 THE PRESIDENT: Well, we will ignore your
24 concurrence, Mr. Ballantine.

25 I think you had better station a page at

BALLANTINE

CROSS

1 that lectern. The red light means nothing.

2 THE MONITOR: May I have the whole thing
3 repeated, please?

4 (Whereupon, the last question was
5 read by the Japanese court reporter and
6 interpreted as follows:)

7 Q Does this mean that the United States
8 decided on a war against Japan then? I wish to
9 get the fact regardless of whether it is to our
10 advantage or to our disadvantage. It is the unani-
11 mous opinion of the Japanese counsel that they wish
12 to get the facts.

13 THE PRESIDENT: The fact you want to get
14 at now would be extremely favorable to you if you
15 could get it.

16 Do you know what was the intention of the
17 State Department at that time?

18 THE WITNESS: We had no intentions of
19 carrying on or conducting or entering into an
20 aggressive war.

21 THE PRESIDENT: You have said that repeatedly.

22 Q Then by the words "definite and clear move"
23 which you use here, you do not mean war, is that so?

24 A We had to be increasingly ready with our
25 self-defense on account of the actions that Japan

BALLANTINE

CROSS

was taking.

1

MR. S. OKAMOTO: I am contented with that.

2

Q Did Secretary Hull regard the Japanese memorandum -- Japanese note of November 20th as an ultimatum?

3

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THE PRESIDENT: Did he state it was?

7

8

THE WITNESS: He did.

9

Q Did other high officials in the State Department besides Secretary Hull also think likewise?

10

11

THE PRESIDENT: They do not speak for the Department. Only the Secretary does, I take it.

12

13

THE WITNESS: That is correct.

14

15

MR. S. OKAMOTO: I shall withdraw that question in accordance with the President's command.

16

17

Q Did General Marshall and Admiral Stark also consider the Japanese note of November 20th as an ultimatum?

18

19

THE PRESIDENT: You need not answer.

20

21

Q When this note was delivered, according to Ambassador NOMURA's oral explanation, you state in your affidavit that -- on page 13 of your affidavit in paragraph 5 -- on page 12 of your affidavit you have stated that Ambassador NOMURA said that if an agreement along those lines was not quickly

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BALLANTINE

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1 concluded, ensuing developments might be most
2 unfortunate. Did the Department of State understand
3 that the word "unfortunate " meant war?

4 A Well, there was an implication that we
5 considered that Japan might break out with fresh
6 acts of aggression at any time.

7 Q Did the State Department consider that
8 the Japanese note of November 20th was in the nature
9 of a modus vivendi?

10 A The Japanese Government suggested that
11 acting on that, we could go further on our conver-
12 sations. Mr. Hull brought that out clearly in his
13 conversations with Ambassador NOMURA. I believe
14 that Ambassador KURUSU and Ambassador NOMURA replied
15 to the effect that that was so, that if -- that
16 that arrangement, that modus vivendi would make
17 possible the continuance of the conversations.

18 Q But, according to what is stated at the
19 top of page 13 of your affidavit, you say -- it
20 is stated: "Acceptance by the American Government
21 of the Japanese proposal of November 20 would have
22 meant condonement by the United States of Japan's
23 past aggressions, assent by the United States to
24 unlimited courses of conquest by Japan in the future"..
25 et cetera.

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1 If this were true, this proposal of the
2 Japanese would be very far from being any proposal
3 of a modus vivendi. Why did the State Department
4 consider the Japanese proposal in such an unfavor-
5 able light -- in such a harsh manner?

6 THE PRESIDENT: That is the view of the
7 State Department, I take it?

8 THE WITNESS: That is correct.

9 THE PRESIDENT: Well, he wants your answer.
10 Give it to him.

11 A The Japanese proposal by its very nature
12 was such that Japan offered no concessions from
13 the course she was pursuing, and they asked us to
14 make all the concessions.

15 Q Do you mean to say then that Japan never
16 made any concessions from her first proposal?

17 A No material concessions that I could
18 recognize.

19 THE PRESIDENT: Can you suggest any to
20 him?

21 Q Is it not true that, concerning the stationing
22 of troops in China, in all our proposals before
23 November 20th a definite time limit was set in all
24 the plans --

25 THE MONITOR: --which we call the "A" plan?

BALLANTINE

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1 A He did not consider that a material con-
2 cession, especially in the light of the instructions
3 which Ambassador NOMURA had received from the
4 Foreign Office in regard to the explanation of that
5 matter.

6 THE MONITOR: I would like to make a cor-
7 rection prior to that. That was not an " 'A' plan"
8 but "proposal 'A'". I will repeat again: Proposal
9 "A".

10 Q Concerning the Three Power Pact, is it
11 not true that Japan's attitude to the United States
12 was very friendly and that explanations were made
13 to the effect that it would be very unlikely that
14 Japan would enter the war on Germany's side?

15 THE PRESIDENT: Was anything to that effect
16 said in the course of the negotiations?

17 THE WITNESS: On November 10th the Japanese
18 Ambassador read a communication to the President.
19 I think that matter was fully gone over in my
20 previous answers to the question. There was a
21 line deleted by the Japanese Ambassador in that
22 explanation. I do not think I can add to anything
23 that I have already said on that particular point.

24 Q Then what concessions did the United States
25 make towards Japan?

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1 A From the very beginning of the conversations
2 we told the Japanese that everything must conform
3 to our fixed principles. We had not asked for any
4 agreement. We never talked to them in terms of
5 the concessions that we would make from our
6 principles. We were ready to come to an agreement
7 if the Japanese wanted to go out on all-out peace-
8 ful courses.

9 Q Then may I understand that the United
10 States, from the very beginning, showed these
11 principles and never permitted of any compromise,
12 any room for compromise concerning these principles?

13 THE PRESIDENT: You need not add anything
14 to what you have said already. I think you are putting
15 questions now for the sake of putting them. You
16 said you had only a few questions to ask, but you
17 have been here nearly an hour. I will not prevent
18 you from asking any relevant or material question;
19 but you have asked very few that do not involve
20 repetition.

21 MR. S. OKAMOTO: I shall change my subject.
22 I shall select a few very important points and
23 ques+ion you on these.
24

25 Q In the draft of the proposal handed from
the Secretary of State to the Japanese Ambassador on

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1 June 21st, the English text of this proposal is
2 an exhibit "C" of the witness' statement. On
3 page 2 of exhibit "C" it is stated: "Both
4 Governments declare that it is their traditional
5 and present concept and conviction that nations and
6 races compose as members of a family one household
7 living under the ideal of universal concord through
8 justice and equity."

9 Does this text state, in English the equiva-
10 lent of the Japanese ideal of "Hakko ichiu"?

11 THE PRESIDENT: You need not answer that.
12 You are not here as an expert on Japanese. It is
13 quite beyond your province.

14 MR. S. OKAMOTO: Mr. President, that may
15 be so, but this witness is an expert in the Japanese
16 language -- is proficient in the Japanese language;
17 and I believe -- I wish to ascertain whether the
18 philosophies of East and West meet on this point.
19 I believe that it is a question appropriate to this
20 Tribunal as it is a very important matter, and I
21 should be very happy if I could be permitted to make
22 this -- put this question.

23 THE PRESIDENT: Put it to some other witness
24 who will be competent to answer. You are confined
25 to cross-examining this witness on the statements of

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1 fact in his affidavit. That is the result of a
2 rule made in the United States and applied by
3 this Tribunal. Please get out of your head that
4 I have any discretion. I have not.

5 MR. S. CHAIKOTO: Then I shall put my
6 question this way:

7 Q I believe that the witness must have
8 been one of those who participated in the drafting
9 of this proposal of June 21st.

10 A I was present, yes.

11 Q Was this text written in such a way that
12 it would be an English interpretation of the
13 traditional Japanese ideal of "Hakko ichiu"?

14 THE PRESIDENT: You need not answer that.

15 Q Finally, I should like to ask you just
16 one more question concerning the anti-Japanese
17 movement in America.

18 THE MONITOR: Anti-Japanese activities
19 in America.

20 Q (Continuing): In 1913, when a law
21 prohibiting the buying or renting of land by
22 unnaturalized foreigners was presented to the Cali-
23 fornia State Legislature -- foreigners who are not
24 able to become naturalized -- are you aware of the
25 fact that President Wilson, accepting the protests

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1 of the Japanese Government, sent Secretary Bryan
2 to Sacramento, the capital of California, in order
3 to prevent the passage of this law, but was unsuc-
4 cessful?

5 THE PRESIDENT: You do not know that as
6 a State Department official, do you?

7 A I do not know about that.

8 THE PRESIDENT: We will recess for fifteen
9 minutes.

10 (Whereupon, at 1045, a recess was
11 taken until 1100, after which the proceedings
12 were resumed as follows:)

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

3 THE PRESIDENT: Mr. OKAMOTO.

4 MR. S. OKAMOTO: May I have the witness'
5 reply?

6 (Whereupon, the last answer was read
7 by the official court reporter as follows: "I
8 don't know about that.")

9 BY MR. S. OKAMOTO (Continued):

10 Q This was a most important point in the American-
11 Japanese negotiations. Even if you didn't know of it
12 directly, did you not learn of it through the records
13 of the State Department or through other documents?

14 A The matter is not covered in my affidavit. I
15 did not have occasion to go through the Department's
16 records to study that subject.

17 Q Did you know it as -- did you not know it as
18 a matter of common knowledge in foreign affairs?

19 THE PRESIDENT: The witness is not required
20 to answer. This Tribunal is not obliged to tolerate
21 even Japanese counsel insisting upon not observing
22 the rules.

23 MR. S. OKAMOTO: I believe that my -- what I
24 should do in this case is to observe strictly the
25 limits of the affidavit. What are the rules I should

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1 observe? I believe that it is that I should stay with-
2 in the limits of the affidavit.

3 THE PRESIDENT: I have said so repeatedly.

4 MR. S. OKAMOTO: Then may I not question him
5 further concerning anti-Japanese activities in America?

6 THE PRESIDENT: No, except in so far as they
7 are right within some statement of fact in his affidavit.

8 MR. S. OKAMOTO: In the affidavit it is stated
9 that friendly relations with Japan were maintained. I
10 wish, therefore, to question a statement from the
11 witness concerning the fact that the original fissure --
12 the original thing which brought the cleavage in the
13 friendly relations was the anti-Japanese policy
14 pursued by America.

15 THE PRESIDENT: You have already described
16 that as a matter of common knowledge. If you think
17 so there is no need to ask this witness any question
18 relating to it.

19 Q Was there a movement persecuting Japanese
20 school children in San Francisco just after the Russo-
21 Japanese War?

22 THE PRESIDENT: That is beyond the scope of
23 the affidavit.

24 MR. S. OKAMOTO: I conclude my cross-examin-
25 ation.

1 MR. LOGAN: There will be no further cross-
2 examination, your Honor.

3 MR. KEENAN: Mr. President.

4 THE PRESIDENT: Mr. Chief of Counsel.

5 MR. KEENAN: The next witness will be Admiral
6 Richardson, United States Navy, who will be examined
7 by Captain Robinson of the United States Navy.

8 THE PRESIDENT: There will be no re-examination
9 of this witness?

10 MR. KEENAN: No re-examination.

11 THE PRESIDENT: Mr. Ballantine is released
12 as a witness on the usual terms.

13 (Whereupon, the witness was excused.)
14

15 THE PRESIDENT: Captain Robinson.

16 CAPTAIN ROBINSON: Mr. President and Members
17 of the Tribunal:

18 It is now proposed to present evidence to
19 show plans and preparations made by the Japanese Navy
20 leading up to the naval hostilities which Japan initi-
21 ated and waged at Pearl Harbor on 7 December 1941.
22 This evidence is offered in proof of the violations
23 of international law charged in the Indictment, partic-
24 larly in Appendix A, Section 5(a), charging Japanese
25 naval preparation for wars of aggression, and in

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1 Counts 20 and 29 charging Crimes against Peace, Count
2 37 charging Conspiracy to Murder, and Count 39 charg-
3 ing Murder.

4 May the witness, Admiral Richardson, be
5 called to the witness stand.

6
7 J A M E S O. R I C H A R D S O N, Admiral, USN
8 (Ret.), called as a witness on behalf of the
9 prosecution, being first duly sworn, testified
10 as follows:

11 DIRECT EXAMINATION

12 BY CAPTAIN ROBINSON:

13 Q Will you state your name, rank, and present
14 station?

15 A James O. Richardons, Admiral, United States
16 Navy, Retired, on duty in the Office of the Chief of
17 Naval Operations, Navy Department, temporarily assigned
18 to duty with the Supreme Commander for the Allied Powers
19 in connection with this Tribunal.

20 Q In the course of this duty have you prepared,
21 on the basis of records in the Navy Department, a
22 statement on matters in question here, namely, the plans
23 and preparations made by the Japanese Navy leading up
24 to the naval hostilities which the Japanese initiated
25 and waged at Pearl Harbor on 7 December 1941?

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1 A Yes

2 Q Before presenting that statement, will you
3 answer some questions bearing upon your previous
4 service, training and experience in the United States
5 Navy?

6 A Yes.

7 Q How long have you been in the service of the
8 United States Navy, particularly in the Pacific area?

9 A Since 1898.

10 Q You graduated from the United States Naval
11 Academy in 1902?

12 A Yes.

13 Q Upon graduation from the Academy you were
14 ordered to the United States Asiatic Fleet and on 29
15 June 1902 you arrived in Manila Bay?

16 A Yes.

17 Q Your answer, Admiral?

18 A Yes.

19 Q And after service in the Philippines and on
20 the North China Coast, you were in Japan from September
21 to December, 1903, and later at Yokohama from February
22 to May, 1904?

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1 A Yes.

2 Q You were at Yokohama in May, 1904, at
3 the time of the outbreak of the Russo-Japanese War
4 and you observed the departure of the Russian Minister,
5 the mobilization of sections of the Japanese army, and
6 saw Japanese news bulletins telling of the Japanese
7 attack on Russian forces off Port Arthur and at
8 Chemulpo?

9 A That is correct.

10 Q You later commanded the USS ASHEVILLE off
11 the Asiatic Coast?

12 A Yes, from September, 1922, to March, 1924.

13 Q You were in command, during part of that time,
14 of the South China Patrol with headquarters at Canton?

15 A Yes, from 5 August 1923 to 15 March 1924.

16 Q You later commanded the USS AUGUSTA in the
17 Pacific area?

18 A Yes, from June 1931 to May, 1933.

19 Q You were assigned to the United States Naval
20 War College for duty under instruction in 1933 and 1934?

21 A Yes; yes.

22 Q At the War College you made a special study of
23 Japanese political policy and naval strategy?

24 A That is correct.

25 Q And, as part of that course, did you prepare

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1 and submit a thesis on the subject: "The Relationship
2 between Japanese Policy and Strategy in the Chinese
3 and Russian Wars, and its Lessons to Us?"

4 A That is correct.

5 Q Was this subject assigned to you or did you
6 select it because of your interest in Japanese political
7 policy and naval strategy as aroused by your observations
8 and strengthened by your study over a period of many
9 years?

10 A I selected that subject for special study
11 and report because of my interest in the subject.

12 Q And in this thesis or report on that subject
13 you worked out and stated your conclusions as they
14 were at that time?

15 A Yes, I wrote out my conclusions as they were
16 at that time.

17 Q You were again at sea in the Pacific from
18 1935 to 1937?

19 A Yes.

20 Q During these years you were successively
21 Commander of a Cruiser Division, later Chief of Staff,
22 United States Fleet, and later Commander of the
23 destroyers of the scouting force?

24 A Yes.

25 Q Will you state the five senior positions in

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1 in the command of the United States Navy?

2 A Of course, the President of the United States,
3 as the head of our nation is made by the United States
4 Constitution the Commander-in-Chief of the Army and
5 Navy. Under the President as head of the Naval estab-
6 lishment, is a civilian Cabinet officer, the Secretary
7 of the Navy. These two civilian officials and their
8 civilian associates are responsible for the determin-
9 ation of the policy of the United States.

10 Next, as principal naval advisor to the Presi-
11 dent and to the Secretary of the Navy, is the Chief
12 of Naval Operations who, as the commanding head of the
13 Navy is responsible for the execution of the naval
14 policy determined by higher authorities. Next in
15 command at that time was the Commander-in-Chief, United
16 States Fleet; and next in command under him was Commander,
17 Battle Force, United States Fleet, who commanded the
18 heavier ships of the fleet.

19 Q When did you serve as Assistant Chief of Naval
20 Operations?

21 A From June, 1937, to June, 1938.

22 Q In connection with your official naval duties
23 at that time, and particularly at the time of the
24 sinking of the USS PANAY on 12 December 1937, were you
25 in close touch with the activities of Japan in China?

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1 MR. LOGAN: If the Tribunal please, I recognize
2 that these are preliminary questions, but I think we
3 are reaching a stage now if Captain Richardson intends
4 to ask any more questions with regard to the Admiral's
5 activities they should not be put in leading form
6 and conclusions.

7 THE PRESIDENT: I gave the Admiral permission
8 to put the whole of his statement in writing, acting
9 on behalf of the Tribunal.

10 CAPTAIN ROBINSON: These are preliminary
11 introductory questions, sir. I have just one or two
12 more.

13 B. CAPTAIN ROBINSON (Continued):

14 Q From 1938 to 1939 you were Chief of the Bureau
15 of Navigation, now the Bureau of Naval Personnel?

16 A Yes.

17 Q When were you Commander, Battle Force, United
18 States Fleet?

19 A In 1939 and 1940.

20 Q Were you Commander-in-Chief of the United
21 States Fleet?

22 A Yes.

23 Q When were you Commander-in-Chief of the United
24 States Fleet?

25 A From January, 1940, until 1 February 1941.

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1 Q During what part of that period was the United
2 States Fleet based at Pearl Harbor?

3 A From late April, 1940, until 1 February 1941.

4 Q Since 1 February 1941 have you had any naval
5 command responsibilities or any other official responsi-
6 bilities in connection with the relations of the United
7 States with Japan, either before or during the war?

8 A None whatever.

9 Q Will you please state the authority under
10 which you have been designated to appear as a witness
11 before this Tribunal and will you now present the state-
12 ment which you have prepared in compliance with that
13 designation?

14 MR. LOGAN: If the Tribunal please, the
15 objections of the defense to this statement and its
16 use have been fully made heretofore in Chambers. At
17 this time we merely wish to renew the objections made
18 and the reasons therefor at that time.

19 THE PRESIDENT: The objection is overruled.

20 CAPTAIN ROBINSON: I should like to say, your
21 Honor, in that connection that in accordance with the
22 Court's direction the prosecution delivered to members
23 of defense counsel on 6 September 1946, two and a half
24 months ago, copies of the statement to some five members
25 of defense counsel, and on 6 November the prosecution

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1 left copies with the rest of the defense counsel in
2 accordance with the Court's order.

3 Now, may it please the Court, I produce the
4 witness' statement, IPS document No. 6257, and ask
5 that the clerk give it an exhibit number for identi-
6 fication only. After the witness has testified, I shall
7 then present the statement in evidence, modified to
8 agree with the oral presentation of the witness.

9 CLERK OF THE COURT: Prosecution's document
10 No. 6257 will receive exhibit No. 1249 for identification
11 only.

12 (Whereupon, the document above referred
13 to was marked prosecution's exhibit No. 1249 for
14 identification.)

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THE PRESIDENT: Mr. Brannon.

MR. BRANNON: The question troubling me at the moment, Mr. President, is the degree of expertness of this witness in relation to the subject matter of his affidavit. I realize that he must give his testimony before the Tribunal is able to decide whether he is the type of expert that should have reached the conclusions contained therein. Since we have heard the qualifying statements of the witness, may I respectfully request that the Tribunal rule as to the type of expert they consider the witness to be immediately upon the conclusion of his testimony?

THE PRESIDENT: The question as to the stage at which we should decide upon the expertness or otherwise of a witness has been already discussed. I have British and American authorities which I shall produce if necessary to the effect that the expertness of the witness could be determined at this stage before he gives his evidence, but I think you had better allow him to proceed and I can discuss the matter with my colleagues. We have a discretion in the matter. My reading of the law is that the Court has a discretion to determine the expertness of the witness as a preliminary matter or to leave

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1 it until after his evidence is given. In my own
2 court in Australia we determine it as a preliminary
3 matter. I understand in New Zealand it is otherwise,
4 and perhaps the practice in other courts represented
5 here or other countries represented here differs.

6 CAPTAIN ROBINSON: The witness will please
7 proceed.

8 THE WITNESS: In order to avoid any mis-
9 understanding, I wish to stress the fact that I am
10 testifying neither as an expert witness, stating
11 opinions, nor as a witness stating facts within his
12 own knowledge, but I am simply presenting information
13 contained in official records of the Navy Department
14 of the United States on this one subject, namely, the
15 plans and preparations made by the Japanese navy
16 leading up to naval hostilities which the Japanese
17 initiated and waged at Pearl Harbor on 7 December
18 1941. Because of the foregoing reasons and to avoid
19 any possible contention that a few words in my pre-
20 pared statement are statements of opinion, I shall
21 omit those few words from my oral testimony, as I
22 shall indicate at the appropriate place in presenting
23 that testimony. (Reading)

24 "1. In response to the request of the Supreme
25 Commander for the Allied Powers, dated 31 May 1946,

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1 the Secretary of the Navy on 25 July 1946 designated
2 me to appear as a witness before this Tribunal to
3 present information in regard to documents in the
4 custody of the Navy Department bearing on one subject
5 only.

6 "2. I proceeded to consult official naval re-
7 ports, records and documents made or kept by officers
8 acting in the course of official duties and in ac-
9 cordance with established naval procedure in in-
10 vestigating, recording and reporting facts which are
11 matters of concern to the United States. This statement,
12 as I have stated, "is a report to this Tribunal of my
13 investigation of those records which bear upon the
14 subject of the plans and preparations made by the
15 Japanese Navy leading up to the naval hostilities
16 which Japan initiated and waged on and after 7
17 December 1941. This subject will be presented under
18 four headings, as follows:

19 "(1) The plans and preparations concerned with
20 naval construction, particularly construction of air-
21 craft carriers.

22 "(2) The plans and preparations concerned with
23 the establishment of naval bases and the erection of
24 fortifications in the Mandated Islands.

25 "(3) The plans and preparations concerned with

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1 consular espionage as an aid to naval attack.

2 "(4) The plans and preparations for secret
3 attack by Japanese aircraft carrier task force upon
4 the United States naval personnel and ships at Pearl
5 Harbor, Hawaii, on 7 December 1941, without notifica-
6 tion having been given by Japan to the United States
7 that there would be a commencement of hostilities in
8 a war by Japan against the United States."

9 In the last statement I have omitted the
10 words which appear in my prepared statement, namely:
11 "by a previous, explicit and reasoned warning."

12 (Reading):

13 "I

14 "The plans and preparations concerned with
15 naval construction, particularly construction of
16 aircraft carriers.

17 "The aircraft carrier was recognized as early
18 as 1934 by the Japanese naval leaders, Admiral
19 Isoroku YAMAMOTO and Admiral Osami NAGANO to be the
20 best type of naval arm for expansion and aggression.
21 This is shown by the following records of statements
22 made by them."

23 CAPTAIN ROBINSON: If the Court please, at
24 this point I offer in evidence IFS document No. 6250.
25 It is entitled "Memorandum of Conversations between

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1 the American and Japanese Delegations, October 29,
2 1934, at Claridges." The certificate attached shows
3 that the document is part of the official records of
4 the Navy Department, dealing with the London Naval
5 Conference of 1935. The sentence to be quoted is at
6 the middle of page 3. I offer the document in evi-
7 dence.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 6250 will receive exhibit number 1250.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution's exhibit
13 No. 1250 and received in evidence.)

14 CAPTAIN ROBINSON: The witness will now con-
15 tinue at paragraph 4.

16 THE WITNESS: (heading)

17 "4. This official Japanese position that air-
18 craft carriers were essentially what they called
19 'offensive' or aggressive naval arms was stated by
20 Admiral YAMAMOTO and by Admiral NAGANO at meetings
21 connected with the London Naval Conference of 1935.
22 YAMAMOTO, who, seven years later, was to be the
23 Commander-in-Chief of the Japanese Combined Fleet in
24 the Pearl Harbor aircraft carrier attack, took the
25 position at a meeting of the American and Japanese

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1 delegations on 29 October 1934 that Japan should
2 not be suspected of having aggressive designs in the
3 Far East. In supporting this position, YAMAMOTO said
4 that the Japanese, in fact, were willing to abolish
5 aircraft carriers -- upon terms which the Japanese would
6 consider satisfactory to themselves -- whereas, he
7 said, 'If they (the Japanese) had aggressive designs
8 in the Far East, nothing would be more useful than the
9 retention of aircraft carriers.'

10 "5. Admiral NAGANO, the leader of the Japanese
11 delegation in the London Conference, who was soon to
12 become Japanese Navy Minister and later, at the time
13 of the Pearl Harbor aircraft carrier attack, to be
14 the Chief of the Japanese Naval General Staff,
15 speaking at an official session of the London Con-
16 ference on 15 January 1936, stated again the Japanese
17 view that aircraft carriers were the principal type
18 of aggressive naval arms. NAGANO said, "as shown
19 in the middle of page 3 of the exhibit just intro-
20 duced, "In order to establish as complete a state
21 of non-aggression and non-menace as possible, we
22 advocate*****the abolition of aircraft carriers,
23 and a drastic reduction in capital ships and "A"
24 Class cruisers."
25

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1 CAPTAIN ROBINSON: Now, if the Court please,
2 I present IFS document No. 6251. It is a book en-
3 titled, "The Department of State Conference Series
4 No. 24. THE LONDON NAVAL CONFERENCE 1935.

5 I request that the Clerk give this document
6 a court exhibit number for identification only.

7 CLERK OF THE COURT: Prosecution's document
8 No. 6251 will receive exhibit No. 1251, for identi-
9 fication only.

10 ("Whereupon, the document above men-
11 tioned was marked prosecution's exhibit
12 No. 1251 for identification.)

13 CAPTAIN ROBINSON: I now offer in evidence
14 IPS document 6251-A, an excerpt from court exhibit
15 1251 marked for identification only. The excerpt
16 consists of four pages. It is presented to show
17 the statement of the accused NAGANO, at the middle
18 of page 3 of the document.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 6251-A will receive exhibit No. 1251-A.

22 ("Whereupon, the document above
23 referred to was marked prosecution's
24 exhibit No. 1251-A and received in evidence.)
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1 CAPTAIN ROBINSON: The witness will please
2 continue at paragraph 5.

3 THE WITNESS:

4 "5. Admiral NAGANO, the leader of the Japanese
5 delegation in the London Conference, who was
6 soon to become Japanese Navy Minister and
7 later, at the time of the Pearl Harbor aircraft
8 carrier attack, to be the Chief of the Japanese
9 Naval General Staff, speaking at an official
10 session of the London Conference on 15 January
11 1936, stated again the Japanese view that air-
12 craft carriers were the principal type of
13 aggressive naval arms. NAGANO said, "as shown
14 in the middle of page 3 of the exhibit just
15 introduced, "'In order to establish as complete
16 a state of non-aggression and non-menace as
17 possible, we advocate****the abolition of
18 aircraft carriers,' and a drastic reduction in
19 capital ships and A class cruisers.
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1 "6. The official naval leadership and the per-
2 sonal cooperation of MAGANO and YAMAMOTO are indi-
3 cated not only by their joint efforts in connection
4 with the London Naval Conference, but also by the
5 fact that MAGANO and YAMAMOTO for a considerable
6 period in 1936-1937 served together as Navy Minister
7 and Vice Minister, respectively, and later, in 1941-
8 1943, as Chief of the Japanese Naval General Staff
9 and Commander-in-Chief of the Combined Fleet, re-
10 spectively, the positions in which they took the
11 lead in working out the plans and in issuing the
12 orders for the Pearl Harbor attack.

13 "7. The records further show that MAGANO and
14 YAMAMOTO and their associates made the construction
15 and use of aircraft carriers a central principle of
16 Japanese naval policy. The execution of this policy
17 involved three steps: first, the abolition of ex-
18 isting treaty limitations on the construction of
19 aircraft carriers, both quantitatively and qualita-
20 tively, and the removal of the treaty barrier to
21 secrecy in naval construction; second, the construc-
22 tion of aircraft carriers and supporting naval units
23 until Japan had carrier supremacy over the United
24 States; and third, the use of an aircraft carrier task
25 force for making a secret, sudden attack to destroy

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1 before the war began the men and ships of the United
2 States Pacific Fleet while the ships were lying at
3 anchor or moorings in Pearl Harbor.

4 "8. The first step, namely the abolition of
5 existing treaty limitations on the construction of
6 aircraft carriers, was carried out under the naval
7 leadership of YAMMOTO and NAGANO as Japanese naval
8 representatives attending the meetings connected
9 with the London Naval Conference. The Washington
10 Treaty of 1922 had limited Japan by ratio to a total
11 carrier tonnage of 81,000 tons. The Japanese repre-
12 sentatives demanded the abolition of the existing
13 treaty limitations on naval construction. The Japan-
14 ese demanded in place of the existing ratio or pro-
15 portional limitations a 'treaty limitation based on
16 what they called 'a common upper limit.' The other
17 nations considered that the adoption of the proposal
18 would result in the abolition of any limitation
19 rather than in the maintenance of any effective limi-
20 tation. None of the other nations agreed with the
21 Japanese demands. The Japanese gave notice on 29
22 December 1934 of their intention to terminate the
23 treaty under its terms to take effect 31 December 1936.
24 On 16 January 1936, led by Admiral NAGANO, the Japan-
25 ese withdrew from the conference, refusing to join

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1 the other nations in the formulation of a new treaty
2 to limit naval construction.

3 "9. Under the provisions of the Washington Treaty
4 of 1922 and the London Treaty of 1930, Japan, the
5 United States and Great Britain had been exchanging
6 reports on their naval construction. When not bound
7 by these treaty provisions because of her termination
8 thereof, Japan, in communications which included
9 letters exchanged in 1938 between Foreign Minister
10 HIROTA and Ambassador Grew, rejected American, British,
11 and French proposals for the reciprocal exchange of
12 information on naval construction. Japan, however,
13 continued to obtain extensive information in regard
14 to naval construction in the United States by methods
15 including consular espionage which will be considered
16 later.

17 "10. As the second step in Japanese naval policy,
18 the Japanese Navy and Government between 1936 and
19 1941 proceeded with an expanded program of aircraft
20 carrier construction. In 1936, Japan had four car-
21 riers, with a tonnage of 68,400 tons. By 7 December
22 1941, however, only five years later, Japan had more
23 than doubled her carrier strength, having ten carriers,
24 with a total tonnage of 178,070 tons."
25

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1 "11. In addition to increases in aircraft
2 carrier construction, Japan, between 1931 and 1941,
3 increased her heavy cruisers from eight in 1931 to
4 eighteen in 1941, destroyers from fifty-two to 102,
5 and submarines from forty-four to seventy-four. Dur-
6 ing the same period, the United States facing increas-
7 ing naval responsibilities in two oceans brought its
8 total number of heavy cruisers from ten to eighteen,
9 the same number as Japan, while the number of des-
10 troyers dropped from 225 to 171, and the number of
11 submarines increased from eighty-one to 112. By way
12 of comparison in aircraft carriers, in the years 1934
13 and 1936, when Admiral YAMAMOTO and Admiral NAGANO,
14 respectively, made the statements at the London
15 Naval Conference as quoted above, the Japanese Navy
16 and the United States Navy each had four aircraft
17 carriers. On 7 December 1941, whereas Japan had ten
18 aircraft carriers, the United States had only six and
19 only three of them were in the Pacific.
20

21 "12. The third and final step in the execu-
22 tion of the Japanese naval policy with regard to the
23 construction and use of aircraft carriers was the use
24 made by Japan of an aircraft carrier task force as
25 the attacking force in the Pearl Harbor attack. The
six carriers which the Japanese sent against Pearl

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1 Harbor, namely, KAGA, AKACI, SORYU, HIPYU, SHOKAKU
2 and ZUIKAKU, were the Japanese Navy's most powerful
3 carriers. They constituted 75% of the Japanese Navy's
4 entire carrier strength, and they sent into the
5 attack 360 planes, constituting possibly 75% of the
6 total Japanese carrier plane strength. The maximum
7 total number of carrier based planes which the United
8 States naval forces could have mustered if the two
9 carriers then in the Hawaiian area, namely the USS
10 LEXINGTON and the USS ENTERPRISE, had been at Pearl
11 Harbor would have been approximately 180. In other
12 words, Japanese naval construction of aircraft car-
13 riers between 1936 and 1941 enabled Japan to sent
14 against the United States Navy's men and ships at
15 Pearl Harbor one of the most powerful task forces
16 ever assembled up to that time, with overwhelming
17 carrier air force supremacy over the naval forces
18 attacked. Moreover, a principal target and objec-
19 tive of the Japanese Navy in making the attack was
20 to destroy the two United States carriers based at
21 Pearl Harbor, and thereby to increase the already
22 predominant Japanese carrier supremacy in the Paci-
23 fic.

24 "13. To summarize, Japanese plans and prep-
25 arations concerned with naval construction between

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1 1931 and 1941 were characterized by the express
2 recognition by NAGANO and YAMAMOTO, leading Japan-
3 ese naval authorities, that aircraft carriers were
4 the principal type of naval construction for con-
5 ducting aggressive naval warfare, and by the term-
6 ination by Japan of existing treaty limitations on
7 the construction of carriers and other naval arms.
8 Japanese naval plans and preparations, moreover,
9 featured the construction of aircraft carriers until
10 in 1941 Japan had attained decisive supremacy over the
11 United States and other nations in aircraft carriers.
12 And finally, as the climax of her naval policy of
13 expansion and aggression, Japan on 7 December 1941,
14 used an aircraft carrier task force to make a sud-
15 den, secret attack designed to annihilate United
16 States naval power in the Pacific before war had
17 actually been declared."

18
19 THE PRESIDENT: At this stage I had better
20 refer to the authorities that I mentioned earlier.
21 Underhill's Criminal Evidence, Fourth Edition, page
22 440, section 236. "Before experts testify their
23 knowledge and experience should ordinarily be
24 inquired into, so that the Court may determine their
25 competency." Similar statements appear in Wharton's
Criminal Evidence, Eleventh Edition, page 1709, and

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1 American Jurisprudence, page '659. Nevertheless,
2 without prejudice the defense could postpone their
3 cross-examination on expertness until after the
4 examination in chief has been given. They may
5 decide to follow that course here. Expertness goes
6 not to admissibility, really, but to weight only,
7 strangely enough. That appears at Underhill, at the
8 page I have stated.

9 We will adjourn now until half past one.

10 (Thereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess,
2 at 1330.

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

5 - - - -

6 JAMES O. RICHARDSON, called as a
7 witness on behalf of the prosecution, resumed
8 the stand and testified as follows:

9 DIRECT EXAMINATION (Continued)

10 THE PRESIDENT: Captain Robinson.

11 CAPTAIN ROBINSON: Now the witness proceed,
12 your Honor?

13 THE PRESIDENT: Yes.

14 THE WITNESS: (Reading)

15 "II

16 "The plans and preparations concerned with
17 the establishment of naval bases and the
18 erection of fortifications in the Mandated
19 Islands.

20 "14. Documentary evidence will now be pre-
21 sented which indicates that the Japanese naval policy
22 with respect to the Mandated Islands was characterized
23 by the same objectives as those with respect to the
24 Japanese naval policy on aircraft carriers, namely,
25 to develop and use them for naval expansion and

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aggression.

1 "15. The execution of this policy like-
2 wise was along the same lines of activity as those
3 which were pursued in the execution of the policy
4 with respect to aircraft carriers, namely, (1) the
5 termination, or in this case, the direct violation
6 of treaty limitations, (2) the construction of fort-
7 ifications and of naval bases in the Islands, and
8 (3) the use of the Islands' fortifications and bases
9 in initiating and waging naval hostilities against
10 the United States and her allies on and after 7 Dec-
11 ember 1941.

12 "16. The treaty and mandate limitations
13 were established (1) by the Treaty of Versailles
14 (1920), (2) by the mandate of the Islands to Japan
15 pursuant to the Treaty and (3) by the Mandates treaty
16 between the United States and Japan (1922). These
17 limitations are stated as follows:
18

19 '...no military or naval bases shall be
20 established or fortifications erected in
21 the territory' of the Mandated Islands.

22 "17. Numerous documents show that the Jap-
23 anese Navy and Government established naval bases in
24 the Mandated Islands, but for the sake of brevity
25 and because of its adequacy, only one of them is

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presented. That document is the Japanese Navy's
Combined Fleet Top Secret Operation Order No. 1.
(IFS Document No. 17)!"

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1 CAPTAIN ROBINSON: Now, if the Court please,
2 I offer in evidence IPS document No. 17, entitled
3 "Combined Fleet Top Secret Operation Orders No. 1,
4 No. 2 and No. 7." To this document is attached the
5 certificate of the appropriate official of the
6 Japanese Government showing that the original document
7 was part of the official files of the Japanese Combined
8 Fleet Headquarters aboard the Battleship Nagato, and
9 part of the official files of the Japanese Navy Minis-
10 try.

11 Also attached is the certificate of Lieutenant
12 Robert I. Cunts. Paragraphs 3 and 4 of this certificate
13 will now be read with the purpose chiefly of indicating
14 the circumstances under which the custody has been
15 obtained of the first and fundamental operational
16 order under which the Japanese Navy prepared for and
17 commenced hostilities in 1941.

18 Paragraphs 3 and 4 of the certificate read
19 as follows:

20 "3. The Japanese cruiser MACHI--"

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecutor's document
23 No. 17 will be marked exhibit No. 1252.

24 (Whereupon, the document above
25 referred to was marked prosecution's exhibit

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1 No. 1252, and was received in evidence.)

2 CAPTAIN ROBINSON: May I proceed, sir, with
3 the certificate? May I proceed reading the certificate?

4 THE PRESIDENT: Yes.

5 CAPTAIN ROBINSON: Yes, sir.

6 (Reading)

7 "3. The Japanese cruiser NACHI was sunk in Manila
8 Bay 5 November 1944 by planes from the USS LEXINGTON.
9 In the latter part of March, 1945, reports by pilots
10 of aircraft attached to the LEXINGTON were used in
11 obtaining a rough fix of the location of the NACHI.
12 A search was made by YF 421 which located and buoyed
13 the wreck. A special party of officers including
14 Lieutenant (jg) Albert Altman, USNR, and myself, was
15 sent as an Intelligence team from the Fleet Intel-
16 ligence Center, Manila, for the purpose of obtaining
17 the ships' papers from the hull of the NACHI. On 2
18 April 1945, which was the third day after the begin-
19 ning of diving operations, salvage divers brought up
20 from the NACHI a bundle wrapped in burlap which they
21 had found in the chertouse of the NACHI. Upon sur-
22 facing, the divers delivered the bundle to Lieutenant
23 Altman and me. We took the bundle to Manila in a
24 crash boat and delivered it to our Intelligence Team
25 Headquarters at 77 Delpan Street, Manila, on the

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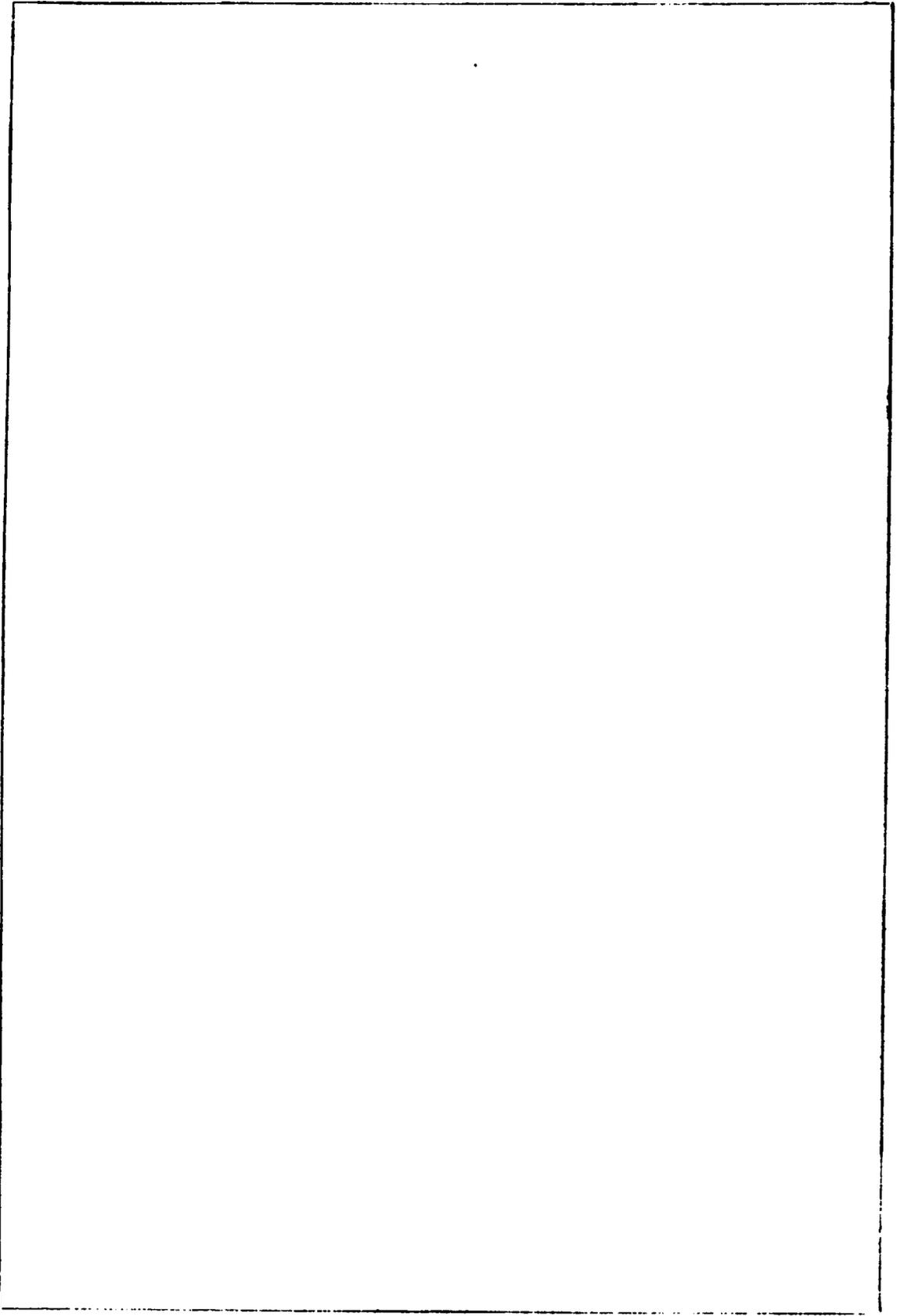
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1 night of 2 April 1945. The bundle was then opened
2 by myself, Lieutenant (jg) Altman, Lieutenant (jg)
3 E. R. Carlson, and Lieutenant (jg) C. W. Mattles.
4 We made a precis of the MCHI documents contained in
5 the bundle. We then stored the documents in mail
6 bags and had them taken to Tolosa by Lieutenant
7 Lawrence F. Webb, USMC. We then transferred the bags
8 to Captain Arthur H. McCollum, USN, the 7th Fleet
9 Intelligence Officer, who caused the documents to be
10 microfilmed because they were in an advanced stage
11 of deterioration resulting from prolonged immersion
12 in salt water. Captain McCollum then forwarded the
13 papers and the copy of the micro-film to Allied
14 Translator and Interpreter Section, S. P. A. (ATIS),
15 Brisbane, Australia, where they were received by
16 Colonel Sidney F. Mashbir for ATIS. He caused trans-
17 lations from Japanese to English to be made of all
18 of the MCHI documents. The ATIS translations were
19 published as Limited Distribution Translation 39,
20 Parts I to XII, of which Part VIII includes Combined
21 Fleet Top Secret Operation Order No. 1 and Order No.
22 2.
23
24 "ATIS then (in July, 1945) forwarded the
25 papers and the micro-film to the Office Of Naval In-
telligence, Navy Department, Washington, J. C., where

1 I received them into my custody. The documents and
2 micro-film remained in my custody until April, 1946,
3 when they came into the custody of the Washington
4 Document Center, in charge of Captain Fanson Fullin-
5 wider, Stuart Building, Washington, D. C., where
6 they are now kept."

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1 The court exhibit number is what, Mr. Clerk?
2 CLERK OF THE COURT: 1252.

3 CAPTAIN ROBINSON: The witness will
4 please continue.

5 THE WITNESS: (Reading) "18. Admiral
6 YAMAMOTO, as Commander-in-Chief Combined Fleet,
7 issued this order from his flagship, the NAGATO, on
8 5 November 1941. That is indicated by page 2/1 of the
9 document just introduced.

10 "It was an order that 'Combined Fleet
11 Operations in the war against the United States,
12 Great Britain, and the Netherlands will be con-
13 ducted in accordance with the separate volume.'
14 The separate volume, in 151 pages of text, tables
15 and charts, outlines operations for a war beginning
16 with the attack on Pearl Harbor (shown on pages
17 2/17 and 2/18). It provides for preparations for
18 war, communications, supply, allocation of forces
19 and other details.

20 "19. The Mandated Islands appear in many
21 places in this order. At page 2/67 the order
22 establishes an allotment of supply bases. The
23 supply bases allotted to the South Seas Force
24 and the Advanced Expeditionary Force are the
25 following Mandated Islands: SAIPAN, KWAJALEIN,

1 WOTJE, JALUIT, TAROA, TRUK, FONAPE, and PALLAU.

2 These eight bases constitute more than half of
3 the total number of naval supply bases thus
4 allotted, namely a total of fifteen.

5 "20. At pages 2/76 to 2/78 is an Appended
6 Table 1, giving initial fuel allowances for supply
7 bases. The boiler oil allowance to five of the
8 eight Mandated Island bases totals 46,500 metric
9 tons. Likewise allotted to the Mandate bases
10 are great quantities of aviation fuel, bombs,
11 machine gun ammunition, torpedoes and mines.
12 Rations are allotted for 36,000 persons per
13 month at the eight Mandate bases. Large monthly
14 replenishment allowances are tabulated at pages
15 2/91 to 2/94. Aircraft material for the South
16 Seas area is to be replenished at TRUK, and sub-
17 marine material at KWAJALEIN.

18 "21. No doubt Order No. 1 is accurate
19 in applying the term 'bases' to these Mandate
20 installations. The materials, the quantities
21 and the areas involved indicate that these naval
22 bases and their equipment for storage, transport,
23 communications, and guns and ammunition had been
24 established on a large scale and over a considerable
25 period of time. Other documents on this point are

1 available for presentation or examination.

2 "22. The Mandated Islands appear in
3 Order No. 1 also in tables of allocations of
4 forces (pages 2/104, 105, 106). The South Seas
5 Force, centering about the 4th Fleet (commonly
6 called the Mandates Fleet) is allocated for
7 rendezvous the South Seas or Mandated Islands.
8 Operating from these bases it is ordered to aid
9 in covering the withdrawal of the Pearl Harbor
10 striking force, to attack Wake and Guam as quickly
11 as possible, and to cooperate with the striking
12 force in the occupation of strategic areas.
13 Also based in the Mandates is the Commerce Destruction
14 Unit, apparently submarines assigned by the
15 Order to destroy sea traffic. Japanese submarines
16 of the 6th Fleet and of other fleets regularly
17 used bases in the Mandates. Submarines en route
18 from Japan to Pearl Harbor rendezvoused at Kwajalein.

19 "23. It is clear, therefore, that the
20 Japanese Navy before 7 December 1941 had estab-
21 lished naval bases in the Mandated Islands.

22 "24. Likewise many other documents show
23 that the Japanese Navy and Government erected fort-
24 ifications in the Mandated Islands. For brevity
25 only one set consisting of three documents is pre-

1 sented here. Two of these documents (IPS Documents
2 No. 6254-A and No. 6254-B) are aerial reconnaissance
3 photographs of WOTJE Island taken by United States
4 Navy photographic intelligence units in January
5 1942, less than two months after war began. The
6 third document (IPS Document No. 6254-C) is a Jap-
7 anese blueprint map of WOTJE dated 10 November 1940
8 captured by American forces landing at Kwejalein
9 in February 1944."

10 CAPTAIN ROBINSON: I believe that was
11 10 August, was it not?

12 THE WITNESS: 10 August.

13 CAPTAIN ROBINSON: 10 August 1940.

14 THE WITNESS: 10 August 1940.
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DIRECT

1 CAPTAIN ROBINSON: I now offer in evidence,
2 if the Court please, IPS document No. 6254-A, 6254-B,
3 and 6254-C, the two photographs and the blueprint map
4 of Wotje Island.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's documents
7 No. 6254-A, 6254-B and 6254-C will be given exhibit
8 No. 1253: 6254-A, 1253-A; 6254-B, 1253-B; and 6254-C,
9 1253-C.

10 (Whereupon, the documents above
11 referred to were marked prosecution's exhibits
12 No. 1253-A, 1253-B, and 1253-C, respectively,
13 and were received in evidence.)

14 CAPTAIN ROBINSON: The witness will now proceed.

15 THE WITNESS: (Reading)

16 "25. An examination of these photographs shows
17 that WOTJE, before 31 January 1942, had been fortified
18 and equipped as a combination of a island fortress and
19 a naval base. The blueprint map shows that before 10
20 August 1940 the Japanese Navy and Government had al-
21 ready created extensive fortifications. The magnitude
22 of the Japanese naval installations at WOTJE is indi-
23 cated by the tables of numbered items attached to
24 each document.

25 "26. The photograph C-23, WOTJE Island, North End,

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1 (IFS Document No. 6254-A) shows the center of the
2 Island to be covered by two intersecting paved air-
3 field runways, each 300 feet wide, one more than a
4 mile long (5700 feet). the other 3000 feet long,
5 and suitable for large land-based bombers as well
6 as lesser aircraft. Two (or three) large hangars and
7 two large, shop-type buildings are seen west of the
8 runways. North of these hangars is a large seaplane
9 ramp, with a hangar 150 feet wide by perhaps 300
10 feet long suitable for the largest seaplanes.

11 "27. Many gun positions are seen, including a
12 northern and a southern 3-gun Dual Purpose Anti-Air-
13 craft and Coast Defense Battery each with adjacent
14 power plant, munitions storage, command post and
15 barracks area. The guns are probably 5-inch or 6-
16 inch guns. Numerous blockhouses are observed along
17 the shore in the photographs and map.

18 "28. Storage tanks for heavy oil and structures
19 for ammunition storage are indicated on the Japanese
20 map by lettering and also on the photographs by
21 clouds of black smoke showing where U. S. Navy avia-
22 tors have located the tanks and ammunition storages.

23 "29. Trenches, pillboxes, machine gun emplacements,
24 wire entanglements, a connecting system of roads,
25 plus a total of more than fifty buildings are also

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1 to be observed on the photographs and map.

2 "30. In photograph C-22 (IPS Document No. 6254-B)
3 are shown the large, two-story radio transmitter
4 buildings, flanked by three radio towers, and by
5 other buildings and tanks.

6 "31. The total volume of installations on "OTJE,
7 as shown by this Japanese map dated 10 August 1940
8 and by these aerial photographs dated 31 January 1942,
9 is sufficient to show that the Japanese Navy and
10 Government had been engaged in establishing the
11 bases and erecting the fortifications at least prior
12 to the middle of 1940 and perhaps at least during
13 the entire year 1940 as well as 1941. I am informed
14 that additional evidence on this point has been intro-
15 duced in another section of this case in the form of
16 statements from residents of the Islands who worked
17 on the construction at "OTJE for the Japanese.

18 "32. It appears that the documents prepared by
19 the Japanese Navy, namely Combined Fleet Top Secret
20 Operation Order No. 1 and the Map of "OTJE, are suf-
21 ficient to show that the Japanese Navy and Government
22 before 7 December 1941 established naval bases and
23 erected fortifications on these islands."
24
25

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"III

1
2 "The plans and preparations concerned with
3 consular espionage as an aid to naval attack.

4 "33. Numerous documents and records show that
5 the Japanese Navy and Government, particularly the
6 Foreign Office, between 1931 and 1941, were engaged
7 in a policy of surveillance, reconnaissance and
8 espionage with respect to the naval establishment and
9 activities of the United States Navy and Government.

10 "34. The United States Naval Court of
11 Inquiry on the Pearl Harbor Attack stated, in its
12 findings of fact, that Japan's espionage system utilized
13 her civilian, consular and diplomatic nationals through-
14 out the world and enabled her to keep constantly informed
15 of the United States naval building program and of the
16 location and movements of United States naval vessels.

17 "35. An extensive continuous espionage was
18 conducted under the direction of the Japanese Navy and
19 Government, particularly the Foreign Office, at Honolulu,
20 through Consul General Nagao KITA and his 200 consular
21 agents scattered throughout the Islands.

22 "36. Documents which show the nature and
23 extent of this espionage and particularly its heavy
24 contribution to the Pearl Harbor attack, will now be
25 presented. These documents are authenticated copies of

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1 some of the messages exchanged between the Japanese
2 Consul General's office at Honolulu and the Japanese
3 Navy and Foreign Office at Tokyo. They were coded
4 messages sent via commercial communication companies."

5 CAPTAIN ROBINSON: I present to the clerk
6 IPS document No. 6255. It is a book entitled, "Japanese
7 Messages Concerning Military Installations, Ship Move-
8 ments, Etc." The book is accompanied by the certificate
9 of the naval officer who assisted in preparing it and
10 in introducing it in evidence in the hearings of the
11 Joint Congressional Committee on the Investigation of
12 the Japanese Attack on Pearl Harbor, Congress of the
13 United States. I request the Clerk to give this book
14 a Court exhibit number for identification only.

15 CLERK OF THE COURT: Prosecution's document
16 No. 6255 will receive exhibit No. 1254 for identification
17 only.

18 (Whereupon, the document above
19 mentioned was marked prosecution's exhibit
20 No. 1254 for identification.)

21 CAPTAIN ROBINSON: I now offer in evidence
22 IPS document No. 6255-A, an excerpt from Court exhibit
23 No. 1254 marked for identification only. This excerpt,
24 like the other messages which will be introduced, is
25 accompanied by the certificates of source and authenticity

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1 signed by the appropriate American and Japanese
2 officials, including the former Japanese Consul
3 General at Honolulu, KITA. I now offer the document in
4 evidence.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 6255-A will receive exhibit No. 1254-A.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 1254-A and received in evidence.)

11 CAPTAIN ROBINSON: Will the witness please
12 proceed.

13 THE WITNESS: (Reading)

14 "In order that the messages may be understood
15 in their references to places and areas at Pearl Harbor,
16 a chart of Pearl Harbor has been prepared and will now
17 be offered."

18 CAPTAIN ROBINSON: I now offer in evidence
19 IPS Document No. 6258. It is entitled: "Sketch Map of
20 Pearl Harbor after the Attack of 7 December 1941.
21 JICPOA D-1071. Showing Areas A,B,C,D, Lochs, and
22 Fatalities in Circles." It is accompanied by certifi-
23 cates of source and authenticity signed by the appropriate
24 officials.

25 THE PRESIDENT: Admitted on the usual terms.

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1 CLERK OF THE COURT: Prosecution's document
2 No. 6258 will receive exhibit No. 1255.

3 (Whereupon, the document above
4 referred to was marked prosecution's exhibit
5 No. 1255 and received in evidence.)

6 CAPTAIN ROBINSON: If the Court please,
7 enlargements based on this exhibit have been prepared
8 as wall maps for the convenience of the Tribunal and
9 others participating here, and, if it please the Tribunal,
10 the court attendants will now roll these wall maps into
11 place.

12 The map on the right, that is the Court's
13 right or north wall space, is practically an exact
14 duplicate of the hand map, IPS document No. 6258, now
15 Court exhibit No. 1255. The other wall map represents
16 a larger area. The certificates attached to the hand
17 map also show the source and authenticity of the wall
18 maps.

19 Will the witness please continue with the
20 reading.

21 THE WITNESS: (Reading)

22 "The first message (which was just introduced)
23 is from Tokyo, apparently from the Foreign Office
24 because it bears the name of Admiral TOYODA,
25 the Foreign Minister. It reads as follows:

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DIRECT

1 "From: Tokyo (Toyoda)
2 "To: Honolulu
3 "September 24, 1941
4 "#83
5 "Strictly secret.
6 "Henceforth, we would like to have you make
7 reports concerning vessels along the following lines
8 in so far as possible:
9 "1. The waters (of Pearl Harbor) are to
10 be divided roughly into five sub-areas. (We have no
11 objections to your abbreviating as much as you like.)
12 "Area A. Waters between Ford Island and the
13 arsenal.
14 "Area B. Waters adjacent to the Island south
15 and west of Ford Island. (This area is on the opposite
16 side of the Island from Area A.)
17 "Area C. East Loch.
18 "Area D. Middle Loch.
19 "Area E. West Loch and the communicating
20 water routes.
21 "2. With regard to warships and aircraft
22 carriers, we would like to have you report on those at
23 anchor, (these are not so important) tied up at wharves,
24 buoys and in docks. (Designate types and classes
25 briefly. If possible we would like to have you make

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1 mention of the fact when there are two or more vessels
2 along side of same wharf.)"
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1 CAPTAIN ROBINSON: I now offer in evidence
2 IPS document No. 6255-C with the appropriate certificates.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 6255-C will be given exhibit No. 1256.

6 (Whereupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 1256, and was received in evidence.)

9 CAPTAIN ROBINSON: The witness will please
10 continue.

11 THE WITNESS: (Reading) "The next message
12 (just introduced) from Tokyo, apparently is another
13 Foreign Office message as it bears the name of Foreign
14 Minister TOGO. It reads as follows:

15 "From: Tokyo (TOGO). To: Honolulu (RIYOJI).

16 "15 November 1941. #111.

17 "As relations between Japan and the United
18 States are most critical, make your 'ships in harbor
19 report' irregular, but at a rate of twice a week.
20 Although you already are no doubt aware, please take
21 extra care to maintain secrecy."

22 CAPTAIN ROBINSON: I now offer in evidence
23 IPS document No. 6255-D, from the same source.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

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DIRECT

1 No. 6255-D will be given exhibit No. 1257.

2 (Whereupon, the document above
3 referred to was marked prosecution's exhibit
4 No. 1257, and was received in evidence.)

5 THE WITNESS: "The next message (just intro-
6 duced) illustrates the type of information which the
7 Japanese Consul General was sending to Tokyo less than
8 a month before Pearl Harbor. It reads as follows:

9 "From: Honolulu (KITA). To: Tokyo.

10 "November 18, 1941. #222.

11 "1. The warships at anchor in the Harbor
12 on the 15th were as I told you in my #219 on that day.

13 "Area A - A battleship of the Oklahoma class
14 entered and one tanker left port.

15 "Area C - 3 warships of the heavy cruiser
16 class were at anchor.

17 "2. On the 17th the Saratoga was not in
18 the harbor. The carrier, Enterprise, or some other
19 vessel was in Area C. Two heavy cruisers of the Chicago
20 class, one of the Pensacola class were tied up at
21 Docks "KS." 4 merchant vessels were at anchor in Area D.

22 "3. At 10:00 a.m. on the morning of the
23 17th, 8 destroyers were observed entering the Harbor.
24 Their course was as follows: In a single file at a
25 distance of 1,000 meters apart at a speed of 3 knots

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1 per hour, they moved into Pearl Harbor. From the
2 entrance of the Harbor through Area B to the buoys in
3 Area C, to which they were moored they changed course
4 5 times each time roughly 30 degrees. The elapsed time
5 was one hour, however, one of these destroyers entered
6 Area A after passing the water reservoir on the
7 Eastern side."

8 CAPTAIN ROBINSON: If the Court please, I
9 now offer in evidence IPS document No. 6255-E, the
10 same source.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 6255-E will receive exhibit No. 1258.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 1258, and was received in evidence.)

17 THE WITNESS: "The next message (just intro-
18 duced) raises three important questions preparatory
19 to the Pearl Harbor attack. It likewise bears the name
20 of Foreign Minister TOGO and thereby indicates close
21 liaison between the Japanese Foreign Office and the
22 Japanese Navy. It reads as follows:

23 "From: Tokyo (TOGO). To: Honolulu.

24 "December 2, 1941. Explanatory Note: (Trans-
25 lated by Army, 30 December 1941).

RICHARDSON

DIRECT

1 "J-19. #123. (Secret outside the department). "

2 I believe that it is an explanatory note.

3 "In view of the present situation, the

4 presence in port of warships, airplane carriers, and

5 cruisers is of utmost importance. Hereafter, to the

6 utmost of your ability, let me know day by day. Wire

7 me in each case whether or not there are any observa-

8 tion balloons above Pearl Harbor or if there are any

9 indications that they will be sent up. Also advise me

10 whether or not the warships are provided with anti-mine

11 nets."

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1 CAPTAIN ROBINSON: If the Court please, I now
2 offer in evidence IPS documents Nos. 6256-A, 6256-B,
3 entitled respectively "Affidavid of Otto Kuehn dated
4 1 Jan. 1942," and Affidavit of Otto Kuehn dated
5 January 3, 1941 (1942). Appropriate certificates are
6 attached.

7 THE PRESIDENT: Mr. Logan.

8 MR. LOGAN: If the Tribunal please, with
9 respect to both of these exhibits, the document which
10 the prosecution is offering is a photostatic copy,
11 is apparently not an original document, and the upper
12 right-hand corner and the lower right-hand corner of
13 page 1 of each of those documents have been cut out.
14 We do not know what was contained in each of these
15 corners nor who cut them out.

16 THE PRESIDENT: That does not render them
17 inadmissible, but it may be made the subject of cross-
18 examination.

19 Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution document
21 No. 6256-A will be given exhibit No. 1259, and document
22 No. 6256-B will be given exhibit No. 1260.

23 (Whereupon, the documents above re-
24 ferred to were marked respectively prosecu-
25 tion's exhibits Nos. 1259 and 1260 and received

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1 in evidence.)

2 CAPTAIN ROBINSON: Witness, will you please
3 continue.

4 THE WITNESS (Reading continued): "On the same
5 day as the date of the preceding Japanese message,
6 namely 2 December 1941, Bernard Julius Otto Kuehn,
7 according to his recorded confession, (IPS document
8 No. 6256-A and B, now prosecution's exhibits Nos.
9 1259 and 1260, respectively) which has been presented
10 in evidence, delivered to Consul-General KITA and his
11 assistants at his office in Honolulu information and
12 documents as requested by the Consul-General. The
13 confession also indicates that Kuehn was paid a con-
14 siderable sum of money, apparently not less than
15 \$10,000, for his services in providing such informa-
16 tion to the Japanese Consul-General and, therefore, in
17 turn to the Japanese Navy and Foreign Office at Tokyo.
18 The information and papers delivered by Kuehn in-
19 cluded full details of United States ships present,
20 with their berthing locations in the harbor, and also
21 a comprehensive code of signals by which such informa-
22 tion could be communicated to Japanese submarines or
23 other Japanese naval units then en route to Pearl
24 Harbor.

25 The Kuehn code, repeated practically verbatim

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RICHARDSON

DIRECT

1 CAPTAIN ROBINSON: If the Court please, I
2 now offer in evidence IPS document No. 6255-F.
3 It is another message -- another excerpt from the
4 original source of these messages marked for identi-
5 fication.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 6255-F will receive exhibit No. 1261.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1261 and received in evidence.)

12 THE WITNESS (Reading continued): " The
13 Lanikai Beach House and Kalama House mentioned in
14 the message were houses occuried by Kuehn, according
15 to his confession. This message (IPS Document No.
16 6255-F, Prosecution Exhibit No. 1261) Japanese
17 Message #245) reads as follows:

18 "From: Honolulu (KITTA)

19 "To: Tokyo

20 "3 December 1941'

21 Explanatory note: "(Translated by Navy
22 11 December 1941) (PA-K2)

23 "#245 (in 2 parts, complete)

24 "(Military secret).

25 "From Ichiro FUJII to the Chief of #3 Section

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of Military Staff Headquarters.

"1 I wish to change my method of communicating by signals to the following:

"1. Arrange the eight signals in three columns as follows:

One is headed "Meaning" and explanation of the signal:

	<u>Meaning</u>		<u>Signal</u>
8	Battleship divisions including scouts and screen units	: Preparing to sortie	: 1
9		:	:
10	A number of carriers	: Preparing to sortie	: 2
11	Battleship divisions	: All departed between 1st and 3rd	: 3
12	Carriers	: Several departed between 1st and 3rd	: 4
13	Carriers	: All departed between 1st and 3rd	: 5
14	Battleship divisions	: Several departed between 4th and 6th	: 6
15	Carriers	: All departed between 4th and 6th	: 7
16	Carriers	: All departed between 4th and 6th	: 8

"2. Signals.

"1 1. Lanikai Beach House will show lights during the night as follows:

		<u>Signal</u>
21	"One light between 8 and 9 p.m.	1
22	" " " " 9 and 10 p.m.	2
23	" " " " 10 and 11 p.m.	3
24	" " " " 11 and 12 p.m.	4
25	"II	
	"Two lights between 12 and 1 a.m.	5
	" " " " 1 and 2 a.m.	6
	" " " " 2 and 3 a.m.	7

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1 (latitude 20°40' N., longitude 156°19' W., visible
2 from seaward to the southeast and southwest of Maui
3 Island) the following signal bonfire will be made daily
4 until your EXEX signal is received:

5	" "	<u>Time</u>	<u>Signal</u>
6		from 7-12	3 or 6
7		from 8-9	4 or 7
8		from 9-10	5 or 8. "

9 That is the end of the message.
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RICHARDSON

CROSS

1 CAPTAIN ROBINSON: We now offer in evidence,
2 if the Court please, IPS document No. 6255-G, which
3 is another message from Honolulu to Tokyo.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution document No.
6 6255-G will receive exhibit No. 1262.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1262 and received in evidence.)

10 THE WITNESS: The message dated 5 December
11 1941 (IPS document No. 6255-G, prosecution exhibit No.
12 1262, Japanese message #252) reads as follows:

13 "'From: Honolulu. To: Tokyo. 5 December 1941
14 (translated by Navy 10 December 1941). PA-K2). 252,

15 "'(1) During Friday morning, the 5th,
16 the three battleships mentioned in my message #239
17 arrived here. They had been at sea for eight days.

18 "'(2) The Lexington and five heavy cruisers
19 left port on the same day.

20 "'(3) The following ships were in port on the
21 afternoon of the 5th:

22 "'8 battleships, 3 light cruisers, 16 de-
23 stroyers.

24 "'Four ships of the Honolulu class and
25 were in dock.'"

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CROSS

End of message.

1 A message of 6 December from Honolulu to
2 Tokyo provides direct information for the 'surprise
3 attack' which the passage mentions, dealing with the
4 important subjects of barrage balloons and torpedo
5 nets.

6 CAPTAIN ROBINSON: We now offer in evidence
7 IPS document No. 6255-H, another Japanese message.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution document
10 No. 6255-H will receive exhibit No. 1263.

11 (Whereupon, the document above re-
12 ferred to was marked prosecution exhibit
13 No. 1263 and received in evidence.)

14 THE WITNESS: This message (IPS document No.
15 4255-H, prosecution's exhibit No. 1263, Japanese message
16 #253) reads as follows:

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1 "From: Honolulu

2 "To: Tokyo

3 "December 6, 1941 (translated by Army 8
December, 1941)

4 "'PA-K2

5 "'#253 Re the last part of your #123.

6 "1. On the American Continent in October
7 the Army began training barrage balloon troops at Camp
8 Davis, North Carolina. Not only have they ordered
9 four or five hundred balloons, but it is understood
10 that they are considering the use of these balloons in
11 the defense of Hawaii and Panama. In so far as Hawaii
12 is concerned, though investigations have been made in
13 the neighborhood of Pearl Harbor, they have not set up
14 mooring equipment, nor have they selected the troops to
15 man them. Furthermore, there is no indication that any
16 training for the maintenance of balloons is being under-
17 taken. At the present time there are no signs of barr-
18 age balloon equipment. In addition, it is difficult
19 to imagine that they have actually any. However, even
20 though they have actually made preparations, because
21 they must control the air over the water and land run-
22 ways of the airports in the vicinity of Pearl Harbor,
23 Hickam, Ford and Ewa, there are limits to the balloon
24 defense of Pearl Harbor. I imagine that in all prob-
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1 ability there is considerable opportunity left to take
2 advantage for a surprisc attack against these places.

3 "12. In my opinion the battleships do not
4 have torpedo nets. The details are not known. I will
5 report the results of my invcstigation."

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1 " "On the eve of the attack, the Japanese
2 Consul-General sent to Tokyo the following message
3 regarding the ships at anchor and lying at docks in
4 Pearl Harbor."

5 CAPTAIN ROBINSON: We now offer in evidence
6 IPS document No. 6255-I, another message.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 6255-I will receive exhibit No. 1264.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 1264 and received in evidence.)

13 THE WITNESS (Reading continued): The
14 message reads as follows:

15 " "From: Honolulu

16 " "To: Tokyo

17 " "December 6, 1941 (translated by Army 8
18 December 1941)

19 " "PA-K2

20 " "#254

21 " "1. On the evening of the 5th, among the
22 battleships which entered port were (blank) and
23 ore submarine tender. The following ships were observed
24 at anchor on the 6th:

25 " "9 battleships, 3 light cruisers, 3 submarine

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DIRECT

1 tenders, 17 destroyers, and in addition there were
2 4 light cruisers, 2 destroyers lying at docks (the
3 heavy cruisers and airplane carriers have all left.)

4 "12. It appears that no air reconaissance
5 is being conducted by the fleet air arm."

6 End of message.

7 "The documents on Japanese espionage and
8 reconaissance which have been presented have been
9 limited to a few of those dealing with consular
10 espionage in Honolulu, because they show that the
11 activities of the Japanese Navy and Foreign Office
12 in planning and conducting this consular espionage
13 as an aid to the Pearl Harbor attack may be classed
14 with their other activities in preparation for aggressive
15 warfare.

16 "IV

17 "The plans and preparations for secret
18 attack by Japanese carrier task force upon the
19 United States naval personnel and ships at Pearl Harbor,
20 Hawaii, on 7 December 1941, without notification having
21 been given by Japan to the United States that there would
22 be a commencement of hostilities in a war by Japan
23 against the United States."

24 In my oral presentation I have deleted the
25 following words which appear in my prepared statement:

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DIRECT

1 "by a previous, explicit and reasoned warning".

2 "The plans and preparations made by the
3 Japanese Navy with respect to construction of aircraft
4 carriers and of naval bases and fortifications in the
5 Mandated Islands has been presented. Consideration
6 has also been given to Japanese naval plans and
7 preparations concerned with consular espionage as a
8 preparation for surprise naval attack. The consummation
9 of the foregoing plans in delivering the attack on
10 Pearl Harbor by the use of the aircraft carriers, of
11 the fortified Island bases and of the espionage re-
12 ports will now be presented.

13 "The attack will be considered with respect
14 to (1) its objectives, (2) its plan and (3) its
15 execution.

16 "The documents used in this analysis of the
17 attack will be principally (1) the Japanese Combined
18 Fleet Tor Secret Operation Order No. 1 (IPS Document
19 No. 17)," now Court Exhibit No. 1252, "(2) Allied
20 Translator and Interpreter Section, Supreme Commander
21 for the Allied Powers Research Report No. 131, Date
22 1 December 1945, entitled Japan's Decision to Fight
23 (IPS Document No. 1628)," now Court Exhibit No. 809;
24 "and (3) Research Report No. 132, from the same source,
25 hereinafter referred to as ATIS, entitled The Pearl

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DIRECT

1 Harbor Operation (IPS Document No. 1627)."

2 CAPTAIN ROBINSON: Which we now offer in
3 evidence, if the Court please. It is entitled Allied
4 Translator and Interpreter Section, Supreme Commander
5 for the Allied Powers, Research Report No. 132, dated
6 1 December 1945, the Pearl Harbor Operation. This
7 document is published by command of the Supreme
8 Commander for the Allied Powers. It is duly authenti-
9 cated by the Chief of Staff and by the Assistant Chief
10 of Staff G-2 General Headquarters, Supreme Commander
11 for the Allied Powers.

12 MR. LOGAN: If the Tribunal please, we
13 have previously objected to a similar document to
14 this one on the ground that it has been issued from the
15 headquarters of the Supreme Commander who is the
16 reviewing authority in this case, and we make the
17 same objection to this document.

18 THE PRESIDENT: We give the same decision as
19 on exhibit No. 809. The objection is overruled. The
20 document is admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 1627 will receive exhibit No. 1265.

23 (Whereupon, the document above re-
24 ferred to was marked prosecution's exhibit
25 No. 1265 and received in evidence.)

RICHARDSON

DIRECT

1 THE WITNESS: (Reading continued) "The
2 objectives of the Pearl Harbor attack have been
3 stated by Admiral MAGANO to be:

4 "(1) rendering impotent the United States
5 Pacific Fleet in order to gain time and maintain
6 freedom of action in the South Seas operation (including
7 the Philippine Islands), and (2) the defense of our man-
8 dated islands." (IPS Document No. 1628, p. 66)" now
9 Court Exhibit No. 809.

10 "The Chief of Staff Combined Fleet, Admiral
11 ITO said:

12 "This Fleet (at Pearl Harbor) will be
13 utterly crushed with one blow at the very beginning
14 of hostilities... If we insure our strategic supremacy
15 at the very outset of the conflict by attacking and
16 seizing all key points at one blow while America is
17 still unprepared, we can swing the scales of later
18 operations in our favor."

19 That is IPS Document No. 1627, which has just
20 been introduced as Court Exhibit No. 1265, pages 7 and
21 8.

22 "In Combined Fleet Top Secret Operation Order
23 No. 1, pages 2/7,8 (IPS Document No. 17)" now Court
24 Exhibit No. 1252, the general objectives of the entire
25 Japanese operations are stated as follows:

1 who knew of the entire plan in advance included
2 NAGANO and YAMAMOTO, and those who knew part of
3 the plan included Admiral SHIMADA, Navy Minister,
4 and Admiral OKA, Chief of the Bureau of Naval
5 Affairs. (Same citation, P. 67) Preparatory
6 to a final formulation of the plan, war games
7 were held at Tokyo on September 2 to 13, 1941, with
8 approximately forty key Japanese Naval officers
9 participating and with NAGANO as the ranking
10 officer in charge acting as umpire. (Same
11 document, pp. 4,5,6).

12 "56. According to Japanese naval officers
13 who took part in the preparation of the plan, among
14 the problems to be solved were how to attack most
15 effectively the United States Pacific Fleet in the
16 Hawaiian area. They stated:

17 "It was decided that a torpedo attack against
18 anchored ships was the most effective method
19 of putting the main strength of the United
20 States Pacific Fleet in the Hawaii area out
21 of action ... Hence, the following two ob-
22 stacles were considered:

23 "(a) The fact that Pearl Harbor is
24 narrow and shallow.

25 "(b) The Fact that Pearl Harbor was

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DIRECT

1 "The plan provided in detail for the organiza-
2 tion of a select Task Force, under the command of
3 Admiral NAGANO and made up of 6 aircraft carriers,
4 supported by 2 battleships, 2 heavy cruisers, 1 light
5 cruiser, 11 destroyers, 3 submarines and 8 tankers.
6 (Same reference, page 83). Additional units included
7 submarines, both regular size and midget submarines
8 manned by specially trained officers. (Same reference,
9 page 78; IPS document No. 1627, pages 17-23, prosecution's
10 exhibit No. 1265). Carrier-borne attack airplanes
11 numbered 360, namely, 135 dive bombing planes, 104
12 horizontal bombing planes, 40 torpedo planes, and 81
13 strafing planes. Targets assigned were principally
14 aircraft carriers, airbases and grounded airplanes,
15 but in execution battleships received special atten-
16 tion because of the absence of carriers. (That is from
17 IPS document No. 1628, prosecution's exhibit No. 809,
18 page 84.)

19 "The plan provided, also, for lesser forces
20 to operate in various areas. (That is IPS document No.
21 17, pages 2/104-6, prosecution's exhibit No. 1252.)"

22 The next paragraph of my prepared statement
23 I have deleted in my oral presentation.

24 "3. The execution of the plan. On 5 November
25 1941, Admiral NAGANO issued an order to Admiral YAMAMOTO
(IPS document No. 1628, page 75, prosecution's exhibit

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DIRECT

1 No. 809) under which YAMAMOTO on the same date (IPS
2 document No. 17, page 2/1, prosecution's exhibit No.
3 1252) issued Combined Fleet Top Secret Operation Order
4 No. 1, putting the plan into effect. On 7 November,
5 YAMAMOTO issued Order No. 2 (same citation, page 2/152)
6 fixing Y-Day for 8 December, in accordance with the
7 provision in the plan for fixing Y-Day, and, later,
8 X-Day (same document, pages 2, 3).

9 "On the same date, 7 November 1941, YAMAMOTO
10 issued from his flagship, the NAGATO, an order which
11 directed the Task Force to assemble at Hitokappu Bay at
12 Etorofu Island in the Kuriles, and to take on supplies
13 until 22 November. (IPS document No. 1628, page 77,
14 prosecution's exhibit No. 809).

15 "On 25 November, YAMAMOTO ordered the Task
16 Force to move out on 26 November and to 'proceed without
17 being detected' to the evening rendezvous point set for
18 3 December. (IPS document No. 1628, page 78, prosecu-
19 tion's exhibit No. 809.)

20 "On 26 November 1941 at 6600 hours the Task
21 Force moved out on its trip of more than 3000 miles
22 to Pearl Harbor. (Same document, page 78).
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RICHARDSON

DIRECT

1 "On 2 December the Task Force under way
2 received a Combined Fleet order stating X-Day will
3 be 8 December (7 December Pearl Harbor time).
4 (same document, p. 78)

5 "On 2 December, Admiral YAMAMOTO from his
6 flagship, the YAMATO, gave the order to proceed with
7 the attack.

8 "On the night of 6-7 December (Pearl Harbor
9 time) the Task Force made the run-in southward at
10 top speed (26 knots).

11 "On the early morning of 7 December (Pearl
12 Harbor time) the carriers, when 230 miles due north
13 of Oahu, launched the planes of the First Attack
14 Unit, at 0130 hours, and when 200 miles north of
15 Oahu launched the planes of the Second Attack Unit
16 at 0245 hours. (IPS Document No. 1628, p.71)
17 The planes rendezvoused to the south of the carriers
18 and then flew in to the attack. Torpedo planes and
19 dive bombers attacked from 7:55 to 8:25 A.M.
20 Horizontal bombers were the principal attackers in
21 an attack lasting from 8:40 to 9:15 A.M. Dive
22 bombers attacked from 9:15 to 9:45, when the raid
23 ended.

24 "The Task Force, after launching its
25 planes withdrew at high speed to the northwest, where
the planes, except for approximately 28, returned to the

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DIRECT

1 carriers, between 10:30 A. M. and 1:30 P. M. The
2 Task Force then proceeded to Kure, arriving on 23
3 December.

4 "The attackers killed 1,999 officers and
5 enlisted men of the U. S. Navy. Rear Admiral Isaac
6 Campbell Kidd, U. S. N., commander of battleship
7 division #1, was killed, presumably in the explosions.
8 aboard his flagship, the USS ARIZONA, where he was
9 last seen in action. All told, the ARIZONA lost 47
10 officers and 1056 enlisted men. (That is from Navy
11 Department, Chief Naval Personnel, Certificate dated
12 15 July 1946). The U. S. Marine Corps suffered casual-
13 ties of 109 killed. (That statement is from Marine
14 Corps Director Personnel Certificate dated 7 May 1946).
15 The U. S. Army lost 234 killed. (That is War Depart-
16 ment Casualty Branch Certificate dated 8 July 1946).
17 Civilians killed in the attack numbered 54. (War
18 Records Bureau, University of Hawaii, Rept. Special
19 Agt. CIC, AFLIDPAC, dated 7 June, 1946)

20 "The United States lost outright 188 planes;
21 Japan, 29. The United States suffered severe damage to, or
22 loss of, 8 battleships, 3 light cruisers, 3 destroyers,
23 and 4 miscellaneous vessels; Japan lost 5 midget sub-
24 marines.

25 "The disproportionate extent of losses marks

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DIRECT

1 the extent to which NAGANO and YAMAMOTO and their
2 associates in the Japanese Navy and Government had
3 succeeded in maintaining secrecy and in attaining sur-
4 prise in their naval plans and preparations between
5 1931 and 1941, reaching on 7 December 1941 the climax
6 of their successful planning and preparing.

7 "By their repeated emphatic warnings in orders
8 and elsewhere that only by complete secrecy and complete
9 surprise could the Pearl Harbor attack succeed, NAGANO
10 and YAMAMOTO and their associates had succeeded in
11 achieving complete secrecy and complete surprise in
12 the Pearl Harbor attack.

13 "I have been unable to find in the records
14 of the United States Government any information regard-
15 ing any Japanese document or communication by which the
16 Japanese Government gave to the United States warning
17 that Japan was about to commence hostilities against
18 the United States" I have deleted from my written
19 prepared statement "previous, explicit and reasoned."
20 "A notice from the Japanese Foreign Office announcing
21 that 'there has arisen a state of war' between Japan and
22 the United States was received in the Office of the
23 Secretary of State at 2:35 A. M. on 10 December 1941,
24 sixty-six hours and forty minutes after the first
25 torpedoes and bombs from the Japanese carrier planes

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1 struck Pearl Harbor."

2 THE PRESIDENT: If the Admiral forgot to
3 mention the exhibit number as well as the prosecution
4 document number in any case, the shorthand reporters
5 are authorized to insert the exhibit number. I think
6 he gave the exhibit number in most, if not all, cases.

7 CAPTAIN ROBINSON: Yes, sir.

8 THE PRESIDENT: We will recess now for fifteen
9 minutes.

10 (Whereupon, at 1445, a recess was
11 taken until 1500, after which the proceedings
12 were resumed as follows:)

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RICHARDSON

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

3 THE PRESIDENT: Captain Robinson.

4 CAPTAIN ROBINSON: If it please the Tribunal,
5 Admiral Richardson's statement was tendered for identi-
6 fication and given exhibit No. 1249 for identification.
7 I now formally tender the statement in evidence,
8 modified to agree with the oral presentation by the
9 witness.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 6257 has been marked exhibit No. 1249 and will
13 retain that number.

14 (Whereupon, prosecution's exhibit
15 No. 1249 was received in evidence.)

16 CAPTAIN ROBINSON: That concludes the direct
17 testimony.

18 THE PRESIDENT: Mr. Brannon.

19
20 CROSS-EXAMINATION

21 BY MR. BRANNON:

22 Q Did I understand correctly that the Supreme
23 Commander requested the Secretary of the Navy to pro-
24 duce a witness to testify as to certain documents in
25 custody of the United States Naval Department?

RICHARDSON

CROSS

1 A That is correct.

2 Q Were you named in that request personally.

3 A The request of the Supreme Commander for the
4 Allied Powers was forwarded through the War Department
5 and he requested the War Department to request the
6 Navy Department to designate a senior officer. My
7 name was not mentioned.

8 Q Then, being a senior officer, you were selected
9 by the Secretary of the Navy, Mr. Forrestal, is that
10 correct?

11 A I was designated for the duty by the Secretary
12 of the Navy, Mr. James Forrestal.

13 Q What were his instructions to you at that time?

14 A I did not see the Secretary of the Navy within
15 two months preceding my first appearance here. I did
16 not see him until a few days before I came for my second
17 visit, and at that time all I told him was that I was
18 returning and he gave me no instructions.

19 Q How did you receive the appointment from the
20 Secretary of the Navy, Admiral?

21 THE PRESIDENT: What is the point of this,
22 Mr. Brannon? I would like to be enlightened.

23 MR. BRANNON: The defense would like to know
24 exactly what the circumstances were that led to the
25 appointment of this particular witness.

RICHARDSON

CROSS

1 THE PRESIDENT: There could be many reasons,
2 none of which would concern us unless they bore on his
3 competency. If you suggest that he is incompetent,
4 well, we will have to determine it. You had better
5 make your grounds clear straightaway.

6 MR. BRANNON: I don't think any American
7 questions the competency of Admiral Richardson. My
8 point is that this is apparently the first affidavit
9 which contains a statement that the Supreme Commander
10 requested a witness to appear.

11 THE PRESIDENT: The request comes from a neutral
12 authority. The Supreme Commander has not indicted
13 these people. He created the Court and gave it its
14 authority but he did not indict any of the accused.
15 He is perfectly neutral. I don't know why you bring
16 his name into it.

17 MR. BRANNON: It is in the first paragraph
18 of the affidavit, Mr. President. We only want to
19 rest assured that the Court is not attaching any
20 special significance to the fact that the request
21 emanated from any such high source.

22 CAPTAIN ROBINSON: If the Court please, the
23 request --

24 THE PRESIDENT: It isn't worthwhile wasting
25 any more time on it.

RICHARDSON

CROSS

1 CAPTAIN ROBINSON: In order that the record
2 may show clearly what the situation is, if the Court
3 please, we would like to say that the request came
4 from International Prosecution Section to the Supreme
5 Commander as the appropriate channels for such request
6 to be transmitted by.

7 THE PRESIDENT: From the defense and through
8 the Supreme Commander, I anticipate that other
9 requests will be made for defense witnesses. I have
10 already indicated that the Supreme Commander's influence
11 or authority may have to be sought for defense witnesses.

12 BY MR. BRANNON (Continued):

13 Q Did you draft this report personally?

14 A A man of my years and experience seldom does
15 the initial spade work. The project is mine; I super-
16 vised its preparation and its final re-write is my own
17 work.

18 Q Did you bring the records to Japan with you
19 which you have mentioned in your report?

20 A I did not personally bring the documents with
21 me. They were in the custody of subordinates of mine
22 who accompanied me in the same plane in which I came
23 to Japan.

24 Q But all of the evidence which you have used
25 here did come from the official naval files, is that so?

RICHARDSON

CROSS

1 A It did. I repeat, it did.

2 Q Earlier today you stated that, and I quote,
3 "I wish to stress the fact that I am testifying neither
4 as an expert witness stating opinions nor as a witness
5 stating facts within his own knowledge."

6 A I did.

7 Q Then am I to understand that any opinion
8 which you have expressed here is not given with the
9 idea that you are an expert on the subject but it is
10 merely a statement of facts as you have found them in
11 naval records?

12 A I made an earnest effort to state facts only
13 and avoid stating opinions. In so far as I know, I
14 succeeded and the facts stated are supported by official
15 documents.

16 Q Page 3, paragraph 3 of your affidavit or
17 report, you make the statement that YAMAMOTO and
18 NAGANO recognized as early as 1934 that the aircraft
19 carrier was the best type of naval arm for expansion
20 and aggression. I do not quote you. Why do you in-
21 clude NAGANO in that remark?

22 A Because of the statements made in one of the
23 documents presented.

24 Q I presume you have reference to 6251 --

25 T I PRESIDENT: Exhibit number please,

RICHARDSON

CROSS

1 Mr. Brannon. 1251 is the exhibit number.

2 Q (Continuing) Exhibit 1251A. As I read that
3 it appears that you have quoted NAGANO as of January 15,
4 1936, not 1934. Am I correct?

5 THE PRESIDENT: Is the date a material consider-
6 ation? So far back?

7 MR. BRANNON: I think every error or misstate-
8 ment in a report as technical as this is important.

9 THE PRESIDENT: You still have to consider
10 the substance only.

11 Q You have used the words "expansion and
12 aggression" on page 3, same paragraph. I will ask you
13 if in any document that you have presented referring
14 to any statement by NAGANO there was any statement made
15 concerning the word "expansion" or that interpretation
16 placed thereon.

17 A In this document the words "non-aggression,"
18 "non-menace" and "offensive armament," "offensive
19 character" are used. I see no use of the word "expen-
20 sion."

21 Q Admiral YAMAMOTO is dead, is he not?

22 A I didn't get that.

23 (Whereupon, the last question was read
24 by the official court reporter as above recorded)

25 A I believe so.

RICHARDSON

CROSS

1 Q I will ask you if the quotation, which you have
2 attributed to Admiral YAMAMOTO on page 4 of your docu-
3 ment, is actually a quotation from the evidence that
4 you have presented. I refer you to page 3 of exhibit
5 1250A.

6 A That is quoted from an official document of
7 the State Department. In the beginning of his state-
8 ment is: "Admiral NAGANO (translation)." In so far
9 as I know it is an exact quotation of what he said.

10 THE PRESIDENT: It isn't all that he said
11 but it is accurate as far as it goes. It appears on
12 page 3 of exhibit 1251 and it does not seem to me to
13 be inconsistent with anything omitted.

14 MR. BRANNON: It is a quotation, Mr. President,
15 of a man now dead, and it isn't a quotation. That is,
16 it is a reporters resume. I believe the witness has
17 not followed me on that.

18 THE WITNESS: You are referring to the state-
19 ment in which it appears presenting the views of
20 Admiral YAMAMOTO. That is correct. That is not and
21 should not appear to be an exact quotation of Admiral
22 YAMAMOTO because it is a copy of the record of the
23 conversations which took place and does not presume
24 to be a direct quotation.
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RICHARDSON

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1 THE PRESIDENT: I understood he was re-
2 ferring to NAGANO.

3 MR. BRANNON: To NAGANO, did you say, Mr.
4 President?

5 THE PRESIDENT: YAMAMOTO is referred to also.
6 Do you want YAMAMOTO's exact words? It may be pain-
7 fully slow to get them from this witness. There
8 may be an exhibit, or you may be able to refer to
9 the exact words.

10 MR. BRANNON: Mr. President, I am referring
11 to more than just words. It appears that this wit-
12 ness has attempted to relate a sequence of events
13 starting with the Japanese attitude at the 1940
14 Sub-London Conference.

15 THE PRESIDENT: Are you suggesting he has
16 wrongfully attributed sentiments to YAMAMOTO and
17 NAGANO? If so, you may question about that from in-
18 formation you possess. I am putting no limit on you
19 in getting the exact words used by YAMAMOTO and
20 NAGANO, Mr. Brannon. I am sure the witness will
21 admit them if he recognizes them, but you haven't
22 put them before him.

23 MR. BRANNON: I am referring to exhibit
24 1250-A.

25 Q I am asking you to compare that with your

RICHARDSON

CROSS

1 statement attributed to YAMAMOTO and to tell me if
2 the only real quotation of YAMAMOTO set out in that
3 exhibit is as follows: (Page 3 of that exhibit, and
4 I quote:) "I consider that the real aim of our
5 proposal goes beyond the setting of a common upper
6 limit. I look upon the spirit of our proposal as
7 being to reduce the menace of war and to make it
8 more difficult to wage war. In technical discussions
9 on the other hand we consider the problem of how to
10 carry on war most advantageously, which is the op-
11 posite of the purpose of our discussions."

12 Is that not the actual quotation appearing
13 in your document, of YAMAMOTO?

14 A The part just read by you was not presented
15 by me. It does appear in the document which was in-
16 troduced and appears in quotation marks.

17 Q Do you recognize that the part of YAMAMOTO's
18 statement that you put in quotes is not actually his
19 quoted statement?

20 THE PRESIDENT: To set your mind at rest,
21 I think I can tell you the Tribunal will disregard
22 quotation marks, but according to exhibit 1250-A,
23 page 4, it is still what YAMAMOTO said, Mr. Brannon.

24 MR. BRANNON: It is a statement of the
25 reporter's resume of what he said, Mr. President,

RICHARDSON

CROSS

1 and since it was not complete, we thought that it
2 did not convey the full meaning of the speaker.

3 THE PRESIDENT: It is that part enclosed
4 on page 3 of 1250-A. We appreciate your point. You
5 need not deal with it further.

6 Q I refer you to page 4 of your report and ask
7 you if NAGANO stated that the aircraft carrier was
8 the principal type of aggressive naval arm exclusively?

9 A He stated, as I stated, they advocated the
10 abolition of aircraft carriers and a drastic reduc-
11 tion in capital ships and "A" Class cruisers, and
12 in a memorandum that was the official opinion of the
13 Japanese Delegation they were classified in order of
14 offensive types, one, aircraft carrier; two, capital
15 ships; three, "A" Class cruisers.

16 Q Then I will ask you if NAGANO did not also
17 advocate abolition of the capital ships other than
18 the aircraft carriers?

19 A I cannot state it in clearer terms than he
20 stated it himself in the part I quoted.

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RICHARDSON

CROSS

1 Q Admiral, I only want to ascertain that you
2 realize that the Navy at that time thought that the
3 battleships and other capital ships were offensive
4 naval arms as well as the aircraft carriers.

5 On page 4 of your affidavit you refer to the
6 official naval leadership and personal cooperation
7 of NAGANO and YAMAMOTO.

8 A That is correct.

9 Q I will ask you if you attribute any special
10 significance to the fact that NAGANO and YAMAMOTO
11 at two different periods represented their country
12 as delegates to the naval conferences?

13 A None except that they were probably con-
14 sidered the best able to present the views of those
15 who selected them.

16 Q You go on to state that NAGANO and
17 YAMAMOTO served together for a considerable period
18 of time as Minister and Vice Minister of Navy,
19 1936 and '37. May I ask you what you mean by the
20 words "considerable period?"

21 A If it will better serve the purpose of the
22 Tribunal I can quote from a Japanese report the
23 exact years in which they served together.

24 Q Will you please do that?

25 A Admiral NAGANO, according to this report,

RICHARDSON

CROSS

1 was Minister of the Navy from March 9, 1936 to
2 February 2, 1937, and Vice Admiral YAMAMOTO was
3 Vice Minister of the Navy from 1 December '36 to
4 30 August '39.

5 Q Is that a considerable period of time, in
6 your estimation?

7 A It is that.

8 THE PRESIDENT: Perhaps he intends to
9 cover 1941 and 1943. I don't know. It does not
10 read that way.

11 MR. BRANNON: It appears from the figures
12 that he gave that is about a period of sixty days.

13 THE PRESIDENT: That is all.

14 MR. BRANNON: Am I correct in that?

15 THE PRESIDENT: You can pass over that.

16 THE WITNESS: That is true.

17 THE PRESIDENT: It is a very short period,
18 in fact.

19 Q Then you do not attach any special sig-
20 nificance to the fact that they served sixty days
21 together, as Minister and Vice Minister of the Navy,
22 do you, sir?

23 A No, but I -- I attach no importance to
24 it whatever, but no officer can rise to be a
25 Minister of the Navy and another at the same time

RICHARDSON

CROSS

1 be Vice Minister, without them having been associ-
2 ated together for a long time.

3 Q Do you not consider that statement slightly
4 misleading, Admiral?

5 A It possibly is to those that are uninformed,
6 but not to anyone who knows the Navy.

7 Q I believe you misunderstand me. I speak of
8 your reference to the phrase "considerable period."

9 Is it, in naval parlance or circles, unusual
10 that two senior officers, such as NAGANO and
11 YAMAMOTO, might end up as Chief of Naval General
12 Staff and Commander in Chief of the combined fleets?

13 THE PRESIDENT: It could happen anywhere,
14 but it did happen in Japan. I don't think there is
15 much in the point, Mr. Brannon.

16 MR. BRANNON: I seek to show that the
17 paragraph here inserted by the witness is of no
18 consequence or meaning when boiled down to the
19 actual factual circumstances.

20 Q On page 6 of your report you use the words
21 "abolition of existing treaty limitations." Is it
22 not a fact that Japan did not abolish the treaty
23 limitations of 1930, but that they expired?

24 A In so far as they were binding on Japan
25 they ceased to have any meaning in accordance with

RICHARDSON

CROSS

1 the terms of the treaty, because of Japan's
2 denunciation of the treaty. Their effectiveness
3 was abolished.

4 Q Did Japan propose a different proposition
5 in regard to naval limitation in 1934, rather than
6 abolish the existing treaty limitations?

7 A As stated by me, she proposed a treaty
8 limitation based on what she called a common upper
9 limit.

10 Q Then there was nothing illegal about the
11 action of Japan in proposing a new treaty limita-
12 tion in place of the old?

13 THE PRESIDENT: We decide questions of law.
14 There wasn't, Mr. Brannon.

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

17 (Whereupon, at 1600, an adjourn-
18 ment was taken until Tuesday, 26 November
19 1946, at 0930.)
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1876

26 NOVEMBER 1941

I N D E X
OF
WITNESSES

<u>Prosecution's Witnesses</u>	<u>Fare</u>
Richardson, James O., Admiral, USN, (Ret) (resumed)	11253
Cross by Mr. Brannon (continued)	11253
" " Mr. McDermott	11296
Re-direct by Captain Robinson, USNR	11300

I N D E X
OF
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1021	1266		Meeting of Investigation Committee of the Privy Council 10 December 1941		11303
1022	1267		Privy Council Meeting Minutes dated 10 December 1941		11305
1632W- (91)	1268		Extract from Entry from Marquis KIDC's Diary dated 16 December 1941		11308
1632W- (92)	1269		Extract from Entry from Marquis KIDC's Diary dated 18 December 1941		11309
1811	1270		A Report of Study Concerning Hostilities on the Outbreak of War	11311	
1811-A	1270-A		Excerpts therefrom		11313

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
4076-A	1271		Report (telegram) by Mr. Ott to Berlin dated 29 January 1942 containing an analysis of Speeches in the Diet at the end of January 1942 by the accused TOJO, TOGO and SUZUKI		11339
4076-B	1272		Statement for the purpose of obtaining decorations on the part of the Germans to be given various high Japanese Governmental Officials		11349

1
2 Tuesday, 26 November, 1946

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4 - - -

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

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

12 - - -

13 Appearances:

14 For the Tribunal, same as before with the
15 exception of the HONORABLE R. B. PAL, Member from
16 India, not sitting.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

19 The Accused:

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

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

RICHARDSON

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

3 THE PRESIDENT: Mr. Brannon.

4 - - - -

5 J A M E S O. R I C H A R D S O N, called as a
6 witness on behalf of the prosecution, resumed
7 the stand and testified as follows:

8 CROSS-EXAMINATION

9 BY MR. BRANNON (Continued):

10 Q I believe we concluded yesterday speaking
11 of the 1936 London Naval Treaty.

12 Do you infer from your statement that the
13 withdrawal of Japan was led by NAGANO that it was
14 anything other than acting under his country's
15 instruction that led him to leave the conference?

16 CAPTAIN ROBINSON: If the Court please, the
17 prosecution objects to that question on the ground
18 that it appears to call for the opinion of the
19 witness.

20 THE PRESIDENT: Well, although their action
21 was perfectly legal in a sense, it may be evidence of
22 steps taken in the course of aggression, and what one
23 person does in pursuance of a conspiracy with others
24 is evidence against all of them. Of course, this
25 witness cannot give opinions of that nature, opinions

RICHARDSON

CROSS

1 as to whether NAGANO was instructed or not. If he
2 knew whether NAGANO was instructed or not, he could
3 tell us; but we know very well that the Admiral is
4 not aware of the instructions NAGANO had unless
5 NAGANO told him.
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RICHARDSON

CROSS

1 MR. BRANNON: Mr. President, along those
2 lines of questions, I have in mind the fact that
3 this witness has so stated the facts as to give
4 further inferences, and any one of these I seek to
5 discover by the type of question I ask; and it is
6 obvious from the facts as the witness has stated them
7 that the entire report is directed primarily against
8 the accused NAGANO.

9 THE PRESIDENT: Well, it deals with the use
10 of aircraft carriers particularly, and I do not see
11 that it is directed against NAGANO exclusively. It
12 is alleged that the attack was the result of a con-
13 spiracy among the accused, or some of them, and, of
14 course, it is offered as evidence against all those
15 who are alleged to have conspired. Where the Admiral
16 has expressed an opinion you may, if you see fit,
17 direct your cross-examination to show that the nature
18 of the subject matter was such that no expert opinion
19 is called for, and that it is for this Court to decide.
20 In view of your statement yesterday we anticipated
21 that you would attack the Admiral's testimony along
22 those lines.

23 Q In comparing the aircraft carrier strength
24 of the United States and Japan what criterion is
25 ordinarily used?

RICHARDSON

CROSS

1 A The criterion laid down by the treaty was
2 the tonnage, defined as treaty tonnage.

3 Q Then do you state that tonnage is the first
4 factor to consider in such a comparison?

5 A I make no such statement. The statement I
6 made was that the basis in the treaty was the treaty
7 tonnage. I used that basis.

8 Q As a Navy man, do you place total tonnage
9 or total number of ships in first place in regard to
10 a comparison of strength?

11 CAPTAIN ROBINSON: If the Court please --

12 THE PRESIDENT: That last question is clearly
13 admissible.

14 A I did not express any opinions in my state-
15 ment. I gave the facts as disclosed by the records of
16 the Navy Department. The figures there were based on
17 treaty tonnage.

18 Q I do not believe that quite answers my last
19 question, Admiral. Will the reporter read that back?

20 (Whereupon, the last question was
21 read by the official court reporter.)

22 A I would place it, under some conditions,
23 on the number of ships, and, under some conditions,
24 on the size of the ships. It depends upon the pur-
25 poses for which the ships are to be used.

RICHARDSON

CROSS

1 Q Well, let us take the attack on Pearl
2 Harbor as a basis for our discussion. Which do you
3 consider more important, the total tonnage or the
4 total number of aircraft carriers?

5 A In that instance it would be the total num-
6 ber of planes that could be put in the air.

7 Q And the size of the ship or its displace-
8 ment is closely and highly coordinated with the num-
9 ber of aircraft that it can carry, is it not?

10 A It should be. It normally is.

11 Q I refer now to prosecution's previous exhibit
12 No. 916.

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

15 Q Do you have that in front of you?

16 A I have.

17 THE PRESIDENT: Is that 916 or 918, Mr. Brannon?

18 MR. BRANNON: 916 in this instance, Mr. Presi-
19 dent. This is a list of the major combatant vessels
20 of Japan between 1931 and 1945. I refer to this par-
21 ticular prosecution exhibit because it is the only one
22 that shows the total tonnage of the various Japanese
23 ships as of December 7, 1941.

24 THE PRESIDENT: We brought the wrong exhibit.
25 We were told to bring 918.

RICHARDSON

CROSS

1 (Thereupon, a document was handed to
2 the President.)

3 MR. BRANNON: I am sorry. I should have
4 mentioned this to the Clerk so that the Court would
5 have copies.

6 Q In the second column, under "Aircraft
7 Carriers," will you read the figure for total tonnage
8 as of December 7, 1941?

9 A 152,970.

10 Q Will you explain your statement of the total
11 tonnage of 178,070 contained on page 8 in reference
12 to this prosecution exhibit?

13 A When this written statement was prepared I
14 relied upon the best information available in the
15 official records of the Navy Department. Those records
16 showed 178,070 tons. May I complete my reply? After
17 the termination of the treaty Japan built three car-
18 riers: the Hosho, the Soryu, and the Taiyo. The
19 Navy Department did not have accurate information as
20 to the displacement of those ships. After this pre-
21 pared statement was delivered to defense counsel I
22 received court exhibit No. 918 and realized that,
23 undoubtedly, the Japanese having absolute information
24 had better information than was available to the Navy
25 Department. The Navy Department did not have the

RICHARDSON

CROSS

1 information contained in court exhibit 916 until I
2 delivered it in person, but inasmuch as the difference
3 was inconsequential from my point of view I did not
4 deem it worthwhile to correct the statement that had
5 already been given to the defense staff.

6 Q Do you not consider 26,000 tons as important
7 in reference to aircraft carriers?

8 A The gist of my statement was contained in
9 the wording, "Only five years later Japan had more
10 than doubled her carrier strength."

11 Q Well, I am anxious for this Court to have
12 as accurate figures on aircraft carriers as possible.
13 Therefore, may I ask you again if 26,000 tons dif-
14 ference in their strength is not relevant?

15 CAPTAIN ROBINSON: If the Court please, it
16 appears that it is unnecessary to seem to argue with
17 the witness. The statement has been made, the ques-
18 tion has been answered, and further questioning ap-
19 pears to the prosecution to be improper.

20 THE PRESIDENT: The witness must not be
21 asked to repeat any answer.

22 MR. BRANNON: I do not believe he answered
23 my question as to whether 26,000 tons was considered
24 relevant, Mr. President?

25 THE PRESIDENT: Answer, please, Admiral.

RICHARDSON

CROSS

1 THE WITNESS: I have stated that in the in-
2 formation now available to me the correct figure is
3 152,970 tons rather than the statement I gave of
4 178,070 tons. May I complete my statement?

5 MR. BRANNON: You may, sir.

6 THE WITNESS: Since I am asked an opinion,
7 my opinion is that the Court is competent to judge the
8 relevancy.

9 THE PRESIDENT: What do you think, Admiral?
10 You may overestimate our capacity.

11 THE WITNESS: I think it is relevant.

12 BY MR. BRANNON (Continued):

13 Q Going on for the moment to your statement,
14 page 8, paragraph 11, concerning Japanese destroyers,
15 wherein you state the figure in 1931 was 52, 1941 was
16 102.

17 A Later information --

18 Q Pardon me, I am not finished. Will you com-
19 pare that with the prosecution's exhibit before you?

20 A Later information, that is, information secured
21 after this statement was prepared and secured from
22 Japanese sources shows that, with respect to destroyers,
23 instead of being 52 in 1931 and 102 in 1941 it should
24 have been 110 in 1931 and 112 in 1941. With respect to
25 submarines, it shows that --

RICHARDSON

CROSS

1 Q Did you want to complete your statement as
2 to submarines? I was going to ask you about that
3 next. It may save time.

4 A With respect to submarines, the figures I gave,
5 based on the best information available to the Navy
6 Department at the time the statement was prepared, were
7 44 in 1931, 74 in 1941. Court exhibit 916 shows that
8 according to Japanese figures there were 67 in 1931
9 and 65 in 1941.

10 Q Do you wish to accept the figures, then, stated
11 in prosecution exhibit before you?

12 A I am quite willing to accept them. The reason
13 I did not accept them when they first came to my atten-
14 tion was the fact that I prepared my statement based
15 on Navy Department records.

16 Q So that we may now modify your paragraph 11
17 to show that there was an increase of two Japanese
18 destroyers over a period of ten years and a decrease
19 of two submarines over the corresponding period; is
20 that correct?

21 CAPTAIN ROBINSON: If the Court please, this
22 witness is here to testify as to what the United
23 States Navy records show. The fact that the Japanese
24 Government has been required to furnish figures which
25 appear to be inconsistent with those which the United
States Navy Department had is merely a tribute to the

RICHARDSON

CROSS

1 secrecy with which Japanese Naval construction was
2 being carried on, and does not indicate comparative
3 reliability of the statistics.

4 THE PRESIDENT: Captain Robinson, you have
5 a right to make objections, but not to get up and
6 make explanations like that. You must leave that to
7 the witness.

8 You may continue, Mr. Brannon.

9 Q In reference to the statement --

10 THE PRESIDENT: Will you repeat the question
11 to the Admiral, please?

12 (Whereupon, the last question was

13 read by the official court reporter.)

14 A I think my statement has already made that
15 correction.

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1 Q Speaking of the American destroyers decreas-
2 ing 225 to 171, does this take into account the lend-
3 ing or the giving of any American destroyers during
4 the early phases of the European War?

5 THE PRESIDENT: Are you asking how much was
6 postwar construction; I mean how much tonnage was con-
7 structed after the war started? Is that what you want
8 to know?

9 MR. BRANNON: My question was very poorly
10 worded, Mr. President. I will try again.

11 Q Did America give to Great Britain, or lend to
12 Great Britain, fifty destroyers which would account
13 for the decrease in the number of destroyers as stated
14 in your report here?

15 A I did not inquire of the Navy Department how
16 their figures were determined. I accepted them as
17 given to me.

18 Q As a matter of your own personal knowledge
19 do you know whether fifty destroyers were given to
20 Great Britain?

21 A If newspapers can be relied upon, that state-
22 ment is correct.

23 Q By use of the word "dropped" in your report,
24 that is, the number of destroyers dropped from 225 to
25 171, may I inquire as to the cause of that drop in

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number?

1 A I did not inquire as to the cause of the
2 change, but I assume that it was in part due to lend-
3 ing fifty destroyers to Great Britain.

4 Q Will you name the American aircraft carriers
5 possessed by the United States on December 7, 1941?

6 A The Ranger, Yorktown, Wasp, Saratoga,
7 Lexington, Enterprise.

8 Q Was there an aircraft carrier known as the
9 Hornet?

10 A There was an aircraft carrier in the Navy
11 known as the Hornet.

12 Q When was that commissioned in service?

13 A The Hornet was commissioned on 20 October
14 1941, but her air group, that is, her airplanes, were
15 not embarked until 23 December 1941.

16 Q In Navy parlance what do you mean by commis-
17 sioned, Admiral?

18 A By commissioning a ship, the personnel go on
19 board, the commission pennant is hoisted, the flag of
20 the United States is hoisted on board, and the crew
21 start preparing her for service.

22 Q Is the ship fully built at that time?

23 A She is fully built except for some minor
24 installations, but not ready for service.
25

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1 Q I may have misunderstood you before, Admiral,
2 but will you please tell me what more need be done to
3 make an aircraft carrier seaworthy after it is
4 commissioned?

5 A In any combatant ship a considerable period
6 must elapse between the time a ship is commissioned
7 and the time when she is ready for service, depending
8 upon the urgency of her need. No aircraft carrier is
9 ready for combatant service until her carrier planes
10 are embarked on board and trained, and, as an example
11 of the use of the naval expression that a ship is in
12 the fleet is when she joins the fleet, the Japanese
13 Shohe was commissioned on the 22nd of December, she
14 wasn't included in the list of Japanese carrier tonnage.

15 Q Then would I be correct in stating that the
16 United States had seven aircraft carriers fully com-
17 pleted in so far as construction was concerned?

18 A You would not be correct if you were talking
19 to an informed audience.

20 Q I seek to show this Tribunal, Mr. Witness,
21 that the United States possessed seven aircraft
22 carriers, six of which were on the sea ready for use,
23 the seventh of which was fully completed but not yet
24 put to sea. I, therefore, ask you how long after it
25 was commissioned did it take to put the Hornet to sea?

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1 A I am not informed on that subject, but if you
2 would correct your statement to eliminate "not yet put
3 to sea" and substitute therefore "not ready for service,"
4 your statement would be correct.

5 Q What length of time elapsed between the com-
6 missioning of the Hornet and the time when it was ready
7 for service?

8 A I have no information on that subject.

9 Q What was the name of the Japanese aircraft
10 carrier you referred to a moment ago?

11 A The Shoho.

12 Q That was commissioned after Pearl Harbor,
13 was it not, and certainly would not be ready for
14 service until a greater length of time had elapsed.
15 Is that not so?

16 A I have already so stated.

17 Q I don't believe you stated that in regard to
18 the Japanese ship.

19 THE PRESIDENT: That applies generally, I take
20 it.

21 A If I failed to state it it was because my
22 language is not very clear.

23 Q I have the same trouble, Admiral. I will ask
24 you what your records show to be the plane carrying
25 capacity of each of the American carriers which you

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1 have named.

2 A Ranger, 82; Yorktown, 72; Wasp, 72; Saratoga,
3 90; Lexington, 90; Enterprise, 90.

4 Q What was the capacity of the Hornet?

5 A I have not that information.

6 Q Was it not a 19,900 ton aircraft carrier?

7 A I am informed that that is correct.

8 Q With that displacement, then, can you estimate
9 the number of aircraft it would carry?

10 A As a pure guess I would say 90.

11 Q Do you have the approximate total number of
12 aircraft carried on the American aircraft ships?

13 A At what time?

14 Q As of December 7, 1941.

15 A The figures I have previously given add up
16 to 496.

17 THE PRESIDENT: It may help the Court to know
18 what was the strength of the Japanese fleet in aircraft
19 carriers and planes as of that time. We have it in
20 evidence somewhere. We have the carriers at all events
21 but we may not have the planes. It would be convenient
22 to have it now.

23 MR. BRAMON: I was seeking to make that com-
24 parison next, Mr. President.

25 THE PRESIDENT: Can you tell us, Admiral?

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1 THE WITNESS: I haven't the faintest idea.

2 Q Do you have the displacement of the various
3 Japanese aircraft carriers as of December 7, 1941?

4 A I have it.

5 Q Starting with the **Hosho**, will you please give
6 me the displacement tonnage?

7 A According to court exhibit 918, Hosho 7470,
8 Akagi 26,900.

9 Q Might I interrupt, Admiral? As you give the
10 displacement, is it not possible for you to give a
11 fairly accurate estimate of the aircraft carriers --
12 the aircraft it could carry thereby?

13 A Since I am only informed as to Japanese
14 naval practice and took no part in the war, any figure
15 I gave would be a pure guess and might, to my embarrass-
16 ment, be an absurd guess.

17 Q I do not seek to embarrass you in any way
18 but can you give me an answer to this question:
19 Approximately what was the strength of the Japanese
20 aircraft carriers as to plane capacity in comparison
21 with the American aircraft carriers capacity of
22 December 7, 1941?

23 A Such information was not made available to me
24 by the Navy Department and I would be unwilling to
25 hazard a guess.

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1 Q At the bottom of page 9 how can you say, then,
2 that the 360 Japanese planes participating in the Pearl
3 Harbor attack constituted probably 75 per cent of the
4 total Japanese carrier plane strength?

5 A The figure 75 per cent is warranted on the
6 size and number of ships involved, and for some slight
7 mistake, slight variation from 75, is taken care of by
8 the weasel-word "probably."

9 Q I think the Court can infer that probably
10 Japan had a strength of five hundred aircraft.

11 THE PRESIDENT: 480. That is in your favor
12 but still that is on the Admiral's statement. 360 plus
13 120.

14 Q I would like to speak a moment of the cruising
15 capacity of the Japanese aircraft carriers in comparison
16 with the American aircraft carriers. Can you tell me
17 approximately the average cruising distance or range
18 of each?

19 A I cannot give any accurate information but
20 I can make the statement that it has been a funda-
21 mental policy of the Navy of the United States to have
22 ships of the maximum cruising radius of any combatant
23 ships in the world.

24 Q Would it have been possible for the American
25 aircraft carriers then in existence on December 7,

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1 1941, to have left Hawaii, touched the coast of Japan,
2 and returned again without refueling?

3 CAPTAIN ROBINSON: If the Court please, the
4 prosecution understands that with respect to state-
5 ments of opinion that question would be objectionable
6 and, therefore, objects.

7 THE PRESIDENT: I thought it clearly allowable,
8 but read it again, Mr. Court Reporter. I may have
9 misunderstood it.

10 (Whereupon, the last question was read by
11 the official court reporter as above recorded.)

12 CAPTAIN ROBINSON: The further objection, sir,
13 is on the ground it is improper cross-examination. In
14 the statement as prepared and presented in this Court
15 we find nothing to which that question would relate.

16 THE PRESIDENT: I take it the American rule
17 is not confined to affidavits but would extend to
18 sworn statements made in the box. Nevertheless, it
19 appears to me to arise out of that sworn statement.
20 The statement as to the Japanese strength is of no
21 value to us unless we know the American. It is purely
22 a comparative matter. The question -- the matter
23 requires expert knowledge.

24 MR. BRANTON: Would you like that read back?
25

A No. The question as to the cruising radius

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1 of a ship depends upon the speed at which she proceeds.
2 Undoubtedly at economical speeds most, if not all, of
3 the carriers of the United States Navy could have
4 proceeded to the coast of Japan and returned, but
5 even if they couldn't have done so the ability to
6 refuel at sea had been so developed that they could
7 have done it twice without a return.

8 THE PRESIDENT: We will recess for fifteen
9 minutes.

10 (Whereupon, at 1045, a recess was
11 taken until 1100, after which the proceedings
12 were resumed as follows:)

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

3 THE PRESIDENT: Mr. Brannon.

4 BY MR. BRANNON (Continued)

5 Q By prosecution exhibit 809, which is document
6 1628, is it not shown that one of the major problems
7 confronting the Japanese task force that attacked
8 Pearl Harbor was refueling?

9 A That is correct.

10 Q Therefore, could we not accurately conclude
11 that the Japanese aircraft carriers were not built or
12 constructed for such long range cruises?

13 A In my opinion, such an assumption is war-
14 ranted.

15 Q Did you say warranted, sir?

16 A Warranted; justified.

17 Q Then is it not possible to conclude that at
18 the time of the construction of the Japanese aircraft
19 carriers Japanese Naval experts did not have in mind
20 striking either Hawaii or the West Coast of the
21 United States?
22

23 THE PRESIDENT: Well, I think we must draw
24 that conclusion, or draw a conclusion from matters
25 like that. That doesn't require any expert knowledge.

MR. BRANNON: In keeping with the inference

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1 of the witness throughout his testimony that Japan
2 constructed aircraft carriers as part of an ag-
3 gressive policy --

4 THE PRESIDENT: Well, that is a matter for
5 argument, Mr. Brannon. The answer may depend, of
6 course, not merely on the Japanese intentions but
7 also on the limits to their technical ability. At
8 all events, they are matters for us.

9 MR. BRANNON: Of course, I must abide by
10 the ruling, Mr. President, but the defense has long
11 looked forward to the appearance of the naval expert
12 who could express an opinion on such a matter.

13 Q Are you acquainted with the United States
14 First, Second and Third Vinson Plans pertaining to
15 ship building?

16 A CAPTAIN ROBINSON: If the Court please,
17 the prosecution objects on the ground that there is
18 nothing in the direct testimony of the witness
19 bearing on that subject. The only basis for the
20 objection -- the substantial basis -- I believe, is
21 time; going into issues that are outside the scope
22 of the witness' direct testimony; therefore, im-
23 proper cross-examination.

24 THE PRESIDENT: Mr. Reporter, will you read
25 that question, please?

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1 (Whereupon, the last question was read
2 by the official court reporter, as follows: "Are
3 you acquainted with the United States First,
4 Second and Third Vinson Plans pertaining to ship
5 building?"

6 THE PRESIDENT: Well, it is very dif-
7 ficult to say what does or does not arise out of a
8 statement as broad as this. The whole point is to
9 show aggression on the part of the Japanese. To gauge
10 that properly we would have to know the strength of
11 the possible opposing fleets in the Pacific and the
12 plans covering them. The Admiral himself describes
13 Pearl Harbor in words to this effect: that "it was
14 the culminating point in Japanese aggression."

15 The American rule that we are applying is
16 one with which I am not completely familiar, although
17 I have to apply it. On this point I shall take the
18 views of my colleagues, because I am not so clear
19 that I feel I can speak on their account without
20 consulting them.

21 (Whereupon, the President conferred
22 with Members on the Bench.)

23 THE PRESIDENT: The majority of the Court
24 thinks the question is allowable.

25 A I am not thoroughly familiar with the

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1 various Vinson proposals and plans for the increase
2 of the navy.

3 Q Are you acquainted with the so-called Stark
4 Plan?

5 A I never heard of the plan until this minute,
6 but I would be pleased to give you any information
7 within my knowledge.

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1 Q Under the First, Second and Third Vinson
2 Plans generally was it not the objective to increase
3 the naval strength of the United States?

4 A It was. If my recollection serves me cor-
5 rectly, the First Vinson Plan visualized an increase
6 of ten per cent, the next one possibly an increase
7 of twenty per cent, but the third increase is beyond
8 my knowledge.

9 Q Between the years 1936 to December 7, 1941,
10 would I be correct in stating that the United States
11 embarked on a great shipbuilding program?

12 A Yes.

13 Q Can you tell me the number of aircraft
14 carriers the United States had under construction
15 as of December 7, 1941?

16 A I do not believe that that information was
17 within my records, but I will search the records
18 that I have and give you the best information that
19 is available to me.

20 Q Is it true that under the --

21 A Wait a minute. I was prepared to give you
22 a reply to your previous question.

23 Q Pardon me. I didn't know that you meant at
24 this moment.

25 A According to my records, at the end of 1941

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22 a reply to your previous question.

23 Q Pardon me. I didn't know that you meant at
24 this moment.

25 A According to my records, at the end of 1941

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1 the United States had under construction in major
2 combat vessels -- that includes battleships, carriers,
3 cruisers, destroyers and submarines, a total of
4 something over two million tons. At the same time
5 Japan had under construction, according to the best
6 information available to the United States, which
7 might not be accuracy because of the secrecy with
8 which Japan guarded her program -- had under construc-
9 tion less than 500,000 tons of major combat vessels.

10 Q Under the terms of the -- Strike that,
11 please. During the discussions, the Washington
12 Naval Conference 1921 and thereabouts, did not the
13 United States argue that in computing a nation's
14 strength and naval arms you should take under con-
15 sideration the number of ships being then con-
16 structed?

17 A I do not know.

18 Q December 7, 1941, which was more powerful,
19 the Japanese Navy or the American Navy?

20 A In the Pacific Ocean the Japanese Navy was
21 far superior to the American Navy in the Pacific
22 Ocean.

23 Q How much superior?

24 A That would be a pure guess, but if you want
25 a guess I would say somewhere between 10 and 50 per

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22 Ocean.

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25 a guess I would say somewhere between 10 and 50 per

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cent.

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2 C During 1940, when you were Commander-in-
3 Chief of the United States Fleet, what per cent of
4 the American Fleet was in the Pacific?

5 A It would be possible for me to ascertain an
6 accurate figure, but I have no idea as to the
7 accuracy of any statement made now, but it was the
8 vast majority of the combatant fleet of the Navy of
9 the United States which was ready for service.

10 C Admiral, did the United States have an air-
11 craft carrier called the Langley?

12 A The Langley was an old fuel carrier which
13 was converted in the early days to an aircraft
14 carrier. She had no combatant worth at all but she
15 had been of inestimable value to the Navy of the
16 United States because that is where the technique
17 of flight deck operations was developed and where
18 early pilots were trained, but she could not be used
19 in other than purposes of transporting planes.

20 C You subtract it from your list of American
21 aircraft carriers because of the fact then that it
22 was a training ship alone?

23 A No. At the time figures were given, the date
24 for which the figures were given, neither in the
25 Japanese Navy figures or in the United States Navy

RICHARDSON CROSS

1 figures were seaplane tenders included. At that
2 time the Langley was a seaplane tender and not a
3 carrier.
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1 Q When was it converted from a seaplane tender?

2 A That information is not within my knowledge.

3 Q Are you acquainted with the Japanese aircraft
4 carrier listed in number one position of prosecution
5 document 916, I believe? I am not certain of that
6 exhibit number.

A I have Court exhibit 916.

8 Q Does that show the date the keel was laid?

9 A No; but 918 does.

10 Q Please refer to that. Will you tell me the
11 date the keel was laid on the Hosho?

12 A December 16, 1919.

13 THE PRESIDENT: Why should we have it twice.
14 Are you leading up to another question or just asking
15 him to read the exhibits to us?

16 MR. BRANNON: I seek to show the Langley and
17 the Hosho were comparable ships, Mr. President.

18 THE PRESIDENT: Well, if you know the answer
19 from an exhibit just read it to him and do not ask him.
20 It will save time, Mr. Brannon.

21 Q Do you know whether the Hosho was ever used
22 in combat in this war?

23 A I have no idea.

24 Q If you accepted the assumption for the moment
25 that the Hosho was used only for training purposes, as

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CROSS

1 was the Langley, would you subtract it from your list
2 of airplane carriers attributed to Japan as of December
3 7, 1941?

4 A I would not. The exhibit 918 is a Japanese
5 document and I know nothing about it. I would not
6 alter it.

7 Q Does the age of that ship, as shown in the
8 prosecution's own document, indicate that it is over age,
9 in terminology of the navy?

10 A Not at the time of Pearl Harbor; but now,
11 certainly.

12 MR. BRANNON: I terminate this at this point,
13 Mr. President, this line, and take it up on our defense.

14 Q Were you a witness before the United States
15 Senate and House Committee on the investigation of the
16 Pearl Harbor Attack?

17 A I was.

18 Q At that time, was there exhibited a series
19 of letters from you, as Commander-in-Chief of the
20 United States Fleet in 1940, to Admiral Stark, Chief
21 of Naval Operations?

22 A There was.

23 Q Have you noted the fact that those records
24 have been published by the Congress and are now being
25 circulated for the public?

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1 THE PRESIDENT: What is the point of that,
2 Mr. Brannon?

3 MR. BRANNON: I seek to lay a foundation for
4 the use of some of this material, Mr. President, as I
5 shall soon refer to it. My purpose in so referring to
6 it is to show by this witness, who in the year 1940 was
7 the Commander-in-Chief of the United States Fleet and
8 was on the Pacific, the American attitude -- the Amer-
9 ican naval attitude -- toward Japan at that time.

10 THE PRESIDENT: Couldn't you tender it later
11 as the report of investigators? The Charter's rules
12 of evidence operate in favor of the defense as well as
13 of the prosecution. It seems a waste of time to cross-
14 examine about that.

15 MR. BRANNON: Mr. President, the witness has
16 accurate personal knowledge as to the condition on
17 the Pacific at that time.

18 THE PRESIDENT: You ask him to add to what
19 he said into the inquiry at Pearl Harbor.

20 MR. BRANNON: I am sorry, I didn't hear you,
21 Mr. President.

22 THE PRESIDENT: We do not want to get out
23 of the witness what we are going to hear later when the
24 report is tendered, as it may be. Do you suggest that
25 he said something different to the investigators from

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1 what he said here?

2 MR. BRANNON: Not thus far, Mr. President,
3 but may I elaborate a moment?

4 THE PRESIDENT: Oh, save time if you can.

5 MR. BRANNON: May I state the point that I
6 wanted to make, then the Court may rule. Throughout,
7 the subject of this whole report is the Japanese naval
8 planning and preparation for war.

9 THE MONITOR: Mr. Brannon, by "this report,"
10 do you mean the affidavit or the Pearl Harbor Report.
11 You said, "subject of this report." Does "this report"
12 mean the affidavit or the --

13 MR. BRANNON: The report, the entire report.

14 THE MONITOR: I see. Thank you.

15 MR. BRANNON: Especially does it emphasize
16 the Pearl Harbor Attack plans. Would I not be justified
17 in showing by this witness, who should know better than
18 anyone else at the time, that America had plans in regard
19 to naval preparations against Japan?
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RICHARDSON

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1 THE PRESIDENT: But if he told the Pearl
2 Harbor Committee and you are going to tender the
3 committee's report, why get them out of him as a matter
4 of form?

MR. BRANNON: He knows what the plans are.
I don't.

THE PRESIDENT: Does the Pearl Harbor report
show what they are?

MR. BRANNON: In my limited time, Mr. President,
that I have spent reading that, I cannot answer your
question.

THE PRESIDENT: Well, we don't know. We haven't
read it.

MR. BRANNON: It is the position of defense
counsel that this witness, having personal knowledge of
such plans, may be able to enlighten the Court as to
whether America entertained similar naval preparations
against Japan during that period of time.

THE PRESIDENT: Quite so. But if he told the
Pearl Harbor Committee and they have reported it and
you are using the report there is no need for him to
go over his evidence again.

MR. BRANNON: Would it be of assistance to the
Court to have that--

THE PRESIDENT: Get on to something else until

RICHARDSON

CROSS

1 you look at the report, Mr. Brannon. Do save time if
2 you can.

3 Q To your knowledge, does the Pearl Harbor Report
4 as printed tell of the American naval preparations
5 against Japan prior to December 7, 1941?

6 A I attended some of the hearings. I was a
7 witness. I have read some of the record. I have not
8 read the book. It is my opinion that the record con-
9 tains references to American naval war plans, but only
10 very slight references.

11 MR. BRANNON: I will check the report and
12 refer back, Mr. President.

13 Q Prosecution document 17, exhibit 1252, con-
14 tains Combined Fleet Top Secret Operations Order No. 1.
15 Does this document contain the orders for the attack
16 on Pearl Harbor?

17 THE PRESIDENT: It is exhibit 1252.

18 A It does not contain the order for the attack.
19 It is the plan for conducting the attack. The plan as
20 put into effect, the execution, was given elsewhere.

21 Q Then, to this day there is no exact duplicate
22 of the Japanese orders to attack Pearl Harbor, is that
23 true?

24 A The plan itself provided for establishing days
25 known as X -- Y Day and X Day.

RICHARDSON

CROSS

1 Q On page 2/17 and 18, under the word "Situation--
2 Situation at Outbreak of War--"

3 A I have it.

4 Q It states "At Outbreak of War." Across from
5 that, "TN" --Translator's Note, I guess -- "This portion
6 cut out." Was that removed from the original document
7 at the time it was recovered?

8 A I do not know. But TN means Translator's Note,
9 and I think it is a fair assumption that the transla-
10 tor found that that portion had been cut out.

11 Q In this portion would you say the plans for
12 the attack on Pearl Harbor originally were contained?

13 A I think in the "Outline of Operations: The
14 Advanced Expeditionary Force will reconnoiter and make
15 a surprise attack on the American Fleet" visualized
16 doing just that.

17 Q But for your information regarding the details
18 of the Japanese attack on Pearl Harbor, you go to
19 another document besides this one, is that true?
20

21 A That is true.

22 Q And the document on which you rely, or documents,
23 are prosecution's document 1627 and 1628, exhibits 1265
24 -- I don't have the other exhibit number -- oh, and
25 809; is that correct, sir?

A I have them now.

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1 Q These two documents are the only evidence you
2 have before this Court today concerning the actual
3 attack on Pearl Harbor itself; is that true?

4 A I have, among my papers, other documents. I
5 think a large part of the information contained in
6 the other documents is derived from information pre-
7 sented in these two documents, 809 and 1265.

8 THE PRESIDENT: Give the exhibit number of
9 that last document named by the Admiral.

10 MR. BRANTON: 809 and 1265.

11 THE PRESIDENT: 1265.

12 MR. BRANTON: I have it listed that way.

13 THE PRESIDENT: Yes. I wanted it to go into
14 the record.

15 We will adjourn now until half past one.

16 (Whereupon, at 1200, a recess was
17 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

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

- - - -

J A M E S O. R I C H A R D S O N, Admiral, USN
(Ret.), called as a witness on behalf of the
prosecution, resumed the stand and testified as
follows:

CROSS-EXAMINATION

BY MR. BRANTON (Continued):

Q Will the reporter please read back the last
answer?

(Whereupon, the last answer was read
by the official court reporter.)

Q Then exhibit 809, 1265, 1252 composes the
entire information --

A No.

Q (Continuing) -- now on hand concerning the
Pearl Harbor attack; is that true?

A No, I think that those papers do not contain
an accurate statement and a comprehensive statement
of the results of the attack.

Q Other than the matter contained in these

RICHARDSON

CROSS

1 three exhibits, is there any other available infor-
2 mation concerning the Pearl Harbor attack that you
3 know of?

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

6 A There is none that I know of which I con-
7 sider of importance that has not been presented.

8 Q I refer now to prosecution's document 1265,
9 page 4, upper left-hand corner, starting with the
10 words, "Combined Fleet Secret Operation Order No. 1."
11 I will ask you if this is not solely and only the
12 recollection of one Japanese chief yeoman?

13 A May I ask what page and what part of the
14 page?

15 Q It is document 1265, page 4, the upper left-
16 hand corner, Admiral.

17 A This document here was prepared entirely
18 from the recollection of a Japanese warrant officer,
19 I believe.

20 Q Do you see the words, "The Japanese Empire
21 will declare war on the United States," et cetera?

22 A I do.

23 Q I refer to prosecution exhibit 1252, page 2/7,
24 and ask you to compare the expression there contained
25 with this?

RICHARDSON

CROSS

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

3 A The statements are quite different.

4 Q The original document, exhibit 1252, con-
5 tains the words, "In case war with the United States,"
6 et cetera, et cetera, rather than the words, "The
7 Japanese Empire will declare war," does it not?

8 A The original document 1252 reads, "Operations
9 of the combined fleet in case war with the United
10 States, Great Britain, and the Netherlands begins
11 during the China operations."

12 Q So that it is quite possible that Order No. 1
13 was an order to be used in the eventuality of war
14 with the United States; is that true?

15 A In my opinion it was an order to be used,
16 however the war was initiated.

17 Q I do not quite follow that answer, Admiral.
18 Will you restate that for me?

19 A Well, it was a plan for the conduct of
20 operations in a war that might be started in any way.

21 Q Is it not and has it not been an established
22 naval procedure of the Powers to have prearranged naval
23 war plans against potential enemies?

24 A Yes, in recent times.

25 Q And in and of itself was it contrary to normal

RICHARDSON

CROSS

1 | naval procedure of the Powers that the Japanese had
2 | among its navel plans the Pearl Harbor attack?

3 | A I think it would be quite normal in the case
4 | of Japan, wholly abnormal in the case of the United
5 | States, because its success depended upon surprise.

6 | Q The initial step of General Order No. 1 was
7 | the surprise element, was it not, Admiral? That is --
8 | may I reframe it in this way? The General Order No. 1
9 | was more than an attack on Pearl Harbor; it was an
10 | over-all attack or naval planning throughout the
11 | entire Pacific; is that not true?

12 | A Quite true.

13 | Q I would like at this time to refer to page
14 | 34 of your affidavit, wherein you quoted Admiral
15 | NAGANO.

16 | THE PRESIDENT: Exhibit 1249.

17 | MR. BRANNON: Paragraph 53.

18 | Q At the bottom of that paragraph you refer
19 | to page 66, IPS document 1628, which is exhibit 809.
20 | On page 66, exhibit 809, I see identical words with
21 | those you have written here. They appear on paragraph
22 | 8. I will ask you if it is not true that these words
23 | were spoken by Japanese naval officers and not by
24 | Admiral NAGANO, according to your own evidence?
25 |

A According to the document itself, the

RICHARDSON

CROSS

1 statement contained in paragraph 8 of the document
2 and quoted in my statement was based on the recol-
3 lections of the Chief of the Operations Section
4 Naval General Staff, Captain TOMIOKA.

5 Q They were not then the words of NAGANO, is
6 that true?

7 A I do not know. They may have been or they
8 may not have been.

9 Q If you will look at paragraph 4 of your
10 document you will see that paragraphs 5, 6, and 7
11 are based on the recollections of Admiral NAGANO.

12 A That is correct.

13 Q Under paragraph 7 or below paragraph 7, it
14 states, as you have read, "The following paragraphs
15 8, 9, 10, 11 and 12 are based upon the recollections
16 of" -- and it names other men. According to your own
17 knowledge I will ask you again if NAGANO made the
18 statement that appears in paragraph 8?

19 A All I can say is that he may or may not have
20 made that statement, but I am unable to produce here
21 sufficient authority to warrant my attributing the
22 direct statement to him.

23 Q I believe I understand your statement.

24 In 1940 was the American fleet moved from
25 the West Coast of America to Hawaii?

RICHARDSON

CROSS

1 A It was.

2 Q What was the reason for that removal?

3 A It was moved to the Hawaiian --

4 CAPTAIN ROBINSON: If the Court please, the
5 prosecution objects to that question as not being
6 within the scope of the direct examination, and,
7 therefore, improper cross-examination.

8 MR. BRANNON: Mr. President, sometime ago
9 I asked one of the witnesses in the courtroom from
10 the State Department a question relating to this
11 same matter. I would like to be allowed to proceed
12 with the same thought in reference to this witness.

13 THE PRESIDENT: Well, now, the British Com-
14 monwealth Section on this Bench are unacquainted with
15 this rule except with one exception. It operates in
16 Canada. In our courts this question would be clearly
17 allowable, and I think our decision this morning
18 covers it. I cannot distinguish between this question
19 and the one we allowed this morning, in substance.

20 The objection is overruled.

21 A The fleet of the United States was moved
22 from the West Coast of the United States to the Hawaiian
23 area in accordance with a long established practice of
24 having fleet exercises annually in the spring of the
25 year.

RICHARDSON

CROSS

1 Q Have you finished?

2 A I might add that the movement of the fleet
3 was planned by my predecessor long before I became
4 Commander-in-Chief.

5 Q Why was it retained at Pearl Harbor?

6 CAPTAIN ROBINSON: The objection is renewed,
7 if the Court please, for the same reasons, and further
8 for the reason that this witness is not testifying
9 from his own knowledge nor as an expert, but is
10 testifying to the contents of a statement that has
11 been prepared and presented to this Court.

12 THE PRESIDENT: Hearsay is admissible here.
13 It is a matter for an expert. The question arises
14 out of the statement, as my colleagues view it.

15 The objection is overruled.

16 A It was retained -- the fleet was retained in
17 Pearl Harbor, as far as I am concerned, by orders from
18 higher authority to remain there.

19 Q Are you personally acquainted with the purpose
20 or reason behind those orders to retain it there?

21 A The only reason I know was one that was
22 given me by the President of the United States.

23 Q Would you give me that reason?

24 A This was given me in October, 1940, several
25 months after the fleet -- many months after the fleet

RICHARDSON

CROSS

1 originally arrived in the Hawaiian area; and he
2 stated that in his opinion it exercised a restraining
3 influence on the action of Japan.

4 MR. BRANNON: That concludes my portion of the
5 cross-examination, Mr. President. I do not think the
6 cross-examination of this witness will be unnecessarily
7 long. Therefore, I would like to request that Japanese
8 counsel for NAGANO be permitted to examine as to some
9 of the facts in this report.

10 THE PRESIDENT: The Japanese counsel could
11 have put his questions through you, Mr. Brannon. You
12 represent NAGANO. We adhere to our rule against two
13 counsel for one accused cross-examining. The applica-
14 tion is refused.

15 Mr. McDermott.

16 MR. McDERMOTT: Mr. President and Members of
17 the Tribunal, I represent the accused, Shigetaro
18 SHIMADA.

19 THE PRESIDENT: A former Admiral.
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RICHARDSON

CROSS

CROSS-EXAMINATION (Continued)

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2 BY MR. McDERMOTT:

3 Q Admiral, in part 3 of your prepared statement,
4 paragraph 33, page 20, you state: "Numerous documents
5 and records show that the Japanese Navy and Government,
6 particularly the Foreign Office, between 1931 and 1941,
7 were engaged in a policy of surveillance, reconnaissance
8 and espionage with respect to the naval establishment
9 and activities of the United States Navy and Govern-
10 ment." I desire to ask you if it is not a fact that
11 these same records disclose that the United States has
12 established a like system of surveillance, reconnais-
13 sance and espionage. Is it not a fact that these same
14 records show that all nations, including Japan and the
15 United States, indulge in the same practice in check-
16 ing and counter-checking the activities of nations,
17 not only regarding the waging of war but in the establish-
18 ment of peaceful practices?

19 A That is true except as to degree.

20 Q What do you mean by degree?

21 A The United States has always made it possible
22 for representatives of foreign nations to see more of
23 what we are doing than Japan has ever permitted any
24 representative of the United States to learn what they
25 were doing.

ROBINSON

CROSS

1 Q Is it not a fact that the Navy records dis-
2 close that the United States through the years 1931
3 and 1941 carried out a careful and well-defined
4 policy of espionage, especially in reference to the
5 activities of the Japanese Navy?

6 A No records disclose that they ever carried
7 out such a plan successfully. It is possible that they
8 might have attempted, but that is beyond my knowledge.

9 Q As you know, Admiral, ever since the signing
10 of the First World War peace treaty there has existed
11 among the nations a serious international situation.
12 Therefore, would it not be natural that the knowledge
13 of the movements -- I withdraw that. Therefore, do
14 the Navy records not disclose that the knowledge and
15 movements and concentration of the United States Fleet
16 in Hawaiian waters would be a matter of political and
17 naval concern to the Japanese bearing on the questions
18 of world peace and war?

19 A Certainly.

20 Q Calling your attention to page 28 of your
21 statement concerning signals, the show of lights, I
22 will ask you if the record shows that that is the
23 accepted practice in modern warfare.

24 CAPTAIN ROBINSON: If the Court please, the
25 prosecution objects on the basis that the question is

RICHARDSON

CROSS

1 directed to a time of war, whereas the date of this
2 communication shows that was presumably during a time
3 of peace.

4 MR. McDERMOTT: Whether it was a time of peace
5 or war, it was used for war.

6 THE PRESIDENT: The Japanese used it here as
7 an act of war. I suppose the Allies also used it in
8 the course of the war. You don't seriously try to
9 separate that from the attack on Pearl Harbor?

10 MR. McDERMOTT: Not in the least, sir.

11 THE PRESIDENT: What relevance has peace-time
12 practice?

13 MR. McDERMOTT: Well, it is connected with
14 with the Pearl Harbor attack.

15 THE PRESIDENT: I don't see what relevance it
16 has. The question is disallowed.

17 Q What is the star boat that is referred to in
18 the fifth paragraph? What do you mean by star boat
19 on the same page?

20 A I don't mean anything by it. I suppose it
21 meant something to the Japanese.

22 Q Well, does that refer to starboard or star
23 boat? Do you know?

24 A In as much as the text of this message shows
25 that this boat was to bear a star at the head of the

RICHARDSON

CROSS

1 sail in any instance, I assume that they called it a
2 star boat because it had a star on its sail.

3 Q You stated in your direct examination that
4 the Navy of the United States was not comparable with
5 the Japanese Navy by from ten to fifty per cent. Do
6 the records --

7 A I think I made no such statement.

8 Q I so understood you, Admiral.

9 A In reply to a question as to the relative
10 strength of the Japanese Navy in the Pacific and the
11 American Navy in the Pacific, I stated that I could,
12 by research, give the exact figures, and when pressed
13 for an answer now I stated that I would hazard a
14 guess that the Japanese was superior somewhere between
15 ten and fifty per cent. I know it was superior to
16 the fleet in the Pacific.

17 Q Do the records of the Navy show why this
18 flash of naval power was made in the face of the
19 strained relations between Japan and the United States?

20 A In so far as I know they do not.

21 MR. LOGAN: No further cross-examination,
22 your Honor.

23 CAPTAIN ROBINSON: A question or two on
24 redirect.
25

ROBINSON

REDIRECT

REDIRECT EXAMINATION

1
2 BY CAPTAIN ROBINSON:

3 Q In answer to a question this morning with
4 regard to comparative tonnages in 1941 in naval con-
5 struction, you answered indicating that the rate of
6 United States naval construction in comparison to the
7 rate of Japanese naval construction was approximately
8 four to one.

9 A I wouldn't characterize it as a rate of con-
10 struction but as a statement as to the number of
11 tonnages of combatant ships under construction at
12 the end of December, 1941.

13 Q Accepting figures to the effect that construc-
14 tion by the United States in December, 1941, exceeded
15 naval construction in Japan, will you state the reasons
16 as shown by the records for that excess?

17 A At the end of 1939 the tonnage of combatant
18 vessels under construction in the United States was
19 approximately 450,000 tons, while that of Japan was
20 something less than 200,000 tons. The amount of
21 tonnage under construction in the United States in-
22 creased rapidly in the year 1939. My belief is that
23 the United States felt that it was confronted with
24 a serious world situation where she must be prepared
25 to defend herself.

RICHARDSON

REDIRECT

1 Q One further question, sir, in regard to the
2 Langley. You were asked about the reason why you did
3 not include the Langley in the list of American air-
4 craft carriers this morning.

5 THE PRESIDENT: He suggested one, if he didn't
6 give the reason. It was a seaplane carrier and they
7 weren't included at that time. It was a tender,
8 really.

9 CAPTAIN ROBINSON: Yes, sir. May I ask the
10 witness whether he has anything further to say on that
11 point? That is all I wish to ask.

12 THE WITNESS: I was asked questions by the
13 defense which indicated an intention to compare the
14 Langley with the Hosho. The Hosho, according to Court
15 exhibit 918, was built as a carrier, keel laid in
16 1919, commissioned as a carrier in 1922. The Langley
17 was built as the USS Jupiter, a collier. It was the
18 first ship in the world to have electric drive, an
19 experimental ship. It was commissioned about 1911.
20 Later she was converted into a carrier. The last time
21 I remember seeing her was in 1936. Her forward flight
22 deck had been removed; a large mast had been installed
23 with a boom capable of hoisting out of the water a
24 seaplane. If my memory serves me correctly, the
25 Japanese Government was informed when the change was

RICHARDSON

REDIRECT

1 made in her classification from carrier to seaplane
2 tender, and when the war started she was in the
3 Philippines as a seaplane tender.

4 CAPTAIN ROBINSON: May it please the Tribunal,
5 I do not propose to question the witness further and
6 I ask leave for the witness to be permitted to leave
7 the Tribunal and return to the United States on the
8 usual conditions?

9 THE PRESIDENT: The Admiral is at liberty to
10 leave on those conditions.

11 (Whereupon, the witness was excused.)

12 CAPTAIN ROBINSON: May I ask, sir, in regard
13 to the return of documents. Certain documents which
14 have been placed with the Court it is desired to
15 withdraw, substituting them with certified duplicates.

16 MR. LOGAN: No objection, your Honor.

17 THE COURT: We order accordingly.

18 Brigadier Nolan.

19 BRIGADIER NOLAN: Mr. President and Members
20 of the Tribunal:

21 In concluding this phase, we now come to cer-
22 tain matters which occurred after the outbreak of the
23 Pacific War. The general ebb and flow of Japanese
24 conquest and the progress of the war itself have been
25 sufficiently shown year by year on the large maps

1 exhibited early in the case. We do not propose to
2 go through the military history, but to present to
3 the Tribunal a selection of political events throwing
4 light on the objects of the war and the conduct of
5 particular accused.

6 First I offer in evidence IPS document
7 No. 1021, the records of the meeting of the Investi-
8 gating Committee of the Privy Council held on 10 December
9 1941 regarding the treaty against a separate peace
10 between Germany, Italy and Japan. The treaty itself
11 is document No. 1204, exhibit No. 51 in the case.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 1021 will receive exhibit No. 1266.

15 (Whereupon, the document above referred
16 to was marked prosecution's exhibit No. 1266 and
17 received in evidence.)
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1 BRIGADIER NOLAN: I read from exhibit 1266, and
2 point out at the committee meeting the following ac-
3 cused attended: the accused TOJO, SHIMADA, TOGO, MUTO
4 and OKA. I will read one passage from the discussion
5 on page 3, marked "A":

6 "Committee Member SUGAHARA asked the opinion
7 of the Government authorities concerning his suggestion
8 that it would be more appropriate for the Government
9 to sign this agreement after Germany and Italy had
10 actually entered the war, because in consideration
11 these two countries might not participate in the war
12 at all, since this draft seemed to have as its premise
13 the participation of both Germany and Italy in the war.
14 To this question Prime Minister TOJO and Foreign Min-
15 ister TOGO answered that it had been arranged that
16 HITLER would announce their participation in the war
17 in the Reichstadt as soon as he had signed this
18 agreement, and it would be all right to trust the words
19 of the German Government.
20

21 "Committee Member HAYASHI asked the circum-
22 stances of the negotiations with Italy concerning this
23 proposition to which Foreign Minister TOGO replied that
24 in regard to the draft of this agreement negotiations
25 had been carried on mainly at Berlin, but that there
was also complete understanding with Italy."

1 At the end of the document the draft was
2 discussed among the committee and as a result the
3 Committee decided to accept it as it stood. Then
4 the Chairman of the Committee declared the meeting
5 adjourned.

6 I offer in evidence IPS document 1022, being
7 a record of the meeting of the Privy Council held on
8 December 10th, 1941, again concerning the treaty
9 against a separate peace between Germany, Italy and
10 Japan. At this council meeting the following accused
11 attended: TOJO, SHIMADA, TOGO, KAYA and SUZUKI. I
12 will read one passage from the report of the Vice-
13 Chairman marked "A" on pages 3 and 4 of the document.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution document
16 No. 1022 will receive exhibit No. 1267.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 1267 and received in evidence.)

20 BRIGADIER NOLAN: I read from exhibit
21 No. 1267:

22 "According to the explanation of the minis-
23 ters concerned, as soon as the difficult situation
24 to conclude the negotiations between Japan and the
25 United States was known, the Imperial Government

1 fathomed the attitude of Germany and Italy and ascer-
2 tained their intention beforehand, considering the oc-
3 casion of emergency when there might be a conflict
4 between Japan and the United States. And then when
5 the situation between Japan and the United States be-
6 came more and more threatening, the Imperial Govern-
7 ment proposed to the German and the Italian Governments
8 a draft of the agreement pertaining to non-separate
9 peace between Japan, Germany and Italy, and opened a
10 negotiation to conclude this agreement. But due to
11 the declaration of war against the United States of
12 America and the United Kingdom on the 8th of this
13 month, the Imperial Government notified the German and
14 the Italian Governments without delay, and proposed at
15 the same time that Japan would expect prompt partici-
16 pation in the war by both powers. Then, as both the
17 governments replied to the proposal that they had no
18 objection to participating in the war and concluding
19 the agreement pertaining to non-separate peace, the
20 Imperial Government repeated the negotiation on the
21 basis of the draft, proposed by the German Government,
22 until the negotiation was settled to decide the definite
23 plan.

24 "The outline of the draft of this agreement is
25 as follows:

1 "The draft states in the preamble that the
2 three governments, Japanese, German and Italian, would
3 conclude the agreement with the firm resolution not to
4 lay down arms until the common war against the United
5 States and the United Kingdom would have been achieved
6 completely. Then it provides in the text that the
7 Three Powers, Japan, Germany and Italy, would wage war,
8 forced by the United States of America and the United
9 Kingdom, with all available measures until the war
10 would have been achieved with complete victory, that
11 the Three Powers, Japan, Germany and Italy, without
12 mutual complete understanding, would promise not to
13 suspend hostilities or to make peace with either the
14 United States of America or the United Kingdom, that
15 the Three Powers, Japan, Germany and Italy, would col-
16 laborate with the utmost intimacy after the war termi-
17 nated in victory in order to establish a righteous
18 new order in the significance of the Three-Powers-
19 Pact which was concluded on September 27th in SECWA
20 15 (1940), and that this agreement would be carried
21 into effect soon after the signature, and be valid for
22 the same period as the Three-Powers-Pact, and the
23 powers concerned would arrive at an understanding con-
24 cerning the forthcoming forms of collaboration at the
25 proper time before the termination of the term of

1 validity."

2 On page 5 the Chairman announced that the
3 Committee had decided unimously.

4 Next I offer in evidence IPS document .
5 1632W (91), an extract from the Kido, 16 December 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution document
8 No. 1632W (91) will receive exhibit No. 1268.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's document
11 No. 1268 and received in evidence.)

12 BRIGADIER NOLAN: I read exhibit No. 1268:

13 "... At 2.30 p.m./ Prince KONOYE visited
14 me and expressed his feelings about his own political
15 responsibility and I also expressed my views quite
16 frankly. I asked him to be prudent."

17 THE PRESIDENT: That could refer to anything.

18 BRIGADIER NOLAN: The intention was to show,
19 Mr. President, the surveillance which was being exer-
20 cised even over such an important person as KONOYE.

21 MR. LOGAN: I would move to strike out that
22 gratuitous remark, your Honor.

23 THE PRESIDENT: But it is upon the Brigadier
24 to state upon what grounds it was issued, but it seems
25 to me to have no bearing or anything in issue.

1 BRIGADIER NOLAN: Next I offer in evidence
2 IPS document 1632W (92), being an extract from the
3 KIDO diary, dated the 8th. of December 1941.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution document
6 No. 1632W (92) will receive exhibit No. 1269.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution exhibit
9 No. 1269 and received in evidence.)

10 BRIGADIER NOLAN: I read from exhibit 1269,
11 being an Extract from the Diary of Marquis KIDO,
12 dated 18 December 1941:

13 "... At 11.30 the Chief of the Navy General
14 Staff proceeded to the Imperial Palace and submitted
15 to the Throne a report on war results at Hawaii.
16 Premier TOJO came to the Palace and saw me. He men-
17 tioned the need for muzzling Prince ICHIOYE. Talk
18 also of prospects for German-Soviet peace maneuvers."

19 MR. LOGAN: If the Tribunal please, we sub-
20 mitted a correction of this to the translation section
21 and also to Brigadier General Nolan.

22 BRIGADIER NOLAN: I received from counsel for
23 the defense yesterday afternoon what he terms corrections
24 to this document. I, at the request of the Tribunal,
25 have had these excerpts from the KIDO Diary

1 re-translated. As they are now presented we think
2 they are correct. It is, of course, a matter which
3 will have to be decided by the Language Arbitration
4 Board.

5 THE PRESIDENT: Yes. We will recess for
6 fifteen minutes.

7 (Whereupon, at 1445, a recess was
8 taken until 1500, after which the proceedings
9 were resumed as follows.)

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

3 THE PRESIDENT: Brigadier Nolan.

4 BRIGADIER NOLAN: May it please the Tribunal,
5 I now offer in evidence to be marked for identifica-
6 tion IPS document No. 1811, being a collection of
7 essays on problems of international law related to
8 the Greater East Asia war.

9 CLERK OF THE COURT: Prosecution's document
10 No. 1811 will receive exhibit No. 1270 for identifica-
11 tion only.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit No.
14 1270 for identification.)

15 BRIGADIER NOLAN: I now offer in evidence
16 IPS document No. 1811, dated the 27th of December,
17 entitled "A Report of Study Concerning Hostilities
18 on the Outbreak of War."

19 MR. LOGAN: If the Tribunal please, the
20 preface to this document which has just been marked
21 for identification shows that the entire book was
22 prepared by the International Law Society, which,
23 I understand, is a society independent of the Govern-
24 ment of Japan, and while I realize that it is ad-
25 missible by virtue of the certificate attached

1 thereto, showing that the document was found in the
2 Foreign Ministry, I also wish to point out that in
3 view of the statements that were made by the prose-
4 cution in the opening of this phase with respect to
5 this document we request that K. HIAYASHI, who made
6 this statement in there that these essays were pre-
7 pared by a committee of well known Japanese inter-
8 national lawyers in cooperation with the Foreign
9 Ministry, made soon after December 8, 1941, be pro-
10 duced by the prosecution for cross-examination on
11 that statement.

12 THE PRESIDENT: The writers of this could be
13 the others, alleged conspirators in the Indictment.
14 All the alleged conspirators are not named in the
15 Indictment.

16 MR. LOGAN: The names of the chairman, if
17 your Honor please, and the members of this special
18 committee appear in the book itself, and I can
19 assure you that there is none of the accused contained
20 in that list.

21 THE PRESIDENT: But they could get these
22 people to write up the law in a way that suited them.
23 I am referring to possible allegations only. We will
24 consider the application to have these people called
25 for cross-examination -- HIAYASHI should say.

1 MR. LOGAN: I just wanted to point out, your
2 Honor, that the only way we can tie this up would be --
3 at least to disprove it -- would be to call this man
4 to find out just whether anybody from the Foreign
5 Ministry did cooperate with them or not, as alleged
6 in that affidavit.

7 THE PRESIDENT: Did you desire to say anything?
8 I had spoken with the assumption that you hadn't,
9 Brigadier. I hope I didn't prevent you from saying
10 anything.

11 BRIGADIER NOLAN: I had nothing to state.

12 THE PRESIDENT: That is what I thought.

13 We will consider whether HIAYASHI is to be
14 called for cross-examination.

15 BRIGADIER NOLAN: The document has not yet
16 been admitted, Mr. President.

17 THE PRESIDENT: Admitted on the usual
18 terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 1811, being an excerpt of the foregoing document,
21 is given exhibit No. 1270-A.
22

23 (Whereupon, the document above re-
24 ferred to was marked prosecution's exhibit
25 No. 1270-A and received in evidence.)

BRIGADIER NOLAN: I read from exhibit

1 1270-A, which is entitled "A Report of Study Con-
2 cerning Hostilities on the Outbreak of War:"
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"I

1 "Concerning the time for hostilities to
2 open on the outbreak of war, we have to consult the
3 Third Treaty, decided at the Second Hague Conference
4 which prescribes that hostilities must not be per-
5 formed without a preliminary notice in the form of
6 an ultimatum wherein a declaration, or conditional
7 declaration, of war is included. In respect to our
8 first hostilities in the areas of Hawaii, Hongkong,
9 Singapore, etc., it is to be questioned whether
10 they were commenced in compliance with the above
11 mentioned treaty. Although it appears that Britain
12 says that our first hostilities in the Malay area
13 were opened on the evening of Dec. 7th, we, the re-
14 porters of this study, could not clarify the actual
15 time. There seems to be grounds for entertaining
16 doubt that hostilities were commenced earlier (in
17 practical time) (See IV below) than past 7:30 a.m.
18 when the U. S. Ambassador in Tokyo, being invited
19 to the Foreign Office, received the memorandum stat-
20 ing as regards the negotiation with the U. S. A.
21 'Japan recognizes that the continuance of negotiations
22 henceforth in hope of a settlement is useless' or
23 some time after 8 a.m., when the British Ambassador
24 in Tokyo was invited to the Foreign Office, and in-
25 formed of what the Jap-U.S.A. negotiation had come

1 to; needless to say, earlier than some time after 11
2 a.m. when the Tokyo diplomatic representatives of
3 Britain, the U.S.A., Canada and Australia were handed
4 notifications concerning the outbreak of war in the
5 Hawaiian area. Thereupon, two problems must be con-
6 sidered. The first problem is whether the memorandum
7 concerning the negotiation which was handed to the
8 U.S. Ambassador at some time after 7:30 a.m. on 8th
9 can be regarded as what is called a declaration of
10 war in Hague Treaty No. III. The second problem is
11 whether the Treaty was violated or not, if our hos-
12 tilities in either Hawaii or Malay or Hongkong area
13 were opened earlier in practical time than past 7 or
14 7:30 a.m. when the above-mentioned memorandum was
15 handed to the U.S. Ambassador and the fact was made
16 known to the British Ambassador, assuming that the
17 memorandum could be regarded as a declaration of war;
18 or earlier than some time after 11 a.m. when the
19 diplomatic representatives of Britain, the U.S.A.,
20 Canada and Australia received explicit notifications
21 of the outbreak of war, assuming that the memorandum
22 could not be regarded as a declaration of war.

23 "II.

24 "The first is the question of whether the
25 memorandum concerning the Jap-U.S.A. negotiations,

1 which was handed to the U.S. Ambassador at some time
2 after 7.30 a.m. on the 8th, can be regarded as the
3 'declaration of war' referred to in Hague Treaty No.
4 III. A noteworthy fact in relation to this problem
5 concerns the notification given by our Government
6 at the outbreak of the Russo-Japanese War. In the
7 37th year of Meiji (1904), Minister KURINO in St.
8 Petersburg, having finished negotiations on 6 Feb.,
9 gave notification to the Russian Government, saying
10 that Japan would retain the right to take independent
11 action, and, at the same time, he declared his wish
12 to set out with the staff of the legation. Professor
13 Westlake recognized that this notification should be
14 regarded as a declaration of war. Our recent notifi-
15 cation handed over at some time past 7.30a.m. on the
16 8th, however, can scarcely be regarded as a declara-
17 tion of war, because it included no preliminary no-
18 tice that independent action is being taken or that
19 hostilities are being opened, though it states, 'Ja-
20 pan recognizes that the continuance of negotiations
21 henceforth in hope of a solution is useless.'

23 "III.

24 "The second problem is whether the Treaty
25 was violated or not, if our hostilities in either
Hawaii or Malaya or Hongkong area were opened earlier

1 in practical time than some time past 7 or 7.30 a.m.
2 when the above mentioned memorandum was handed to
3 the U.S. Ambassador and the fact was made known to
4 the British Ambassador, assuming that the memorandum
5 could be regarded as a declaration of war; or earlier
6 than some time past 11 a.m. when the diplomatic rep-
7 resentatives of Britain, the U.S.A., Canada and
8 Australia received explicit notification of the out-
9 break of war, assuming that the memorandum could not
10 be regarded as a declaration of war.

11 "Concerning this second problem, if we are
12 to explain that there was no violation of the above
13 mentioned Hague Treaty No. III, we think that the
14 following five points ought to be considered.

15 "(1) To take into consideration not the
16 relation of the practical time but of the nominal time
17 on the day when the war broke out.

18 "(2) To regard as hostilities all or part
19 of the encirclement measures taken by the I.B.C.D.
20 group based on military preparations for economic
21 rupture and preparedness for the outbreak of war."
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1 "(3) (Plainly Speaking) to pick flaws in
2 Hague Treaty No. III itself, say either that the
3 treaty itself has turned out to be only a sort
4 of bluff or simulacrum, being unable to attain its
5 original aim as regards the outbreak of war, or
6 that the prescriptions themselves in the treaty
7 are unreasonable and hypocritical, and can claim
8 no real raison d'être, considering the nature of
9 wars in present day international relations upon
10 which the fates of nations are staked.

11 "(4) To explain that as it refers to cases
12 when the right of self-defence or of self-preser-
13 vation is exercised, Hague Treaty No. III can be
14 disregarded in this case.

15 "IV.

16 "We wish to begin with a study of the first
17 point, that is, whether we can explain the non-vio-
18 lation of the Third Hague Treaty, by taking into
19 consideration not the relation of practical time
20 but the relation of nominal time on the day when
21 the war broke out. Now speaking from the point
22 of view of so called nominal time, the time is
23 actually the same; but because the places differ
24 the nominal time differs, and they are treated as
25 different hours. For example, supposing that the

1 difference of time between Tokyo and Hawaii is 5
2 hours, that between Tokyo and Singapore 2 hours,
3 the nominal hours are 3 a.m. in Tokyo, 8 a.m. in
4 Hawaii and 1 a.m. at Singapore, while they are all
5 the same in practical time.

6 "Suppose that we declare war at 8 a.m. in
7 Tokyo and what we want to assert, with nominal time
8 as a standard, that we shall not violate Hague Treaty
9 No. III. As we open hostilities after 8 a.m. in
10 both Hawaii and in Singapore, we should recognize
11 that the hostilities may be commenced in Hawaii
12 5 hours before the practical time of delivering
13 the declaration of war, while in Singapore they
14 cannot be opened until 2 hours after the delivery.

15 "Suppose the spot where hostilities will
16 be opened is situated 180 degrees longitude east
17 from Tokyo, where the declaration of war is to be
18 delivered. It is an extraordinary phenomenon for
19 hostilities to commence one-half day before the
20 practical time of making the declaration of war
21 without violating the treaty prescribing notice
22 prior to hostilities. On the contrary, if the
23 spot is situated 180 degrees longitude west of
24 Tokyo, the hostilities cannot be opened before
25 half a day has passed after the practical time

1 of delivering the declaration of war.

2 "A theory that it is not a violation of
3 the treaty to open hostilities either about 5 hours
4 or about half a day in the practical time before
5 the time of delivering the declaration of war, if
6 the hostilities are opened in the spot east of Tokyo
7 where the declaration of war is delivered, cannot
8 be weighty enough to be an interpretation of Hague
9 Treaty No. III, when the aim of the Treaty lies in
10 the prevention of hostilities opened suddenly without
11 preliminary notice. Moreover, it will be impossible
12 in reality to open hostilities either about 2 hours
13 or about half a day in practical time after the
14 delivery of the declaration of war, according to
15 the above example, if the hostilities are to be
16 commenced in a spot west of the place where the
17 declaration of war is delivered. In view of this,
18 it is noteworthy that Britain, in her declaration
19 of war, claims that the Japanese troops tried to
20 land on the coast of Malaya and bombarded Singapore
21 and Hongkong on the evening of December 7th. In
22 brief, it seems to be too hard to justify, if we
23 plead non-violation of Hague Treaty No. III, by
24 taking into consideration nominal time instead of
25 practical time on the day when the war broke out."

"V.

1 "Next, let us study the second point, that
2 is, whether we can explain the non-violation of Hague
3 Treaty No. III by regarding all or part of the military
4 encirclement for economic rupture and preparedness
5 for the outbreak of war taken by the A.B.C.D. group
6 as hostilities. All or part of the measures for
7 military encirclement based on economic rupture
8 and preparedness for the outbreak of war taken by
9 the A.B.C.D. group with the U.S.A. as its centre
10 and including Australia, may be regarded in a some-
11 what vague sense as hostilities, for they were taken
12 with enmity towards Japan. But the word 'hostilities'
13 has various meanings and, even in the Hague Treaties
14 alone, the so-called 'hostilities' in Hague Treaty
15 No. III can be interpreted in a completely different
16 manner from the so-called 'hostilities' in the 10th
17 article of Hague Treaty No. V.

19 "In the latter it can be understood to
20 indicate either an act of war in state of war as
21 prescribed in international law or a military and
22 harmful act which should be recognized as bringing
23 about a state of war from the viewpoint of customary
24 international law, but in the former it is understood
25 in a somewhat broader sense as comprehending all

1 harmful military measures, paying no heed to whether
2 or not there is a state of war as prescribed in
3 international law whether or not the state of war
4 is caused by the harmful measures themselves. A
5 more far-reaching conception, though a little vague,
6 allows us to regard economic rupture or large-scale
7 preparedness wherein some incidents of international
8 strife are involved, as hostilities, because they
9 are harmful acts performed with inimical intent.
10 But hostilities in this last sense cannot be said
11 to be the same as the so-called 'hostilities' in
12 Hague Treaty No. III. Supposing that they be the
13 same, by the prescription of the Treaty, the com-
14 mencement of such an act without a previous prelimi-
15 nary notice in the form of an ultimatum which in-
16 cludes a declaration, or conditional declaration,
17 of war will prove to be a violation of Treaty No.
18 III; but such an interpretation is practically
19 absurd. For, it is quite impossible to recognize
20 practically the stage at which the economic measures
21 or military preparedness need preliminary notice in
22 the form of an ultimatum which includes a declaration,
23 or conditional declaration, of war before their /its/
24 commencement."
25

1 Therefore, it is difficult to argue for the non-
2 violation of the Treaty on our part by supposing that
3 Japan appealed to arms after her enemies A.B.C.D. had
4 opened such hostilities as violating Hague Treaty No.
5 III without preliminary notice in the form of an
6 ultimatum which includes a declaration, or conditional
7 declaration, of war, regarding economic rupture or
8 preparedness as the so-called 'hostilities' in Hague
9 Treaty No. III.

10 "VI.

11 "The third point of the above mentioned
12 second problem is, frankly speaking, to find fault
13 with Hague Treaty No. III, which deals with the open-
14 ing of war. We wish to state this in two parts (a)
15 and (b).

16 "(a) Hague Treaty No. III, which concerns
17 the opening of war, prescribes that hostilities can-
18 not be commenced without preliminary notice in the
19 form of an ultimatum which includes a declaration,
20 or conditional declaration, of war. This treaty was
21 concluded for the main purpose of preventing the other
22 country from suffering a sudden, unexpected action,
23 but it could make no prescriptions concerning the time
24 to elapse between the preliminary notice and the first
25 hostilities. Moreover, as it has no clear prescriptions

1 concerning the place where, or the organ through which,
2 the declaration of war is presented to the organ of
3 the other country, one may say that it suffices to pre-
4 sent it to the diplomatic representative of the other
5 country in one's own, regardless of whether or not
6 the government of the other country has notice of it
7 before the commencement of hostilities. Thus, the ori-
8 ginal and principal aim of the Hague Treaty No. III
9 to prevent the other country from suffering a sudden,
10 unexpected offence has proved unattainable, leaving
11 room for such an interpretation as one which says that
12 it is not a violation of the treaty to open hostilities
13 in a far-off land only some 20 or 30 minutes after
14 the delivery of the declaration of war to the dip-
15 lomatic representative of the other country in one's
16 own capital. Hence, it is not implausible to say that
17 the Hague Treaty No. III is nothing but a bluff or
18 simulacrum and that there is no need to respect such
19 a childish treaty at the outbreak of a war in which
20 the fate of a nation is at stake.

21 "(b) While the first hostilities in case
22 of a war whereupon the fate of a nation is at stake will
23 often have a grave influence on the war as the whole,
24 Hague Treaty No. III prohibits opening hostilities
25 unless we give preliminary notice to the other country,

1 thus letting her have time to prepare resistance and
2 counter-attacks. In view of actual international re-
3 lations, this original purport of the Treaty is un-
4 reasonable and quixotic, and, more emphatically
5 speaking, Hague Treaty No. III may be said to be so
6 impossible and hypocritical that it is unable to claim
7 from the first a real raison d'etre in actual inter-
8 national relations. Sudden hostilities must be a
9 formal violation of the Treaty, but it is not im-
10 plausible to explain that it is not so blamable to
11 open hostilities ahead of the other country when the
12 war would break out at any moment, both of the nations
13 being well prepared, looking at it from the view-
14 point of actual international relations.

15 "However, we cannot overlook some great
16 faults in these explanations which find fault with
17 Hague Treaty No. III. In the case of (a), the aim
18 of the Treaty may not be attained, though there be
19 no **formal** violation of the Treaty; but we cannot con-
20 clude from this that we may disregard the Treaty and
21 violate it formally. Since Hague Treaty No. III re-
22 mains in force, it would be difficult to say that hos-
23 tilities carried out without any previous knowledge
24 of the government of the other party are not a vio-
25

1 lation of the said treaty, although hostilities are
2 usually carried out prior to the proclamation of w/r.
3 But the treaty does not call it unlawful to open hos-
4 tilities as soon as the proclamation of war is deliv-
5 ered to the enemy government either directly or through
6 diplomatic channels. If I am allowed to make some
7 comments on paragraph (b), I should like to say that
8 such an action as to fail to conform with Hague Treaty
9 No. III, which is still in force, could not escape
10 being branded as a treaty violation from the point of
11 view of actual international law even though Hague
12 Treaty No. III be unreasonable and hypocritical and
13 even though it may not conform to actual international
14 relations. Even if I were to cite Paragraphs (A) and
15 (B) separately, from the standpoint of international
16 law, they have no power to justify hostilities initi-
17 ated in violation of Hague Treaty No. III. To find
18 fault with Hague Treaty No. III for these reasons and
19 saying that these reasons are in agreement with the
20 following discussion on paragraph IV may give some
21 sense of satisfaction. Especially Paragraph B, with
22 the provisions concerning the rights of self-preser-
23 vation and self-defence, will provide useful suppli-
24 mentary reasons, when one wants to insist that one has
25 a right to ignore the third Article of the treaty,

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1 provided that one's existence is endangered."
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"VII.

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"Lastly, I want to study the claim of the right of self-preservation and self-defense, as I think I still cannot clearly indicate the non-violation of the treaty by my above statement with regard to the present war, even though there are various other points to be considered. (Reference: IV or VI Chapter).

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"The right of self-preservation was formerly recognized almost unanimously by the scholars of international law as one of the fundamental rights of a nation, but the prevailing theory at present is that a nation has no right of self-preservation, though that of self-defense is recognized. Some jurists use the term the right of self-preservation, but they recognize that it comes within the scope of self-defense (for example Oppenheim). Some other scholars acknowledge the right of self-preservation, but that which they recognize as its import is nothing more than the right of self-defense (for example Hall). However, among the jurists of recent times, such as Rivier, and American Scholars such as George Grafton, Wirsan, Hershey, and Garner, recognize the existence of the right of self-preservation. Or within the scope of international law, in addition to urgent

1 (NOTWEHR) action in regard to self-defense, Koller,
2 for instance, recognizes an act of urgency (NOTSTAND-
3 HANDLUNG) which is similar to the right of self-pre-
4 servation, based on German penal law. (Checker's
5 note: in this case Jiko hozanken is used instead of
6 Jiko hozanken).

7 "The theoretical basis of recognizing the
8 right of self-preservation jointly with the right of
9 self-defense is to be acknowledged in present inter-
10 national relations. But as the two rights are not
11 clearly considered separately in international con-
12 vention, I shall refer to these points some other
13 day. At present in this place I shall give a short
14 discussion of the theoretical differences between the
15 right of self-preservation and that of self-defense.
16 However, it must be noticed that not only are they
17 scarcely considered separately in international con-
18 vention, but nowadays the thought of absolutely
19 denying the right of self-preservation is prevailing
20 as I mentioned above.

21 "According to the simple theory which recog-
22 nizes the two rights separately, the right of self-
23 preservation in the narrow sense takes precedence
24 over the ordinary rights of other countries, belong-
25 ing to the rights of necessity (DROIT DE NECESSITE)

1 just like the right of self-defense. The exercise
2 of this right is to be recognized only within the
3 limits of necessity in case danger threatens the
4 rights or other legal interests which are championed
5 by this right. In the case of the right of self-de-
6 fense, it shall be exercised in order to protect its
7 own rights and legal interests in case of being at-
8 tacked by other nation. It shall not be employed
9 against the attacking nation until the attack is ac-
10 tually made or the possibility of it impends, while
11 the right of self-preservation in the narrow sense
12 will be active when the existence of a nation (or
13 some important interests which are tantamount to its
14 existence) are in immediate danger. It should be
15 recognized that this right is exercised even against
16 a third power. In the case of the right of self-de-
17 fense, interpreting it according to the tendency to
18 place it in the same category as the right of self-
19 defense in domestic law, it appears that it should
20 be recognized that it can become activated in case of
21 danger threatening rights or interests that are not
22 extremely trifling; without restricting necessarily
23 to cases of danger threatening existence (or important
24 interests of about the same degree).

25 "When one thinks over the situation at the

1 outbreak of the present war (which shall be mentioned
2 in Chapter VIII) it will be clearly understood that
3 interests important for the existence of this country
4 were in imminent danger. Accordingly, if the right
5 of self-preservation in the narrow sense is recognized
6 in international relations we can declare that we are
7 entitled to disregard the provisions of Hague Treaty
8 No. III, in so far as it is necessary to protect
9 the right of self-preservation. From the standpoint
10 of the right of self-defense there is a doubt as to
11 whether we could claim a basis for saying that the
12 situation at the outbreak of war (to be explained in
13 Chapter VIII) implied an attack against our country.
14 Therefore, it might be said that our country was not
15 responsible for the violation of the treaty even if
16 it were a fact that we disregarded Hague Treaty No.
17 III, because the right of self-defense has priority
18 over all treaties. A noteworthy thing in this regard
19 is that Germany justified her aggression against
20 Belgium under the plea of the right of self-defense
21 at the time of the First Great War. Her justification
22 was that the attack was made against Germany by Bel-
23 gium (Kohler) or France (Chanbrun). Comparing the
24 situation before the outbreak of this war, which I
25 shall explain in Chapt. VIII, to the conditions be-

1 fore the invasion of Belgium, it goes without saying
2 that there is more reason to recognize the existence
3 of an attack in the former case.

4 "VIII.

5 "The U.S. authorities, in spite of the
6 fact that the negotiation with our country were under
7 way, were planning not only an economic break with
8 our country, but were also devising a scheme of zealous
9 oppression, hand in hand with England and other
10 satellites, and were furthering the so-called A.B.C.D.
11 plan.

12 "Together with the progress of her enormous
13 naval construction program, the U.S. was proceeding
14 with the gradual strengthening of her naval and air
15 bases in the Pacific area. In the Philippine Islands,
16 she was making many preparations for the purpose of
17 initiating war from August on, such as the construc-
18 tion of airdromes, the sending of more troops, the
19 sudden despatch of submarines, the importing of many
20 planes, large quantities of arms, ammunition, and
21 equipment, the installation of anti-aircraft guns
22 all along the seacoast, mine laying in Manila Bay,
23 and so on. Moreover, in the same manner, that the
24 U.S. steamers on the Pacific line bound for the Orient
25 had been armed, the U.S.A. was going to propose to

1 Britain the dual use of the port of Singapore and
2 to demand recognition from the Dutch-Indies and Aus-
3 tralia for the use of military bases. She also in-
4 tended, as concerns China, to prevent the Burma Route,
5 the sole line of transportation for supporting Chiang,
6 from breaking down and declared that she would in-
7 sure land transportation by sending her air forces to
8 patrol.

9 "The British Governor-General of Malaya had
10 declared a state of emergency and had suddenly or-
11 ganized the East-Asia Fleet, appointing Admiral Thomas
12 Phillips its Commander-in-Chief. He received rein-
13 forcements of artillerymen and engineers from Britain
14 proper; more warships were despatched from the Indian
15 Ocean and from South Africa. By assembling tens of
16 thousands of soldiers on the frontier of Siam and
17 Malaya under the pretext of defending Malaya, he
18 showed that the time was approaching when Britain
19 would invade Siam. British air forces were also re-
20 inforced with the help of America. There were several
21 military connections between Britain and the Chang-
22 King Government in the Burma area, and the actual
23 state of affairs was that the British, American
24 and Chinese military preparations against
25 Japan were proceeding day by day. The U. S. B.

1
2 C.D. federation had already added Australia to its
3 membership and Soviet Russia seemed ready to join
4 at any time. Keeping close political, military and
5 economic connections with one another, they were try-
6 ing to check Japan's development to the South, and it
7 was recognized that the blockade was being strenghen-
8 ed day by day, in preparation for the beginning of a
9 war.

10 "These conditions showed the impending
11 pressure against Japan and obviously involved an im-
12 mediate threat for Japan of endangering the vital in-
13 terests of her national existence. Therefore, if
14 the right of self-preservation can be recognized to
15 exist in the present international relations, we may
16 consider that it may be argued that we could disre-
17 gard the prescription of Hague Treaty No. III as it
18 was a case when the right of self-preservation in the
19 narrow sense was active, which right is superior to
20 the rights of other countries. Furthermore, it is
21 possible to argue that it was the case when the right
22 of self-defense could be active, because the block-
23 ade against our country which was carried out with
24 the realization that war would begin and which was
25 pursued with inimical intent might be regarded as a

1 sort of attack or a threat of an approaching attack,
2 attempting to decide Japan's fate economically and
3 militarily.

4 "IX.

5 "In conclusion, though there can be various
6 considerations concerning the violation or non-vio-
7 lation of Hague Treaty No. III, which refers to the
8 outbreak of war (See IV-VI above), in the last analy-
9 sis we can explain not being responsible for the vio-
10 lation of the treaty only by explaining that Hague
11 Treaty No. III is basically an impossible treaty (See
12 VI above), as well as by claiming the rights of self-
13 defense and of self-preservation.

14 "The situation which I mentioned in Chapter
15 VIII can be called a case when the right of self-pre-
16 servation (assuming that it is recognized) was active,
17 and that there is room to claim it was a case when
18 the right of self-defense was in force. In perusing
19 the Imperial edict promulgated at this time, we are
20 advised that 'there is no other alternative for the
21 Empire except to spring up and crush all obstacles for
22 the sake of its self-preservation and self-defense'.
23 This recognizes the coexistence of the rights of self-
24 preservation and of self-defense. We feel that with
25 that nature reason the propriety of our explanation

1 for our disregard of Hague Treaty No. III is self-
2 evident."

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1 MR. LOGAN: If the Tribunal please, it has
2 just been called to my attention that in this document
3 itself, this particular article, there is a preface
4 on a page immediately preceding page one of this
5 article, this excerpt in which the names of the authors
6 of this particular treatise are set forth. They are
7 Mr. TACHI and Mr. KASHIMA. I am also advised that
8 Mr. TACHI is dead. We believe, that in view of the
9 statement made by Mr. HIYASHI in the certificate, that
10 we would like to have Mr. KASHIMA produced for cross-
11 examination.

12 THE PRESIDENT: What does he say in the
13 certificate that warrants the calling of him? He merely
14 says that it is a document in the Foreign Office. He
15 does not say how far it was acted upon.

16 MR. LOGAN: Yes, up above there, your Honor,
17 he says that these --

18 THE PRESIDENT: He says, "prepared by a
19 committee in cooperation with the Foreign Ministry." Do
20 you suggest there was really no cooperation or do you
21 want to discover the extent of it?

22 MR. LOGAN: I am making no suggestion, your
23 Honor. I am endeavoring to find out if that is a fact.
24 There are two ways of doing it, either calling Mr.
25 HIYASHI or calling the author of the article. We should

1 be permitted to examine either one or the other of
2 those men.

3 THE PRESIDENT: I will discuss it with my
4 colleagues.

5 Brigadier Nolan.

6 BRIGADIER NOLAN: I now offer in evidence
7 IPS document No. 4076-A, a report by Dr. Ott to Berlin
8 containing an analysis of speeches in the Diet at
9 the end of January 1942 by the accused TOJO, TOGO and
10 SUZUKI.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 4076-A will receive exhibit No. 1271.

14 (Whereupon, the document above
15 .referred to was marked prosecution's exhibit
16 No. 1271 and received in evidence.)

17 BRIGADIER NOLAN: I read from 1271:

18 "Telegram (Secret Cipher Process)

19 "Tokyo, 29 January 1942 0700 hours

20 "No. 245 of 27 January

21 "Secret!

22 "Discussions in the Diet this past week have
23 brought forth several important declarations by leading
24 Japanese statesmen, particularly the Prime Minister and
25 Foreign Minister, concerning aims of Japanese policy

1 and the execution of the war, the text of which is
2 known there. The declarations are especially note-
3 worthy because of their systematic character and the
4 time at which they were given, namely shortly before
5 the attack on the fortress of Singapore, after the
6 successful start of the attack on Burma in the direction
7 of Rangoon, the beginning of the operations against
8 the Netherlands Indies, the progressive conquest of
9 the Philippines and the first action against the outer
10 defensive ring of Australia, the Bismarck Archipelago,
11 New Guinea, and the Torres Straits. According to
12 confidential information, Prime Minister General TOJO
13 himself desired a systematic determination of Japanese
14 policy and carried it through in the face of opposition.
15 This spontaneous stepping forward shows TOJO to be a
16 politically leading statesman, who is more than a mere
17 exponent of the Army. His aim was clearly to establish
18 Japanese war policy on a line which is equidistant from
19 the limited wishes of circles which earlier hoped for
20 an understanding with the Anglo-Saxons and on the other
21 hand from the very extended expansionist tendencies
22 of certain radical groups. From TOJO and TOGO's
23 statements the bases of the future building up of
24 Greater Asia under Japanese leadership are firstly
25 brought out, and secondly the government's program for

1 future policy and waging of the war.

2 "I) Building up of East Asia.

3 "1) Japan, Manchukuo, and Nanking-China
4 shall form the inner core of the new organization.
5 Thailand and Indo-China, who cooperate with Japan out
6 of their own free will, will be included. The other
7 areas of the new great sphere shall crystallize under
8 various forms of government around this core. The
9 active support of allied Thailand was thought to be
10 especially hearty by the Prime Minister and Foreign
11 Minister, though her claims for a revision were not
12 mentioned.

13 "2.) The remaining countries of greater
14 East Asia shall fall into three categories:

15 "a) Previous bulwarks of British imperialism
16 which served to suppress and rule East Asia, namely
17 Hong Kong and the Malay Peninsula.

18 This area must be transformed into a bulwark for the
19 protection of Greater East Asia and must therefore
20 be placed under the immediate control of Japan. This
21 principle found a practical application in General
22 ISOGAI'S appointment as Governor General of Hongkong,
23 as reported from another quarter.

24 "b) Areas, whose independence shall be
25 preserved if they loyally collaborate with Japan:

1 The Philippines and Burma. According to what the
2 Military Attache confidentially learned from the Army,
3 their independence shall be formed according to Manchukuo's
4 pattern.

5 "c) Areas which are to be conquered by force
6 of arms if they persist in resisting Japan: Nether-
7 lands Indies, Australia, and Chungking China.

8 "TOJO and TOGO's statements revealed that the
9 original hope of the Netherland Indies' yielding
10 without a fight is no more, and military action is
11 considered essential. Both speeches contained a forcible
12 appeal for Chungking's ear to turn away from the Anglo-
13 Saxons and / come to an/ understanding with Japan. They
14 were still especially underlined by the reported declara-
15 tion of the Prime Minister before the Budget Commission
16 on 23 January.

17 "3) General principles for the future
18 organization of Greater East Asia.

19 "Concerning this, the speeches of TOJO and
20 TOGO and the declarations of TOJO and General SUZUKI,
21 President of the Planning Board, before the Budget
22 Commission on 23 January, contain a few interesting
23 points. The program is emphatically moderate. New
24 areas are not to be exploited after the defeat of Anglo-
25 Saxon mastery. Instead of that economic collaboration,

1 no war of races, tolerance of religious freedom, no
2 economic exclusion, but on the other hand guidance and
3 regulation of production, and if necessary restriction
4 of individual branches of production (Sugar, also
5 rubber were named in a confidential conversation) in
6 accordance with the needs of the Greater Sphere Economy,
7 managed by Japan. The aim of the present measures is
8 the securing of raw materials which are necessary for
9 waging war and the founding of the later autocratic
10 Greater Sphere Order. Present program:

11 "a) Acquisition of important sources of raw
12 materials.

13 "b) Prevention of the flow of raw materials
14 from the South Sea areas to the enemy powers.

15 "c) Securing the self-sufficiency of the Army
16 in the areas of operations.

17 "d) Cooperation with Japan by existing
18 enterprises in the occupied areas."
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1 "II. Future policy and warfare.

2 "The Prime Minister and Foreign Minister
3 forcibly emphasized the indivisibility of the powers
4 of the Tripartite Pact and the inner close collabora-
5 tion of Japan with Germany, Italy, and her other
6 European friends.

7 "A push in the southerly direction: Nether-
8 lands Indies and Australia was set as the military
9 goal. According to confidential military information,
10 in Australia, Port Darwin is to be conquered first.
11 Japanese war leadership can be content in Australia
12 at first with the possession of this base. This
13 concentration of power in a southerly direction explains
14 why India was not mentioned. In connection with
15 India, great restraint can be evidenced here. Adminis-
16 tration leaders and the Army maintain the standpoint
17 that Japan cannot proceed against Australia and India
18 at the same time, but must pause after the conquest
19 of Singapore and Burma since the push toward the
20 South is more important and of greater use. According
21 to confidential information from the director of the
22 European division of the Foreign Ministry, the Indian
23 Congress is opposed to Japan. Indian nationalism,
24 even in case of a successful revolution, would not
25 be able to establish an independent, orderly state."

1 "The control of such a huge area with 400 million
2 inhabitants would hardly be possible for Japan along
3 with her other numerous difficult tasks. Under these
4 circumstances, the danger exists that India will fall
5 prey to Bolshevism.

6 "Concerning Soviet Russia, the Foreign
7 Minister's speech emphasized that relations were
8 unchanged and were as previously based upon the Neutra-
9 lity Pact. In the Budget Commission, TOGO reported
10 that the annual renewal of the Japanese-Russian
11 Fishery Treaty is at hand.

12 "According to strictly confidential informa-
13 tion, however, military preparations in Manchuria
14 against Russia are in operation. Influential circles
15 defend the viewpoint here that Japan must turn on
16 Russia after the conquest of Port Darwin and must seize
17 Vladivostok, the coastal province, and North Sakhalin,
18 in order to finally secure herself in the North also.

19 "I reported elsewhere about the Japanese
20 standpoint concerning South America and the Rio
21 conference."

22 I now offer in evidence IPS document
23 No. 4076-B. 17th of May, 1942.

24 THE PRESIDENT: Mr. Levin.

25 MR. LEVIN: Mr. President, I object to the

1 introduction of this document on the ground that
2 it is incompetent, irrelevant, and immaterial, and
3 primarily incompetent. It is a statement for the
4 purpose of obtaining decorations on the part of the
5 Germans, and for that purpose they recommend certain
6 decorations to be given various high Japanese govern-
7 mental officials. There is, therefore, contained in
8 there, conclusions which are not borne out by any
9 evidence and not borne out by the facts.

10 As a matter of fact, in connection with the
11 recommendation for a medal to General SUZUKI, it is
12 indicated in the statement itself that his attitude
13 toward Germany had always been moderate; but, never-
14 theless, they recommended this medal for him for the
15 purpose of accomplishing the result desired by them.
16 It is a statement of a conclusion made for the accom-
17 plishment of a special purpose, and it seems to us,
18 under those circumstances, that this is highly
19 incompetent.

20 THE PRESIDENT: Brigadier Quilliam, would
21 you like to say something -- Brigadier Nolan?

22 BRIGADIER NOLAN: I do not know what is
23 meant by saying, Mr. President, that it contains
24 conclusions.

25 THE PRESIDENT: They are objectionable when

1 they come from prosecution's witnesses. This is a
2 document from enemy sources.

3 BRIGADIER NOLAN: Precisely. I submit,
4 Mr. President, that it is clearly admissible, and I
5 offer it in evidence.

6 THE PRESIDENT: It is really an estimate of
7 the war services of certain Japanese generals, is it
8 not, and officials?

9 BRIGADIER NOLAN: At this stage--

10 THE PRESIDENT: Is it some evidence of the
11 cooperation given by the Japanese to the Germans in
12 the pursuit of an aggressive war?

13 BRIGADIER NOLAN: May I put it this way,
14 Mr. President: Japan at this time of which we are
15 speaking, having entered the war as an ally of
16 Germany, the German Embassy in Tokyo thought that it
17 was time to recommend for decorations some of those
18 Japanese who, in their opinion, had contributed to
19 this result.
20

21 THE PRESIDENT: Can you say there is evidence
22 that the conspiracy extended to German ministers and
23 officials, more particularly Ribbentrop and Hitler?
24 We have evidence that pressure was brought to bear
25 on the Japanese to declare war against Britain, by
Ribbentrop, more particularly.

1 BRIGADIER NOLAN: I think, Mr. President,
2 I submit that the evidence given in the phase which
3 dealt with the German relations made it abundantly
4 clear that they were all in this conspiracy.

5 THE PRESIDENT: Mr. Cunningham.

6 MR. CUNNINGHAM: Mr. President, I object to
7 the statement of counsel and submit that it is not
8 substantiated by the record, and it is merely argu-
9 ment on the part of counsel and has no place in the
10 record at this time.

11 THE PRESIDENT: What else could it be but
12 arguments? This is a point of law.

13 Mr. Howard.

14 MR. HOWARD: Mr. President, I had not planned
15 to mention it at this time, but since the question
16 has been raised, General KIMURA is mentioned in here •
17 and I have not been able to find anything about it
18 that is correct yet. I have not checked every fact
19 that he states here, but for one thing, he says he
20 was born in Tokyo Prefecture, and that in his position
21 of Chief of the General Staff of the Kwantung Army,
22 October 1939 to October 1940 -- apparently he selected
23 names at random and interposed facts just out of a
24 clear sky.
25

MR. LOGAN: If the Tribunal please, on a

1 point of law involved here, I fail to see how, at
2 this time, any conspiracy has been shown between these
3 accused and the German Government or the one who
4 recommended these decorations. The mere fact that
5 one government wishes to extend decorations to certain
6 individuals certainly does not establish any conspiracy,
7 nor is it an element thereof.

8 THE PRESIDENT: It could be an acknowledgment
9 of services given by co-conspirators. We have decided
10 to admit the document.

11 CLERK OF THE COURT: Prosecution's document
12 No. 4076-B will receive exhibit No. 1272.

13 (Whereupon, the document above referred
14 to was marked prosecution's exhibit No. 1272,
15 and was received in evidence.)

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

18 (Whereupon, at 1605, an adjourn-
19 ment was taken until Wednesday, 27 November
20 1946, at 0930.)

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27 NOVEMBER 1946

I N D E X
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I N D E X
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EXHIBITS

<u>Doc. No.</u>	<u>Fros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1632W(116)	1273		Extract from Entry from Marquis KIDO's Diary dated 1 September 1942		11359
1632W(101)	1274		Extract from Entry from Marquis KIDO's Diary dated 13 May 1943		11363
1170	1275		Meeting of the Investigation Committee on the Conclusion of a Treaty Between Japan and Thailand Concerning Thai Territory in Malaya and Shan Areas, held 18 August 1943		11364

I N D E X

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EXHIBITS

(cont'd)

<u>Acc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
1632W(105)	1276		Extract from Entry from Marquis KIDO's Diary dated 6 January 1944		11367
1632W(106)	1277		Extract from Entry from Marquis KIDO's Diary dated 17 July 1944		11372
1632W(113)	1278		Extract from Entry from Marquis KIDO's Diary dated 18 July 1944		11377
1632W(114)	1279		Extract from Entry from Marquis KIDO's Diary dated 19 July 1944		11381
1632W(119)	1280		Extract from Entry from Marquis KIDO's Diary dated 20 July 1944		11383
1632W(117)	1281		Extract from Entry from Marquis KIDO's Diary dated 4 April 1945		11384
1632W(118)	1282		Extract from Entry from Marquis KIDO's Diary dated 5 April 1945		11388
1632W(107)	1283		Extract from Entry from Marquis KIDO's Diary dated 9 August 1945		11393

1 Wednesday, 27 November 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12 Appearances:

13 For the Tribunal, same as before with the
14 exception of the HONORABLE R. B. PAL, Member from
15 India, not sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 The Accused:

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

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
25

1 Wednesday, 27 November 1946

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23 to English interpretation was made by the
24 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: Major Moore.

4 LANGUAGE ARBITER (Major Moore): Mr. President,
5 if the Tribunal please: I regret the necessity of
6 presenting a short language correction. I can assure
7 the Tribunal that this will not be necessary for any
8 of the other excerpts from KIDO's Diary presented
9 during this phase of the case.

10 Exhibit 1269, record page 11,309, line 17:
11 substitute "control of discussion about" for "muzzling."

12 THE PRESIDENT: Brigadier Nolan.

13 BRIGADIER NOLAN: Mr. President and Members
14 of the Tribunal:

15 In the extracts from the KIDO Diary that I
16 will ask permission to introduce in evidence today,
17 certain changes have been suggested by the Language
18 Arbitration Board and notified to the defense and to
19 the prosecution. I propose, with the permission of
20 the Tribunal, to read the extracts in the form
21 suggested by the Arbitration Board and, subsequently,
22 to have re-processed those particular documents and
23 distributed both to the Tribunal and to the defense.

24 THE PRESIDENT: The Tribunal approves.

25 BRIGADIER NOLAN: I read from exhibit 1272:

1 "Tokyo, 17 May 1942 "9.40 hours

2 "Arrived, 18 May 1942

3 "No. 1478 of 14 May 1942

4 "Re: Telegraph of 30 January, No. 287.

5 Prot B 22 IX 310.

6 "The Japanese Army have repeatedly approached
7 the Military Attache with the request to recommend
8 certain Japanese for receiving German decorations on
9 the occasion of the Tripartite Pact."

10 Besides above, it proposed 2 or 3 more
11 awardings.

12 "Because of the hesitancy on the part of
13 the Japanese Decorations Office in the matter of Ger-
14 man desires for decorations and in line with your
15 telegram of 9 October, No. 1070, according to which
16 a list of recommendations for German decorations to
17 be bestowed upon Japanese at the occasion of the Tri-
18 partite Pact is to take place only after the bestowal
19 of Japanese decorations has been effected, I have
20 since refrained, on principle, and in agreement with
21 the Military Attache, from passing on the Japanese
22 desires and from making proposals of my own.

23
24 "However, in the meantime and notably since
25 the war broke out, a number of Japanese should be
mentioned; these have made important contributions

1 to German-Japanese cooperation and our joint waging
2 of the war at the same time they occupy key positions
3 in the Japanese Government or Army of such importance,
4 that even without regard to reciprocity, their decoration
5 seems suitable. This concerns men of the immediate
6 group surrounding TOJO, who will presumably retain
7 for some time their decisive influence on the
8 shaping of Japanese policy. I learned that the Italians
9 have recently planned a number of bestowals of
10 the decorations. Hence I would like to propose to
11 suggest the following decorations to the Fuehrer:

12 "(1) Teiichi SUZUKI, Lieutenant-General re-
13 tired, Minister of State, President of the Planning
14 Board of the Cabinet, born 16 December 1888 in CHIBA.
15 In the scope of the tasks conferred on him as head of
16 the Planning Board to bring Japan on the highest level
17 of defense, SUZUKI wields decisive influence on the
18 reorganization of Japan's inner administration, includ-
19 ing almost all of the ministries. He likewise controls
20 economic planning in Japan, as well as the organiza-
21 tion of economic and administrative construction in
22 the Southern territories. SUZUKI is at the same time
23 an executive organ (General Secretary of the Board
24 for the Construction of Greater East Asia). On the
25 strength of this great authority, his connections with

1 the Army and his personal relations to TOJO, SUZUKI
2 has created a position for himself that can be label-
3 ed as a kind of a Vice-Chancellorship. This is also
4 shown by SUZUKI's order of rank in the Japanese Cab-
5 inet at official events. Although he was formerly
6 somewhat ambiguous in his attitude towards Germany,
7 SUZUKI has especially recently supported cooperation
8 with Germany and had an important share in the deci-
9 sion of Japan's entry into the war. Proposed Order:
10 Grand Merite.

11 "(2) Toshio SHIRATORI, born 8 June 1887 in
12 CHIBA, formerly Ambassador in ROME. Adviser of the
13 Foreign Minister when the Tripartite Pact was con-
14 cluded. For a long time he was the principal advocate
15 of intimate cooperation with Germany. Member of the
16 New Diet after having recovered his health SHIRATORI
17 will probably again play an important part in foreign
18 and home politics. Order: Great Cross.

19 "On recommendation of the Military Attache:

20 "(3) General SUGIYAMA, Chief of General
21 Staff since 3 October 1940, born 21 January 1880 in
22 KOKURA, former Minister of War. In all of his posi-
23 tions he has always openly advocated cooperation with
24 Germany, wielding great influence in the conclusion
25 of the alliance. Grade: Great Cross.

1 "(4) Lieutenant-General HILITARO KIYURA,
2 Vice Minister of War, born 20 September 1888 in TOKYO
3 Prefecture. K. was in Germany 1922-1924. In his
4 position of Chief of the General Staff of the Kwantung
5 Army, October 1939 to October 1940, he has especially
6 worked in behalf of Germany. Vice Minister of War
7 since 10 April 1941, he is one of the principal ad-
8 vocates of German-Japanese military cooperation.
9 Grade: Great Cross.

10 "(5) Lieutenant-General AKIRA (TM: From
11 context the garbled part seems to be HHTO), former
12 Director of the military political section of the
13 War Ministry since October 1939, born 15 November 1892
14 in KUMAMOTO. He has now received an important field
15 command, and an extraordinary career is predicted
16 for him. Without regard to the vicillations of Japan-
17 ese policy, K. has always advocated the conclusion of
18 a German-Japanese alliance in a most important posi-
19 tion. Order: Great Cross, under special considera-
20 tion of his official position.

21 "(6) Major-General KIMRYO SATO, Chief of the
22 Political Section of the War Ministry, born 1 June 1895
23 in ISHIKAWA-KEN. Definitely pro-German; representative
24 and adviser and at present successor of General HHTO.
25 The importance wielded by him during the last three

1 months before Japan's entry into the war has obviously
2 increased. Order: Distinguished Service Cross with
3 Stars.

4 "(7) Lieutenant-General YUKIO KASAHARA,
5 born 6 November 1889 in TOKYO, Chief of the European
6 Section of the General Staff at the time of the Anti-
7 Comintern Pact; until 1941 Chief of the General
8 Staff of the Japanese Army in North China; at pre-
9 sent field command; using his important influence he
10 has always worked as a leader for the Anti-Comintern
11 Pact and German-Japanese cooperation. Order: Dis-
12 tinguished Service Cross with Stars.

13 "On recommendation of Air Attache:

14 "(8) Colonel General FUMIJI OCHIHARA, Chief
15 of the Army's Airarm Bureau since 9 June 1941, born
16 8 August 1883 in SHIYAMA. By constant close and
17 friendly cooperation with the Air Attache, he has in
18 a leading position, contributed, in the true sense
19 of the Tripartite Pact, to the extension and deepening
20 of the military alliance. Order: Great Cross.

21 "(9) Vice Admiral SHIMICHI YATAGIRA, Chief
22 of the Navy's Airarm Bureau since 24 September 1941,
23 born 10 September 1885 in YONAZA A. Reasons as per
24 Para.(6). Order: Great Cross.

25 "To the above proposals I would like to re-

1 mark:

2 "SUGIYAMA had been recommended for the Great
3 Cross already in 1937 because of his pro-German atti-
4 tude. As Chief of the General Staff he continued taking
5 a leading part in working for Military cooperation
6 with Germany.

7 "KIMURA has closely cooperated with Minister
8 of War and Prime Minister TOJO already on the Kwantung
9 Army. His personal relationship to TOJO as well as
10 his primary preoccupation in his position of Prime
11 Minister have enhanced his influence on the leadership
12 of the War Ministry, as well as his position in regard
13 to the other Vice-Ministers to a marked degree.

14 "MUTO, as head of the political section of
15 the War Ministry since 1939, has often been mentioned
16 in my reports. In view of the political influence
17 wielded by the Japanese Army, his attitude was and
18 is of great importance. The same is now true of Major-
19 General SATO who has so far cooperated in a friendly
20 way with the Military Attache and the Embassy as
21 MUTO's representative.

22 "DOHIHARA and KATAGIRI have an equally im-
23 portant share in military cooperation, along with the
24 Chiefs of the Army's and Navy's Airarm Bureaus. Be-
25 cause of the successes of the Japanese airarm their

1 position among Japan's military and political leader-
2 ship has especially risen. In view of their position
3 simultaneous bestowals of the Great Cross seem called
4 for."

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1 I now offer in evidence a KIDO Diary extract,
2 IPS document No. 1632W (116).

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 1632W (114) will receive exhibit No. 1273.

6 (Whereupon, the document above referred
7 to was marked prosecution's exhibit No. 1273 and
8 received in evidence.)

9 BRIGADIER NOLAN: I read from exhibit 1273 in
10 part:

11 "At 2:10 Premier TOJO came to my room, and
12 related the circumstances surrounding the establish-
13 ment of the Greater East Asia Ministry.

14 "He said that the matter had been debated
15 at that morning's Cabinet conference, that as
16 Foreign Minister TOGO had objected in principle
17 to the establishment, there had been no agree-
18 ment in views. After a short recess, in the after-
19 noon the Premier had talked the matter over with the
20 Foreign Minister, but could not persuade him. Then
21 the Premier had asked him to resign, but his answer
22 being that he could not do so at once, the negotia-
23 tions had come to a standstill. The Premier had
24 then requested the Foreign Minister to let him
25 know by 4 p.m. whether he would resign or not."

1 "If the Foreign Minister does not resign, the Cabinet
2 will be forced to resign en bloc due to non-unity,
3 the Premier concluded.

4 "I was greatly surprised by the news as
5 it came so suddenly, but since the Cabinet could
6 do nothing I let the matter ride.

7 "From 2:30 to 3 audience with the Emperor
8 reporting the above matters. He, too, was greatly
9 surprised. He wanted by all means to avoid a
10 resignation en bloc in view of the situation at
11 home and abroad, and at the present stage of war,
12 today when America has begun to show considerable
13 signs of counter-offensive action. I was really
14 impressed. Therefore, I asked the Emperor to call
15 in Navy Minister SHIMADA as an intermediary. With
16 the Emperor's permission, I had the Chief Aide-de-
17 Camp request the Navy Minister to appear at the
18 Palace immediately.

19 "At the same time I called Chief Secretary
20 MATSUJIRA, who had already retired to his home, to
21 come and had him consider the steps to be taken in
22 case the Navy Minister's intermediation should fail.

23 "At 3:10 Navy Minister SHIMADA came to
24 the Palace, and I saw him immediately. Having
25 given him the reason why he was so suddenly called,

1 I asked him to do his very utmost. From 3:20 to
2 3:25 audience with the Emperor. Reported the
3 conversation which I had just had with the Navy
4 Minister. Then the Navy Minister was received
5 in audience after which he later came to my room
6 and told me that he was deeply impressed by the
7 gracious mind of the Emperor and that he would do
8 his best.

9 "From 3:45 to 4 audience with the Emperor,
10 who told me what he had said to the Navy Minister.

11 "At 5:00 received an interim report by
12 phone from the Navy Minister by Aide-de-Camp
13 SAMEJIMA that a solution seemed possible.

14 "Then at 5:35 I received a phone call
15 from the Navy Minister that Foreign Minister TOGO
16 having understood the Premier's position had de-
17 cided to present his resignation at about six o'clock.

18 "From 5:40 to 5:45 audience with the
19 Emperor. Reported these events and informed the
20 Emperor that we had avoided the danger of a mass
21 resignation. He appeared then to be relieved and
22 I was pleased.

23 "Then I returned home. After supper, I
24 went again to the Palace at 7:00. Premier TOJO
25 also came and reported to the Emperor that TOGO

1 had resigned and that he (TOJO) would be responsible
2 for TOGO's post in addition to his own.

3 "The Emperor sanctioned all this and
4 installed him at 8:00 P.M. as the Foreign Minister."
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1 BRIGADIER NOLAN: I now offer in evidence an
2 extract from the KIDO Diary of the 13th of May, 1943,
3 IFS Document No. 1632" (101).

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1632W (101) will receive exhibit No. 1274.

7 (Whereupon, the document above referred
8 to was marked prosecution's exhibit No. 1274 and
9 received in evidence.)

10 BRIGADIER NOLAN: I read from exhibit 1274,
11 extract from the Diary, 13 May 1943:

12 "At 3 p.m. Foreign Minister SHIGEMITSU
13 visited the Palace and after the audience he visited
14 my room and we exchanged views concerning the prospect
15 of the world situation, etc. He told me his opinion
16 about his meeting with Ambassador Stahmer, which was
17 as follows:

18 "Ambassador Stahmer is seriously afraid of
19 the present situation in Germany; the power of the Army
20 has been gradually gathering strength and the Nazi
21 Party apparently is overwhelmed by them. If this
22 tendency becomes stronger, some violence will occur in
23 politics as well as in diplomacy, and at last Germany
24 will be confronted with a similar situation as in the
25 last stage of the first Great War. In this occasion,

1 by all means, some powerful person should be sent from
2 Japan to Germany for the establishment of liaison between
3 the two countries."

4 I offer in evidence IFS document No. 1170,
5 being a meeting of the Investigation Committee of the
6 Privy Council held on the 18th of August, 1943, rel-
7 ative to the conclusion of a treaty between Japan and
8 Thailand concerning Thai territory in Malaya and Shan
9 areas.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 1170 will receive exhibit No. 1275.

13 (Whereupon, the document above referred
14 to was marked prosecution's exhibit No. 1275 and
15 received in evidence.)

16 BRIGADIER KOLAN: The accused present were
17 HIRAHARA, TOJO, SHIGEMITSU, SATO, AND OYA. I read from
18 page 2 of exhibit 1275:

19 "KUBOTA, a member of the committee, raised a
20 question concerning the exchange document referred to
21 in the draft, and AOKI, Greater East Asia Minister,
22 made the reply. SHIMIZU, a member, asked whether there
23 was any dissatisfaction on the part of Burma due to
24 Japanese approval of the annexation of the two Shan
25 states by Thailand, and whether there was any request

1 on the part of Thailand for the re-acquisition of
2 Penang Island and the State of Wellesley, both of which
3 she had lost in Malaya but had not been included in
4 the present annexation plan. In reply to this ques-
5 tion, Premier TOJO related the circumstances when he
6 had made the proposal in his interviews with BA MAW
7 at Singapore and Phibun at Bangkok during his trip
8 South. He stated that although Ba Maw had shown no
9 sign of dis-satisfaction regarding Thailand's annex-
10 ation of the two Shan States, uneasiness might be enter-
11 tained by the natives, and that, therefore, nothing
12 should be left to be desired in Japan's future policies.
13 He further explained that because only a few years had
14 passed since Thailand's cession of the territories which
15 she was about to reacquire, her desires had been very
16 strong. He explained that it was for this reason that
17 Japan was trying to recognize Thailand's reacquisition
18 of these territories, and that the present measures
19 taken toward the four Malay states seemed to be a
20 surprise to Thailand, Phibun's face was full of joy."

21 I omit the next paragraph.

22 "Then MIKAMI, a member of the committee,
23 inquired what meaning such an action would have by
24 International Law. MORIYAMA, Director of the Bureau
25 of Legislation, replied that it was the popular opinion

1 according to International Law that occupying nations
2 had no territorial rights in occupied areas, and, there-
3 fore, such treaties for territorial cession in the
4 occupied area should not be concluded. However, on
5 the other hand as an occupying nation was conducting
6 the administration for occupied areas, in other words,
7 military administration, and as there was no" --
8 something; I can't read it.

9 THE PRESIDENT: "No special regulations."
10 Special, I suppose.

11 BRIGADIER HOLLAN: " -- special regulation
12 stipulating that we should continue this condition for-
13 ever, it should be perfectly all right to agree that
14 there would be no objections to our abolishing the
15 military administration in the occupied areas and
16 letting a third power annex such territories. He ex-
17 plained that the treaty between Japan and Thailand
18 would be concluded in this spirit. A reply was made
19 by Premier TOJO to the effect that the Japanese Army
20 already firmly believed that this was Japan's terri-
21 tory and that the measure for this draft should be
22 taken according to this firm conviction."

23 The top of page 4:

24 "HAYASHI, a member of the committee, asked
25 whether the Government intended to consider such

1 measures provided in the Treaty as not being contrary
2 to International Law. Premier TOJO answered that
3 International Law should be observed so long as the
4 enemy observed it; but that International Law should
5 be interpreted from the viewpoint of executing the war
6 according to our own opinions, and that he considered
7 the present measure as being perfectly justified by
8 International Law."

9 I now offer in evidence an extract from the
10 KIDO Diary, 6 January 1944, IPS document No. 1632W(105).

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1632W (105) will receive exhibit No. 1276.

14 (Whereupon, the document above referred
15 to was marked prosecution's exhibit No. 1276 and
16 received in evidence.)

17 BRIGADIER NOLAN: I read from exhibit 1276:

18 "Went to my office at 10:00 a.m. and had a
19 talk with Chief Secretary MATSUDAIRA at 11:00 a.m.
20 concerning the fate of Germany and measures we
21 must take thereafter regarding the situation, and
22 asked him to investigate the subject.

23 "I am wondering during the beginning of
24 this year about the progress of the war during the
25 coming year. No matter what is said, the fate of

our ally, Germany, is the most important problem.
1 If she has reserve power great enough to fight
2 through the year and to assume the initiative,
3 it will relieve the situation but if, on the con-
4 trary, she should be defeated during the coming
5 year, it will be critical for our country. Although
6 I am not wishing for such a thing to occur, it is
7 necessary to prepare for that emergency.
8

9 "First, we must consider whether we
10 should take measures to bring the war to an end,
11 in case Germany is beaten or surrenders uncondition-
12 ally. In that case Japan should, of course, take
13 action based on decisions independently arrived at
14 relating to the situation at the time. It is reas-
15 onable to suppose that the enemy will intensify
16 their political offensives on us. Therefore, we
17 must take greatest care to devise counter policies
18 lest traitors like Badoglio make their appearance
19 in large numbers even within the country.

20 "The continuance of TOJO's Cabinet will
21 no doubt become quite difficult in such an event
22 and upon its retirement, the big problem will be
23 whether the mere recommendation of a successor to
24 the Throne through the elder statesmen's council as
25 usual, will be enough or not. If things get to such

1 a pass it is a problem worthy of consideration whether
2 or not the council should further determine before-
3 hand an outline of the diplomatic course Japan
4 should follow and recommend the succeeding Cabinet
5 to undertake the execution of the policy.

6 "Secondly, under such a situation, I
7 believe that there will be no hope in setting up
8 such a plan unless it includes very considerable
9 concessions on our part. As is clear in the Im-
10 perial proclamation of war the aim of the Greater
11 East Asia War from the beginning was the breaking
12 down of the so-called encirclement by the ABCD.
13 We can regard it as a conclusion for the time
14 being if this object is accomplished. From that
15 point of view, it is possible to outline the plan
16 as follows:

17 "1. The problems of the Pacific Ocean
18 shall be dealt with by the principal nations
19 bordering that Ocean.

20 "2. Japan, U.S.S.R., China, U.S.A. and
21 Great Britain shall organize a commission.

22 "3. The regions occupied by Japan and
23 the islands in the Pacific Ocean shall be a non-
24 fortified zone.

25 "4. With the exception of Manchuria, the

1 independent nations other than the principal nations
2 in those regions, shall be made permanent neutral
3 countries similar to Switzerland. The remaining
4 occupied regions shall be placed under the admini-
5 stration of a joint commission composed of the prin-
6 cipal nations.

7 "5. The economic policies in the regions
8 should, in principle, be based on freedom, reciprocity
9 and equal opportunity.

10 "When and how the plan is to be proposed
11 is a matter which should be studied most carefully.
12 The time should not coincide with the collapse of
13 Germany but should be prior to the time when U.S.A.,
14 Great Britain and U.S.S.R. unite in their hostility
15 against Japan. Measures may be taken with the
16 U.S.S.R. as the go-between.

17 "The plan may at a glance be considered
18 as too conciliatory and weak-kneed, but looking
19 over the future trend of the world, I believe we
20 must nurture and cultivate our actual powers within
21 the state for about one century to come, due to the
22 experience gained as a result of the China Incident
23 and the German-Soviet war to the development of air-
24 craft, and to the actual strength of U.S.A. and
25 U.S.S.R. and moreover in view of the terrible

1 attribution of our national power.

2 "If this judgment is correct; we should
3 carefully avoid being isolated and attacked all at
4 once by the nations of the world as a coloured race,
5 and from this point of view, I believe the best
6 way for us is to maintain cooperation against
7 Anglo-Saxon America and Britain with Soviet Russia
8 and China which are essentially oriental, prepare
9 our organization to meet the changing circumstances,
10 and quietly save our real strength."

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1 BRIGADIER NOLAN: I now offer in evidence an
2 extract from the KILO Diary, 17 July 1944, IPS docu-
3 ment No. 1632W (106).

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1632W (106) will receive exhibit No. 1277.

7 (Whereupon, the document above referred
8 to was marked prosecution's exhibit No. 1277 and
9 received in evidence.)

10 BRIGADIER NOLAN: I read from the fifth para-
11 graph from the bottom of page 1 of exhibit 1277:

12 "At 9.30 p.m. on 17 July, 1944, Admiral
13 Katsuke OKADA called and talked to me as follows:

14 "1. A Senior Statesmen's council was held at
15 Baron HIRANUMA's house today.

16 "1. Those who attended were Messrs. WAKATSUKI,
17 OKADA, HIRANUMA, HIROTA, ABE, KONOYE and YONAI.

18 "1. Mr. WAKATSUKI is made chairman, and he
19 begins to talk first. This Cabinet has completely
20 lost the sympathy of the public; and he thinks that
21 the present situation is really serious. He asks for
22 opinions.

23 "1. YONAI: Since the 13th I have been
24 asked several times to join the Cabinet. After care-
25 ful consideration I have written declining the offer."

1 "As OKA, Chief of Naval Affairs Bureau came and talked
2 to me about the general opinion of the Navy and all,
3 I replied that it would be reasonable for me to be
4 returned to active service again and serve as Supreme
5 War Councillor or in any other capacity; but that even
6 if I entered the Cabinet as Minister of State I could
7 be of little service, and that it would not be the
8 thing to do. I have no intention of joining the
9 Cabinet.

10 "AEE: Although the people are completely out
11 of sympathy with this Cabinet, the situation would
12 become more difficult if it were replaced by a still
13 weaker Cabinet. We must think about such points. As
14 President of the Imperial Rule Assistance Political
15 Society, I must decide my attitude according to the
16 attitude of the Imperial Rule Assistance Political
17 Society.

18 "HIRANUMA: Whether the Cabinet is overthrown
19 or not, or whether the next Cabinet will be a weak one
20 or not is not the point. The point is that we are
21 really concerned about our country, and we must make
22 up our minds to do something.

23 "HIROTA: I also was asked to help by
24 KARASAWA who talked about diplomatic policy vis-a-vis
25 the Soviet Union, but no one has talked to me since

1 then. Even if I were asked to, I should not join the
2 Cabinet.

3 "Questions and answers were exchanged between
4 OKADA and ABE over the question of the Navy. Finally
5 the following decision was made and the meeting ad-
6 journed.

7 "Accordingly, I asked him (Translator's Note:
8 OKADA) if I might understand by the above talk that I
9 have been given information concerning the gathering
10 of the senior statesmen, that is, if I might take it
11 that he had come with the intention of keeping contact,
12 and as he replied in the affirmative, I acknowledged
13 that such was the case. I asked him because I thought
14 that I should have to give careful consideration, if
15 he intended to ask me to report it to the Emperor.

16 "In order to find our way through the
17 current difficult situation, it is necessary to renew
18 the popular mind. All people must rally and cooperate
19 to build a powerful national Cabinet which will surge
20 forward unswervingly. A partial reorganization of the
21 Cabinet will not be of any use."

22 "At 12.20 on 17 July 1944, Premier TOJO called
23 and explained the Cabinet policy which may be summed
24 up as follows:

25 "As we are told of the Emperor's intention

1 regarding the three points to which the Lord Keeper of
2 the Privy Seal called attention some time ago, we have
3 decided to carry out the consolidation of the Supreme
4 Command as well as a change of Navy Ministers. I had
5 a talk with the candidate for Navy Minister, Admiral
6 Heokumi NOMURA, tonight, and we agreed."

7 "When we decided our policy at first, we were
8 not thinking of the question of the Supreme Command.
9 But things have reached a point where this had had to
10 be taken into consideration because of the general
11 situation, since it was feared that a state might arise
12 in which there would be insufficient unity between
13 Army and Navy. From this point of view, we have
14 changed our policy on reorganization of Cabinet and
15 other problems to minimum.

16 "Reinforcement of Headquarters. The Liaison
17 Conference which has been inclined to be businesslike
18 and has not been made use of to the fullest extent,
19 shall be renovated and strengthened. It shall con-
20 sist of two ministers of state of the Premier class
21 (ABE and YONAI considered) besides both Chiefs of
22 Staff and the Minister of War and Navy, Munitions,
23 Finance and the Foreign Minister.

24 "Cabinet reorganization.

25 "In order to strengthen the air force,

1 FUJIWARA shall serve full time as Minister of Muni-
2 tions, and, therefore, we request retirement of Mr.
3 KISHI as Minister of State. MAEDA or SHIMADA shall
4 be appointed Welfare Minister in order to have a member
5 of the Imperial Rule Assistance Political Society in
6 the Cabinet. General ABE and Admiral YONAI will be
7 asked to join the Cabinet as Ministers of State in
8 order to reinforce the Imperial Headquarters.'

9 "In connection with the Senior Statesmen:

10 "We are prepared to consider the revival of
11 the Cabinet Advisory system, if it is desired by the
12 Senior Statesmen. Hereafter, the Cabinet members
13 shall always keep close contact with the Senior
14 Statesmen and fully reflect their intentions.'

15 "In connection with the Imperial Rule Assist-
16 ance Political Society:

17 "The advisory set-up shall be divided into
18 two departments, technical and political, and five
19 advisors shall be appointed from among the members
20 of the House of Peers and the House of Representatives.'"
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1 BRIGADIER NCLAN: I now offer in evidence an
2 extract from the KIDO diary of the 18th of July 1944,
3 IPE document No. 1632W (113).

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution document
6 No. 1632W (113) will receive exhibit No. 1278.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1278 and received in evidence.)

10 BRIGADIER: I now read from exhibit No. 1278
11 on page 1, the fourth paragraph:

12 "Was received in audience from 9:15 to 9:30.
13 Reported to the Throne concerning the trend of the
14 Senior Statesmen, principally about their meeting at
15 HIRANUMA's residence. At 9:30 Premier TOJO proceeded
16 to the Imperial Palace to be received in audience.
17 Saw him and talked with him in the First Interroom.
18 The Premier revealed to me that he had decided on a
19 resignation en bloc. Accordingly, I said that in
20 order to carry out the political change smoothly, in
21 view of the importance of the Army's position in the
22 domestic picture, I should like to be informed, for
23 my own information, of the succeeding Prime Minister,
24 if he had one in mind. The Premier answered that the
25 Senior Statesmen have a heavy responsibility for the

1 present political change; therefore, he supposed that
2 they must have a plan in mind and he would not venture
3 to give his opinions. However, in case a cabinet
4 headed by an Imperial prince were considered, he hoped
5 that none of the Army royalty would be taken into con-
6 sideration."

7 I skip one paragraph:

8 "was received in audience from 11:25 to 11:40,
9 and was shown the written resignation of TOJO and the
10 other cabinet members."

11 On page 2:

12 "The Details of the Senior Statesmen's Con-
13 ference."

14 I read the first two paragraphs:

15 "Having been summoned by the Emperor former
16 Prime Ministers WAKATSUKI, OKADA, HIGETA, KONOYE,
17 HIRANUMA, ABE and YONAI, President of the Privy Coun-
18 cil HARA and Lord Keeper of the Privy Seal KIDO, met
19 in conference at 4 P. M. on 18 July Showa /1944/.
20 Discussion was held as to who should be recommended
21 to the Throne as premier of the succeeding Cabinet,
22 Premier TOJO having tendered his resignation. The
23 conference was closed at 8:45 P.M.

24 "Grand Chamberlain HYAKUTAKE, who attended
25 the meeting in accordance with the Emperor's wish,

1 notified those present of the import of the Imperial
2 summons. Lord Keeper of the Privy Seal KIDO gave a
3 detailed explanation of the circumstances which had
4 led to the resignation en bloc of the TOJO Cabinet."

5 And a paragraph on page 11:

6 "The meeting being closed, I was immediately
7 received in audience by the Emperor in his study from
8 8:50 to 9:15. I reported the results of the confer-
9 ence in detail. I asked the Emperor to inquire of
10 the Army High Command whether the appointment of
11 Field-Marshal TERAUCHI, the first candidate, would
12 affect the military operations as he is the Supreme
13 Commander of the Southern Area Army. . The Emperor re-
14 plied that he would have the Chief Aide-de-Camp ask
15 the Chief of the General Staff TOJO (who happened to
16 be at the Palace for the installation ceremony for new
17 Chief of the General Staff UMEZU). At 9:50 p.m., I
18 was received in audience again. His Majesty told me
19 as follows:

20 "Upon the Emperor's asking Chief of the General
21 Staff TOJO as to the effect upon the military operations
22 of Field-Marshal TERAUCHI's appointment, the latter op-
23 posed the idea for the following two reasons. The
24 Emperor thought them reasonable and has decided to ap-
25 point General KIOSO!"

1 "(1) When the enemy's counter-offensive is at
2 its height it is impossible to leave the post of front
3 line Supreme Commander vacant even for a single day.

4 "(2) To allow the domestic political situation
5 to affect the front lines is bad for morale, and is
6 certain to cause serious repercussions in the East Asia
7 Co-Prosperity Sphere, as well as among neutral powers.
8 Therefore, such a step must be avoided by all means.'

9 "After asking the Emperor to summon the Grand
10 Chamberlain and to order him to make arrangements for
11 summoning General KOISO, I withdrew.

12 "I was summoned and was received in audience
13 from 10:10 to 10:25 p.m. The Emperor revealed to me
14 his impression that judging from the line-up at the
15 installation ceremony, TOJO might resume the post of
16 War Minister after all and asked me if I didn't think
17 so. I replied that I feared that it would have an
18 unfavorable effect on the political situation."
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1 BRIGADIER NOLAN: I now offer in evidence an
2 extract from the KIDO Diary of the 19th of July, 1944.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 1632W (114) will receive exhibit No. 1279.

6 (Whereupon, the document above referred
7 to was marked prosecution's exhibit No. 1279 and
8 received in evidence.)

9 BRIGADIER NOLAN: I read from exhibit 1279:

10 "At 6:30 a.m. Mr. SUZUKI, Teichi, at 8
11 Mr. ABE, Genki, and at 8:30 Mr. HIROSE visited me and
12 each discussed the political situation.

13 "At 10 the Chief Aide-de-Camp came to my office
14 and consulted me about the Imperial message to the
15 Commander of the Kwantung Army.

16 "From 10:20 to 11:35 I was received in audience
17 by His Majesty and reported on the political situation
18 and on other matters.

19 "At 1:00 Mr. KAYA visited me at my office and
20 talked to me about the monetary policy towards China.

21 "At 2 the Chief Aide-de-Camp came to my office
22 and conferred with me regarding the Imperial message
23 to Chief of Army General Staff TOJO.

24 "At 3 Imperial Household Minister MATSUJIRA
25 came to my office and told me about the circumstances

1 of the change of government.

2 "At 4 Director of the Police Bureau MACHIMURA
3 came to my office and informed me of the conditions
4 of peace and order, etc.

5 "At 6 Prince KONOYE called on me at my home
6 and asked me what I thought about making the next
7 Cabinet a coalition Cabinet of KOISO and YONAI for
8 the purpose of forming a true national unity Cabinet,
9 adding that Baron HIRANUMA had also agreed. As I
10 had been feeling the need of taking some steps to put
11 up a united front, I agreed to the idea, and at 6:30
12 called in Chief Secretary MATSUDAIRA and asked him to
13 find out the views of other elder statesmen before
14 tomorrow morning."

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1 BRIGADIER NOLAN: I will now offer in evi-
2 dence an extract from the KIDO Diary of 20th July,
3 1944, IPS document No. 1632W (115).

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1632W (115) will receive exhibit No. 1280.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1280 and received in evidence.)

10 BRIGADIER NOLAN: I will read from exhibit
11 1280, the fifth paragraph from the top of the page:

12 "Conference of Senior Statesmen reconvened at
13 4, and I fully explained the development regarding
14 the coalition. General ABE also revoked his dis-
15 approval.

16 "At 4:15 Governor-General KOISO arrived from
17 Korea and immediately came to the Palace. I ex-
18 plained in detail the political situation leading to
19 the resignation en bloc.

20 "I was received in audience from 4:50 to 4:58
21 and reported to the Throne until I asked his Majesty
22 to summon KOISO and YONAI.

23 "General KOISO and Admiral YONAI were received
24 in audience at the Imperial Study at 5:10. His
25 Majesty gave his message, 'Subjects, form a Cabinet

1 in cooperation,' telling them to observe the text
2 of the Constitution, and to handle the affairs so
3 as not to irritate the Soviet in order that the
4 Greater East Asia War might be accomplished.

5 "As it was also General KOISO's wish, at 5:30
6 I took the general and the admiral to a place where
7 the senior statesmen were meeting and brought them
8 together.

9 "I was received in audience from 5:50 to 6:05.
10 Prince KONOYE came to my office at 6:10 and we had a
11 talk. At 7:30 General KOISO called on me at my home
12 and told me about his discussion with Premier TOJO
13 and Chief of Army General Staff UMEZU."

14 I now offer in evidence an extract from the
15 KIDO Diary of 4th April, 1945, IPS document No.
16 1632W (117).

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1632W (117) will receive exhibit No. 1281.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1281 and received in evidence.)

23 BRIGADIER NOLAN: Reading from the top of
24 page 2 of exhibit 1281:

25 "At 2 P.M. Premier KOISO came to the office and

1 talked to the following effect.

2 As I have previously discussed with you, I
3 am of the opinion that, in the war situation of
4 today the present organization and character of the
5 government as the highest national organ are by no
6 means, good. That is why, with the Emperor's per-
7 mission, I was admitted to Imperial Headquarters.
8 I have also given my opinion (Translator's Note
9 there) concerning the direction of the war but to
10 little avail. From now on, we must have, at any
11 cost, an Imperial Headquarters Cabinet or Cabinet
12 which will direct the war. Toward the end of last
13 month, therefore, I talked with YONAI and we discussed
14 the matter from various standpoints. We could think
15 of a reform, but whether we should have it or not
16 was a matter of doubt as we have never known of a
17 Cabinet being strengthened by reform. In fact, I
18 informed His Majesty of this question at the end
19 of last month. I had also thought at that time of
20 opening the second Greater East Asia Conference in
21 the middle of the month. Also in view of the war
22 situation in OKINAWA, I had been thinking of de-
23 ciding on my step at about the end of the month.
24 However, not only has the second Greater East Asia
25 Conference come to be suspended (a meeting of

1 Ambassadors is now under consideration in its place)
2 but also it is likely that the war in OKINAWA may take
3 several months more. Meanwhile it happens that in the
4 Army Marshal SUGIYAMA and Marshal HATA have been de-
5 cided upon to go out as Commanders-in-Chief in order
6 to strengthen the defense structure. Accordingly, the
7 Army is going to recommend General ANAMI to the Throne
8 as War Minister and I hear that the Army wants to
9 realize the above plan by about the 6th. Such being
10 the case, it would not be fair to recognize this
11 change now and then carry out the mass resignation
12 at the end of the month.'

13 Therefore, KCISO upon consultation with Navy Minister
14 YONAI today, has decided that a resignation en block
15 is desired for the reasons given in the separate sheet.

16 "Then I asked KCISO when he proposed to do this.
17 He answered that if it suited the Emperor, he was
18 thinking of having a special Cabinet meeting today
19 to gather the letters of resignation, but I suggested
20 that he had better do so tomorrow morning as there
21 would be no time for His Majesty to consider the
22 question if it happened too suddenly. KCISO agreed
23 with me.

24 "Was received in audience at 2:45 and reported
25 the matter to the Throne. I stated that this time

1 the Lord Keeper of the Privy Seal would like to see
2 the Ministers of the Army and Navy and the two
3 Chiefs of Staff prior to the Senior Statesmen's Con-
4 ference, and received the Emperor's permission.

5 "(Translator's Note. Test of KOISO's reasons
6 for resigning.)

7 "Since we are convinced that at this moment when
8 the situation of the Empire is getting more and more
9 urgent, with changes on both political and war
10 fronts east and west, and when there should exist no
11 discrimination between the battlefield and the home
12 front or between the Supreme Command and the Civil
13 Government a fundamental change should be made in
14 the organization and character of the Cabinet so
15 that they may cope with the present situation and
16 so that the Cabinet, together with the whole nation
17 with renewed resolution may be powerful enough to
18 go straight forward for the accomplishment of the
19 great task of assisting the Throne. To this end we
20 have decided to ask permission of the Emperor to
21 tender our resignation and carry out a resignation
22 en bloc."

23 I offer in evidence an extract from the
24 KIDO Diary of 5th April, 1945, IPS document No.
25 1632W (118).

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution's docu-
3 ment No. 1632W (118) will receive exhibit No.
4 1282.

5 (Whereupon, the document above re-
6 ferred to was marked prosecution's exhibit
7 No. 1282 and received in evidence.)

8 THE PRESIDENT: Captain Brooks.

9 MR. BROOKS: Mr. President, I intended to
10 let this matter go by, but in reference to ex-
11 hibit 1278, after hearing these other documents
12 I think it wise to call to the Court's attention
13 pages 9 and pages 10, as they show a good deal of
14 the background of the selection of the man, General
15 KCISO, for Premier, as he was considered by the
16 members of the Cabinet, their knowledge of him,
17 his acquaintance, and so forth, and I believe that
18 it does have a great deal of bearing and should be
19 called to your attention.

20 THE PRESIDENT: Don't go away.

21 MR. BROOKS: I started to ask to have that
22 read at the time, but then I thought I would let
23 it go and bring it in later. But I see now that part --
24 this is the first time I seen the first part of it --
25 but I think it should be called to the Court's

1 attention, and I will try to bring it out later and
2 try to have an understanding and a background.

3 THE PRESIDENT: It is for the prosecution
4 to say how much of any document they will read to
5 the Court. If they leave out a part which the
6 defense thinks should be brought to the Court's notice
7 the defense can read it in the course of giving
8 their evidence, but if Brigadier Nolan cares to read
9 the part to which you refer, Captain Brooks, we will
10 hear it now, although it will be out of place

11 MR. BROOKS: I won't insist on it, your
12 Honor. The Brigadier said he would read it, but I
13 just wanted to call it to the Court's attention,
14 because there is a lot of material in there to be
15 discussed that gives the background of these men
16 which were discussed for this position which is
17 very important. But I do believe it is wise for
18 the Court to read page 9 and 10 to understand the
19 background and the ideas of this man as will be
20 presented from now on.

21 THE PRESIDENT: In future defense counsel
22 should approach the prosecuting counsel. If he
23 agrees to read the additional material he may do so,
24 but interruptions of this kind will not be permitted.
25

BRIGADIER NOLAN: I read from exhibit 1282,

1 pages 1 and pages 2, being marked as KIDO's Diary of
2 5 April 1945:

3 "At 10:30 A.M. Prime Minister KOISO proceeded
4 to the Imperial Palace to tender his resignation to
5 the Throne.

6 "From 10:45 to 10:55 I was received in audience
7 by His Majesty and was shown Prime Minister KOISO's
8 resignation.

9 "At 11:00, Prime Minister KOISO called at my room
10 to talk about the time of announcement and other
11 matters. It was generally agreed to announce it at
12 the 7:00 P.M. news broadcast.

13 "As previously arranged with the Chief Aide-de-
14 Camp to His Majesty, I conferred with the Chief of
15 the General Staff UMEZU at 11:35, Navy Minister YONAI
16 at 11:55, War Minister SUGIYAMA at 1:00 and Chief of
17 the Naval General Staff CIYAWA at 2:00, as described
18 in the attached report. At 12 55 P.M. air raid
19 alert warning was issued. From 2:15 to 3:15 I was
20 received in audience by His Majesty in the library.

21 "At 3:20 Admiral OKADA called at my room and
22 conferred with me.

23 "From 5:00 to 8:00, we borrowed the Reception
24 Room to hold a meeting of JUSHIN (Translator's Note.
25 Senior Statesmen.) Baron WAKATSUKI joined us at

1 6:00 P.M. because his train was delayed.

2 "At the conclusion of the meeting, the Senior
3 Statesmen were asked to affix their private seals.

4 "At 8:30 I talked with President of the Privy
5 Council SUZUKI.

6 "From 8:45 to 9:15 I was received in audience by
7 His Majesty (at the library) and reported in detail
8 the opinions of the Senior Statesmen. The Imperial
9 mandate was issued to Baron KANTARO SUZUKI. I
10 replied that it would be considered in accordance
11 with His Majesty's discretion.

12 "At 10:00 the Imperial mandate was issued to
13 Admiral SUZUKI. After being received in audience, he
14 called at my room and conferred with me on various
15 matters. Came back home at 11:30.

16 "I asked Chief of the General Staff UMEZU to
17 call on me at 11:30 A.M. The interview was as
18 follows:

19 "Premier KOISO presented his resignation to
20 the Throne today. The reason is that in view of the
21 present war situation, the organization and
22 characteristics of the Cabinet must be altered to
23 make it more powerful. In other words, it should
24 be an Imperial Headquarters Cabinet or a War
25 Directing Cabinet. In this connection, from the

1 Supreme Command's viewpoint, I would like to ask
2 whether you desire to express any opinions. I
3 would also like to ask you of your opinions con-
4 cerning the forecast of the war, the collapse of
5 Germany and the political aggression of the San
6 Francisco Conference.

7 "1. In regard to the forecast of war, the
8 battle of OKINAWA is bitterly contested and al-
9 though the forecast is not favorable, we must be
10 determined to fight it out to its bitter end re-
11 gardless of whether the enemy can be routed or not.
12 If the morale of the people can be unlifted to dis-
13 play its total power, it is no doubt difficult but
14 not impossible. In this connection, the Army is
15 steadily making preparations. I therefore earnestly
16 hope that a Cabinet will be formed which will be in
17 conformity to this desire. One plan would be to
18 adopt a war-time Cabinet or minority Cabinet which
19 was adopted by various countries in the previous
20 World War.

21 "1. The Imperial Headquarters Cabinet and War
22 Directing Cabinet are worth considering but it is
23 difficult to link together the supreme command and
24 state affairs.

25 "1. Petroleum is the chief source of worry but

1 there is enough to last several months. At present,
2 permission has been granted to organize special corps
3 to dig for oil in Japan proper. We desire to
4 double the present production."

5 I offer in evidence an extract from the
6 KIDO Diary of the 9th of August, 1945, IPS document
7 No. 1632W (107).

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 1632W (107) will receive exhibit No. 1283.

11 BRIGADIER NOLAN: I read from exhibit
12 1283, being an extract from the Marquis KIDO's Diary
13 of August 9, 1945:

14 "At 1:30 p.m. Premier SUZUKI called at my office
15 and reported that the Supreme War Guidance Council has
16 decided to accept the Potsdam Declaration on the
17 following conditions: (1) Preservation of the
18 Imperial Dynasty, (2) Independent evacuation of
19 troops, (3) Handling in our own country of persons
20 responsible for the war, and (4) No guarantee occu-
21 pation."
22
23
24
25

1 THE PRESIDENT: Mr. Higgins.

2 MR. HIGGINS: Mr. President and Members of
3 the Tribunal. On November 6, page 9752 of the
4 record, the prosecution tendered IPS document No.
5 2400-A, entitled "Measures to be taken toward the
6 peoples of East Asia," prepared by the Racial
7 Question Committee of the National Policy Research
8 Institute. This document was given exhibit No.
9 1029 and was marked for identification only, for the
10 reason that it did not sufficiently appear that the
11 Institute was officially connected with the Japanese
12 government nor that any of the accused were respon-
13 sible for the document.

14 The prosecution has made further investigation
15 and there does not appear now to be sufficient
16 evidence to warrant the admission of the document
17 in evidence. The prosecution consents, therefore,
18 that it may be stricken from the record.

19 THE PRESIDENT: It has been tendered for
20 identification merely. No Member of the Tribunal
21 has seen it; it is no part of the record. We do
22 not look at documents until they are finally
23 tendered, and any document we can not look at can
24 not be part of the record.

25 MR. HIGGINS: I make this statement, Mr.

1 President, because the document was read to the
2 Tribunal and is recorded in the record.

3 THE PRESIDENT: If so, it should not have
4 been read until it was finally admitted. You may
5 or may not be stating the fact, Mr. Higgins.

6 MR. HIGGINS: With the exception of one
7 witness to be called for cross-examination --

8 MR. BROOKS: Mr. President, as I under-
9 stand, the objection I made at that time was --
10 this matter was received conditionally and I believe
11 if it is as the prosecution has just stated it should
12 be expunged from the record, that part that was read
13 into the record should be expunged completely, and I
14 ask the Court to allow it.

15 THE PRESIDENT: It is necessary to make
16 clear that we do not look at documents merely
17 tendered for identification unless we are asked to
18 determine a question which involves a reading of
19 the document. That may have been so here. The
20 document will be disregarded by the Tribunal.

21 MR. HIGGINS: With the exception of one
22 witness to be called for cross-examination, this
23 closes the phase of the case involving the relations
24 between the United States of America and the British
25 Commonwealth, on the one hand, and Japan on the

1 other.

2 At this time Mr. Horwitz desires to clear up
3 some pending matters.

4 THE PRESIDENT: Mr. Horwitz.

5 MR. HORWITZ: Mr. President, it will be
6 recalled that at the time Mr. Oneto was presenting
7 his phase of the case five documents were received
8 conditionally, subject to furnishing certificates
9 of origin. These documents were court exhibits No.
10 618, 620, 628, 633 and 634. Certificates of origin
11 have now been obtained for each of these. Exhibit
12 634 is from the archives of the War Ministry and all
13 the remainder are from the archives of the Foreign
14 Office.

15 I now tender the certificates and ask that the
16 condition be removed.

17 THE PRESIDENT: Admitted on the usual
18 terms. I suppose they should be attached to the
19 relative document and given the same number with the
20 addition of a letter. Do you see any objection to
21 that course?
22

23 MR. HORWITZ: I see no objection to that,
24 your Honor.

25 THE PRESIDENT: The Clerk of the Court will
mark them accordingly. He need not call the numbers

1 now. He will have to look into it first.

2 Mr. Higgins.

3 MR. HIGGINS: Mr. President, Mr. Justice
4 Mansfield will now proceed for the prosecution.

5 THE PRESIDENT: Mr. Justice Mansfield.

6 MR. JUSTICE MANSFIELD: If the Tribunal
7 please, I desire to apply to call at this stage a
8 witness in relation to Counts 53, 54 and 55 of the
9 Indictment. The phase dealing with that particular
10 part of the Indictment has not yet commenced, but
11 this witness is from Australia and will not be
12 available unless he is able to give evidence within
13 the next few days.

14 THE PRESIDENT: Have we no coercive
15 powers?

16 MR. JUSTICE MANSFIELD: Of course the
17 Tribunal has coercive powers provided he is within
18 the jurisdiction when the coercive powers are exer-
19 cised. Yes.

20 I notice the witness is in the box but I have
21 not yet got the approval of the Tribunal.

22 THE PRESIDENT: Mr. Logan.

23 MR. LOGAN: The Court hasn't heard the
24 defense's objections yet either, your Honor. If
25 the Tribunal please, ordinarily we have no objection

1 to calling witnesses out of order, but this is a
2 commencement of another phase and I understand the
3 phase which will follow the one which is just com-
4 pleted will only take three or four days.

5 We are working on some very serious objections
6 to the presentation of the atrocity phase of this
7 case and it may very well be that the hearing of these
8 witnesses at this time would not be necessary if
9 the Court rules in our favor on the objections which
10 we intend to make. We consider these fundamental
11 objections and by putting this witness on at this
12 time it may be a waste of time for the Court to
13 listen to them.

14 THE PRESIDENT: Mr. Cunningham.

15 MR. CUNNINGHAM: If the Tribunal please,
16 this question not only presents evidence in another
17 phase of the case but it presents a phase included
18 in a great group of counts of the Indictment, and
19 the case has been divided into three great groups.
20 Presenting this case in piecemeal, such as this,
21 creates a serious handicap to present general ob-
22 jections to the evidence of a particular phase of
23 the case or particular group, and I urge most
24 seriously that the testimony of these witnesses be
25 deferred until after the opening statement and after

1 the defense has an opportunity to make its objec-
2 tions to the evidence -- to the general evidence to
3 be presented in the atrocity phase of the case.

4 THE PRESIDENT: What is the occupation of
5 the proposed witness, Mr. Justice Mansfield?

6 MR. JUSTICE MANSFIELD: He is a surgeon.

7 THE PRESIDENT: Is he placed in any par-
8 ticular office of responsibility in Australia?

9 MR. JUSTICE MANSFIELD: He is a surgeon on
10 the staff of one of the large hospitals in Melbourne
11 and also a lecturer at the Melbourne University.

12 THE PRESIDENT: Can he be replaced? I sup-
13 pose he has a substitute now.

14 MR. JUSTICE MANSFIELD: I presume he has
15 a substitute for any of his private practice, but
16 I understand that he completed the work which he
17 was required to do up to the time he left, but there
18 is other work which he will have to do when he
19 returns.

20 THE PRESIDENT: Suppose we take his evidence
21 in due course, how much longer will he be here, Mr.
22 Justice Mansfield?

23 MR. JUSTICE MANSFIELD: I should say that if
24 his evidence is taken in due course, without allowing
25 for any cross-examination of the witnesses in the

1 earlier phases, that he will not be put on much be-
2 fore Christmas, if then.

3 THE PRESIDENT: He won't be required at the
4 university because of the vacation, but he will be
5 required at the hospital, which is more important.

6 MR. JUSTICE MANSFIELD: That is correct.

7 MR. LOGAN: If the Tribunal please, I don't
8 understand this statement about Christmas. It is
9 my understanding that there is only the Netherlands
10 phase to go on as soon as this one now has been com-
11 pleted, and that will only take about three or four
12 days, as I understand it.

13 THE PRESIDENT: A majority of the Court
14 are prepared to hear him now if it means he will be
15 delayed until Christmas if he isn't heard now, but
16 we want to know how long he will be delayed if we
17 take his evidence in due course.

18
19 "Then will you be opening your section, Mr.
20 Justice Mansfield?

21 MR. JUSTICE MANSFIELD: Well, I anticipate
22 not before the 16th of December, and I am assured by
23 some of my more pessimistic colleagues that it won't
24 be until next year.

25 THE PRESIDENT: Does your section follow
that of the Netherlands?

1 MR. JUSTICE MANSFIELD: No, Mr. President.

2 THE PRESIDENT: A majority of the Court
3 have decided to hear his evidence now. That, of
4 course, is subject to what decision we come to on
5 the defense's objection.

6 Mr. Smith.

7 MR. SMITH: If your Honor please, I would
8 like to enter an objection to the testimony of this
9 witness on behalf of Mr. HIROTA.

10 THE PRESIDENT: We will recess now for
11 fifteen minutes.

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

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THE PRESIDENT: Mr. Smith.

MR. SMITH: If your Honor please, during the recess I understood from Justice Mansfield that the testimony of the proposed witness is limited to Counts 53, 54 and 55. As Mr. HIROTA is not mentioned in those Counts, I would like to withdraw the objection, if the Court please.

THE PRESIDENT: Mr. Cunningham.

MR. CUNNINGHAM: If the Tribunal please, it appears rather illogical to me to present an objection to the introduction of evidence after the evidence has been introduced, so I would like the privilege, before this witness testifies, to make a few objections to the introduction of evidence concerning atrocities as far as the defendant is concerned that I represent.

THE PRESIDENT: You had better wait until he is sworn and proceeds to give evidence. That is the usual course.

MR. JUSTICE MANSFIELD: I call Albert Ernest Coates.

- - -

COATES

DIRECT

1 A L B E R T E R N E S T C O A T E S, called as
2 a witness on behalf of the prosecution, being
3 first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. JUSTICE MANSFIELD:

6 Q What is your full name?

7 A Albert Ernest Coates.

8 Q And your rank?

9 A Lieutenant-Colonel.

10 Q To what unit of the Army do you belong?

11 A Australian Army Medical Corps.

12 Q Did you belong to that unit on the 17th of
13 March 1942?

14 A I did.

15 Q Where were you on the 17th of March 1942?

16 A At Fadang, Sumatra.

17 Q And what happened on that date?

18 A I was captured by the Japanese.

19 Q In May, 1942, did you leave Sumatra?

20 A I did.

21 Q How many other prisoners of war left with you?

22 A Five hundred British relicts from sunken ships.

23 Q And from Sumatra where was your destination?

24 A Mergui, Burma.

25 Q What was the form of transport?

COATES

DIRECT

1 A We were embarked on the England Maru, confined
2 in very small spaces beneath the two decks. Conditions
3 were bad, ventilation poor and food the usual rice and
4 radish soup.

5 Q How long did the journey last?

6 A Seven days.

7 Q When you arrived at Mergui where were you
8 confined?

9 A We joined a thousand Australians, making a
10 total of fifteen hundred, and were confined in a small
11 school.

12 Q And what was the size of the school in rel-
13 ation to the numbers?

14 A A school would accommodate about a quarter
15 of the number of children sitting at desks, but was
16 totally inadequate to accommodate the number of prisoners
17 of war. Consequently, "jail fever" or what is known
18 as dysentery broke out in fulminating form.

19 Q Were there any drugs available to treat that
20 disease?

21 A The Japanese doctor advised me to use the
22 charcoal from the kitchen.

23

24

25

COATES

DIRECT

1 MR. CUNNINGHAM: It appears now that the
2 witness is testifying concerning atrocities under the
3 rules of land warfare; and I should like to object to
4 the introduction of any evidence relative to the com-
5 mission of any conventional war crimes, especially
6 those which have a definite geographical localization,
7 first.

8 I further object to the introduction of any
9 evidence concerning the defendant OSWINA during all
10 of the period of hostilities described, for the reason
11 that he was beyond the limits of the jurisdiction of
12 this Tribunal at all periods of time covered by these
13 three counts of the indictment.

14 I object to any evidence on the part of the
15 prosecution intending to bear on the conspiracy to
16 commit violation of the rules of land warfare or crimes
17 classed as crimes against humanity where the Charter
18 does not contemplate a conspiracy to commit this class
19 of crimes, and that proof be confined strictly to the
20 individual or personal responsibility of those in
21 charge; that the Charter limits the scope of this
22 inquiry to bring to justice only those individuals whose
23 acts were beyond the jurisdiction of the other courts
24 organized for the punishment of offenses against the
25 rules of land warfare and crimes against humanity;

COATES

DIRECT

1 that the rules of land warfare prescribe that the
2 character of the courts which have jurisdiction over
3 military offenses depends upon the local laws of each
4 country; that the United States has courts-martial,
5 military commissions, and provost courts, and these
6 courts have exclusive jurisdiction over the rules --
7 violation of the rules of land warfare and the mis-
8 treatment of prisoners of war. Each nation represented
9 on this Tribunal is given exclusive jurisdiction over
10 the offenses to its armed forces. The offenses of
11 violation of the rules of land warfare is by this
12 Charter and by the proclamation creating the Tribunal,
13 one of purely military character, cognizable only in
14 time of war before a tribunal constitutionally created
15 for that specific purpose under the rules of the various
16 countries.

17 Evidence of atrocities in this Tribunal is
18 further objected to for the reason that the rules of
19 land warfare contemplate a legal state of war; and the
20 prosecution should be required to elect whether or
21 not it selects a legal state of war or an illegal
22 state of war upon which to base its case.

23 In support of this geographical location, I
24 merely wish to quote one statement of Mr. Robert
25 Jackson in presenting his report to the President on

COATES

DIRECT

1 the Nuernberg trial.

2 THE MONITOR: Mr. Cunningham, if you are to
3 quote any statement, will you quote it phrase by phrase,
4 please, as we have difficulty in translating a long
5 sentence.

6 MR. CUNNINGHAM: For the purpose of the re-
7 cord, I withdraw that statement and go to my final
8 statement.

9 THE PRESIDENT: You may adopt the language
10 of Mr. Justice Jackson, but you cannot quote him as an
11 authority.

12 MR. CUNNINGHAM: In conclusion, I merely
13 wish to state that I have prepared abundant authority
14 for the contentions which I have set out in these
15 objections, but I should like to reserve the argument
16 on them to some later time, but wanted to raise them
17 at this time.
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COATES

DIRECT

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1 THE PRESIDENT: Mr. Justice Mansfield.

2 Q Witness, you were about to --

3 THE PRESIDENT: Do you wish to reply? An
4 objection is taken.

5 MR. JUSTICE MANSFIELD: I have not heard
6 any argument on the objections which have been taken.

7 THE PRESIDENT: I think his objection
8 covered this evidence. He said you could give no
9 evidence of these conventional war crimes because
10 we have no jurisdiction, as our jurisdiction is
11 confined to crimes which have no geographical location.
12 Secondly, that so far as conspiracy is alleged, it
13 does not extend to conventional war crimes. If I
14 have misunderstood the argument of counsel, I would
15 like to be corrected.

16 MR. CUNNINGHAM: That is it, in substance.

17 THE PRESIDENT: Thirdly, that conventional
18 war crimes can be dealt with only by the military
19 tribunals of particular nations, and not by a
20 combined court such as this. The Tribunal has already
21 decided, if my memory serves me correctly, that not
22 only is aggressive war in issue, but the type of war
23 conducted. In these circumstances the evidence would
24 be admissible. The Tribunal has decided to admit the
25 evidence.

COATES

DIRECT

BY MR. JUSTICE HANSFIELD (Continued):

1 Q Witness, you were about to tell us of a
2 statement made with respect to drugs?

3 A As I stated, drugs were not supplied.
4 Charcoal was used, and we had quite a smart epidemic
5 of dysentery amongst patients.
6

7 Q Was there any hospital accommodations sup-
8 plied?

9 A At first the serious ones were confined
10 in part of the above-mentioned school, but owing to
11 the kindness of the Japanese doctor he obtained for
12 us the use of some coolie huts in the local civil
13 hospital.

14 Q Will you describe the conditions in that
15 hospital?

16 A The patients in serious condition were
17 without any clothing except that which they wore,
18 and their faeces-saturated clothing had to be washed,
19 leaving the patients lying naked on the bare floors.

20 Q Were there any deaths?

21 A Not very many; only about twenty.

22 Q With proper medical supplies would those
23 deaths have occurred?

24 A No. The disease was found to be amoebic
25 dysentery. Microscopic tests were done by the local

COATES

DIRECT

1 Burmese doctor. Emetine, the specific drug, would
2 have cured those patients. but the Japanese doctor
3 informed me that it was only available to the
4 Japanese. Although only twenty died, many of those
5 patients subsequently died from the infection, which
6 is a slow, smouldering one after the initial out-
7 burst.

8 Q Were there any executions while you were in
9 Mergui?

10 A Yes. Two men who went out of the camp
11 were summarily executed, and one man who was mentally
12 unbalanced was also executed for walking out of the
13 hospital precincts.

14 Q Were they charged with any offense, if you
15 know?

16 A Yes, making an attempt to escape, punishable
17 by death.

18 Q In August where did you go to?

19 A Tavoy.

20 Q And where did you work at?

21 A In a prisoner of war hospital, which was
22 serving about three thousand prisoners of war for
23 the neighborhood.

24 Q And what were the conditions in that hospital?

25 A A little better than they had been at Mergui.

COATLS

DIRECT

1 The beds were of concrete and not of wood; hence,
2 they could be kept cleaner. And a little more
3 drugs were supplied by the Japanese there, particu-
4 larly after I had the experience of assisting a
5 Japanese doctor save the life of a Japanese soldier.
6 Some rather ancient bottles of decoctions of old
7 fashioned medicine and three or four gynecological
8 instruments were presented to me.

9 Q After Tavoy where did you go?

10 A From Tavoy to Thanbyuzayat.

11 Q And from there where did you go?

12 A To the 30 kilo. The railway construction
13 was well under way in February-March, 1943, and
14 at the 30 kilo were accumulated two thousand of the
15 more recent casualties from the railroad.

16 Q All of whom were prisoners of war?

17 A All prisoners of war.

18 Q From what disease were these men suffering?

19 A They showed the earlier manifestations of
20 avitaminosis, that is lack of vitamins. Partial
21 blindness, burning feet, and sore tongue, sore mouth,
22 inability to swallow, diarrhea. Many of them had
23 chronic amoebic dysentery and malaria in a relapsing
24 form.
25

Q Were any drugs available to treat these

COATES

DIRECT

diseases?

1 A There were no drugs nor medical orderlies.
2 All of the medical orderlies of the medical unit
3 that came up there were being employed in the con-
4 struction of the railway. With four medical officers
5 in charge of two thousand patients, I had to recruit
6 volunteer medical orderlies from recovering sick.
7

8 Q How did this hospital cease to function?

9 A General SASSA, a Japanese, went through
10 the camp with a retinue, saw the patients, many of
11 them still standing up, ordered the hospital to be
12 closed and all the dying patients to be put out to
13 work.

14 Q And were those orders carried out?

15 A They were.

16 Q In your opinion as a medical man what would
17 be the fate of most of the men sent to work?

18 A A great number of them died in the next
19 month or two.

20 Q From there to what camp did you go?

21 A I was sent to the 75 kilo camp in Burma as
22 a free-lance, regimental, medical officer.

23 Q And how many men were in that camp when you
24 first arrived?

25 A Over three thousand.

COATES

DIRECT

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22 a free-lance, regimental, medical officer.

23 Q And how many men were in that camp when you
24 first arrived?

25 A Over three thousand.

COATES

DIRECT

Q In what condition were they?

1 A Very poor condition.

2 Q Were they sent anywhere?

3 A They were, all but three hundred, sent
4 away to 105 kilo camp. Of the last thirteen hundred,
5 a thousand of them were inspected by a Japanese
6 doctor in my presence by hastily walking past the
7 standing, sitting, or lying men, depending on their
8 ability to do that. He decided the one thousand of
9 the thirteen hundred were fit. I pointed out to him
10 their enfeebled condition and urged that he leave
11 them to be cared for, but he said, "They must finish
12 the railway, and after that they will have a long
13 rest."
14

15 Q You remained with the three hundred, is that
16 so?

17 A I remained alone with these three hundred
18 dying and very ill patients.

19 Q What happened to them?

20 A A number died, but most of them were trans-
21 ferred eventually in July to the 55 kilo camp.

22 Q Were there any natives in this camp of
23 75 kilo?

24 A The huts which were no longer occupied
25 by white POW's were now filled with natives in
various stages of disease, cholera particularly.

COMBIS

DIRECT

1 Q What was the death rate of these natives?

2 A They died at the rate of fifteen a day.

3 Q Were they given any proper medical treat-
4 ment while they were there?

5 A In the early stages, no; but later a
6 Japanese doctor came and did something for them.

7 Q Then, in July did you go to 55 kilo camp to
8 take charge of the hospital?

9 A I did.

10 Q Will you describe the conditions in that
11 camp?

12 A The camp was an abandoned working camp, con-
13 sisting of eight bamboo and attap huts, floored with
14 strips of bamboo. Hygiene was bad, latrines having
15 to be dug alongside and up to the edges of the woods
16 because of the high instance of dysentery and the
17 absence of bed pans. There were eighteen hundred
18 patients in the camp, five hundred of whom suffered
19 from large and medium-sized ulcers of the leg. There
20 was a large amount of both bacillary and amoebic
21 dysentery, and we had no specific drugs, and so we
22 used to put those patients in what was called the dead
23 house. If the dysentery was infective, these patients
24 were isolated. Rarely would they come out of that hut
25 alive. We had a big element of malaria in the camp.

COATES

DIRECT

1 It was practically universal. The quinine supplied
2 was only sufficient for those patients admitted with
3 a primary diagnosis of malaria by the Japanese. For
4 example, quinine was supplied for three hundred
5 patients, but practically eighteen hundred had malaria.
6 I protested to the medical authorities at Thanbyuzayat,
7 that is the Japanese, and it was pointed out that the
8 Japanese allowed a man to have only one disease; if he
9 had malaria he couldn't have an ulcer of the leg, and
10 if he had an ulcer of the leg he couldn't have dysen-
11 tery. Unfortunately, there were many men who had
12 three or more diseases. Quinine was the only drug
13 supplied in a quantity which was measureable. The
14 rest of the drugs supplied were in infinitesimal
15 quantities. The fortnightly issue of drugs other
16 than quinine would be something like this: a box
17 packed neatly with straw and containing at the bottom
18 a few cakes of sulphur, a pound of Epsom salts, and
19 six small bandages. That was the sole issue of medi-
20 cal equipment for eighteen hundred seriously sick
21 men segregated purposely by the Japanese in that camp.
22 Malaria was a great underlying cause of blood de-
23 struction, that is anemia, and consequently seriously
24 afflicted men suffered from other diseases. But an
25 even more important factor was the lack of food,

COATES

DIRECT

1 resulting in forms of malnutrition, avitaminosis,
2 lack of vitamins, and nutritional edema. All other
3 diseases were, as it were, based on this lack of food,
4 lack of meat particularly, and vitamin-containing
5 substances so necessary to keep the body together.

6 Q Did that have any effect on the spread of
7 tropical ulcer?

8 A Tropical ulcer, we had seen in large numbers
9 both in Malaya, where I was for a year before Japan's
10 attack, and also in Sumatra. This condition was
11 familiar to us, but the new disease with this ulcer
12 of the leg with which we became acquainted in the
13 jungle in 1943 was something quite different. There
14 was no inflammation, but only local death of the
15 limb. There was no inflammation.

16 THE PRESIDENT: We will adjourn until half
17 past one.

18 (Whereupon, at 1200, a recess was
19 taken until 1330, after which the proceedings
20 were resumed as follows:)
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COATES

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AFTER NOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330.

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

7 THE PRESIDENT: There is a matter I would
8 like to bring up at this stage. You applied,
9 Mr. Justice Mansfield, yesterday for permission to
10 tender certain affidavits but to be allowed to read
11 only a synopsis of those affidavits instead of read-
12 ing the whole of them. A majority of the Court
13 thinks that you should have that permission provided
14 you serve the defense with a copy of the synopsis as
15 soon as it is prepared. That will be perhaps a week
16 or more before it is used, we take it. You might
17 also endeavor to discover, if you can, what was done
18 with the tens of thousands of affidavits that were
19 used at Nuernberg by the Court. It is suggested
20 that they were never wholly read.

21 MR. LEVIN: Mr. President.

22 THE PRESIDENT: Mr. Levin.

23 MR. LEVIN: While I realize the Court has
24 stated that exceptions go to adverse rulings as a
25 matter of course, nevertheless we regard the ruling

1 in this instance as a very great departure from the
2 previous rulings and of such importance that we want
3 to take special exception to the ruling of the Court
4 in this matter.

5 THE PRESIDENT: An exception is always an
6 exception but I suppose you want to emphasize your
7 objection to this course.

8 MR. LEVIN: That is correct.

9 THE PRESIDENT: Mr. Logan.

10 MR. LOGAN: There is also included in that
11 application, if the Tribunal please, a request by
12 the prosecution to be only required to serve trans-
13 lations in Japanese of the excerpts rather than of the
14 entire affidavits. Has the Tribunal ruled on that?

15 THE PRESIDENT: I think Mr. Justice
16 Mansfield contended that if the rule applied it
17 required him to do no more than he intended.

18 MR. JUSTICE MANSFIELD: The prosecution
19 intends to comply with the provisions of Rule 6(b)
20 with regard to the use of affidavits.

21 THE PRESIDENT: But there is this difference,
22 Mr. Justice Mansfield, that you must face up to. The
23 whole of the affidavit must go in evidence. The
24 Judges will be at liberty to peruse the whole of it.
25 Therefore, you cannot say you are using only the

synopsis. The rule is really inapplicable. You would overcome the difficulty by serving the whole of the affidavit and the whole of the excerpt in Japanese as well as in English.

MR. LOGAN: If the Tribunal please, under that Rule 6(b)(1) we have been making these appearances in Chambers for the purpose of relaxing that rule, and that rule, as it stands, is that if an entire document is used, even though the prosecution just used excerpts, that the entire document should be translated. And these motions have been made in Chambers for the purpose of relaxing the rule so as not to permit the prosecution to make translations of the excerpts they intend to use.

THE PRESIDENT: To hold the Court's decision, Mr. Justice Mansfield, I can assure you it will be necessary to serve the affidavits and the synopses not only in English but in Japanese.

MR. JUSTICE MANSFIELD: If the Tribunal please, Rule 6(b) is not as it was stated by Mr. Logan. Rule 6(b) requires the whole of the affidavit or document to be copied in English and served on the defense and the excerpts which are to be used only in Japanese are required to be translated into Japanese and copies thereof served. The prosecution, in this instance,

CONTES

DIRECT

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21 Rule 6(b) requires the whole of the affidavit or docu-
22 ment to be copied in English and served on the
23 defense and the excerpts which are to be used only
24 are required to be translated into Japanese and copies
25 thereof served. The prosecution, in this instance,

1 has endeavored to meet the wishes of the Tribunal by
2 presenting its evidence in a brief summary, that is,
3 for the purpose of saving time. If the Tribunal now
4 imposes upon the prosecution the obligation of trans-
5 lating the whole of every document into Japanese and
6 serving 135 copies in Japanese on the defense, it will
7 mean that the whole of the translation work, or a very
8 large portion of it, will have to be re-done and all
9 the copies re-done.

10 THE PRESIDENT: Why? Why is that?

11 MR. JUSTICE MANSFIELD: Because we have
12 complied with the provisions of Rule 6(b) in making
13 135 copies in English of the complete document and
14 135 copies in Japanese of the excerpts relied upon.
15 That is what the rule says.

16 THE PRESIDENT: Well, you would require that
17 even under our ruling now. You would require at
18 least that, but we are making you also give trans-
19 lations of the affidavit in Japanese additionally.

20 MR. JUSTICE MANSFIELD: Well, if that is
21 the position, if the Court please, I wish to withdraw
22 my application to use synopses because we cannot
23 possibly be ready in time.

24 THE PRESIDENT: You had better find out how
25 the tens of thousands of affidavits were used at

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21 the position, if the Court please, I wish to withdraw
22 my application to use synopses because we cannot
23 possibly be ready in time.

24 THE PRESIDENT: You had better find out how
25 the tens of thousands of affidavits were used at

1 Nuernberg because if they were read in Court -- if
2 they had to be read in Court -- the case would have
3 taken years. We know this: they were tendered in
4 evidence there, they were used there, but they were
5 not wholly read there. So what was done?

6 MR. JUSTICE MANSFIELD: They were apparently
7 presented by means of a report; that is, the ones
8 pertaining to the judgment. But the point that I
9 desire to make to the Tribunal at this juncture is
10 that the desire of the prosecution is to meet the
11 wishes of the Tribunal with regard to the saving of
12 time.

13 THE PRESIDENT: How long will you take if
14 you have to read all the affidavits?

15 MR. JUSTICE MANSFIELD: It is very difficult
16 to estimate the exact time, but I should say that it
17 will take at least a fortnight, if not longer, to
18 read the whole of the affidavits.

19 THE PRESIDENT: Well, you won't save a great
20 deal of time by reading synopses.

21 MR. JUSTICE MANSFIELD: Well, that is purely
22 an estimate on my part. The synopses will, probably
23 not take more than an hour to an hour and a half
24 each.

25 THE PRESIDENT: You had better see what was

1 done at Nuernberg. You say they were reported on, so
2 that involved the Court not having even a synopsis
3 but the finding of somebody else. Is that so?

4 MR. JUSTICE MANSFIELD: The only information
5 which I have is that which is contained in the judg-
6 ment in relation to affidavits contained in reports.

7 MR. LOGAN: I believe, if the Tribunal
8 please, that at Nuernberg there were about 38,000
9 affidavits and they were referred to a commission
10 which, of course, returned an impartial report,
11 whereas here, your Honor, if the synopses are
12 presented by the Prosecution I don't think we could
13 call it an impartial report.

14 THE PRESIDENT: That is why we wanted the
15 copy of the synopsis in each case served on you.

16 Mr. Levin.

17 MR. LEVIN: Mr. President, I should like to
18 add one observation, and that is this: that under
19 the terms of the Charter, proceedings are required
20 to be carried on in the language understood by the
21 accused, in the language of the accused. When the
22 affidavits are presented in evidence they are part
23 of the record and, therefore, under the circumstances,
24 it must of necessity be translated in Japanese.

25 THE PRESIDENT: The Court is wholly with

1 you on that, Mr. Levin. You need not paint the lily.

2 MR. LEVIN: In one group of the Nuernberg
3 affidavits there were one hundred thousand of them.
4 In what form they were submitted or offered in
5 evidence I am not certain, your Honor.

6 THE PRESIDENT: That affected the organiza-
7 tions. I don't know to what extent it was used
8 against the accused individually. I am reminded
9 they were defense affidavits.

10 MR. JUSTICE MANSFIELD: I realize a number
11 of them were defense affidavits, but I think there
12 were affidavits put in by the prosecution also.

13 THE PRESIDENT: That I am reminded is also
14 true. I haven't read the whole of the Nuernberg
15 Judgment.

16 MR. JUSTICE MANSFIELD: All that we are ask-
17 ing is that we comply with Rule 6(b) as it stands and
18 we be enabled to furnish, in addition, a synopsis.
19 We haven't asked for any relaxation of Rule 6(b).

20 THE PRESIDENT: There is still an alternative
21 open, Mr. Justice Mansfield. You can reduce the number
22 of those affidavits from 135 to some lesser number,
23 perhaps. Of course, we can't control you there
24 unless the evidence is cumulative.

25 MR. JUSTICE MANSFIELD: There will be

1 considerably more than 135 affidavits for the whole
2 twenty areas; more than six affidavits for each area.

3 THE PRESIDENT: However, you have the
4 Court's decision and it is for you to say.

5 MR. JUSTICE MANSFIELD: Is it the decision
6 of this Court that the whole of the affidavit --

7 THE PRESIDENT: The whole of the affidavit and
8 the whole of each synopsis must be served both in
9 Japanese and in English on the defense.

10 MR. JUSTICE MANSFIELD: Well, I ask the
11 leave of the Tribunal, then, to allow me to consider
12 the decision. If it is possible to be ready in time
13 to have some of these documents from which excerpts
14 are being used -- one document runs into forty pages;
15 we are only using one page from it. That will have
16 to be translated into Japanese and that will take
17 forty days for one person.

18 THE PRESIDENT: You had better proceed with
19 the examination of the witness.
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COATES

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1 A L B E R T E R N E S T C O A T E S, called as
2 a witness on behalf of the prosecution,
3 resumed the stand and testified as follows:

DIRECT EXAMINATION

BY MR. JUSTICE MANSFIELD (Continued):

6 Q Would you describe the state of repair of
7 the huts in which the sick were housed at Kilo 55?

8 A The huts were in bad repair. Many of them
9 leaked and, of course, there wasn't sufficient working
10 party in the camp who were well enough to keep them
11 in repair.

12 Q Were there frequent down pours in the wet
13 season of rain?

14 A Yes. The rain frequently came through the
15 roof but it didn't matter much. The men had no
16 clothing and they were so obsessed with their other
17 sufferings that the down pour of rain didn't seem to
18 affect them a great deal.

19 Q Did the senior medical officer, Japanese
20 medical officer for Burma visit this camp in July,
21 1943?

22 A Yes. He came in order to find three hundred
23 more workmen.

24 Q Did he find them?

25 A He kindly allowed me to help him make the

COATES

DIRECT

1 selection so that the least sick men were sent off
2 to work.

3 Q From what were these men suffering who were
4 taken by him?

5 A Medium size ulcers of the leg covered with
6 leaves and a bit of bark. Medium; middle sized;
7 six inches. And malaric recurring, which at that
8 time we could not regard as a disease in the ordinary
9 sense of the word because there were so many other
10 overwhelming problems. By that I mean if a man had
11 malaric, and that only, and he had some days between
12 his attacks, he was to all intents and purposes to
13 be regarded as a fit man for work.

14 Q Would you describe your daily tasks in this
15 camp?

16 A Rising at daylight and walking around amongst
17 the men, supervising the work of four other medical
18 officers; segregating the very sick from the less
19 sick, and working particularly on the ulcers of the
20 leg; inspecting the bad cases that would be likely
21 to be amputated that day; curetting perhaps seventy
22 or eighty of these ulcers during the morning and
23 supervising the dressing by a team of volunteer
24 orderlies; and then cheering the men up, telling them
25 a few funny stories; and in the afternoon proceeding

COATES

DIRECT

1 to amputate nine or ten legs.

2 Q What were the conditions of the operating
3 theatre, so-called?

4 A After a lot of persuasion the Japanese
5 sergeant camp commander gave me permission to put
6 up a lean-to, a lean-to of bamboo about six feet by
7 eight, and in that little operating theatre we
8 amputated one hundred and twenty legs. The method
9 of operation is technical but it is of interest to
10 know we had a tiny amount of cocaine which was used
11 in small quantities as a spinal anesthetic.

12 Q What instruments were used?

13 A I had two instruments, a knife -- or rather,
14 three, a knife and two pairs of artery forceps, and
15 we used the saw which the carpenters and butchers
16 used.

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1 Q Did you ever have any inspection by any
2 Lieutenant Colonel at that camp as a result of a
3 protest?

4 A Following a strongly worded protest to
5 Thanbyuzayat through Brigadier Varley, Lieutenant Colonel
6 NAGATOMO visited the camp. He promised to take away
7 the men who required amputation or who had been am-
8 putated to Moulmein to a Japanese hospital. Nothing
9 more was heard of the proposal, but he did send a
10 Japanese doctor out to the camp to act as camp com-
11 mander.

12 Q Who was Lieutenant Colonel NAGATOMO, do
13 you know?

14 A He was the Japanese officer in charge of
15 prisoners of war in Burma.

16 Q Were there any physical assaults on the
17 patients in those camps -- in that camp?

18 A There were the usual daily beatings up by
19 Korean guards, a few men lost an odd tooth, and so
20 forth.

21 Q What was the physical condition of the
22 Japanese guards?

23 A Well nourished, strong, healthy.

24 Q Did they at any time suffer from avit-
25 aminosis?

A Not to my knowledge.

1 Q What was the condition of the medical
2 staff, the prisoner of war medical staff?

3 A The doctors were in poor condition. I
4 myself was only seven and a half stone weight, and
5 suffered from three diseases at least.

6 Q Did you visit any other camps?

7 A Yes, in the later stages the 50 kilo camp,
8 people from the Siam POW's, the H and F Force.

9 Q At any other camp?

10 A Later at Changi in Siam.

11 Q And how did conditions in those camps com-
12 pare with kilo 55?

13 A At the 50 kilo I think they were worse,
14 because they had come on a pretty long march and
15 they had not been able to amputate legs; they hadn't
16 facilities, even the primitive ones that we had. At
17 50 camp the same conditions prevailed, but they had
18 had cholera while on the march in Siam and about 700
19 of their 1800 patients died within two or three
20 months, whereas at our camp we were fortunate in
21 that we only lost about a fifth of our camp popula-
22 tion that died at that time, but many more died
23 afterwards. At the Chungkai Camp in Burma, which I
24 had the opportunity of seeing in passing through,
25

COATES

DIRECT

1 as I shall describe later, exactly the same con-
2 ditions prevailed in some eight or nine thousand
3 prisoners of war.

4 Q What was the attitude of the Japanese
5 medical officers towards the sick?

6 A The Japanese medical officer with whom I
7 had most contact in Burma, chief medical officer of
8 the Burma prisoners of war, simply obtained labor.
9 I could never persuade him to hazard a diagnosis
10 or make any suggestions in treatments. On the other
11 hand, the little doctor that was sent out by NAGATOMO,
12 while he did nothing active -- in other words, he
13 wasn't hostile, and thus it came about that we were
14 able to have a lower mortality, as a result of ob-
15 taining clandestine food, without which we would
16 probably have lost 75 per cent of our camp population.

17 Q Were reports ever made by you as to the
18 camp conditions?

19 A Yes, both in Burma, thus bringing about the
20 visit of Colonel NAGATOMO, and in Siam.

21 Q And in those reports did you describe the
22 conditions in the camp?

23 A I did, and an expression which I used
24 quite often was as follows: The spectacle of the
25 emaciated, skeletons of men on the one hand and the

COATES

DIRECT

1 edematous, water-logged wrecks on the other, many
2 with rotting, gangrenous ulcers of the legs, emitting
3 a nauseating stench, lying in their pain and misery,
4 were such as I never wish to witness again. The
5 daily procession to the graveyard was a reminder to
6 those still alive that death would soon end their
7 sufferings. The memory of it is not easily obliterated.

8 Q Is it your opinion as a medical officer that
9 the deaths occurring in kilo 55 could have been
10 avoided?

11 A I am quite sure they could.

12 Q By what methods?

13 A Adequate feeding, adequate drugs, parti-
14 cularly quinine in amounts sufficient not only to
15 treat but to use as a preventive; the recognition
16 by the Japanese of such special diseases as we had,
17 avitaminosis and amoebic dysentery, and the provision
18 of simple specifics. This, together with adequate
19 feeding, which could have been quite possible, seeing
20 as we did any number of cattle in the neighborhood.
21 Even in the absence of amenities such as beds,
22 bedding, towels, soap, we could have saved most of
23 the lives.

24 Q Did you conduct postmortems during the time
25 you were at kilo 55 to determine what was the cause

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of death?

A I have over 130 postmortems done there.

Q And what did they disclose, in general?

COATES

DIRECT

1 A In many cases perforation of the bowel from
2 amoebic dysentery -- a perforation, hole -- with
3 fatal peritonitis. In other cases and in a very
4 large proportion we found edema, wattery clogging
5 up of the tissues, but all the organs shrunken. In
6 others again the gross evidences of pellagra, the
7 shrunken organ and the cellophane bowel. The rice
8 which the men could not eat, in many cases was ap-
9 plied to ulcers of the leg as a poultice to encourage
10 inflammation, and fortunately some of these men being
11 able to overcome one of their conditions were
12 eventually persuaded and prevailed upon and en-
13 couraged and helped to eat a little more and they
14 were gradually pulled around. Thus we welcomed the
15 appearance of pus, that being what in olden times
16 was called laudable pus, a prelude to healing. We
17 were forced back, therefore, to primitive methods of
18 our fathers or ancestors hundreds of years ago.

19 Q What was the mortality in that camp?

20 A We lost 330 out of some 1600 that were
21 there.

22 Q At the end of December 1943 were you evac-
23 uated from Kilo Fifty-five?

24 A Yes, the railway being completed the sick
25 were divided into two groups, the light sick and the

1 serious sick. The term "light sick" was applied not
2 necessarily to a man who wasn't going to die, but to
3 a man who had a disease which would either recover
4 or kill him say within three or four months. That
5 was Japanese classification. The sick were moved
6 by box truck to a place near Bangkok. The so-called
7 light sick to Kanburi and the heavy sick to
8 Nakompton.

9 Q Were you appointed senior medical officer at
10 Nakompton?

11 A I was.

12 Q What equipment were you told to take with you?

13 A I was told to take no medical equipment, but,
14 of course, that meant nothing, because there was no
15 medical equipment except the few things one carried
16 in one's pocket, but that everything in a modern
17 hospital would be provided at Nakompton.

18 Q What did you find on arrival at Nakompton?

19 A A few bamboo huts for working parties.

20 Q And was there any medical equipment of any
21 sort?

22 A None whatever.

23 Q How many patients went with you at that time?

24 A The first group of patients came after I
25 arrived, namely, 1,000, and in the next three months

COATES

DIRECT

1 there were 8,000 in the camp. These were the
2 residual heavy sick from the whole of the Burma-
3 Siam Railway, with the exception of those of the
4 F and P force who had been sent back to Singapore.

5 Q In what condition were those men? Very ill?

6 A Yes. A great number of them were stretcher
7 cases that could not move themselves at all. Many
8 of them had ulcers of the leg and a great number,
9 of course, were suffering from avitaminoses. Fifteen
10 hundred had amoebic dysentery, and the remainder all
11 kinds of medical diseases mixed up, three or four in
12 each man. In addition there were permanently dis-
13 abled men, with amputated legs, of course, and badly
14 damaged legs which were slowly healing with ulcers.

15 Q Were there sufficient medical orderlies to
16 look after those sick?

17 A The allotment of medical orderlies to me by
18 the Japanese doctor was ten per thousand, three POW
19 doctors per thousand. The doctor was the same man
20 who had been sent as camp commander in the latter
21 stages at Fifty-five Kilo. And when the wooden,
22 bamboo buildings, rather, with wooden floors, with
23 which we were to accommodate the sick, later in
24 March, he rather shamefacedly pointed them to me
25 and said, "That is all I have to offer you."

COATES

DIRECT

Q Was application made for an increase?

1 A I was asked for a report by the Japanese
2 medical authorities on the affair in Burma. I wrote
3 that, giving them a full and unabridged description,
4 and giving a list of the requirements at the Nakom-
5 paton hospital to make it an appropriate place in
6 which to treat the sick.

7 Q Did you ever receive any more medical
8 orderlies?

9 A No, but we did prevail upon the local au-
10 thorities to allow us to employ convalescent patients
11 as volunteer orderlies.
12

13 Q Were you told why they would not provide
14 further medical orderlies, what they wanted the men
15 for?

16 A Yes, I was informed that that proportion of
17 medical orderlies was ordered by the Japanese
18 authorities in Burma, that any other medical order-
19 lies had to work in ordinary working parties for the
20 Japanese.

21 Q Was it possible to carry on an efficient
22 hospital with the number assigned to you?

23 A No, it was quite impossible, but fortunately
24 or unfortunately, a number of sick doctors and sick
25 orderlies came in and from time to time we were able

COATES

DIRECT

1 to call them to help until they were sent from the
2 camp.

3 Q What was the position with regard to food
4 and drugs at that hospital?

5 A In the first six months it was bad. One of
6 the first things that was done after the arrival of
7 the very sick was to cut the rations down to what
8 was called the Japanese hospital scale for prisoners
9 of war. The scale of rations was just sufficient to
10 sustain a healthy man, but when meat was cut to one-
11 third, rice to one-half, and vegetables to two-
12 thirds, it is obvious that that was not enough for a
13 sick or recovering patient.

14 THE PRESIDENT: We will recess for fifteen
15 minutes.

16 (Whereupon, at 1445, a recess was
17 taken until 1500, after which the proceed-
18 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Justice Mansfield.

4 BY MR. JUSTICE MANSFIELD: (Continued)

5 Q Did you make any applications for beds or
6 bedding in this Nakompaton Hospital?

7 A Yes, I applied for beds, bedding, all the
8 various appurtenances of a hospital, as well as drugs
9 and equipment.

10 Q Were they supplied?

11 A There were no beds or any other equipment
12 supplied until in May very small consignments, and then
13 in July 1944 a much larger consignment of American Red
14 Cross goods arrived. During the early months in the
15 Nakompaton the doctors were at their wits' end as to
16 how to treat this large number of sick without drugs
17 and on the reduced Japanese ration. The very sick were
18 nourished at the expense of the less sick and blood
19 transfusions by the defibrinated method became a routine.
20 Many other medical measures of the same kind were adopted
21 and followed right through in that camp; the taking of
22 bodily secretions from one man and giving it to another,
23 such as acid from the stomach, blood and other things.
24 Patients as they recovered became more like milking cows
25 for the benefit of those who hadn't. Red Cross drugs

COATES

DIRECT

1 that had arrived in July certainly saved the lives of
2 a great number. The mortality was steadily rising
3 until that date. From then on the mortality dropped.

4 Q Were there any beatings in that camp?

5 A There would be epidemics of beatings.

6 Q Who were beaten?

7 A Patients, medical orderlies and occasionally
8 doctors.

9 Q And by whom were they beaten?

10 A Japanese guards, that is, the Koreans; from
11 time to time by the Japanese officer-in-charge of the
12 guards.

13 Q Were complaints made about these beatings
14 to the commanding officer -- Japanese commanding officer?

15 A I pointed out in one of my reports to the
16 Japanese that the hospital, of which we had hoped so much,
17 still resembled a Japanese prison camp and not a hospital,
18 and that the beatings that were taking place didn't seem,
19 in my opinion, to be justifiable nor were they to be
20 reasonably considered on a humanitarian basis.

21 Q What was the result of the protests?

22 A From time to time there would be an improvement
23 and I think that our contacts with the Japanese officers
24 were effective, but a sudden outbreak of the epidemic
25 would occur again at an unspecified time.

COATES

DIRECT

1 Q Were the guards ever punished for having
2 beaten the prisoners?

3 A Not to my knowledge at Nakompaton, but I
4 do recollect in Burma a very good Japanese sergeant
5 who inflicted corporal punishment on a Korean guard
6 for the beating of a prisoner.

7 Q What were the nationalities of the prisoners
8 of war in the various camps in which you were confined?

9 A In all the camps there were United Kingdom,
10 that is, the British, Australian, Dutch and a few Americans
11 from Java.

12 Q Did any incident happen in September 1944?

13 A Yes, a neighboring camp 17 kilometers away,
14 a railway siding at Mompladuk was bombed by the Allies.
15 A large prison camp adjoining the railway was partially
16 destroyed, one hundred prisoners killed and over one
17 hundred wounded.

18 Q Did you make any request to send assistance
19 to that camp?

20 A I requested that we should send assistance
21 to the camp as in the camp there were not surgeons--
22 there was only one-- and a few other doctors and we had
23 a number, but that request was refused.
24
25

COATES

DIRECT

1 Q Were the camps marked with any sign to show
2 that they were prisoner-of-war camps?

3 A No marking of a camp was allowed, nor were
4 any slit trenches allowed to be dug in our camp.

5 Q And was that applicable also to the other
6 camps which you saw?

7 A After the Nonpladuk bombing, the Japanese
8 senior officer filled the camp up again with more men
9 than it had contained before, and laughingly told them
10 that "Bomb-bomb very good." But he did permit them
11 to build some little shelters, slit trenches, and so
12 forth.

13 Q In December 1944, was any mass punishment
14 imposed upon Nakompaton Camp?

15 A Yes. One of our recovering patients left the
16 camp to visit the neighboring village. He was arrested
17 and then the camp authorities were called upon to
18 account for him. Well, we knew nothing about him, being
19 one of 7,000, but the whole camp was put on parade for
20 thirty-six hours. All patients were laid out under the
21 stars for the whole of one night. Protests to the
22 Japanese doctor had the ban lifted.

23 Q In July 1944, were you told anything by one of
24 the clerks in the adjutant's office of the camp?

25 A In July 1945--

COATES

DIRECT

1 Q '45; I beg your pardon.

2 A One of the men in the office informed me that
3 he and four -- three others would like to have letters
4 from me to be found on their dead bodies after the
5 war, as they proposed to tell us what was happening and
6 try and help us to do the best we could in the coming
7 massacre.

8 Q Did he say what the coming massacre was to be?

9 A Yes. We had observed the machine gun nests
10 all around our hospital and the hut full of grenades
11 in the Japanese compound, and he informed us that they
12 were to be used when a landing occurred in Japan and
13 attempt was made for our release.

14 Q Did he mention anything about secret orders?

15 A He said he had seen a copy of those secret
16 orders.

17 Q For what were the machine guns and the grenades
18 to be used; to massacre whom or to kill whom?

19 A The machine guns covered every hut and the
20 grenades were to kill the men in the huts and the
21 machine guns to kill those escaping; so they said.

22 Q That is, prisoners?

23 A Prisoners of war, yes.

24 Q Well, prior to that, in January 1945, were
25 all officers taken from the camp except medical officers?

COATES

DIRECT

1 A All officers, of whom there had been 500
2 as patients in the camp, were removed by the end of
3 February 1945 to working camps.

4 Q Does that include any officers who were
5 seriously ill?

6 A It included men dying of such things as
7 brain tumors, cancers, and all the various other
8 serious infective conditions. Some of them did die.
9 As an illustration, a paralyzed American who had a
10 tumor of the brain on which a preliminary operation
11 was done was wheeled out on a bamboo stretcher.

12 Q What was the Japanese ~~discipline~~ like after the
13 removal of the officers?

14 A The discipline of the Japanese was what might
15 be called extreme, from our point of view.

16 Q What form did it take?

17 A Beatings up became more common, searches of
18 huts, turning the men out, became almost daily
19 occurrences; sudden parades and calls, alarms and
20 excursions.

21 Q And you were there until the Japanese capitu-
22 lation?

23 A At the time of the capitulation the Japanese
24 colonel called me in and announced the armistice.

25 MR. JUSTICE MANSFIELD: I ask that the

COATES

DIRECT

1 witness be shown exhibit 475, if the Court please.
2 That is the Japanese report on the Burma-Thailand
3 Railway.

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

6 Q You have a copy -- the original exhibit 475
7 and a copy of it there. Now, I would like you to
8 deal with some matters arising in that. Will you turn
9 to page 9 of the copy, please. You will see there
10 that it states "Though the Japanese Army did its best
11 in taking the best possible measures conceivable at
12 that time in order to improve the treatment of the
13 prisoners of war cooperating with the Japanese troops,
14 laying stress on billeting, ration and health, many
15 prisoners of war fell victim of the work."

16 A I don't think that the Japanese would admit
17 that they took the best possible measures conceivable.
18 Some of them talked to me about the show afterwards,
19 and they recognized that they hadn't taken the best
20 possible measures.

21 THE PRESIDENT: Mr. Logan.

22 MR. LOGAN: I move to strike out, your Honor,
23 what this witness thinks that the Japanese might or
24 might not do with respect to this report. It is
25 his opinion.

COATES

DIRECT

1 THE PRESIDENT: His opinion as to what the
2 Japanese might do with the report, of course, is
3 not evidence.

4 MR. JUSTICE MANSFIELD: Witness, will you just
5 please answer by giving facts.

6 THE PRESIDENT: Objection allowed.
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1 Q Now would you say in what way they did not
2 take the best possible measures conceivable at the
3 time?

4 A They made no adequate preparations for
5 proper feeding or the proper medical treatment of
6 the prisoners of war employed on the railway.

7 Q Then in the next paragraph you will see:
8 "We should like to declare the Japanese troops
9 participated in the joys and sorrows of the prisoners
10 of war." What have you to say in regard to that?

11 THE PRESIDENT: Is it necessary to examine
12 him on this report by the Japanese, Mr. Justice
13 Mansfield?

14 MR. JUSTICE MANSFIELD: There are certain
15 medical--

16 THE PRESIDENT: It is sufficient to have
17 his evidence apart from any view that he might express
18 on the Japanese report.

19 MR. JUSTICE MANSFIELD: Yes, very well,
20 your Honor. I will not proceed to question him on
21 that.

22 Q Did the Japanese at any time take any proper
23 measures to combat malaria in the jungle?

24 MR. LOGAN: If the Tribunal please, that is
25 calling for a conclusion. The witness has already

COATES

DIRECT

1 gone over the facts of what he saw.

2 THE PRESIDENT: How would you combat it
3 except by the use of nets and spraying gangs and
4 medicines?

5 MR. JUSTICE MANSFIELD: He has only dealt
6 with medicines up to the present.

7 THE PRESIDENT: Well, he may say what steps
8 were taken by the Japanese to combat malaria in
9 the jungle, if he knows.

10 Q From your knowledge, what, if any, steps
11 were taken by the Japanese to combat malaria?

12 A In late 1943 a body of medical men, Japanese,
13 visited camps and took specimens of blood for examin-
14 ation. Then again a number of men were employed in
15 late 1943, that is to say, October to December, in
16 the more remote camps in Burma in oiling and generally
17 spraying; that is, prisoners of war were employed
18 to combat mosquito malaria. But, in the earlier
19 months, when these diseases caused such havoc, there
20 was no such organization. That it did function in
21 Siam, and function very well, is very evident from
22 our own results with malaria in that camp. Oiling
23 of water and such like was generally done.

24 Q What was the incidence of malaria amongst
25 the prisoners of war to your knowledge? How many

COATES

DIRECT

1 prisoners of war contracted malaria to your knowledge?

2 A Ninety-five per cent.

3 Q In July, 1943, to your knowledge, how many
4 prisoners of war in Burma were in hospital camps?

5 A Between three and four thousand out of ten
6 thousand; but, in addition, quite a large number of
7 seriously ill men were retained in working camps.

8 Q And approximately how many in Thailand,
9 Siam, were in hospitals, what percentage?

10 A The figures varied from thirty to forty
11 per cent.

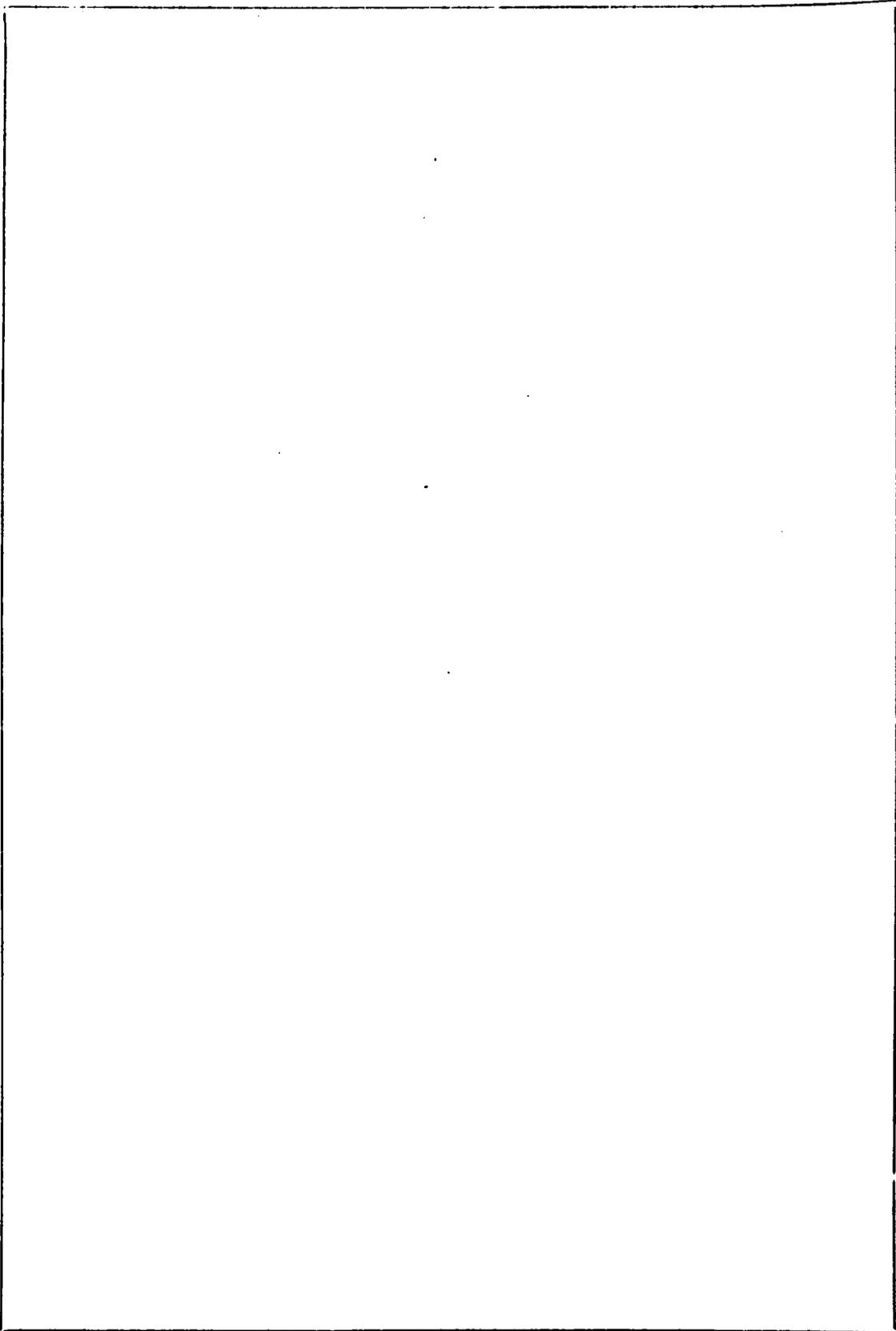
12 Q Can you tell the Court what was the total
13 mortality amongst prisoners of war employed on the
14 Burma-Thailand Railway, approximately?

15 MR. BROOKS: I want to object, if the
16 Court please, unless the proper basis is laid to show
17 that the man had the opportunity to observe and show
18 from what record these conclusions or statements are
19 being made in answer to the prosecution's question.
20 As I understood, he was a prisoner of war.

21 THE PRESIDENT: On what do you base your
22 knowledge, sir?

23 THE WITNESS: I would rather not answer that
24 question, if you don't mind. You have the facts, I
25 presume, before the Court. I am a doctor, not an

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COATES

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1 administrator of figures or records.

2 MR. JUSTICE MANSFIELD: I withdraw the
3 question.

4 THE PRESIDENT: Mr. Logan.

5 CROSS-EXAMINATION

6 BY MR. LOGAN:

7 Q Doctor, you have been talking about vitamin-
8 osis. What is that, lack of vitamins?

9 A The term "avitaminosis" means lack of vita-
10 mins.

11 Q Then that comes from lack of certain types
12 of food like green vegetables and meats and so forth?

13 A There are a number of diseases called de-
14 ficiency diseases or avitaminosis which are produced
15 by the lack of certain substances normally found in
16 a rich and healthy diet.

17 Q One does not necessarily have to be a prisoner
18 of war to suffer from vitaminosis, is that right?

19 A There are two examples in which I agree with
20 you. In olden times, before anything was known about
21 these conditions, men on ship suffered from one, scurvy;
22 and, again, in olden times, or less olden times but
23 not recently, rickets. Those diseases we never saw.

24 THE PRESIDENT: Observe the red light strictly,
25 Colonel.

COATES

CROSS

1 THE PRESIDENT (Continuing): What caused
2 these deficiency diseases? Describe the food and
3 say what it lacked.

4 THE WITNESS: Pellagra was one of the main
5 deficiency diseases caused by a lack of nicotinic
6 acid. That substance is found in meat and certain
7 vegetable proteins. Therefore, with sufficient
8 meat or the equivalent of meat, cheese, fish, what
9 not, or, on the other hand, enough vegetable proteins:
10 that is, vegetables containing these substances, that
11 pellagra would not have occurred.

12 Q Did the Japanese soldiers suffer from
13 avitaminosis?

14 A Never, at any time, did I have the honor of
15 carrying out a medical examination of Japanese soldiers,
16 sir.

17 Q So your answer is: you don't know, is that
18 right?

19 A Yes.

20 Q Did any of the Japanese soldiers in the
21 building of this railway suffer from ulcers?

22 A I believe they did.

23 Q Did any of them suffer from dysentery?

24 A Yes, particularly in the later stages in Siam
25 when we saw a great number of them at the end of the

COATES

CROSS

1 war in a neighboring camp.

2 Q Did any of them suffer from malaria?

3 A I presume so.

4 Q Would you say about ninety-five per cent of
5 them suffered from malaria?

6 A I have no knowledge of figures in the
7 Japanese Army so I cannot say.

8 Q In the early part of the time that you were
9 there did the Japanese soldiers have nets and
10 quinine, spray guns, and so forth, to combat malaria
11 for themselves?

12 A I presume they did because I was told from
13 time to time that there was only enough drugs for
14 the Japanese Army and that was one reason why we
15 could not have any.

16 Q Yet with all these drugs and medical equip-
17 ment they still contracted malaria, didn't they?

18 A Yes, but on the other hand, their incidence
19 was low as compared with our's.

20 Q But you don't know what percentage of them
21 contracted it?

22 A I do know that they had a hospital at
23 60-kilo camp. It wasn't full, and they seemed to
24 work well on the railway, and they did have prophylactic
25 lactic quinine.

COATES

CROSS

1 Q Are you familiar with the transportation
2 facilities available in the construction of this
3 railway?

4 A Yes, a little.

5 Q Was there a regular road running from these
6 camps, one to the other, passable, capable of having
7 trucks drive over them regularly?

8 A There were roads. There was a road on
9 which I, myself, was driven out to the 55 -- to the
10 75-kilo camp in May, 1943, quite a passable road;
11 and Japanese officers from Siam came up from Bangkok
12 by car, automobile.

13 Q How many months is the rainy season down
14 there?

15 A It commenced in May, 1943, and the weather
16 generally became fine in September.

17 Q Isn't it a fact that during that period of
18 time those roads were practically impassable? As a
19 matter of fact, do you know that one witness who
20 previously appeared before this Tribunal testified
21 that roads were knee-deep in mud?

22 A I can only speak with certainty of the
23 75 and 55-kilo camps from which we had communication
24 by road with Thanbyuzayat; and I know that for about
25 two to three weeks at the end of May and early June

COATES

CROSS

1 at the 75 camp we could not get rations up by truck.

2 Q Haven't you mentioned more than two camps,
3 Doctor? I think you mentioned the 30-kilo camp,
4 75-kilo, 105, 55. Don't you know the conditions of
5 the roads with respect to all those camps?

6 A I never traveled on the road to the 105-kilo,
7 but patients from that camp were brought to the 55-kilo
8 right through the wet season by truck.

9 Q Weren't you ever at the 105-kilo camp?

10 A Never at the 105.

11 Q Well, didn't you testify that while you
12 were at 105-kilo camp the last thirteen hundred men
13 there were examined by a Japanese doctor in your
14 presence and he decided which one thousand of them
15 were sick? Maybe I am mistaken.

16 A Unless I am mistaken, I stated that at the
17 75-kilo camp I attended, with the Japanese doctor,
18 a parade of men who were being dispatched to the
19 105-kilo camp.

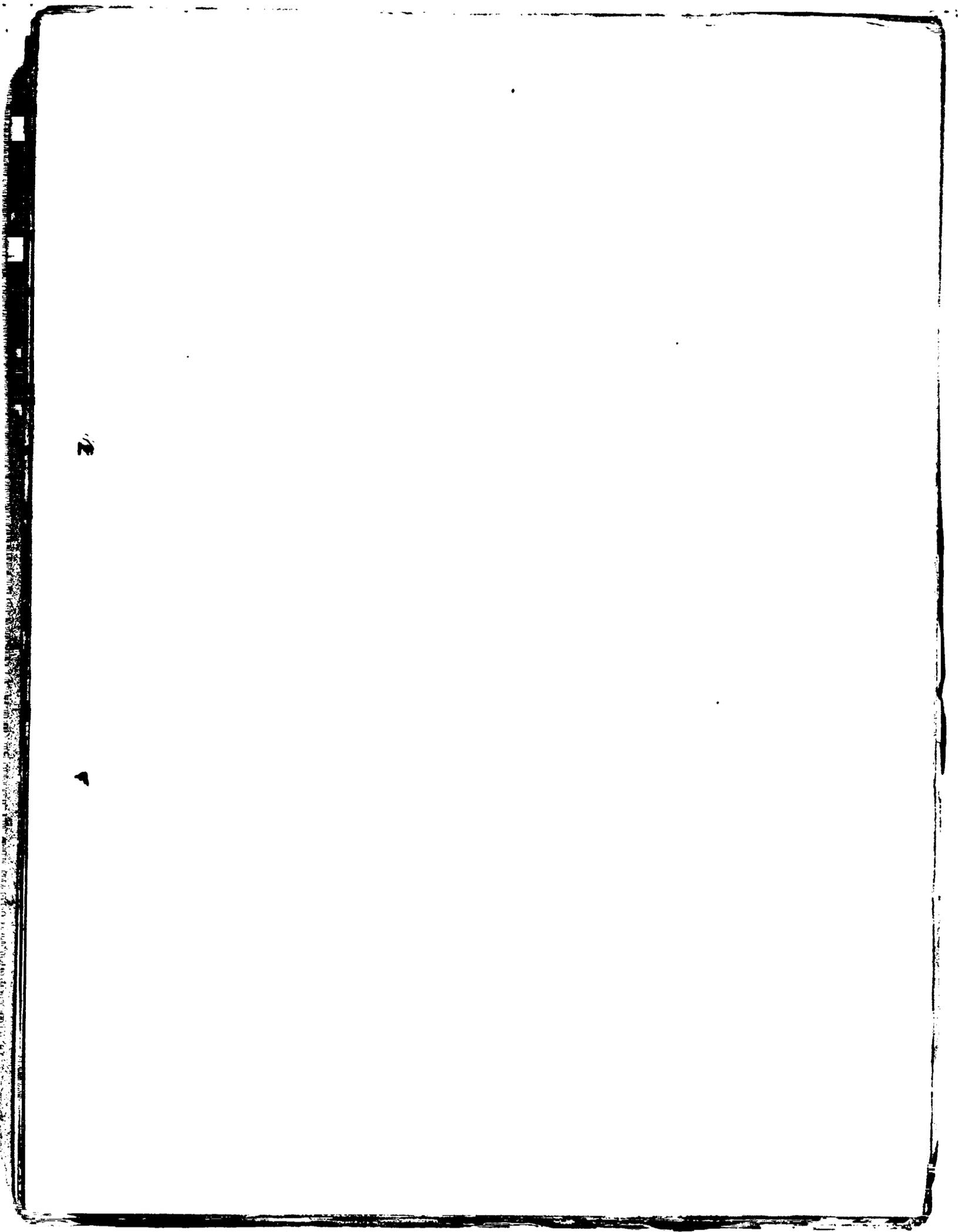
20 Q Well, I was probably in error then. Now,
21 Doctor, was this railroad constructed principally
22 through a jungle?

23 A Yes.

24 Q The transportation really was difficult,
25 wasn't it?

1 was taken until Friday, 29 November 1946,
2 at 0930.)

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29 NOVEMBER 1946

I N D E X
of
WITNESSES

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I N D E X
of
EXHIBITS
(none)

Friday, 29 November, 1946

- - -

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

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, same as before with the
exception of the HONORABLE R. B. PAL, Member from
India, not sitting.

For the Prosecution Section, same as before
with the addition of LIEUTENANT-COLONEL J. S. S.
DANSTE, Assistant Prosecutor from the Netherlands.

For the Defense Section, same as before.

The Accused:

All present except OKAWA, Shumci, who is
represented by his counsel.

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(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: Major Moore.

4 LANGUAGE ARBITER (Major Moore): Mr. President,
5 with the Tribunal's permission, I present a language
6 correction. Exhibit 1276, record page 11,368, line
7 18, substitute "fellows" for "traitors."

8 THE PRESIDENT: Thank you, Major.

9 Mr. Justice Mansfield.

10 MR. JUSTICE MANSFIELD: If the Tribunal
11 please, I desire at this stage to present Lieutenant
12 Colonel J. S. S. Damste, the Assistant Prosecutor
13 from the Netherlands, who is a member of the bar of
14 Sourabaya, Java.

15 THE PRESIDENT: Before you leave that sec-
16 tion, Mr. Justice Mansfield, do you propose to tender
17 the whole of the affidavits in evidence and then read
18 an excerpt, or do you intend to tender the affidavit
19 for identification merely? It makes a difference to
20 the attitude of the Court.

21 MR. JUSTICE MANSFIELD: We intend to tender
22 only that portion of the affidavit that is marked as
23 an excerpt. That is the only portion upon which we
24 will rely.
25

 THE PRESIDENT: But the synopsis will be of

COATES

CROSS

1 the whole, will it not?

2 MR. JUSTICE MANSFIELD: The synopsis will
3 only be of that portion of the affidavit, namely,
4 the excerpts upon which the prosecution relies.

5 THE PRESIDENT: It will be a synopsis of
6 an excerpt?

7 MR. JUSTICE MANSFIELD: Synopsis of an
8 excerpt, yes.

9 THE PRESIDENT: That is all I wanted to know.
10 Mr. Logan.

11
12 ALBERT ERNEST COATES, called as
13 a witness on behalf of the prosecution, resumed
14 the stand and testified as follows:

CROSS-EXAMINATION

15
16 BY MR. LOGAN (Continued):

17 Q Doctor, of these beatings to which you tes-
18 tified, how many of them did you personally see?

19 A In Burma I personally saw and felt on my own
20 body four. I could truthfully say that I saw at
21 least thirty to forty others in Nakompton, Siam.
22 The number I couldn't calculate, but I should think
23 it would run into a hundred.

24 Q You actually saw the beatings yourself, or
25 you examined the men after the beatings took place?

COATES

CROSS

1 A I saw them myself. For example --

2 Q I mean you actually saw the assaults take
3 place?

4 A Yes, I could give some illustrations, if
5 the Court please.

6 Q Did you see any assaults by sergeants or
7 corporals on the Japanese' own men?

8 A Yes, once or twice.

9 Q Were they Koreans too?

10 A Mostly.

11 Q Now, when you sailed on the England-Maru,
12 was that a troopship?

13 A It was in so far as it carried some Japanese
14 officers in good quarters.

15 Q Had it been used to transport Japanese
16 soldiers?

17 A That I could not say.

18 Q While you were at Tavov, you testified that
19 you received a little more drugs than you received
20 at Iargui, is that correct?

21 A Yes. That was in the nature of a reward
22 from the Japanese doctor for some --

23 Q I am not asking you about the reward. You
24 said you received a little more drugs there than you
25 received at the hospital in Iargui. Is that correct?

COATES

CROSS

1 A Yes.

2 Q So I assume by "a little more" you mean
3 that you did receive some at Mergui, is that right?

4 A Yes, at Mergui --

5 Q You did receive drugs at Mergui, then?

6 A We received a few.

7 Q Then, do you want to change your statement,
8 doctor, on page 11,409 of the record when you told
9 the Court "At Mergui drugs were not supplied?"

10 A I don't quite get the question, sir.

11 Q You testified the other day that at Mergui
12 Hospital "drugs were not supplied." Is that state-
13 ment correct?

14 A That is so.

15 Q And today you say you received some at
16 Mergui. Now which of those statements is correct?

17 A Some drugs were received by the working
18 camp. Those were the drugs received at Mergui. The
19 hospital with these dysentery cases we received no
20 drugs.

21 Q Did you receive any drugs while your 1500
22 prisoners were at this school at Mergui?

23 A No. At that stage, in the early three
24 weeks of our sojourn, the organization was not such
25 as to permit the supply of drugs.

COATES

CROSS

1 Q After you were there for three weeks did you
2 get drugs?

3 A As I replied before, we got drugs for the
4 working camp men, particularly quinine against malaria.

5 Q What else did you get?

6 A I don't recollect any other drugs at that
7 time.

8 Q How many classrooms were there in this
9 school in which the 1500 men were placed?

10 A I couldn't answer that with accuracy.

11 Q What is your best recollection?

12 A Of that I have no recollection.

13 Q How long were you at the school?

14 A I was there for about, oh, five days myself.
15 I took ill with amoebic dysentery.

16 Q Were there sanitation facilities in this
17 school?

18 A There were a few small latrines.

19 Q Do you know of any other building in Mergui
20 which could have been used to take care of these
21 prisoners of war?

22 A No. I never had the opportunity of doing
23 a reconnaissance of the town.

24 Q Serious cases of dysentery were transferred
25 from that school to the local hospital, is what you

COATES

CROSS

1 testified to, doctor. Is that in accordance with
2 good medical practice, to segregate such cases?

3 A That is so.

4 Q And you say three men were executed for en-
5 deavoring to escape. Were they given a trial, do
6 you know of your own knowledge?

7 A All I know is some form of inquiry was
8 held and the executions took place soon after their
9 arrest.

10 Q But you can't state that they were not
11 tried, is that correct?

12 A I couldn't make a statement on that. I was
13 not the camp commander. I was medical officer only.
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COATES

CROSS

1 Q How long were you at the 30 kilo camp?

2 A About six weeks.

3 Q Which weeks were they?

4 A The dates -- the exact dates I can't say,
5 but I left the 30 kilo camp somewhere about the end
6 of May; arrived in the middle of April.

7 Q You testified the other day that when these
8 patients were ordered out of the hospital at 30
9 kilo camp, a great number of them died in the next
10 month or two. Do you know that of your own knowledge?

11 A Yes. A large number of these patients
12 were men that I personally knew, had known since
13 Malaya.

14 Q Did you leave the camp with them?

15 A Yes.

16 Q You went with them -- left the camp?

17 A Yes. The camp was completely closed down
18 as a hospital, and it had no more use; so I went as
19 an ordinary prisoner of war to my kumi, that is, a
20 particular section to which I belonged as a prisoner
21 to a working camp.

22 Q How long did you stay with them at this
23 working camp?

24 A At the 75 kilo camp until the 12th of July.

25 Q Going back to this town of Mergui, this

COATES

CROSS

1 school, did you see any -- is that a small town?

2 A No. I should say it is a sizeable town.

3 Q What do you mean by "a sizeable town"?

4 A It is a trading port marked on the map.

5 Q Are there any other buildings in that town
6 as large as that school?

7 A Of that I have no definite knowledge. It
8 never was my privilege to pay a visit to the place
9 and investigate those matters. I was a prisoner of
10 war and subject to all the restrictions of prisoners
11 of war.

12 Q Do you know what the population of the town
13 is?

14 A No.

15 Q Can you give us an estimate?

16 A No.

17 Q Now, while you were at 75 kilo camp, what
18 drugs did you receive there?

19 A We received drugs in the 75 kilo camp,
20 something like the following proportions: quinine,
21 about five grains a man per day. At that time,
22 that camp was in the position that it received
23 through the Quartermaster's Department a little issue
24 of quinine to the extent of five grains per man per
25 day. I also received a box about once a fortnight

COATES

CROSS

1 containing some bandages, a little sulpha, and,
2 or --

3 Q Epsom salts?

4 A A pound of epsom salts; quite useful.

5 Q That's the same type of box you said you
6 received at the 55 kilo camp, isn't that right?

7 A Yes. We received a little candle box, of
8 that size, in the 55 kilo camp. The contents were
9 less, and, of course, the numbers were six times as
10 great.

11 Q While you were at this 75 kilo camp you
12 testified that no proper medical treatment was
13 afforded you at first. I assume by that that there
14 was some medical treatment given at that place; is
15 that right?

16 A It must be realized that the issue of
17 drugs there was of the magnitude that would be
18 issued to a small section of healthy men for what
19 might be called the regimental aid post purposes.
20

21 Q Well, there were three thousand men there
22 at first, and then they were all, with the exception
23 of three hundred, sent to the 105 kilo camp. Did
24 you get the same amount of drugs for the three
25 hundred as you did for the three thousand? Is that
what you want to tell us?

COATES

CROSS

1 A The drug issue to us was carefully calcu-
2 lated, and on the basis of the numbers in the camp;
3 and so the supply was that to a camp that would be
4 regarded as containing healthy men, not three
5 hundred derelicts.

6 Q Were you confined for the most part to the
7 hospitals at these various camps?

8 A You mean by "the hospitals" the hut in
9 which sick were segregated, sir?

10 Q Yes.

11 A I was only in one working camp, and that
12 was the 75 kilo camp, for a short time before the
13 three thousand-odd were broken up and sent away.
14 And, during that time, I assisted the local regiment-
15 al medical officers in the hut which was set apart
16 for the heavy sick; but I had access to the other
17 huts and saw the men and the conditions under which
18 they were living. I actually lived myself at that
19 time not in the hospital but with the senior
20 officers in charge of the men -- prisoner of war
21 officers.

22 Q How about the other camps besides this work
23 camp at 75 kilo?

24 A Well, the only other camps I was in were
25 the 55 kilo in Burma, and then, of course, the

COATES

CROSS

1 Nakompton in Siam and, for a few days, in a
2 transient camp on the way to Nakompton.

3 Q So that, primarily, your testimony is
4 confined to these three camps, is that it; that is,
5 matters you would know of your own knowledge?

6 A No. I was at Thanbyuzayat for a period
7 between February and April, 1943. Mergui and Tavoy
8 you have mentioned. And I also visited the 50 kilo
9 camp in Burma where our F and H forces were. In
10 addition, during the time of my sojourn at the
11 transient camp in Siam, I visited Chungkai.

12 Q In any of these camps, doctor, did you
13 ever have any opportunity or occasion to visit
14 any hospitals or places set aside as such for
15 treatment of Japanese soldiers?

16 A Yes, on two occasions: once in Tavoy
17 when I helped the Japanese with a serious case
18 and saw him once or twice afterwards, and the
19 morning following the Armistice declaration when
20 I, with a number of other officers, visited the
21 neighboring camp at Nakompton, actually just over
22 the wall, and offered our services.

23 Q So that, prior to the Armistice, doctor, you
24 only visited the Japanese hospital on one occasion,
25 and that was for one day, is that correct?

COATES

CROSS

1 A It wouldn't be correct to say one day.
2 I saw that man several times after his operation
3 with the Japanese doctor.

4 Q Three days?

5 A Yes.

6 Q So that during this entire period of time,
7 doctor, you had no occasion to see what drugs the
8 Japanese soldiers had in these hospitals for Japan-
9 ese soldiers?

10 A I had the opportunity at Tavoy of observing
11 that they had all the facilities of the local
12 British Civil Hospital with a good dispensary, good
13 operating theatre, and good store of drugs.

14 Q And that was the place you visited after
15 the war was over?

16 A No. That was in 1942.

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1 Q But you don't know whether or not the supply
2 of drugs that you saw at the hospital on that one
3 particular occasion continued during the entire period
4 of time, do you?

5 A No.

6 Q And that applies to all the other camps, doesn't
7 it?

8 A You mean my answer, "no", yes; that is right.

9 Q You also testified that while at 55 Kilo
10 dysentery cases which were infective were isolated. That
11 is proper medical practice, isn't it, Doctor?

12 A Infected with what, sir?

13 Q I believe it was dysentery.

14 A Amoebic dysentery.

15 Q Well, you testified, "If the dysentery was
16 infective these patients were isolated." That is good
17 medical practice, isn't it?

18 A They were only isolated in so far as they
19 were put altogether in one hut and that was only some
20 yards from other huts containing other patients. It was
21 good practice to isolate them in that way.

22 Q Now, you testified that while you were at 55
23 Kilo Camp, you protested to the authorities at Thanbyuzayat,
24 is that right?

25 A Yes, I protested.

COATHS

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1 Q Did you do that orally or in writing?

2 A I did it in writing.

3 Q Do you know if your letter was ever received?

4 A Yes, the letter was received.

5 Q What happened after the letter was received,
6 if anything?

7 A Brigadier Varley wrote to me and told me
8 that he thought I must have been exaggerating the figures.

9 Q Who was he?

10 A He was the Senior Nakaempton officer in the
11 Burma-Siam Railway, POW. I replied that these figures
12 since the last letter were even worse and that I'd like
13 some one to come and see for himself.

14 Q I didn't quite get his name, Doctor. Was he
15 a Japanese officer?

16 THE PRESIDENT: Where is he now?

17 THE WITNESS: Brigadier Varley was a prisoner
18 of war who went down on a ship going from Siam to Japan.

19 Q Well, Doctor, when I speak about protests, I
20 am referring to protests to Japanese officers. Did
21 you ever make any protests to any Japanese officers?

22 A My medium of protest was Doctor HIGUCHI, who
23 visited the camp. To him I verbally and I violently
24 protested. My method of protest through the POW
25 control was through Brigadier Varley who handed it on

COATS

CROSS

1 to Colonel M.G. TOMO.

2 Q What, if anything, happened after you
3 handed in your protest?

4 A About three weeks later Lieutenant-Colonel
5 M.G. TOMO visited our camp with Brigadier Verley.

6 Q What happened?

7 A He inspected a number of the very sick men
8 himself and then some few weeks later he sent out to
9 the camp a little Japanese doctor known as Dr. AONUMI
10 to replace the camp commander who hitherto had been
11 only the sergeant of the guard.

12 Q So that your protest brought some results,
13 is that it, Doctor?

14 A Yes.

15 Q Now, you also -- withdraw that -- the
16 temperature down there is very warm, isn't it, Doctor?

17 A More humid than warm. In some parts of the
18 year particularly towards the end it is rather cold --
19 the dry season. So much so then men lit fires at
20 night and used to sit around them to keep warm.

21 Q While you were at 55 Kilo in July, wasn't
22 it very warm at that period of time?

23 A It is the usual tropical temperatures for
24 that latitude.

25 Q So the fact that the men had very few

COATES

CROSS

1 clothing at that period of time was not of much moment,
2 was it?

3 A I don't think that would be quite correct.
4 I think clothing probably had some other value as a
5 cover against mosquitoes and as some sort of inter-
6 mediary between one's skin and bamboo slats.

7 Q Didn't these men while at 55 Kilo have any
8 clothes at all?

9 A Many of them only had a pair of ragged shorts
10 in which they had worked on the railway, their shirts
11 having long ago disappeared in rags with sweat and wear
12 and tear.

13 Q Then in your statement the other day, page
14 11425 of the record, "the men had no clothing," is a
15 little exaggerated, is that it?

16 A In the sense that it was not a nudist colony,
17 yes.

18 Q Now, you also testified that tropical ulcers
19 were prevalent in both Malaya and Sumatra before the
20 Japanese came in, is that correct?

21 A That is correct, but I drew attention to the
22 fact that these ulcers were something quite different.

23 Q I remember that, Doctor. These tropical
24 ulcers are also due to lack of vitamins, is that right?
25

A The tropical ulcers which we saw in Malaya

COATES

CROSS

1 and Sumatra occurred in well-fed men. There was no
2 deficiency of vitamins and so I would say that vitamin
3 lack played no part. They are due, as we know, to a
4 mixed infection. I won't go into technicalities here.
5 In other words, such ulcers are superficial. They do
6 not invade the investing sheath of--

7 Q Well, we don't want to go into that now.

8 A You don't want that?

9 Q No. So tropical ulcers is a disease which is
10 more or less prevalent in jungle territory, is that so?

11 A Yes.

12 Q How long were you at Kilo 55?

13 A From the 12th of July to the 24th of December.

14 THE PRESIDENT: Are barefooted men more likely
15 to get tropical ulcers than others?

16 THE WITNESS: I beg your pardon?

17 THE PRESIDENT: Does the absence of boots play
18 any part in tropical ulcers?

19 THE WITNESS: Yes, the bare skin exposed to
20 abrasion in the jungle by bamboo scratches and by bits
21 of stone flying up from the area worked certainly was
22 the primary cause of the ulcer.
23
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1 Q Japanese soldiers were also exposed to the
2 possibility of getting scratches and abrasions on their
3 bare legs, too, isn't that so?

4 A No, they were well clad and they had their
5 legs well protected.

6 Q Didn't they wear shorts, too? Didn't they
7 wear short trousers in this hot weather?

8 A As I saw them on the railway they wore puttees
9 and trousers which covered the knees completely.

10 Q How about when you saw them when they weren't
11 on the railroad?

12 A The only ones that I saw wearing shorts were
13 those not engaged in heavy work, meaning officers --
14 officers, themselves.

15 Q How do you account for the fact that they got
16 ulcers, too?

17 A Well, it is obvious that some of them from
18 time to time would be exposed to slight scratches.

19 Q Doctor, you testified to a typical day while
20 you were at Kilo 55. Remember that?

21 A Yes.

22 Q And you say now that you were there from July
23 to December; is that correct?

24 A Yes.

25 Q And among some of the things you did on a

COATES

CROSS

1 typical day, you stated that "In the afternoon pro-
2 ceeding to amputate nine or ten legs..." Now, that
3 wasn't a daily occurrence during those five months,
4 was it?

5 A No, I stated that I took off 114 legs, my
6 colleagues a few others in that camp; and I think
7 arithmetic would show that we didn't do that all the
8 time.

9 Q You had cocaine there for the purpose of
10 using it as a spinal anesthetic, is that right?

11 A Yes.

12 Q Did you have cocaine at any other camps?

13 A The bottle of cocaine was given to me by one
14 of our dental officers. He carried it with him from
15 Singapore as part of his own kit from Australia.

16 Q Doctor, perhaps you didn't understand the
17 question. I asked you if you had cocaine at the other
18 camps.

19 A No.

20 Q When did you visit 50 Kilo Camp, and for how
21 long a period of time were you there?

22 A Sometime in November, and I spent a day there.

23 Q Didn't give you much opportunity to examine
24 the entire camp, then, did it?

25 A Yes.

COATES

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1 Q How large a camp was it?

2 A Something like the 50 Kilo, about 1800 prisoners,
3 something like that. I was able to go around and see
4 bad cases and advise a little to the medical officers
5 there, see their worst problems.

6 Q Doctor, will you describe for us a typical meal
7 that these prisoners of war received?

8 A Breakfast, rice; lunch, rice and vegetable soup;
9 dinner at night, rice and vegetable soup. With each
10 meal or sometimes twice a day only, some drink, either
11 tea or boiled water.

12 Q Did they receive any meat?

13 A What meat was received was made into a stock
14 for the vegetable soup. It was not enough to make any
15 man have a little piece all to himself.

16 Q Well, what did you mean the other day when
17 you testified that the meat ration was cut down a third?

18 A Just what I said.

19 Q You mean, now, they didn't have a separate
20 supply of meat to eat; just that it was put in the
21 soup, is that it?

22 A Yes. If one cut up the meat to give each man
23 a piece -- we did try that in one camp -- you could
24 get a tiny, little cube about a centimeter in size.

25 Q How many occasions during this entire period

COATES

CROSS

1 of time did you have to observe what Japanese soldiers
2 ate?

3 A Oh, on many occasions I, myself, was a guest;
4 I should say on three occasions.

5 Q A guest?

6 A A guest. I was ordered--

7 Q Do I understand the Japanese soldiers invited
8 you to eat with them?

9 A Yes. At the 55 Kilo Camp on one occasion
10 I observed their meal because I was commanded, with
11 all my medical officers, to come in and eat with
12 them.

13 Q Do you know if they invited any other
14 prisoners of war to eat with them?

15 A Oh, yes. On many occasions Japanese guards --
16 that is, Japanese proper -- would give a little rice
17 or give a little something to a prisoner of war. The
18 individual NCO and private was not ungenerous to
19 prisoners of war, being a Japanese.

20 Q In other words, they were willing to share
21 what they had, is that it?

22 A Well, not in a general sense. They did that
23 sporadically, when the spirit moved them.

24 Q Did the fare that the Japanese soldiers
25 received vary materially from what the prisoners of war

COATES

CROSS

1 received?

2 A Yes. They had, as a rule, more seasoning
3 and they had fish and more meat.

4 Q But aside from having a little more, was the
5 food they received the same type, same kind that was
6 given to the prisoners of war?

7 A Yes, it was, but they had additional stuffs,
8 such as onions and sweet potatoes at the 55 Kilo Camp,
9 as an example. These are very valuable vegetables.

10 Q Did they have onions and sweet potatoes at the
11 other camps?

12 A Well, I couldn't give very much of an opinion
13 there. I can recall on a trek from the southern part
14 of Burma up to Tavoy, arriving late one night with a
15 lot of sick, and the Japanese sergeant, after having
16 allowed me to put the sick in some old railway coaches,
17 invited me to spend the evening around a fire and we
18 consumed quite a nice meal.

19 Q I gather from what you have been saying today,
20 Doctor, the Japanese soldiers were quite friendly with
21 you, is that right?

22 A In patches they were.

23 Q Now, you don't know -- scratch that. Aside
24 from these few occasions when you saw them eating sweet
25 potatoes and onions, you don't know whether the supply

COATES

CROSS

1 of sweet potatoes and onions continued during the entire
2 period of time for the Japanese soldiers while you were
3 there?

4 A No.

5 Q Then, you went down to Nakompaton -- when was
6 it, in December '43, is that right?

7 A Yes.

8 Q And there you received Red Cross supplies, is
9 that right?

10 A In May we received a very small quantity, and
11 in July quite a consignment of American Red Cross supplies.
12 They were not adequate to treat the sick. For example,
13 there was enough emetine to give a half course to
14 250 out of 1500 amoebic dysentery cases.

15 Q What else did you receive from the American Red
16 Cross at that time?

17 A A large number of things such as boot-mending
18 apparatus, some rubber tubing, some large ampoules of
19 glucose and saline, several barrels of Epsom salts, and
20 a large number of bandages, some thousands.

21 THE PRESIDENT: We will recess for fifteen
22 minutes.

23 (Whereupon, at 1045, a recess was taken
24 until 1100, after which the proceedings were
25 resumed as follows:)

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

3 THE PRESIDENT: Mr. Logan.

4 BY MR. LOGAN (Continued):

5 Q Doctor, did you finish telling us what was
6 in the American Red Cross supplies?

7 A No.

8 Q Well, will you tell us what else was there?

9 THE PRESIDENT: In regard to the quantity
10 received, is it worthwhile examining to any great
11 extent about it, Mr. Logan? It cannot be suggested
12 that it made up for any deficiencies in supplies from
13 the Japanese sources.

14 MR. LOGAN: It can be suggested, your Honor,
15 the Japanese did not use them, the large quantities
16 there.

17 THE PRESIDENT: Well the evidence suggests
18 to me -- I may misapprehend it -- that the Red Cross
19 supplies were a small fract'on of what was needed.

20 MR. LOGAN: Well, even if it was a small
21 supply, your Honor, and both sides needed it, the
22 prisoners of war got it; that is the point I am trying
23 to make. I only have one or two questions left on
24 this anyway, your Honor.

25 Q Tell us what else was in those supplies?

COATES

CROSS

1 A I can remember a lot, but I have with me
2 here the diary of the hospital Nakompton, which
3 contains the thing in great detail.

4 Q Well, I don't want it in detail. Can you
5 classify it in some way?

6 A Yes, there was mepacrene, which is a drug
7 used for malaria. Six months afterwards that was
8 entirely consumed, even though it was used with great
9 care for the very bad cases. Emetine, I have men-
10 tioned, enough for a half a dose for only 250 of
11 1500 amoebic dysenteries; sulphur drugs and such
12 like, useful for bacillary dysentery; also some
13 invalid food, but that, unfortunately, had been de-
14 stroyed, and the packages, of which there was a
15 large number, were empty; no surgical instruments,
16 although I had to sign for them, the Japanese doctor
17 informing me they had been lost.

18 Q Speaking about surgical instruments for a
19 mement, Doctor, what happened to yours when you were
20 captured?

21 A When I was captured I was a relic from a
22 sunken ship, and had nothing but my boots on and
23 my shirt and hat and trousers.

24 Q Were you in the Army before the war, Doctor?

25 A I was in the first World War for four and .

COATES

CROSS

1 one-half years years, and I served in the militia
2 between the two wars as a volunteer in Australia.

3 Q But you were in private practice when this
4 war broke out, is that right?

5 A I was in private practice, but I also held
6 an appointment in connection with the military
7 repatriation defense hospitals.

8 Q What is the regulation dress for the
9 British and Australian troops in the tropics?

10 A I understand it is long trousers with some
11 gaiters and boots, a shirt with long sleeves, hat.

12 Q Aren't short trousers and short-sleeved
13 shirts regulation dress, tropical hats?

14 A No, I understand the short pants are only
15 used for walking-out dress, not for work in the
16 tropics.

17 THE PRESIDENT: What did the men, in fact,
18 wear before they were captured?

19 THE WITNESS: Some of our men wore long
20 pants; others of them wore shorts, according to the
21 duties they were on at the time.

22 Q Getting back to these Red Cross goods,
23 Doctor, I suppose, if the Japanese wanted to, they
24 could have withheld them from the prisoners of war,
25 isn't that right?

COATES

CROSS

1 A Yes.

2 Q At all these camps you were at, Doctor,
3 did they have machine guns stationed around them?

4 A Machine gun nests were only built around
5 our camp in May, June, and July, 1945. There were
6 no machine gun nests of a comparable nature around
7 any other camp that I was in prior to that time.

8 Q When you say "of a comparable nature," by
9 that do I take it that there were machine guns around
10 some of these other camps?

11 A No, I never saw any at any time, any sort
12 of machine gun nests. There were, of course, guards
13 who walked around the camp, and they were the sole
14 protection.

15 Q Now, these beatings that took place at
16 Nakompaton, to which you have testified, I under-
17 stand the conditions improved considerably after they
18 were reported, is that right?

19 A There would be periods after a severe
20 epidemic of beatings when protests were made and
21 there would be some improvement. There would be an
22 outbreak of the same kind again; but, on the whole,
23 as I have said, knowing the Japanese' general employ-
24 ment of physical violence as a means of correction, I
25 was not very surprised.

COATES

CROSS

1 Q But you say these were Korean guards, is
2 that right?

3 A Not only Korean guards. I observed, myself,
4 two Japanese officers do the same thing in our camp.

5 Q Now, Doctor, these beatings were more or
6 less sporadic, weren't they?

7 A Yes.

8 Q And it was not the result of any plan on
9 the part of anybody to inflict punishment; it was
10 dependent on the individuals concerned, isn't that so?

11 A As I stated in my reports many times to the
12 Japanese, it did not appear to be clear to us why
13 they occurred. It was past our understanding in most
14 cases.

15 THE PRESIDENT: Did you see the Japanese
16 beating their own soldiers?

17 THE WITNESS: Yes.

18 Q It depended, didn't it, Doctor, on the
19 individual personality of the one who inflicted the
20 punishment?

21 A And the camp commander.

22 Q Did you ever see any order issued by any
23 camp commander that punishment should be inflicted?

24 A Yes. We frequently received orders which we
25 had to circulate to our prisoners of war that under

COATES

CROSS

1 all circumstances they would salute. It was im-
2 possible sometimes for a sick man to salute.

3 Q Well, what I had in mind, Doctor, perhaps
4 I didn't explain it properly, was there any order
5 from the commander that any of the guards should
6 inflict, by beating, punishment upon any of these
7 prisoners of war?

8 A The guards were given a free hand by the
9 Japanese to beat.

10 Q Did you ever see such an order?

11 A Such orders were published in Japanese,
12 and I could not read them; but I was informed so,
13 and also I have heard Japanese officers addressing
14 us and telling us that that was so.

15 Q There again, Doctor, wouldn't that depend
16 on who was the camp commander?

17 A To some extent, yes.

18 Q Do you know of any order that was ever
19 issued by Marquis KIDO that prisoners of war should
20 be punished?

21 A No.

22 Q Do you know of any order issued by him that
23 medical supplies should be curtailed and that prison-
24 ers of war should not receive food?
25

THE PRESIDENT: Why put those questions to

COATES

CROSS

1 him in view of his opportunities of knowing those
2 things, Mr. Logan, or lack of opportunities?

3 MR. LOGAN: He is accused of it, your Honor.

4 THE PRESIDENT: It is a waste of time, Mr.
5 Logan. If he could say Marquis KIDO gave no in-
6 structions that would be different.

7 MR. LOGAN: Well, if your Honor please,
8 he is here testifying on these particular counts.

9 THE PRESIDENT: He is not attacking Marquis
10 KIDO.

11 MR. LOGAN: Well, I will pass it.

12 Q Notwithstanding these orders that you heard
13 about from these camp commanders, you tell us that
14 when complaints were made to some of them, steps were
15 taken to alleviate conditions, is that right?

16 A Yes.

17 Q Doctor, after this bomb fell which killed
18 about a hundred prisoners of war, I believe you said
19 it was an Allied plane that dropped the bomb; then
20 you said that the same officer who spoke to you per-
21 mitted the prisoners at that camp to dig slit trenches.
22 What were the purposes of the slit trenches?

23 A To give protection from air raids.

24 Q There was part of your testimony, Doctor,
25 that I didn't quite understand. You went into great

COATES

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1 length in a statement to the effect that some officer
2 or someone in the Adjutant's office, one of the clerks,
3 told you that these machine guns were set up around
4 your camp to kill all the prisoners when the war
5 ended. They didn't do that, did they, Doctor?

6 A He said that these machine guns nests and
7 machine guns were set up to kill us in case of a
8 landing in Japan or an attempt being made to effect
9 our release.

10 Q But the point is they did not do it, did they?

11 A I am thankful to say they did not.

12 Q It might just as well have been a rumor,
13 isn't that so?

14 A Well, I shouldn't think so. It didn't look
15 much like it, not much like a rumor when you see a
16 number of machine gun nests surrounding a camp,
17 pointing into your huts.

18 Q Well, we will pass that, Doctor. You say
19 that thirty to forty per cent of the prisoners of war
20 in Thailand were in hospitals. Do you know that of
21 your own knowledge, or are you basing that on some
22 report or something?

23 THE PRESIDENT: He could not know that of
24 his own knowledge, Mr. Logan.

25 MR. LOGAN: Thank you. That is all.

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THE PRESIDENT: Mr. Blewett.

CROSS-EXAMINATION (Continued)

BY MR. BLEWETT:

Q Colonel, I presume you left Sumatra by reason of the fact that there was a shortage of good medical service, and just so we have a logical sequence here will you tell me just what were the conditions of your leaving Sumatra?

THE PRESIDENT: It won't help us to know what happened before he left Sumatra.

MR. BLEWETT: It isn't before, sir. I just asked the witness if he would tell us the circumstances of his leaving.

THE PRESIDENT: I am sure it won't help us, Mr. Blewett.

MR. BLEWETT: I will pass that sir.

Q Am I right, Colonel, in assuming that Mergui was a place of disembarkation?

A Yes.

Q How did it fit into the general POW plans?

A It was a staging place for prisoners of war being taken up to Burma by ship, and there was constructed an airdrome and other things by the prisoners of war during their stay there.

Q Well, then, your first point -- your first

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1 destination, as a matter of fact, in so far as your
2 professional work was concerned was at Tavoy, is that
3 right?

4 A No. At Mergui I functioned as the senior
5 medical officer.

6 Q But the hospital -- it was at Mergui; I wasn't
7 sure; there had been one other - was that set before-
8 hand or was it an emergency?

9 A The seriously sick were housed, as I said
10 before, in some huts of the civil hospital.

11 THE PRESIDENT: I think the cross-examin-
12 ation must almost necessarily be repetitive, Mr.
13 Blewett.

14 MR. BLEWETT: Well, not quite, sir. I
15 wanted to get the location on this map for kilos,
16 but I shall pass over that and ask the witness a
17 question along another line, sir.

18 Q Would you say, Colonel, that the hospitals
19 in which you were located were pretty much along
20 the southern line of the railroad?

21 A The word "hospital," sir, is hardly the term.
22 I would call them depots for the very sick. There
23 were no hospitals in the true sense of the term in
24 which I was ever located.

25 Q What plans, if you know, did the Japanese

COATES

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1 have in contemplation on this huge undertaking as
2 to the care and maintenance of victims of accidents
3 and diseases?

4 A I have no knowledge of any of their plans,
5 sir.

6 Q From your professional knowledge and ex-
7 perience, was it conceivable that the Japanese could
8 foresee that there would be such a great number of
9 unfortunates?

10 THE PRESIDENT: It is for us to determine
11 that, really, Mr. Blewett.

12 MR. BLIWETT: I would think, sir, that the
13 witness' testimony as to an undertaking like this
14 and the events that occurred, he might be able to
15 give us the information which would be of some value
16 as to the preparations beforehand, the lack of them.

17 THE PRESIDENT: We must determine whether
18 it was excusable or inexcusable.

19 Q Do you know, Colonel, actually whether or
20 not the one thousand prisoners of war reached 105
21 Kilo Camp and whether or not they were forced to work?

22 A I know that by reliable reports, sir.

23 Q That they actually were put to work?

24 A Yes, sir.

25 Q What scientific safeguards, if any, did

COATLS

CROSS

1 the Japanese have, in so far as work is concerned, in
2 this jungle infested territory?

3 A The only ones I know are that in a few camps
4 there was quinine to be given five grains a day ---
5 that was my orders at the 75 Kilo --- to prevent
6 malaria. And late in the year they did take some of
7 our prisoners of war to join their sanitary corps
8 which was oiling in one camp. At the end of the
9 year they took blood smears from most of the prisoners
10 of war that survived; and rectal smears as well. I
11 omitted that before, rectal smears.

12 Q Was any adequate hospitalization set up along
13 the line of which you are familiar, Colonel, at all?
14 I mean, in anticipation of the likelihood of there
15 being casualties.

16 A There was a series of huts at Thanbyvayay
17 which received the sick we brought up from Tavoy.
18 Along the line there was no place -- no hospital. All
19 that was ever used for accommodating the sick were the
20 abandoned working huts.

21 Q Have you been on any large projects either
22 in your own country or any other country?

23 A No, but having served in the First War,
24 particularly in the early phase, I know something
25 about medical conditions in such a place as, say,

COATES

CROSS

1 Gallipoli.

2 Q Well, then, did it not seem to you,
3 Colonel, that these conditions which prevailed had
4 not been anticipated?

5 THE PRESIDENT: How would he know it could
6 have been? It might have been sheer neglect. It is
7 for us to say whether it was excusable. I can say no
8 more than that, Mr. Blewett.

9 Q When you referred to a rice and raddish
10 soup on the trip to Mergui, Colonel, you didn't wish
11 to infer that the Japanese had other food on board
12 which they refused to serve you, do you?

13 A No.

14 THE PRESIDENT: That is irrelevant. It is
15 immaterial whether they brought it on board or left
16 it behind. If they didn't provide it, they should
17 have done so.

18 Q Did the Japanese have medical or other
19 supplies on hand which were actually refused to you and
20 your assistants?

21 A Yes.

22 Q Did any high ranking officer at any time
23 refuse you medicines and supplies which you knew to
24 be obtainable?

25 A There was no high ranking medical officer

COATES

CROSS

1 of the Japanese Army in Burma. He was a First
2 Lieutenant only, the senior medical officer. I had
3 no contact with any other officers such as the
4 Lieutenant Colonel in charge. I was too mean a
5 person to come under his direct supervision.

6 Q Did you say whether or not the Japanese
7 Army was below the standard of medicine and hos-
8 pitalization of the British or American Army?

9 A It would be unwise for me to comment because
10 I didn't see a great deal of the Japanese medical
11 service. I saw only those associated with the
12 prisoner of war camps and those few odds and ends I
13 have mentioned.

14 Q The terrific odds under which you worked and
15 the horrible scenes which you described, would it not
16 been correct to assume that the supplies were far
17 inadequate for the situation?

18 THE PRESIDENT: The duty of the Japanese
19 was commensurate with the needs.

20 Q Did you not observe, Colonel, that the
21 conditions of global warfare would interfere very
22 seriously with the obtaining of medicine and
23 supplies?

24 THE PRESIDENT: It is right beyond his
25 province. How could he help us on that?

COATES

CROSS

1 Q On what do you base your opinion that the
2 Mergui Camp was crowded by 75 per cent?

3 A Because when the men lay down to sleep on the
4 floor at night there wasn't a square foot of space to
5 be found in the camp, and that despite the fact that
6 quite a number of men were employed on duty or were
7 standing or sitting about.

8 Q As a physician and from your experience,
9 did you not believe it would have been good policy
10 and sound policy for the Japanese to keep these
11 workmen in good sound condition?

12 THE PRESIDENT: That is argument, of course.

13 MR. JUSTICE MANSFIELD: I object to this line
14 of questioning as irrelevant.

15 THE PRESIDENT: The question is disallowed.

16 Q Would you not agree, Colonel, that the fact
17 that the Japanese utilized your professional ability
18 throughout these many years was some indication that
19 they were making a serious effort to alleviate the
20 conditions which you describe?

21 THE PRESIDENT: It is for him to say what
22 he saw and heard. In dealing with the nature and
23 treatment of diseases he may speak as an expert.

24 MR. BLIVETT: You may answer.

25 THE PRESIDENT: He need not answer.

COATES

CROSS

1 MR. BLEWETT: I beg your pardon. I mis-
2 understood.

3 THE PRESIDENT: I said you were trying to
4 argue with him and it should have been obvious that
5 the question was disallowed.

6 Q Nakampaton, Colonel, where was that located
7 as to the kilo situation?

8 A Nakampaton is somewhere about thirty-five
9 miles from Bangkok. I am subject to correction on
10 the correct mileage.

11 Q Well, you were between 30 and 75, I believe.
12 I assume, therefore, that it was in the neighborhood
13 somewhere.

14 A I think there is some confusion, sir. Nakampaton
15 is in Siam and the 30 Kilo is in Burma.

16 Q Therefore, were patients brought from the rail-
17 way work camps in both directions to Nakampaton?

18 A If I might be allowed to correct that, sir,
19 Nakampaton was established as an asylum for the sick
20 way at the eastern end of the line at the early part
21 of 1944, after the railway had been completed and the
22 residue of serious sick were withdrawn from that area.

23 Q From what large an area, therefore, did you
24 receive patients?

25 THE MONITOR: Mr. Blewett, will you kindly

COATES

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1 rephrase that question, please?

2 Q From what distance from the eastern end of
3 the railway to the western end did you receive patients?

4 A The railway ended before Nakampaton, that is,
5 on its west side, as far as we were concerned. And
6 so the patients that came were the serious chronic
7 sick who would take more than six months to recover
8 who had been at work on the whole of the railway line
9 after it was completed. Nakampaton wasn't a camp
10 which was in use in 1943. At the time of the build-
11 ing of the railway it was an asylum to receive the
12 casualties after the railway had been built.

13 Q Did the number, therefore, remain quite static
14 from the time of its inception and during your stay
15 there?

16 A No. The total number that passed through
17 the hospital camp was 10,000, and the static popula-
18 tion of sick there was roughly 5,000. In other words --

19 THE PRESIDENT: We will adjourn until half
20 past one.

21 (Whereupon, at 1200, a recess was
22 taken.)
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AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330.

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5
6 A L B E R T E R N E S T C O A T E S, called as
7 a witness on behalf of the prosecution, resumed
8 the stand and testified as follows:

9 MR. BLEWETT: If the Court please, I was
10 inquiring on a theory which I thought the witness
11 would be able to testify to. On further study I have
12 decided to delay that until the proper time for pre-
13 sentation.

14 THE PRESIDENT: Mr. Cunningham.

CROSS-EXAMINATION (Continued)

15
16 BY MR. CUNNINGHAM:

17 Q Mr. Witness, have you testified concerning
18 the facts that you have outlined here before any
19 other Tribunal?

20 THE PRESIDENT: He gave evidence before me
21 but I was not a tribunal; I was a commissioner. The
22 war was on and I could not hear the Japanese; in any
23 event, they would not have come to me. I believe when
24 I examined him the war had concluded. Mr. Justice
25 Mansfield was a joint commissioner with me. He may

COATES

CROSS

1 have been examined by somebody else but I do not
2 think so but you can ask him.

3 MR. CUNNINGHAM: I might say that that was
4 news to me, your Honor. That was not what I was
5 driving at at all.

6 THE PRESIDENT: Were you examined by any
7 other Tribunal?

8 THE WITNESS: No, sir.

9 Q Have you testified in atrocity cases against
10 any Japanese since the end of the war?

11 A No, only in a general way. At the end of the
12 war I gave a picture to the Supreme Allied Command
13 on the affairs in Burma and Siam, a general account.

14 Q What was the purpose of that statement or
15 affidavit, or whatever the nature of it was?

16 A Historical.

17 Q Do you know whether or not that was used in
18 the nature of a report or evidence in any trial against
19 Japanese in atrocity cases since the war?

20 A I have no knowledge of such.

21 Q Did you file any official complaint against
22 the commander of any of the camps about which you have
23 testified for the purpose of bringing the matter before
24 any court or tribunal?

25 A Under interrogation in Melbourne I gave the

COATES

CROSS

1 names of a certain number of Japanese officers whom
2 I thought were responsible for certain bad conditions.

3 Q Do you have a record of those names?

4 A No, but I can remember them.

5 Q Will you give them?

6 A I mentioned Lieutenant Colonel NAGATOMO's
7 name and Dr. HIGUCHI.

8 Q Do you know whether or not either of these
9 men have ever been tried in atrocity cases?

10 A I have no certain knowledge.

11 Q Do you have any uncertain knowledge?

12 MR. JUSTICE MANSFIELD: I object to the
13 question as irrelevant.

14 Q What was the purpose of this interrogation
15 in Melbourne?

16 A I think to obtain from me a general picture
17 of conditions in prisoner of war camps from which we
18 had just been released.

19 Q Was that confined strictly to an inquiry
20 concerning Australian prisoners of war?

21 A As far as I remember, yes.

22 Q Did you have any information or report back
23 on the results, or any inquiries later conducted, as
24 a result of the testimony or information which you
25 gave?

COATES

CROSS

1 A No.

2 Q Did you give all of the names of all of the
3 persons whom you considered responsible for all of the
4 mistreatment conducted in your presence or under your
5 supervision during your prisoner of war confinement?

6 A I mentioned certain names, particularly of
7 certain guards and junior Japanese underlings who had
8 not conducted themselves with propriety; but I didn't
9 consider it was my duty to lay specific charges
10 against individuals. That was more a matter for a
11 number of other officers who had had intimate rela-
12 tionships in that regard. I considered it my duty
13 to paint a general picture and give the Commission
14 in Australia an idea of the actual conditions, not
15 with any particular purpose of retribution but just
16 in an historical and straightforward fashion giving
17 the facts.

18 Q Did you give a full and complete report
19 which parallels the information which you have given
20 here in this courtroom of--

21 A No.

22 Q To what extent did you not give a full and
23 complete report at that time?

24 THE PRESIDENT: We do not want to know that
25 unless you suggest he is suppressing something we

COATES

CROSS

should hear.

1 Have you omitted anything in favor of the
2 Japanese?

3 THE WITNESS: Well, perhaps I have had the
4 opportunity only of mentioning here before the Court
5 one or two instances of a little kindness. There
6 were, I think, statements by me included in various
7 documents which indicate that immediately after
8 capture we were not treated uncivilly.

9 THE PRESIDENT: Tell us all you can recollect
10 in their favor, if you have not already done so.

11 THE WITNESS: These are a few instances:
12 I remember at the time of capture, the Japanese
13 medical officer saw me in Pedang, in Sumatra, and
14 permitted me to carry on with the treatment of
15 wounded. Secondly, after a number of Japanese raided
16 a hospital in which I had a large number of wounded
17 women, the same Japanese doctor protested on my be-
18 half to Japanese headquarters and had the place put
19 out of bounds to Japanese. Thirdly, when the
20 Japanese local commander insisted that all the
21 seriously wounded people we had in the hospital
22 should be moved out into the prison camp, my protests
23 again to the Japanese doctor bore fruit and we were
24 allowed to retain them there for another two weeks.
25

COATES

CROSS

1 Shall I continue, sir?

2 THE PRESIDENT: Yes, continue.

3 THE WITNESS: At Tavoy, a Japanese doctor
4 there, while admitting that he couldn't do anything
5 for us in getting us drugs, was not unsympathetic.
6 At the time we removed our sick he personally came
7 down and saw us off on a little boat and said goodbye.

8 THE PRESIDENT: We want to know whether these
9 alleged atrocities were the result of a policy or
10 were just due to the misconduct of individuals.

11 THE WITNESS: In the 55 Kilo Camp, Burma,
12 when supplies were severely short and I had made
13 representations to Dr. AONUMA, who had been sent
14 there by Colonel NAGATOMO, AONUMA replied that he
15 was not permitted to allow us to buy any food in the
16 neighborhood or establish any canteen to increase
17 our diet, but when he personally caught some of our
18 men who carried on nocturnal negotiations to obtain
19 food, he did not punish them in the manner which one
20 might have expected. I had with him as a doctor a
21 certain fraternal association. He had for me some
22 respect and I for him. It was he who said to me as
23 I pointed to the bare floors in the my kumi, "I am
24 sorry; that is all I have to offer."

25 BY MR. CUNNINGHAM: (Continued)

COATES

CROSS

1 Q I believe that covers that proposition.

2 Now, in your prisoner of war camp, did you have
3 your own organization for the conduct of the affairs
4 of the camp?

5 A In Burma at the 55 Kilo Camp there were few
6 medical orderlies because most of the medical order-
7 lies were employed as laborers on the railway line.
8 Consequently, the organization was only a skeleton
9 organization. At Nakompaton after the railway line
10 was finished, as I stated in my evidence, the Japanese
11 allowed me one doctor and ten medical orderlies per
12 thousand plus, of course, the three NCOs; but the
13 actual workers were one doctor and ten medical
14 orderlies per thousand. They allowed me to organize
15 the doctors in the camp for their specific function
16 and to hold clinical meetings where the doctors met
17 together to discuss their problems. That I much
18 appreciated. In the early stages the Japanese
19 doctor himself favored us with his presence. Later
20 he informed me that he was not permitted to attend our
21 meetings and from then on the relations between the
22 Japanese medical staff and ourselves became purely
23 formal.
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COATES

CROSS

1 Q Was that not what was expected rather than
2 what had preceded it?

3 A I state that because I think, from my
4 fairly long association with some of these Japanese,
5 that there were men who would liked to have made
6 closer contact with us, but that the iron machine
7 of the POW organization did not permit it.

8 Q Was there any organized interference on the
9 part of the Japanese to prevent you from alleviating
10 the situation as much as you could in your own camp?

11 A Yes. For example, the building of beds. We
12 could have constructed beds for some of our seriously
13 sick with the material in the camp, but that was not
14 allowed. That to me was a thing I couldn't understand.
15 Beyond that, the restrictions and the petty pin-pricks
16 and sometimes very serious ones in a hospital were
17 such that it militated against the effective treat-
18 ment of the sick. In a report to the Japanese, of
19 which I have a copy in my diaries here, I pointed
20 out that at the end of 1944 that though that hospital
21 was the best in Nakompton, I mean, that we had seen
22 it was very far from what we had expected of a
23 country of the status of Japan. I stated that the
24 hospital had too much the appearance of a Japanese
25 prison camp, which we knew only too well; that

COLLIES

CROSS

1 beatings were far too frequent, and the various
2 restrictions that were placed on our activities
3 prevented us from doing the work which I felt the
4 Japanese medical authorities desired we should do.
5 If I might quote another thing: A Japanese Colonel,
6 full Colonel, visited our camp on an inspection
7 somewhere about October, 1944. I requested that I
8 should put before him some of our needs, particularly
9 for the feeding of the very sick, which the Japanese
10 had never undertaken. The request was refused, but
11 I was asked to join a procession the following day.
12 By a stratagem I managed to make contact with the
13 great man, the Colonel, and speak to him. Asking
14 who I was, he said, "Are you recovering the patients?"
15 I replied, "Not as well as we would like, for want of
16 more fat, protein, that is, meat, vitamins, and more
17 drugs." The records of Nakomaton which I have show
18 that the diet improved, and by Christmas time we had
19 a much happier time in that camp than we had ever had
20 before. I think that is about all, sir.

21 Q Now, this treatment you have described last
22 was at the hands of a full Colonel of the Japanese
23 Medical Corps or Japanese Army?

24 A I was informed that he was a medical officer.

25 Q Then would you take it from that that it was

COATES

CROSS

1 more or less the policy of the Medical Corps of the
2 Japanese Army to do its best towards the care of
3 the American and other prisoners of war?

4 A I can only infer that at that particular
5 stage of the war it was the policy of the Medical
6 Corps of the Japanese Army to help us, but I believe --
7 it is my personal opinion -- that many Japanese
8 medical officers would liked to have done something to
9 have helped us.

10 Q It isn't your claim, Colonel, is it, that
11 the Japanese medical officers would be violating
12 their instructions by following such a course?

13 A I have no knowledge of the relationship
14 between the Japanese Medical Corps and the G. and A.
15 Staff of their army. I have no knowledge whatever.

16 THE MONITOR: Colonel, what is a G. and A.
17 Staff?

18 THE WITNESS: General, and Adjutant
19 General's Staff.

20 Q Was that the highest ranking Japanese
21 officer with whom you had contact all of the time
22 you were a prisoner of war under the Japanese?

23 A It is the highest ranking officer with
24 whom I spoke, but I happened to walk around within
25 about twenty yards of a Japanese General, S/SA, at

COATES

CROSS

the 30 kilo camp, as mentioned in my evidence.

1 Q Was the same Colonel whom you have mentioned
2 in company with this General, or was that on another
3 occasion?

4 A The incident with General SASA was in early
5 '43 and the affair with the Japanese Medical Colonel
6 was in late '44.

7 Q From '43 to '45, to the end of the war,
8 did conditions better as time went on?

9 A From late 1944 onwards to the end of the
10 war conditions with regard to food improved very
11 definitely. The reasons for that were many fold;
12 one was that we had a canteen, which the Japanese
13 permitted in Nakompaton, and we were able with the
14 money earned as prisoners of war to purchase quite
15 a lot of food. Nevertheless, our diet even at the
16 end of the war, as shown by graphs in my possession,
17 was far below a normal diet in proteins, fats and
18 vitamins, but those of us who had been accustomed for
19 so long to live on light Oriental rations had, as
20 it were, a low bodily requirement, so we didn't
21 look or feel as ill as we might have been.
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1 Q Now, Colonel, in order to crystalize this,
2 are there any instances, shining examples, you might
3 say, that you would like to mention to this Tribunal
4 of the improvement in the treatment of you by the
5 Japanese from the time, say, 1944, until the end of
6 the war?

7 A Yes, I regard the hospital at Nakompton --
8 with its many faults it was far below what one would
9 expect, nevertheless, it was such an improvement, and
10 the facilities which we were allowed ourselves to make
11 indicated that the desire of the Japanese medical
12 staff was to see as many men recover as possible. I
13 should like to mention two officers in that camp, who
14 were not medical officers, who gave us all the help
15 within their power. One was an interpreter by the
16 name of Doctor MATSUSHITA and the other was Lieutenant
17 WAKANATSU.

18 Q One last question, Colonel. After you got
19 organized into your role as prisoner of war, did you
20 begin getting mail and packages through the Red Cross
21 and news from home and other incidental things which are
22 slow in coming about?

23 A First news from home I received was three and
24 a quarter years after my capture. The first Red Cross
25 material that came to our camp was an ounce of butter

COATES

CROSS

1 per man on one occasion in October 1943. The next lot
2 of Red Cross stuff was, as I have mentioned--only on
3 one occasion did we receive Red Cross parcels and then
4 that was one parcel for thirteen men, and that was in
5 the middle of 1944 at Nakompaton. I repeatedly
6 applied for books, papers and something to help
7 intelligent men to keep from rusting. Even for the
8 medical men I considered it desirable that we should have
9 some journals, but they never came.

10 MR. HANAI: I am counsel HANAI.

11 THE PRESIDENT: Counsel HANAI.

12 CROSS-EXAMINATION (Continued):

13 BY MR. HANAI:

14 Q The witness stated that as a result of the
15 application of rules concerning diet given to the
16 patients among the prisoners of war at your camps --
17 at the camps at Nakompaton and Kamburi, the ration of
18 meat was decreased to one-third of the normal and that
19 of rice to one-half of normal. Does it mean that before
20 this measure, these rules applied in those prisoner of
21 war hospitals, their regular rations in meat and in rice
22 were three times and two times more respectively; is
23 that true?

24 A Yes. At Nakompaton we were informed on the
25 4th of April 1944 that the camp would no longer be

COATES

CROSS

1 regarded as a camp of workmen, but as a camp of sick
2 men and that the appropriate ration scale would be
3 adopted, namely, one-third of the amount of meat --
4 and the rice was not quite right, sir -- I think it is
5 two-thirds rice and two-thirds vegetables on a sliding
6 scale. But the big thing was the amount of meat was
7 reduced to one-third.

8 Q Was meat abundantly given -- issued -- to
9 the Japanese troops?

10 A At Nakompton I have no knowledge what the
11 Japanese troops received as they lived in a separate
12 compound from ourselves. That there was abundant
13 meat in the neighborhood was obvious because we could
14 buy with money which we could secure, and at the end
15 of the war I was able to buy large quantities of meat
16 the day following the declaration of armistice.

17 Q You testified that you bought foodstuffs
18 secretly to replenish your nutrition. How could you
19 buy those foodstuffs secretly?

20 A That was for a short period at the 55 Kilo
21 camp in 1943 in Burma. As some of our patients recovered
22 they were able to carry out little trips outside the
23 camp at night, make contacts with the Burmese natives
24 and purchase food with which -- with money supplied
25 by our officers in the camp. It is my considered

COATES

CROSS

1 opinion that but for that food so purchased a great
2 number more men would have died in that camp, and I
3 think that the Japanese doctor who was aware of these
4 negotiations after some men had been caught, did not
5 act as he might have done, but he winked his eye.
6 In other words, he disobeyed orders for the sake of
7 humanity.

8 Q You have stated that at hospitals in Nakompton
9 and Kamburi recovered patients became the source of
10 blood supply and supply of nutrition to those who were
11 more seriously ill.

12 A Yes.

13 Q However, is it not a fact that those who have
14 sufficiently recovered to be able to give transfusion
15 of blood to other people were allowed to stay in the
16 hospitals -- still allowed to stay in the hospitals?

17 A Yes, they were employed as workers in the
18 hospitals, and, of course, we had the unfortunate
19 trouble of having to use the same worker many times
20 to give his blood. Fifteen hundred transfusions were
21 given in that camp in a few months.

22 Q Are you aware of the fact, rather were you
23 aware of the fact that the punishment of Japanese
24 soldiers such as guards and others were not carried
25 out in the presence of prisoners of war?

COATES

CROSS

1 A Yes.

2 Q In that case does it not follow that you do
3 not know whether the Japanese troops -- soldiers --
4 were punished for having mistreated PW's?

5 A As I said yesterday, I saw one Japanese
6 sergeant beat up and punish a guard for maltreatment
7 of a prisoner of war. On the other hand, I have seen
8 many times guards beaten up by Japanese officers, so
9 that some punishment at any rate was carried out in
10 view of the prisoners of war.

11 Q But are you not aware of the fact that the
12 Japanese side -- the Japanese Army -- tried as much as
13 possible to avoid carrying out punishment in the
14 presence of prisoners of war?

15 A I know nothing of the rules and internal
16 arrangements of the Japanese Army.

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Q I will ask you some other question.

1 In instances such as malaria, amoebic dysen-
2 tery and tropical ulcers, are they not indigenous
3 to the places you are?
4

5 A Do you mean the places we were in, in Burma,
6 or where we are now?

7 Q In Burma.

8 A Malaria is fairly common in Burma. So is dysen-
9 tery and so is tropical ulcer.

10 Q Then, does it not follow that those who are
11 not natives or those who are not accustomed to that
12 particular locality have very little, weak resistance
13 to those diseases?

14 A The people /of the West/ get over that by
15 inoculation, by proper preventive measures, and by the
16 appropriate employment of drugs and diet for the treat-
17 ment of sufferers.

18 Q However, it is only when these facilities were
19 available, is it not?

20 A Oh, yes. Without such facilities such as
21 appropriate drugs it is a hazardous affair to live in
22 such a jungle.

23 Q You have testified that charcoal from the
24 kitchen was used in the place of drugs. For what
25 purpose -- what illness, particularly, was this used?

COATES

CROSS

1 A Dysentery.

2 Q Is not charcoal prescribed, including the
3 prescription as an absorbent, for dysentery?

4 A Charcoal has no value in killing the germs of
5 dysentery. All it does is it absorbs water and smell.
6 It is a symptomatic drug and not a specific curative
7 drug.

8 Q But is it not effective for absorbing toxin
9 rapidly from the intestines and removing it from the
10 bowels?

11 A Yes, it is an absorbent. That is why it is
12 given. And a man is wise, in the tropics, to have a
13 little charcoal in case he has the diarrhea from time
14 to time. But it does not kill the germs of dysentery.

15 Q Was this charcoal, the charcoal in question,
16 was it specially made for the purpose of using it as a
17 drug, or was it just taken from the kitchen, taken
18 out of the charcoal to be used at the kitchen?

19 A The charcoal that we used at the time in
20 question consisted of the crushed ashes.

21 Q Then, you don't know whether it was specially
22 made for that purpose or it was taken out of charcoal
23 to be used as fuel?

24 THE MONITOR: Slight correction on that:

25 Then you do not know whether this was crushed

COATES

CROSS

1 from the charcoal specially made for the purpose of
2 drug or from the fuel that was used in the kitchen?

3 A Yes, I do. My orderlies used to go to the
4 kitchen and rake out the ashes from under the quarles
5 of rice and grind up the ashes, and that was the char-
6 coal.

7 Q Are you aware of the practice, old practice
8 in the East, that is, that of using burnt and carbonized
9 plants and animals, using those burnt and carbonized
10 plants or animals as drugs?

11 MR. JUSTICE HANSFIELD: I object, if the
12 Tribunal please, as I submit it is entirely irrelevant
13 to the issues before the Court.

14 THE PRESIDENT: You may ask him if animal and
15 vegetable charcoal was used.

16 THE WITNESS: Vegetable charcoal was used,
17 namely, the wood was burned to cook the food and the
18 ashes which remained formed the charcoal -- burnt wood.

19 Q As a doctor, do you know anything about the
20 effect, or, rather, effectiveness of so-called carbonized
21 plants or animals?

22 A Yes, I know that carbonized plants -- in other
23 words, charcoal -- is a very good absorbent; and we use
24 it, in my country, for a variety of diseases, for that
25 purpose only, absorbing.

COATES

CROSS

1 THE PRESIDENT: Was any charcoal other than
2 that obtained in the kitchen available to you?

3 THE WITNESS: No.

4 MR. PANAI: I conclude my cross-examination.

5 CROSS-EXAMINATION (Continued)

6 BY MR. BROOKS:

7 Q Mr. Witness, was the amount of charcoal that
8 you obtained sufficient from these places without
9 preparing **any more** for the purposes that you needed?

10 A We had enough charcoal from our kitchen for
11 us to give all the prisoners of war in Burma an adequate
12 dose.

13 THE PRESIDENT: We have heard enough about
14 charcoal, Captain Brooks.

15 Q Doctor, on the discussion of the Red Cross
16 supplies that you did get, did you ever ascertain at
17 that time or later whether the transportation problem
18 was the main point that kept you from getting more of
19 these supplies, or any other fact that you may have had
20 in your knowledge?

21 A In 1944, at the time of reception of the Red
22 Cross supplies, I had no knowledge of any **difficulties of**
23 **the Japanese.** In 1945 I was informed by the Japanese
24 doctor that supplies had been sent but that they were
25 being held by the Japanese in Bangkok for some months as

COATES

CROSS

1 a reprisal for the sinking of a Japanese ship by the
2 Americans. But he informed me that out of the goodness
3 of heart of the Japanese they would allow us to have
4 some. So he supplied me with thirty-five boxes con-
5 taining ampoules of salt water. Fortunately, at that
6 stage we could make all those things ourselves.

7 Q Did you ever find if any of these ships had
8 been sunk?

9 A The incident I have related is all I have
10 knowledge of.

11 Q Now, were there any -- I will strike that.
12 You were discussing certain officials who were
13 responsible that you testified about at a previous
14 hearing. Now, were there any other officials of equal
15 rank and position whom you did not mention because
16 you did not believe they were responsible for any of
17 the acts?

18 A To my knowledge, I think there is only one
19 person that I made any special reference to, and that
20 was a peculiarly objectionable interpreter. He was a
21 Korean.

22 Q Now, Doctor, in these camps were you a part
23 of the prisoner-of-war administration staff?

24 A It varied. In the primitive camps in the
25 Burma jungle I lived with the men and I was known as

COATES

CROSS

1 "the old man."

2 Q What I had particularly in mind is whether
3 you would have been in a position, as an administrator
4 in the camp, as a prisoner-of-war administrator in the
5 camp, to have had knowledge of the rules and regula-
6 tions furnished by the Japanese to such administrators
7 for administration.

8 A Yes. These rules were known as "house rules"
9 for prisoner-of-war camps, and I had a copy of these
10 at all the camps.

11 THE PRESIDENT: We will recess for fifteen
12 minutes.

13 (Whereupon, at 1445, a recess was
14 taken until 1500, after which the proceedings
15 were resumed as follows:)

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

3 THE PRESIDENT: Captain Brooks.

4 BY MR. BROOKS (Continued):

5 Q Doctor, we were discussing the house rules.
6 Now, were they the same in each camp?

7 A In 1943, in Burma, they were the same because
8 they were rules issued by Lieutenant-Colonel NAGATOMO.

9 Q And did this Lieutenant-Colonel have charge
10 of all the prisoners of war in that area?

11 A He did.

12 THE PRESIDENT: Do you know what those rules
13 provided, Colonel?

14 THE WITNESS: Only the detailed affairs in
15 regard to the camp: saluting of guards, the way you
16 did your washing, and that sort of thing; minor domes-
17 tic matters, nothing to do with the big control of the
18 prisoners of war.

19 THE PRESIDENT: Did they set out what the
20 food, clothing, housing, and medical supplies should
21 be?

22 THE WITNESS: No, sir.

23 THE PRESIDENT: They are hardly worth dis-
24 cussing at any length, Captain Brooks.
25

COATES

CROSS

1 BY MR. BROOKS (Continued):

2 Q Do you have a copy of such rules?

3 A I haven't one in my possession here, but
4 there is one in the bag of documents somewhere.

5 Q Can that be made available if the defense
6 requests you to produce it?

7 A I don't know. I can't answer that in the
8 affirmative. I don't know. I would have to look
9 through it and see.

10 Q Now, Doctor, were you familiar with the
11 Japanese Army regulations dealing with these subjects?
12 Did you see the Japanese Army regulations, for in-
13 stance, prohibiting the beating of prisoners?

14 A No.

15 Q Did you ever see any of the other types of
16 regulations than these that you have spoken about that
17 were army regulations for the Japanese Army for car-
18 ing for the affairs of prisoners?

19 A Yes. I had to make such rules known, such
20 as, for example, if a man tried to escape, he would be
21 shot; general rules of that kind.

22 Q Would you say that these house rules, or some
23 of the practices conducted in some of the camps where
24 you were, were in violation of the Japanese Army
25 regulations covering said subject?

COATES

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1 MR. JUSTICE MANSFIELD: I object, if the
2 Tribunal please, on the ground that the witness's
3 opinion would be irrelevant.

4 THE PRESIDENT: The objection is clearly
5 upheld.

6 MR. BROOKS: I was not asking for his opinion,
7 your Honor. He said he was familiar with some of the
8 Japanese Army regulations, and he does know about
9 house rules, and I was asking him for a comparison
10 between the two, and the practices that he has spoken
11 about.

12 THE PRESIDENT: The construction of docu-
13 ments is for us when the documents are available,
14 and they are not.

15 MR. BROOKS: The defense will try to make
16 such documents available to the Court.

17 BY MR. BROOKS (Continued):

18 Q Now, Doctor, you discussed the orders -- in
19 talking about getting this food with this doctor you
20 said, "whose certain orders were disobeyed." Now,
21 whose orders were you discussing at that time?

22 A Presumably, the orders of Lieutenant-Colonel
23 NAGATOMO.

24 Q Do you know that there were orders by this
25 officer which were being disobeyed by the doctor?

COATES

CROSS

1 A Soon after his arrival at the camp he
2 kindly invited me to have a cup of tea with him, and
3 we discussed the question of our food problems. I
4 asked him particularly to see if he could make
5 available, if not more rations, facilities for us
6 to purchase from the local natives.

7 Q Did he give any reason for refusing such
8 request?

9 A He said he would submit the request to
10 Headquarters, and a few days later he informed me
11 that that request was refused.

12 Q Do you know to what Headquarters the request
13 was forwarded?

14 A POW Headquarters at Thanbyuzayat.

15 Q And was there any report given?

16 A The report he gave me was that we were not
17 permitted to make any contact whatever with the Burmese.

18 Q Now, you had some friends, apparently, in
19 the Medical, in the Japanese Medical -- some parties
20 that were friendly toward you in the Japanese Medical
21 Corps. Did they ever state any reason for the lack
22 of medical supplies to you in any of your conversations
23 on food?

24 A No, it was a very delicate matter about
25 which they preferred not to talk.

COATES

CROSS

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2 kindly invited me to have a cup of tea with him, and
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21 Corps. Did they ever state any reason for the lack
22 of medical supplies to you in any of your conversations
23 on food?

24 A No, it was a very delicate matter about
25 which they preferred not to talk.

COATES

CROSS

1 THE PRESIDENT: Did they say so?

2 THE WITNESS: Yes, sir.

3 Q Did they say why it was delicate?

4 A I would have to describe in some detail
5 the conversations that I had with Japanese to give
6 the correct impression here, sir.

7 THE PRESIDENT: To what did they attribute
8 the lack of medical supplies, if they did so?

9 THE WITNESS: No supplies available to them
10 to give us.

11 THE PRESIDENT: Did they say why they did not
12 have them?

13 THE WITNESS: No, sir.

14 THE PRESIDENT: I do not want to hear any more
15 about it, Captain Brooks. This obviously very fair
16 witness has been very fully cross-examined. Do you
17 really think you should continue much more with him?

18 MR. BROOKS: I only have one more.
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BY MR. BROOKS (Continued):

1
2 Q Now, Mr. Witness, it has been disclosed that
3 there had been cases where former prisoner of war camp
4 commanders were praised instead of accused by former
5 prisoners of their command and, in some instances,
6 where there were no acts of brutality, and in some
7 others where the very few acts of brutality were
8 severely punished. Do you know of any such instances
9 in any of the camps?

10 A Speaking of camp commanders, I presume one
11 uses the term whether it applies to a corporal or a
12 sergeant or a lieutenant colonel, because the best
13 camp commander with whom I was ever associated was a
14 sergeant; and that man -- his name was KUMATA -- was
15 an English-speaking Japanese, a very kindly fellow,
16 for whom I entertained a high regard.

17 Q Now, Mr. Witness, these camp commanders that
18 had been praised have stated that they felt that they
19 were following out Japanese Army regulations prohibit-
20 ing the mistreatment of prisoners and they were doing
21 their duty, no more, no less. Do you know whether
22 this sergeant or the ones that you have spoken about
23 had a similar attitude?

24 A It would be possible to compare such a
25 smiling, kindly fellow who interpreted his regula-

COATES

CROSS

1 tions in the correct spirit, bearing in mind the
2 nature of his prisoners of war. Contrast him with
3 another type who was an arrogant, strutting, sword-
4 carrying fellow who, apparently, imagined that he,
5 too, was interpreting the same regulations.

6 Q Then, would you say that the care or punish-
7 ment of the prisoners really depended on the dispo-
8 sition and attitude and interpretation of the guard or
9 officer in charge and the aggravation of the act in
10 each particular case?

11 A Yes, by such men as KUMATA, many Japanese
12 laws were observed more in the breach than in the
13 observance.

14 MR. BROOKS: Thank you, Mr. Witness.

15 MR. LEVIN: Mr. President.

16 CROSS-EXAMINATION (Continued)

17 BY MR. LEVIN:

18 Q Do you know whether or not the regulations
19 for the care of prisoners of war were in writing?

20 A The only rules that I saw were those issued
21 as house rules and rules which were issued by the camp
22 commanders, NAGATOMO in Burma or in Nakompton by the
23 local command. These rules applied to the conduct of
24 prisoners of war, such as what they were to do, not
25 what the Japanese were to do; we knew nothing of

COATES

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1 those.

2 Q With the exception of Lieutenant-Colonel
3 NAGATOMO with whom you conferred and the General
4 whom you saw, you did not have any meeting with any
5 of the higher Japanese officials, did you?

6 A I communicated with two higher officers,
7 one, NAGATOMO in Burma, in 1943, and two, a Colonel,
8 Medical, name unknown, Japanese, in late 1944.

9 Q And the officers in charge of the camps
10 where you were were of the grade of Lieutenant, is
11 that correct?

12 A No, it varied. At Tavoy, a Sergeant; at
13 Retpu -- that is No. 30 kilo camp -- a Sergeant;
14 at the 55 kilo, a Sergeant until I protested to
15 NAGATOMO. Then a Japanese Lieutenant Medical officer;
16 then, at the Nakompaton camp -- that was a large camp --
17 we had a Lieutenant Colonel in charge.

18 MR. LEVIN: This, Mr. President, concludes
19 the cross-examination of this witness.

20 MR. JUSTICE MAN-FIELD: No re-examination,
21 if the Tribunal please.

22 THE PRESIDENT: You are at liberty now to go
23 back to Australia on the usual terms, Colonel.

24 (Whereupon, the witness was
25 excused.)

COATES

CROSS

1 MR. JUSTICE MANSFIELD: If the Tribunal
2 please, I ask the indulgence of the Tribunal to allow
3 me to call at this stage Brigadier Blackburn, V. C.
4 He is at present here, and he is engaged, or will be
5 engaged, in an important public governmental inquiry
6 beginning the first week in January in Adelaide.

7 THE PRESIDENT: What is his profession?

8 MR. JUSTICE MANSFIELD: He is a barrister,
9 a lawyer. His evidence refers to two camps, namely --
10 two areas, namely, Java and Formosa where he was con-
11 fined with the senior officers of the Allied Armies.
12 I point out that he was, of course, a prisoner of
13 war for a long period. He has been away from his
14 home.

15 THE PRESIDENT: He may be interposed.

16 MR. JUSTICE MANSFIELD: Thank you.

17 Call Brigadier Blackburn.
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1 MARSHAL OF THE COURT: I am not informed as
2 to his whereabouts, Mr. Justice Mansfield.

3 THE PRESIDENT: While we are waiting for
4 him--Mr. Justice Mansfield, we understand that it is
5 now your intention, if it has not always been, in
6 those affidavit matters simply to tender the affidavit
7 for identification; then to tender an excerpt merely;
8 but to read only a synopsis of the excerpt.

9 MR. JUSTICE MANSFIELD: That was the proposal.

10 THE PRESIDENT: Then you intend to serve on
11 the defense in English a copy of the affidavit in full,
12 a copy of the excerpt, and a copy of the synopsis; and,
13 in Japanese, a copy of the excerpt and a copy of the
14 synopsis. The defense, in those circumstances, would
15 be at liberty to draw to the Court's attention anything
16 in the affidavit which does not appear in the excerpt
17 or in the synopsis. They would do that by tendering
18 the part omitted upon which they would rely, and will
19 do it in the course of giving evidence for the defense.
20 In that way, every particle of the affidavit could
21 be drawn to the Court's attention. If I understand
22 the attitude of my colleagues, a majority favors the
23 course that you propose and approve of it, and that
24 is the Court's decision.
25

(Whereupon, Mr. Brooks came to the lectern.)

BLACKBURN

DIRECT

1 THE PRESIDENT: We have heard all the argument
2 we intend to hear.

3 Swear in the witness.

4 - - -

5 A R T H U R S E A F O R T H B L A C K B U R N, called
6 as a witness on behalf of the prosecution, being
7 first duly sworn, testified as follows:

8 THE PRESIDENT: Mr. Levin.

9 MR. LEVIN: Mr. President, in the absence of
10 Mr. Cunningham, on his behalf I want to renew the
11 objection he made to the testimony of the previous
12 witness; in other words, the points that he raised.

13 DIRECT EXAMINATION

14 BY MR. JUSTICE MANSFIELD:

15 Q What is your full name?

16 A Arthur Seaforth Blackburn.

17 Q And your rank?

18 A Brigadier.

19 Q And in March 1942 what was your rank?

20 A Brigadier of the Australian Imperial Forces.

21 Q And where do you reside?

22 A Grafers in South Australia.

23 Q In March 1942 where were you?

24 A I was in Java.

25 Q And were you the senior Australian officer in

BLACKBURN

DIRECT

1 that area?

2 A Yes, I was the general officer commanding all
3 Australian troops in Java.

4 Q And were you captured by the Japanese forces
5 in Java on the 12th of March, 1942?

6 A Yes.

7 Q And did you remain a prisoner until the
8 Japanese capitulation in August, 1945?

9 A Yes.

10 Q During that period were you ever informed
11 by Japanese officers of the policy of the Japanese
12 Government towards prisoners of war?

13 A I was frequently informed by Japanese officers
14 that the policy of the Japanese Government was to treat
15 prisoners only under their principle of "Bushido;" that
16 the principles of the Geneva Convention would be
17 applied only when it suited them, and that prisoners
18 of war had no rights whatever.

19 Q On the 13th of April, 1942, did you take
20 command of a prisoner of war camp?

21 A On the 13th of April, 1942, I was brought to
22 Batavia and placed in Cycle Camp where I assumed
23 command of the 2600 Allied prisoners of war in the
24 camp. That consisted at that time of Americans, British
25 and Australians.

BLACKBURN

DIRECT

1 Q What was the housing provided for the troops?

2 A We were housed in a Dutch barracks built to
3 accommodate one thousand native troops. The number
4 of prisoners in the camp varied from time to time
5 reaching a maximum of 4,900; but at no time were any
6 extra buildings or kitchens or sanitary arrangements
7 provided.

8 Q Shortly after your arrival, did any extra
9 prisoners, survivors from any ships, arrive?

10 A Shortly after my arrival approximately five
11 hundred officers and ratings, survivors from the
12 "Perth" and the "Houston" were brought into the camp.
13 They were in a pitiful state of neglect and ill-health.
14 They were semi-naked, most of them, and a large number
15 of them were unable to walk without assistance.

16 Q Had they received any medical attention?

17 A They had received no medical attention since
18 their capture on the 1st of March; and practically every
19 man was suffering from malaria or dysentery or both.
20 I had to put practically everyone of them into my camp
21 hospital the same day they arrived. I applied to the
22 Japanese for blankets, clothing, towels, soap, et
23 cetera, for them. They were all degradingly dirty.
24 The application was refused.

25 Q What about drugs and medicines?

BLACKBURN

DIRECT

1 A I applied for extra drugs and medicines for
2 them. This also was refused.

3 Q What have you to say about the issue of food
4 and medicines generally in that camp?

5 A The food at all times was completely inade-
6 quate and all prisoners in the camp began to lose
7 weight very rapidly. At no time did we receive anything
8 approaching the quantity of food approved for prisoners
9 of war by the Japanese. Practically no medicines were
10 issued to us by the Japanese authorities, and after
11 the few drugs we had brought with us into the camp
12 were finished, we were practically without drugs
13 until we managed to get them into camp by our own
14 means from outside sources in Batavia. I made frequent
15 protests both written and verbally over the shortage
16 both of food and drugs, but never received any satis-
17 faction in regards to same.

18 Q What was the position with regard to the
19 health and physical condition of the prisoners of
20 war up to the time you left that camp?

21 A Sickness was very frequent in the camp,
22 including at least two severe epidemics of dysentery.
23 The health, generally, of the troops was steadily deteri-
24 orating and a large number died.

25 Q What was the attitude of the Japanese towards

BLACKBURN

DIRECT

1 physical punishment of prisoners?

2 A Discipline was very harsh in the camp.
3 Physical beatings-up and brutalities were a very
4 frequent occurrence.

5 Q Were protests made about that?

6 A I made constant protests in writing and
7 verbally both to the camp commandant and to staff
8 officers from Japanese Headquarters, but I never at
9 any time received any satisfaction or any lessening
10 of the physical brutalities.

11 Q In June, 1942, did any mass punishment occur?

12 A In June 1942 I was ordered to obtain the sig-
13 nature of every prisoner in the camp to a form promising
14 instant obedience to every order of the Japanese Army.
15 Every officer and every enlisted man in the camp
16 refused to sign the form unless the words "subject
17 to the oath of allegiance we have already taken" was
18 added to the form. On the 3rd of July of 1942 I, in
19 conjunction with Colonel Searles, the senior American
20 officer in the camp, informed the camp commandant that
21 we would obtain the signatures if those words were
22 added to the form. We were informed that the words
23 would not be added to the form and the forms must be
24 signed. That afternoon an order was issued imposing
25 severe mass punishments on the whole camp, and a very

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DIRECT

1 large number of officers and men were beaten up
2 and assaulted without any reason whatever being given
3 for the action. I was sent for by an officer from
4 Imperial Japanese Headquarters in Java that afternoon,
5 and informed that unless everyone signed, food and
6 medicines throughout the camp would be progressively
7 decreased until we did sign. Next morning notices
8 were posted throughout the camp that our lives would
9 no longer be guaranteed. Machine guns were posted
10 throughout the camp and a large number of extra-armed
11 guards were brought into the camp. Colonel Searles
12 and I and all hut commanders were seized by the
13 sentries and locked up in the guardhouse. Every other
14 officer in the camp was marched out of the camp under
15 heavy armed guard.

16 THE PRESIDENT: We will adjourn until
17 half-past nine on Monday morning.

18 (Whereupon, at 1600, an adjournment
19 was taken until Monday, 2 December 1946, at
20 0930.)

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Number

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2 DECEMBER 1946

I N D E X
Of
WITNESSES

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I N D E X
Of
EXHIBITS
(none)

1 Monday, 2 December, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12 **Appearances:**

13 For the Tribunal, same as before; HONORABLE
14 R. B. PAL, Member from India, now sitting.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

17 **The Accused:**

18 All present except OKAWA, Shumei, who is
19 represented by his counsel.

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
24
25

BLACKBURN

DIRECT

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

3 THE PRESIDENT: Mr. Justice Mansfield.

4 - - - -

5 A R T H U R S E A F O R T H B L A C K B U R N,
6 called as a witness on behalf of the prosecution,
7 resumed the stand and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. JUSTICE MANSFIELD (Continued):

10 Q Witness, on Friday you had got to the
11 point where you told the Tribunal you were being
12 taken to the guardhouse in Cycle Camp. Will you
13 continue from there, please?

14 A On my way to the guardhouse I shouted out
15 an order to the men that they were to sign the form.
16 The men were then herded into their huts and were
17 made to sign the form, the order being enforced with
18 beatings up with rifle butts and heavy sticks. Late
19 that afternoon Colonel Searles and I were taken out
20 of the guardhouse, were shown the signatures of all
21 the other men in the camp, and we then signed our-
22 selves. For about a month after that there was an
23 orgy of savage beatings up and assaults indiscriminate-
24 ly on all officers and men throughout the camp. I
25 lodged very frequent protests against these beatings

BLACKBURN

DIRECT

1 up and against the other breaches of international
2 custom that was taking place, but never received
3 any satisfaction.

4 Q Did you subsequently leave Java?

5 A I left Java on the 28th of December of 1942.

6 Q Did you subsequently conduct an investiga-
7 tion into the forcing of prisoners of war to take
8 part in a propaganda moving picture?

9 MR. LOGAN: I object to that question,
10 your Honor, on the ground that it is leading.

11 THE PRESIDENT: There is another way of
12 putting it, Mr. Justice Mansfield, if you care to
13 do it that way.

14 Q Did you at any time conduct any investiga-
15 tion and, if so, what in relation to the Cycle Camp
16 in Java?

17 A Yes, about the middle of 1943 certain
18 officers who had been under me in Cycle Camp in
19 Batavia joined up with me when I was in Formosa. As
20 a result of what they told me I personally inter-
21 viewed some ten or fifteen officers and men who
22 informed me that they had been forced to take part in
23 the manufacture of a propaganda film in Cycle Camp.
24 Subsequently, upon my return to Australia after the
25 war, I was ordered to conduct an inquiry into the

BLACKBURN

DIRECT

1 making of this propaganda film and interviewed some
2 twenty to thirty officers, non-commissioned officers
3 and men who had been forced to take part in the
4 manufacture of the film. From them I ascertained
5 that the Japanese had selected the healthiest looking
6 men in the camp and had ordered them to take part in
7 a film purporting to depict prisoner of war life.
8 Every single one of them refused to take part in
9 the film and were then subjected to extreme brutal-
10 ities and punishments and were finally threatened
11 with death unless they took part in the film. They
12 still refused to take part and were then informed
13 that unless they did so the food ration for every
14 prisoner of war in Java would be reduced progressive-
15 ly week by week until they did take part. Only then
16 did they give way and agree to take part in the film.
17 The whole prison camp was raked over to get the clean-
18 est and best looking clothes that could be got from
19 anyone in the camp and these men were fitted out in
20 the best clothes that could be got out of the whole
21 camp. They were then taken away and made to take
22 part in the manufacture of this film which gives an
23 utterly untrue picture of camp life.
24

25 Q And that picture has been subsequently
cut and edited under your direction, is that so?

BLACKBURN

DIRECT

1 A The film was, I understand, captured by
2 the Allies when they went into Java and I saw it
3 in Australia in approximately December of 1945.
4 At a conference held in Melbourne it was then de-
5 cided that as many of the actors in the film as were
6 then alive and could be got should be gathered to-
7 gether and should, side by side with the Japanese
8 portion of the film, should give the true version
9 of what was really taking place. Certain photographs
10 and shots which had been taken by Allied cameramen
11 in Java after the capitulation when the conditions
12 of the camps had been considerably improved were
13 available and they were embodied in the picture
14 which was made in Australia to be a contrast to the
15 picture made by the Japanese and so as to show the
16 actual conditions, and the whole lot was then embodied
17 into one composite film.

18 Q What were the conditions under which you
19 left Java, your means of transport, and so forth?

20 A I left Java on the 28th of December, 1942,
21 in company with a number of senior British and Dutch
22 officers and included in the party was the Governor-
23 General of the Netherlands East Indies and Colonel
24 Searles, the senior American officer. We were put
25 aboard a very old dirty ship of about 5,000 tons

BLACKBURN

DIRECT

1 and were marched down a very steep ladder down into
2 one of the lower holds. A shelf had been built
3 between the floor of the hold and the deck above,
4 a shelf about seven feet wide. We were made to
5 crawl in between the floor and the shelf, or the
6 shelf and the deck above, as the case might be for
7 each prisoner, and ordered to lie down. There were
8 no lights, there were no portholes, there was no
9 ventilation except through the open hatch two or
10 three decks above us. There was not room for prisoners
11 to lie side by side. We had to lie alternately, one
12 with his head into the side of the ship and the
13 other with his head into the hold in order to get
14 room for us all to get in there. The heat was
15 absolutely intense. There were no washing facilities,
16 no bathing facilities, and the only latrines were up
17 on the top deck. There was only one step ladder
18 leading up to the top deck and at the foot of this
19 an armed sentry was posted to allow only one of us at
20 a time to go up to the latrine, and this was rigidly
21 enforced however much one desired to go up to the
22 latrine. The food consisted of very thin soup and
23 a small quantity of rice. We were occasionally
24 allowed up on deck for about a quarter of an hour
25 per day for exercise.

BLACKBURN

DIRECT

1 We arrived at Singapore about the 5th of January
2 and left Singapore about the 10th of January for
3 Japan.

4 Q How many prisoners were in that party?

5 A About sixty.

6 Q Yes.

7 A We traveled to Japan on a much bigger ship,
8 the "Ake Maru," of about 10,000 tons, but conditions
9 were identical as far as our accommodation went as
10 on the previous ship, except that as we came further
11 north the days became shorter and we were usually
12 for twelve to thirteen hours per day battened down
13 in the holds in absolute pitch darkness. We were
14 landed at Moji in Japan for a few days and then out
15 aboard another transport and taken to Formosa.

16 We reached Formosa about the 30th of January,
17 1943. The conditions on the third transport were
18 practically identical except that we were very much
19 more crowded and many of the prisoners had to sleep
20 on the open hatchway with the rain beating down on
21 them. On none of those transports was there any
22 medical arrangements whatever and we were unable to
23 obtain any medical assistance or treatment for the
24 sick except what could be provided by our own medical
25 men with such drugs as they happened to have with them.

BLACKBURN

DIRECT

1 I reached Karenko Camp in Formosa on the
2 evening of the first of February, 1943, still with
3 the same party and we were all lined up immediately
4 and addressed by the camp commandant. He informed us
5 that we were regarded as criminals for having fought
6 against Japan, that it was only by the kindness of
7 the Japanese Government that we were permitted to
8 be alive and that our lives in the future would de-
9 pend upon our behavior. He then read out a form
10 which he said we must all sign which was to the
11 effect that we promised on our honor that we would
12 obey every order of the Japanese and would never
13 make any attempt to escape. I was called out to his
14 table and ordered to sign the form. I told him that
15 it was against my honor to sign any such form as
16 it was my duty to attempt to escape if I could,
17 and I asked him what penalty he proposed to apply
18 to me if I refused to sign. He shouted out at me
19 to sign at once. I said that I would sign when he
20 chose to answer my question. He then aimed a blow
21 at me with his fist which I succeeded in dodging and
22 called up a squad of sentries and I was led off to
23 the guardroom. I was there ordered to empty my
24 pockets and take off all my clothes. I started to
25 do so, the Japanese sentries assisted me by ripping

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DIRECT

1 them off, and just when I had nearly completed
2 doing so a Japanese officer came into the guardroom.
3 He gave an order and two sentries immediately placed
4 themselves, one on each side of me. He then stepped
5 up to me and struck me very violently and repeatedly
6 over the jaw. He finally drove me into a corner of
7 the guardhouse where I tripped over some boxes and
8 fell onto the ground. While lying on the ground he
9 kicked me and then turned and walked away and the
10 guards thereupon pulled me to my feet again.

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1 They then ripped off the rest of my clothes,
2 took me along to a small cell about twelve feet by six
3 and put me in it. The cell was absolutely bare except
4 for a concrete slab in the center of it to act as
5 a latrine. I was suffering from a very bad cold at
6 the time, and the cold in February Karenko is very
7 intense. I was coughing almost incessantly, and in
8 about an hour's time was shivering very violently.
9 An armed sentry had been posted outside the entrance
10 to the cell, and in about an hour's time he came along
11 and threw me in my trousers. I found that every
12 button on them had been hacked off. For about six
13 hours I was made alternately at intervals of about
14 an hour either to stand at attention or sit down to
15 attention. When I first went in there, I had asked
16 for a drink of water; but this had been refused.
17 After about six hours I fell asleep and woke up at
18 half past six in the morning. I again asked for
19 a drink of water and some food, but this was refused
20 again. About an hour later a Japanese officer with
21 the official interpreter came into my cell and asked
22 me if I would sign the form. I said that I would do
23 so only under protest; and I again asked him for a
24 drink of water and some food. About eleven o'clock
25 that morning he came back again and again asked me

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DIRECT

1 if I would sign the form. On my again saying I would
2 sign it only under protest, he informed me that I
3 must stay there without food or sleep or water;
4 but, actually, about an hour later, a sentry handed
5 in to me a small mug of cold water and, shortly
6 afterwards, a handful of cooked rice. I remained
7 in the cell all day, at hourly intervals being made
8 to stand up at attention or sit at attention. All
9 this time I was coughing very badly, and by the
10 evening was beginning to feel very feverish. About
11 nine o'clock that night I was allowed to lie down
12 and go to sleep. Next morning, soon after I woke up,
13 my clothes were thrown into the cell and I was told
14 that I would be taken out to sign the form. I found
15 that every button off every garment that I possessed
16 had been hacked off. I put on my clothes, and some-
17 time later, was taken by a Japanese officer to the
18 guard room, and the form was put in front of me to
19 sign. I stated that I would sign it only under
20 protest and under duress, and that signature was
21 then accepted. I was then taken to my quarters,
22 which consisted of a long room in which there were
23 twenty-eight other prisoners of war. The room was
24 just long enough to take fourteen beds each side; the
25 beds practically touched.

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1 I found that in this camp were the Gover-
2 nors of Hongkong, the Malay States, Guam, some
3 chief justices, General Percival, General Wain-
4 wright, in fact, all British, American, and Dutch
5 officers of the rank of colonel and upwards who
6 at that time had been taken prisoners. Also, in
7 the camp, were some Red Cross representatives who
8 were treated as ordinary prisoners. The discipline
9 in this camp was extremely harsh, and all officers
10 and sentries showed at all times to us the greatest
11 hostility. Beatings-up were practically a daily
12 occurrence. I have seen the Governor of Hongkong,
13 the Governor of Guam, General Wainwright, General
14 Percival, General Sir Louis Keath, and countless
15 other senior officers beaten up by ordinary Japanese
16 sentries for -- either for no visible offense or for
17 an offense so trivial that it was almost impossible
18 to detect. It was almost impossible to avoid being
19 beaten up in that constant new rules were made,
20 breaches of which were used as a pretext for beating
21 up prisoners. As an illustration we suddenly dis-
22 covered, through being stopped all over the grounds
23 and having our fingernails inspected, that it was
24 an offense to have any dirt under one's fingernails;
25 and everyone who did was immediately beaten up by

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1 the guards. I, myself, saw General Percival severely
2 beaten up on the allegation that he had a speck of
3 dirt under one of his fingernails.

4 Another excuse used was we suddenly found
5 there was a rule that it was an offense to have any
6 button on one's clothing undone; and after dark at
7 night the sentries suddenly invaded our rooms and
8 inspected everyone to find whether they had any button --
9 pocket button or any other button undone; and everyone
10 who was found with a button undone was immediately
11 beaten up.

12 THE PRESIDENT: What did this beating up
13 consist of? We do not know.

14 THE WITNESS: Beatings-up consisted or
15 varied, shall I say, from severe punches on the
16 jaw to kicks, to hits with rifle butts, or hits
17 with heavy sticks.

18 THE PRESIDENT: What was done to General
19 Percival?

20 THE WITNESS: He was punched very severely
21 on the jaw and on the side of the face, causing an
22 abrasion and a breaking of the skin just below the
23 ear. Almost invariably a beating-up was severe
24 enough to leave some mark, either in the form of a
25 bruise, cut lip, or a breaking of the skin. Every

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1 Japanese soldier or civilian in the camp had to be
2 saluted by every prisoner of war of whatever rank.

3 THE PRESIDENT: Who beat General Percival?

4 THE WITNESS: A private soldier sentry,
5 whose name I do not know.

6 THE PRESIDENT: Were any Japanese officers
7 present?

8 THE WITNESS: So far as I know, none were
9 present; but the officer of the day was in the next
10 room and heard the row. I was at the door of the next
11 room and I know. I moved to the window of General
12 Percival's room and saw it, but the Japanese officer
13 of the day took no notice.

14 It was particularly the custom in the camp
15 for sentries at night to hide in the bushes and
16 behind obstructions on the passageway that led from
17 the sleeping quarters to the latrines. If you passed
18 any of those sentries without stopping and saluting
19 and bowing, you were immediately beaten up, quite
20 regardless of the fact that it was quite impossible
21 to see them in the dark. I, myself, have been beaten
22 up three times between leaving my bed to go to the
23 latrine and getting back into bed again. Another
24 penalty inflicted, particularly at night, at the
25 latrines was to make an officer stand outside the

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1 latrines with a bucketful of water and hold it out
2 at full arm's length for ten or fifteen minutes.
3 Almost invariably whilst doing this one would be
4 unable to withhold the call of nature, and the
5 Japanese would then call others up to stand and look
6 and laugh at one in that position.

7 THE PRESIDENT: Was that done to any
8 governor, chief justice, or general?

9 THE WITNESS: I am unable to say. It was
10 done once to me. It was done, to my knowledge, to
11 a number of American colonels and a number of British
12 colonels. General Sir Louis leath, who has' a slightly
13 withered left arm through a war injury and is unable
14 to keep his left arm straight down to his side, was
15 very severely beaten up by a sentry for not having
16 his hand rigidly to his side.

17 THE PRESIDENT: Were any complaints made to
18 Japanese officers in charge?

19 THE WITNESS: Very frequent written and
20 verbal complaints were put in to the Japanese Camp
21 Commandant at the treatment of the officers in the
22 camp.

23 THE PRESIDENT: What was the rank of that
24 officer in charge of the camp?

25 THE WITNESS: Captain IMAMURA.

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1 A (Continuing): With one exception, the
2 only result of these complaints was an immediate
3 epidemic of extreme brutality throughout the camp.
4 So much was this so that the senior American, British
5 and Dutch officers in the camp instituted a system of
6 letting us all know as soon as they were putting in
7 a complaint so that we could try to get on our best
8 behavior. The one exception that I referred to was
9 following the assault I had just mentioned on General
10 Sir Louis Heath. Following that complaint he was taken
11 by the officer of the day over to the Japanese guard-
12 house where the sergeant of the guard was sitting in
13 a chair. He was made to stand in front of the ser-
14 geant at attention, and the sergeant spoke to him in
15 Japanese. The officer of the day then said to him,
16 "You have now received an apology," and he was taken
17 back to his quarters. The assault on General Heath
18 had been so severe that it had ruptured some blood
19 vessels in his eye, and for a little while it was
20 feared he was going to lose his sight.

21 The Governor of Guam was stopped by a
22 sentry and, without giving any reason whatsoever,
23 was violently assaulted, injuring his eye.

24 THE PRESIDENT: Was General Wainwright
25 assaulted?

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1 THE WITNESS: General Wainwright told me
2 that he had been assaulted, but that was not one
3 of those that I personally saw.

4 THE PRESIDENT: What did he tell you?

5 THE WITNESS: I did see, sir, a severe
6 bruise on his jaw, which I imagine could not have
7 come from any other way except as a result of the
8 assault.

9 BY MR. JUSTICE MANSFIELD (Continued):

10 Q What was the work that the officers were
11 made to perform at that camp?

12 A All officers were made to work clearing
13 scrub land for farm and digging in heavy clay soil.
14 The oldest amongst the officers, about the oldest
15 twelve of them, were made to work herding goats.

16 THE PRESIDENT: Who were the goatherds, in
17 fact?

18 THE WITNESS: General Wainwright -- do you
19 mean the officers?

20 THE PRESIDENT: Yes.

21 THE WITNESS: General Wainwright, General
22 Percival, General Heath, the Governor of Hongkong,
23 the Governor of Singapore, the Governor of the Malay
24 States, three American colonels who were over the
25 age of sixty, and two British colonels who were over

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1 the age of sixty. I think that was the goatherd
2 team, sir. I might mention sir, that this goatherd
3 business was not as funny as it seemed to us at first
4 at the time in that if any goat escaped and got into
5 any forbidden portion of the camp, such as close to
6 the guardroom or in any of the Japanese vegetable
7 compounds, the goatherds were immediately beaten up
8 for having allowed it to do so.

9 BY MR. JUSTICE MANSFIELD (Continued):

10 Q Was any clothing ever issued to you?

11 A No clothing whatever was issued to us in
12 that camp.

13 Q What was the food position?

14 A The food was very inadequate. I think every
15 officer in that camp lost weight steadily and was
16 always hungry. I have, myself, seen officers picking
17 over the garbage tin at night before it was removed
18 to see if they could find anything more edible in
19 it.

20 Q Were you allowed to purchase any extra
21 food outside the camp?

22 A There was a strict prohibition against us
23 purchasing any extra foodstuffs except salt and very
24 occasionally some sauce; and these really were not
25 purchased; they were issued to us occasionally by

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1 the Japanese, and we were debited with a certain
2 amount of cost for them.

3 Q In April, 1943, were you moved anywhere?

4 A In April, 1943, all officers of the rank
5 of brigadier and upwards and all the civilian
6 governors, et cetera, in the camp were moved to
7 Tamasata Camp. We were told that we were to be
8 moved so that we would have more room, and to make
9 more room in Karenko Camp for those remaining.
10 In Tamasata Camp the food was considerably worse
11 than in Karenko; but, otherwise, the conditions were
12 an improvement. In June we were suddenly informed
13 one day that a representative of the Red Cross --
14 International Red Cross -- was to visit the camp and
15 inspect it. He passed through the camp, looked at
16 the accommodation, and was permitted to talk to some
17 six or seven officers in a small enclosure outside the
18 camp and in the presence of the Japanese. He left the
19 camp at about one o'clock, and half-past one we were
20 lined up and informed that we would be moved next day
21 back to Karenko. All the officers in Tamasata Camp
22 except the senior officer group, Generals Wainwright,
23 Percival, et cetera, were taken back to Karenko Camp
24 and were then after a few days moved together with
25 all other prisoners at Karenko Camp to Shirakawa Camp.

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1 THE PRESIDENT: We will recess for fifteen
2 minutes.

3 (Whereupon, at 1045, a recess was
4 taken until 1100, after which the proceed-
5 ings were resumed as follows:)

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

3 THE PRESIDENT: Mr. Justice Mansfield.

4 BY MR. JUSTICE MANSFIELD (Continued):

5 Q Were there any senior Dutch officers with
6 you in these camps you have mentioned?

7 A For a portion of the time General terPoorten,
8 the Allied Commander in Chief of the Netherlands East
9 Indies, was with me. For the whole of the time some
10 six Dutch generals, including General Schilling, and a
11 number of Dutch colonels were with me.

12 Q You had started to describe the camp at
13 Shirikawa.

14 A For a portion of the way, journey to
15 Shirikawa, we were loaded into open trucks and at every
16 village level crossing or station through which we
17 passed the civilian population, including all the
18 school children, were lined up to watch us go through.
19 The train was then slowed up and we proceeded slowly
20 past the civil population amidst laughs and jeers.

21 The conditions generally at Shirikawa con-
22 tinued as at Karenko, including the beatings up.
23 General Key was very severely beaten up, knocked down,
24 and kicked because he put a written complaint in to
25 the camp commandant about a breach of the customs of

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1 war.

2 THE PRESIDENT: What nationality was he? What
3 nationality?

4 THE WITNESS: British.

5 THE PRESIDENT: What was the treatment of
6 the Dutch officers like?

7 THE WITNESS: The treatment of the Dutch officers
8 was exactly the same as the brutal treatment of we
9 British and Americans.

10 THE PRESIDENT: Did you witness any beatings
11 of them?

12 THE WITNESS: I personally witnessed the beat-
13 ings up of some of their colonels. Owing to the fact
14 that my quarters were in a slightly different part
15 of the camp to the Dutch generals , I personally did
16 not see their generals beaten up, with the single
17 exception of General Cox whom I saw beaten over the
18 legs with a rifle butt because it was said his feet
19 were not close enough together when he was supposed to
20 be standing at attention. This was done by a private
21 Japanese soldier with the Officer of the Day standing
22 about five yards away watching it.

23 BY MR. JUSTICE MANSFIELD (Continued):

24 Q Did you hear of any beatings of the senior
25 Dutch officers?

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1 A Yes, I was told fairly frequently, as often
2 as I was told of beatings up of our officers, that
3 they also had been beaten up.

4 Q What was the sanitation in this camp like?

5 A The sanitation in Shirikawa Camp was particu-
6 larly bad. The latrines began to overflow within
7 about a month of us getting into the camp, and then
8 overflowed into open drains which led right across
9 the camp alongside our sleeping quarters and about
10 five yards from the kitchen. We made frequent com-
11 plaints about this and, as a result, in October of 1943,
12 the American and British colonels were compelled by
13 the Japanese to empty the latrines with open buckets.
14 The work continued in this camp but, as the climate
15 was considerably hotter, it was very much more diffi-
16 cult to perform. In, I think, May of 1944 Brigadier
17 General McBride of the United States Army was found
18 dead in his bed at reveille in the morning. He had
19 been working alongside of me under a very hot sun the
20 whole of the previous day and had complained to the
21 Japanese officer in charge that he was feeling unwell.
22 He was not allowed to stop work, was unwell when he
23 got back to camp, and was found dead next morning.

24 In June of 1944 a Red Cross representative
25 visited the camp and was interviewed by certain

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1 selected -- officers selected by the Japanese who
2 were forbidden to mention to him the subject of work.
3 In spite of this prohibition, one of them informed
4 the Red Cross representative that we were being com-
5 pelled to do work which we felt was beyond our
6 strength and from then on discipline throughout the
7 camp became very much more severe. Officers were
8 frequently placed in solitary confinement in the
9 cells for trivial offenses and without trial. In
10 fact, on no occasion that I personally know of did
11 any officer receive any trial for any offense.

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1 prisoners at that time?

2 A With progressive lack of food and lack of
3 vitamins, all the prisoners in the camp were becoming
4 alarmingly thin and in poor health.

5 Q Did the same apply to the Japanese officers
6 and guards?

7 A Very definitely not.

8 Q Well, then in October 1944, did you leave
9 Shirikawa?

10 A Yes. I would like to mention that immediately
11 after the interview with the Red Cross representative
12 fresh rules were made, one result of which was a very
13 large increase of malaria throughout all the prisoners
14 in the camp, in that a rule was issued the result of
15 which was to make it an offense for us to get under
16 our mosquito nets before nine o'clock at night.

17 In October of 1944 we left for Manchuria, and
18 in May of 1945 were brought into the main prisoner of
19 war camp in Mukden. This camp consisted of two-story
20 barracks built on a bit of very low-lying ground on the
21 outskirts of Mukden. There were already about twelve
22 hundred prisoners of war in the camp when we arrived
23 who had been there since 1943, working in the factories
24 in Mukden.

25 Each building or each floor of each building

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1 selected -- officers selected by the Japanese who
2 were forbidden to mention to him the subject of work.
3 In spite of this prohibition, one of them informed
4 the Red Cross representative that we were being com-
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1 THE PRESIDENT: Did any Japanese high
2 officers pay any visit to the camp?

3 THE WITNESS: On a number of occasions we
4 were inspected by the colonel -- Colonel SUZUKI, I
5 think his name was, your Honor -- the colonel in
6 charge of administration, and on at least two occasions
7 representatives from the camp were permitted to put
8 their troubles before him. No alleviation of any of
9 our conditions followed.

10 On occasions Japanese generals, and, on one
11 occasion, we understood the Governor of Taiwan visited
12 the camp, but we were not allowed to speak to them or
13 get close enough to speak to them.

14 THE PRESIDENT: Those visitors spoke only to
15 the Japanese; is that so?

16 THE WITNESS: That is so.

17 Q What was the position as to food in that camp?

18 A The food was still the same, inadequate food
19 of insufficient quantities of rice and thin vegetable
20 soup. And just after the complaint to the Red Cross
21 representative in June 1944, even the low, then,
22 standard of rice ration was officially reduced by the
23 Japanese. It was reduced to, I think, 375 grams per
24 person per day in all.

25 Q What was the physical condition of the

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1 prisoners at that time?

2 A With progressive lack of food and lack of
3 vitamins, all the prisoners in the camp were becoming
4 alarmingly thin and in poor health.

5 Q Did the same apply to the Japanese officers
6 and guards?

7 A Very definitely not.

8 Q Well, then in October 1944, did you leave
9 Shirikawa?

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19 war camp in Mukden. This camp consisted of two-story
20 barracks built on a bit of very low-lying ground on the
21 outskirts of Mukden. There were already about twelve
22 hundred prisoners of war in the camp when we arrived
23 who had been there since 1943, working in the factories
24 in Mukden.
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Each building or each floor of each building

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1 had a wooden shelf dividing the floor from the ceiling,
2 leaving about a maximum of five feet of space
3 between floor and shelf or shelf and roof, as the case
4 may be. Buildings were very crowded, both floor and
5 shelves being fully occupied by prisoners as their
6 sleeping quarters. The buildings were very dirty and
7 were very badly infested with lice and fleas.

8 Food was getting rapidly and progressively
9 shorter in its issue, although on my rail journey down
10 to Mukden I had seen, at every railroad siding we passed
11 through, very large quantities of food, grain, soya
12 beans, and other food piled up on the stations. And,
13 subsequently, when the war ended and we got out of the
14 camp, we had not the slightest difficulty in obtaining
15 every sort and quantities of food, eggs, fresh
16 vegetables, meat, that we desired without any difficulty
17 whatever in the district.

18 Discipline in this camp was very severe,
19 particularly on the enlisted men who were in the camp.
20 The officers were subjected to extreme indignities and
21 annoyances, and on occasions were assaulted as in other
22 camps.

23 On the end of hostilities we released from
24 the cells a man who had been in there for 150 days
25 without any charge or trial being brought against him.

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1 Another man was released whose face was very badly
2 bruised and who had most of his teeth missing, who
3 informed me that he had been beaten up at least twice
4 a day for the last ten days that he had been in there
5 although he had not been brought before the camp
6 commandant or awarded any sentence for anything.

7 Two days after the end of hostilities I visited
8 the prisoner of war cemetery about two miles away from
9 the camp and counted over three hundred graves, mostly
10 American enlisted men, out of a party of approximately
11 1400 who were taken up there in 1943.

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Q Was there much sickness in that camp?

A Yes. Sickness, particularly for the last four or five months, became extremely bad, and it would be correct to say that for the last three months in Manchuria sick parades more than doubled. For example -- this was due to the -- partly to the fact that latrines, as usual, were in a constant state of overflow. Flies were very bad there and dysentery became terribly rife throughout the whole camp. This was made still worse by the shortage of food in the last three months, as a result of which practically everyone in the camp was becoming alarmingly thin and weak.

Q Were there sufficient medical supplies for the treatment of the sick?

A For the last six months in Mukden Camp there were fairly ample supplies of most drugs, but no supplies of drugs to deal with the greatest danger, dysentery. I wish to correct that. When I arrived in Mukden Camp there was sufficient emetine left to treat four cases. There were some thirty odd cases in the hospital and they were recurring all the time. The doctors had the difficulty of allotting the remaining four doses amongst the patients.

Q Were you subsequently released when the

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1 Russian forces entered Mukden?

2 THE PRESIDENT: You told us the duties
3 assigned to the older generals. What about the
4 other officers?

5 THE WITNESS: All the other officers in the
6 camp, including the generals, sir, were engaged upon
7 heavy manual work, clearing scrubs, digging in heavy
8 wet clay soil -- similar tasks to that, sir.

9 THE PRESIDENT: Were they assigned to any
10 particularly disagreeable duties?

11 THE WITNESS: Not particularly disagreeable,
12 sir, other than -- that is, the generals other than
13 the English and American colonels, who were made to
14 empty the latrines, carted out of the camp.

15 THE PRESIDENT: Was that a regular practice?

16 THE WITNESS: No, sir. It happened only
17 in October of 1944, when we were making almost daily
18 protests about the bad sanitation in the camp. We
19 practically ceased making protests on that subject
20 after the results of the protests in October, 1944.

21 THE PRESIDENT: The result being that the
22 colonels had to do the latrine duty?

23 THE WITNESS: Yes, sir, and I would like to
24 explain, sir, that that duty consisted in getting
25 the contents of the latrine out by hand in an empty

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1 bucket and then walking out in view of the civil
2 population and depositing it outside.

3 THE PRESIDENT: How many colonels were in-
4 volved?

5 THE WITNESS: Sixty, sir.

6 THE PRESIDENT: Mr. Blewett.

7 MR. BLEWETT: If the Court, please.

8 CROSS-EXAMINATION

9
10 BY MR. BLEWETT:

11 Q Is it permissible, Brigadier, for you to
12 tell us the number of troops you commanded in Java
13 before the capture?

14 A Approximately 3,000, including some 500
15 Americans who were placed under my command and some
16 few hundred English.

17 Q Do you know how many troops of all Allied
18 nations were captured at that time or shortly
19 thereafter?

20 A I do not know that.

21 Q Were there any terms of surrender such as
22 occurred at Singapore?

23 A Yes. I attended on the 12th of March before
24 the Japanese Commander-in-Chief, in company with the
25 British senior officer and Colonel Scarle, the senior

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1 American officer, and signed a surrender document of
2 our forces, but I don't know the surrender terms of
3 the Commander-in-Chief.

4 Q Well, then, you wouldn't know, Brigadier.
5 whether there were any provisions with regard to
6 prisoners of war in that surrender term?

7 A I know that there was an express provision
8 in regard to prisoners of war in the terms of sur-
9 render that I signed. At our request, after a long
10 argument, the Japanese Commander-in-Chief added ex-
11 press words that the prisoners of war would be sub-
12 ject to our rights under the Geneva Convention of
13 1929.

14 Q I take it, Brigadier, that you were the senior
15 officer at that time on Java, is that correct?

16 A No, I was the senior Australian officer,
17 and the American troops had been placed under my
18 command during the fighting.

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1 C Well, then, you signed the surrender terms
2 in so far as the island of Java was concerned. Is
3 that right?

4 A In so far as the Australian troops in
5 Java were concerned. Colonel Searle signed it in
6 so far as the American troops in Java were con-
7 cerned.

8 C But I think you stated you did not know the
9 number of other Allied troops in Java. Do you have
10 any idea of about the approximate number, Brigadier?

11 A I would say, and this is very approximate,
12 that apart from Dutch troops there were about eight
13 or nine thousand other Allied troops, but they
14 consisted, except for the Australians and Americans,
15 mainly of ground staffs of the air force, and base
16 troops, clerks, and things of that sort.

17 C Were there, in addition to troops, a certain
18 number of civilians and other persons that were
19 either interned or imprisoned after the surrender?

20 THE PRESIDENT: What is the point of all
21 this, Mr. Blewett? Do you suggest that the Japanese
22 got too many prisoners to handle properly?

23 MR. BLEWETT: That was the general idea,
24 sir.

25 THE WITNESS: There were, I assume, a large

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1 number of Dutch civilian internees, but I can give
2 no idea as to whether there were British, American
3 or Dutch, with one exception of an American
4 national that had been connected with airplane manu-
5 facture, and whom I, in conjunction with Colonel
6 Searle, hurriedly put into uniform and passed as a
7 soldier to prevent him from falling into the hands
8 of the Japanese as an airplane expert.

9 C On what date did the first landings of
10 Japanese troops take place on Java?

11 A During the night of the 28th of February,
12 1st of March.

13 C Am I correct, Brigadier, that war was de-
14 clared by the Netherlands against Japan on December
15 8, 1941?

16 A I don't know that. I was in the Middle
17 East then.

18 C What was your general treatment, Brigadier,
19 between March 12 and April 13, 1942?

20 A We were left entirely to our own resources
21 in the area in which we had surrendered. We were
22 liable entirely for the feeding of our troops, and
23 saw no Japanese except around the perimeter of some
24 miles retaining us in.

25 C Were you, therefore, in camp with your own

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1 equipment and supplies, Brigadier?

2 A During that period we were scattered out
3 through some tea plantations in the south of
4 Bandung where we had been last taking up position
5 when the hostilities ceased.

6 C Well, then, what developed, if I may ask
7 you, between the 12th and the 13th, when you left
8 Java?

9 THE MONITOR: Mr. Blewett, will you re-
10 frame the question? What do you mean by 12th and
11 13th? Twelfth March to 13th April? The 13th April
12 was the date when you left Java. Is that right?

13 MR. BLEWETT: Yes, that is right.

14 THE WITNESS: Do you mean between the 12th
15 of March and 28th of December, when I left Java?

16 MR. BLEWETT: No. I am mistaken, sir. I
17 should have said Batavia.

18 A From the 12th of March until the date I
19 arrived in Batavia. I was left in charge of the
20 whole of the troops I had commanded when hostilities
21 ceased, subject only to a rule that I would -- and
22 other officers -- would be strictly accountable for
23 discipline, and that if any man was found outside a
24 certain named area bounded by certain roads they
25 would be shot on sight. We were made solely

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1 responsible for feeding our troops and received no
2 rations from the Japanese, and were ordered to bring
3 to certain named points all our weapons of war.

4 Q During that period did Japanese officers
5 inform you that the principles of the Geneva Con-
6 vention would apply only to prisoners of war when
7 expedient?

8 A Not at all during that period.

9 Q On what other occasions were you so informed,
10 Brigadier, and by whom?

11 A On a very large number of occasions through-
12 out my period of imprisonment, by various Japanese
13 officers of various ranks, and more particularly by
14 Lieutenant SONIE, Captain INNINURI, Captain HIOKE,
15 and a lieutenant whose name I do not know up in
16 Manchuria. I remember also Colonel SHUSAWA, I think
17 his name was, addressed the whole of the prisoners
18 in Shirikawa Camp, and informed us of the same thing
19 in reply to a request which we had put in to be able
20 to interview our protecting powers.

21 THE PRESIDENT: We will adjourn now until
22 half past one

23 (Whereupon, at 1200, a recess
24 was taken.)
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AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330.

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

7 THE PRESIDENT: Mr. Blewett.

8 MR. BLEWETT: Thank you, sir.

9 - - - -

10 A R T H U R S E A F O R T H B L A C K B U R N,
11 called as a witness on behalf of the prosecu-
12 tion, resumed the stand and testified as follows:

CROSS-EXAMINATION

13
14 BY MR. BLEWETT (Continued):

15 Q Of what did your quarters consist as
16 commander of the POW camp in Batavia?

17 A Dutch barracks built for native troops that
18 consisted of a number of single-storied buildings
19 with wooden floors, and which had verandas on every
20 building.

21 Q How many Americans were confined in the
22 Cycle Camp, Brigadier, if you can tell us?

23 A Originally about 400 and then approximately
24 200 survivors from the Houston.

25 Q Was Colonel Searles in command of the

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1 American troops, sir?

2 A Colonel Tharp was the commander of the
3 American unit, but Colonel Searles was the senior
4 American officer. He was an American staff officer.

5 Q Were the men housed as to nationality, or
6 were they mixed up pretty much?

7 A When I arrived they were mixed up, but with
8 the assistance of Colonel Searles we sorted them
9 out into nationalities,

10 Q How many barracks were there, Brigadier?

11 A My recollection is about ten buildings
12 in all.

13 Q So, according to your description that would
14 be about 100 men to a barrack, is that right?

15 A Considerably more than that. The lowest
16 number was 2600 in the camp. The highest was 4900.

17 Q I think there were 2600 Allied prisoners
18 there when you reached the camp, is that true?

19 A That is correct.

20 Q Now, those men, I assume, had been placed
21 there between a state of surrender on March 12 and
22 the date on which you reached there, the 13th of
23 April, is that correct?

24 A No, they had all been brought down from the
25 vicinity of central Java within a few days, say, a

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1 week of the 13th of April, upon which day I was
2 brought down with the last party.

3 Q What officers lived with the men, Brigadier?

4 A The system I organized was that one or two
5 officers should live in a small room at the end of
6 each barrack so as to try to help the men. The
7 rest of the officers lived in a building at one end
8 of the camp.

9 Q What system was in operation as to
10 registration of prisoners of war?

11 A I do not know what the Japanese system
12 was, but the day after I got into the camp I was
13 instructed to prepare and hand in a nominal roll of
14 the name, rank, nationality of every prisoner in the
15 camp.

16 Q Did that give the location of each man as
17 to the barracks in which he resided?

18 A No, at first I was told to lodge with the
19 Japanese a hut register, showing the name of the
20 occupants in every hut. For the convenience of the
21 prisoners I sought and obtained subsequently per-
22 mission to move men from hut to another on the under-
23 taking that I would be able at any moment to inform
24 the Japanese in what hut any given man was housed.

25 Q Were there beds in the huts, Brigadier?

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1 A No.

2 Q What was the sleeping arrangement?

3 A Originally all on the floor, but gradually
4 as time went on the men constructed -- many of the
5 men constructed rough stretchers out of bits of
6 bamboo and sacking, et cetera.

7 Q I assume the barracks were in the same
8 condition as they had been when taken over by the
9 Japanese.

10 A I have no knowledge on that.

11 Q I think you testified, Brigadier, that they
12 had formerly been used by native troops, is that
13 correct?

14 A That is correct.

15 Q Well, within the short period of time is it
16 correct to assume that they were no doubt in the same
17 condition as they had been when they were taken over
18 by the Japanese?

19 A Yes, I assume that.

20 Q Would you say that the men were extremely
21 crowded as to sleeping quarters?

22 A Yes, extremely crowded. All the verandas
23 had to be used although rain frequently came in on the
24 verandas.

25 Q Were there any other suitable arrangements

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1 nearby or in any other locality that you knew about?

2 A Within 400 yards of the camp was another
3 much more substantially built barracks and much
4 bigger barracks which at least for some months after
5 I arrived there was practically unoccupied.

6 Q What response did you get when you suggested
7 that this other building be utilized?

8 A No response except the one word, "no."

9 Q Do you know whether or not the Japanese
10 had materials available for extra buildings?

11 A I have no information.

12 Q I think you testified, Brigadier, that
13 during your stay there that no effort was made to
14 provide extra buildings or outhouses or kitchens.
15 Now, it occurred to me that perhaps you no doubt would
16 suggest that your men, if given the equipment and the
17 tools, would be delighted to provide these facilities?

18 A That is one thing I had in mind but the
19 other easier thing would have been to make empty
20 buildings in the near vicinity available to us. For
21 example, immediately outside our barbed wire and
22 enclosed behind a high wall was a big two-storied
23 building which to my knowledge was empty at least
24 until October of 1942.

25 Q What disposition was made of the Allied

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1 stores before the surrender, if any?

2 A They were, wherever possible, destroyed
3 and immediately after the surrender as many as
4 possible of us destroyed every possible weapon of
5 war that we could.

6 Q I presume the men kept their bed rolls,
7 or whatever you term it in your army, and side
8 equipment and tools and so on, is that so?

9 A Bedding and blankets only. All side arms
10 and tools were taken from us, and even in the case
11 of the American troops, the whole of their kitchen
12 equipment, cooking dishes, et cetera, were taken from
13 them.

14 Q Were they permitted their extra shoes and
15 other clothing?

16 A In that camp at the beginning no clothing
17 or shoes were taken from them, but some of the pris-
18 oners had very little clothing and practically no
19 spare footwear; and when any began to wear out we
20 were informed by the Japanese that we would have to
21 use the spare clothes and boots of men that had spares
22 to replace those of men whose clothing and boots had
23 worn out.

24 Q Is it correct, Brigadier, that the survivors
25 of the Perth and Houston were troops, army troops?

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1 A They were entirely naval men or marines,
2 naval marines, and as most of them had been in the
3 water and had swum ashore, in the main they had arrived
4 ashore practically naked.

5 Q I was just going to ask you that, Brigadier.
6 I assume, therefore, that that is the reason they
7 arrived at Camp Cycle without clothes and equipment?

8 A Yes, that is so. Their clothes had not
9 been taken away from them but none had been issued
10 to them to cover their nakedness.

11 Q I was quite sure that is what you meant, sir.

12 A Yes, I did.

13 Q Can you tell us whether or not the Japanese
14 had uniforms and shoes that would have fit these
15 men?

16 A I was informed that they had taken possession
17 of a large quantity of Dutch clothing and uniforms
18 in some of their stores.

19 Q I was thinking about the fit especially in
20 regard to some of our marines.

21 A It is quite true that as far as most of
22 our troops went the Japanese had no clothing of
23 their own or boots of their own that would have fitted
24 us.

25 Q From where had these survivors traveled to

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1 reach Cycle Camp, Brigadier?

2 A From the coast of west Java. The Perth
3 and Houston were sunk in Sunda Strait, which is
4 between Java and Sumatra.

5 Q What I was thinking of was whether or not
6 there were facilities en route to treat these men
7 properly from a medical viewpoint?

8 A They had been detained for over three weeks
9 in a native jail in a large Dutch town further west
10 than Batavia. I think its name was Serang.

11 Q Did you set up the hospital at Cycle
12 or had it been already established when you reached
13 there?

14 A I set it up by assigning one hut as a
15 hospital hut and putting into it doctors and orderlies.
16 It in no other way resembled a hospital. It had no
17 beds and no water within 50 yards of it.

18 Q What kind of a staff did you have to help
19 you there, Brigadier -- medical staff?

20 A We had the medical officers from the
21 American artillery battalion, from two of my infantry
22 battalions and, from memory, I think one other medical
23 officer and two survivors from the medical staff of the
24 Houston came in with them and on recovering their
25 health went into the hospital to assist.

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1 Q Were these men deterred in any way by the
2 Japanese from carrying out their professional work?

3 A They were not deterred in the sense of being
4 prevented but frequently things they desired to do
5 were overridden by order of the Japanese. May I
6 explain that throughout my whole experience the
7 Japanese method was to put a corporal whom they
8 called the medical corporal in charge of the hospital
9 and who was absolutely supreme above all our doctors.

10 Q That is what you had in mind specifically,
11 was it, Brigadier, about not being permitted
12 to do what they desired to do?

13 A That, of course, and the serious deficiencies
14 of medicine and equipment.

15 Q Now, when you asked for blankets, clothing,
16 towels and soap, was that available at that time?

17 A The towels, soap were certainly available
18 in Batavia in very large quantities. The blankets
19 and the clothing I believe to have been available
20 from captured stores.

21 Q To whom did you make this application?

22 A The Japanese camp commandant.

23 Q I think you told us his name, Brigadier,
24 but would you let me have it again, please? I am
25 not quite certain.

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1 A The commandants changed from time to time.
2 I think at that time it was Lieutenant YATAMOTO,
3 I think was the name.

4 Q Do you know whether he has been charged
5 with any crime by a war tribunal?

6 A I do not know.

7 THE PRESIDENT: The prosecution will give
8 you those particulars if you need them, I am sure,
9 Mr. Blewett, to save cross-examining witnesses who
10 know nothing about them.

11 MR. BLEWETT: I will keep that in mind, sir.

12 Q What was the reason for the refusal, if
13 one was given to you, sir?

14 A No reason was given.

15 Q I don't suppose you felt like pressing for
16 one?

17 A I pressed for one and pleaded for over two
18 hours, but got no satisfaction except that nothing
19 would be done and I must do the best I could myself.
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1 Q From your experience and knowledge of that
2 region what was the food situation generally in
3 Batavia at that time?

4 A At that time, from my knowledge, there was
5 an abundance of food in Batavia

6 Q What is the population of Batavia?

7 A Other than the fact it is a very large
8 population, I don't know.

9 Q Well, would you say, or have you heard,
10 Brigadier, that it is more populated than Japan?

11 MR. JUSTICE MANSFIELD: I object, if the
12 Tribunal please, as I submit the answer to that
13 question will not assist the Tribunal and is irrel-
14 evant.

15 THE PRESIDENT: We know those matters,
16 Mr. Blewett. We know what the populations of these
17 parts are.

18 MR. BLEWETT: I understand, sir.

19 Q What sources, if you know, did the Japanese
20 have to depend upon for their supply of food and
21 medical supplies?

22 A So far as medical supplies go, I know of
23 my own knowledge that there were very, very large
24 supplies of practically all drugs available in
25 Batavia at that time. So far as food goes, I can

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1 only saw that I believe there were large quantities
2 of food available, and I assume the Japanese could
3 do what an occupying force usually does, and commandeer
4 a portion of that, except that from my knowledge of
5 them, I would not expect them to commandeer it in
6 the same way as our forces would do it. I might
7 add that in the early stages, Dutch civilians and
8 natives made very frequent efforts to throw food
9 of all sorts, rice and all other sorts of food,
10 over the wire to us, but were prevented from doing
11 so.

12 Q Well, I think perhaps you told us, but
13 how was the food situation at Cycle Camp?

14 A The food was generally very inadequate.
15 All prisoners lost weight rapidly; and the food
16 was less in many cases by over fifty per cent than
17 the Japanese approved scale for prisoners of war.

18 Q Were the guards at Cycle Camp Japanese or
19 otherwise?

20 A Nearly all Japanese, with a very few Koreans.

21 Q In what manner were the beatings and bru-
22 talities brought to your attention? I am speaking
23 now only of Cycle Camp, Brigadier.

24 A I saw a tremendous lot of them because
25 Colonel Searles and I used to make it a practice

to spend practically all our time going around
1 the camp to try and help the men as much as we
2 could in difficulties; and then there was a standing
3 order that every beating-up was to be reported to
4 us immediately so that we could endeavor to do
5 something to ease the position.

6 Q What was the cause assigned usually?

7 A It was very rare for a sentry to try to
8 assign a cause, but in fairness, they could only
9 talk Japanese and we could not understand them. So
10 there was not much good trying to assign a cause.
11 The only cause I could ever get from the Camp
12 Commandant was that the person beaten up had
13 angered a sentry. I could never get at any stage
14 an investigation or trial into any case.

15 Q From your protests, did you at no time
16 receive any response from a Japanese officer?

17 A Yes, I was beaten up myself one day for
18 no reason that I could see, and was made by the
19 Japanese sentry to walk naked throughout the camp
20 to the kitchen, five hundred yards away, and collect
21 food and feed it to two men in the cells.
22

23 THE PRESIDENT: How were you beaten?

24 THE WITNESS: With fists and with a rifle
25 butt.

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1 A (Continuing): I, at the time, had come
2 back from the bath with only a towel around me,
3 and when the towel fell off, I was kicked for
4 letting it fall off. On protesting to the Japanese
5 Camp Commandant about an hour later, he, himself,
6 expressed his regret and said that he would take
7 some action over the matter against the sentries
8 concerned; and I assumed he did so. That is the
9 only occasion upon which any of the hundreds, almost,
10 of protests that Colonel Searles and I made met with
11 any response.

12 Q I can appreciate, Brigadier, the purpose
13 of this form that you describe and your attitude
14 towards it, but what was the real purpose, specifically,
15 of the Japanese?

16 MR. JUSTICE MANSFIELD: I object.

17 THE PRESIDENT: They could not speak
18 English, and he could not speak Japanese. He said
19 that. He would not know their purpose unless they
20 could tell him and did tell him.

21 MR. BLEWETT: I recall, sir, that, I believe,
22 the Brigadier testified in direct examination that
23 an interpreter was brought when they discussed this
24 question of form.

25 THE PRESIDENT: Well, ask him if he knows.

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1 It will be interesting; perhaps useful.

2 A I was never told the purpose. I was merely
3 told that that was the customary method of Japanese
4 discipline to prisoners.

5 Q Do you recall the name of the officer from
6 Headquarters with whom you conferred?

7 A No, I could never ascertain his name.

8 Q I believe that was the time, sir, that
9 you said that with the addition of those words
10 which you spoke and quoted then, that you would
11 be willing to sign the card?

12 A Yes, that is so.

13 Q Now could it have been that the Japanese
14 wanted to save the number of guards by having these
15 cards signed?

16 A No. They were large sheets of paper with
17 these words already written across the top and a
18 space for signatures below. I have one of them now.

19 Q What I meant, sir, is if they had your word,
20 would they have, therefore, been permitted to reduce
21 the number of guards?

22 A I don't consider so because after they were
23 signed, there wasn't the slightest reduction in the
24 number of guards.

25 Q Were you at Cycle Camp the whole time until

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1 December 28th?

2 A Yes.

3 Q Now what did the men do there in the line
4 of work, if anything?

5 A Road work, repairing war damage, various
6 loading and unloading on the dock, sorting out
7 of captured material, et cetera.

8 Q Were the officers compelled to work?

9 A At first they were compelled to work, but
10 the Japanese complained that not enough work was
11 being done. I, therefore, managed to bluff them
12 that we would get more work if the officers were
13 put only in charge of the men instead of working.
14 In fact, the result was that immediately less was
15 done as the officers managed to switch the men from --
16 or prevent the men from working hard if the work
17 had any relation to the war effort.

18 Q How were the hours and conditions of work?

19 A In Batavia, whilst I was there, neither the
20 hours nor the work were unduly severe.

21 Q Now these pledges, Brigadier, were signed,
22 as you say, under duress, is that right?

23 A Yes.

24 Q Now, as a result of that signing, did life
25 become more bearable for you gentlemen in the camp?

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1 A For the first month, it was very decidedly
2 more unbearable. There was a complete orgy of
3 beatings-up throughout the camp, and certain of
4 our recreational advantages, such as concerts,
5 lectures, were immediately stopped. The right to
6 give educational lectures was never restored. Con-
7 certs from then on were limited strictly to one a
8 week; and our conditions were in no way better than
9 they had been before we signed. I think, in fairness,
10 I should add that I informed the Japanese Camp
11 Commandant the day after they were signed, that every
12 man in the camp had signed under protest and duress.

13 Q Were these concerts and entertainment,
14 Brigadier, supplied by outsiders or by your own forces?

15 A Entirely by our own forces.

16 Q Did yourself and other general officers have
17 freedom and could you go to Batavia or make other
18 trips outside the camp?

19 A Generally speaking, no. On two occasions
20 Colonel Searles and I were permitted to or were taken
21 up to Batavia to try and deal with the medical sup-
22 plies when conditions of health in the camp were
23 getting drastic. On each occasion we succeeded in
24 obtaining from a Dutch chemical manufacturing firm
25 large supplies of drugs without payment.

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1 Q After that month, pursuant to the signing
2 of the cards or the pledge, I think you said that
3 conditions grew better?

4 A They gradually grew better than they had
5 been during the month, but no better than they had
6 been prior to the signing of the form.

7 Q What was done about that film that was made
8 up after you left in 1943, do you know, Brigadier?

9 A All I know of it is that it was captured
10 by the Allied troops who went into Java, and the
11 last I heard of it, it was in Australia. Perhaps
12 I should say the last I know of my own knowledge
13 of it. I had heard it is up here, but I don't know
14 that positively.

15 Q Do you know from your investigation whether
16 it was ever shown to the International Red Cross
17 or any other party?

18 A I have no information whatever that it ever
19 was.

20 Q Was it made for home consumption, or what
21 was the purpose, if you know?

22 A I do not know.

23 Q Was any reason assigned to you as to your
24 removal from Java in December, 1942?

25 A General SAITO informed us that an ideal

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1 prisoner of war camp had been established in the
2 best surroundings that could be found to which all
3 senior officers who had been taken prisoner were
4 to be taken.

5 THE PRESIDENT: Mr. Blewett, your cross-
6 examination suggests to us that you have not been
7 instructed by any Japanese who knows anything about
8 what happened in Java; and that you are putting
9 questions more or less at random with unfavorable
10 results in most cases. It is for you to say what
11 is in the best interests of the defense, but it does
12 not appear to us that that class of cross-examination
13 is in their interests; but we appreciate your position.

14 MR. BLEWETT: I think, sir, that the
15 witness very fairly filled in some of the gaps and
16 was very fair in stating exactly how the treatment
17 was accorded him by the Japanese, particularly with
18 the physical situation as contrasted with some of
19 the other camps he told us about.

20 Q Do you know whether or not, Brigadier,
21 the camp was continued after you left?

22 A It was continued right through the war, and
23 there was still a number of prisoners in it when
24 the war ended.

25 Q Was there any reason that you knew why the

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1 general officers should be removed from Java to
2 the Japanese homeland?

3 A I knew of no reason, but from the fact
4 that when we got there we found all American,
5 British, Dutch and Australian generals gathered
6 together in one camp, that the reason was to get
7 them all together in one place instead of having
8 them scattered.

9 Q What was the purpose, if you know, of
10 confining the officers to quarters on board ship?

11 A I do not know.

12 Q Could it have been through the fear of
13 detection?

14 A I do not think so.

15 Q After the seven-day trip to Singapore on
16 January -- reaching there on January 5th, how were
17 you treated during that period of time?

18 THE PRESIDENT: We will assume that the
19 treatment was within the convention unless he says
20 otherwise, Mr. Blewett.

21 Q How long did the trip last, Brigadier, from
22 Singapore to Formosa?

23 A From memory, we left Singapore on the 10th
24 of January; arrived at Moji, I think about the 20th
25 of January; left there, I think, about the 26th of

BLACKBURN

CROSS

1 January, and reached Forrosa on the 30th of January.
2 Those are from memory.

3 Q Was that first camp, Brigadier, Karenko?

4 A Karenko. K-a-r-e-r-k-o, on the east coast
5 of Forrosa.

6 Q Sorry, sir, I didn't get the spelling.
7 The translation was going on at the same time.

8 A K-a-r-e-r-k-o.

9 THE PRESIDENT: We will recess for fifteen
10 minutes.

11 (Whereupon, at 1445, a recess was
12 taken until 1500, after which the proceedings
13 were resumed as follows:)

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

3 THE PRESIDENT: Mr. Blewett:

4 MR. BLEWETT: Yes, sir.

5 BY MR. BLEWETT (Continued):

6 Q Brigadier, where was the Karenko Camp located?

7 A On the east coast of Formosa.

8 Q Was that near a town or village or was it
9 isolated?

10 A Karenko is the name of the town.

11 Q Of what did the camp consist?

12 A Substantially built two-storied barracks.

13 Q Were they constructed as a POW camp or other-
14 wise?

15 A No, they were well established and good,
16 solid buildings which we understood had been estab-
17 lished some years before by some foreign charitable
18 organization as a school of some sort, but I am not
19 certain of that.

20 Q Were they modern in any respects?

21 A On our standards, no. I mean by that they
22 were not an all Japanese standard of building.

23 Q Well, how were your quarters there? At
24 least, how were you situated, the various prisoners?

25 A There were a few small rooms in which two

BLACKBURN

CROSS:

1 officers each were placed. The rest of us were all
2 in big rooms holding about twenty-eight per room.

3 Q Did you have beds and equipment?

4 A Beds were provided in that camp together
5 with a straw-filled mattress and pillow and blankets
6 and an eating bowl.

7 Q Were the guards at that camp Japanese?

8 A So far as I could tell, yes.

9 Q What was your mode of travel to Manchuria?

10 A We traveled from Formosa to Japan by air, that
11 is, the officers of the rank of brigadier and upwards.
12 The colonels traveled by ship from Formosa to Japan.
13 We all then crossed to Southern Korea by ship and from
14 there up to Manchuria by train.

15 Q How did the accommodations contrast with those
16 previously described by you, Brigadier?

17 A In the first camp in which we were in in
18 Manchuria the buildings were very similar to Karenko
19 except that they were extremely dirty. And I have
20 described the accommodation in Mukden Camp.

21 Q What was your position at Mukden, Brigadier?
22 Did you have a position as senior officer?

23 A No, I was merely one of the prisoners at the
24 camp.

25 Q Now, from your experience and your knowledge

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1 from investigation gained subsequent to the war, would
2 you say that the treatment accorded prisoners of war
3 is pretty much up to the commander of the camp and
4 was it not countenanced by the general officers? I
5 mean by the words "not countenanced" there "not
6 approved."

7 A Do you mean by Japanese general officers?

8 Q Yes, sir.

9 A I can only answer that in two ways: on at
10 least three occasions, once in Java, once in Formosa,
11 and once in Manchuria, I was informed by junior
12 Japanese officers that they disapproved of our treat-
13 ment but could do nothing about it because that was
14 the system laid down; and, secondly, we were inspected
15 on several occasions in Batavia and in Formosa by
16 Japanese generals without any alteration or improve-
17 ment in our conditions following the inspection.

18 Q Recalling some experiences, Brigadier, that
19 we had in northern France in October during the First
20 World War, would you say that the number of prisoners --
21 the great number of prisoners -- taken in the short
22 period of time by the Japanese influenced in any way
23 the treatment accorded any particular one? I am
24 speaking, sir, of the British forces in northern France
25 in October of 1918, I think it was.

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1 A Except for the necessary crowding for the
2 first day or two of capture, and the necessary short-
3 age of supplies for the first few days, I am unable
4 to see that that in any way justified the conditions
5 even in view of conditions in France in October, 1918.

6 MR. BLEWETT: Thank you, sir. That finishes
7 my examination, your Honor.
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THE PRESIDENT: Mr. Logan.

CROSS-EXAMINATION (Continued)

BY MR. LOGAN:

Q You are a lawyer, aren't you, Brigadier?

A Yes.

Q Friday you testified that you were informed by certain Japanese officers that the policy of the Japanese Government was to treat prisoners only under their principle of Bushido. What rank were these officers that told you that?

A Captains, lieutenants and colonels, and one general, General SAITO.

Q How many times were you told that?

A A very large number of times. Only once by a general, in an address farewelling us from Java.

Q Was his speech interpreted for you?

A I cannot remember now whether it was interpreted or handed to our senior officer in English, after he had delivered it, to read to us.

Q Who translated it?

A If it was the latter, it was a system that was sometimes adopted of the Japanese addressing us and then himself handing to one of us to read out to the rest, the English translation prepared by he or his subordinates of what he was saying.

BLACKBURN

CROSS

1 Q What was his first name, do you know?

2 A I have a printed document with his name on
3 it which was handed to me, if that will help to
4 identify it. I cannot remember otherwise.

5 Q Do you have the document with you?

6 A Yes.

7 Q Would you mind looking at it to see if his
8 first name appeared on it?

9 A M-i-s-i-t-o-s-h-i, Christian name. SAITO,
10 S-A-I-T-O, Major General.

11 Q When was this speech delivered?

12 A On the 26th or 27th of December, of 1942.

13 Q Now, Brigadier, you testified as to conditions
14 on this boat when you left Java, I believe it was?

15 A Yes.

16 Q Was that a cargo vessel?

17 A It appeared to be a cargo vessel being used
18 as a transport.

19 Q Had it been used to transport Japanese troops?

20 A Yes, there were a large number of Japanese
21 troops on board.

22 Q It was a small vessel, wasn't it -- 5,000 tons?

23 A Yes, very small.

24 Q How many Japanese troops were on it when you
25 sailed?

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1 A Other than the fact it was very crowded with
2 Japanese troops, I cannot say.

3 Q Were their accommodations the same as yours?

4 A The accommodation was the same except that
5 the floor and shelf in their case had grass mats laid
6 out on it.

7 Q And the ship was blacked out at night, in
8 accordance with security regulations; isn't that so,
9 Brigadier?

10 A Yes.

11 Q And no portholes open, in accordance with
12 security regulations?

13 A There were practically no portholes on the
14 vessel. I have never seen one with so few. However,
15 those that were there were, of course, kept closed,
16 for security reasons, presumably.

17 Q The only way to get down to the hold of a
18 cargo vessel is by means of a long ladder, isn't that
19 so?

20 A If it is fitted as a cargo vessel only, yes.

21 Q Japanese soldiers used the same ladder,
22 didn't they?

23 A Yes, for as far as they had to go.

24 Q Now, Brigadier, I don't think you told us
25 about the conditions from October 1944 to May '45, while

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1 you were in Manchuria, have you?

2 A No. Generally speaking, they were the best
3 period that I had whilst I was a prisoner of war.

4 Q Was there any--

5 A Until February of 1945, when the whole of
6 the officers in the camp refused to volunteer for work.

7 Q Were you given good accommodations and good
8 food while you were at this camp, Manchuria?

9 A The accommodation was approximately the same
10 as at Karenko, only very much dirtier. The food was
11 better.

12 Q Did any beatings take place at that camp?

13 A Very few, but there were a few.

14 Q How many men were at that camp -- what was the
15 name of the camp?

16 A I think it was spelled C-h-u-n-g-c-h-e-a-t-e-h,
17 I think. It is about two hundred miles northwest of
18 Mukden.

19 Q Was there any reason, Brigadier, why you didn't
20 tell us about the treatment at this camp in your direct
21 testimony?

22 A None, except that there were no particular
23 incidents there to tell.

24 Q Did you ever see General Percival beaten?

25 A Yes.

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1 Q When?

2 A In Karanko Camp.

3 Q About what month did this occur?

4 A About March of 1943.

5 Q Who beat him?

6 A A Japanese sentry.

7 Q Where did the beating take place?

8 A I didn't catch that question.

9 Q Where did it take place?

10 A In General Percival's room.

11 Q You were in the room at the time?

12 A I was standing at the door of the next room
13 and heard the row and moved to the window.

14 Q Of what did the beating consist?

15 A From my personal observation, severe beatings
16 with the fist across the face.

17 Q How many times was he struck?

18 A I saw him struck, I should say, three or four
19 times with the closed fist.

20 THE PRESIDENT: We do not want any further
21 details, Mr. Logan, unless you question this witness'
22 credibility.
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1 Q Did you ever see General Heath struck?

2 A Yes.

3 Q Where was he when he was beaten?

4 A Outside the barrack room on the exercise
5 square.

6 Q Did you ever see General Wainwright beaten?

7 A I didn't see General Wainwright beaten. I
8 saw marks on his face, which I was told were the re-
9 sult of beatings.

10 Q Who told you that?

11 A General Wainwright.

12 Q When did that take place?

13 A Month, do you mean?

14 Q Yes.

15 A Between the first of February, '44 and the
16 end of March of '44.

17 Q Who struck him?

18 A A Japanese sentry.

19 Q Private?

20 A So far as I know.

21 Q Did the officers wear their insignia while
22 they were prisoners of war?

23 A In the camps in which I was we were always
24 allowed to wear our insignia, and in addition all
25 wore on our right breast a bit of cloth issued to

BLACKBURN

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1 us by the Japanese, on which they had printed our
2 name and rank.

3 THE PRESIDENT: Was General Percival wearing
4 that when he was assaulted?

5 THE WITNESS: Yes. We had to wear it at
6 all times, even when one went down to the latrine
7 in one's pajamas.

8 THE PRESIDENT: And General Heath was
9 wearing it too, I suppose?

10 THE WITNESS: Yes, sir. It was universally
11 worn. One was immediately beaten up if you were
12 ever found without wearing it, so we took particular
13 points to always wear it if we could.

14 THE PRESIDENT: Was it in Japanese writing?

15 THE WITNESS: Yes, only in Japanese writing.

16 BY MR. LOGAN (Continued):

17 Q Would you say, Brigadier, that the cause
18 of these beatings was due to misunderstanding be-
19 tween the prisoners of war and the sentries or guards
20 because of language difficulties?

21 A Well, I don't doubt that applies in some
22 cases. It don't apply in the majority of cases,
23 because the majority of beatings up were made with-
24 out a word being spoken.

25 Q Did you see the majority of beatings that
took place?

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A Would you repeat that, Mr. Logan?

1 THE PRESIDENT: Did you say that General
2 Percival was beaten for having a speck of dirt on
3 his finger nails?

4 A THE WITNESS: Yes.

5 THE PRESIDENT: There is no misunderstanding
6 there.

7 THE WITNESS: Nothing was said at all, sir.
8 His finger nails were inspected and one finger nail
9 was a little bit dirty and he was beaten up for that.

10 BY MR. LOGAN (Continued):

11 Q. The question I put was: did you see the
12 majority of beatings that took place? The reason
13 I asked that was because you said in the majority of
14 cases the beatings took place without anything being
15 said.

16 A I had in mind, Mr. Logan, the beatings that
17 I personally saw.

18 Q Now, this work that these men were made to
19 do. That gave them physical exercise, didn't it,
20 including the herding of the goats by the older
21 officers?

22 A One of the results of the work was naturally
23 to give physical exercise.

24 Q That is good practice, isn't it, Brigadier?
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1 A In that camp there was a large exercise
2 yard and the officers were all men of fifty years or
3 upwards who were accustomed to take exercise whenever
4 they could by walking around the yard and other forms
5 of physical exercise.

6 Q How old was this general who died?

7 A I think he was 57, from memory, but I am
8 not certain of that.

9 Q Do you know from what he died?

10 A Some form of heart failure.

11 Q Brigadier, at any and all of these camps
12 in which you were, did you have any occasion to see
13 and observe Japanese soldiers eating?

14 THE MONITOR: Was it eating or beating?

15 MR. LOGAN: Eating.

16 THE MONITOR: Thank you.

17 A Yes.

18 Q How many times?

19 A I was on three occasions commanded to at-
20 tend at Japanese Headquarters in the camp at their --
21 at meals. The Japanese guardhouse in the Batavia Camp
22 was about 10 yards away from a window of my quarters
23 and at least three meals a day I watched that. At
24 Karenko not more than once or twice. At Shirikawa
25 four or five times. In Mukden Camp not at all, and

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1 in the northern camp once or twice.

2 Q Aside from those instances you don't
3 know; you couldn't compare the food the Japanese
4 soldiers got as compared with yours?

5 A I can in this way, that on a number of
6 occasions I have seen, in some cases assisted to carry,
7 garbage tin outside the Japanese kitchen into our
8 lines to be fed to the pigs.

9 Q How many times did you observe that?

10 A Fifty or sixty, probably.

11 Q Aside from that you have no way of comparing
12 what the Japanese soldiers ate with what the pri-
13 soners of war were given, is that right?

14 A There are other incidents that I could go
15 on saying. A pig, for example, was killed in our
16 camp, a pig that we were informed was our stock; we
17 were debited with the cost of it when it was bought.
18 It weighed 56 pounds dead weight, of which 500
19 prisoners got 26 pounds and 48 guards got 30 pounds.
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1 Q Brigadier, do you have that speech of
2 General SAITO's with you?

3 A No.

4 Q Do you know where we could get a copy of it?

5 A Only one copy was handed out, and having
6 been read by the British officer I don't know whether
7 he was allowed to keep it or whether it was taken
8 back. I mean by that I don't now remember, Mr.
9 Logan.

10 Q Do you know where General SAITO is now?

11 A I don't, Mr. Logan. He was Major General,
12 the chief of the Java prisoners' camp in August the
13 20th, 1942, and was still in that position in
14 December of '42 when I left Java.

15 Q Did he also say in that speech that the
16 principles of the Geneva Convention would be applied
17 only when it suited them, that prisoners of war
18 had no rights whatsoever?

19 A No.

20 Q He just mentioned about the principles of
21 Bushido, is that right?

22 A On that part of the -- that is all he said
23 as to the principles. His speech was a farewell speech
24 to us. The generals --

25 Q Will you tell us briefly what he said?

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1 A He got us together and gave us an afternoon
2 tea party, explained that we were leaving.

3 C An afternoon tea party?

4 A I am trying to tell you what he said. He
5 gave that to us himself when we left the camp, as
6 a farewell party as we were leaving Java.

7 C Were you that friendly with him that he gave
8 you an afternoon tea party?

9 A The answer is no, we were ordered to attend
10 at a given room. On arrival at the room there were
11 three cups of tea and some cakes. Each of us in the
12 party were given a cup of tea and two cakes, and as
13 we finished it General SAITO came into the room,
14 explained that we were being removed from Java to a
15 very pleasant camp which was thoroughly fitted up and
16 where we would be treated according to the principles
17 of Bushido and would have a thoroughly good time.
18 The camp to which we were taken was Karenko camp.

19 C Was he in charge of Karenko camp too?

20 A No.

21 C Is that all he said?

22 A I think he wished us good-bye. He told us to
23 look after ourselves, to be good, and to obey all
24 orders that were given to us. Generally speaking,
25 Mr. Logan, it was a pleasant speech from General

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1 SAITO to this group of senior officers who were
2 going away.

3 C As a matter of fact, General SAITO had a
4 good reputation, did he not, with respect to his
5 treatment of prisoners of war?

6 A From my experience, yes.

7 C Well now, who was it that told you that
8 the principles of the Geneva Convention would be
9 applied only when it suited them and that prisoners
10 of war had no rights whatsoever?

11 A Lieutenant YATAMOTO, Lieutenant SUZUKI,
12 Lieutenant SOFIE, Captain INI INURI, Captain HIOKE.
13 Other officers I'm afraid I can't remember their
14 names.

15 C You, of course, don't know, Brigadier, whether
16 or not they were authorized by higher officers to
17 make such statements, do you?

18 A No.

19 C Could you tell us, Brigadier, about the
20 conditions at this Shirakawa camp in June '43 to
21 October '44?

22 A That particular conditions, Mr. Logan? I
23 described it. Do you want me to go over it again?
24 The general conditions or any particular point?

25 C Well, I didn't think you had described

BLACKBURN

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1 conditions at that camp. I thought you had just
2 mentioned that you had been there. Perhaps you
3 have described them.

4 Brigadier, with your line of service and
5 experience, isn't it possible that these beatings
6 and conditions that occurred in some of these camps
7 actually happened without being reported to the
8 higher authorities in Tokyo?

9 A I should be very surprised if each indi-
10 vidual beating ever was reported to Tokyo.

11 MR. LOGAN: Thank you.

12 ("hereupon, Mr. Brooks approached
13 the lectern.)

14 THE PRESIDENT: Will you be long, Captain
15 Brooks?

16 MR. BROOKS: Well, that is hard to say,
17 your Honor. I will be longer than five minutes.
18 About thirty minutes.

19 THE PRESIDENT: Well, this witness will be
20 here tomorrow morning.

21 CROSS-EXAMINATION (Continued)

22 BY MR. BROOKS:

23 C Brigadier, are you acquainted in any way
24 with the principles of Bushido you referred to as
25 the Japanese policy?

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1 A I am afraid my knowledge of it is very
2 superficial, through reading a very brief book
3 on it once while in prisoner of war camp in
4 Manchuria.

5 C Would you say from your reading that it
6 was an old warriors' code handed down for purposes
7 of outlining certain fair treatment for prisoners?

8 THE PRESIDENT: Before we adjourn I would
9 like to state that the Court has no intention of
10 taking a vacation at Christmas. We will not sit on
11 Christmas day nor on New Year's day. Whether we
12 will sit on the days between remains to be determined.

13 We will adjourn until half past nine.

14 (Whereupon, at 1600, an adjourn-
15 ment was taken until Tuesday, 3 December,
16 1946, at 0930.)

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3 DECEMBER 1946

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WITNESSES

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<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
823B(1)	1284		Foreign Office Announcements 1940 (Excerpt from exhibit No. 777 for Identifi- cation) April 15, 1940: Foreign Minister ARITA Replies to Newspaperman on the Question of the Netherlands East Indies		11671
823B(2)	1285		Foreign Office Announcements 1940 (Further excerpt from exhibit No. 777 for Identification) May 11, 1940: Statement of the Foreign Office Spokesman re the Maintenance of Status Quo of the Netherlands East Indies		11674

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823B(3)	1286		Foreign Office Announcements 1940 (Excerpt from exhibit No. 777 for Identifi- cation) May 13, 1940: Statement of the Foreign Office Spokesman re the Netherlands East Indies		11676
220N	1287		Press Release issued by the Department of State on 11 May, 1940		11679
220P	1288		Excerpts from Memorandum by the Secretary of State in Washington, dated 16 May 1940		11680
220M	1289		Excerpt from Telegram from the United States Ambassador in the Soviet Union to the United States Secretary of State, dated 24 March 1941		11686
487	1290		Book entitled: "Addresses to Young Men" by the Accused HASHIMOTO	11689	
487B	1290A		Excerpt therefrom		11689
1644	1291		Statement of the Imperial Japanese Government re the Future of East Asia, dated 3 November 1938		11695

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22CR	1292		Telegram from the United States Secretary of State to the United States Ambassador in Japan, dated 22 June 1940		11702
22OS	1293		Memorandum by the United States Ambassador in Japan, dated 24 June 1940		11705
1632FF	1294		Entry from Marquis KIDO's Diary dated 27 June 1940 (Exhibit 178 previously marked for Identification)		11708
1632GG	1295		Entry from Marquis KIDO's Diary dated 1 July 1940 (Exhibit 178 previously marked for Identification)		11710
22OT	1296		Oral Statement by the Japanese Minister for Foreign Affairs to the United States Ambassador to Japan on 28 June 1940		11711
823B(4)	1297		Foreign Office Announcements 1940 (Excerpt from exhibit No. 777 for Identification) August 1 1940: Announcement by the Japanese Government		11714
1632HH	1298		Entry from Marquis KIDO's Diary, dated 10 August 1940 (Exhibit 178 previously marked for Identification)		11717

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<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
587	1299		Article by OSHIMA, Hiroshi, Lt. General, former Ambassador to Germany, appearing in 27 October 1940 edition of YOMIURI Newspaper	11728	
587-A	1299-a		Excerpt therefrom		11734
1204E	1300		Address of Mr. Yosuke MATSUOKA, Minister for Foreign Affairs at the 76th Session of the Imperial Diet dated 21 January 1941		11740
2748a	1301		Certificate from the Japanese Foreign Office certifying prosecution documents 2748A(1) to 2748A(20)		11742
2748A (11)	1302		Telegram from Foreign Minister MATSUOKA to the Japanese Delegate YOSHIZAWA in Batavia dated 28 January 1941		11742
1632W(47)	1303		Entry from Marquis KIDO's Diary dated 1 February 1941 (Exhibit 178 previously marked for Identification)		11743
4038D	1304		Memorandum for the German Foreign Minister re German-Japanese Questions dated Berlin 21 March 1941		11748

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2137F	1305		Decision by Imperial Head- quarters in April 1941 (Exhibit 540 previously marked for Identification)		11751
2137H	1306		Re Acceleration of Measures in the South. "Decision of Liaison Conference " dated 25 June 1941 /Shown 16/		11753

1 Tuesday, 3 December, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

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

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as
15 before with the addition of: HRS. C. R. STROOKER,
16 Member of the Netherlands Division.

17 For the Defense Section, same as before.

18 The Accused:

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

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 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: Captain Brooks.

4 The amendments of the transcript sought
5 by Major Blakeney and Captain Brooks, having been
6 found to be in order, will be made. The same applies
7 to amendments sought by Mr. Brannon.

8 Captain Brooks.

9 - - - -

10 A R T H U R S E A F O R T H B L A C K B U R N ,
11 called as a witness on behalf of the prosecu-
12 tion, resumed the stand and testified as follows:

13 CROSS-EXAMINATION (Continued)

14 BY MR. BROOKS.

15 Q Now, Brigadier, at the close of yesterday's
16 session we started to discuss the principles of
17 Bushido and its warriors' moral code. Based on your
18 readings, would you say that this warriors' moral
19 code outlined the proper conduct for military forces?

20 THE PRESIDENT: The question is whether the
21 Japanese observed the rules of warfare; in other words,
22 whether they committed the offenses specified in the
23 Indictment. Bushido has no bearing.

24 MR. BROOKS: The purpose, your Honor, of my
25 questioning on that was to show that although the

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1 Japanese were not bound necessarily by the Geneva
2 Convention, that the teachings of Bushido were based
3 upon the teachings of Confucius; and in the abstract
4 sense comprise the essential qualities of the cus-
5 toms of war and the principles of the Geneva Conven-
6 tion.

7 THE PRESIDENT: If Bushido is identical
8 with the rules of warfare, why not confine your
9 questions as to whether the rules of warfare were
10 observed. We certainly have no interest in discover-
11 ing whether Bushido is identical with the rules of
12 warfare.

13 MR. BROOKS: I thought it would be wise to
14 bring out that if there was such a principle and
15 it was just -- whether it was observed or not would
16 be another thing. It was a code, though, of some
17 type for them to follow; it may explain some things.
18 It might explain some of the statements of these
19 officers when they said they were applying the prin-
20 ciples of Bushido. It would be wise to know what they
21 were; whether they were or not is another question.

22 THE PRESIDENT: Well, Bushido was mentioned
23 to him by the Japanese. He has read a book on
24 Bushido, but he disclaims any knowledge of it, as I
25 understand. In any event, it is not in issue, nor is

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1 it relevant to any issue. So we will not hear
2 any more about it.

3 BY MR. BROOKS (Continued):

4 Q Now, Brigadier, in these areas -- you say
5 there were certain areas to be set aside and that
6 the men were to be shot if found outside of said
7 areas. It is a custom in handling prisoners of war
8 to set down certain restrictions, is it not?

9 A That happened in Java, and in my opinion
10 it was a perfectly proper thing to do; and in the
11 circumstances would be the only thing to do where
12 they were unable to put us behind barbed wire at
13 the time.

14 Q Now, Brigadier, on this question of the
15 camp conditions in Mukden, you said they were the
16 best during the period of your confinement -- Manchuria,
17 I mean, up in the Manchurian Camp. Was there any
18 outstanding examples there of proper treatment by
19 camp commanders or guards that you would cite that
20 would be worthy of praise?

21 A Yes. On the general conditions of that
22 camp the following points emerged: first, the
23 sentries were in general kept on the outside perimeter
24 of the wire and were not made frequently to parade
25 through our quarters; secondly, for the first few

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1 few months, we were not compelled to salute all
2 Japanese sentries; thirdly, the camp had a build-
3 ing constructed as a hospital, which was handed
4 over to us; and, if I may summarize it by saying
5 that for the first few months, the attitude of
6 the officers in that camp towards us was dignified.

7 Q Now, Brigadier, during your period of stay
8 in these various camps, did you ever receive any
9 copies of the rules for the care of prisoners of
10 war or become familiar with any of the Japanese
11 rules for the care of prisoners of war?

12 A Do you mean written rules?

13 Q I am not talking about local rules necessarily.
14 I am talking about the general rules for the conduct --

15 A Do you mean written rules?

16 Q Yes.

17 A I received a two-page list of offenses
18 and the punishments which would be incurred for any
19 of those offenses -- if that is what you mean, if
20 that covers what you mean

21 Q That isn't exactly what I mean. That is
22 more what I would term as a local rule, applying
23 to local circumstances, though it may have been in
24 general terms. What I have in mind are rules as
25 to the administration of prisoners by the Japanese

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1 such as in the Japanese Army regulations, a pro-
2 hibition forbidding the beating of prisoners, telling
3 how they would be fed and so forth. Have you ever
4 seen any code like that?

5 A No, I don't recollect ever receiving any
6 such written series of rules of conduct or procedure.

7 Q Did you ever see any of the Japanese Army
8 regulations that have been translated into English
9 dealing with the care of prisoners?

10 A Again, only this two-page list of what we
11 must not do and the punishments if we did do it.

12 Q You know, though, however, that there were
13 certain Japanese laws and orders regarding the care
14 of prisoners of war in written form, do you not?

15 A I assume that there must have been, but the
16 nearest I ever got to seeing it was that Lieutenant
17 SCNIE in the Batavia Camp quoted to me once from a
18 book which he had in front of him on a question of
19 discipline.

20 Q Then would you say that the Japanese guards
21 and officers -- that it would depend upon their in-
22 terpretation of their power or authority, under these
23 rules regarding the conduct and care of the prisoners
24 that they would give?

25 THE PRESIDENT: Captain Brooks, unless you

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1 resort to short, clear questions, the translations
2 will take most of our time.

3 Q Brigadier, would you say that some of these
4 guards and officers observed the rules and laws
5 more by the breach than the observance? This
6 would not apply to all of them.

7 THE PRESIDENT: Well, I do not know whether
8 the witness understands what you are driving at,
9 but none of us does. Are you suggesting that Tokyo
10 distributed the Geneva Conventions relating to
11 prisoners among the Japanese, but the local Japanese
12 put their own construction on them?

13 MR. BROOKS: I am suggesting that the
14 commanders in the field had a broad authority of
15 interpretation of general principles laid down and
16 are supposed to follow that.

17 THE PRESIDENT: Brigadier, tell us what you
18 know about that, will you?

19 THE WITNESS: Do you mean the rules of the
20 Geneva Convention were more --

21 MR. BROOKS: No, at that time I was talking
22 more about the Japanese laws and orders for the
23 conduct of prisoners. I withdraw the question.

24 Q You have testified as to the certain conditions
25 being better, and, therefore, I would like to ask if

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1 the care and the punishment of the prisoners really
2 depended on the disposition, attitude and interpre-
3 tation or disregard for prisoner of war rules by
4 the guard or the officer in charge?

5 A I can only say that the only time there
6 was any marked improvement was the first few months
7 in Manchuria, and on the way there we were informed
8 by a Japanese captain that we were going to receive
9 better treatment because there had been a change of
10 policy from the government in Tokyo; and those
11 better conditions lasted from October, 1944, to
12 February, 1945.

13 Q What was the date that this Japanese
14 captain told you that there would be a change in
15 policy?

16 A Between the 1st and the 5th of October,
17 1944, in Beppu.

18 Q Did he say there was to be a change of
19 policy or that there had been a change of policy at
20 that time?

21 A He said there had been a change of policy
22 and that was the reason we were receiving -- then
23 we had just started the first few days to receive
24 better treatment.

25 Q Did he say whether it had any connection with

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1 the Cabinet change in July of 1944 of that year?

2 A He did not say so, and at that time I did
3 not know there had been that change in the government.

4 Q Do you recall what this Japanese captain's
5 name was?

6 A No, but he was the captain in charge of the
7 section of military police which took charge of us
8 the day we arrived in Beppu. We were there for
9 five days.

10 Q Where was his headquarters at that time,
11 Brigadier? Where was the headquarters of this
12 captain?

13 A We were taken to a comfortable, clean --

14 Q No.

15 A I am trying to explain this -- to a comfortable,
16 clean Japanese hotel in Beppu. He and his men then
17 took charge of us, and he occupied one of the rooms
18 alongside us.

19 Q Was there any number designating his unit,
20 any way we could locate that man, any other infor-
21 mation you can give?

22 A I can give you no name or number, but he
23 talked English and was in charge of the generals'
24 group in Beppu between those days -- the police in
25 charge of the generals' group in Beppu in those days.

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1 Q Now, Brigadier, you have stated something
2 about the taking of the buttons off your clothes.
3 wasn't the buttons taken off of all prisoners clothes
4 and also shoestrings and belts removed, for security
5 purposes?

6 A No, that is the only occasion I have known
7 that happen.

8 Q You are not familiar that there is a Japanese
9 regulation covering the removal of such articles?

10 A No.

11 Q Now, you testified that there were, I believe,
12 350 grams of foodstuff, approximately, given to you
13 in your ration.

14 A Would you--

15 Q I may have been mistaken, but I understood
16 you had testified that there were 350 grams of foodstuff
17 in your day's ration; is that correct or not?

18 A I think what I said was that on one occasion
19 the basic food ration was reduced to 375 grams per
20 officer.

21 Q Do you know that at that time that the food
22 gram allowance in Japan was 200 grams, and that today
23 it is only 350?

24 THE PRESIDENT: What was the Japanese food
25 scale at that time?

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THE WITNESS: I do not know, but our ration prior to this reduction had been between 550 and 600.

THE PRESIDENT: What bearing has the Japanese ration here in Tokyo today got on these issues?

MR. BROOKS: That in determining what is sufficient we have to determine whether we are talking of the quantity of food or bulk, or the calorie content, if any. In using those terms loosely they are very misleading, because even a full calorie content of food for the Japanese might not be sufficient in the quality or in the quantity or the type that a man is accustomed to and could still be said to be insufficient.

THE PRESIDENT: Now, the Japanese, as the Brigadier says, set their own standard. They may have been entitled to do so within their own limits, and they fixed it between 500 and 600. So the ration today in Tokyo has no bearing on the issue.

MR. BROOKS: Except in comparison, your Honor. We understand that the conventions do not provide that the Japanese were under duty to provide a better or a higher standard, but similar to what they had for their own people in food.

THE PRESIDENT: Nobody said anything about that. I said that the Japanese set the standard and they didn't follow it. I have said that three times now. You are

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1 not listening, apparently.

2 MR. BROOKS: Of course, if they have the
3 power to set it, your Honor, they have the power to
4 change it, I would think.

5 Q Now, Mr. Witness, on this oath that you were
6 required to sign, this was not an oath of allegiance,
7 was it?

8 A Are you referring to the first one in Batavia,
9 or the one in Formosa?

10 Q Either one of them.

11 A In no sense was it an oath of allegiance to
12 Japan.

13 Q Then it was really only an oath of obedience
14 to carry out your duties efficiently and to do nothing
15 detrimental to the administration of that particular
16 officer. It didn't contemplate anything that would
17 interfere with your allegiance to your country.

18 THE PRESIDENT: Now, that is argument.

19 Q In both instances, I mean. It wasn't an oath
20 of allegiance--

21 THE PRESIDENT: Captain Brooks.

22 MR. BROOKS: Sir?

23 THE PRESIDENT: You heard me speak; and you
24 respect me when I do.

25 I said you were arguing with the witness. He

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1 told you what the oath was and why he objected to
2 signing it.

3 MR. BROOKS: Will the reporter read back what
4 the witness told me that the oath was? I didn't
5 catch it, if he did.

6 (Whereupon, the answer was read by
7 the official court reporter as follows:

8 "A In no sense was it an oath of
9 allegiance to Japan.")

10 Q Well, the question that I would like to ask,
11 Mr. Witness, if this oath of obedience was a customary
12 procedure with the military government and was nothing
13 that would be in the sense of a prohibitive oath that
14 is provided by the convention that allegiance or
15 anything interfering with your allegiance was not
16 provided to be signed.

17 MR. JUSTICE HANSFIELD: I object, if this
18 Tribunal please, on the ground that it is a matter for
19 this Tribunal as to whether it was in conflict with the
20 Geneva Convention. The witness has given evidence in
21 chief of what the contents of the oath actually were.

22 THE PRESIDENT: Objection upheld.

23 MR. BROOKS: I would have liked to state to
24 the Court that the man is a barrister and a brigadier
25 and should know how to advise these people. But we will

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1 drop that.

2 THE PRESIDENT: You must know that even a
3 barrister or a brigadier cannot take over the Court's
4 functions and decide questions that the Court must
5 decide.

6 MR. BROOKS: I was thinking, your Honor, not
7 in the light of today, as being today, but he did have
8 to make his decision at that time and what his basis
9 was for it.

10 Q Now, Brigadier, do you know of any other camp
11 commanders in these various theatres that you were in
12 who were praised instead of accused by former prisoners
13 and where the few acts of brutality were severely
14 punished?

15 A I know of no such cases within my own per-
16 sonal knowledge.

17 Q Then, these instances of ill-treatment, would
18 you say, were individual acts of individual responsi-
19 bility, not following out an order of any kind; or do
20 you know of any order that such men would be working
21 under in such treatment?

22 A I have said already that certain junior
23 officers told us that they regretted the acts of bru-
24 tality but had no power to control them because it was
25 under orders. But I don't imagine for a moment that

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1 each individual sentry on each occasion that he beat
2 up a prisoner received a direct order to go and beat
3 up that prisoner.

4 Q Who did they say these orders came from?

5 A Either -- you understand this, my memory is
6 rather vague over this as to the exact words. The
7 impression given was that it was the orders of the
8 authorities controlling the prisoner of war camps.
9 I think that in one case the word "government" was
10 used. But I interpreted that to mean the administra-
11 tive system.

12 Q Administrative system where?

13 A The prisoner of war administrative system.

14 Q You mean your local system, or the system of
15 the higher headquarters?

16 A Frankly, I don't know that I have considered
17 that. The second in command of the camp in one case
18 told us that he much regretted the brutalities that
19 were going on but he could do nothing to stop it
20 because those were the orders.

21 Q You mean those were the orders not to stop
22 these brutalities?

23 A No, to commit the brutalities.

24 Q You mean the orders, then, as I gather from
25 your conversation with this officer, were that he had

1 were instructed from higher headquarters, possibly
 2 Tokyo, to commit bayonettes. Now, is that your
 3 contention, Mr. Witness?
 4 A What I mean is that I conveyed to me that
 5 the orders were that sentences were to be at liberty to
 6 punish physically, by assault or otherwise, any
 7 prisoner that they saw fit to punish, and he, as the
 8 second in command of the camp, had no power to control
 9 it or stop it. That particular incident arose because
 10 I went to him and protected over the fact that I
 11 about an hour or less than I think it was for two
 12 men had been beaten up, two of them had to be moved
 13 to hospital for treatment.
 14 Now, I gather, Mr. Witness, that in that this
 15 action was stating to you that this very action was
 16 at the discretion of the individual guard or the men
 17 on the spot, depending upon the circumstances?
 18 A That is not what I gathered. I gathered that
 19 that he meant to convey to me was that the method of
 20 punishment of prisoners of war was for the sentences to
 21 assault them without any trial.
 22 Q Is your memory clear or exactly what he did
 23 say to you, not what you interpreted?
 24 A I don't pretend to remember the exact words.

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1 He conveyed to me his personal regret and conveyed to
2 me that he was unable to interfere with it because
3 that was the system.

4 Q That was the system. In other words, that
5 it was within this sentry's or guard's authority, and
6 he did not want to interfere with it, is that correct?

7 A No, that it was within the guard's authority,
8 but he did wish to interfere with it but couldn't.

9 Q That is right. Now, what was the name of
10 this commander?

11 A Either Lieutenant KIMAKURI or KITAKURI, I
12 can't now remember which, second in command of the
13 Cycle Camp, Batavia.

14 Q What date?

15 A From about May 1942 to, I think he left in
16 September or October 1942. He was an infantry
17 officer who told me that he was leaving the camp to
18 rejoin his unit.

19 Q These incidents, then, that you are speaking
20 of all happened prior to this change of policy?

21 A (Witness nods head.)

22 MR. PROOKS: No other cross-examination, your
23 Honor.

24 THE PRESIDE T: Mr. Justice Mansfield.

25 MR. JUSTICE MANSFIELD: No re-examination,

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1 if the Tribunal please.

2 THE PRESIDENT: You are released, Brigadier,
3 on the usual terms. You may go back to Australia on
4 those terms.

5 (Thereupon, the witness was excused.)

6 THE PRESIDENT: Mr. Higgins.

7 MR. HIGGINS: Mr. Justice Bergerhoff Mulder,
8 associate prosecutor from the Kingdom of the Nether-
9 lands, will have charge of the prosecution's case as
10 it relates to the Japanese aggressions against the
11 Netherlands.

12 I present Mr. Bergerhoff Mulder.
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1 THE PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: If it please the Tribunal:

3 The defendant represented by this counsel
4 objects to the introduction of the Netherlands phase
5 of the case by the counsel for the Government of the
6 Kingdom of the Netherlands, and objects to their
7 participation in this trial for the reasons to follow:

8 Nothing in this record of this case officially
9 or otherwise grants this Court jurisdiction to permit
10 presentation of the Netherlands phase of the case by
11 any other than American counsel, if any authority
12 exists for that;

13 That the Appointing Authority has no power
14 over Dutch forces and, therefore, no jurisdiction to
15 enforce trial of offenses to their national honor and
16 dignity or the violation of the rules of land warfare
17 against their armed forces;

18 That the Appointing Authority has no power
19 over prosecutors of the Netherlands; neither has the
20 Chief of Counsel authority to delegate responsibility
21 to them;

22 That no oath of office or notice of appoint-
23 ment or letters of authority have been filed in these
24 proceedings by the Netherlands prosecution staff, as
25 is required in all courts appointed by the Supreme

1 Commander under his congressional or presidential
2 authority;

3 That the Netherlands Government was not a
4 party to the Potsdam Agreement and is, therefore, not
5 a proper party to these proceedings; that the terms
6 at Potsdam cannot be enlarged upon or extended to
7 any nation not a party to that agreement;

8 That the views expressed in the Indictment
9 and in the opening statement of this phase of the
10 case do not represent those of the leaders of the
11 Dutch East Indies but of the Imperial Government of
12 the Netherlands which was in exile at the time the
13 acts complained of occurred and, thus, not a legally
14 constituted government under international law but a
15 government functioning in exile;

16 The defendant is entitled to know by what
17 authority the complaint of the Netherlands Government
18 is pressed against him and the nature of the appoint-
19 ment of the prosecutors and the government to whom
20 they are responsible;

21 The prosecution here is attempting to prove
22 the crime "Charge against Humanity," and strict
23 proof of the right of the prosecution and evidence
24 of the nature of the appointment and the extent of
25 the representation is required by international

1 law;

2 To permit them to prosecute this cause before
3 a tribunal created by the American Supreme Allied
4 Commander would constitute fatal error and require
5 vacation of the proceedings if the record stands as
6 it now stands.

7 I might say that I expect these objections
8 to look to greater proportions as this phase of the
9 case progresses and that is why I raised the question
10 before the prosecutor made his opening statement.

11 (Whereupon, Mr. Higgins approached
12 the lectern.)

13 THE PRESIDENT: We don't want to hear you,
14 Mr. Higgins.

15 The objections have no foundation in fact or
16 law or reason. They are overruled.

17 We will recess for fifteen minutes.

18 (Whereupon, at 1045, a recess was taken
19 until 1100, after which the proceedings were
20 resumed as follows:)

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

3 THE PRESIDENT: Mr. Levin.

4 MR. LEVIN: Mr. President, while I believe
5 the opening statement of this phase of the case con-
6 forms rather fully to what an opening statement
7 should be, I should like to reserve for the defense
8 the right to make any objections that we may see fit
9 at the conclusion of the opening statement.

10 THE PRESIDENT: Mr. Justice Lulder.

11 MR. JUSTICE BORGERHOFF LULDER: (Heading)

12 "Mr. President and Members of the Tribunal:

13 "The subject of this phase of the case is
14 the Japanese aggression against the Netherlands. The
15 evidence to be presented will relate more especially
16 to Counts 1, 4, 5, 14 and 32 of the Indictment, and
17 will substantiate charges set forth in the remaining
18 Counts. It will elaborate on and prove the allega-
19 tions made in Section 10 of Appendix A of the In-
20 dictment.

21 "It will be shown how Japan, when at the
22 end of the 1930s a speedy conclusion of the war in
23 China seemed improbable, gradually turned her thoughts
24 to an expansion southward and to the acquisition of
25 the southern territories, rich in mineral resources

and agricultural products; how this idea gradually
 took shape in the minds of the Japanese War Leaders
 and how with the outbreak of the Second World War
 this idea took concrete form. We will show how af-
 ter Germany's victories in Western Europe these plans
 were put into execution, through negotiations with
 Germany, through a Japanese advance into Indo-China
 and through the exertion of pressure and threats on
 the so-called 'orphaned' Netherlands Indies. We
 shall further show that at the same time a military
 expansion southward was planned in case the attempt
 at peaceful domination should fail; that when the
 Netherlands East Indies would not yield to Japanese
 pressure, aggression and military conquest were de-
 cided upon, and that the Japanese southward advance
 into the Netherlands Indies and surrounding territory
 was one of the main motives for the Japanese aggres-
 sion in the Pacific in December 1941. Lastly, it
 will be shown how after a ruthless war of aggression,
 and after the military occupation of almost the en-
 tire Netherlands Indies, previously prepared plans to
 bring these territories under the hegemony of Japan
 and to accomplish their virtual annexation, were put
 into execution, and how this policy to assure for Ja-
 pan the future domination of the whole Southern

1 Pacific, and to construct a new Japanese Empire, was
2 pursued until the final Japanese surrender in August
3 1945.

4 "The evidence to be presented in order that
5 it may be fully comprehended and understood in its
6 proper perspective, must be viewed in the light of
7 the centuries of amicable relations that had existed
8 between Japan and the Netherlands.

9 "Some of the evidence relating to these
10 facts has already been introduced in earlier phases
11 of the case. As the Japanese aggression against the
12 Netherlands formed an integral part of the overall
13 Japanese aggression, of which other phases have al-
14 ready been presented to the Court, this is, of course,
15 inevitable. The negotiations with Germany and the
16 results obtained therefrom, the military and econ-
17 omic preparations for the advance southward, the se-
18 curing of bases in French Indo-China and the con-
19 struction of military bases in the Mandated Islands,
20 as a prelude to further aggression, and the general
21 decisions leading up to the final aggression in De-
22 cember 1941, have already been dealt with by others.
23 Only when necessary for full comprehension will the
24 evidence relating to these subjects be brought to
25 the attention of the Court to place the further facts

1 which we intend to prove in their proper light and to
2 present to the Tribunal a complete picture of the
3 Japanese aggression against the Netherlands. More
4 specifically the evidence to be presented will dis-
5 close the following facts:

6 "1. Treaties and assurances binding Japan to respect
7 the integrity of Netherlands Territory:

8 "By the Treaty concluded on 13 December
9 1921, the United States, Great Britain, France and
10 Japan undertook to respect each other's rights in re-
11 spect of their insular possessions and dominions in
12 the Pacific Ocean and to settle all differences aris-
13 ing among themselves on this subject by peaceful
14 means only. The Netherlands was not among the sig-
15 natories to this Treaty, but on 4 February 1922 a
16 solemn declaration was issued by each of the contract-
17 ing governments that the rights of the Netherlands in
18 relation to its insular possessions in the Pacific
19 Ocean would be respected. The communications thus
20 addressed to the Netherlands Government by the four
21 governments concerned were word for word identical,
22 and each of them was, therefore, bound in the same way
23 to respect the territorial integrity of the Nether-
24 lands Indies.

25 "No indication was ever given that Japan no

1 longer deemed herself bound by this Pact. On the con-
2 trary, in the final years preceding the Japanese ag-
3 gression toward the south, the Japanese Government,
4 while planning and preparing this aggression, repeat-
5 edly declared that Japan's intentions were wholly
6 peaceful and on various occasions reiterated its
7 assurances not to attack the Netherlands Indies.

8 "On April 15, 1940 and again on May 11,
9 1940, one day after the Netherlands became involved
10 in the war with Germany, the Japanese Foreign Minis-
11 ter ARIKA stated publicly that the Japanese Govern-
12 ment was deeply concerned about any development that
13 might affect the status quo of the Netherlands
14 Indies, and that his government was desirous that
15 this status quo be maintained. Official notice of
16 this statement was given to the United States, Brit-
17 ish and French Governments, the other parties to the
18 Four Power Pact, which caused them in their turn to
19 make similar declarations and to reaffirm their re-
20 solve to continue to respect the integrity of Nether-
21 lands territory in the Pacific Ocean.

22 "On May 16, 1940 the Japanese Ambassador in
23 Washington, in a conversation with the American Secre-
24 tary of State, repeated that his government was en-
25 tirely satisfied with the situation, following the

1 declaration to respect the status quo of the Nether-
2 lands Indies by each of the four governments interes-
3 ted, and that there was no purpose in raising any
4 further controversy in this connection.

5 "Almost a year later, on March 24, 1941,
6 Foreign Minister MATSUOKA, then on his way to Germany
7 to confer with the German leaders and to discuss with
8 them Japan's participation in the war, stated emphat-
9 ically to the American Ambassador in Moscow, that
10 under no circumstances would Japan attack any of the
11 American, British or Dutch possessions and insisted
12 that Japan had no territorial ambitions whatsoever.

13 "2. Development of Japanese Policy regarding south-
14 ward expansion:

15 "While it was thus the professed policy of
16 Japan to maintain peaceful relations with the Nether-
17 lands, a new actual policy was being conceived, which
18 was directly opposed to her official assurances.

19 "In November 1938 the First KONOYE Cabi-
20 net, which was then in power, and of which at that
21 time the accused, ARAKI, ITAGAMI and KIDO were mem-
22 bers, issued the official declaration that the ulti-
23 mate aim of Imperial Japan was the establishment of
24 a New Order throughout East Asia. Although it was
25 not stated which countries were supposed to be

1 included within this Sphere of the New Order and the
2 southern regions were not then mentioned by name, Ja-
3 panese propagandists, such as the accused HASHIMOTO,
4 had for some time in books and speeches advocated
5 Japanese expansion to the south.

6 "With the outbreak of the war in Europe,
7 however, Japan, foiled in her attempts to bring the
8 war in China to a successful conclusion and judging
9 the moment opportune, grasped at the possibility for
10 southward expansion.

11 "In a conversation with the German Foreign
12 Minister in September 1939, Ambassador OSHIMA gave
13 as his opinion that Japan, especially the Japanese
14 Navy, was ready for an advance in Southeast Asia and
15 Count TERAUCHI, who was then visiting Germany, stated
16 that he considered an advance to the south preferable
17 to a continuation of the war in China. It was not un-
18 til April 1940, however, when Foreign Minister ABITA,
19 in his statement that Japan desired the maintenance
20 of the status quo in the Netherlands Indies, declared
21 that Japan was closely bound to the Netherlands Indies
22 through a relationship of mutuality and inter-depend-
23 ence, that the Netherlands Indies were first offici-
24 ally included, although by implication only, within
25 the Japanese Sphere for a New Order."

1 "Immediately after the occupation of the
2 Netherlands by Germany in May 1940, the Japanese
3 Government sought for a declaration by Germany on
4 her attitude toward the Netherlands Indies. After
5 the German Ambassador, on orders from his govern-
6 ment, had declared that Germany was not interested
7 in this question, he was able to report that this
8 declaration of German lack of interest was considered
9 a 'carte blanche' for Japan. Nevertheless on 24 June
10 1940 the Minister of Overseas Affairs, the accused
11 ECISO, inquired again what Germany's attitude would
12 be to military activity by Japan in French Indo-
13 China and the Netherlands Indies. Germany's posi-
14 tion came once more under discussion at the joint
15 conference between Army, Navy and Foreign Office re-
16 presentatives on 12 and 16 July, 1940 on the strength-
17 ening of Japanese-German relations. It was resolved
18 that Germany would have to recognize that the South-
19 seas formed part of the area in which Japan would
20 establish her New Order and over which Japan would ex-
21 ercise political leadership to the exclusion of all
22 others.

23 "While these negotiations with Germany
24 were going on, the Japanese Government was approached
25 by the American Ambassador with a proposal for a

1 Treaty to guarantee once more the status quo in the
2 Pacific. The proposal was rejected as it was con-
3 sidered that Japan wanted to keep her hands free in
4 regard to the southern regions, especially the Neth-
5 erlands Indies.

6 "On 22 July 1940 the Second KONOYE Cabinet
7 came into office, of which the accused HOSHINO, TOJO,
8 and at a later stage also the accused HIRAYAMA and
9 SUEKUNI were members. A Cabinet decision on 26 July
10 1940, which a few days later was published as an of-
11 ficial Japanese Government declaration, affirmed that
12 the first and fundamental aim of Japan's national
13 policy would be the construction of a New Order in
14 Greater East Asia, with Japan, China and Manchukuo
15 as the center.

16 "That at this time Japan definitely in-
17 cluded the whole of the southern regions in her
18 Sphere of a New Order is clear from the official
19 declaration made by Foreign Minister FATSUOKA to the
20 Privy Council on the occasion of the conclusion of
21 the Tri-partite Pact in September 1940. Greater
22 East Asia, including the southern regions, would be
23 the area of future Japanese domination. Japan's econ-
24 omy was to be planned with a view to this ultimate
25 objective and, as will presently be shown, these plans

1 were immediately reflected in Japan's economic de-
2 mands on the Netherlands Indies.

3 "Although at this time definite plans for
4 a military conquest of the southern regions seem to
5 yet to have been vague, such a military conquest was
6 certainly already envisaged. I mentioned earlier the
7 accused KOISO's inquiry as to Germany's attitude to
8 military activity by Japan towards the south. Two
9 months later, in August 1940, the Chief of the Na-
10 val General Staff gave as his opinion that an im-
11 mediate military operation in the south was impossi-
12 ble and, as it would take at least eight months to
13 get ready, the longer the war was postponed the bet-
14 ter. A comprehensive plan dated September 1940 and
15 found in the files of the Japanese Government deals
16 with the establishment of the Greater East Asia Co-
17 prosperity Sphere, either through peaceful means by
18 making Japan the mediator in the present World War,
19 or through military conquest. This latter part of
20 the plan goes into some detail as to how to achieve a
21 military conquest of the Netherlands Indies, without
22 too great damage being caused to its natural resources
23 and industrial equipment, and how to make the Nether-
24 lands Indies a puppet state in Japan's Sphere through
25 the stirring up of an independence movement and the

1 establishment of a new constitution. A similar poli-
2 cy was to be followed in all other southern regions
3 from Burma to the Philippines. Furthermore, in Oct-
4 ober 1940 the accused OSHIMA, commenting on the Tri-
5 partite Pact, evaluated it as the final clear recog-
6 nition of Japan's mission in the South and urged that
7 Japan should be prepared to overcome by any means the
8 obstacles which would be placed in her way.

9 "In January 1941 in a speech before the
10 Diet, Foreign Minister MATSUOKA for the first time
11 asserted publicly that the Netherlands Indies formed
12 a part of Japan's Greater East Asia Co-prosperity
13 Sphere and sent out instructions that in no case
14 should official statements deny that the Netherlands
15 Indies formed part of Japan's Co-prosperity Sphere.
16 From this time onward, although, as I will relate
17 presently, the efforts to make the Netherlands Indies
18 yield to Japanese demands for peaceful penetration
19 continued until the middle of 1941, the concept of
20 military expansion gradually took more definite form.

21 "In February 1941 Foreign Minister MATSUOKA
22 stated that he would like to make peace with China so
23 as to concentrate Japan's whole energy on the main
24 question now facing Japan, the solution of the south-
25 ern problem. The same month the German Foreign

1 Minister discussed the reconstruction of Europe and
2 East Asia after the war with the accused OSHIMA,
3 and the same subject came up for discussion on the
4 occasion of MATSUOKA's visit to Berlin - the Japan-
5 ese Government' apparently being anxious to make
6 Japan the intermediary in all of Germany's future
7 relations with countries within the Co-prosperity
8 Sphere. A further point arising during MATSUOKA's
9 discussion in Germany was how to acquire the oil
10 fields in the Netherlands Indies intact, which prob-
11 lem would have to be considered in planning the mili-
12 tary operation.

13 "At the Liaison Conference between the Gov-
14 ernment and Imperial Headquarters on 25 June 1941 it
15 was decided that, the Netherlands Indies having re-
16 fused to yield to the Japanese demands, Japan would
17 have to occupy the southern part of French Indo-China
18 to establish air and naval bases for a further ad-
19 vance to the south.

20 "The Imperial Conference on 2 July 1941 de-
21 cided that Japan would under all circumstances adhere
22 to the principle of establishing a Greater East Asia
23 Co-prosperity Sphere, hasten her southward advance,
24 and remove all obstacles for the achievement of that
25 purpose.

1 "In the second half of July the occupation
2 of the whole of French Indo-China was effected with
3 the aim to launch from there a rapid attack south-
4 ward as soon as the situation would be opportune.

5 "3. Direct relations and negotiations be-
6 tween the Netherlands and Japan in 1940 and 1941:

7 "Until the beginning of the year 1940 the
8 relations between Japan and the Netherlands, at least
9 on the surface, were friendly. Japan's share in the
10 economic relations of the Netherlands Indies with
11 other countries was comparatively small and these re-
12 lations were governed by the usual 'Most Favored Na-
13 tion Clause', which prevents any discrimination.
14 Moreover, by a Treaty of Judicial Settlement, Arbitra-
15 tion and Conciliation, concluded between Japan and the
16 Netherlands in 1933, both countries were bound not to
17 seek settlement of disputes of any character which
18 might arise between them by other than pacific means.
19 This Treaty which came into effect for five years
20 when ratifications were exchanged in August 1935,
21 would automatically have been valid for a further five
22 years after 1940, had it not been denounced by Japan
23 in January of that year.

24 "On 2 February 1940 the Japanese Minister in
25 the Hague presented a memorandum requesting the opening

1 of discussions for the lifting of existing import,
2 export and immigration restrictions in the Nether-
3 lands Indies and the consideration of further meas-
4 ures to enable Japan to have a greater part in the
5 development of that archipelago. This request had
6 not yet been answered, when in May 1940, a few days
7 after the occupation of the Netherlands by Germany,
8 another memorandum was presented to the Netherlands
9 Government insisting on a speedy reply and further re-
10 questing a guarantee that the Netherlands Indies
11 would in the future continue to supply Japan with
12 specified amounts of certain war materials. A non-
13 committal answer which, however, did not exclude fur-
14 ther negotiations was handed to the Japanese Govern-
15 ment in June and soon thereafter Japan made clear its
16 intention to send an Economic Mission to the Nether-
17 lands Indies for direct negotiations. This Mission,
18 consisting of some thirty delegates headed by the
19 Minister of Commerce in the Second KONOYE Cabinet,
20 which was then in office, arrived in September 1940,
21 a few days before the conclusion of the Tri-partite
22 Pact.

23 "One of the main objectives of the Mission,
24 which included representatives both of the Army and
25 the Navy, was to ensure a continuous flow of raw

1 materials from the Netherlands Indies, both to streng-
2 then Japanese war production and to provide Japan's
3 partners under the Tri-partite Pact with materials
4 essential for the prosecution of the war. Indeed,
5 promises were made by Japan to Germany that rubber,
6 tin and other materials would be obtained for her
7 from the southern regions.

8 "However, a more ambitious program had been
9 drawn up, aiming at the domination of the whole of the
10 Netherlands Indies through the latter's compliance
11 with far reaching Japanese demands. To quote an ex-
12 ample, one of the most pressing Japanese needs was
13 the acquirement of oil. Nevertheless, instructions
14 were given that in the oil negotiations with the Neth-
15 erlands authorities emphasis should be laid on the ac-
16 quisition of oil concessions, rather than on the ob-
17 taining of the finished product. Close contact would
18 have to be maintained with the military authorities in
19 the selection of areas for these concessions, as these
20 were intended to serve as bases for a military foot-
21 hold in the Netherlands Indies.

22 "A Cabinet decision of 25 October 1940 out-
23 lined an initial program for Japan's participation in
24 the economic development of the Netherlands Indies,
25 the subject on which the Economic Delegation was then

1 negotiating in Batavia. It was decided that recog-
2 nizing Japan's dominant position in the Netherlands
3 Indies by virtue of the Tri-partite Pact, the first
4 measures to be taken would be to liquidate the Neth-
5 erlands Indies economic relations with the European
6 and American continents; to remove the various exist-
7 ing restrictions on the economic activities of Japan
8 so as to enable her to secure preferential treatment
9 for herself; to arrange for the joint development by
10 Japan and the Netherlands of the Netherlands Indies;
11 to place under Japanese control the production and ex-
12 port of essential war materials; to place the ex-
13 change-control of the Netherlands Indies under Japan-
14 ese guidance; to liquidate foreign financial holdings
15 in the Netherlands Indies; and to place the formula-
16 tion and execution of all economic policies under the
17 control of a joint Japanese-Netherlands Economic
18 Commission. In general terms, it was added that all
19 economic measures would be formulated from the broader
20 viewpoint of establishing the Co-prosperity Sphere of
21 Greater East Asia."

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"Meanwhile in Batavia, after initial negotiations concerning the more direct and pressing need to obtain for Japan the necessary exports of oil had taken place and the attempt to lease certain territories as oil concessions for Japan had failed, the above more general program was presented in the form of a long list of demands in January 1941. Foreign Minister MATSUOKA's speech including the Netherlands Indies in the Co-prosperity Sphere temporarily brought negotiations to a halt and caused the head of the Japanese Mission to warn MATSUOKA that, unless the utterances of the Japanese Government and the Japanese press became more moderate, the attempt to make the Netherlands Indies a part of the Co-prosperity Sphere through peaceful negotiations was bound to fail, in which case a resort to armed force would be inevitable.

"Although the negotiations continued for several more months, it was clear that the Japanese demands could not be satisfied, as the Netherlands were unwilling to accord Japan any special privileges or to recognize any dominant position of Japan in the southern regions. At the end of May 1941, the last Japanese and Netherlands memoranda were exchanged and, no agreement having been

1 reached, Japan discontinued the negotiations in
2 June and the Mission returned to Japan. The same
3 month Foreign Minister MATSUOKA stated that no fur-
4 ther negotiations would take place and that, before
5 proceeding further against the Netherlands Indies,
6 bases in French Indo-China would have to be secured.

7 "In July the Japanese occupation of the
8 southern part of French Indo-China took place, re-
9 sulting in the freezing of all Japanese assets in
10 the Netherlands Indies. From this time onward, no
11 further trade was possible and commercial relations
12 between Japan and the Netherlands Indies practi-
13 cally came to an end.

14 "4. Japanese Subversive Activities in the Netherlands
15 East Indies:

16 "An extensive system of espionage was
17 built up by the Japanese in the Netherlands Indies
18 many years before the outbreak of war between Japan
19 and the Netherlands. A great part of the many thou-
20 sands of Japanese residing in the Netherlands Indies,
21 held closely under the control and supervision of
22 the Japanese authorities through numerous local
23 Japanese associations, took an active part in the
24 gathering of information of military importance.
25 Japanese consuls and consular agents saw in the

1 collection and dispatch of this military information
2 through diplomatic channels one of their main tasks
3 and Japanese professional spies were attached as
4 consular personnel to several Japanese consulates.

5 "In addition to the activities of the Jap-
6 anese residents and Japanese diplomatic personnel,
7 the Japanese Army and Navy each had their own agents
8 in the more important places in the Netherlands
9 Indies. Special emphasis was laid on Japanese pro-
10 paganda among the Chinese and Indonesian inhabitants
11 of the Netherlands Indies, for which large sums were
12 expended, and many Chinese agents were brought over
13 from the Japanese occupied parts of China.

14 "5. Preparation for War and Military Operations,
15 July 1941 to March 1942.

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17 "From July 1941 onward it was clear that
18 the resolve to continue the advance to the south,
19 under any circumstances and against all obstacles,
20 could only be effected through the actual exertion
21 of military force. This in itself proved no deter-
22 rent to the Japanese plans. If in some quarters
23 there was still a certain hesitation, it was caused
24 through the realization that an advance into the
25 Netherlands Indies and toward the South in general
would involve Japan in a war with both the United

1 hostilities against the United States and Great
2 Britain. Occupation currency for the Netherlands
3 Indies had been ordered as far back as January 1941
4 and the first deliveries had been made in March of
5 that year. The so-called 'Table Top Maneuvers'
6 held in August 1941 by the Total War Research In-
7 stitute went into great detail as to how and when
8 to start a campaign against the Netherlands Indies
9 and dealt extensively with the expected military
10 operations, either against the Netherlands alone,
11 or in conjunction with a general war in the Pacific.
12 In September 1941 'war games' were held by the Navy
13 at the Navy War College and further careful plans
14 were worked out by the Army and Navy in September
15 and October. The Commander-in-Chief of all Army
16 units in the southern regions was appointed in Oct-
17 ober and Navy units for the operations in the
18 Netherlands Indies were selected. These plans were
19 so detailed as to specify that certain oil refineries
20 in the Netherlands Indies would be administered directly
21 by the Japanese Navy to cover its own needs.

22 "After the Third KONOYE Cabinet had been
23 succeeded in October 1941 by the TOJO Cabinet, of
24 which the accused KATO, SHIMADA, SUZUKI and TOGO
25 were members, the preparations were intensified and

1 a general re-examination of all questions concerning
2 the prospective war took place, such as the con-
3 sideration whether an attack toward the south would
4 be possible without directly involving the United
5 States and Great Britain in the war.

6 "At the Imperial Conference of 5 November
7 1941 it was decided to begin hostilities sometime
8 after the 25th of November and it was planned to
9 open new negotiations with the Netherlands Indies
10 for the purpose of concealing and disguising the
11 Japanese plans for an attack upon that country.

12 "On 5 and 7 November 1941 Combined Fleet
13 Top Secret Operation Orders Nos. 1 and 2 were issued,
14 of which mention has been made before. Further plans
15 provided for the establishment of a temporary mili-
16 tary administration for the territories which were
17 to be occupied until a definite decision regarding
18 their future status could be made. Eventually,
19 most of the southern areas were to be granted a
20 certain degree of self-government under the control
21 of Japan and outlines for these future measures were
22 drawn up."
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1 "At the Imperial Conference of 1 December
2 1941 the final decision to declare war on the United
3 States, Great Britain and the Netherlands was made.
4 On 8 December 1941, Japan attacked and subsequently
5 declared war upon the United States and Great Britain.
6 No formal declaration of war by Japan on the Netherlands
7 was made, or even contemplated, as according to Prime
8 Minister TOJO, when discussing this question in the
9 Privy Council, such a step would be undesirable for
10 strategic reasons. However, in the light of the
11 known facts, the Netherlands Government could harbor
12 no doubt that the attacks on Pearl Harbor and Singa-
13 pore were but a prelude to a military conquest of
14 the Netherlands Indies. Accordingly, it recognized
15 the existence of a state of war and formally declared
16 war on Japan.

17 "Meanwhile, on 2 December 1941 a new
18 Cabinet Committee to consider measures for the
19 economic control and exploitation of the shortly to
20 be occupied southern regions had been set up under
21 the Chairmanship of the President of the Planning
22 Board, the accused SUZUKI, and the first report,
23 containing general outlines of measures to be taken
24 in this respect, was presented to the Cabinet on
25 12 December. Another plan of the same date for the

1 military and political measures in the southern
2 areas provided for the final disposal of all
3 territories to be brought under the control of
4 Japan.

5 "In the months of November 1941 to
6 February 1942 extensive reports were prepared by
7 the Total War Research Institute on the same question,
8 going into great detail concerning the measures to be
9 taken in the political, military and economic fields
10 over a long period of years to ensure for Japan the
11 definite hegemony of the whole East Asia and adjoining
12 regions.

13 "On 12 January 1942, the first Japanese
14 troops landed in the Netherlands Indies and the
15 Japanese Government issued a declaration in which
16 it regretted being compelled to wage a war caused
17 by Netherlands aggression.

18 "At the opening of the 79th Diet Session
19 on 22 January 1942, Foreign Minister TOJO once again
20 expressed his regret at having been forced into war
21 by the Netherlands, but added at the same time that
22 the aim of the war was the establishment of Greater
23 East Asia under the leadership of Japan, for which
24 purpose all areas of strategic importance would
25 have to be grasped by Japan, since she was

responsible for the safe-keeping of the Government's
 funds from infringement by third powers. This was
 recognized by the Executive Order, who also laid
 down the fundamental principles on which to con-
 sideration of the fact that it would be based.
 Commenting on the speech, the Government Ambassador
 was able to report to his Government that these
 will be the arrangements of the Prime and Foreign
 Minister who presented a new definitely established
 program for the construction of the Greater East
 Asia Sphere, in which some regions would be returned
 by Japan, while others would, like Manchuria, be
 granted nominal independence.

Meanwhile, the Japanese forces penetrated
 further into the Netherlands Indies. I already men-
 tioned that one of the main concerns of the Japanese
 leaders was to acquire the oil resources in the
 Netherlands Indies and to have them. Having secured the
 first important installations on the island of Java,
 Sumatra, and finally the oil-wells destroyed, an ultimatum
 was sent to the Government of the town of Palembang
 in Sumatra, the center of one of the most important
 oil producing regions in the Netherlands Indies,
 stating that if the oil installations were not
 surrendered intact to the Japanese population would

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1 have to pay with their lives. Subsequently, the
2 town was attacked by the Japanese, the oil wells
3 were destroyed, and the white population rounded
4 up and murdered.

5 "On 1 March 1942 landings took place
6 on the main island of the Netherlands Indies, the
7 island of Java. Having approached the important
8 town of Bandung in the center of the island, the
9 Japanese thought that the time had come for final
10 surrender. Rejecting the offer by the Netherlands
11 authorities to surrender the town, the Japanese
12 Commander-in-Chief evoked his intention to both
13 and destroy the town, unless all Netherlands forces
14 capitulated. Further resistance having by this time
15 become useless, the surrender took place under this
16 Japanese threat, and with the occupation of Java
17 completed, most of the remainder of the Netherlands
18 Indies was occupied shortly afterwards.

19 6. Japanese Occupation and Consolidation
20 of Japanese Conquests, March 1942 to August 1943.

21 "To complete the picture of Japanese
22 aggression and Japanese attempts to gain domination
23 of a large part of the world, it is deemed fitting
24 to present to the Tribunal a survey of the means
25 by which Japan, under the guise of constructing a

1 Sphere of Common Prosperity and Co-existence,
2 attempted to achieve the annexation of the
3 territories overrun by military aggression and their
4 incorporation within a new Japanese Empire.

5 "In the presentation of the evidence on
6 this subject, a survey will be given of the three
7 and a half years of Japanese rule in the Netherlands
8 Indies, whereby events on the main island of the
9 East Indian Archipelago, the Island of Java, will
10 be dealt with in some detail. Although comparatively
11 small in area, this island, even more densely popu-
12 lated than Japan itself, comprises nearly 30% of the
13 total population of all the Southern Territories
14 which come under the dominion of Japan, including
15 Burma, Thailand, French Indo-China, Malaya, the
16 Philippines and the Netherlands Indies. It is highly
17 developed as regards both industry and agriculture
18 and for these reasons may be considered one of the
19 most important of the Japanese conquests.

20 "However, it must be stressed that
21 developments in other countries occupied as the result
22 of Japanese aggression were not basically different
23 from those in Java, or in the rest of the Netherlands
24 Indies. Local variations on the same theme there were;
25 but the basis of the Japanese occupation policy was

1 the same everywhere, and was always coordinated with
2 Japan's aims of expansion and domination.

3 "Mention has been made of Japanese plans
4 drawn up before the Japanese conquest of the Southern
5 Regions had been effected, or even before the out-
6 break of the War in the Pacific. These plans, based
7 on the permanent retention of the fruits of Japanese
8 conquest, dealt with the final disposal of territories
9 to be seized by Japan and with the measures necessary
10 for the achievement of that end. Furthermore, Prince
11 Minister TOJO, in his aforementioned speech at the
12 79th Session of the Diet on 22 January 1942, had
13 stated publicly that Japan would in the future dominate
14 Greater East Asia.

15 "Had these plans and declarations prior to
16 the Japanese occupation left any doubt concerning
17 Japan's aim to relieve the domination of East Asia
18 and make the different countries thereof subservient
19 to herself, this doubt would soon have been dispelled
20 by the actual policies followed by Japan in her rule
21 of the occupied territories."
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1 "The first measures to be taken after the
2 occupation was effected, were to eradicate the ex-
3 isting forms of government and to sever all contacts
4 with Western influence and the outside world. All
5 government officials of Western origin were dismissed
6 and interned, to be followed soon by the rest of the
7 Occidental population, women and children included.
8 This mass internment and strictly enforced isola-
9 tion from the outside world gave free rein to Japa-
10 nese propaganda, which immediately monopolized all
11 means for disseminating information. The territory
12 of the Netherlands Indies was split up into various
13 parts, some being placed under the military administra-
14 tion of the Army, some under the Navy. The existing
15 Government Departments were abolished and replaced
16 by centralized Japanese Army and Navy executive bodies
17 staffed by Japanese personnel.

18 "All representative advisory and legisla-
19 tive councils were dissolved. An entirely new sys-
20 tem of local government along autocratic Japanese
21 lines was introduced. All existing law courts were
22 abolished and replaced by a Japanese judiciary,
23 administering differently conceived principles of law,
24 unaccentable according to democratic standards. All
25 political parties were dissolved and all political

1 activities forbidden.

2 "Immediately a strangle-hold was laid upon
3 the economic structure of the country. As a first
4 measure all existing banks, including the Central
5 Bank, were closed down, liquidated, and replaced by
6 Japanese banks. All Western-owned agricultural
7 enterprises and all public utilities were taken over
8 by the Japanese authorities, who exploited them
9 directly or allotted them to Japanese government-
10 controlled or private companies. Wide-scale confis-
11 cation of private property took place, either with
12 a nominal or without any compensation. All further
13 economic activity was controlled by the Japanese
14 authorities by uniting those who took part in the
15 economic life of the country, e.g., farmers, traders,
16 manufacturers, etc., within autocratically directed
17 organizations. By these measures Japan achieved a
18 thorough exploitation of the country to strengthen
19 the Japanese war machine and to enrich herself and
20 those of her nationals who participated in it, there-
21 by causing hardship, poverty and hunger to the entire
22 population. Hundreds of thousands were deported as
23 slave-laborers for the Japanese Army and the greater
24 part of these victims perished through lack of food,
25 shelter and medical attention."

1 "Immediate action was also taken in the
2 field of education. One of the first acts of the
3 Japanese was to close all schools, which were only
4 partially reopened after the curriculum had been
5 thoroughly revised and restricted: the teaching of
6 Japanese language and customs became obligatory; the
7 teaching of other foreign languages was prohibited;
8 Japanese history replaced the teaching of general
9 history; the boundaries of the world were narrowed
10 down to those of the Greater East Asia Co-prosperity
11 Sphere. Soon one central 'Youth Movement' was es-
12 tablished in which young men between the ages of 14
13 and 25 were to take part, and which aimed at the
14 development of a militaristic spirit and the imbuing
15 of the younger generation with veneration for Japan.

16 "Through the creation of this and other
17 centrally directed movements, the whole social struc-
18 ture was brought under rigid Japanese control and the
19 way was paved for the inculcation of a totalitarian
20 spirit, a desire for war, cruelty, and hatred of the
21 West. In the religious field, efforts were made to
22 induce the Mohammedan religious leaders to declare
23 the war for Greater East Asia a 'holy' war for all
24 Moslems. At the same time, the system of Emperor
25 worship was rigidly enforced, and all who had any

1 official or semi-official function had to swear
2 eternal allegiance to Japan.

3 "Through these and other measures, the exe-
4 cution of which was enforced by means of a greatly
5 expanded police force, trained in Japanese police
6 methods and by a reign of terror of the notorious Japa-
7 nese Military Police, a thorough Japanization in all
8 branches of society in the Netherlands Indies was
9 accomplished in little more than one year.

10 "Apart from the establishment of Japanese
11 rule, the future formal status of the several occupied
12 territories, which were under the military administra-
13 tion of the Army and the Navy, had to be settled. To
14 achieve the Japanese aim of domination of East Asia,
15 two ways were open. Firstly, it was possible to annex
16 the occupied areas outright and have them ruled di-
17 rectly by Japan, whether or not with a certain degree
18 of nominal self-government. Secondly, some or all of
19 the occupied areas might sooner or later be given a
20 semblance of independence by creating puppet-regimes
21 under Japanese control. In any case, the final su-
22 pervision and direction over all areas would remain in
23 Tokyo, for which purpose in November 1942 the Greater
24 East Asia Ministry was set up, which, it was intended,
25 should regulate both the internal and external affairs

of all countries within the Greater East Asia Co-
prosperity Sphere.

1 "In the middle of 1943 the first measures
2 were initiated for the execution of this policy. Burma,
3 and the Philippines were granted nominal independence,
4 but no such step was taken in regard to the Netherlands
5 Indies. General Staffs of both the Army and the Navy,
6 who were each responsible for the administration of
7 part of the archipelago, were strongly opposed to the
8 granting of any degree of self-government despite pres-
9 sure in this direction from local army authorities.
10 Accordingly, it was decided that the Netherlands Indies
11 would continue to be ruled directly by Japan. However,
12 were Japanese claims to have liberated the country
13 from American, British and Netherlands oppression not
14 to remain wholly unsubstantiated, some concessions would
15 have to be made to the inhabitants, from whom active
16 participation in the Japanese war effort was expected.

17 "Consequently, in his speech at the 82nd
18 Session of the Diet in June 1943 Prime Minister TOJO
19 promised the population of the Netherlands Indies a
20 certain degree of participation in the government of
21 these islands. However, this participation, when put
22 into effect, proved to be of no actual significance
23 and fell far short of the political rights enjoyed by
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1 the population before the Japanese occupation.

2 "As the war progressed, however, and Japan's
3 position became precarious, more demands had to be
4 made on the inhabitants of the occupied regions to
5 strengthen the Japanese war effort. For that purpose,
6 it became necessary on the one hand to continue the
7 policy of making even wider promises and on the other
8 to strengthen the Japanese hold on the life of the
9 country.

10 "In November 1943, an Assembly of Greater
11 East Asiatic nations was held in Tokyo. There,
12 representatives of the various Japanese puppet-govern-
13 ments heard Prime Minister TOJO declare that the na-
14 tions of Greater East Asia would have to stand together
15 and defend themselves jointly against their common
16 enemies. After reaffirming their adherence to Japan
17 and their faith in Japanese leadership for Greater
18 East Asia, the Conference adopted a 'Greater East
19 Asia Declaration', which called for a common effort
20 by all Asiatic peoples in the prosecution of the war.

21 "The Netherlands Indies, being under direct
22 Japanese rule, were not represented at this meeting
23 of so-called free nations; nevertheless increased ef-
24 forts were made by the Japanese authorities to achieve
25 the regimentation of the whole population for the

1 futherance of the Japanese war effort and to induce
2 or coerce the male population to join the military
3 organizations which were to assist the Japanese armies.

4 "In July 1944, the war situation having be-
5 come increasingly grave, the TOJO Cabinet went out of
6 office, and was replaced by a new Cabinet under the
7 accused KOISO as Prime Minister, while the accused
8 SHIGEMITSU, who had already been Foreign Minister in
9 the TOJO Cabinet since April 1943, remained in that
10 post and became concurrently Minister for Greater East
11 Asia. One of the first moves of the new Cabinet, under
12 further pressure from local army authorities, was to
13 revise the Japanese policy regarding the Netherlands
14 Indies. Communications between Japan and the Southern
15 Regions had become endangered, and it was now necessary
16 to make further efforts to ensure full cooperation from
17 the local population. Accordingly, Prime Minister
18 KOISO, in his speech before the 85th Session of the
19 Diet on 7 September 1944, promised future independence
20 to the Netherlands Indies. No further details were
21 given, however, as to how, when, and to what extent,
22 independence would be granted and, indeed, even at
23 this stage there was no intention to take definite
24 steps in that direction.

25 "The main purpose of the Japanese promise

1 was to induce the population to assist to the utmost
2 in the Japanese war effort by stimulating their nation-
3 alistic feelings. Definite instructions as to the
4 policy which the local Japanese authorities should
5 follow to this end were sent from Tokyo. One of the
6 measures taken was the training of the entire popula-
7 tion to participate in anticipated Japanese guerilla
8 warfare.

9 "During the winter of 1944 and the spring
10 of 1945, the war situation became increasingly grave
11 for Japan. With the loss of the Philippine Islands,
12 lines of communication between Japan and the Southern
13 Regions became entirely disrupted. It was not until
14 May 1945, however, when it was apparent that the war
15 could not be protracted much longer, that orders were
16 given by the Japanese Government to initiate measures
17 for the granting of independence, while in July of
18 that year instructions were issued for their further
19 acceleration.
20

21 "Preparations had hardly started, however,
22 when on 14 August 1945, Japan surrendered. Regardless
23 of this new situation, the Japanese saw to it that a
24 Japanese fostered state would still be established.
25 During one frantic week, while the news of the sur-
render was being kept secret, the necessary prepara-

1 tions were made and the independence proclaimed. On
2 22 August 1945, the news of the Japanese surrender
3 was published and the Japanese Commander-in-Chief in
4 Java stated in a farewell message to the population that
5 Japan would now have to leave the Southern Regions,
6 but that eternal friendship between Japan and the people
7 of the new-born state had been immutably established.

8 "These then are the main outlines of the
9 development of Japanese aggression against the Nether-
10 lands, and of Japanese attempts to hold on to the
11 fruits of this aggression and secure the domination of
12 the countries of the South Seas until the very last.

13 "With the permission of the Court, we are
14 now prepared to proceed with the presentation of the
15 evidence. In this task I will be assisted by Mr. G.
16 Osmond Hyde, Special Assistant to the Attorney General
17 of the United States, and by my associates Lt. Colonel
18 J. S. Sinnighe Damste, Mr. A. T. Laverge and Mrs. C.
19 R. Strooker."

20 THE PRESIDENT: We will recess now until
21 half past one.

22 (Whereupon, at 1158 a recess was
23 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

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

THE PRESIDENT: Mr. Laverge.

MR. LAVERGE: The first number of documents will be introduced by Mrs. C. R. Stroker of the Netherlands Division, who up to now has not been introduced to the Court.

THE PRESIDENT: Mrs. Stroker.

MRS. STROKER: Mr. President and Members of the Tribunal, we shall first present or refer to a number of documents concerning treaties, pledges and assurances by which Japan was bound to respect the integrity of the Netherlands territory.

The Court's attention is invited to exhibit 24, being the Treaty between the United States, the British Empire, France and Japan, signed in Washington on December 13, 1921. By this Treaty the four signatory Powers agreed to respect each others' rights in relation to their insular possessions and dominions in the Pacific Ocean, and to settle all differences arising amongst themselves on this

1 subject by peaceful means only.

2 The next document we wish to refer to is
3 exhibit 26. As this exhibit has not yet been read
4 we will now, with the Court's permission, proceed to
5 read it.

6 THE PRESIDENT: You may read it, Mrs.
7 Stroker.

8 MRS. STROKER (Reading):

9 "DECLARATION OF JAPAN REGARDING HER RESOLU-
10 TION OF RESPECTING RIGHTS OF NETHERLANDS IN RELATION
11 TO HER INSULAR POSSESSIONS IN REGION OF PACIFIC OCEAN.

12 "Dated February 5, 1921 (10th year of Taisho)

13 "Published August 17, 1923.

14 "Japan has concluded on December 13th, 1921,
15 with the United States of America, the British Empire
16 and France a treaty with a view to the preservation of
17 the general peace and the maintenance of their rights
18 in relation to their insular possessions and insular
19 dominions in the region of the Pacific Ocean. They
20 have agreed thereby as between themselves to respect
21 their rights in relation to these possessions and
22 dominions.

23 "The Netherlands not being a signatory of
24 the said treaty and the Netherlands possessions in
25 the region of the Pacific Ocean, therefore, not being

1 included in the agreement referred to, the Govern-
2 ment of Japan, anxious to forestall any conclusion
3 contrary to the spirit of the treaty, desires to
4 declare that it is firmly resolved to respect the
5 rights of the Netherlands in relation to her insular
6 possessions in the region of the Pacific Ocean."

7 To show that in April, 1940, the Japanese
8 Government still officially adhered to its professed
9 desire that the status quo in the Netherlands Indies
10 would not be changed, we offer in evidence prosecu-
11 tion document 823B(1), being an excerpt from court
12 exhibit 777 for identification, a collection of
13 official Japanese Government announcements for the
14 year 1940. We will now read exhibit --

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution document
17 No. 823B(1) will receive exhibit No. 1284.

18 (Whereupon, the document above re-
19 ferred to was marked prosecution's exhibit
20 No. 1284 and received in evidence.)

21 MRS. STROOKER: We will now read exhibit
22 No. 1284.

23 "FOREIGN OFFICE ANNOUNCEMENTS 1940:

24 Apr. 15, 1940. Foreign Minister ARITA
25 Replies to Newspapermen on the Question of the

Netherlands East Indies.

1 "On being questioned by newspapermen con-
2 cerning Japan's position with regard to the possi-
3 ble involvement of the Netherlands in the European
4 war and its repercussions in the Netherlands East
5 Indies, the Foreign Minister Mr. ARITA replied as
6 follows:

7 "With the South Seas regions, especially
8 the Netherlands East Indies, Japan is economically
9 bound by an intimate relationship of mutuality in
10 ministering to one another's need. Similarly other
11 countries of East Asia maintain close economic re-
12 lations with these regions. That is to say, Japan,
13 these countries and these regions together are con-
14 tributing to the prosperity of East Asia through
15 mutual aid and interdependence.

16 "Should the hostilities in Europe be ex-
17 tended to the Netherlands, and produce repercussions,
18 as you say, in the Netherlands East Indies, it would
19 not only interfere with the maintenance and further-
20 ance of the above-mentioned relations of economic
21 interdependence, and of co-existence and co-prosperity,
22 but also give rise to an undesirable situation from
23 the standpoint of the peace and stability of East
24 Asia. In view of these considerations the Japanese
25

1 Government can not but be deeply concerned over any
2 development, accompanying the aggravation of the war
3 in Europe, that may affect the status quo of the
4 Netherlands East Indies.

5 April 18, 1940. Statement of the Foreign
6 Office Spokesman Concerning the Question of the
7 Netherlands East Indies.

8 "We have received a report from our Minister
9 at the Hague, Mr. Itaro ISHII, to the following effect.

10 "Minister ISHII called on the Netherlands
11 Foreign Minister, Mr. van Klaffens, on the 16th of
12 April and explained to the latter the attitude of the
13 Japanese Government with regard to the question of the
14 Netherlands East Indies. The Netherlands Foreign Mini-
15 ster expressed the Netherlands Government's apprecia-
16 tion of the Japanese Government's attitude and at the
17 same time stated that the Netherlands Government had
18 not sought nor would seek in the future any country's
19 protection of the Netherlands East Indies, and that the
20 Netherlands Government were determined to refuse any
21 offer of protection or intervention of any kind which
22 might be made by any country.

23 "The Netherlands Minister at Tokyo, General
24 J. C. Pabst called on the Foreign Minister, Mr. Hachiro
25 ARIM, today and confirmed the above report of
Minister ISHII."

1 We respectfully call the Tribunal's atten-
2 tion to exhibit 1013, a press release by the United
3 States Department of State on April 17, 1940, con-
4 taining an official declaration by the United States
5 Government in regard to Minister ARITA's statement.
6 In this declaration emphasis was laid on the fact
7 that each of the four signatory powers to the afore-
8 mentioned Pact of 13 December 1921 continued to be
9 bound to respect the territorial integrity of the
10 Netherlands Indies.

11 We next offer in evidence a further excerpt
12 from exhibit 777 for identification, prosecution
13 document 823B(2), being a declaration by the Japanese
14 Government on May 11, 1940, concerning the mainte-
15 nance of the status quo in the Netherlands Indies, to
16 show that after the Netherlands had been invaded by
17 Germany the Japanese Government still officially
18 declared that the status quo in the Netherlands
19 Indies should not be changed.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLEK OF THE COURT: Prosecution document
22 823B(2) will receive exhibit No. 1285.

23 (Whereupon, the document above re-
24 ferred to was marked prosecution's exhibit
25 No. 1285 and received in evidence.)

1 We will now read exhibit 1285:

2 "FOREIGN OFFICE ANNOUNCEMENTS 1940

3 "May 11, 1940. Statement of the Foreign
4 Office Spokesman Concerning the Maintenance of Status
5 Quo of the Netherlands East Indies.

6 "Considering the possibility of the war in
7 Europe spreading to the Netherlands, the Japanese
8 Government made public on the 15 of April their
9 attitude of deep concern over any development that
10 may affect the status quo of the Netherlands East
11 Indies, and subsequently they notified the Nether-
12 lands Government to that effect. In connection with
13 this, the Netherlands Government expressed their
14 determination not to alter their policy of maintain-
15 ing the status quo of the said Netherlands, colony
16 under any circumstances.

17 "As the European war has now spread to the
18 Netherlands, the Foreign Minister, Mr. Hachior ARITA,
19 invited the Netherlands Minister at Tokyo, General
20 J. C. Pabst, to the Foreign Office this afternoon,
21 and informed the latter that the Japanese Govern-
22 ment earnestly hope that the Netherlands Government
23 will firmly maintain their said determination regard-
24 ing the question of the Netherlands East Indies.

25 "The Foreign Minister has also called

1 attention of the representatives in Tokyo of belligerent countries, namely, Great Britain, Germany and
2 France, to Japan's concern over the said question.

3 "The Foreign Minister has informed the
4 representatives of two neutral countries, the United
5 States and Italy, for their reference, the fact that
6 the Japanese Government made the above notification
7 to the government of belligerent countries concerned."
8

9 This new declaration by the Japanese Govern-
10 ment caused Great Britain and France to make similar
11 declarations. These are contained in prosecution
12 document 823B(3), an excerpt from exhibit 777 for
13 identification. We offer prosecution document
14 823B(3) in evidence.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 823B(3) will receive exhibit No. 1286.

18 (Whereupon, the document above re-
19 ferred to was marked prosecution's exhibit
20 No. 1286 and received in evidence.)

21 MRS. STROOKER: We will now read 1286:

22 "FOREIGN OFFICE ANNOUNCEMENTS 1940:

23 "May 13, 1940. Statement of the Foreign
24 Office Spokesman Concerning the Netherlands East Indies.

25 "The British Ambassador, Sir Robert Craigie,

1 at 6:00 o'clock this afternoon, called on the
2 Foreign Minister, Mr. Hachiro ARITA, at the latter's
3 official residence with the reply of his home Govern-
4 ment to the representation made by Foreign Minister
5 ARITA on May 11 regarding the Netherlands East Indies.
6 The British Ambassador told Foreign Minister ARITA
7 that the British Government fully share the Japanese
8 Government's concern over the Netherlands East In-
9 dies but believe that the Dutch forces in the
10 Netherlands East Indies are sufficient for the
11 maintenance of the status quo of those islands,
12 while Great Britain has no intention whatever of
13 intervening there. The British Ambassador left the
14 Foreign Office at 6:40 o'clock this evening.

15 "May 15, 1940. Statement of the Foreign
16 Office Spokesman Concerning the Netherlands Minis-
17 ter's Notification with Regard to the Netherlands
18 East Indies.

19 "At 10:00 A. M. today, the Netherlands
20 Minister, General J. C. Pabst, called on the Foreign
21 Minister, Mr. Hachiro ARITA, at the latter's official
22 residence under instructions from his home Government
23 with reference to the Foreign Minister's communication
24 to the Netherlands Government made on the 11th of
25 this month, and stated that the Netherlands Government

1 are of the belief that Great Britain, the United
2 States and France have no intention of intervening
3 in the Netherlands East Indies.

4 "The Netherlands Minister took leave of the
5 Foreign Minister at 10:20 A. M.

6 "May 16, 1940. Statement of the Foreign
7 Office Spokesman Concerning the French Ambassador's
8 Notification with Regard to the Netherlands East
9 Indies.

10 "The French Ambassador, Mr. Charles Arsene-
11 Henry, called on the Foreign Minister, Mr. Hachiro
12 ARITA, at the Foreign Office at 3:30 P. M. today
13 under instructions from his home Government with
14 reference to the Foreign Minister's communication
15 to the French-Ambassador made on the 11th of this month
16 regarding the maintenance of status quo of Netherlands
17 East Indies, and stated that the French Government
18 entirely agree with the Japanese policy on the ques-
19 tion.

20 "The French Ambassador left at 4:00 P. M."
21
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1 MRS. C. R. STROOKER: We offer in evidence
2 prosecution's document 220N, being a press release
3 issued by the Department of State on May 11, 1940.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 220N will receive exhibit No. 1287.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1287 and received in evidence.)

10 MRS. C. R. STROOKER: We will now read
11 exhibit No. 1287:

12 "Foreign Relations of the United States-Japan,
13 1931-1941, Vol. II, p. 285. Press Release Issued by
14 the Department of State on May 11, 1940.

15 "In response to inquiries by correspondents
16 concerning press reports from Tokyo relative to the
17 status quo of the Netherlands East Indies, the
18 Secretary of State made the following statement:

19 "I have no full report about the matter
20 referred to in the press despatches from Tokyo. During
21 recent weeks a number of governments, including Great
22 Britain, Japan, and the United States, have made clear
23 in official public utterances their attitude of
24 continued respect for the status quo of the Netherlands
25 East Indies. This was in harmony with definite

1 commitments formally made in writing in 1922. This
2 Government assumes that each of the governments which
3 has made commitments will continue to abide by those
4 commitments. On April 17, 1940, in a public statement,
5 I said:

6 "Intervention in the domestic affairs of the
7 Netherlands Indies or any alteration of their status
8 quo by other than peaceful processes would be
9 prejudicial to the cause of stability, peace, and
10 security not only in the region of the Netherlands
11 Indies but in the entire Pacific area."

12 "In view of these facts, commitments and
13 expressions of intention to respect the status quo
14 of the Netherlands East Indies cannot be too often
15 reiterated."

16 We offer in evidence prosecution document
17 220P, a memorandum by the United States Secretary of
18 State, dated May 16, 1940.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 220P will receive exhibit No. 1288.

22 (Whereupon, the document above re-
23 ferred to was marked prosecution's exhibit
24 No. 1288 and received in evidence.)

25 MRS. C. R. STROOKER: I will now read parts of

1 exhibit 1288:

2 "Memorandum by the Secretary of State.

3 "(Washington) May 16, 1940.

4 "The Ambassador of Japan called at his own
5 request."

6 I will now continue to read from the second
7 paragraph on page 2 of the English text onward.

8 "I then picked up two or three pages of material
9 which had come in via the news ticker from Tokyo, in
10 which the Japanese Government is reported to be
11 discussing every day or two some phases of the Nether-
12 lands East Indies and its supposed special rights in
13 them. I stated that I had not intended to show him
14 this, that it had just come to my desk as the Ambassador
15 came in, but I remarked with emphasis that it had been
16 thought that the Japanese Government and the Govern-
17 ments of the United States, Great Britain and France
18 had each and all repeated recently their prior commit-
19 ment that each was obligated to respect the status quo
20 in the Netherlands East Indies and I had thought that
21 settled the matter as among our four countries, since
22 each country unequivocally pledged itself to respect
23 the status quo, but I added that notwithstanding the
24 efforts of many of us to maintain a thorough understanding
25 with the Government of Japan, there was continually

1 coming out of Tokyo additional discussions of the
2 Netherlands East Indies as though the commitment to
3 respect and preserve the status quo had not been made.
4 I said that these were news reports and I myself was
5 slow to accredit them, but that the tenor of the
6 reports interfered with the efforts of the Ambassador
7 and myself and others to preserve understanding and
8 fair play and fair treatment between our two countries
9 by causing misunderstanding and increasing hostility
10 on the part of the people in each country. I said
11 that I would make no complaint now about the matter
12 if that was a part of the newspaper policy in Japan.
13 I added finally that my Government strives for peace
14 year in and year out and it desires at all times to
15 avoid controversy, and, therefore, if controversy
16 arises, the fault will not lie at the door of this
17 Government. I said further that in our constant desire
18 and constant effort to promote and preserve peace, both
19 with other countries and among other countries, I
20 hoped that this attitude of ours would not be misunder-
21 stood.

22 "The Ambassador undertook in reply to disclaim any
23 purpose of his Government to send him to me to enter
24 into the long examination to which he was subjecting
25 me when interrupted. He then repeated that his

1 Government was entirely satisfied with the situation
2 following the reiteration of the status quo in respect
3 to the Netherlands Indies by each of the four govern-
4 ments interested, and that it had no purpose to raise
5 any further controversy in that connection unless
6 perchance the British or French should land troops
7 there to protect them. I remarked that, since my
8 Government was interested, I had made inquiries of the
9 British and the French, and gathered the unequivocal
10 understanding that they had no idea whatever to
11 intervene in the Netherlands East Indies in any way.

12 "The Ambassador then made some reference to the
13 Monroe Doctrine in connection with the West Indies
14 situation, and I replied that I had seemingly in vain
15 sought to point out to his Government that, under the
16 Monroe Doctrine, his country's merchant ships have
17 equal access to every harbor in the Western Hemisphere
18 (not including a special arrangement between the
19 United States and Cuba), while under the policy which
20 his Government is seeking to impose in the Pacific
21 Ocean area, the United States and other countries are
22 to be denied equality of trade and industrial opportunity
23 in every Chinese port, and yet his Government seems to
24 look with complacency on this conflicting situation.
25

"I again brought to his attention the information

1 contained in the news ticker report today from Tokyo,
2 in which Japanese newspapers, as stated, were under-
3 taking to keep alive and emphasize some supposed
4 special interests of Japan in the Netherlands East
5 Indies. I said it seemed very surprising to observe
6 that, after the Japanese Government had undertaken to
7 spread itself out over the huge republic of China,
8 there was an intimation in the news reports that it
9 would not be content unless it extended itself three
10 thousand miles beyond to modestly take in the great
11 archipelago comprising the East Indies, presumably
12 with a view of shutting out all equality of trade
13 opportunities among nations, while Japan would continue
14 to demand equality of trade opportunities in every other
15 part of the world; that there did not exist any selfish
16 or other reason on the part of other nations to inter-
17 fere in the least with equality of trade opportunities
18 on the part of Japan. The Ambassador again stated
19 that his Government was satisfied about the Netherlands
20 East Indies situation in the light of the renewed
21 promises of each of the three other governments
22 interested, and that they had no plans or purposes
23 to proceed there to contest the Netherlands East
24 Indies. I expressed my satisfaction with his state-
25 ment, but again reminded him of my difficulty to

1 understand the policy of the Japanese Government or
2 the Japanese press, whichever it was, to continue
3 various lines of discussion indicating a claim to
4 some sort of special interest of Japan in the Nether-
5 lands East Indies situation; that in a recent statement,
6 I had set forth rather comprehensively and succinctly
7 the position of this Government that the status quo
8 should be respected and preserved by each of the
9 four governments; that the real question presented
10 actually related to the entire Pacific area and that
11 no further elaboration beyond my recent statement on
12 this subject would appear to add to anything I then
13 said.

14 "I still interpret the Ambassador's visit as
15 one under instructions to develop a pretext to support
16 Japan in connection with its plans and purposes toward
17 the Netherlands East Indies.

18 "C(ORDELL) H(VLL)"

19 We invite the Tribunal's attention to
20 court exhibit 1014, a memorandum by the United States
21 Ambassador to Japan, dated 10 June 1940. In this
22 memorandum the Ambassador quotes the Japanese Foreign
23 Minister as asserting categorically that Japan enter-
24 tained no territorial ambitions and that any suspicion
25 that Japan intended to proceed against the Netherlands

1 Indies was entirely unjustified.

2 We next offer in evidence prosecution
3 document 22011, a telegram from the United States
4 Ambassador in the Soviet Union to the United States
5 Secretary of State, dated 24 March 1941.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 22011 will receive exhibit No. 1289.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit
11 No. 1289 and received in evidence.)

12 MR. C. R. STROOKER: We will now read the
13 first paragraph only of exhibit No. 1289.

14 "The Ambassador in the Soviet Union (Steinhardt)
15 to the Secretary of State.

16 "(Paraphrase -- Extracts)

17 "Moscow, March 24, 1941--3 p.m.

18 "(Received March 25--7.30 a.m.)

19 "This morning I was given the opportunity by
20 invitation of the Japanese Ambassador, to talk with
21 MATSUOKA for an hour.

22 "MATSUOKA was emphatic in stating that under no
23 circumstances would Japan attack Singapore or any of
24 the American, British, or Dutch possessions, and he
25 was insistent that Japan has no territorial ambitions."

1 "Japan, he said, was ready at any moment to join the
2 United States in a guarantee of the territorial
3 integrity or independence of the Philippine Islands.
4 As an evidence of Japan's lack of territorial
5 ambitions, MATSUOKA referred to the outcome of his
6 mediation of the dispute between Thailand and French
7 Indo-China. He said that Japan would not go to war
8 with the United States, and added that from his reading
9 of American history it appeared that it was the
10 United States which went to war with other countries;
11 if a conflict should take place it would come about
12 only as the result of affirmative action by the
13 United States."

14 We shall now present to the Tribunal a
15 number of documents, showing how a policy of military
16 expansion southward was gradually conceived and later
17 officially adopted by Japan.

18 We respectfully call the Tribunal's attention
19 to court exhibit No. 979, entitled "The Fundamental
20 Principle of our National Policy," dated 11 August
21 1936, and signed by the Prime Minister and the War,
22 Navy, Finance and Foreign Ministers.

23 We would like to point out that at this time
24 the accused HIROTA was Prime Minister and the accused
25 NAGANO was Navy Minister.

1 With the Tribunal's permission we would like
2 to read the first paragraph only of exhibit 979.

3 THE PRESIDENT: You may.

4 MRS. C. R. STROCKER: Thank you.

5 (Reading): "The fundamental principle of
6 our national policy," (signed by the five Ministers --
7 the Premier, War, Navy, Finance, and Foreign Ministers--
8 11 August 1936).

9 "Fundamentals of our National Policy.

10 "I The fundamental principle of administering
11 the state based on righteousness lies in realizing
12 the ideal of our national foundation by strengthening
13 the foundation of our country internally and prospering
14 externally, thereby making the Japanese Empire develop
15 into the stabilization Power, nominal and virtual, in
16 the East Asia, secure peace in the Orient and contribute
17 to the peace and welfare of mankind throughout the
18 world. In view of the situation of the Empire, both
19 home and abroad, to establish the fundamental national
20 policy consists in securing a steady footing of our
21 Empire in the Eastern Continent as well as developing
22 in the South Seas, under the joint efforts of diplomatic
23 skill and national defense. The general basic principles
24 are as follows:"
25

I don't think it will be necessary to read them.

1 We offer for identification only, Prosecution
2 Document 487, a book by the accused HASHIMOTO, entitled
3 "Addresses to Young Men", published in 1937.

4 We offer in evidence Prosecution Document 487B,
5 being excerpts from the aforesaid book.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's Document
8 No. 487 will be given exhibit No. 1290 for identification
9 only, and the excerpt therefrom, to-wit, Document 487B
10 will receive exhibit No. 1290A.

11 (Whereupon, Prosecution's Document No.
12 487 was marked Prosecution's Exhibit No. 1290
13 for identification. Prosecution's Document 487B
14 was marked Prosecution's Exhibit No. 1290A, and
15 was received in evidence.)

16 MRS. STROOKER: We shall now read part of
17 exhibit 1290A, from the very beginning: "Addresses to
18 Young Men by HASHIMOTO Kintoro. Chapter VII. The
19 World's Japan; Japan's World.

20 "We have already said that there are only
21 three ways left to Japan to escape from the pressure
22 of surplus population. Our situation is like that of
23 several dozens of people crammed into a small room of
24 about sixty feet square. And there are only three doors
25 of escape left open for us, namely emigration, inroads

1 into world markets, and expansion of territories. The
2 first door, emigration, has been slammed in our faces
3 by the anti-Japanese immigration policy of other countries.
4 The second door, inroads into world markets, also is
5 being pushed back by high tariff walls, and the abroga-
6 tion of commercial treaties.

7 "What must Japan do when two of the three doors
8 have been closed against her?

9 "It is quite a natural force of circumstances
10 for Japan to rush to the last door remaining open.

11 "It may sound dangerous when we speak of terri-
12 torial expansion, but the territorial expansion which we
13 have in mind does not necessarily mean the occupation
14 of other countries' territories, the planting of the
15 Japanese flag thereon and the declaration of their annex-
16 ation to Japan. It simply means that since the powers
17 of the world have gone too far in suppressing the pene-
18 tration of Japanese materials and merchandise abroad,
19 we are looking for a place somewhere beyond the seas
20 where Japanese capital, skill and labour can have free
21 play without the oppression of the white race.

22 "We shall be satisfied with this much. What
23 moral rights have the world powers which have already
24 closed with their own hands the two doors of emigration
25 and inroads into world markets to criticize Japan's

attempt to rush out of the third door open to her?

1 "If they do not approve of this, they should
2 open the doors which they themselves had closed against
3 us and permit freedom of activity abroad to Japanese
4 emigrants and merchandise.

5 "Thus, the Manchurian Incident suddenly broke
6 out in September of Showa 6 /1931/"

7 Now, continue reading from the 16th line from
8 the bottom of page 2 onward:

9 "Then, suppose there is still on this earth
10 land endowed with abundant underground natural re-
11 sources which has not yet been developed at all by the
12 white race, would it not be God's wishes and Providence's
13 will for the Japanese to go over there and develop it
14 for the well-being of mankind?

15 "And there still remain many many lands of
16 this kind on this earth.

17 "The SOUTH SEAS ISLANDS are one example.

18 "The SOUTH SEAS ISLANDS are located at a very
19 short distance from the southernmost point of FORMOSA.
20 They are also located at a point where they can be
21 reached by motor fishing boats from our SOUTH SEAS
22 MANDATED ISLANDS.

23 "There are large islands, such as BORNEO,
24 CELEBES and NEW GUINEA scattered throughout the seas."
25

1 "We call them islands, but in reality BORNEO and NEW
2 GUINEA are large islands, larger than the whole of
3 JAPAN.

4 "The Netherlands is the titular owner of most
5 of those islands, and thus they are called NETHERLANDS
6 EAST INDIES. However, what the Dutch have actually
7 developed is the small island of JAVA only, the other
8 islands being left almost untouched. The Netherlands,
9 even if they wished, find their hands full with the
10 island of JAVA alone, and have no reserve power for
11 the development of the other islands."

12 "We now continue reading from paragraph 11 on
13 page 4 onwards:

14 "For this reason we demand lands in the north,
15 south, east and west of JAPAN where the Japanese people
16 may freely develop their powers. What we seek is not
17 nominal territories, but a new land where Japanese
18 labour and technology and merchandise and capital may
19 freely display without any persecution their activities
20 and develop the riches now lying idle. We loudly call
21 upon the whole world for such lands.

22 "However, let us turn our thoughts to the time
23 when JAPAN makes up her mind and starts her southward
24 development. We must be prepared to encounter a great
25 obstacle lying obstinately in our way. Although the

1 Netherlands owns the greater part of the SOUTH SEA
2 ISLANDS, the actual power which protects these islands
3 is the BRITISH EMPIRE, which boasts of the greatest
4 navy in the world."

5 We now continue to read from the fourth line
6 on page 5:

7 "Therefore, before we aspire to effect over-
8 seas development, we must make a great resolution.
9 If we are thoughtless enough to plan this advance with-
10 out this preparation, our scheme would show a reckless
11 failure to understand history.

12 "Nevertheless, we call upon the world for our
13 right to expand overseas. We demand this because, un-
14 less we are to starve willy-nilly in this small island
15 country, the only way out of it is to effect overseas
16 development by seeking new lands in the wide world
17 around us.

18 "As already stated the world has no moral
19 right to deny us this right.

20 "Of course, it would be out of the question
21 if the Japanese race were an inferior race without the
22 ability to develop new lands and without the qualifica-
23 tions to govern. However, the superior ability of the
24 Japanese race has already been tested."

25 We read from the third line on page 6 onward:

1 "Facts speak most eloquently. It is only
2 a dream of days gone by that only the white men are
3 entitled to rule the world. The facts show plainly
4 which of the two, the white men or the Japanese are
5 better qualified to develop overseas lands.

6 "Of course, we do not wholly extol our past
7 rule of KOREA and FORMOSA. There are too many defects
8 to enumerate here. And yet in spite of these defects
9 we must say that lands developed and peoples ruled by
10 such a superior race as the Japanese are fortunate com-
11 pared with those under the tyrannical rule of the white
12 men.

13 "We are able to state these facts to the whole
14 world with no diffidence whatever."
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1 We offer in evidence prosecution document
2 1644, being an official declaration by the Japanese
3 Government on November 3, 1938. At this time the
4 accused ARAKI, ITAGAKI and KIDO were members of the
5 Cabinet.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1644 will receive exhibit No. 1291.

9 (Whereupon, the document above)
10 referred to was marked prosecution's exhibit
11 No. 1291, and was received in evidence.)

12 MRS. STROOKER: (Reading)

13 "STATEMENT OF THE IMPERIAL JAPANESE GOVERNMENT CON-
14 CERNING THE FUTURE OF EAST ASIA

15 "3 November, 1938

16 "By the august virtue of His Majesty, the
17 Imperial Army and Naval forces have succeeded in oc-
18 cupying Canton, Wuchang, Hankow, and Haupeng, and the
19 main territory of China has been conquered. The Na-
20 tional Government has been reduced to a local regime.
21 But, as long as the regime continues the anti-Japan
22 and pro-Communist policy, Imperial Japan will never
23 lay down arms until the regime is completely destroyed.
24 The ultimate aim of Imperial Japan is to establish a
25 New Order which will secure eternal peace in the Far

1 East, and this is the final purpose of the present
2 war.

3 "The foundation of the New Order can be es-
4 tablished through the collaboration of Manchukuo and
5 China with Japan in economics, politics and culture,
6 based on cooperation and mutual aid. The New Order
7 should aim at the establishment of international jus-
8 tice, anti-Communist cooperation, the new culture and
9 economic unity in the Far East. This is what stabilizes
10 East Asia and promotes world development. What Japan
11 expects of China is for her to take partial charge of
12 the duty of establishing the New Order in the Far East.
13 Imperial Japan expects the people of China to under-
14 stand Japan's sincerity and reply to Japan by giving
15 her cooperation. In case the National Government
16 starts its life anew by casting away the old policies
17 and changing its staff, it will not be refused entry
18 into the camp of the New Order.
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20 "Because Imperial Japan believes that the
21 powers will rightly understand Japan's intentions and
22 that they will change their attitude in order to suit
23 the situation in East Asia, Japan is especially grate-
24 ful for the kindness of the Allied Nations.

25 "Believing that the establishment of the New
Order in the Far East is originating from the spirit

1 of the national foundation, the completion of the task
2 is the glorious mission imposed on the people of Japan.
3 Imperial Japan should take firm steps to renovate the
4 various internal systems, to develop the total power
5 of the nation and should advance to attain the mention-
6 ed purpose.

7 . "This is the unmovable principle and resolu-
8 tion of the Imperial Government."
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THE PRESIDENT: Mr. Logan.

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2 MR. LOGAN: If the Tribunal please, on
3 behalf of defendant KIDO I call your attention to
4 the fact that the certificate attached to this docu-
5 ment just read shows that it was found in the Foreign
6 Ministry. In General Mulder's opening statement,
7 he said, on page 5, "In November 1938, the first
8 KONOYE Cabinet issued the official declaration."

9 I wish to call the Tribunal's attention to
10 the fact there is nothing in this document which
11 shows it was issued by the Cabinet.

12 THE PRESIDENT: We note what you say, Mr.
13 Logan, without necessarily agreeing with it.

14 MRS. STROOKER: The Tribunal's attention is
15 invited to Court exhibit 509, being a report on a
16 visit by the accused OSHIMA and General TERAUCHI to
17 German Headquarters in September 1939. On this
18 occasion the accused OSHIMA gave as his opinion that
19 Japan was now ready for an advance to the south.

20 We invite the Tribunal's attention to
21 exhibits 517, 518 and 519, being telegrams exchanged
22 between the German Ambassador in Tokyo and the German
23 Foreign Minister in May 1940. In these telegrams
24 the German Ambassador reported that he had explained
25 to the Japanese Government that Germany was not

1 interested in the Netherlands Indies, and he further
2 stated that this declaration by Germany was considered
3 by the Japanese press as a "carte blanche" for Japan.

4 The Tribunal's attention is called to Court
5 exhibit 523, being a telegram from the German
6 Ambassador in Tokyo to the German Foreign Minister,
7 dated 24 June 1940. The German Ambassador reported
8 that the Japanese Minister for Overseas Affairs, the
9 accused KOISO, had enquired from him what Germany's
10 attitude would be to military activity by Japan in
11 Indo-China and parts of the Netherlands Indies.

12 The Tribunal's attention is invited to
13 Court exhibits 527 and 528, being the minutes of a
14 joint conference of Army, Navy and Foreign Office
15 authorities on 12 and 16 July 1940, in which Japan's
16 attitude toward the southern regions and Japan's
17 future domination of these areas were extensively
18 discussed.

19 THE PRESIDENT: Captain Brooks.
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1 MR. BROOKS: If the Tribunal please, in re-
2 gard to the Minister of Overseas Affairs, KOISO, I
3 would like to state that on page 6 of the opening
4 statement, document No. 6912 of the prosecution, I
5 think the Court may have judged the way it was re-
6 ferred to that "The Minister of Overseas Affairs, the
7 accused KOISO, inquired again what Germany's atti-
8 tude..." I don't think the "again" referred to Gen-
9 eral KOISO, but to a previous paragraph. But to
10 avoid any misunderstanding I waited until it was
11 raised at this time by reference to the document,
12 which is the only document in question, and call the
13 Court's attention to page 6165 of the proceedings,
14 page 6175 and also 6826 where that was discussed
15 fully in a previous case with the prosecution's side.
16 It will be recalled that there was confusion of the
17 Foreign Ministry and Ministry of Overseas Affairs. It
18 was also pointed out that KOISO was in retirement as
19 a private citizen at that time.

20 MRS. STROOKER: Your Honor, I am instructed
21 to deny that KOISO was a private citizen at that time.
22 He was Minister of Overseas Affairs.

23 Referring to exhibit 523, which is dated the
24 24th of June 1940, in paragraph 2: "The Minister of
25 Overseas Affairs, General KOISO, asked me in a

1 conversation..." He was Minister of Overseas Affairs
2 until 22 July.

3 MR. BROOKS: I see no---

4 THE PRESIDENT: Well now, we are not going
5 to have any debate about it. You can prove otherwise
6 in the course of the evidence for the defense. You are
7 not going to take over the prosecution.

8 MR. BROOKS: I don't want to debate about it,
9 your Honor, I just call reference to those pages that
10 I gave. Our position is clear.

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1 THE PRESIDENT: Mrs. Stroker.

2 MRS. STROOKER: The next five documents, which
3 we will introduce in evidence, deal with a proposal by
4 the American Government to the Japanese Government
5 in June 1940, that a formal declaration be made
6 that neither Japan nor the United States should allow
7 a change in the status quo in the southern Pacific
8 and the reasons why Japan refused to make such a
9 formal declaration.

10 We offer in evidence prosecution document
11 220-R, being a telegram from the United States
12 Secretary of State to the United States Ambassador
13 in Japan, dated 22 June 1940.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 220-R will receive exhibit No. 1292.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 1292, and was received in evidence.)

20 MRS. STROOKER: We will now read exhibit
21 1292.

22 "Foreign Relations of the United States.
23 Japan, 1931-1941. Pages 86-87.

24 "The Secretary of State to the Ambassador
25 in Japan (Grew). (Paraphrase) "

1 "Washington, June 22, 1940 - noon.

2 "Unless you perceive any objection, it is
3 my desire that at an early moment you call upon the
4 Foreign Minister and in strictest confidence explore
5 with him in continuation of your conversations of
6 June 10 and June 19, the question of possibly
7 arriving at an understanding between the American
8 Government and the Japanese Government through an
9 exchange of notes along the following lines:

10 "The interest of both countries in keeping to
11 a minimum the adverse effects of the war in Europe
12 is the basis upon which the understanding would be
13 premised. The understanding would refer to this
14 interest. In the proposed notes there would be
15 expressed the agreement between the Government of the
16 United States and the Japanese Government that they
17 have a common desire that the status quo, except as
18 it may be modified by peaceful means, be maintained
19 with regard to the possessions and territories of
20 belligerent European powers in the Pacific area.
21 There might also be in the proposed notes a provision
22 for consultation between the Governments of the two
23 countries should any question arise involving the
24 status quo in respect to the Pacific possessions and
25 territories of belligerent European powers which

1 renders consultation desirable in the opinion of
2 either the Japanese Government or the Government of
3 the United States.

4 "In the proposed exchange of notes this
5 Government envisages and would understand the phrase
6 relating to possessions and territories in the Pacific
7 area of belligerent European powers to cover and
8 include their possessions and territories in all parts
9 of the Pacific Ocean.

10 "This suggestion relates to a particular and
11 definite problem, that of averting an introduction of
12 new complications and new possibilities of difficulty
13 and friction into the general situation in the
14 Pacific. As you will realize and will keep constantly
15 in mind, it does not involve and should not be inferred
16 to imply any withdrawal from positions heretofore
17 taken regarding any specific problems in the relation-
18 ships between the two countries. It is intended as
19 a preventive rather than a curative measure. At
20 the same time, it is our belief, and we hope it will
21 be that of the Japanese, that the possibility of
22 contributing substantially toward making situations
23 better is within procedures which tend to prevent
24 situations from becoming worse. If adopted, we
25 believe this procedure would tend to turn public

1 thought toward consideration of peaceful and cons-
2 tructive processes. It would tend to dissipate
3 various suspicions which apparently prevail among the
4 public and to curtail various types of inflammatory
5 discussion and agitation. It would take care of the
6 particular present and future problem to which it
7 would expressly relate, and, although it would in no
8 way dispose of the many and various specific questions
9 which have been and are the subject matter of current
10 and past discussion between our two Governments, it
11 might facilitate solution of some of them.
12

13 "Hull."

14 We introduce in evidence prosecution docu-
15 ment 220-S, being a memorandum by the United States
16 Ambassador in Japan, dated 24 June 1940.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 220-S will receive exhibit No. 1293.

20 (Whereupon, the document above
21 referred to was marked prosecution's exhibit
22 No. 1293, and was received in evidence.)

23 MRS. STROOKER: We will now read exhibit 1293.

24 "Foreign Relations of the United States.
25 Japan, 1931-1941. Pages 88-89.

"Memorandum by the Ambassador in Japan (Grew).

1 "(Tokyo) June 24, 1940.

2 "When I called on the Foreign Minister at
3 11 o'clock this morning at the private house of a
4 common friend, we discussed in strictest confidence
5 the suggestion proposed in the Department's telegram
6 No. 215, June 22, noon, with reference to an exchange
7 of notes regarding upholding the status quo with
8 regard to the Pacific territories and possessions of
9 belligerent European countries.

10 "The Minister gave his close attention to
11 the diverse points in my oral argument and all the
12 questions he put to me were covered in the Department's
13 instructions. When asked whether the Pacific
14 mandated islands were included in our proposal, I
15 answered that if he desired I would submit the point
16 to my Government, but he did not pursue the subject.

17 "The Minister said finally that the sug-
18 gestion would be given his close study and that he
19 would reply soon. He stated further that, unless
20 a number of the many outstanding differences between
21 the United States and Japan were first solved, he,
22 offhand, and in his own opinion, thought that the
23 suggestion might be difficult to accept. When asked
24 to which difficulties he referred in particular,
25 the Minister replied that the absence of a commercial

1 treaty was the outstanding difficulty.

2 "In view of some of his comments I made
3 clear at the conclusion of our talk that our present
4 proposal must not be misunderstood to imply any
5 retreat from positions previously held regarding any
6 particular problems between Japan and the United
7 States, but I added that I found it significant in
8 my own opinion that our exploration today was
9 regarded by my Government as the continuance of the
10 conversations of June 10 and 19, which were entered
11 into with the express intent of discovering means to
12 ameliorate American-Japanese relations.

13 "Mr. ARITA said that the Japanese press must
14 have called my attention to the trend of public
15 opinion in Japan, which was strongly for closer
16 relations with Germany and Italy and was continually
17 growing in strength. He claimed that he was personally,
18 as I well knew, in favor of a rapprochement with the
19 United States, but that the situation today opened
20 him to severe criticism, and that the problem was
21 extremely difficult.

22 "J(oseph) C. G(rew)."

23 We offer in evidence prosecution document
24 1632-FF, being the entry for 27 June 1940 in the
25 diary of the accused KIDO, exhibit 178 for

1 identification.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 1632-FF will receive exhibit No. 1294.

5 (Whereupon, the document above
6 referred to was marked prosecution's exhibit
7 No. 1294, and was received in evidence.)

8 MRS. STROOKER: We will now read a part
9 of exhibit 1294.

10 "KIDO's Diary. 27 June, 1940 (Thurs.), Rainy.

11 "Finance Minister SAHURAUCHI called and
12 opinions were exchanged on the strengthening of the
13 political structure and other problems.

14 "Went to the office at 10:00 where
15 Mr. OKANE, Chief of the General Affairs Section, came
16 to me for consultation upon the matter of the Emperor's
17 visit to HAYAMA.

18 "Talked to Chief Secretary, MATSUDAIRA,
19 regarding the procedure at the time of the Cabinet
20 change. Foreign Minister, ARITA, came to the
21 Palace and we had a talk as follows:

22 "Ambassador Grew recently requested a meeting,
23 saying that he has a proposal for a treaty, which
24 it is desired to conclude, between Japan and America,
25 which will maintain the status quo in the Pacific and

1 prevent forceful changes. However, since it is an
2 extremely delicate matter and since it would be in-
3 advisable at this time to have Japan's activities,
4 including those in the Netherlands, restricted and
5 since it will probably end in something like a revival
6 of the Nine-Power Treaty, prompt acceptance will be
7 difficult. If it were limited to the question of
8 Japanese and American Pacific Islands it might
9 possibly be considered."

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1 MRS. STROOKER: We offer in evidence prose-
2 cution document 1632 GG, being the entry for July 1,
3 1940, in the diary of the accused KIDO, exhibit 178
4 for identification.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1632 GG will receive exhibit No. 1295.

8 (Whereupon, the document above referred
9 to was marked prosecution's exhibit No. 1295 and
10 received in evidence.)

11 MRS. STROOKER: We will now read a part of
12 exhibit 1295:

13 "1 July 1940 Monday (fine)

14 "SURITATE visited me at 9 a.m. Went to the
15 office at ten. The Aide-de-Camp came to see me. He
16 told me the Army's advocacy and views regarding Foreign
17 Minister ARITA's broadcast which was featured in this
18 mornings papers.

19 "Audience from 10:35 to 11:10.

20 "Replied to the Emperor's questions as to the
21 actual facts about the Foreign Minister's broadcast and
22 other things.

23 "At 11:20 talked again with the Aide-de-Camp
24 on the same matter. Before attending the luncheon held
25 by the Manchukuo Emperor I had a talk with the Foreign

1 Minister ARITA and heard from his own lips the truth
2 about the broadcast. After luncheon we met again and
3 the Foreign Minister discussed the following matters:

4 "1. The circumstances of the ARITA broad-
5 cast.

6 "2. The tense situation in Hongkong and so
7 forth -- in regard to this the real facts are not yet
8 clear.

9 "3. Concerning the matter of the status
10 quo in the Pacific proposed by Ambassador Grew, his
11 idea is that the time is not appropriate for a settle-
12 ment regarding territories which would include those
13 of the belligerent nations. However, if it were limited
14 to matters between Japan and America it could be con-
15 sidered."

16 We introduce in evidence prosecution docu-
17 ment 220T being an oral statement by the Japanese
18 Minister for Foreign Affairs to the United States
19 Ambassador to Japan on 28 June 1940 as reported by
20 the Ambassador.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 220T will receive exhibit No. 1296.

24 (Whereupon, the document above referred
25 to was marked prosecution's exhibit No. 1296 and
received in evidence.)

1 MRS. STROOKER: We will now read parts of this
2 document:

3 "Oral Statement by the Japanese Minister for
4 Foreign Affairs (ARITA) to the American Ambassador in
5 Japan (Grew),

6 "Tokyo, June 28, 1940.

7 "I have given the most careful study to the
8 proposal which Your Excellency set forth at our meeting
9 on June 24. In view of present international condi-
10 tions, however, I doubt whether consideration should
11 be given to an exchange of formal notes between our two
12 countries on the basis of a policy of giving effect
13 directly to this proposal. In Europe at the present
14 time hostilities are progressing. Japan is greatly
15 concerned with the effect which the development of the
16 hostilities will have on the status of the possessions
17 and territories in the Pacific area of European
18 belligerent nations. Under this situation, during a
19 transitional period, for the United States and Japan,
20 which countries are not belligerents, to conclude any
21 sort of an agreement concerning these possessions and
22 territories would, it must be feared, give rise to very
23 delicate relationships for Japan which has taken a
24 position of non-involvement. I am, therefore, endeavor-
25 ing at this time to offset and to prevent the spread

1 of the European disturbance to the Pacific Ocean and
2 With that purpose in mind and from that point of view,
3 I believe it to be timely and appropriate to consider
4 whether or not there is no room for discussions of
5 problems concerning only the United States and Japan.

6 "As I stated on the 24th, however, we cannot
7 consider the American proposal dissociated from con-
8 versations which have been held hitherto, and in order
9 to make further progress in our conversations concern-
10 ing your proposal I believe it to be necessary in
11 the first place to be informed of your Government's
12 views with regard to the statements set forth in my
13 oral statement dated June 12th."

14 The Tribunal's attention is invited to
15 Court Exhibit 541 containing a Cabinet decision of
16 26 July 1940. This decision is an outline of Japan's
17 basic national policy. I may point out that on
18 22 July 1940 the YONAI Cabinet had been replaced by
19 the Second KONOYE Cabinet of which the accused
20 HOSHINO and TOJO, and at a later stage also the accused
21 HIRANUMA and SUZUKI were members.

22 Following the Cabinet decision of 26 July
23 1940, contained in Exhibit 541, the Japanese Govern-
24 ment published an official announcement regarding the
25 basic Japanese Government policy on August 1, 1940,

1 and the new Foreign Minister MATSUOKA issued a
2 declaration on the same subject. These two statements
3 are contained in prosecution document 823B (4), being
4 excerpt from court exhibit 777 for identification.

5 We offer prosecution document 823B (4) in
6 evidence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 823B (4) will receive exhibit No. 1297.

10 (Whereupon, the document above referred
11 to was marked prosecution's exhibit No. 1297 and
12 received in evidence.)

13 MRS. STROOKER: We will now read parts of
14 exhibit 1297, top of page 1:

15 "Foreign Office Announcements 1940:

16 "August 1, 1940. Announcement by the Japanese
17 Government.

18 "The world stands at a great historic turn-
19 ing point, and it is about to witness the creation of
20 new forms of government, economy, and culture, based
21 upon the growth and development of sundry groups of
22 states. Japan, too, is confronted by a great trial
23 such as she has never experienced in history. In order
24 to carry out fully at this juncture our national policy
25 in accordance with the lofty spirit in which the

1 country was founded, it is an important task of urgent
2 necessity to us that we should grasp the inevitable
3 trends in the developments of world history, effect
4 speedily fundamental renovations along all lines of
5 government, and strive for the perfection of a state
6 structure for national defense. Accordingly, the gen-
7 eral lines of the country's fundamental national
8 policies have been formulated as follows:

9 "Summary of Fundamental National Policies.

10 "1. Basic Policy.

11 "The basic aim of Japan's national policy lies
12 in the firm establishment of world peace in accordance
13 with the lofty spirit of HAKKO ICHIU, in which the
14 country was founded, and in the construction, as the
15 first step, of a New Order in Greater East Asia, having
16 for its foundation the solidarity of Japan, Manchukuo
17 and China.

18 "Japan will, therefore, devote the total
19 strength of the nation to the fulfillment of the above
20 policy by setting up swiftly an unshakable national
21 structure of her own adapted to meet the requirements
22 of new developments both at home and abroad."

23 We will now continue to read from the
24 bottom of page 3:

25 "August 1, 1940. Statement of Mr. Yosuke

1 MATSUOKA, Minister for Foreign Affairs.

2 "I have always said that the mission of Japan
3 is to proclaim and demonstrate the **KODO** throughout
4 the world. Viewed from the standpoint of internation-
5 al relations, this amounts, I think, to enabling all
6 nations and races to find each its proper place in the
7 world. Accordingly, the immediate aim of our foreign
8 policy at present is to establish, in accordance with
9 the lofty spirit of the **KODO**, a great East Asian chain
10 of common prosperity with the Japan-Manchoukuo-China
11 group as one of the links. We shall thus be able to
12 demonstrate the **KODO** in the most effective manner, and
13 pave the way toward the establishment of an equitable
14 world peace. We should be resolved to surmount all
15 obstacles, both material and spiritual, lying in our
16 path. Furthermore, in concert with those friendly
17 Powers which are prepared to co-operate with us, we
18 should strive with courage and determination for the
19 fulfillment of the ideal and the heaven-ordained
20 mission of our country."

21 The Tribunal's attention is invited to
22 exhibits 550 and 552, containing Foreign Minister
23 MATSUOKA's explanation regarding the conclusion of
24 the Tripartite Pact for the Council in the Imperial
25 Presence and the minutes of the meeting of the Privy

1 Council Investigation Committee on 26 September 1940,
2 discussing this same treaty. In both exhibits the
3 boundaries of the Greater East Asia Co-prosperity
4 Sphere, over which Japan would exert leadership,
5 are outlined by Foreign Minister MATSUOKA. The whole
6 southern area, including the Netherlands Indies, is
7 stated to fall within this Co-prosperity Sphere under
8 the leadership of Japan.

9 The Tribunal's attention is called to Court
10 exhibit 861, being a Japanese Government Cabinet
11 decision of 3 October 1940, concerning the economic
12 measures to be taken for the organization of the Co-
13 prosperity Sphere and for the expansion of this Sphere
14 to southeastern Asia and the southern areas.

15 To show that at this time consideration was
16 given to an expansion through military aggression south-
17 ward we offer in evidence prosecution document 1632HH,
18 being the entry for 10 August 1940 in the accused
19 KIDO's Diary, exhibit 178 for identification.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 1632HH will receive exhibit No. 1298.

23 (Whereupon, the document above referred
24 to was marked prosecution's exhibit No. 1298 and
25 received in evidence.)

1 MRS. STROOKER: (Reading)

2 "10 August 1940 (Saturday) (Cloudy - rainy).

3 "Went to the office at eleven.

4 "At 11:30 conferred with chief Aide-de-Camp
5 re the progress of the campaign against the Chungking
6 regime since the last time.

7 "At 1:45 was received in audience.

8 "The Emperor told me what he and Prince
9 FUSHIMI, Chief of the Navy General Staff, had talked
10 about when they dined together. The Prince said
11 that the Navy at present wishes to avoid the use of
12 force against the Netherlands Indies and Singapore,
13 and that, since at least eight months will be required
14 for preparation after a decision for war is made, the
15 later war comes the better."

16 We invite the Tribunal's attention to court
17 exhibit 628, containing four separate documents, of
18 which the first is dated 28 September 1940 and entitled
19 "Outline of Japanese Foreign Policy," and the second one
20 is dated 4 October 1940 and entitled "Tentative Plan
21 for Policy Toward the Southern Regions." As only a
22 few parts of these documents have been read, we will
23 now, with the Tribunal's permission, read further parts
24 from them.
25

1 We will begin reading at the middle of
2 page 1:

3 "TOP SECRET. Outline of Japanese Foreign
4 Policy. (28 Sept. 1940).

5 "A Policy. We must promptly strengthen
6 the coalition between Japan and the German-Italian
7 Axis based on the world policy, and make, further-
8 more, a rapid improvement in and adjustment of the
9 Japanese-Soviet diplomatic-relations. At the same
10 time we must make effort to realize the general peace
11 between Japan and China by making use of the pressure
12 of Germany and the Soviet Union, and, thereby, prompt
13 the establishment of the Greater East Asia Co-Prosper-
14 ity Sphere. Giving pressure, in this way, to the
15 Anglo-American Axis, accompanying the intensification
16 of Japan's diplomatic machinery, we should offer our
17 good offices at a proper time to Britain in order that
18 she may make peace with Germany, and, moreover, we
19 should carry out an epoch-making adjustment of Japanese-
20 American diplomatic relations. Thus, we expect to es-
21 tablish a peaceful system among Japan, Germany, Italy,
22 the Soviet Union, America and Britain for the recon-
23 struction of world peace.

24 "Outline of the plan

25 "I. Strengthening of coalition between Japan

and the German-Italian Axis.

1 "Should be carried out according to the de-
2 cision made by the council in the Imperial presence
3 on Sept. 18, and the Tripartite Alliance among Japan,
4 Germany and Italy on Sept. 27.

5 "II. Adjustment of Soviet-Japanese Diplo-
6 matic Relations.

7 "Should be carried out according to 'Draft
8 Plan for Adjustment of Soviet-Japanese Diplomatic
9 Relations' in the accompanying paper.

10 "III. Establishment of general Peace between
11 Japan and China.

12 "Should be carried out according to 'the
13 Policy of Rapid Disposition of the China Incident' in
14 the accompanying paper.

15 "IV. Establishment of the Greater East Asia
16 Co-Prosperity Sphere.

17 "(1) In the regions including French Indo-
18 China, Dutch East Indies, Strait Settlement, British
19 Malaya, Thailand, the Philippine Islands, British
20 Borneo and Burma, with Japan, Manchukuo and China as
21 centre, we should construct a sphere in which politics,
22 economy and culture of those countries and regions are
23 combined.

24 "(a) French Indo-China and Dutch East Indies."
25

1 "We must, in the first place, endeavor to
2 conclude a comprehensive economic agreement (including
3 distribution of resources, trade adjustment in and out
4 of the Co-Prosperity Sphere, currency and exchange
5 agreement, etc.), while planning such political coal-
6 itions as the recognition of independence, conclusion
7 of mutual assistance pact, etc.

8 "(b) Thailand. We should strive to
9 strengthen the mutual assistance and coalition in
10 political, economic, and military affairs.

11 "(2) Towards the countries outside the Co-
12 Prosperity Sphere, we must take every measure so that
13 those countries will admit the establishment of our
14 'Co-Prosperity Sphere' and co-operate with it."

15 THE PRESIDENT: We will recess now for fifteen
16 minutes.

17 (Whereupon, at 1445, a recess was
18 taken until 1500, after which the proceed-
19 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mrs. Strooker.

4 MRS. STROOKER: We were reading exhibit
5 628. I ask to be allowed to continue on page 4, the
6 second plan. (heading):

7 "Very Secret. Tentative Plan for Policy towards
8 the Southern Regions. October 4, 1940.

9 "Although the objective of Japan's penetration
10 into the Southern regions cover, in its first stage,
11 the whole area to the west of Hawaii excluding for
12 the time being the Philippines and Guam; French
13 Indo-China, the Dutch East Indies, British Burma and
14 the Strait Settlements are the areas where we should
15 first control. Then, we should gradually advance
16 into the other areas. However, depending upon the
17 attitude of the United States Government, the
18 Philippines and Guam will be included."

19 We will continue to read from the second
20 paragraph on page 6 of the English text onward:

21 "(3) British Malaya and the Strait Settlements.

22 "(a) To avoid the danger that the natural re-
23 sources in the Dutch East Indies may be destroyed,
24 within the possible limits of war strategy, we should
25 use military power in these areas prior to using it

1 in the Dutch East Indies. (There is a necessity that
2 we investigate the strength of Singapore, and also in
3 case we lay our hands on one of the British ter-
4 ritories, whether or not we are strategically forced
5 to extend to the other British territories immediately
6 after.)

7 "(b) We should conclude a military alliance with
8 Thailand, and use Thailand as a rear base. However,
9 in order to delay her in making preparations, it is
10 well to pretend that the diplomatic relations between
11 Japan and Thailand are not secure until we start
12 military action. (In case we consider that the mili-
13 tary alliance cannot be kept in strict secrecy because
14 of the internal affairs of Thailand, there is room
15 for consideration that we should set up a secret com-
16 mittee based on the non-aggression treaty between
17 Japan and Thailand to enable us to enter into a
18 military alliance as soon as we start military action.)

19 "(c) Military operations shall be started simul-
20 taneously with German military operations to land on
21 the British mainland or after the lapse of a proper
22 period. However, we must maintain close contact with
23 Germany, keeping her to act in concert with us.

24 "In case Germany gives up her intention to land
25 on the British mainland, we, maintaining liaison with

1 Germany, should start our military operations at the
2 time when Germany carries out her most severe battle,
3 or when an appropriate period has passed after that.
4 In case Britain should yield to Germany prior to the
5 common cement of our military action, even though
6 the internal situation is not favorable to Japan, we
7 must at least by diplomatic means, on the occasion of
8 peace between Britain and Germany, make Britain re-
9 move the defense installations on Singapore and make
10 her conclude an economic treaty with Japan which will
11 be advantageous to Japan.

12 "(d) In case we are forced to act without
13 relation with our plans in regard to Chiang Kai-shek,
14 by using the pretext that Britain is aiding Chiang
15 Kai-shek by the Burma route, and in case the plans
16 have proved to be a success, by using the pretext
17 that we cannot stand the Oriental peace being
18 threatened by the British military force based in
19 Singapore, we should request Britain to return
20 Hong Kong, British Malaya, and the Strait Settlements
21 (including British Borneo depending upon the circum-
22 stances) to the races in East Asia and upon her re-
23 fusal, start war. (The above pretexts hamper in some
24 ways our relations with the United States, but it is
25 likely that something which we can use as a direct

1 reason, will rise by that time.)

2 "(e) Following the case of French Indo-China, the
3 former territory of Thailand shall be returned to
4 Thailand and the other regions shall be made pro-
5 tectorates. But the Strait Settlements must be
6 placed under the direct rule of Japan.

7 "(f) In the newly established independent
8 countries the enterprise rights of the nationals of the
9 third countries with which we are at peace shall
10 follow the case in French Indo-China.

11 "(4) Dutch East Indies.

12 "(a) While the attack on Singapore is going on,
13 or immediately after it, by showing at the proper
14 time our state for attacking the Dutch East Indies,
15 we should present the following requests, and if they
16 are not admitted, we should use military power.

17 "(i) As the Dutch Government in England, which
18 the Dutch East Indies considers to be its suzerain,
19 does not exist according to international law, the
20 Dutch East Indies shall at once declare its in-
21 dependence for the peace of Greater East Asia, and
22 announce an appropriate name for itself.

23 "(ii) The sovereign and the constitution shall
24 be decided by a committee consisting of several
25 Japanese, Dutch people born there, natives, and

1 Chinese. (It must be so arranged that the total
2 number of the Japanese and natives number more than
3 half of the committee.) Until the sovereign and the
4 constitution are decided, this committee shall carry
5 out the administration.

6 "(iii) The Governor-General and all other
7 Dutch officials of the highest rank shall be forced
8 to resign. But their official titles, honors and
9 pay should be left as they are. The position of the
10 Dutch people other than the aforementioned will be
11 recognized as they are.

12 "(iv) If any of the important natural resources
13 should be destroyed, all the persons connected with the
14 raw material, ten government officials concerned,
15 shall be severely punished as being the responsible
16 persons. (This matter should be announced widely be-
17 forehand by radio and other means.)

18 "We should, if possible, at a proper time before
19 presenting the aforementioned requests, cause an in-
20 dependence movement to stir up among the natives.

21 "(b) If it is considered a better plan from
22 the viewpoint of strategy that we act first with the
23 Dutch East Indies, the time to start the activity
24 against this area would be at the same time as the
25 opening of Germany's military operation to land on

1 the British mainland, or after the lapse of a proper
2 period.

3 "In case that Germany gives up her intention to
4 land on the British mainland, we should start action,
5 choosing an appropriate time before Britain and Ger-
6 many cease hostilities.

7 "(c) After the Dutch East Indies become in-
8 dependent, we must conclude a protective treaty under
9 the name of military alliance, and make her appoint
10 Japanese military and economic advisers who will be
11 in powerful positions. We must lease the places which
12 are important from the military point of view.

13 "(d) The enterprise rights of the nationals of
14 the third countries with which we are at peace shall
15 follow the case in French Indo-China."

16 With the Tribunal's permission, we will
17 turn back to Page 5 to read the paragraph referred
18 to here, which is paragraph (d), near the middle of
19 that page:

20 "(d) In the new independent States, the right
21 of enterprise for the nationals of the third countries
22 with which we are at peace will be recognized. But,
23 they will have to follow the Government's instructions
24 in developing important resources, and in disposing of
25 the products."

1 We will now continue to read where we left
2 off near the middle of Page 9:

3 "(5) British Borneo and Others.

4 "(a) After we have grasped real power in the
5 Dutch East Indies and Singapore, we must take proper
6 measures to get hold of real power in other British
7 territories.

8 "(b) Hongkong is to be returned to China.

9 (However, if it is important strategically, it shall
10 be reconsidered.)

11 "(c) Following what has been stated about French
12 Indo-China, the Dutch East Indies, Malaya, etc., we
13 shall consider locally the administrative system in
14 each place.

15 "(6) Australian Territories.

16 "To be considered separately."

17 We present for identification only prosecu-
18 tion document 587, being an issue of the Yomiuri
19 newspaper for 27 October 1940. The Tribunal's per-
20 mission is requested to substitute a photostat copy
21 of the newspaper exhibit for the original, which has
22 been tendered in evidence, as the original document
23 should, if possible, be returned to its owner.

24 CLERK OF THE COURT: Prosecution's document
25 No. 587 will receive exhibit No. 1299, for identification

1 only.

2 (Whereupon, the document above re-
3 ferred to was marked prosecution's exhibit No.
4 1299 for identification.)

5 MRS. STROOKER: An excerpt from this news-
6 paper, prosecution document 587-A, being an article
7 by the accused OSHIMA, is offered in evidence.

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1 THE PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: If the Tribunal please, I
3 would like to object to the introduction of this
4 document for the reason that it is not an article
5 written by the defendant OSFIMA, in the first place,
6 and in the second place, is that it is not an
7 official document of the Japanese government. I ask
8 that its reception be deferred until the party making
9 the certificate can be called for cross-examination
10 to testify as to the conditions under which the
11 article was created, for the following reason: that
12 it arose while the defendant was in retirement and
13 held no official position in the Japanese govern-
14 ment. I should like to have the editor of the paper
15 who made the certificate here for cross-examination
16 before it is received in evidence.

17 MRS. STROOKER: Your Honor, I would re-
18 quest to be allowed to read the certificate attached
19 to the excerpt.
20

21 THE PRESIDENT: Before you do so, of
22 course it isn't necessary that an accused should
23 be a government official. A man can conspire in
24 his private capacity. You may read the certificate.

25 MRS. STROOKER (Reading):

"AFFIDAVIT

1 "I, Yusai TAKAHASHI, certify that from 1933
2 until December 1945 I was editor-in-chief of the
3 'Yomiuri Shinbun' and that I recognize the
4 attached International Prosecution Section document
5 number 587A as an article written under the name
6 of Hiroshi OSHIMA appearing in the Yomiuri Shinbun
7 of October 27, 1940.

8 "I further certify that the above mentioned
9 article was published under the name of Hiroshi
10 OSHIMA with his consent."

11 Signed Yusai TAKAHASHI.

12 I submit, your Honor, that with that certifi-
13 cate the burden of proof is upon the defense if
14 they wish to call the certifier to prove.

15 THE PRESIDENT: It is quite a common thing
16 if an affidavit is used by one side for that side
17 to be compelled to produce the deponent for cross-
18 examination. Mr. Cunningham is within his rights.
19 We will consider whether we will call him or not.
20 The document is admitted on the usual terms.

21 Will the court reporter please read what Mr.
22 Cunningham said about OSHIMA's attitude towards
23 that article?
24

25 (Whereupon, the official court
reporter read Mr. Cunningham's remarks,

1 as follows:)

2 "MR. CUNNINGHAM: If the Tribunal please, I
3 would like to object to the introduction of this
4 document for the reason that it is not an article
5 written by the defendant OSFIMA, in the first place,
6 and in the second place, is that it is not an
7 official document of the Japanese government. I ask
8 that its reception be deferred until the party making
9 the certificate can be called for cross-examination
10 to testify as to the conditions under which the
11 article was created, for the following reason: that
12 it arose while the defendant was in retirement and
13 held no official position in the Japanese govern-
14 ment. I should like to have the editor of the paper
15 who made the certificate here for cross-examination
16 before it is received in evidence."

17 THE PRESIDENT: Mr. Cunningham, we would
18 like to know whether you are denying the truth of
19 the certificate, whether you allege the certificate
20 contains a false statement, and if so, where is the
21 false statement.

22 MR. CUNNINGHAM: I might explain that by
23 stating the circumstances that --

24 THE PRESIDENT: I want you to answer that.

25 MR. CUNNINGHAM: I claim the certificate

1 doesn't go far enough.

2 THE PRESIDENT: You don't deny any state-
3 ment in it?

4 MR. CUNNINGHAM: It is -- I only state
5 that it is misleading and I would like to explain
6 it.

7 THE PRESIDENT: There is nothing to' explain,
8 as far as I can see. The deponent says he recog-
9 nizes the document as an article written under the
10 name of OSPIFA, and then he goes on to say he certi-
11 fies that the article was published under the name
12 of OSPIFA, with his consent. You don't deny the
13 truth of that, so why do you want him called for
14 cross-examination?

15 MR. CUNNINGHAM: It is my thought that it
16 would affect the probative value of the document,
17 that if I stated that a newspaper reporter went to
18 his home and asked him for an interview and pub-
19 lished the results of the interview.

20 THE PRESIDENT: Well, it's not a case for
21 calling the deponent for cross-examination, but
22 there is nothing to prevent OSPIFA from going into
23 the box and giving his version of the interview, of
24 course, but not while the prosecution are putting
25 their case. So the application to have him called

1 for cross-examination is dismissed.

2 CLERK OF THE COURT: Prosecution's docu-
3 ment No. 587-A, which is excerpt from exhibit No.
4 1299, will be given exhibit No. 1299-A.

5 (Thereupon, the document above re-
6 ferred to was marked prosecution's exhibit
7 No. 1299-A and received in evidence.)

8 MRS. STROOKER: Before I ask the Court to
9 bear with me while I read parts of that exhibit I
10 would ask for a ruling from your Honor to be allowed
11 to withdraw the original newspaper and substitute a
12 photostat copy of it, the complete newspaper, in
13 order to be able to withdraw the original from Court.

14 THE PRESIDENT: You have the Tribunal's
15 permission to do that.

16 MRS. STROOKER: We will now read parts of
17 exhibit 1299-A. At the top of page 1: (Reading)
18 "Activate the Alliance.

19 "Shun Diplomatic Passivity.

20 "One cannot fail to be deeply stirred by the
21 fact that a three-power alliance with Germany and
22 Italy has been concluded an Imperial Rescript has
23 been issued on the subject, and the road which lies
24 ahead of Japan's millions has been made clear."

25 We will continue reading from the beginning of

1 the second paragraph from page two onward.

2 (Reading) "Indeed, from one point of view,
3 as this treaty calls for our cooperation in establish-
4 ing the new order of Germany and Italy in Europe, an
5 additional responsibility is imposed upon us, and we
6 have to make up our minds to this. Furthermore and
7 in particular, as there are nations in the world
8 desirous of maintaining the old system, there will
9 be cases where obstruction is offered to the attain-
10 ment of the common aims of the three-powers. We
11 must not count upon this not happening, but rather
12 upon having to expect it, and the nation, with
13 unswerving resolution, must make careful prepara-
14 tions for this. Unfortunately, in recent years there
15 has been a tendency for all sorts of conflicting
16 opinions to arise within the country and for useless
17 and indeed harmful friction and disputes to develop.
18 If this sort of thing continues in the future, we
19 shall certainly not be able to accomplish our mission
20 in the world; indeed we should realize that the
21 result might unexpectedly imperil the future of the
22 Empire. If in the past there may have been a lack
23 of clarity on some points, now, with the conclusion
24 of this new alliance, the great objective for which
25 we must strive, the unexampled task of founding a

1 new world order stands illuminated, as when a shaft
2 of sunlight pierces a bank of cloud. Our people
3 must not indulge in vain bickerings but stand
4 foursquare, ready to burst through any barrier to
5 the achievement of our aims. When a great work
6 is undertaken, certain attendant risks are to be
7 expected. This year is the 2600th year of the
8 Imperial Dynasty. If we cast our minds back to the
9 founding of the country in the distant days of
10 the Emperor Jumu, or if we consider the two wars
11 with China and Russia in more recent times, we
12 realize that the **YAMOTO** race has never flinched
13 from danger, but has gone steadily forward, staking
14 its destiny on spreading the benefits of the Imperial
15 Way. But never have resolute determination and
16 firm courage been so necessary if our nation is to
17 fulfill its mission as they are today."
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1 We will read the second paragraph on page 3:
2 "To return to the main argument, if there
3 are some who consider the conclusion of the three-
4 power alliance imposes an additional strain on
5 Japanese-American relations, I think this opinion
6 mistaken. Our mission to set up a new order in
7 Greater East Asia and our determination to establish
8 a relationship with the 'Southern countries' con-
9 ducive to mutual harmony and prosperity, are already
10 matters of long standing, and it cannot be supposed
11 that the new alliance has given rise to them. Of
12 course, in some circles in America, there are likely
13 to be those who view the new treaty as a warlike
14 challenge directed against America. But such feelings
15 will certainly not arise in the minds of those who
16 read the treaty with any composure. Furthermore,
17 I suppose nobody knows better than America herself
18 that Japan neither plans to attack America, nor is
19 she prepared to do so. One cannot, therefore, avoid
20 the conclusion that those who maintain this opinion
21 either dislike the idea of a new order being established
22 in East Asia, or have designs upon East Asia them-
23 selves. And I feel we should have to face opposition
24 from these people whether the treaty existed or not.
25 Indeed, should the feeling arise in America that she

1 should obstruct our establishment of a new order in
2 East Asia by force of arms, this alliance is more
3 likely to have the effect of nipping such a sense-
4 less idea in the bud."

5 I will continue reading on the top of page
6 4:

7 "The treaty is now in writing. But its
8 concrete realization is work for the future. The
9 present state of the world being what it is, the
10 treaty must be activated with all speed. And the
11 first essential step to this is to complete our
12 preparations for action rapidly. Now what concrete
13 steps should we take with regard to our position of
14 leadership in Greater East Asia under the treaty?
15 We must establish a relationship of mutual harmony
16 and prosperity with the Netherlands East Indies,
17 French Indo-China, India, the South Sea Islands,
18 etc.; we must then settle the relationship of this
19 area with the new order in Europe; these are the
20 points on which consultation with Germany and Italy
21 is necessary. From the military point of view, too;
22 cooperation is necessary between the nations of the
23 East and the West. We must perfect a plan which
24 will leave no gaps in the bonds of mutual cooperation
25 between the three countries; and in the diplomatic

1 field, too; the three countries must march ahead in
2 perfect concord to protect our common interests
3 against any outside country. Furthermore, as the
4 policy of Germany and Italy for prosecuting the war
5 in Europe is so closely bound up with the establish-
6 ment of a new order in East Asia, discussions will
7 be necessary in this connection also. This being
8 the case, there is a tremendous amount of preliminary
9 work to be done with regard to a relationship with
10 Germany and Italy, and within our own country itself.

11 "Of all things the one most to be avoided
12 is passivity, allowing the other party to make the
13 first move. Particularly in war and diplomacy is
14 this prohibition absolutely imperative. Careful
15 preparations must be made before the event; the
16 world situation must be constantly watched; care
17 must be taken to let slip no opportunities; situa-
18 tions must be handled speedily and decisively. I
19 believe that these must be the principles of our
20 diplomatic policy from now on, and that with this
21 in mind the people must stand solidly behind the
22 government.

23 "The country's policy has already been
24 clearly laid down, so anxiety about the matter is
25 uncalled for; but if by any chance faith in this

1 alliance should waver, or if it should be mismanaged
2 and the treaty become a dead letter, then not only
3 will the dignity of the Empire be impaired, but also
4 the task of setting up a new order will be made more
5 difficult."

6 The Netherlands Indies were publicly included
7 in Japan's Greater East Asia Co-prosperity Sphere in
8 a speech before the 76th Session of the Diet by
9 Foreign Minister Matsuo on 21 January 1941. This
10 speech is contained in prosecution document 1204-E,
11 which we now offer in evidence.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 1204-E will receive exhibit No. 1300.

15 (Whereupon, the document above
16 referred to was marked prosecution's exhibit
17 No. 1300 and received in evidence.)

18 MRS. STROOKER: We will read only the last
19 two paragraphs on page 3 of the English text.

20 (Reading) "Let me now make a brief survey
21 of our relations with the Netherlands East Indies,
22 French Indo-China, and Thailand, which lie within the
23 above-mentioned sphere of common prosperity.

24 "The Netherlands East Indies and French
25 Indo-China, if only for geographical reasons, should

1 be in intimate and inseparable relationship with
2 our country. Therefore, the situation which has
3 hitherto thwarted the development of this natural
4 relationship must be thoroughly remedied and re-
5 lations of good neighborliness secured for the
6 promotion of mutual prosperity. With this in view,
7 early in September last, the Government despatched
8 Mr. Ichizo KOBAYASHI, Minister of Commerce and
9 Industry, to the Netherlands East Indies as a special
10 envoy. Mr. KOBAYASHI was obliged to return to Japan
11 by circumstances preventing his prolonged sojourn
12 abroad, when a definite stage had been reached in
13 his negotiations with the Netherlands East Indies
14 authorities concerning purchases of oil and other
15 urgent questions. As his successor, the Government
16 have recently sent to the Netherlands East Indies
17 Mr. Kenkichi YOSHIKAWA, formerly Minister of Foreign
18 Affairs. He had already resumed the negotiations
19 with the Netherlands East Indies authorities."

20
21 We offer in evidence prosecution document
22 2748-A, being a certificate from the Japanese Foreign
23 Office, certifying prosecution documents 2748-A (1)
24 to 2748-A (20), some of which will presently be
25 introduced in evidence.

THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Prosecution's document
2 No. 2748-A will receive exhibit No. 1301.

3 (Whereupon, the document above
4 referred to was marked prosecution's exhibit
5 No. 1301 and received in evidence.)

6 MRS. STROOKER: We will not read this
7 exhibit.

8 We offer in evidence prosecution document
9 2748-A (11), a telegram from Foreign Minister
10 MATSUOKA to the Japanese delegate in Batavia,
11 dated 28 January 1941, to show that after public
12 inclusion of the Netherlands Indies in the Greater
13 East Asia Co-prosperity Sphere the Japanese Foreign
14 Minister sent out instructions that the fact that the
15 Netherlands Indies formed part of this sphere should
16 henceforth not be publicly denied.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 2748-A (11) will receive exhibit No. 1302.

20 (Whereupon, the document above
21 referred to was marked prosecution's exhibit
22 No. 1302 and received in evidence.)

23 MRS. STROOKER: We will read exhibit No. 1302:

24 "Telegram No. 2524

25 "January 28, 1941 7:00 P.M.

1 "A copy of a telegram from Foreign Minister
MATSUOKA to Delegate YOSHIZAWA in Batavia.

2 "Concerning Delegate YOSHIZAWA's statement.

3 "Cipher Commercial Negotiation No. 24.

4 "Strictly Secret. Very Urgent.

5 "Concerning your telegram, Commercial
6 Negotiation No. 33. It goes without saying that you
7 should absolutely refrain from the usage of such
8 expressions that would deny Japan's hegemony within
9 the Greater East Asia Co-Prosperity Sphere when
10 announcing to outsiders."

11 We offer in evidence prosecution document
12 1632-W (47), the entry for 1 February 1941 in the
13 diary of the accused KIDO, exhibit 178 for identifi-
14 cation, to show that at that time Japanese expansion
15 southward was considered the main problem facing the
16 Japanese government.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1632-W (47) will receive exhibit No. 1303.

20 (Whereupon, the document above
21 referred to was marked prosecution's exhibit
22 No. 1303 and received in evidence.)

23 MRS. STROOKER: We will now read exhibit
24 No. 1303:
25

"Entry from Marquis KIDO's Diary.

"1 February (Saturday) /1941/

"Fine.

"Went to the office at 10 A.M., and spoke with Premier KONOYE. Prince FUSHIMI, Chief of the Naval General Staff, Premier KONOYE and SUGIYAMA, Chief of the Army General Staff came to the Palace together. They were received in audience by His Majesty and reported in outline to the Emperor the policy towards French Indo-China and Thailand decided at the Liaison Conference between Imperial Headquarters and the Government on 30 January. It is a new precedent for the Chiefs of Staff, and the Premier to be received in audience by His Majesty and to report at the same time. Up to the present, important decisions of the Liaison Conferences have been reported to the Throne at Imperial Conferences, and other decisions individually by the government and Imperial Headquarters. However, this time as an intermediate way both parties have presented a report to the Throne at the same time. I was told that in this connection the Premier proposed that an Imperial Conference be held, but as the broad principle had already been approved by the Emperor, they asked Him in this way. At 10:10 the Chief Aide-de-Camp

visited me and spoke approximately as follows:

1 "Re the general principle of the policy
2 towards French Indo-China and Thailand:

3 "The purpose of this plan is to establish
4 the leading position of the Empire in French Indo-
5 China and Thailand by utilizing the opportunity
6 presented by their having accepted our arbitration,
7 in order to contribute to the preparation for the
8 Southward policy. The Navy aims to use Camranh Bay
9 and the air bases near Saigon. But as this cannot
10 be stated openly it has been decided to represent
11 the action taken as aimed at the preservation of
12 trade and communications, and security against war
13 between French Indo-China and Thailand. In case
14 military force is to be used to attain the objective,
15 it has been decided to ask the further approval of
16 the Emperor.
17

18 "At 11:30 Prince KONOYE came to my office
19 after having been received in audience by His
20 Majesty and we talked about policies and other
21 matters.
22

23 "At noon Foreign Minister MATSUOKA came to
24 my office after having been received in audience by
25 the Emperor, and spoke approximately as follows:

 "When the broad policy towards French "

1 Indo-China and Thailand was decided, the Army
2 planned to limit the time to the end of March,
3 but he had opposed it as being impossible, and had
4 made the Army cancel it. He intends to conduct
5 future diplomacy on the following lines as reported
6 today to the Emperor. It is assumed that the
7 liaison conference on the third will decide on the
8 plan which he will take with him on his visit to
9 Germany and Soviet Russia. He will shortly visit
10 Germany and find out the actual state of German
11 policy towards Britain from HI/ T.N. Hitler/,
12 R I/ T.N. Ribbentrop/ and others, and he will make
13 full arrangements with them. At the same time he
14 would like to adjust our relations with the Soviet
15 Union and to contrive a general peace with China
16 by the end of April. Then he intends to concentrate
17 our whole strength toward the South. Without a
18 solution of the Southern question, no real solution
19 of the China Incident can be attained; therefore,
20 the Southern question is an important one, one on
21 which the nation's fate hangs. For this reason, he
22 continued, it would be necessary to bring about a
23 state of things which would enable the whole energy
24 of the nation to be concentrated on it. And so forth.

25 "At 7:30 P.M. Mr. Genki ABE called on me and

1 we talked."

2 .We respectfully call the Tribunal's attention
3 to court exhibit 571, being a report of a conversa-
4 tion between the German Foreign Minister and the
5 accused OSHIMA on 23 February 1941, during which the
6 principles for the construction of Germany's and
7 Japan's spheres after the war were discussed.

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1 We offer in evidence prosecution document
2 4038-D, being a memorandum for the German Foreign
3 Minister concerning German-Japanese economic relations
4 during and after the war. As this document is in the
5 German language only those parts on which the prosecu-
6 tion intends to rely have been translated.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 4038-D will receive exhibit No. 1304.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1304 and received in evidence.)

13 MRS. STROOKER: We will now read exhibit
14 No. 1304:

15 "Berlin, 21 March, 1941

16 "Notes on German-Japanese Economic Questions
17 for the Conversation with the Japanese Foreign Minister.

18 "2 (b). Raw Material Orders through Japan.
19 We shall have to buy raw materials from third countries
20 through Japan and get them into Germany, e.g. rubber and
21 tin from the Netherlands Indies and Thailand; wolfram
22 from South China; tin from ^Uolivia. For this purpose
23 we are ready to place foreign bills of exchange at the
24 disposal of Japan. Thus far, in deference to England
25 and America, and because of her own supply situation

1 and lack of tonnage, and so forth, Japan has done little
2 in this direction. But even where such reasons did not
3 exist, bureaucratic restraints and involved procedural
4 regulations have produced difficulties and delays.
5 On the basis of a promise by MATSUOKA, the Wohlthat
6 Delegation should probably be able to obtain improve-
7 ments.

8 "We are likewise counting on Japanese help with
9 blockaderunners and auxiliary cruisers for the
10 transportation of such raw materials to Germany.

11 "2 (e). New Form of Economic Relations after
12 the War. According to the German conception, the great
13 possibilities which exist for the new order of economic
14 relations between the European-African economic sphere
15 under the leadership of Germany and Italy and the
16 Greater Asiatic economic sphere under the leader of
17 Japan can only be fully realized if matters are carried
18 out in a grand manner. For this reason the freest possible
19 trade exchange should take place. As a matter of principle
20 one should reserve to oneself preferences over third
21 countries. Over-centralization with its unavoidable
22 hindrances should be shunned. Rather, Japan should be
23 able to carry on business and make trade agreements
24 directly with the independent countries in the German-
25 Italian Sphere, and conversely, Germany and Italy with

1 the independent countries in the Japanese Sphere. On
2 the other hand, the Japanese conception according to
3 previous statements of government representatives
4 in Tokyo is that Germany should have trade dealings with
5 countries like China, Indo-China and also the Nether-
6 lands Indies not directly, but only through Japan.
7 No fundamental aggravation of this question has yet
8 occurred, as we have been dependent anyway on Japanese
9 support in imports in our trade during the war with the
10 countries mentioned.

11 "Hereby offered through the State Secretary
12 to the German Foreign Minister.

13 "Signed Wiehl"

14 We respectfully call the Tribunal's attention
15 to Court exhibit 580, being a report of a conversation
16 between the German Foreign Minister and the Japanese
17 Foreign Minister on 29 March 1941, in which once again
18 an attack toward the South and the construction of
19 German and Japanese spheres of domination were discussed
20 and during which the Japanese Foreign Minister expressed
21 his fear that if Japan attacked the Netherlands Indies
22 the Netherlands Indies' oil fields would be set on fire.

23 We offer in evidence prosecution document
24 2137-F, a decision by Imperial Headquarters in April
25 1941. This is one of the group of documents included

1 in prosecution document 2137, which has heretofore been
2 marked exhibit 540 for identification.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 2137-F will receive exhibit No. 1305.

6 (Whereupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 1305 and received in evidence.)

9 MRS. STROOKER: We will now read exhibit No.
10 1305:

11 "'COVER'"

12 "Separate Document 13

13 "Determined by Army and Navy Department, Imperial
14 Headquarters, in early April, SHOWA 16/1941/.

15 "Gist of Imperial Headquarters, Army and Navy
16 Department Policy concerning Measures to be taken in the
17 South.

18 "Determined by Imperial Headquarters, in early
19 April SHOWA 16/1941/.

20 "I. The aims of the measures to be taken by
21 the Empire in the South are to promote the settlement
22 of the China Incident as well as to expand our overall
23 national defensive power in the interests of self-
24 existence and self-defense.

25 "For these purposes,

"1. To establish close and inseparable joint
1 relations in military affairs, politics and economy
2 with French Indo-China and Thailand.

3 "2. To establish close economic relations
4 with the Netherland Indies.

5 "3. To maintain normal commercial relations
6 with the other various countries in the South.

7 "II. The foregoing purposes shall, on
8 principle, be accomplished through diplomatic measures.

9 "III. In executing the foregoing measures
10 resort to arms in the interest of self-existence and
11 self-defence will be taken only when the following instances
12 should occur and when no means for solution of same can
13 be found:-

14 "1. In case the Empire's Self-existence should
15 be threatened by the Embargoes of the United States,
16 Great Britain and the Netherlands.

17 "2. In case the situation of the Anti-Japanese
18 encirclement by the United States, Great Britain, the
19 Netherlands and China becomes so tense that it cannot
20 be tolerated in the interests of national defense."

21 In June 1941, the Japanese attempts to obtain
22 a foothold in the Netherlands Indies, on which subject
23 evidence will be presented hereafter, had failed. The
24 next four documents will show that preparations were
25

1 made to occupy bases in the southern part of French
2 Indo-China, needed for a military advance into the
3 Netherlands Indies.

4 We offer in evidence prosecution document
5 2137-H, a further document from exhibit 540 for identi-
6 fication, being a decision of the Liaison Conference
7 between the government and Imperial Headquarters dated
8 25 June 1941.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2137-H will receive exhibit No. 1306.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit
14 No. 1306 and received in evidence.)

15 MRS. STROOKER: We will now read exhibit No.
16 1306:

17 "Re Acceleration of Measures in the South

18 " Decision of Liaison Conference. "

19 "25 June 1941/Showa 16/

20 "(Memorandum)

21 "Decision of the Imperial Headquarters--
22 Government Liaison Conference, 25 June 1941/Showa 16/

23 "1. In view of the various existing conditions,
24 the Empire shall, in accordance with its fixed policy
25 accelerate its measures towards French Indo-China and

1 Thailand. Expecially, in connection with the return
2 of the Japanese Delegate from the Dutch Indies, a
3 military union shall be established with French Indo-
4 China as soon as possible for the purpose of the stabil-
5 ity and defence of East Asia.

6 "Concerning the establishment of joint military
7 relations with French Indo-China, the essential factors
8 which the Empire should stress upon are as follows:-

9 "a) The establishment or use of Air Bases and
10 Harbour Facilities in specified areas in French Indo-
11 China, and stationing of the necessary troops in the
12 southern part of French Indo-China.

13 "b) Furnishing of facilities in connection
14 with the stationing of Imperial troops.

15 "2. To open diplomatic negotiations for the
16 purpose of the preceding paragraph.

17 "3. In case the French Government or the
18 French Indo-China authorities do not comply with our
19 demands, we shall attain our objective by force of arms.

20 "4. In order to deal with such circumstance
21 es mentioned in the above paragraph, preparations shall
22 be commenced beforehand for the despatching of troops."
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1 The Tribunal's attention is invited to
2 exhibit 639-A, a telegram from Bangkok to Berlin,
3 dated 4 July 1941. With the Tribunal's permission we
4 will read the heading and one paragraph of this
5 exhibit:

6 "To be kept under lock and key.

7 "Telegram (Secret Cipher Process)

8 "Bangkok, July 4, 1941 - 1:05 o'clock

9 "Received July 4, 1941 - 20:10 o'clock

10 "No. 169 of 7/4 Urgent

11 "Secret Affair of the Reich.

12 "Likewise for the Attache Division of the
13 High Command of the Army and Naval High Command.

14 "The Japanese Secretary of Embassy, Furuuchi
15 des Gaimusho, who is on an orientation journey,
16 confidentially informed the Military Attache:"

17 We will now read paragraph 3:

18 "3) Failure of Japan's economic negotia-
19 tions with the Netherlands-Indies would oblige her
20 to take over the oil resources there by force, since
21 her fleet would otherwise be incapable of action.
22 Prior to this there is to be a Japanese military
23 occupation of Indo-China in order to procure a con-
24 centration area and jumping-off ports against the
25 Netherland-Indies. The occupation of Thailand is

1 not envisaged. The preparation and the carrying
2 out of the operations is to be made by the staff
3 of General USHIROKU on the South China Front, in
4 Canton. Conduct of the English forces in Singapore
5 is considered to be purely defensive."

6 We will read the last few lines of the
7 telegram on page 2 of the exhibit:

8 "A telegram of the same tenor was sent to
9 Tokyo.

10 "Schol

11 "Thomas

12 "Note: Through the telegraph office expedited
13 to the Code Sender of the High Command of the Wehr-
14 macht and the Naval High Command.

15 "Telegram Ktr. - July 5, 1941."
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1 The Tribunal's attention is invited to
2 exhibit 588, being a document containing the resolu-
3 tions adopted through the Imperial Conferences of 2
4 July, 6 September, 5 November and 1 December 1941.
5 In the Imperial Conference of 2 July 1941 the principle
6 of Japan's policy was laid down in three points:

7 1. Japan would adhere to the principles
8 of establishing a Greater East Asia Co-prosperity
9 Sphere regardless of any change in the international
10 situation.

11 2. Japan would step up the southward advance
12 in order to establish for herself a basis for self-
13 existence and self-defense.

14 3. Japan would remove all obstacles for the
15 achievement of the foregoing purpose."

16 THE PRESIDENT: Mrs. Strooker, my colleagues
17 and I who have heard you assure you that we regard you
18 as a distinct acquisition to the Bar of this Tribunal.

19 MRS. STROOKER: Thank you, your Honor.

20 THE PRESIDENT: We adjourn now until half
21 past nine tomorrow morning.

22 (Whereupon, at 1600, an adjourn-
23 ment was taken until Wednesday, 4 December,
24 1946, at 0930.)

25 - - - -

4 DECEMBER 1946

I N D E X
Of
WITNESSES
NONE

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
821	1307		Parent document: Collections of the Official Announcements of the Foreign Ministry, No. 14, for 1935	11768	
821B	1307A		Excerpt therefrom; announced on October 31. Item 17. Establishment of the Permanent Conciliation Commission Between Japan and the Netherlands		11768
2623	1308		Statement by Dr. Hubertus J. Van Hook, Lieutenant Governor-General of the Netherlands Indies, Batavia		11771
2611	1309		Book entitled: "The Netherlands Indies and Japan, Battle on Paper, 1940-1941" by Dr. H. J. Van Hook	11776	
2611	1309A		Excerpt therefrom		11717

I N D E X

O F

E X H I B I T S

(Cont.)

<u>Doc. No.</u>	<u>Pres. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2137E	1310		Decision of Liscior. Conference 27 July 1940 /S-O/A 15/ Gist of Main Points in Regard to Dealing with the Situation to Meet the Change in World Conditions		11794
2748A(2)	1311		Demands Against the Dutch Indies		11798
2748A(6)	1312		Telegram from the Japanese Envoy (NOBAYASHI) in Batavia to Foreign Minister MATSUOKA dated 13 September 1940		11813
2748A(8)	1313		Telegram to Foreign Minister MATSUOKA from Delegate NOBAYASHI dated 18 October 1940		11817
2748A(18)	1314		Telegram from MATSUOKA to SAITO dated 3 September 1940		11821
2748A(19)	1315		Telegram from Japanese Commerce Minister NOBAYASHI in Batavia to Foreign Minister MATSUOKA in Tokyo dated 18 September 1940		11822
2748A(20)	1316		Telegram from Delegate SAITO to Foreign Minister MATSUOKA dated 25 October 1940		11835

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2137G	1317		Cabinet Decision 25 October 1940 /SHOWA 15/ Re Measures for Economic Development of Netherlands East Indies. (A further document from exhibit No. 540 previously marked for identification)		11837
2748A(10)	1318		Telegram from Delegate YOSHIZAWA in Batavia to Foreign Minister MATSUOKA dated 27 January 1941		11856
2631	1319		Telegram from Delegate YOSHIZAWA in Batavia to Foreign Minister MATSUOKA dated 6 February 1941		11858
2748A(12)	1320		Telegram from Prime Minister KONOYE to the Japanese Delegate in Batavia, YOSHIZAWA, dated 28 March 1941		11864
2748A(13)	1321		Telegram from Foreign Minister MATSUOKA to the Japanese Delegate in Batavia, YOSHIZAWA dated 23 May 1941		11868
2748A(14)	1322		Telegram from the Japanese Delegate in Batavia, YOSHIZAWA, to Foreign Minister MATSUOKA, dated 7 June 1941		11874

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Fros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2748A(15)	1323		Telegram to the Japanese Delegate in Batavia, YOSHIZAWA, from Foreign Minister MATSUOKA, dated 14 June 1941		11879
2339	1324		Japan Year Book for the Year 1943-1944	11883	
2339D	1324A		Excerpt therefrom (p. 205) (July 28, 1941)		11883
2613	1325		Official Report by the Bureau of East Asiatic Affairs of the Netherlands Indies Government of the Organization of the Japanese Intelligence Service in the Netherlands Indies dated 27 October 1938		11885
2612	1326		Official Report of the Netherlands East Indies Government on Japanese Subversive Activities in the Netherlands Indies	11893	
2612A	1326A		Excerpt therefrom		11893
2612B	1326B		Letter from Mr. KUBO, Tatsuji dated 24 December 1938		11900
2612D	1326C		Letter dated 15 March 1935 (Further excerpt from exhibit No. 1326 for Identification)		11905

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2612C	1326D		Further excerpt from exhibit 1326 and reproduced as an appendix to that exhibit		11907
2612E	1362E		Letter dated 30 May 1940 (Further excerpt from exhibit No. 1326 for identification)		11910
15B	1327		Excerpt from exhibit No. 863 (for identification) being an intercepted telegram sent from Batavia to Tokyo on 2 September 1941. (Sender, YOSHIZAWA, Japanese Consul-General in Batavia)		11915
1585A	1328		List of Questions Drawn up for the Liaison Conference Between the Government and Imperial Headquarters at the End of October, 1941		11923
1559A	1329		Answers to above questions		11928
2612F	1330		Intercepted Telegram sent by the Japanese Consul-General in Batavia to the Japanese Consuls in various places in the Netherlands Indies on 29 November 1941 (Excerpt from exhibit No. 2612)		11938

1 Wednesday, 4 December, 1946
2

3 - - - -

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

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

11 - - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 The Accused:

17 All present except OKAWA, Shumei, who is
18 represented by his counsel.

19 - - - -

20 (English to Japanese and Japanese
21 to English interpretation was made by the
22 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: Major Moore.

4 LANGUAGE ARBITER (Major Moore): Mr. Presi-
5 dent. I intended to present a language correction
6 this morning, but it seems the Language Section is
7 not ready to put it in simultaneously and I could
8 present it tomorrow morning, with the Tribunal's
9 permission.

10 THE PRESIDENT: Mr. Justice Mansfield. Mr.
11 Justice Mansfield, we are all very much concerned
12 with the length of the evidence dealing with conven-
13 tional war crimes, that is, alleged atrocities. It
14 is not very clear yet to what extent the accused
15 can be associated with that particular class of
16 crime. I know that you will contend that the Burma-
17 Thailand Railway was a military project and that the
18 prisoners of war were unlawfully employed thereon.
19 There is also evidence that that particular project
20 was authorized by the Japanese Cabinet, and there
21 was a report to the accused IOJO covering operations
22 on the line and the treatment of prisoners. The
23 accused SHIGEMITSU is also mentioned in that regard.
24 But there are other conventional war crimes with
25 which the association of the accused has not been

1 made so clear up to date. It would, of course, be
2 regrettable should we hear a vast amount of evidence
3 extending over many weeks, only to discover that
4 the accused could not be associated with the matters
5 dealt with. Could you give us any assistance on
6 that?

7 MR. JUSTICE MANSFIELD: If the Tribunal
8 please, the case for the prosecution rests upon
9 several factors. First of all, there are certain
10 admissions in the interrogations of the accused
11 with regard to these war crimes, which have not yet
12 been put before the Tribunal. Secondly, there are
13 certain direct acts of some of the accused with
14 regard to orders, and the formulation of, for ex-
15 ample, the Prisoner of War Punishment Act and the
16 act under which the American aviators who were shot
17 down in Japan were executed without trial.

18 With regard to the accused TOJO, in addition
19 to the office which he held at the relevant time,
20 he directly announced on one occasion that Japan
21 would not follow the Geneva Convention. In addi-
22 tion, he gave instructions to camp commanders, at
23 meetings of camp commanders, which were contrary to
24 the rules of international warfare.
25

THE PRESIDENT: Well, I think you have said

1 enough, Mr. Justice Mansfield, to set our minds at
2 rest about the matter that I mentioned.

3 MR. JUSTICE MANSFIELD: Thank you.

4 THE PRESIDENT: Mrs. Strocker.

5 MRS. STROCKER: Your Honor, Mr. Laverge
6 will proceed with the reading of the documents, if
7 the Court so please.

8 THE PRESIDENT: Mr. Laverge.

9 MR. LAVERGE: Your Honor, there is still
10 one more document belonging to the group of docu-
11 ments which Mrs. Strocker introduced yesterday,
12 which we wish to refer to.

13 We respectfully call the Tribunal's attention
14 to court exhibit 41, being a telegram from Canton
15 to Tokyo, dated 14 July 1941. In this telegram it
16 is stated that the purpose of the occupation of the
17 southern part of French Indo-China is to launch from
18 there a rapid attack as soon as the international
19 situation is suitable. In this connection the first
20 step to be taken is the sending of an ultimatum to
21 the Netherlands Indies.

22 Having presented to the Tribunal a number of
23 documents showing how the idea --

24 THE PRESIDENT: Mr. Levin.

25 MR. LEVIN: Mr. President, we do not wish to

1 unduly object, but we do feel that in the reading
2 of these documents that the documents so speak for
3 themselves and so clear that no lengthy explanation
4 of their contents should be made. It seems it is
5 largely in the nature of a summary. While I appre-
6 ciate that a word or two to indicate the character
7 of the document is quite essential, nevertheless,
8 we do believe that they should be restricted to a
9 minimum.

10 THE INCIDENT: I have already requested
11 the prosecutor to restrict the explanations to a
12 minimum. I think the Dutch section of the prosecu-
13 tion are observing that request.

14 Mr. Lavergo.

15 MR. LAVERGON: Having presented to the
16 Tribunal a number of documents showing how the idea of
17 a Japanese advance to the south gradually came to
18 be the established Japanese policy, we will now
19 present a number of documents dealing with direct
20 relations and negotiations between the Netherlands
21 and Japan in 1940 and 1941. These documents will
22 show how Japan tried to prepare for an advance into
23 the Netherlands Indies by making far-reaching
24 demands upon the Netherlands authorities and by the
25 execution of political pressure and military threats.

1 unduly object, but we do feel that in the reading
2 of these documents that the documents so speak for
3 themselves and so clear that no lengthy explanation
4 of their contents should be made. It seems it is
5 largely in the nature of a summary. While I appre-
6 ciate that a word or two to indicate the character
7 of the document is quite essential, nevertheless,
8 we do believe that they should be restricted to a
9 minimum.

10 THE INCIDENT: I have already requested
11 the prosecutor to restrict the explanations to a
12 minimum. I think the Dutch section of the prosecu-
13 tor are observing that request.

14 Mr. Leverge.

15 MR. LEVERGE: Having presented to the
16 Tribunal a number of documents showing how the idea of
17 a Japanese advance to the south gradually came to
18 be the established Japanese policy, we will now
19 present a number of documents dealing with direct
20 relations and negotiations between the Netherlands
21 and Japan in 1940 and 1941. These documents will
22 show how Japan tried to prepare for an advance into
23 the Netherlands Indies by making far-reaching
24 demands upon the Netherlands authorities and by the
25 execution of political pressure and military threats.

1 At this point we would like to call the Tri-
2 bunal's attention to the fact that the development
3 of Japanese policy to advance southward, on which
4 we feel evidence has been presented, was, as the
5 evidence will show, from month to month reflected
6 in the Japanese demands on the Netherlands Indies and
7 in the Japanese attitude toward the Netherlands.

8 We respectfully call the Tribunal's attention
9 to Exhibit 52 being the Treaty of Judicial Settle-
10 ment, Arbitration and Conciliation between Japan
11 and the Netherlands, signed at The Hague on 19
12 April 1922. This exhibit has not yet been read
13 to you, with the Tribunal's permission, proceed to
14 read a few relevant parts thereof.

15 At this point we wish to add that this is one
16 of the prosecution's basic documents, admitted at
17 the beginning of the prosecution's case. At that
18 time copies in English and Japanese were distributed
19 to the defense. A few days ago, however, it was
20 noticed that the Japanese translation was incorrect.
21 A new Japanese translation was, therefore, prepared,
22 which was distributed to the defense yesterday.

23 We will read the heading of the treaty:

24 TREATY BETWEEN THE KINGDOM OF THE NETHERLANDS
25

and

1 HIS MAJESTY THE EMPEROR OF JAPAN,

2 "Equally desirous of strengthening the friendly
3 relations which have existed between the Netherlands
4 and Japan for centuries,

5 "Firmly resolved in no case to seek a settle-
6 ment other than by pacific means of disputes of any
7 character which may arise between their two countries,

8 "Have decided to conclude a Treaty for that
9 purpose."

10 I will now read Article 1.

11 "All disputes of any character arising between
12 the High Contracting Parties, which it has not been
13 possible to settle amicably within a reasonable
14 period by the normal diplomatic procedure, shall be
15 justiciable, by common accord between the Parties or
16 at the request of either one of them, by a Permanent
17 Conciliation Commission to be established under the
18 provisions of the present Treaty and to exercise its
19 functions in accordance therewith. Disputes which in
20 the opinion of both Parties are of a juridical
21 character shall be submitted to the Permanent Con-
22 ciliation Commission only by common accord between
23 the Parties."
24

25 I will now read Article 11.

"The Permanent Conciliation Commission for which

1 the present Treaty provides shall be composed of
2 five members, who shall be appointed as follows,
3 that is to say: the High Contracting Parties shall
4 each appoint one of their own nationals to be a
5 Commissioner, and the remaining three Commissioners
6 shall be chosen by common accord from nationals of
7 third Powers in such wise that each is of a dif-
8 ferent nationality, one of the latter to be appointed
9 by the High Contracting Parties as President of the
10 Commission."

11' Next we will read Article 25.

12 "The present Treaty shall come into force as
13 soon as the ratifications have been exchanged and
14 shall remain in force for a period of five years as
15 from its coming into force. If not denounced six
16 months before the expiry of the said period, it
17 shall be deemed to be tacitly renewed for further
18 successive periods of five years.

19 "Any proceedings of whatever kind under the
20 present Treaty which may be pending, at the time of
21 the expiry of the same, before the Permanent Con-
22 ciliation Commission, the Permanent Court of Inter-
23 national Justice or the Arbitral Tribunal shall con-
24 tinue until they are concluded."

25 Lastly, we shall read the protocol of signature.

1 "At the moment of proceeding to the signature
2 of the Treaty of Judicial Settlement, Arbitration
3 and Conciliation between the Netherlands and Japan,
4 the undersigned Plenipotentiaries declare themselves
5 agreed as to the following:

6 "(1) The aforesaid Treaty shall be applicable
7 to all disputes which may arise between the two
8 countries not directly affecting the interests of
9 third Powers.

10 "(2) Should the legal situation of Japan in
11 relation to the Permanent Court of International
12 Justice be modified as a result of the withdrawal of
13 Japan from the League of Nations, notice of which
14 was given on March 27th, 1933, becoming definitive,
15 the High Contracting Parties shall proceed, at the
16 request of the Japanese Government, to enter into
17 negotiations in order to decide whether it is neces-
18 sary to amend the provisions of the said Treaty
19 relating to the said Court. For the period of such
20 negotiations the application of the said provisions
21 shall be suspended. Nevertheless, proceedings
22 pending before the Court at the time of the Japanese
23 Government's request shall continue until a con-
24 clusion is reached and the provisions of the Treaty
25 shall continue to be applicable to decisions of the

Court in such cases."

1
2 This Treaty was ratified on 12 August 1935, as
3 may be seen on page 1 of exhibit 52.

4 The permanent Conciliation Commission mentioned
5 in Article 1 of the Treaty was appointed on November
6 1935. This is shown in prosecution document 821-B,
7 an excerpt from prosecution document 821.

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1 We present for identification only,
2 prosecution document 821.

3 The excerpt therefrom, prosecution docu-
4 ment 821-B, is offered in evidence.

5 CLERK OF THE COURT: Prosecution's document
6 No. 821 will receive exhibit No. 1307 for identification
7 only.

8 (Whereupon, the document above referred
9 to was marked prosecution's exhibit No. 1307
10 for identification.)

11 THE PRESIDENT: The excerpt is admitted on
12 the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 821-B, said excerpt, will receive exhibit No. 1307-A.

15 (Whereupon, the document above
16 referred to was marked prosecution's exhibit
17 No. 1307-A, and was received in evidence.)

18 MR. LAVERGE: We will now read exhibit 1307-A.

19 "Collections of the Official Announcements
20 of the Foreign Ministry, No. 14, for 1935.

21 "(Announced on 31 October.)

22 "Item 17. Establishment of the Permanent
23 Conciliation Commission between Japan and the
24 Netherlands.

25 "The ratifications of the Japan-Netherlands

1 Treaty of Judicial Settlement, Arbitration, and Con-
2 ciliation, which had been signed at The Hague on
3 19 April Showa 8 (1933), were exchanged at The Hague
4 on the 12th of August this year. According to
5 Article 12 of the Treaty, a Permanent Conciliation
6 Commission, composed of 2 members, representing each
7 of the signatory powers, and 3 other members from
8 third powers, is to be established as soon as possible
9 after the Treaty comes into force. In pursuance of
10 this, the Governments of the two countries consulted
11 each other privately in regard to the organization
12 of the Commission. The formalities were carried out
13 very smoothly and formalities for the appointments
14 of Baron Kiichiro HIRANUMA for Japan and of Beelaerts
15 van Blokland (Netherlands Foreign Minister at the
16 time of the conclusion of the Treaty and presently
17 Vice-President of the Privy Council) for the Nether-
18 lands, have been completed. Informal acceptance of
19 appointments have been already obtained from the can-
20 didates for third power members, namely, Max Hueber
21 (a Swiss, President of the International Red Cross
22 Committee and ex-President of the International Court
23 of Justice) to be Chairman of the Commission, Raoul
24 Fernandez (a Brazilian, ex-Ambassador to Belgium),
25 and Johann Ludwig Gorwinkel (a Norwegian, ex-Premier

1 and ex-Foreign Minister) to be the other third power
2 members. Accordingly, the organization of the Com-
3 mission is expected to be formally completed on
4 November 1. This Commission is a permanent organiza-
5 tion charged with the duty of settling by conciliation
6 all disputes between Japan and the Netherlands which
7 cannot be settled by diplomatic means. This type of
8 Commission is the first one for Japan."

9
10 The Treaty of Judicial Settlement, Arbitra-
11 tion and Conciliation having come into force on
12 12 August 1935 remained binding on both parties until
1 further five years if not denounced by one of the
1 contracting parties six months prior to that date.

1 We respectfully invite the Tribunal's atten-
1 tion to the fact that by its order, appearing in
1 Paper No. 387, it has taken judicial notice of the
1 fact that on 12 January 1940 the Japanese Government
1 informed the Netherlands Government of the abrogation
2 of this Treaty.

21 We offer in evidence prosecution document
22 2623, being a sworn statement by the Lieutenant-
23 Governor-General of the Netherlands Indies, Dr. H. J.
24 van Look, in which he deposes that a number of facts
25 related by him in a book of which he is the author are

1 true and correct.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 2623 will receive exhibit No. 1308.

5 (Whereupon, the document above
6 referred to was marked prosecution's exhibit
7 No. 1308, and was received in evidence.)

8 MR. LAVERGE: We will now read certain parts
9 of exhibit 1308, starting at the top of page 2.

10 "Dr. Hubertus J. VAN MOOK, Lieutenant-
11 Governor-General of the Netherlands Indies, living
12 at Batavia, duly sworn, states:

13 "I am 52 years of age, of Dutch nationality
14 and born at Semarang, Netherlands Indies on May 30th,
15 1894. My permanent home is Batavia, where I am at
16 present living.

17 "In 1944 I published in New York with W. W.
18 Norton & Company, Inc. a book titled 'The Netherlands
19 Indies and Japan', subtitled 'Battle on Paper, 1940-
20 1941'. The same book was published in the same year
21 in London with George Allen & Unwin Ltd., with a
22 subtitle 'Their relations 1940-1941'.

23 "I was at that time Minister of the Colonies
24 in the Netherlands Government, temporarily residing
25 at London. "

1 "Formerly I had served in the Netherlands
2 Indies in several functions, joining the staff of
3 the Department of Economic Affairs in 1934. On
4 August 31st, 1937 I was appointed Director of Economic
5 Affairs ('Director' in the Netherlands Indies is
6 the head of a civil department). In August, 1940, I
7 was appointed temporary Minister Extraordinary and
8 Plenipotentiary and Chairman of the delegation for
9 the economic negotiations with Japan.

10 "In these functions I have had intimate
11 knowledge concerning the relations between the Nether-
12 lands in Asia and Japan during the last eight years
13 before the outbreak of war in the Pacific. This
14 factual knowledge has been laid down in my afore-
15 mentioned book. The facts mentioned therein have
16 come to my knowledge either as I witnessed them my-
17 self or out of official and other documents, to which
18 I had access in my aforementioned functions. All
19 the documents and speeches quoted in the book have
20 been carefully copied or translated from true copies
21 in my possession or available at the Ministries of
22 the Colonies and of Foreign Affairs in London and at
23 the Netherlands Embassy in Washington.

24 "I state and depose that in my aforementioned
25 book the facts have been given according to the truth."

1 "Especially I am able to state to have
2 personal knowledge of the following facts mentioned in
3 my book on the cited pages."

4 The Tribunal may want to consider the facts
5 of which Dr. van Hook states to have personal know-
6 ledge, and which are given on pages 3 to 5 of the
7 English text. We will not read this part, but will
8 continue reading at the bottom of page 5.

9 "Furthermore I wish to state that the pub-
10 lications in my book of the following documents are
11 full, true, complete and accurate copies of the origi-
12 nals or full, true, complete and accurate translations
13 of same. Only the superscriptions and signatures
14 have been omitted in the fully reproduced documents."

15 The Tribunal's attention is invited to the
16 list of documents which Dr. van Hook states to be
17 correctly reproduced in his aforementioned book.
18 We will not read the list.

19 THE PRESIDENT: Mr. Levin.

20 MR. LEVIN: Mr. President, I cannot say
21 at this time whether or not defense would require the
22 appearance of the witness for cross-examination, and
23 I would like to reserve that right.

24 THE PRESIDENT: The position is somewhat
25 unusual.

1 MR. LEVIN: And in the alternative, if we
2 do not make that request, we might make a request
3 for interrogatories of this witness -- of this
4 individual.
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1 THE PRESIDENT: Captain Prooks.

2 MR. PROOKS: I would like to raise objection
3 to this document 2623, exhibit 1308, on pages 3 and
4 pages 4 and following that, the similar material that
5 is put in the book. Now, I believe that that should
6 be stricken and disregarded because it is a persiflage
7 of facts mentioned in the book without going into
8 the facts and it is very peculiar. I don't think the
9 book has been placed before the Court itself and
10 since this is more of an index to the book, the page
11 numbers in it, I can't see that it would have any pro-
12 bative value and I think should be extruded from con-
13 sideration, from the record. If the prosecution had
14 seen that this was of great importance I believe they
15 would have read these points in there and inferences
16 that might be drawn from some simple statement might
17 not be brought out at all from the statements in the
18 book itself.

19 THE PRESIDENT: We will hear what Mr. Laverge
20 has to say as to the extent to which he proposed to
21 use the book and how.

22 MR. LAVERGE: Your Honor, apart from a few
23 short paragraphs here and there which give specific
24 facts, the main purpose in using this book is to put
25 before the Tribunal the different memoranda which have

1 been exchanged between the Japanese and Netherlands
2 authorities in 1940 and 1941.

3 THE PRESIDENT: Well, all I can say is we
4 will consider an application to have the author called
5 for cross-examination.

6 MR. BROOKS: Under the prosecution's state-
7 ment, your Honor, I believe it should be objected to.
8 It is not the best evidence to show the agreements or
9 exchange of notes as a summary from the book and it
10 should be objected to on this ground.

11 THE PRESIDENT: The strict rules of evidence
12 have no application, but naturally we will look for
13 the best evidence available.

14 MR. LAVIRNE: I would like to draw your
15 Honor's attention to the fact that vanHook states
16 that all the documents have been carefully and correctly
17 copied in his book. That is in his affidavit at the
18 bottom of page 5.

19 We offer, for identification only, prosecution
20 document No. 2611, being a book by Dr. H. J. van Hook
21 entitled "The Netherlands Indies and Japan, Battle on
22 Paper, 1940-1941," and published in the United States
23 in 1944.

24 CLERK OF THE COURT: Prosecution's document
25 No. 2611 will receive exhibit No. 1309 for identification

1 only.

2 (Whereupon, the document above referred
3 to was marked prosecution's exhibit No. 1309 for
4 identification.)

5 MR. LAVIRGE: We offer in evidence excerpts
6 from the aforementioned book, prosecution document
7 2611.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution's document
10 No. 2611, an excerpt from the foregoing, will be given
11 exhibit No. 1309A.

12 (Whereupon, the document above referred
13 to was marked prosecution's exhibit No. 1309A
14 and received in evidence.)

15 THE PRESIDENT: Mr. Levin.

16 MR. LEVIN: Mr. President, I would like to
17 inquire whether or not the entire book is available
18 and if it is we would like to have it produced for,
19 at least, examination by the defense.
20

21 THE PRESIDENT: A book purporting to be that
22 book has been tendered and marked for identification --
23 tendered to be marked for identification. We assume
24 it is the book.

25 MR. LAVIRGE: As the events related by
Dr. van Hook cover the complete Japanese-Netherlands

1 relations in the years 1940 and 1941 and there are
2 several other documents on this subject which the
3 prosecution intends to introduce as far as possible
4 in chronological order, we will at this stage read only
5 a part of this book, exhibit 1309A, and read further
6 parts of it at the appropriate stage in the course of
7 the presentation of our evidence.

8 I will now begin reading at the top of page 5 of
9 exhibit 1309A. I read:

10 "In the following account the principal
11 documents exchanged between the governments and their
12 representatives are given in their full original text --
13 as far as they were in English -- or in an accurate
14 translation. It seemed better to err on the side of
15 circumstantiality than to create the impression of
16 reticence. Errors in grammar, idiom and orthography
17 are copied from the originals, which were written in
18 a language foreign to both parties.

19 "Relations between the Netherlands Indies and
20 Japan presented no special difficulties until after
21 the world crisis of 1929. In 1899 a law had recorded
22 the Japanese the status of 'Europeans' in the Indies;
23 in 1912 a general trade treaty had put their activities
24 in that country with regard to trade, business, shipping,
25 and immigration on the footing of the usual most-

1 favoured-nation clause.

2 "The Japanese were late in the business field;
3 their participation in tropical agriculture and mining
4 remained very limited, not because of any opposition,
5 but because others had got the start on them. In
6 imports and exports, banking and shipping their share
7 was better and gradually increasing, but until about
8 1929 there were no disturbing developments

9 "When the world economic crisis began, this
10 situation changed rapidly and materially. Japan's
11 share in Netherlands Indies imports rose from 11 per
12 cent in 1929 to 30 per cent in 1935, whereas in the
13 same period those percentages for the Netherlands,
14 the rest of Europe, and America dropped from 20 to 13
15 per cent, from 28 to 23 per cent, and from 13 to 8 per
16 cent respectively. At the same time, the share of
17 Japan in Netherlands Indies exports was only 5 per
18 cent in 1935, as against 22, 18, and 15 per cent
19 respectively for the Netherlands, Europe, and America."
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1 The first note containing Japanese demands
2 upon the Netherlands Indies was delivered on 2
3 February 1940, shortly after the abrogation of the
4 aforementioned Arbitration Treaty. We will now read
5 this note, continuing to read from exhibit 1309-A,
6 starting at the second paragraph on page 6:

7 "Note, handed by Mr. ISHII, Japanese minister
8 at The Hague to Mr. Van Kleffens, Netherland Minis-
9 ter of Foreign Affairs, on the second of February,
10 1940.

11 "Chief items desired to be agreed upon between
12 Japan and the Netherlands.

13 "I. MATTERS RELATING TO COMMERCE.

14 "(1) Japanese side:

15 "(a) Japan is to refrain, as far as circum-
16 stances permit, from adopting any measure, pro-
17 hibiting or restricting the exportation of its
18 principal goods required by the Netherlands Indies.
19 (It is to be understood that the exportation may
20 sometimes be difficult for economic reasons.)

21 "(b) Japan is to adopt such measures as
22 deemed to be appropriate with a view to furthering
23 the importation of goods from the Netherlands Indies.

24 "(2) Netherlands Side:

25 "(a) The Netherlands Indies is likewise to

1 refrain from adopting any measure prohibiting or
2 restricting the exportation of its principal goods;
3 the prohibitive or restrictive measures, to which
4 the exportation of certain goods has already been
5 subjected are to be so modified as to render the
6 flow of goods easier between Japan and the Nether-
7 lands Indies.

8 "(b) The existing measures of import restric-
9 tions in respect of Japanese goods are to be abolished
10 or moderated.

11 "II. MATTERS RELATING TO ENTRY.

12 "(1) Japanese Side:

13 "Japan is, as at present, to adopt no
14 restrictive measures in future in respect of the
15 entry of employees of Netherlands firms in Japan.

16 "(2) Netherlands Side:

17 "The existing Foreigners Labour Ordinance
18 in the Netherlands Indies is to be abolished or
19 moderated.

20 "III. MATTERS RELATING TO ENTERPRISE AND
21 INVESTMENT.

22 "(1) Japanese Side:

23 "(a) Japan is to afford, within its influence
24 and competence, reasonable protection to Netherlands
25 interests in Manchukuo and China."

1 "(b) Facilities are to be afforded in respect
2 of new Netherlands investments in Japan; its offer
3 of investment to Manchukuo and China is to be re-
4 commended by Japan to be accommodated, to the govern-
5 ments concerned.

6 "(2) Netherlands Side:

7 "(a) Further facilities are to be extended
8 to the existing Japanese enterprises in the Nether-
9 lands Indies.

10 "(b) Facilities are to be granted to new
11 enterprises, including those under joint control
12 of Japan and the Netherlands.

13 "IV. CONTROL OF PRESS AND OTHER PUBLICATIONS
14 OF ANTI-JAPANESE NATURE.

15 "The anti-Netherlands tendency, if any, of
16 the press, magazines and other publications in
17 Japan on one hand, and the anti-Japanese tendency of
18 the press, magazines and other publications in
19 Netherlands and the Netherlands Indies on the
20 other are to be placed respectively under strict
21 control in conformity with friendly spirit prevail-
22 ing between Japan and the Netherlands.

23 "A suitable reply was still under considera-
24 tion when, on the tenth of May, 1940, the Nether-
25 lands were attacked and invaded by Germany!"

1 "On May 18, the Japanese Consul-General at
2 Batavia visited the Director of Economic Affairs and
3 delivered condolences, requests, and veiled threats
4 almost in one and the same breath. On May 20, Foreign
5 Minister AKITA handed the following note to the
6 Netherland Minister in Tokyo:" --

7 MR. LOGAN: If the Tribunal please, we
8 fail to see how these agreements, or proposed agree-
9 ments, between Japan and the Netherlands are material
10 or relevant to any issue in this case. As I under-
11 stand the Indictment, there is no charge that Japan
12 broke any of these agreements. As a matter of fact,
13 I think in the opening statement of this phase it
14 appeared that the Netherlands declared war on Japan.

15 THE PRESIDENT: Formally. We know nothing
16 of the merits of that yet.

17 MR. LOGAN: That's right, your Honor. It
18 was formally done, but there is no charge in the
19 indictment with respect to any breach of any economic
20 agreements, as I understand it. Furthermore, it
21 doesn't constitute a crime.

22 THE PRESIDENT: This could only be evidence
23 of aggression.

24 MR. LOGAN: I fail to see how it would be
25 any charge of aggression, your honor, if both parties

1 voluntarily entered into this agreement, and there
2 is no charge otherwise. Not only is there no
3 charge, but there is no evidence that it was any-
4 thing otherwise than a voluntary agreement.

5 THE PRESIDENT: By virtue of agreement you
6 might get into a position to wage war aggressively
7 with great effect, but Mr. Laverge had better tell us
8 what the point of the evidence is.

9 MR. LAVERGE: Your Honor, this is not a
10 matter of agreement. What we are presenting here to
11 the Tribunal are demands by Japan of the Netherlands
12 Indies. These demands continued and increased for
13 a considerable time, and we intend to show that
14 through these demands an aggressive war was prepared
15 and the demands formed an integral part of the plans
16 for aggressive war.

17 MR. LOGAN: I fail to see how that would
18 be material or relevant, your Honor to either Counts
19 1, 4, 5, 14 and 32, such as they are proceeding
20 under in this phase. Certainly it can't be con-
21 tended that Japan conducted an aggressive war
22 against Netherlands, whether it was formally declared
23 or not, but it certainly is a fact that Japan never
24 declared war on the Netherlands; that war was
25 declared on Japan, and what resulted after December

1 8, 1941, certainly cannot be considered as an
2 aggressive war, or a crime on the part of Japan.

3 THE PRESIDENT: Britain's position was
4 similar. Japan did not declare war on Britain.
5 Britain declared war on Japan, but under what cir-
6 cumstances. However, this is developing into an
7 argument on the main points. It has got no real
8 bearing on the question of evidence. The evidence
9 now objected to is tendered as evidence of aggression
10 or of measures taken by Japan to insure effective
11 aggression. We will have to consider it in that
12 light. We may see fit to reject it eventually, but
13 at the present stage I don't think we can do so.

14 MR. LOGAN: If the Tribunal please, may I
15 just say this, that if I recollect correctly your
16 honor stated on one occasion that economic aggression
17 was not a crime.

18 THE PRESIDENT: Unless it was associated
19 with aggressive war and directed to the waging of
20 aggressive war. The economic aggression referred to
21 on that occasion was that of America and Britain in
22 China. It was not associated with any war. There
23 was no suggestion that it was, nor are we trying
24 British or Americans. If a man is being tried for
25 burglary, it is no answer to say he shouldn't be

1 tried because there was another burglar who is not
2 being tried. I don't suggest for one moment there
3 was anything to take exception to the -- any justi-
4 fication for any exception being taken to the at-
5 titude of Britain or America in China. We have
6 open minds on the responsibility of the accused here.

7 MR. LOGAN: I had intended, your Honor, to
8 complete the statement which you have made to the
9 effect that economic aggression was not a crime when
10 accompanied with aggressive war.

11 THE PRESIDENT: We cannot associate the
12 evidence offered now with that we have already re-
13 ceived as to the attitude of the Japanese towards
14 the Dutch East Indies.

15 MR. LOGAN: I had wished, your Honor, to
16 point out the distinction between the former case
17 and the present case. Here we have a case, even if
18 we assume that there was economic aggression up to
19 December 8, 1941, from that point on there can be
20 no charge of an aggressive war on the part of Japan,
21 because --

22 THE PRESIDENT: On the evidence I could
23 give you an answer lasting an hour, but it wouldn't
24 be the time. I have not ruled on your objection, but
25 I do so now. The objection is overruled.

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1 MR. LAVERGE: For the purposes of the
2 record, your Honor, we would like to point out that
3 the evidence we present relates more especially to
4 Counts 1, 4, 5, 14, and 32, but is in no way restricted
5 to those counts.

6 I continue reading from exhibit 1309A, at
7 the top of page 8:

8 "On May 20, Foreign Minister ARITA handed the
9 following note to the Netherlands Minister in Tokyo:

10 "Note handed to the Netherlands Minister in
11 Japan, General J. C. Pabst, by the Japanese Foreign
12 Minister, Mr. ARITA, on the twentieth of May, 1940.

13 "I have the honour to refer to my conversation
14 with Your Excellency on the 16th May concerning the
15 products of the Netherlands East Indies, in the
16 course of which you informed me that you had received
17 a telegram from the Governor-General of the Nether-
18 lands East Indies to the effect that the Government-
19 General of the Netherlands East Indies had no intention
20 of placing any restrictions in future on the exportation
21 to Japan of mineral oil, tin, rubber and other raw
22 materials which are of vital importance to Japan,
23 and that it was the desire of the same Government-
24 General to maintain the general economic relations
25 between Japan and the Netherlands East Indies as close

1 as ever.

2 "While informing Your Excellency that the
3 Japanese Government fully appreciate the communi-
4 cation of the Governor-General of the Netherlands
5 East Indies, I wish to point out that, in addition
6 to mineral oil, tin and rubber, there are many other
7 kinds of commodities hitherto imported into Japan
8 from the Netherlands East Indies which are of vital
9 importance to this country.

10 "It is, therefore, requested that the Governor-
11 General of the Netherlands East Indies would give
12 a definite assurance that, for the time being at
13 least, the quantities of the articles enumerated
14 in the attached list shall be exported to Japan each
15 year from the Netherlands East Indies under any
16 circumstances that may arise in the future.

17 "In view of the above-mentioned telegraphic
18 communication from the Governor-General of the
19 Netherlands East Indies and the wide powers with
20 which he has been vested since the outbreak of hostili-
21 ties between the Netherlands and Germany (vide Your
22 Excellency's note addressed to me under date of the
23 11th May), I shall be grateful if Your Excellency will
24 be good enough to inform me in writing as soon as
25 possible that the Governor-General of the Netherlands

1 as ever.

2 While informing Your Excellency that the
3 Japanese Government fully appreciate the communi-
4 cation of the Governor-General of the Netherlands
5 East Indies, I wish to point out that, in addition
6 to mineral oil, tin and rubber, there are many other
7 kinds of commodities hitherto imported into Japan
8 from the Netherlands East Indies which are of vital
9 importance to this country.

10 It is, therefore, requested that the Governor-
11 General of the Netherlands East Indies would give
12 a definite assurance that, for the time being at
13 least, the quantities of the articles enumerated
14 in the attached list shall be exported to Japan each
15 year from the Netherlands East Indies under any
16 circumstances that may arise in the future.

17 In view of the above-mentioned telegraphic
18 communication from the Governor-General of the
19 Netherlands East Indies and the wide powers with
20 which he has been vested since the outbreak of hostili-
21 ties between the Netherlands and Germany (vide Your
22 Excellency's note addressed to me under date of the
23 11th May), I shall be grateful if Your Excellency will
24 be good enough to inform me in writing as soon as
25 possible that the Governor-General of the Netherlands

1 East Indies accedes to the above-mentioned request
2 of the Japanese Government."

3 I will not read the enumeration of articles
4 which Japan required.

5 I continue reading at the middle of page 9:

6 "Note addressed to Mr. H. ARITA, Japanese
7 Minister of Foreign Affairs, by the Netherlands
8 Minister in Tokyo on June 6, 1940. (Translation
9 from the original in French.)

10 "With reference to the correspondence between
11 the Netherland Government and the Japanese Government
12 on the subject of the improvement of the economic
13 relations between the two countries, I have the honour
14 to inform Your Excellency that the Netherland Govern-
15 ment highly appreciate the Japanese Government's
16 expression of sympathy with the difficult situation
17 in which the Netherlands find themselves as a conse-
18 quence of the war. My Government moreover appreciates
19 that the memorandum, which was to be presented by
20 the Japanese Minister at The Hague, and which was
21 on the 18th of May 1940 presented to the Governor-
22 General of the Netherlands Indies by the Japanese
23 Consul-General at Batavia, as further amplified by
24 Your Excellency's note dated May 20th, 1940, No. 1006,
25 was clearly actuated by concern, lest, in these difficult

1 times, a lack of contact and deliberation should
2 give rise to or protract tensions to the detriment
3 of the traditional friendly relations which, for
4 three centuries, so fortunately prevailed between
5 the Netherlands and Japan. The Netherland Government
6 agree with the Japanese Government on the necessity
7 of combating incorrect reports and misdirected
8 propaganda. This aim will be best furthered by
9 contacts made in an atmosphere of frankness and
10 objectivity.

11 "Her Majesty's Government see no cause whatso-
12 ever for serious concern about the relations between
13 the Netherlands and Japan and, more particularly,
14 about the relations between the Netherlands Indies
15 and Japan.

16 "In this respect it may serve to recall that
17 the economic relations between the two countries
18 were settled on the 27th of April 1937 by the so-
19 called Hart-ISHIZAWA agreement. On both sides promises
20 were made, and a number of apportionments were agreed
21 upon, whilst on other points and on the subject of
22 the application of the agreement, verbal as well as
23 written negotiations were continuously carried on.
24 Throughout these deliberations a spirit of goodwill
25 predominated. I may, for instance, mention that

1 in 1938 the Netherland Government thought fit to
2 draw the attention of the Japanese Government to
3 the fact that the prospects opened by the Hart-
4 ISHIZAWA agreement in respect of the gradual adjust-
5 ment of the balance of trade between the Netherlands
6 Indies and Japan and of Japan's promise to buy,
7 whenever possible, larger quantities of indigenous
8 products like sugar, still fell far short of their
9 realization. This step was dictated by the funda-
10 mental importance of these exports for the native
11 population. The importation of many Japanese articles
12 has its foundation in the purchasing power of this
13 population.
14

15 "Notwithstanding this none to satisfactory
16 outcome for the Netherlands Government, my Govern-
17 ment have accepted the explanation given by the
18 Japanese Government that the China Incident had a
19 considerable influence on economic conditions in
20 Japan as well as on the fulfillment of this part
21 of the Hart-ISHIZAWA agreement. In judging the results
22 realized through the Hart-ISHIZAWA agreement, the
23 Netherland Government have always given due consider-
24 ation to those exigencies, which are the inevitable
25 consequence of war conditions. The Netherland Govern-
ment, therefore, are convinced that the fact that they,

1 too, were forced into war will have the Japanese
2 Government's consideration. This state of war
3 must, of necessity, have its repercussions on the
4 economic situation in the Netherlands Indies.

5 "In any case, my Government full understand
6 that it is important for Japan as well as for the
7 Netherlands Indies that the commercial relations
8 between the two countries develop without hindrance.

9 "With satisfaction the Netherlands Government
10 have taken notice of Your Excellency's statements
11 concerning the importance of maintaining the status
12 quo without reserve. This mutual declaration is
13 considered the more important, since the maintenance
14 of the status quo bears closely upon the interest of
15 their Allies as well as upon those of other countries
16 bordering upon the Pacific, as is clearly evidenced
17 by the statements made by Great Britain, France and
18 the United States of America.

19 "It is, in fact, of great importance for the
20 maintenance of peace in this part of the world that
21 the position of the Netherlands Indies remain unim-
22 paired, and that this country be able to continue
23 without interruption to act its part as a world-
24 supplier of various raw materials and food products.

25 "I may now be allowed to give a reply to Your

1 Excellency on the proposals contained in the note
2 of the Japanese Minister at The Hague of February
3 2nd 1940, and in the above-mentioned memorandum,
4 as further amplified by Your Excellency's note."

5 We will not read the further text of this
6 note. We will return to exhibit 1309A presently.

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1 We introduce in evidence Prosecution Document
2 2137E, a further document from Exhibit 540 for identi-
3 fication, being a decision of the Liaison Conference
4 of 27 July 1940.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution document
7 No. 2137E will receive exhibit No. 1310.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1310 and received in evidence.)

11 MR. LAVERGE: We will now read exhibit
12 No. 1310:

13 "Decision of Liaison Conference 27 July 1940

14 /SHOWA 15/

15 "Gist of Main Points in Regard to Dealing
16 with the Situation to meet the Changes in World con-
17 ditions.

18 I will skip the next paragraph.

19 "1. To improve conditions at home and abroad
20 to cope with changes in the world situation.

21 "2. To accelerate the settlement of the
22 China Incident by promptly strengthening policies
23 towards CHINA for the main purpose of preventing Third
24 Powers from assisting the CHIANG regime.

25 "3. To settle the southern Problem within

1 th limits so as not to cause a war against a Third
2 Power.

3 "4. To fulfil especially the following
4 matters as policies for above three clauses.

5 "(1) To foster a strong political tie with
6 GERMANY and ITALY and to take active steps in the
7 adjustment of diplomacy towards the SOVIET UNION
8 while maintaining a firm front towards the UNITED
9 STATES.

10 "(2) To strengthen policies towards FRENCH
11 INDO-CHINA, HONGKONG and Settlements to check assist-
12 ance to the CHIANG Regime and root out the feeling
13 of enmity towards JAPAN.

14 "(3) To strengthen the diplomatic policy
15 towards the DUTCH EAST INDIES in order to obtain im-
16 portant materials.

17 "(4) To reform the war-time organization
18 at home."

19 We will now continue to read from exhibit
20 1309-A, document 2611, reading paragraphs 2 and 3
21 on page 16 of the English text:

22 "The exchange of notes here related had hardly
23 reached its conclusion when the Japanese Government
24 repeated their proposals for negotiation on a more
25 comprehensive scale. On the sixteenth of July they

1 informed the Netherland Minister in Tokyo of their
2 intention to send a delegation into Batavia for
3 economic negotiations, under the chairmanship of
4 Mr. SAKO, former Ambassador to Poland, and compris-
5 ing a number of assistants, military experts on war
6 materials, oil experts, etc. The Consul General in
7 Batavia, Mr. C. SAITO, a very aggressive and expan-
8 sionist character, was to be included in the delega-
9 tion.

10 "If the subject matter of the proposed ne-
11 gotiations remained rather hazv, the question of per-
12 sonnel was very much in the foreground. A change
13 of Cabinet had led to the elimination of Mr. SAKO.
14 In his place Mr. SAWADA, former Ambassador to Brazil,
15 was named as chief delegate, to be dropped again pre-
16 sently for General KOISO. General KOISO, however,
17 had given an interview to the press on the third of
18 August, in which he had stated in rather violent terms
19 that the Netherland regime had always been most op-
20 pressive towards the indigenous population of the
21 Indies; he could not, in the view of the Netherland
22 Government, be acceptable as a delegate without at
23 least a public retraction or denial of that statement.

24 "While this question was still hanging fire,
25 the Japanese Government suddenly, on the twenty-

1 seventh of August, handed a memorandum to the Nether-
2 land Minister at Tokyo, begging to inform the Nether-
3 land Government that a special envoy to the Nether-
4 lands Indies had been appointed in the person of Mr.
5 I. KOBAYASHI, Minister of Commerce and Industry in
6 the KONOYE Cabinet. He would be seconded in his
7 mission, to establish closer economic relations be-
8 tween the two countries, by Mr. T. OTA, chief of sec-
9 tion in the Gaimusho, and by Mr. O. SAITO, Japanese
10 Consul-General in Batavia. They were to be accom-
11 panied by a staff of twenty-four assistants, including
12 one army, one air, and two naval officers. This im-
13 pressive company was to sail from Kobe on August 31."

1 MR. LAVERGE: We offer in evidence pros-
2 ecution document 2748A (2), being alternative drafts
3 of demands to be made on the Netherlands Indies.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 2748A (2) will receive exhibit No. 1311.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1311 and received in evidence.)

10 MR. LAVERGE: As will be seen from the
11 certificate for this document, exhibit No. 1311,
12 the date of these drafts was the middle of August,
13 1940.

14 We will now read exhibit 1311:

15 "DEMANDS AGAINST THE DUTCH INDIES.

16 "(Proposal No. 1).

17 "A. Proposed Principles.

18 "1. The Imperial Government has previously sub-
19 mitted to the Netherlands Government our demands
20 regarding the settlement of the important problems
21 pending between Japan and the Dutch Indies. According
22 to the reply in official correspondence dated 6 June
23 of this year, which was made in this connection by
24 the Dutch Minister in Tokyo to Foreign Minister ARITA,
25 it is understood that the part regarding the securing

1 of the supply of our essential goods has been generally
2 accepted. It is requested that the above security
3 be observed in the future.

4 "However, the Netherlands Government still does
5 not fully understand our true intentions in the
6 problems concerning the entrance of Japanese nationals
7 into the Dutch Indies, and enterprises and investments
8 by Japanese nationals in the Dutch Indies for the
9 development and utilization of its rich resources,
10 which are regarded as of the utmost importance by
11 the Japanese Government.

12 "It has been fully recognized during previous
13 negotiations that the settlement of these problems
14 has been our national desire for many years. However,
15 the Netherlands Government, without the least
16 friendly consideration from a general and practical
17 standpoint, is still repeating its biased legal argu-
18 ments and the Imperial Government cannot help but
19 express its great disappointment and dissatisfaction.

20
21 "It is the desire of the Imperial Government,
22 therefore, to express frankly our opinions on these
23 problems of entry, enterprise and investment and to
24 seek the profound consideration of the Netherlands
25 Government.

"2. In the first place there is no question but

1 that the present world instability and friction
2 between nations are caused mainly by unjust distri-
3 bution of resources due to unreasonable territorial
4 situations.

5 "For instance, in the present world situation,
6 there are vast undeveloped areas with abundant re-
7 sources in one part, and on the other hand, there
8 are not a few nations suffering from lack of
9 resources and over-population while possessing vigorous
10 powers of existence. Such a situation is really
11 irrational, and unless it is rationalized and put
12 right there will be international conflict and no
13 cause ever to hope for peace between nations.

14 "Consequently, in order to prevent the develop-
15 ment of such a situation, it will be of vital impor-
16 tance for countries possessing vast undeveloped terri-
17 tories of rich resources to voluntarily open their
18 resources to the world, allow free entrance of other
19 nationals, and abolish all restrictions imposed on
20 business enterprises and all other economic activities.

21 "3. The Japanese Empire willingly recognizes
22 that the policies taken in the past by the Netherlands
23 Government toward Dutch Indies have contributed, to
24 some extent, to the peace and prosperity of East Asia
25 by permitting comparatively free and equal economic

1 activities to all nations alike.

2 "However, it is regrettable that the policy
3 taken by the Netherlands Government toward the
4 Dutch Indies in recent years is of the nature of a
5 closed-door policy. The Dutch Indies may be under
6 Netherlands control, but geographically it is situated
7 within the Co-Prosperity Sphere for the East Asia
8 races. Accordingly, the Netherlands should first
9 open her rich resources in the Dutch Indies to
10 the races in East Asia and then for the prosperity
11 and welfare of all mankind.

12 "In spite of this, the Netherlands Government,
13 of late, has come down heavily on the side of the
14 interests of the Dutch and other Europeans. Early
15 on she gave vast rights to a few nations, geographically
16 distant from the Dutch Indies, for important enter-
17 prises, especially mining in that country, without
18 any desire for the prosperity and welfare of the
19 East Asia Co-Prosperity Sphere.

20
21 "In particular it is not only very unreasonable
22 for the Netherlands to have chosen a closed-door
23 policy toward Japan, with her great abilities for
24 exploration and development, but it is a neglect of
25 duty on her part as a member of the East Asia
Co-Prosperity Sphere."

1 "The Imperial Government has pointed out this
2 unreasonableness and has repeatedly asked the Nether-
3 lands Government for reconsideration, but up to the
4 present we have still been unable to get any results.
5 The Empire deeply regrets that this has given rise
6 to a feeling of great dissatisfaction among the
7 government and people of Japan.

8 "With regard to the views mentioned above,
9 and also in consideration of the internal affairs
10 of the Dutch Indies and her relations with third
11 powers, the Imperial Government, for the time being,
12 hereby submits our sincere and frank demands. It is
13 accordingly requested that your side promptly agree
14 to these demands in a broad-minded outlook based on
15 the traditional friendly relations between Japan and
16 the Netherlands."

17 THE PRESIDENT: That is a convenient break.
18 We will recess for fifteen minutes.

19 (Whereupon, at 1045, a recess was
20 taken until 1100, after which the proceedings
21 were resumed as follows:)
22
23
24
25

1 THE PRESIDENT: The Imperial Government of Japan has requested the
2 Imperial Government of the Netherlands East Indies to secure the
3 necessary mining rights for the same.

4 THE PRESIDENT: Mr. Laverge.

5 MR. LAVERGE: Your Honor, I will continue
6 to read from exhibit 1311, starting at the top of
7 page 4:

8 "II. The Problems of Enterprises and In-
9 vestments.

10 "(1) New Enterprises.

11 "Recently, the Dutch Indies Government by the
12 issue or revision of various laws or through policies
13 other than laws, has reserved for itself almost all
14 of the prospective mining districts for petroleum
15 and other important minerals which we regard as of
16 the greatest importance. It has thus not only be-
17 come impossible for the Japanese to obtain these
18 mining rights, but the transfer of existing mining
19 rights has also been prohibited.

20 "On the other hand, the United States and
21 Great Britain, prior to the issue or revision of
22 these laws or the decision of the Government's poli-
23 cies, have secured prospective mining districts for
24 petroleum and other important minerals and are mining
25 on a large scale. Therefore, the Imperial Government
at this juncture requests the Dutch Indies Government

1 that mining of petroleum and various minerals,
2 applications pertaining to mining by Japanese
3 nationals, applications pertaining to the establish-
4 ment of various new enterprises, other than mining,
5 and the transfer of present rights held by Japanese
6 nationals, all be permitted from the standpoint of
7 equal opportunity, irrespective of the present laws
8 and government policies.

9 "Moreover, in regard to new enterprises
10 by Japanese nationals, free carrying out of actual
11 investigation in areas recognized by the Japanese as
12 being prospective shall be permitted even before
13 proceedings are taken for application as prescribed
14 in the mining laws or other laws concerned. New
15 enterprises which we wish to undertake at present
16 are as follows:

17 "(a) Mining.

18 "Prospecting and mining in all the petroleum
19 mining regions in the Dutch Indies (including govern-
20 ment reserved areas) as desired by the Japanese.
21 Prospecting and mining of various minerals in all the
22 prospective mining regions for other minerals in the
23 Dutch Indies (including government reserved areas), as
24 desired by the Japanese. Applications for mining
25 rights by those having the right to prospect shall be

1 granted without fail.

2 "(b) Other Enterprises.

3 "The establishment of air routes between
4 Japan and the Dutch Indies.

5 "The establishment of new navigation routes
6 between Japan and the Dutch Indies.

7 "The laying of submarine cables between
8 Japan and the Dutch Indies.

9 "Other fishery, forestry, agriculture,
10 manufacturing industries, etc , as desired by Japan.

11 "In connection with the establishment of
12 new enterprises as (a) and (b), mentioned above, the
13 Dutch Indies Government authorities shall give all
14 possible assistance and cooperation and render every
15 favour to their investigations and different prepa-
16 rations."

17 I will continue to read from the second
18 paragraph from the bottom from page 6 onward:

19 "III Newspapers

20 "(1) Heretofore, the Dutch Indies' auth-
21 orities have made it their policy to prevent Jap-
22 anese from running Malay and Chinese newspapers.
23 Japanese from now on shall be granted permission
24 to run them as well as Dutch and Chinese.

25 "(2) In the past the general Dutch Indies

1 officials and people have had no knowledge of Japan
2 and the Japanese and there have been many regrettable
3 features in their attitude towards Japan, thus
4 greatly hampering the friendly relations between the
5 two countries. Especially since the spreading of
6 the war to the Netherlands the constant acts of
7 violence and insult committed by the Dutch Indies
8 officials and people against the Japanese living
9 there, were caused by the lack of understanding
10 of the intentions of our country and by the ex-
11 tremely precautionary measures they adopted toward
12 the Japanese which instigated the general feeling.
13 On the other hand, the principal cause can be
14 attributed to the anti-Japanese attitude of the
15 Dutch Indies newspapers, which had given rise to
16 the people's general illwill toward the Japanese.
17 The Imperial Government thus demands the thorough
18 supervision of these newspapers as follows:

19 "(a) Newspapers run by the Dutch.

20 " The anti-Japanese attitude is strongest
21 in the Dutch newspapers, and in spite of the fact
22 that the Dutch papers are in a position to lead
23 Chinese and Malayan newspapers, they were hardly
24 ever supervised. They shall be thoroughly
25 supervised from now on."

1 "(b) Newspapers run by the Chinese.

2 "Supervision of the Chinese papers is still
3 lukewarm. Furthermore, the papers run by the Chinese
4 do not always represent the general public opinion
5 of the Chinese living in the Dutch Indies. They
6 are forcibly implanting anti-Japanese feeling and
7 leading the anti-Japanese movement and the boycott
8 of Japanese goods. It is no exaggeration to say
9 that the attitude of the Dutch Indies authorities has
10 been to overlook these facts. On the other hand, the
11 Dutch Indies authorities banned the publication of a
12 Japanese paper when it printed an article in support
13 of Wang Ching-wei, on the grounds that it instigated
14 the feeling of the Chinese in the Dutch Indies; and
15 they also prohibited any import of newspapers pub-
16 lished in our occupied territories in China, on the
17 grounds that they were of an anti-Chiang tendency.
18 This discriminating attitude of the Dutch Indies
19 authorities can be said to be pro-Chinese and anti-
20 Japanese. Therefore, we demand a stricter super-
21 vision from now on over newspapers run by the
22 Chinese and also demand revision of the biased
23 attitude toward our own newspapers."
24
25

1 "DEMANDS AGAINST DUTCH EAST INDIES

2 "(The Second Proposal)

3 "A. Proposed Principles

4 "1. In the present condition of the world,
5 there are some countries which leave large areas un-
6 developed because of insufficient developing capaci-
7 ties in spite of their occupying vast lands, which
8 are rich in resources, and on the other hand there
9 exist some countries which are suffering from popula-
10 tion pressure and from lack of resources though they
11 have very active productive capacities. This condi-
12 tion is well called unreasonable indeed, and the pre-
13 sent European war itself is, after all, nothing but
14 the outbreak of dissatisfaction on the part of the
15 newly risen nations against the old order based on
16 the unreasonable and unjust distribution of terri-
17 tories and resources.

18 "2. Well, let us look at the present condi-
19 tions in East Asia: Two or three powerful European
20 nations have occupied vast areas in East Asia as
21 colonies and have left the greater part undeveloped
22 with only the smaller parts developed. In spite of
23 this fact, these nations adhere to policies of exclu-
24 sion against the nations that are building their coun-
25 tries in East Asia. However, the /Japanese/Empire

1 has a confined territory and poor resources, even
2 though it has a big population with a high rate of
3 increase and excellent expansion powers. On the other
4 hand, besides Japan, the territories of the nations
5 of East Asia, except Thailand, are now all utilized
6 as colonies, chiefly for the necessities and interests
7 of the sovereign European nations, and no opportuni-
8 ties for sufficient advancement and development
9 either politically or economically are given by the
10 European nations to the original people who are kept
11 in the position of conquered. This is extremely un-
12 fair.

13 "3. The /Japanese/Empire is now devoting
14 itself to the mission of establishing a new order in
15 East Asia, and it is the desire of the Japanese
16 Empire to contribute for the firm establishment of
17 eternal peace of the whole world by creating a reci-
18 procal relationship of supply between the new order
19 sphere, which is to be organized in Europe and Amer-
20 ica, and the self-sufficient East Asia Co-Prosperity
21 Sphere centered around Japan, Manchuria and China,
22 and including the South Pacific.

23 "4. Well, as the Dutch Indies is a vast
24 area with rich resources within the East Asia Co-
25 Prosperity Sphere it is quite reasonable that its

1 resources should be quickly developed for the sake
2 of the prosperity and welfare, first of the people
3 of East Asia, and then of the people of the world.

4 "The government of the Dutch East Indies
5 has been regarding as of too great importance the
6 interests of Hollanders and other Europeans and has
7 been giving scant consideration to the prosperity
8 and welfare of the East Asia Co-Prosperity Sphere,
9 and in particular has been adhering to a policy of
10 exclusion against the Japanese, who have great ex-
11 ploiting and developing capacities. Although the
12 Imperial /Japanese/ Government has drawn attention
13 to the unreasonableness of this and has repeatedly
14 invited consideration of it, there have been no re-
15 sults, and the whole Japanese nation is now greatly
16 dissatisfied. The above is a matter of deep regret
17 to the Imperial /Japanese/ Government.

18 "5. In line with the above views, the Im-
19 perial /Japanese/ Government, as the stabilizing
20 power of East Asia, hereby expresses straightfor-
21 wardly to the government of the Dutch East Indies
22 its earnest desire to forward the establishment of
23 a new order for the sake of the mutual welfare of
24 the nations in East Asia, and requests that the
25 government of the Dutch Indies take cooperating

1 measures to the above purpose, and produces herewith
2 the following demands:

3 "B. Our Demands

4 "1. Political Questions

5 "(1) The Dutch Indies should cut off rela-
6 tions with Europe and should quickly take a position
7 as a member of the East Asia Co-Prosperity Sphere.

8 "(2) Complete self-government by the Indo-
9 nesians should be allowed.

10 "(3) The Dutch East Indies should conclude
11 the concrete agreement with the /Japanese/ Empire
12 necessary for self defense in order to maintain
13 firmly the peace of the East Asia Co-Prosperity
14 Sphere, which includes the above Dutch Indies.

15 "2. Economical Questions

16 "(1) The subjects of the /Japanese/ Empire
17 should be afforded the same treatment as the subjects
18 of the Netherlands in entering the Dutch Indies, in
19 living in the Dutch Indies, in protection of persons
20 and properties, in travel, in acquisition of personal
21 and real estate, in management of business and enter-
22 prises (including aviation), and in all other matters
23 in connection with navigation and trade.

24 "(2) The government of the Dutch Indies
25 should not only not restrict or prohibit the expor-

1 tation of goods, especially those needed by the
2 /Japanese/ Empire, among the products in the Dutch
3 East Indies, but should also give facilities and use
4 its good offices with regard to the exportation of
5 the goods to the /Japanese/ Empire."
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1 The Japanese Delegation, headed by Ichizo
2 KOBAYASHI, the Minister of Commerce, in the Second
3 KONOYE Cabinet, which was then in office, arrived
4 in the Netherlands Indies toward the middle of September,
5 1940.

6 We offer in evidence prosecution document
7 2742-A(6), being a telegram from the Japanese envoy
8 in Batavia, to his colleague, Foreign Minister MATSUOKA.
9 The telegram is date 13 September, 1940.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2742-A(6) will be given exhibit No. 1312.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1312 and received in evidence.)

16 MR. LAVERGE: We will now read part of
17 exhibit No. 1312:

18 "Showa 15/1940/

19 "Received A.M. 14th Sept. Foreign Ministry

20 "Despatched P.M. 13th Sept. Batavia

21 "/To:/ Foreign Minister MATSUOKA

22 "/From:/ Representative KOBAYASHI

23 "Conference No. 9 (Top Secret)

24 "At my interview with the Governor-General
25 already referred to in telegram re conference No. 5,

1 I gained the impression that he was concerned with
2 diplomatic formulas only.

3 "When I hinted at the existence of discrimin-
4 atory treatment toward Japan, he argued strongly that
5 this had not been the fact in the past, and stated
6 that in the future they would as before treat each
7 country on a fair basis, and had no intention of practic-
8 ing discriminatory treatment. The Governor-General
9 does not realize that the present situation is so
10 serious that if he remains so old fashioned as to be
11 concerned with diplomatic formulas only, the existence
12 of the Dutch East Indies will be in danger, and he can
13 not keep pace with the changing situation. He openly
14 tried to do his utmost to evade political problems.
15 He evinced not the slightest sign of fervor to try
16 to sound out the true intention of the Japanese
17 Government towards the Dutch East Indies. Inasmuch
18 as he does not understand our real idea of friendly
19 relations between the two countries, it is of no use
20 for us to continue the negotiations further with such
21 a Governor-General. It has made me feel that I have
22 come all this way in vain."
23

24 We introduce in evidence prosecution document
25 2748-A(8), being a telegram dispatched by the Japanese
envoy in Batavia, Commerce Minister KOBAYASHI, to

1 Foreign Minister MATSUOKA, dated 18 October 1940.

2 THE PRESIDENT: Mr. Laverge, do you know
3 where this document, exhibit 1311, "Demands against
4 the Dutch Indies," was found? There is no certificate,
5 as far as we can see.

6 MR. LAVERGE: Your Honor, a certificate
7 for all the documents, No. 2748, was introduced
8 yesterday and received exhibit 1302. The document in
9 question was found in the Foreign Ministry.

10 THE PRESIDENT: Mr. Levin.

11 MR. LEVIN: I was inquiring as to the date
12 of Mr. Laverge. I am advised that the date appears
13 on the certificate, not on the document itself, Mr.
14 President -- in August, 1940.

15 THE PRESIDENT: For convenience, state
16 the date, Mr. Laverge.

17 MR. BROOKS: 14th of August, 1940 is shown
18 by exhibit 1301, your Honor. I have the document in
19 my hand.

20 THE PRESIDENT: This is the first time it
21 will appear in the transcript.

22 MR. BROOKS: I understand, your Honor, that
23 this certificate was in exhibit 1301, that the items
24 in parentheses there bear relation to the prosecu-
25 tion's document number, for instance 2748A(2),

1 the certificate is in "(2)" of document 1301.

2 THE PRESIDENT: 1311, is it not?

3 MR. BROOKS: 1311 is 2748A(2), and that is
4 referred to in the certificate, exhibit 1301 in "(2),
5 Demands on the N. E. I.," page 19.

6 I wanted to approach the lectern at this
7 time to object to the form of the certificate that
8 is used here in exhibit 1301 for these documents
9 as not really tying in close enough the document
10 when it is presented with the certificate. There
11 is no reference -- we waited to see until the docu-
12 ment was introduced. There is no reference in the
13 document to this certificate, and the only reference
14 is from this certificate by this code number, as I
15 have just pointed out to the Court, and this parenthesis
16 being attached to the later documents.

17 THE PRESIDENT: 1301 is already admitted.
18 It was admitted yesterday.

19 MR. BROOKS: Yes, sir. But, your Honor
20 will notice there is no reference in the certificate
21 1301 to this document by its other prosecution document
22 number.

23 THE PRESIDENT: That is sufficient.

24 MR. BROOKS: The thought I had was it was
25 very weak identification at the most.

1 THE PRESIDENT: The number is sufficient.
2 The objection is overruled.

3 The document last tendered is admitted on
4 the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 2748A(8) will receive exhibit no. 1313.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 1313 and received in evidence.)

10 MR. LAVERGE: We shall now read exhibit
11 1313:

12 "SHOWA 15/1940.

13 "Dispatched: BATAVIA, October 18, P. M.

14 "Arrived: This office, October 18, night.

15 "To Foreign Minister MATSUOKA.

16 "From Delegate KOBAYASHI.

17 "Parley No. 82 (Wire of Request).

18 "To the Vice-Minister of the Department
19 of Oversea Affairs, from KAWANOTO.

20
21 "1. In establishing the Greater East Asia
22 Co-Prosperity Sphere under the leadership of the Em-
23 pire when viewed from every possible angle, the need
24 of placing the Netherlands Indies within the Sphere,
25 is very urgent. Envoy KOBAYASHI, his staff, and
those Japanese who went there and observed the said

1 place are all of the same opinion. However, in order
2 to accomplish this, it is necessary to administer a
3 policy in such a way as to deeply implant our economic
4 powers in the Netherlands Indies. In carrying out this
5 policy, the Department of Overseas Affairs must at
6 least plan the materialization of various items re-
7 quested for in the budget for the next fiscal year.

8 "Especially such items as the complete
9 equipment of overseas organizations, the establish-
10 ment of TAKUNANJUKU (T. N. probably it is a sort of
11 training center for the knowledge of Southern Region/,
12 the cultivation of facilities for enlightening both
13 Japanese subjects and people of the Dutch Indies,
14 (includes secret funds) are, we consider, matters of
15 urgency which cannot be neglected even for a day.
16 In this regard, it is requested that you kindly
17 give your special consideration in regard to ful-
18 filling these requirements. It is furthermore con-
19 sidered that matters in connection with other ex-
20 penditures too can be executed within the next
21 fiscal year.

22
23 "2. As regards the above, please refer
24 to Telegram No. 66 which was sent by Envoy KOBAYASHI
25 to the Foreign Minister.

"3. Opinions regarding details will be

1 reported to you by letter."

2 The most pressing Japanese need was for the
3 acquirement of a great quantity of oil, and the first
4 demands made were for this product, and for the ac-
5 quisition of oil fields, as will be shown in the next
6 few documents.

7 We offer in evidence prosecution document
8 2748-A (18), being a telegram from Tokyo to Batavia
9 dated 3 September 1940.

10 THE PRESIDENT: Mr. Cole.

11 MR. COLE: Mr. Cole, for the accused IUTO.

12 THE PRESIDENT: Yes.

13 MR. COLE: I have an objection to the admis-
14 sion of this document with particular reference to
15 the final paragraph. It reads as follows:

16 "Please convey the contents of this telegram
17 to Major NAKASUJI as it is (also) from the Chief of
18 the Bureau of Military Affairs."

19 Evidence already in the record shows that
20 there is a Chief of the Bureau of Military Affairs
21 in both the Navy and War Ministries. With reference
22 to the rank and the branch of service of this man
23 NAKASUJI the language arbitration board advises me that
24 the word, "shosa," which appears in the Japanese
25 original is translated either "Major" or "Lieutenant

1 Commander."

2 THE PRESIDENT: That is not a ground of
3 objection, Mr. Cole. It is only a matter which you
4 might point out.

5 MR. COLE: My contention, sir, is that the
6 prosecution should make clear what their claim is
7 with regard to which Chief of which Bureau is referred
8 to, otherwise it becomes irrelevant to the charge
9 against any particular accused.

10 THE PRESIDENT. Can you help, Mr. Laverge?

11 MR. LAVERGE: Your Honor, there is no way
12 of telling if this should be "Major" or "Lieutenant
13 Commander." We have no further information on the
14 person referred to, NAKASUJI, and what branch of the
15 service he was in.

16 THE PRESIDENT. Well, until you get it, it
17 is not evidence against the accused who was supposed
18 to have held that office at the time, but the rest of
19 the document is admitted -- the whole document is
20 admitted but until you can connect it up, the last
21 paragraph, with one of the accused, of course, it is
22 not evidence. It is admitted on the usual terms, sub-
23 ject to what I said.

24 CLERK OF THE COURT: Prosecution's document
25 No. 2748-A (18) will receive exhibit No. 1314.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 1314 and received in evidence.)

4 MR. LAVERGE: We will now read exhibit
5 1314:

6 "Code No. 29449 dispatched 1940, September
7 3 at 9:40 p.m. (By order of) Foreign Minister MATSUOKA.

8 "To: Consul-General SAITO at Batavia.

9 "No. 396.

10 "Concerning the purchase of Netherlands
11 India Oil Production in connection with Reply Tele-
12 gram No. 385.

13 "From: The Chief of the Fuel Control
14 Board to MUKAI.

15 "1st) As it was stated in the reply
16 telegram mentioned above, the negotiations concerned
17 with the purchase of the oil should be done by us,
18 but intention is that the on-the-spot negotiations
19 be carried out in accordance with our instructions.
20

21 "2nd) We have instructed all the home
22 offices to tell their brokers not to disturb unity
23 during your negotiations. Therefore, please guide
24 them in accordance with this.

25 "3rd) You must emphasize the acquisition
of the oil fields, and such negotiations, as a general

1 rule, should be carried out with Netherland Indian
2 Government directly. Strictly observe all hindrance
3 attempts by Britain and America. "We cannot guarantee
4 that the Netherlands Indies will not lay stress on
5 the oil purchase intentionally in order to refuse
6 our acquisition of oil fields which is our main
7 purpose. Therefore, it is desirable that you clearly
8 distinguish from the start the acquisition of oil
9 fields and the purchase of oil."

10 I will not read the rest of the telegram,
11 in view of what your Honor said.

12 We offer in evidence prosecution document
13 2748-A (19), a telegram from Japanese Commerce
14 Minister KOBAYASHI in Batavia to Foreign Minister
15 MATSUOKA in Tokyo, dated 18 September 1940.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 2748-A (19) will receive exhibit No. 1315.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 1315 and received in evidence.)

22 MR. LAVERGE: We will now read exhibit 1315:
23 "1940. (Code) Sent from Batavia p.m.
24 18 Sept. Arrived at Foreign Office a.m. 19 Sept.
25 "To Foreign Minister MATSUOKA from

1 Representative KOBAYASHI. Communication No. 21 a.

2 "As Japan at this juncture has a pressing
3 need to buy 3,150,000 tons of Dutch East Indies
4 petroleum, and the negotiations in Tokyo are at a
5 standstill, I am hereby requesting you to let LUNAI
6 carry on the negotiations here, and to send an answer
7 by telegram to this effect one way or the other.

8 "They may have some misgivings on the
9 possible influence of negotiations here on the
10 petroleum enterprises problem, but these misgivings
11 would be exactly the same, whether the negotiations
12 for purchasing petroleum were held at Tokyo or at
13 your place, and what is more, we have no misgivings
14 about their being at your place.

15 "Moreover, if the negotiations for purchas-
16 ing 3,000,000 odd tons did not succeed, failure in
17 Tokyo would be no more than just a failure in commer-
18 cial negotiations, involving no political repercussions
19 whatever. It is also thought that their sudden pro-
20 posals at this juncture on the petroleum problem in
21 Tokyo is an anticipatory move by the other party in
22 consideration of the above point.

23 "On the other hand, in the event of the
24 negotiations being carried on here, their failure
25 would only mean that world opinion in view of Japan's

1 present position in the petroleum problem would charge
2 the Dutch East Indies with moral responsibility for
3 the failure of the negotiations; in consideration of
4 which it is expected that the Dutch Indies would also
5 make efforts for their success.

6 "Again, in any negotiations on the petroleum
7 enterprises problem, failure to make this petroleum
8 purchase could be utilized to browbeat the Dutch
9 East Indies on the enterprises problem. Moreover,
10 the fact of the direct participation of the Dutch
11 Indies Government in the petroleum purchase problem
12 can also be utilized for our maneuvers to make them
13 sell over to us the stocks of Dutch Indies petroleum
14 companies on the grounds of purchasing petroleum.

15 "Judging from our present situation, the
16 actual securing of the purchase is not the time to
17 talk about the problem of a higher or a lower price,
18 and so it would be more advantageous to let NUKAI
19 negotiate here as the sole representative of the
20 interests of all Japanese petroleum business men.

21 "Transfer of the negotiations from Tokyo
22 to here, however, is expected to involve a certain
23 loss of time. Nevertheless, when we consider that the
24 negotiations in Tokyo are being prolonged owing to
25 instructions from the Government here, this loss of

time cannot be thought of as a real loss.

1
2 "For the above reasons, if the negotiations
3 in Tokyo are at present at a standstill I hope they
4 may be transferred here.

5 "This matter has been given the positive
6 approval of the Army and Navy parties now on their
7 way here, of MUKAI and of everyone else concerned."

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1 To show the course of negotiations in
2 Batavia, we will now read further parts from exhibit
3 1309A starting at the top of page 17 of the English
4 text:

5 "Joint statement of the two delegations,
6 dated October 16, 1940.

7 "The Japanese and Netherland delegations
8 came together at Selabintanah near Soekaboemi from
9 14th till 16th October 1940 under the chairmanship
10 of their Excellencies Ministers KOBAYASHI and van
11 Look.

12 "During several meetings and personal talks
13 the general relations between Japan and the Nether-
14 lands Indies were discussed. In these discussions
15 due attention was given to the effect of the
16 recent pact between Japan, Germany and Italy on the
17 relations with the Netherlands Indies. The Japan-
18 ese delegation in this respect officially expressed
19 their opinion as follows:

20 "In spite of the tripartite treaty re-
21 cently concluded among Japan, Germany and Italy, the
22 strong desire of Japan for the maintenance and pro-
23 motion of the friendly relations between Japan and
24 the Netherlands Indies is not affected in the least.
25 All that is wished for by Japan is co-existence and

1 co-prosperity with neighbouring countries.' The
2 Netherland delegation could appreciate this point
3 of view.

4 "Amongst the other points which came into
5 discussion the most prominent item was the oil
6 problem. Elaborate explanations of the oil situa-
7 tion in the Netherlands Indies were given by the
8 Netherland delegation and the chief of the Nether-
9 lands Indies Mining Bureau who was also present.

10 "The delegations are to continue the
11 negotiations in Batavia on the understanding that
12 the complete scope of subjects will come into dis-
13 cussion in the near future.

14 "The delegations were pleased that the
15 negotiations were conducted in the most friendly
16 atmosphere."

17 I continue to read:

18 "The Netherland delegation took the posi-
19 tion that, although Japan's accession to the Tri-
20 partite Pact could not but raise serious misgivings
21 in a country at war with Germany, it was prepared
22 to continue negotiations on the understanding that
23 Japan had no hostile intentions towards and did not
24 claim leadership over the Netherlands Indies. It
25 kept urging the submission by the Japanese of a

1 full statement of the points to be discussed, but
 2 saw no objection to treating the matter of oil pur-
 3 chases separately. These purchases were mainly a
 4 matter of agreement between the Japanese buyers and
 5 the oil-producing companies, and as both parties
 6 were represented in Batavia, the contact -- for
 7 which the Netherland delegation would be pleased
 8 to lend its good offices -- would be easy.

9 "In the meantime the Japanese demands with
 10 regard to the purchase of mineral oil and oil prod-
 11 ucts had gradually become more defined. About a
 12 week after the opening conference, the following
 13 specification was produced, enumerating Japan's
 14 annual minimum requirements -- over and above the
 15 regular sales made by the companies and allowed by
 16 the Japanese government -- of Netherlands Indies
 17 oil in tons of 2,240 pounds.

18	"1. Crude oil	
19	(a) Aviation crude	1,100,000 tons
20	(b) Crude oil for lubricants	100,000 tons
21	(c) Other	1,050,000 tons
22	"2. Aviation spirit (over 87 octane)	400,000 tons
23	"3. Diesel oil	500,000 tons
	"Total	<u>3,150,000 tons</u>

24 "It was, in part erroneously, contended
 25 that contracts had already been agreed upon for the
 delivery of 120,000 tons of aviation crude, 792,000

1 tons of other crudes, and 100,000 tons of aviation
2 spirit to be delivered per annum. A five-year
3 guarantee of the Netherlands Indies government was
4 demanded that these minimum requirements should be
5 regularly fulfilled."

6 We continue to read from the top of page
7 19 of exhibit 1309A:

8 "Suddenly, two days after the acceptance of
9 these proposals, Mr. KOBAYASHI announced his recall
10 on the twentieth of October, and left on the twenty-
11 second. The reason given was alternately that he
12 could no longer be spared in his department, and
13 that he had to be home for the 2,600th anniversary
14 of the creation of the Japanese Empire by the Sun-
15 Goddess. * * * * *

16 "Note handed to the Netherland delegation
17 by the Japanese delegation on October 21, 1940:

18 "The Japanese delegation has the honour to
19 express its great appreciation for an elaborate
20 explanation of petroleum situation contained in the
21 Note of October 7th of the Netherland delegation.

22 "The Japanese delegation wishes to call the
23 attention of the Netherland delegation to the fact
24 that after negotiations between Mr. MUKAI and two
25 petroleum companies, the proposals of these

1 companies concerning oil supply to Japan have shown
2 a very wide difference in quantity as well as in
3 quality from those of Mr. MUKAI and it is to be
4 emphasized that the proposed quantity of supply of
5 aviation gasoline and aviation crude to Japan, to
6 which Japan attaches a great importance, is as good
7 as nil.

8 "The Netherland delegation, however, is
9 well aware of the Japanese interest in petroleum
10 problems and the Japanese delegation would be much
11 obliged, if the Netherland delegations are good
12 enough to do their utmost, in the spirit of mutual
13 welfare, to comply with the Japanese proposals by
14 any means like shifting of trade route, etc.

15 "The Japanese delegation has the pleasure
16 to add that Japan has also a very big interest in
17 exploitation of oil wells and that the Netherlands
18 policies on allocating spheres of interests for
19 existing companies are hardly satisfactory for
20 Japan.

21 "The Japanese delegation is very much
22 desirous to acquire rights of access to the terri-
23 tories now in exploration or exploitation as well
24 as to the Government reserves.
25

"Mr. MUKAI, however, is ready to enter

1 at once into negotiations with authorities concerned
 2 about the Government reserve areas in the above-
 3 mentioned Note of the Netherland delegation."

4 I continue to read:

5 "Letters addressed to the chairman of the
 6 Netherland delegation by Mr. T. MUKAI on October
 7 29, 1940:

8 "1. Re OIL TERRITORIES

9 "With reference to your memorandum dated
 10 the 7th inst. (item No. 5), and the subsequent
 11 conversation exchanged during the interview be-
 12 tween delegates of the Netherland Indies and Japan,
 13 I am given to understand that the undermentioned
 14 districts and areas, which you have not yet com-
 15 mitted to any other party or parties, will be con-
 16 sidered as an interest for Japan:

17	"Borneo -- the districts of		
18	Kalierang and Koetai	about	1,300,000 ha
19	"Celebes --- the district op-		
20	posite to the Pelang		
	Island	about	163,000 ha
21	"Dutch New Guinea:		
	Northeastern shoreland	about	1,200,000 ha
22	Middle-eastern interior	about	3,500,000 ha
	Southeastern shoreland	about	9,000,000 ha
23	"Aroa Archipelago, southeast		
	to Dutch New Guinea	about	850,000 ha
24	"Schouten Archipelago, north-		
	east to Dutch New Guinea	about	<u>350,000 ha</u>
25	"Total		16,363,000 ha

1 at once into negotiations with authorities concerned
 2 about the Government reserve areas in the above-
 3 mentioned Note of the Netherland delegation."

4 I continue to read:

5 "Letters addressed to the chairman of the
 6 Netherland delegation by Mr. T. MUKAI on October
 7 29, 1940:

8 "1. Re OIL TERRITORIES.

9 "With reference to your memorandum dated
 10 the 7th inst. (item No. 5), and the subsequent
 11 conversation exchanged during the interview be-
 12 tween delegates of the Netherland Indies and Japan,
 13 I am given to understand that the undermentioned
 14 districts and areas, which you have not yet com-
 15 mitted to any other party or parties, will be con-
 16 sidered as an interest for Japan:

17 "Borneo -- the districts of
 18 Kallorang and Koetai about 1,300,000 ha
 19 "Celebes --- the district op-
 20 posite to the Pelang
 Island about 163,000 ha
 "Dutch New Guinea:
 21 Northeastern shoreland about 1,200,000 ha
 22 Middle-eastern interior about 3,500,000 ha
 Southeastern shoreland about 9,000,000 ha
 "Aron Archipelago, southeast
 23 to Dutch New Guinea about 850,000 ha
 "Schouten Archipelago, north-
 24 east to Dutch New Guinea about 350,000 ha
 25 "Total 16,363,000 ha

1 "As Japan is desirous to carry on explora-
 2 tions and exploitations in future in the entire
 3 dimensions of the above districts upon completion
 4 of the general geological examinations, I shall be
 5 obliged by your acknowledgment of the whole of
 6 these districts as Japan's sphere of interest, and
 7 the necessary steps according to your Mining law
 8 will be taken in due course in accordance with your
 9 suggestions.

10 "Furthermore, in view of the rapid increase
 11 in the demand of petroleum in Japan, I would like
 12 to express the strong desire of Japan that the
 13 following areas will be assigned to the Japanese
 14 interests in addition to the above-mentioned areas:

15 "1. Borneo:

16 An area opposite to the
 17 Tarakan Island, northward
 18 from the Bengara River to
 the boundaries of British
 North Borneo

about 400,000 ha

19 "2. Sumatra:

20 An area extending south-
 eastwards from Medan and
 along the River Asahan

about 700,000 ha

21 "Total " 1,100,000 ha

22 "Your kind considerations to this matter
 23 will be much appreciated and I am quite certain that
 24 your acceptance will serve greatly in promoting the
 25 closer relationship between Netherlands Indies and
 Japan."

1 "I also beg to mention that Japan may
2 consider the capital participation of Netherlands
3 Indies in these enterprises.

4 "II. Re PARTICIPATION OF JAPANESE
5 CAPITAL

6 "While the transaction on petroleum be-
7 tween Netherlands Indies and Japan are in a trend
8 of a steady increase in the future, it is needless
9 to say that Japanese oil circles are focussing their
10 interests on the petroleum of the Netherlands
11 Indies, and consequently they are having an
12 earnest desire to directly exploit the petroleum
13 resources.

14 "You have fully appreciated these cir-
15 cumstances and directing us to achieve Japan's aim
16 with your special attention, for which I express
17 herein my thanks.

18 "However, with an eye to the furtherance
19 of the prosperity and friendship of both countries,
20 I beg to mention that it is strongly desired on the
21 side of Japan to participate in the capital of the
22 N. V. Nederlandsche Indische Aardolie Maatschappij.

23 "As I understand that your government hold
24 a considerable amount of shares in the aforesaid
25 undertakings, I hope that your excellency would

1 consider the allotment of part of these shares to
2 Japan.

3 "In case this proposal of ours be favoured
4 with your approval, I would greatly appreciate your
5 informing me of your terms and conditions."

6 I stop reading here.
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1 To show that the real purpose of the
2 Japanese attempt to lease oil territories was the
3 establishment of military bases in these areas, we
4 offer in evidence prosecution document 2748-A (20),
5 being a telegram from Batavia to Tokyo dated 25
6 October 1940.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2748-A (20) will receive exhibit No. 1316.

10 ("hereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1316 and received in evidence.)

13 MR. LAVERGE: We will now read exhibit
14 1316:

15 "1940 /Showa 15/ - Batavia to Foreign Office.

16 "Dispatched: 25 Oct. PM.

17 "Received: 25 Oct. Night.

18 "From: Delegate SAITO.

19 "To: Foreign Minister MATSUOKA.

20 "Commercial Negotiation No. 100.

21 "From SAITO and OTA.

22 "Referring to our Telegram No. 96 (from
23 'USA' to Chief of Fuel Affairs Bureau) we think that
24 although from the standpoint of an industrialist, it
25 is most reasonable, it is necessary that further

1 consideration be given on this matter from the
2 strategical standpoint.

3 "Namely, from the entire submission of
4 application for prospecting in connection with their
5 indicated areas, as well as from the numbers of our
6 technical experts, we presume that we will all the
7 more arouse their suspicion, but on our part we think
8 it necessary that we carry on investigation in
9 regard to all the areas and have a great number of
10 planes and plain clothes /TM: EEF-I/ troops enter
11 into these areas, thereby enabling it to become some
12 sort of strategical base from the point of view of
13 military operations against the Dutch. For this
14 reason, unless the vast investigation area is secured,
15 the foregoing program will seem a flimsy excuse to
16 the Dutch, and in view of the difference being only
17 from 150 to 200 thousand guilders, we deem it necessary
18 that the prospecting rights at least be acquired
19 over the whole areas proposed by them. Therefore,
20 please guide the respective offices concerned keeping
21 the above in mind.

22 "For instance, even when we are to decide
23 on obtaining the prospecting and mining rights for
24 two or three districts in each area as suggested in
25 the MUKAI plan, it is our desire that our strategical

1 standpoint be given consideration in the selection
2 of those districts and guidance be given accordingly.
3 (end)."

4 That one of the reasons for the Japanese
5 attempt to acquire materials from the Netherlands
6 Indies was the Japanese purpose to aid the German war
7 effort is shown in court exhibits 597, 631 and 1304,
8 to which the Tribunal's attention is respectfully
9 called.

10 Two initial drafts of demands on the Nether-
11 lands Indies, dated August 1940, have been received
12 in evidence as exhibit 1311.

13 On October 25, 1940 the Japanese Cabinet
14 decided on a further program aimed at the inclusion
15 of the Netherlands Indies in the Japanese Co-prosperity
16 Sphere. This Cabinet decision is contained in prose-
17 cution document 2137-G, a further document from
18 exhibit 540 for identification, which we now offer
19 in evidence.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 2137-G will receive exhibit No. 1317.

23
24 ("Whereupon, the document above
25 referred to was marked prosecution's exhibit
No. 1317 and received in evidence.)

1 MR. LAVERGE: We will read exhibit 1317:

2 "Cabinet Decision, 25 October 1940 /Showa
3 15/ Re Measures for Economic Development of N.E.I.

4 "The inevitability of occurrences in eco-
5 nomic affairs attendant on the progress of the New
6 World Order and the priority of our Empire in the
7 Netherlands East Indies based on the Tripartite Pact
8 between Japan, Germany and Italy necessitates making
9 the N.E.I. a link in the Greater East Asia economic
10 sphere under the leadership of our Empire by estab-
11 lishing immediately close economic relations and
12 developing and utilizing their rich natural re-
13 sources from the general standpoint of co-existence
14 and co-prosperity in connection with which the
15 following measures must now be taken:

16 "1. To stop the N.E.I. from relying on
17 the European-American Economic Bloc, and to make it
18 take the standpoint as being a member of the Greater
19 East Asia economy.

20 "2. To remove or mitigate various re-
21 strictions which at present obstruct the economic
22 activities of Japanese giving them preference and
23 freedom in economic activities above others.

24 "3. To propose a joint development of
25 the N.E.I. so as to secure in the Greater East Asia

1 Sphere the supply of necessary war material needed
2 by the Empire as far as possible, thus becoming
3 independent from British /T.N. Second Chinese
4 character unreadable/ resources. If necessary, to
5 lease or purchase suitable islands or territories.

6 "4. Although we have already received a
7 guarantee from the N.E.I. as to the supply of major
8 items which are necessary to our Empire, we must
9 furthermore obtain the N.E.I.'s agreement with regard
10 to an increase in variety and quantities of these
11 materials. Further, to make every effort for the
12 realization of instituting under the Empire's guidance
13 the trade control of important merchandise especially
14 tin, rubber, quinine and others, over which the
15 N.E.I. have a world monopoly.

16 "5. To purchase as far as possible those
17 agricultural products produced in the N.E.I., which
18 bring profits to the natives and to stimulate their
19 purchasing power in order to translate co-existence
20 and co-prosperity into reality. For this purpose the
21 N.E.I. should on their part accede to our demand as
22 far as possible and encourage agriculture.

23 "6. To seek special cooperation of the
24 N.E.I. in regard to an increase in the export of
25 Japanese merchandise to them."

1 "7. With a view to the future establishment
2 of a great monetary sphere within the Greater East
3 Asia area under Japanese leadership, efforts shall be
4 made to make the N.E.I. a link of the sphere also in
5 regard to the establishment of new monetary relations
6 with them, but it shall not be aimed to include the
7 N.E.I. itself in the 'Yen' bloc. To strive to place
8 the Exchange Control in the N.E.I. under our guidance.
9 For the time being, every advantage should be accorded
10 to the Japanese with regard to the application of
11 Exchange Control in the N.E.I. and at the same time
12 N.E.I. banks should establish 'credit' to the Japanese,
13 as well as exert utmost efforts to give other financial
14 facilities to the Japanese.

15 "8. As a means to secure the leading
16 position for the whole of Greater East Asia with
17 regard to traffic and communications, efforts shall
18 be made in establishing the following special rights
19 and interests.

20 "(a) The right of coastal trade, the right
21 of entering unopened ports and the right of administer-
22 ing and using port facilities.

23 "(b) The landing and operating right of
24 submarine cables, the right of participating in the
25 management of inland communication enterprises, and

1 other communication rights.

2 "(c) The inauguration of regular air
3 services and the right of instituting air safety
4 equipment.

5 "9. In order to build a stable fishery
6 position in the South we must strive towards in-
7 creasing the number of fishing boats, removal of
8 restrictions at ports of import of fish, establishment
9 of fishery bases, and acquisition of other rights and
10 interests pertaining to the conducting of the marine
11 product industry.

12 "10. To prohibit the establishment of new
13 rights and interests of Third Powers in the N.E.I.
14 and to endeavor to oust those already in existence
15 likely to obstruct the expansion of our Empire.

16 "11. To make the N.E.I. institute an
17 Economic Constructional Commission and other suitable
18 organs in which Japanese will be included and partic-
19 ipate in forming the N.E.I. domestic and foreign
20 economic policies and their enforcement, with a view
21 towards guiding and strengthening economic collabora-
22 tion with the Empire.

23 "The N.E.I. shall be required to consult
24 the above-mentioned organs with regard to trade,
25 finance, taxation, customs duties, economic agreements

1 with third countries, enterprises, traffic and
2 communications, etc.

3 "For the time being, Japanese importers
4 in the N.E.I. will be made to participate in the
5 Consultative Committee in the Ministry of Economics.

6 "12. To demand the strict control of anti-
7 Japanese commentaries by newspapers and other per-
8 iodicals, at the same time ensuring freedom to Japan-
9 ese in regard to the publication of newspapers.

10 "13. To demand the N.E.I. authorities to
11 exercise rigid control over Chinese residents assuming
12 pro-Chiang Kai-shek and anti-Japanese attitudes.

13 On the other hand, from a broad viewpoint, to plan
14 the use of their organization and resources in con-
15 sideration of their economic position.

16 "14. In order to ensure the economic
17 development of the Empire, various measures shall be
18 resorted to, such as inviting influential natives to
19 the Empire, or by propagandizing the true aspect of
20 the Empire and creating a proper understanding thereof.

21 "15. The Economic Policy shall be based
22 upon the broad viewpoint of establishment of the
23 Greater East Asia Co-prosperity Sphere and efforts
24 shall be made towards expanding the interests of the
25 Empire in harmony with the natives."

1 THE PRESIDENT: We will adjourn until half-
2 past one.

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

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AFTERNOON SESSION

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2 The Tribunal met, pursuant to recess,
3 at 1330.

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

6 THE PRESIDENT: Mr. Laverge.

7 MR. LAVERGE: The program decided on by the
8 Japanese Cabinet on 25 October, 1940, exhibit 1317,
9 was reflected in a list of demands to the Netherlands
10 Indies authorities on 16 January 1941, after Commerce
11 Minister KOBAYASHI had been replaced as chief Japanese
12 delegate to Batavia by former Foreign Minister
13 YOSHIZAWA.

14 We shall read from exhibit 1309-A, starting
15 at the top of page 22.

16 I read:

17 "In the meantime the Netherland Minister had
18 handed an aide-memoire, on the fifteenth of November,
19 to Mr. OHASHI, Vice-Minister of Foreign Affairs in
20 Tokyo, to draw the attention of the Japanese Govern-
21 ment to the fact that the negotiations were at a stand-
22 still for lack of subject matter, and to recommend
23 their discontinuation. This was answered by a note
24 verbale of November 20, announcing the imminent appoint-
25 ment of a new special envoy who was to instil renewed

1 activity into the proceedings. On November 28 this
2 successor turned out to be Mr. K. YOSHIKAWA, member
3 of the House of Peers and former Minister of Foreign
4 Affairs. He was due to arrive in Batavia on the
5 twenty-third of December and would carry on with the
6 aid of Mr. ISHIZAWA, the new Consul-General.

7 "Memorandum presented by the Japanese dele-
8 gation on January 16, 1941.

9 "Most of the vast territories of the Nether-
10 lands Indies, abundant in natural resources, are very
11 thinly populated and still remain undeveloped, waiting
12 for exploitation and development in wide fields. It
13 is beyond question that the exploitation and the de-
14 velopment of these areas would bring benefit not only
15 to the Netherlands Indies but also to Japan and, at
16 the same time, would contribute to the welfare of the
17 world.

18 "As a matter of fact, Japan and the Netherlands
19 Indies stand in the relation of economic interdependence,
20 the former being geographically situated much nearer
21 to the latter than any other European or American
22 powers. Accordingly, a great importance should be
23 stressed upon the necessity of strengthening the eco-
24 nomic relations between the two countries. Japan is
25 earnestly desirous of participating in the exploita-

1 tion of the natural resources in the Netherlands Indies,
2 and of promoting the trade and other economic relations
3 with her. It is Japan's firm conviction that a great
4 contribution would also be made towards the prosperity
5 of the Netherlands Indies herself, if the Netherlands
6 Indies Government would see their way to meet Japan's
7 desires and facilitate the economic activities in the
8 Netherlands Indies of Japanese nationals.

9 "In the view above-mentioned, the Japanese
10 Government wish to present the following proposals to
11 the Netherlands Indies Government:

12 "I. THE ENTRY OF JAPANESE NATIONALS AND OTHER AFFAIRS

13 "(1) Modification of the restriction on
14 entry.

15 "(a) Procedure laid down in the Foreign
16 Labour Ordinance (Ordonnantie Vreendelingenarbeid) be
17 simplified in order to permit entry of the Japanese
18 nationals, possessing passports issued by the Japanese
19 Government, up to the maximum number as stipulated in
20 the Netherlands Indies Entry Ordinance (Toelatings-
21 besluit)-- for example, 1,633 persons in the year of
22 1940, with the exception of the following cases men-
23 tioned in (b) and (c).

24 "(b) Permission of entry be granted to
25 Japanese nationals who are required for carrying on

1 exploitation and development enterprises in Buiten
2 Gewosten--especially Sumatra, Borneo and Great East,
3 where speedy development can hardly be expected with-
4 out the entry of substantial number of Japanese
5 nationals.

6 "(c) Japanese nationals who are permitted
7 to enter for temporary stay, be not included in the
8 number, mentioned in (a) above cited.

9 "(d) The entry tax be abolished.

10 "(2) Elimination of difficulties concerning
11 explorations.

12 "Any difficulties whatever concerning ex-
13 plorations, necessary for carrying on enterprises and
14 for other economic activities, be eliminated.

15 "(3) Freedom of medical practice by Japanese
16 doctors.

17 "Restrictions imposed upon medical practice
18 be modified in order that Japanese nationals, who
19 are qualified in Japan as doctors (including dentists),
20 may be granted permission for their medical practice
21 in the Netherlands Indies.

22 "(4) Promotion of rationalization of the
23 management of Japanese enterprises.

24 "Where Japan and the Netherlands Indies joint
25 enterprises are desired as a form of management of

1 enterprises, necessary assistance be given for the
2 realization of such, and favourable treatment be
3 accorded to all Japanese enterprisers in connection
4 with their making necessary arrangements such as em-
5 ployment of intellectual as well as manual labourers,
6 equipments for transportation (railway, harbours, ships,
7 etc.) and other needed establishments.

8 "(5) All applications or requests from Japa-
9 nese nationals be treated in friendly spirit.

10 "II. VARIOUS ENTERPRISES

11 "(1) Mining.

12 "Permission for the exploration and/or exploi-
13 tation of various minerals in the regions (including
14 the areas reserved for the Government), which are de-
15 sired by Japanese nationals for such purpose, be given
16 as promptly and extensively as possible.

17 "(2) Fishery.

18 "It is requested that the fishing by Japanese
19 nationals in the territorial waters be permitted,
20 so far as it does not cause competition with the native
21 fishery, and that an increase in number of fishing
22 boats, fishermen and employees, necessary for the
23 operations of the territorial-water-fishery mentioned
24 above, as well as for that of deep-sea fishery by
25 Japanese nationals, be allowed, and that various

1 fisheries at or near the fishery bases and such
2 establishments as necessary for the operation and the
3 management of fisheries (fish markets, ice-manufactur-
4 ing factories, cold-storage houses, oil tanks, factor-
5 ics for manufactured goods of fish, repair shops for
6 fishing boats, etc.) be permitted, and that the re-
7 striction on import harbours for fish be abolished,
8 and that the fish caught by the Japanese fishermen in
9 the Netherlands Indies be exempted from the import
10 duties.

11 "III. TRAFFIC AND COMMUNICATION

12 "(1) Opening of air service between Japan
13 and the Netherlands Indies.

14 "The establishment of a direct air service
15 between Japan and the Netherlands Indies by Japanese
16 planes be permitted and, in connection therewith,
17 facilities necessary for wireless communication and
18 meteorological information by wireless be rendered to
19 Japanese aviators.

20 "(2) Abolition of various restrictions on
21 Japanese ships.

22 "(a) With regard to the coastal navigation
23 already granted to the Japanese nationals by the
24 Netherlands Indies Government, an increase in number
25 of Japanese ships be permitted, and the restrictions

1 on the tonnage and navigable areas for the Japanese
2 ships be abolished.

3 "(b) Permission for the coastal navigation
4 be given to Japanese ships when necessary for the
5 operation of Japanese enterprises.

6 "(c) Harbours, of which direct connections
7 with Japan is desirable, for the promotion of the
8 traffic and trade between Japan and the Netherlands
9 Indies, be designated as open ports.

10 "(d) Formalities concerning the visit of
11 Japanese ships to nonopen ports, which is necessary
12 for the shipment of products destined for Japan, be
13 simplified and dealt with as promptly as possible, and
14 restrictions on the tonnage of the ships calling at
15 nonopen ports be abolished.

16 "(3) Improvement of the means of communica-
17 tion between Japan and the Netherlands Indies.

18 "(a) In order to establish a stable and
19 highly efficient means of communication between Japan
20 and the Netherland Indies, consent be given to the
21 laying of submarine cables between the two countries
22 under the Japanese management, which are technically
23 most up-to-date.

24 "(b) The prohibition of the use of Japanese
25 language in the telegraphic communication between Japan

1 and the Netherlands Indies be removed.

2 "IV. BUSINESS REGULATION

3 "Applications by Japanese nationals regarding
4 the business of warehousing, printing, weaving, ice
5 manufacture, rubber smoking, etc., such as subjected
6 to the Business Regulation Ordinance (Bedrijfs-
7 reglementeringsordonnantie), be complied with as far
8 as possible.

9 "V. COMMERCE AND TRADE .

10 "(1) Import quotas for Japanese goods be
11 arranged as mentioned in the list which will be annexed
12 hereto.

13 "(2) Japan is prepared to purchase the
14 Netherlands Indies products as mentioned in the list
15 which will be annexed hereto.

16 "(3) Increased percentage of import quotas
17 be allotted to the Japanese importers in the Nether-
18 lands Indies.

19 "(4) The Japanese importers in the Nether-
20 lands Indies be exempted from the obligation to import
21 the goods of third countries.

22 "(5) With regard to the Japanese goods to
23 be imported into the Netherlands Indies, friendly
24 measures be taken regarding the customs tariff and
25 customs formalities."

1 The answer of the Netherlands authorities
2 to the Japanese demands was presented on 3 Feb-
3 ruary 1941. We will continue to read from exhibit
4 1309-A.

5 "Memorandum presented by the Netherland
6 elegation on February 3, 1941.

7 "In order to clarify the position of the
8 Netherlands Indies with regard to the present econo-
9 mic negotiations and to avoid any possible misunder-
10 standings the Netherland delegation would like to
11 restate briefly the considerations determining the
12 economic policy of the Netherlands Indies.

13 "Whereas, the improvement and adjustment of
14 economic relations and the and the increase of mutual
15 trade with neutral or nonbelligerent countries is
16 the object of a constant care, exercised in the spirit
17 of goodwill, the measures taken in this respect must
18 comply with the following principles:

19 "In the first place, it must be taken into
20 consideration that the welfare, the progress and the
21 emancipation of the population of the Netherlands
22 Indies are the prime objects of the policy of the
23 Netherland Government. Measures which would tend to
24 run counter to the interests of the inhabitants, or
25 which would unduly narrow the scope of their future

1 development, should, therefore, be obviated.

2 "In the second place, the interests of the
3 Netherlands Indies demand that the economic relations
4 with foreign countries shall be maintained on a basis
5 of strict nondiscrimination; that the participation
6 of such countries in the economic growth shall not
7 disturb the gradual formation of the Netherlands
8 Indies as a self-sustaining economic unit within the
9 larger limits of the Kingdom; and that no preponderance
10 shall be created of foreign interests in any field of
11 economic activity.

12 "In the third place, it must be observed that,
13 for the duration of the war in which the Kingdom of
14 the Netherlands is involved, it is unavoidable that
15 trade and other economic activities will be subject
16 to restrictions preventing direct or indirect advan-
17 tage to the enemy or safeguarding the defence of the
18 Netherlands Indies.

19 "Furthermore, in so far as the two opening
20 paragraphs of the Japanese delegation seem to imply,
21 firstly, that the natural resources of the Netherlands
22 Indies have been inadequately developed and, secondly,
23 that the economic relations between Japan and the
24 Netherlands Indies are of such an important and vital
25 nature as to warrant the use of the term

1 'interdependence,' the Netherland delegation begs to
2 point out that such contentions would not seem to
3 be substantiated by the facts.

4 "The fact that a considerable part of the
5 so-called Buitengewesten is sparsely populated is
6 primarily accountable, not to any lack of funds,
7 labour or enterprising spirit, but to the relative
8 scantiness and the scattered character of their
9 natural resources. The poor results of several
10 agricultural, forestry and mining enterprises, both
11 domestic and foreign, in this part of the Netherlands
12 Indies confirm this view, as is the case with the
13 data, supplied by numerous scientific explorations.

14 "As a whole, the Netherlands Indies not
15 only provide practically all their own food, but in
16 almost every field of agricultural activity, suited
17 for the tropics, production has been developed to such
18 an extent that restrictions had to be imposed to
19 prevent a permanent glut in the markets of the
20 world. Mineral production is relatively high, com-
21 pared with mineral reserves, and in cases where the
22 minerals found are of poor quality -- as is the case
23 with iron ore -- exploitation was nevertheless under-
24 taken as soon as a demand for these minerals could be
25 expected to arise."

1 "This does not mean that there is no room
2 for further development. However, although the coopera-
3 tion of bona fide private foreign capital and know-
4 ledge is welcomed within the limits delineated above,
5 this development should proceed along lines of
6 rational economy and should be realized mainly with
7 the aid and to the benefit of the abundant popula-
8 tion in other parts of the Netherlands Indies and
9 of the fast increasing number of well-schooled and
10 well-trained people among them. The fact that the
11 number of government-organized agricultural emigrants
12 from Java has reached the level of 57,000 persons a
13 year and is rapidly increasing should by itself carry
14 the conviction that the Netherlands Indies do not
15 stand in need of immigration from foreign countries
16 and that all parts of the Buitengewesten, where
17 cultivation of the soil offers some economic prospect,
18 are necessary for the alleviation of the pressure
19 of the population in Java and elsewhere.

20 "As regards the importance of trade relations
21 between the Netherlands Indies and the Japanese
22 Empire, it should be borne in mind that the share
23 of the Japanese Empire in the total export value of
24 the Netherlands Indies decreased from an average of
25 4.21% in 1930-32 to an average of 3.74% in 1937-39."

1 "It is true that the share of Japan in the imports of
2 the Netherlands Indies was larger, but it should not
3 be overlooked that these imports were to a great extent
4 made possible through the creation of buying power
5 by exports from the Netherlands Indies to third
6 countries."

7 After Foreign Minister MATSUOKA, in his
8 speech before the Imperial Diet on 21 January 1941
9 had publicly included the Netherlands Indies in the
10 Greater East Asia Co-Prosperity Sphere, difficulties
11 arose in the Netherlands-Japanese negotiations and
12 made their failure seem likely, as will be shown from
13 the next four documents.

14 We offer in evidence prosecution document
15 2748-A(10), being a telegram from the Japanese dele-
16 gate in Batavia to Foreign Minister MATSUOKA, dated
17 27 January 1941.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 2748-A(10) will receive exhibit No. 1318.

21 (Whereupon, the document above
22 referred to was marked prosecution's exhibit
23 No. 1318, and was received in evidence.)

24 MR. LAVERGE: We will now read exhibit 1318.

25 "Commercial Negotiation #35. January 27th."

1 "Despatched from Delegate YOSHIZAWA in
2 BATAVIA to Foreign Minister MATSUOKA.

3 "Attention: The Vice-Minister of War and the
4 Vice-Chief of the General Staff.

5 "HARADA's Despatch No. 8.

6 "Since then, the tendency of the NETHERLAND
7 EAST INDIES to rely on GREAT BRITAIN and the UNITED
8 STATES has been increasing more and more. The defeat
9 of the ITALIAN Army in the Mediterranean theatre,
10 and AMERICAN aid to GREAT BRITAIN and her firm atti-
11 tude towards JAPAN have encouraged the NETHERLAND
12 EAST INDIES. She is taking the optimistic viewpoint
13 that the objective situation is developing favorably
14 for the NETHERLAND EAST INDIES. Furthermore, the
15 strengthening and development of her home defences
16 have intensified the self-confidence of the NETHER-
17 LAND EAST INDIES. Thus, not only is she completely
18 disregarding the Empire's East Asia Co-Prosperity
19 Sphere, but she is further expressing her spirit of
20 opposition on every matter. Therefore, it can be con-
21 sidered that unless our Empire adopts determined
22 resolutions or measures not only the progress of
23 the Japanese-Netherland negotiations, but also the
24 development of Japanese-Netherland relation would
25 be extremely difficult."

1 "As to the details, Lt. Col. NAKAYAMA who
2 is returning to JAPAN shortly shall make a report."

3 We offer in evidence prosecution document
4 2631, being a telegram from the Japanese delegate in
5 Batavia to Foreign Minister MATSUOKA, dated
6 6 February 1941.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2631 will be given exhibit No. 1319.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 1319, and was received in evidence.)
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1 MR. LAVERGE: "We will now read part of
2 exhibit 1319, starting at the top of page 1.

3 "Despatched: Batavia, Feb. 6, a.m.

4 "Received : Ministry, Feb. 6, p.m."

5 The year is 1941.

6 "To: Foreign Minister MATSUOKA

7 From: Chief Delegate YOSHIZAMA

8 "No. 54-1 (Urgent Very Secret Superintendent's
9 Code)

10 "Your Excellency's recent speech before the
11 Diet regarding the Greater East Asia Co-Prosperity
12 Sphere, and the answers of your Excellency and other
13 Ministers to the interpellations of Diet members and
14 the editorial views appearing in newspapers have
15 given, as you are already aware of, a great shock to
16 both government and private circles here, so that
17 the local papers are daily devoting much space to dis-
18 cussions of the matter.

19 "The discussion that arose during the interview
20 of OTA and ISHIZAMA with H----- on February 5 has been
21 reported in Telegram No. 53. As regards the erroneous
22 press news sent out by the Domei regarding the inter-
23 view between the Dutch Minister and Vice-Minister
24 OHASHI, steps have been taken for correction. How-
25 ever, as long as those views are reported as those

1 not only of those of private circles but also of
2 government authorities, even if it is a report of a
3 news agency, it is natural that it should produce
4 considerable repercussions here. Moreover, as dis-
5 patches continue to arrive, as in the past day or
6 two, to the effect as if doubt were cast upon the
7 status of the Dutch Government, the Dutch authori-
8 ties here, not satisfied with my statement alone,
9 seem to have caused the Dutch Minister in Tokyo to
10 demand the recognition by Japan of the exile govern-
11 ment in London as the de jure and de facto government
12 of Netherlands.

13 "It is needless to speak afresh of the cold
14 attitude of the Netherlands East Indies government
15 authorities toward Japan in the past. If the situa-
16 tion is let alone, it will, of course, be impossible
17 to expect much of the present conversation. It is
18 thought that after all without resorting to armed
19 force it would be probably impossible to make Nether-
20 lands East Indies a member of the East Asia Co-
21 Prosperity Sphere. For that, however, it is needless
22 to say that it is imperative that we must first have
23 full preparations for all possible eventualities (the
24 preparations will include not only military prepara-
25 tions but also adjustments of the Chinese Affair and

1 other international relations). If the government
2 has confidence in this regard, it is no part of mine
3 to say anything.

4 "But in case the government has yet no such
5 confidence in itself, we must perforce choose the
6 means of peaceful economic negotiation, however un-
7 satisfactory that may be. And that is the reason, I
8 believe, that I have been dispatched here. If I am
9 really right in so believing, it will be absolutely
10 necessary that the actions of the government and the
11 speeches of its officials should, I think, conform to
12 this policy so as to help the negotiations here pro-
13 gress to our advantage as far as possible. Unfortun-
14 ately, the more recent developments (in Tokyo) cannot
15 be considered to fall in line with this aim."

16 "We will not read the rest of it, sir."

17 The next telegram from Batavia to Tokyo is con-
18 tained in court exhibit 1045. As this part of exhibit
19 1045 has not been read, we shall now, with the Tri-
20 bunal's permission, proceed to read it.

21 THE PRESIDENT: Read it.

22 MR. LAVERGE (Reading):

23 "Batavia to Foreign Office Cable #3655

24 "Charge of Southern Affairs and Trade Depts.

25 "To Foreign Minister MATSUOKA from Envoy YOSHIZAMA ."

1 "Negotiation No. 65 (Strictly Confidential)

2 "Cooperative relation between Dutch East Indies
3 and the United States and Great Britain has become
4 much closer recently as America's aid to Britain
5 has become active, and the attitude of the Dutch
6 East Indies towards Japan is nothing but the reflec-
7 tion of the attitude of the United States. It is
8 difficult to notice such a distinction between them
9 as is generally supposed in Japan. America's attitude
10 towards Japan is growing worse even without Secretary
11 of State HULL's speech at Congress. There is no room
12 for doubt that the problem of the South Seas, especial-
13 ly of the Dutch East Indies, is an important cause
14 for America's plan of a huge expansion of naval ships.
15 It should be said that the real problem lying between
16 Japan and America is not China but the Dutch East
17 Indies. Regardless of the result of the Anglo-German
18 war, the United States will persistently regard with
19 hostility Japan who has ambitions towards the South
20 Sea Islands. On the other hand, the authorities of
21 Dutch East Indies, consulting their own interests, de-
22 sire to be in the hands of the United States rather
23 than Japan. And besides, not only are they in such
24 a condition that they can expect positive aid from
25 both the United States and Britain, but also think

1 that not even Germany will agree to the Dutch Indies
2 coming under Japanese authority as a dependency so
3 easily. On the other hand, in the speech of the
4 Japanese government against the United States and
5 Dutch East Indies there is no consistent underlying
6 strength, and finally it has given one the impression
7 that barking dogs seldom bite; and the Dutch have
8 begun to underrate Japan's real power. Therefore,
9 it is natural for the Dutch East Indies to follow
10 the attitude of the United States. At this time,
11 then, when the United States is about to push on
12 with her oppression against Japan, it is difficult
13 to expect even unsatisfactory success from the Dutch-
14 Japanese negotiations. Its breaking up is only a
15 question of time. The acquiring of those thirteen
16 items of necessary commodities will meet with dif-
17 ficulties. That is, the only means for Japan to
18 settle the problem of the Dutch East Indies is by
19 exercising her real power. "Without this determination
20 it will be quite fruitless for Japan to strive to
21 achieve success by peaceful negotiations, shouting
22 loudly for the establishment of the Greater East
23 Asia Co-Prosperity Sphere under the leadership of
24 Japan."
25

I will not quote any further.

1 We offer in evidence prosecution document
2 2748-A (12), being a telegram from Prime Minister
3 KONOYE to the Japanese Delegate in Batavia, YOSHIZAWA,
4 dated 28 March 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2748-A (12) will receive exhibit No. 1320.

8 (Hereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 1320 and received in evidence.)

11 MR. LAVERGE: We will now read exhibit 1320.

12 "Serial No. 10173 - Code - 7 p.m. 28 March 1941

13 "To Representative YOSHIZAWA at BATAVIA.

14 "From Foreign Minister KONOYE.

15 "Items concerning the air of future negotiations

16 "Communication No. 68; by office chief's code.

17 "Regarding your telegram communication No. 123:-

18 "Your viewpoint is reasonable enough that for
19 any settlement intended on the problems of entry,
20 commercial enterprise, etc., our only means are those
21 given in your telegram No. 125. But, as you know,
22 our whole nation has paid the greatest possible atten-
23 tion to the negotiations on this matter, and if they
24 end at this point without any results, our nation,
25 inside the country, will lose all confidence in our

1 foreign policy, while enemy nations outside will gain
2 the impression that we are easily dealt with and will
3 intensify all the more their contumely and oppression.
4 Altogether it would have an enormous political influence
5 both at home and abroad.

6 "According to reliable information, there is
7 some evidence that the Netherlands feel embarrassed
8 by the continued presence of your representatives and
9 regard it as an anticipatory measure designed by Japan
10 to turn to positive advantage any change in the situ-
11 ation; what is more, they are taking the extremely
12 indifferent attitude that the continuance of the
13 negotiations is nothing but a waste of time, and in
14 particular, they are putting on a superficial show of
15 satisfaction with the cooperative attitude of our
16 representatives and are content to regard it as a
17 compromise by Japan.

18 "However, considering the change in the situation
19 after Foreign Minister MATSUOKA's visit to Europe and
20 the intention of the Foreign Minister and the Colonial
21 Minister (a sympathizer with Japan), who are shortly
22 to visit your place after enlisting American interest,
23 we must request you, troublesome as it is, to push
24 pertinaciously our original demands for the time being,
25 to direct your main effort to the acquisition of

1 resources, and to await further developments in the
2 situation (decision reached in concert with the
3 Army).

4 "Finally, in view of the imperative necessity for
5 the continued presence for awhile of our representa-
6 tives please take care in carrying on the negotia-
7 tions not to fall into The Netherlands' plan for
8 getting rid of your representatives."
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1 We continue reading from exhibit 1309-A,
2 starting at the top of page 29:

3 "Already in the first stage of the con-
4 versations ensuing from the related exchange of
5 memoranda, the Netherland delegation had to caution
6 its Japanese opponents that a Japanese occupation of
7 southern Indo-China would constitute a military
8 menace towards the Netherlands Indies of such a
9 seriousness that it would cancel any agreement
10 reached in the economic sphere. Between March and
11 May, 1941, Mr. MATSUOKA made his European tour and
12 returned full of admiration for the Axis and with a
13 Russo-Japanese Neutrality Pact in his pocket.

14 "As Japan installed herself ever more firmly
15 in Indo-China and Thailand the potential leak in
16 the blockade of Germany widened. The two countries
17 together produced 130,000 tons of rubber annually
18 as against a Japanese consumption in past years of
19 50,000 tons; her need for 10,000 tons of tin per
20 annum was exceeded by at least 50 per cent in the
21 production of her new sphere of influence.

22 "Memorandum presented by the Japanese delega-
23 tion on May 14/22, 1941.

24 "In reconsideration of the memorandum, which
25 the Japanese delegation presented to the Netherland

1 delegation on the 16th January, 1941, they herein
2 present to the Netherland delegation the following new
3 proposal: They wish to make it clear, however, that
4 the Japanese viewpoint expressed in the preamble of
5 the above mentioned memorandum is firmly held by the
6 Japanese Government."

7 We will not read the details of the Japanese
8 demands.

9 That Japan still refused to give a guarantee
10 that the raw materials she was attempting to acquire
11 from the Netherlands Indies would not be re-exported
12 to Germany is shown in prosecution document 2748A
13 (13), a telegram from Foreign Minister MATSUOKA to
14 the Japanese delegate in Batavia and the Japanese
15 Ambassadors in the United States and Great Britain.

16 We offer prosecution document 2748A (13) in
17 evidence.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 2748A (13) will receive exhibit No. 1321.

21 (Whereupon the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 1321 and received in evidence.)

24 MR. LAVERGE: We will now read part of
25 exhibit 1321, starting at the top of page 1:

1 "Copy of Telegram. Dispatched by Minister
2 MATSUOKA at 9:30 p.m., on May 23, 1941 /Showa 16/

3 "To Delegate YOSHIZAWA in Batavia,

4 "Ambassador SHIGEMITSU in Great Britain, and

5 "Ambassador NOMURA in the United States.

6 "Re: Acceleration of Negotiations with Dutch
7 Indies. Urgent:

8 "On 22nd I invited Ambassador Craigie and told
9 him that the negotiations with the Dutch Indies,
10 through the extreme wholesale concession on our side,
11 had reached a rapprochement when compared with the
12 former contentions of both sides, but that there
13 still remained some difficulty about rubber and tin.
14 In June last year, the Dutch Government assured us
15 that, whatever the situation might be, the
16 Government would supply Japan with 20,000 tons of
17 rubber and 3,000 tons of tin, and despite the fact
18 that we conceded to the said quantities, the Dutch
19 Indies Government, taking the quantities of rubber
20 and tin exported by French Indo-China and Thailand
21 to Japan into consideration, now asserts that the
22 quantities mentioned above would be still further
23 deducted, but it must be borne in mind that the de-
24 mand for rubber and tin in our country had become
25 increased. I also explained that, although it is

1 claimed that there is the danger of Japan's sup-
2 plying Germany with rubber, even by adding the
3 quantity of rubber expected to be imported from
4 French Indo-China and Thailand to the 20,000 tons
5 of rubber which we have demanded of the Dutch Indies,
6 it would still be far below the total quantity re-
7 quired by us. What country is there in the world
8 that would give its own flesh to another country
9 by even going to the extent of cutting its own.
10 Furthermore, it merely shows the presumptuousness
11 of the Dutch Indies at the same time constituting an
12 act of humiliation to Japan, who is a great power,
13 to have a small nation like the Dutch Indies demand
14 of us an assurance that Japan will not re-export to
15 Germany. We could never give such an assurance.
16 Should the negotiations by chance, end in rupture
17 and lead to Delegate YOSHIZAWA's withdrawal, there
18 is no vouchsafing as regards what a grave situa-
19 tion may arise not only diplomatically, but also
20 internally, thereby inciting not only the anti-
21 Dutch, but also anti-British and anti-American
22 sentiment to such a degree that this Minister may
23 no longer be able to check same as was done in the
24 past."
25

We will not read the remainder of the

telegram.

1 The Netherlands answer to the final Jap-
2 anese proposals was given in a note dated 3 June
3 1941. We continue to read from exhibit 1309-A,
4 starting at the middle of page 31:

5 "Memorandum presented by the Netherland
6 delegation on June 6, 1941.

7 "Preamble.

8 "From the memoranda, presented by the Jap-
9 anese economic delegation on May 14th and 22nd,
10 1941, the Netherland delegation have noticed with
11 satisfaction that the Japanese proposals have been
12 modified in several instances after the thorough
13 discussion of the various points at issue in the course
14 of the negotiations. They value these modifications
15 as a result of the endeavours of the Japanese dele-
16 gation to adapt the Japanese proposals, as originally
17 formulated, to the exigencies of the present abnormal
18 circumstances, and to meet to a certain extent the
19 objections raised by the Netherland delegation on
20 account of the incompatibility of a number of those
21 proposals with the principles of economic policy in
22 the Netherlands Indies.

23 "Nevertheless the Netherland delegation cannot
24 but express their regret that the views of the
25

1 Japanese Government are still materially at variance
2 with these principles.

3 "In fact the Japanese memorandum of the 14th of
4 May 1941 states that the Japanese Government still
5 firmly hold the views expressed in the preamble of
6 the memorandum of the 16th of January 1941. As these
7 views were based on a supposed inadequacy in the
8 development of the natural resources of the Nether-
9 lands Indies and an assumed interdependence between
10 this country and the Japanese Empire, it is clear
11 that their practical application would tend to create
12 a special position for the Japanese interests in the
13 Netherlands Indies.

14 "It seems, therefore, appropriate to point once
15 more to the fundamental economic policy of the
16 Netherland Government in regard to this archipelago,
17 as set forth in the Netherland memorandum of February
18 3rd 1941; a policy which involves the furtherance
19 of welfare, progress and emancipation of its popula-
20 tion, non-discrimination towards friendly foreign
21 powers and the avoidance of the creation of pre-
22 ponderance of foreign interests in any particular
23 field of activity.

24 "Apart from these considerations of general
25 economic policy, the relations between the Netherlands

1 Indies and other countries must, for the duration of
2 the war, be affected by the subjection of trade and
3 other economic activities to certain unavoidable
4 restrictions, in order to prevent direct or in-
5 direct advantage to the enemy, to safeguard the de-
6 fence of the Netherlands Indies, and to promote the
7 war effort of the Kingdom and its allies. These
8 restrictions are, by their nature, of a temporary
9 character.

10 "Notwithstanding the difference in general con-
11 ception, which appears to separate the two govern-
12 ments, the Netherland delegation remain desirous to
13 make another effort to convince the Japanese delega-
14 tion not only of the reasonableness of the position
15 taken by the Netherland Government in regard to the
16 specific questions raised in the recent Japanese
17 memoranda, but also of the practical possibilities
18 open to the Japanese interests on various points."

19
20 The Netherlands proposals being unacceptable
21 to the Japanese Government, it was determined to dis-
22 continue negotiations. How this was done is shown
23 in two telegrams exchanged between Batavia and Tokyo
24 which we will now introduce in evidence.

25 We introduce in evidence prosecution
document 2748A (14), being a telegram from the

1 Japanese delegate in Batavia to Foreign Minister
2 MATSUOKA, dated 7 June 1941.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 2748A (14) will receive exhibit No. 1322.

6 (Whereupon, the document above re-
7 ferred to was marked prosecution's exhibit
8 No. 1322 and received in evidence.)

9 MR. LAVENGE: We will now read exhibit
10 1322:

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1 "1941 /Showa 16/ 15593 (cipher telegram)

2 "Despatche from Batavia - June 7, p.m.

3 "Received at this /Foreign/ Office - June 8,
4 a.m.

5 "From Delegate YOSHIZAWA to Foreign Minister
6 MATSUOKA

7 Parley No. 227 (per Embassy's code, Foreign -
8 Top Secret)

9 "Referring to Outgoing Cable No. 222.

10 "1. Although, as you will be able to observe
11 from the foregoing cable, the Dutch reply shows that
12 there are some points where they have agreed to our
13 wishes, nevertheless the prospects are not very bright
14 in regard to problems such as entry into the country,
15 enterprises and commerce due to their adhering to their
16 former contentions; in addition to which, in regard
17 to the question of resources, such as rubber and tin,
18 as well as regarding among other important commodities
19 to which the government /T.N. Japanese/ attaches the
20 greatest importance at present, they /T.N. the Dutch/
21 are stubbornly persisting in their conditions. More-
22 over, they /the Dutch/ have in fact at the same time
23 decreased the quantities compared with the informal
24 figures submitted hitherto by them /the Dutch
25 authorities/."

1 "Now that Your Excellency and the Vice-Minister
2 have lodged a strong protest against the British
3 Ambassador and the Dutch Minister, and the Publicity
4 Department as well as the newspapers have been carry-
5 ing out an active press campaign, it is absolutely
6 impossible to accept the Dutch reply just as it is.

7 "Even if we should, at this juncture, demand
8 the concession of the Dutch and try to continue on
9 with the negotiations, inasmuch as the Dutch reply I
10 have just received was, in addition to having met with
11 the special consideration of the Plenary Session by
12 studying same themselves repeatedly by inviting 'MO'
13 after having submitted same to the Indian Council
14 for deliberation, also approved of by the Dutch
15 government in London, it is evident that they would
16 no longer accept any such demand in view of the Dutch
17 side manifesting a firm attitude as regards their
18 unwillingness to discuss matters any further.

19 "Consequently, although it is considered that
20 the only option left as regards the attitude to be
21 adopted by us would be to have our Delegation leave
22 after announcing the rupture of the Parley, on the
23 ground that the Dutch reply was unsatisfactory, in
24 such a case it is evident that, out of respect towards
25 its people, the Japanese Government would have to

1 assume a strong attitude towards the Dutch, and the
2 press would denounce the Dutch attitude in a vehement
3 tone.

4 "However, as has been duly proved by what has
5 occurred in the past, the Dutch would by no means yield
6 to such a threatening gesture. On the contrary,

7 "(a) No new petroleum concessions whatso-
8 ever would be sanctioned.

9 "(b) No 'moral support' would be given towards
10 the renewal of the contract re sale of oil next
11 November.

12 "(c) No promise whatsoever would be given
13 also on materials other than, petroleum and the supply
14 thereof would be more and more restricted.

15 "(d) Copra and palm oil would be set back to
16 12,000 kilo tons and 960 tons respectively, and it
17 would be made impossible for the Japanese farms and
18 merchants to export their products and stocks to
19 Japan.

20 "(e) Japanese doctors would, obviously, be
21 prohibited from establishing their practice, and the
22 restrictions regarding entry into the country would be
23 still further strengthened.

24 "(f) No advance notice would be given regard-
25 ing the importation of Japanese goods."

1 "(g) Various methods would be resorted to
2 in order to increase the pressure upon the business
3 and living of the Japanese residents.

4 "(h) The attitude of dependence on Great
5 Britain and the United States would be strengthened
6 in a still more outspoken manner.

7 "We must consequently be prepared for the fact
8 that the situation after the rupture would become very
9 grave. Not only would it be unfavourable from the
10 standpoint of our prestige at home and abroad to attempt
11 any measures for prolonging the stay of our Delegation,
12 but as, in such a case, the Dutch authorities would
13 most probably demand the withdrawal of the Delegation,
14 and as the Empire's prestige would become completely
15 lost in the event of the Delegation being thereby forced
16 to leave, please, after giving the matter your careful
17 and due consideration, send me your urgent telegraphic
18 reply as regards the attitude that I should assume.

19 "Moreover, please note that, if possible, I
20 intend to return to Japan by the first available
21 opportunity after the 20th inst."

22 We introduce in evidence prosecution docu-
23 ment 2748A (15), being a telegram to the Japanese
24 delegate in Batavia, YOSHIZAWA, from Foreign Minister
25 MATSUOKA, dated 14 June 1941.

1 THE PRESIDENT: Admitted on the usual terms.
2 CLERK OF THE COURT: Prosecution's document
3 No. 2748A (15) will be given exhibit No. 1323.

4 (Whereupon, the document above referred
5 to was marked prosecution's exhibit No. 1323 and
6 received in evidence.)

7 MR. LAVERGI: We will now read part of
8 exhibit 1323:

9 "Telegram No. 22296

10 "Copy of the Telegram despatched to
11 Delegate YOSHIZAWA at Batavia by Foreign Minister
12 MATSUOKA, at 8:15 p.m., 14 June 1941.

13 "Subject: Breaking off of negotiations
14 with the Netherlands Indies.

15 "(Cipher) Urgent No. 147 (Handled in some
16 manner as director's code)

17 "In connection with your telegram 'conference'
18 No. 227: the reply of the Netherlands Indies this
19 time is so unwarrantable that it is not only beyond
20 our acceptance, but it is also meaningless for us to
21 continue the negotiation on the basis of their reply.
22 Therefore, the Government in accordance with your
23 opinion has decided to break off the conference and
24 to withdraw you, the delegate, and your whole staffs."

25 I will not read further from the telegram.

1 I will now read the last two pages of exhibit
2 1309A; starting near the top of page 36:

3 "The delegations met once more, on the tenth
4 of June, at the request of Mr. YOSHIZAWA. It became
5 quite clear at this meeting that the Japanese wished
6 to wind up their business. They asked only for a
7 number of technical elucidations in order to complete
8 the report to their government.

9 "The next morning, June 17, 1941, Mr. YOSHIZAWA
10 asked for an audience of the Governor General.

11 "After the usual compliments, Mr. YOSHIZAWA
12 opened the discussion by pointing out that the
13 Japanese Government had drawn up their last proposals
14 in an extremely conciliatory spirit, so much so that
15 they would run great risk of general disapprobation
16 if the document were to be published. Nevertheless,
17 the answer of the Netherland delegation had been wholly
18 unsatisfactory and, therefore, could not provide a
19 sufficient basis for an agreement. He was instructed
20 to ask the Governor General to reconsider that answer.
21 If that was impossible, his government had decided to
22 discontinu the negotiations and to recall their
23 delegation. The Governor General replied that he
24 appreciated the conciliatory attitude of the Japanese
25 Government, but that the Netherland Government were

1 candidly convinced that an agreement could not be
2 reached on the terms proposed. In all sincerity he
3 could not see his way to suggest any alterations in the
4 standpoint of his government as formulated in the last
5 Netherland memorandum. He added, however, that in
6 his judgment the negotiations had not been altogether
7 unproductive, although no agreement had emanated. The
8 respective positions had been very searchingly and
9 patiently analysed, and even if the parties could
10 not agree, they had at least been able to come to a
11 better understanding of each other.

12 "Mr. YOSHIKAWA proceeded to state that al-
13 though the negotiations had brought no agreement, the
14 Japanese Government wanted to see the general trade
15 and economic relations maintained as hitherto. The
16 Governor General concurred. The failure to agree was
17 to be expected, as the Netherlands Indies could not
18 further extend their already very liberal policy, in
19 the manner recommended by the Japanese proposals, but
20 this failure need leave no unfriendly sentiments. The
21 Netherland Government would be satisfied to continue
22 mutual relations on the old footing.

23 "Mr. YOSHIKAWA then produced the draft of
24 a joint communique, which, with a few minor amendments,
25 was agreed upon in the following text, to be published

1 forthwith:

2 "Joint Communiqué

3 "Both the Netherland and the Japanese dele-
4 gations greatly regret that the economic negotiation,
5 which has been conducted between them, has unfortunatel-
6 ly come to no satisfactory result. It is needless,
7 however, to add that the discontinuation of the present
8 negotiation will lead to no change in the normal
9 relations between the Netherlands Indies and Japan."

10 The Tribunal's attention is respectfully
11 invited to exhibit 635, being a telegram from the
12 German Ambassador to the German Foreign Minister,
13 dated 21 June 1941, in which the German Ambassador
14 reports that Foreign Minister MATSUOKA has stated to
15 him that the breaking off of the negotiations between
16 Japan and the Netherlands is definite, and that for
17 proceeding against the Netherlands Indies air and
18 naval bases must be set up in French Indo-China.

19 The southern part of French Indo-China was
20 occupied in July 1941 and as a result all Japanese funds
21 and assets in the Netherlands Indies were frozen.

22 We offer for identification only Prosecution
23 document 2339, the Japan Year Book for the year 1943-
24 1944.

25 CLERK OF THE COURT: Prosecution's document

1 No. 2339 will receive exhibit No. 1324 for identifica-
2 tion only.

3 (Whereupon, the document above referred
4 to was marked prosecution's exhibit No. 1324 for
5 identification.)

6 MR. LAVERGE: We offer in evidence an excerpt
7 from this exhibit, prosecution document 2339D.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecutions document
10 No. 2339D will receive exhibit No. 1324A.

11 (Whereupon, the document above referred
12 to was marked prosecution's exhibit No. 1324A
13 and received in evidence.)

14 MR. LAVERGE: We will read exhibit 1324A:

15 "The Japan Year Book 1943-44 Page 205.

16 "The Government of Netherlands, on the 28th,
17 announced the suspension of Japan-Netherlands Financial
18 agreement and the freezing of Japanese assets in the
19 whole of the Dutch East Indies."

20 THE PRESIDENT: What date is that?

21 MR. LAVERGE: It isn't on the exhibit. That
22 is a mistake on the part of the prosecution. The year
23 is 1941. We will have to further prove it.

24 THE PRESIDENT: June 1941, is it?

25 MR. LAVERGE: July 1941. We can produce

1 further evidence that the year was 1941, if your
2 Honor so requires.

3 THE PRESIDENT: It appears in a schedule of
4 dates we have previously. Unless the defense object
5 or contest it, we will take it to be the 28th of July,
6 1941.

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1 MR. LAVERGE: Having concluded the intro-
2 duction of evidence concerning the direct relations
3 and negotiations between the Netherlands and Japan
4 in 1940 and 1941, we will present to the Tribunal
5 a number of documents to show how in preparation
6 for military operations, Japan had been building
7 up an extensive organization of espionage and fifth
8 column activity in the Netherlands Indies.

9 We offer in evidence prosecution document No.
10 2613, being an official report by the Bureau of
11 East Asiatic Affairs of the Netherlands Indies
12 Government on the organization of the Japanese
13 Intelligence Service in the Netherlands Indies,
14 dated 27 October 1941.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 2613 will receive exhibit No. 1325.

18 (Whereupon, the document above re-
19 ferred to was marked prosecution's exhibit
20 No. 1325 and received in evidence.)

21 MR. LAVERGE: We will now read exhibit 1325
22 starting at the last paragraph on page 1.

23 "The Japanese Intelligence Service for the
24 Netherlands Indies consists of four organizations
25 hereinafter referred to by the letters: F.O.O.,

1 P.N.O., F.A.O., and O.C.O. These four organizations
2 will be systematically dealt with in turn hereunder:

3 "F.O.O.

4 "The most important and extensive organization
5 is the Foreign Office Organization, the composition
6 of which is shown in maps F.O.O. 1 and 2.

7 "The central points of this organization within
8 the Netherlands Indies are the Japanese Consulates
9 at Manado (42), Makassar (39); Soerabaja (22),
10 Batavia (11), and Medan (2). The lines indicate the
11 system whereby intelligence is passed on from places
12 where there are no Consulates. The numbers refer to
13 places where Japanese reside, who are known to
14 supply the Consulates with intelligence (in the
15 widest sense). Intelligence is
16 collected by means of journeys by informants to
17 places where there are Consulates, and on official
18 journeys by Consular Officials. Censorship has
19 completely eliminated the passing on of intelligence
20 by mail, which has never been very widely used.

21 "The red lines A and B mark the route of the
22 diplomatic couriers, who travel through the Nether-
23 lands Indies at regular intervals. It is noticeable
24 that these couriers generally travel in pairs, and
25 always remain together. They arrive regularly each

1 month. Prior to the recent restrictions on their
2 movements, they used also to travel on other than
3 the reproduced route, which is limited to the places
4 where there are consulates, inter alia, to East
5 Borneo and the Palembang region. These couriers
6 collect all the intelligence that has been brought
7 to the Consulates. They are often (non-commissioned)
8 officers of the Army, Navy, or State Police Forces,
9 which indicates the nature of the intelligence col-
10 lected. Nevertheless, for considerations of exped-
11 iency, they are incorporated into the F.O.O. as
12 being the safest organization.

13 "Map F.O.O. (2) is complementary to Map F.O.O.
14 (1). The red line A/B again indicates the courier's
15 route, which generally runs from Tokyo over Formosa,
16 Indo-China, Thailand, Singapore, Consulates in the
17 Netherlands Indies, and Palao, or vice versa. In
18 addition to the regular couriers' service the Consu-
19 lates have at their disposal telegraphic code
20 communication for conveying intelligence to Tokyo,
21 marked as C-lines on map F.O.O. (2). The numbers
22 on this map refer to the attached list of Consular
23 Officials, who are particularly entrusted with
24 espionage and the supplying of intelligence.

25 "Furthermore, crews (captains) of Japanese mail

1 steamers, tankers, etc., serve as supplementary
2 couriers. In order not to impair the clarity of
3 map F.O.O. (2), these have not been indicated
4 thereon.

5 "P.N.O.

6 "The Palao Naval Organization operates for the
7 Naval Information Service at Tokyo, more or less
8 independently from the Ministry of Foreign Affairs.
9 The important central point of this organization is
10 Palao, from where instructions are received, and
11 where intelligence is collected. There are indi-
12 cations that important information is passed on to
13 the military authorities in Formosa through the
14 Intelligence Service at Tokyo. Map P.N.O. is a
15 diagrammatic representation of this organization.
16 The numbers refer to known agents. Some of these
17 informants, who are paid from Palao, are regularly
18 recalled to Tokyo and Palao. In Tokyo they always
19 reside at the Tokyo Hotel, above the Central Station.
20 Most of these agents have permits to reside in the
21 Netherlands Indies and spend part of the year abroad,
22 either at Palao or in Japan.

23 "In considering map P.N.O., it should be noted
24 that it is not imperative for the intelligence
25 collected to go through Palao. It often reaches

1 Tokyo direct and is passed on from there to Palao.

2 "F.A.O.

3 "The third organization is referred to as the
4 Formosa Army Organization because the important
5 central point and collecting center lies in Formosa,
6 and the organization is under military direction.
7 The lines of communication are shown on map F.A.O.,
8 in which connection it is noticeable that these are
9 mainly concentrated on the western section of the
10 Netherlands Indies Archipelago, as contrasted with
11 the P.N.O. organization dominated by the Japanese
12 Navy, which generally pays more attention to com-
13 munications in the east of the Netherlands Indies.

14 "The rule that when circumstances require,
15 intelligence can be sent to Tokyo direct, also
16 applies to the F.A.O.

17 "O.C.O.

18 "The Overseas Chinese Organization is more
19 concerned with fifth column activities than the
20 three above mentioned organizations. Nevertheless,
21 it serves at the same time as an organization for
22 the supply of intelligence. To a greater extent than
23 in the case of the P.N.O. and F.A.O. dealt with
24 above, which operate through Japanese agents, the
25 Consulates (F.O.O.), which with Japanese consular

1 officials or private Japanese individuals as inter-
2 mediaries receive the required information from
3 Chinese informants, from part of the organization.
4 The Consulates have very large funds at their dis-
5 posal to finance the O.C.O.

6 "Map O.C.O. indicates the intelligence service
7 of Wang Ching Wei agents. The circles A, B, C, D,
8 and E with the Consulates as centers, represent a
9 number of Wang Ching Wei agents dispersed over the
10 whole of the Netherlands Indies. . . . The
11 impression is given that the Japanese Consulate-Gen-
12 eral at Batavia acts as a receiving center for the
13 O.C.O. and passes on intelligence direct to Tokyo
14 or to the headquarters in China at Amoy. Which way
15 this is done makes little difference, since there is
16 regular contact between Tokyo and Amoy. Branch lines
17 go to Nanking, Canton, Hainan, and Formosa, where
18 there are branches of this organization. The Koain
19 at Tokyo (Council for the Advancement of Asia) forms
20 part of this system.

21 "The four Intelligence Organizations in the
22 Netherlands Indies, F.O.O. (Consulates), P.N.C.,
23 F.A.O., and O.C.O. work in close contact with one
24 another. Owing to circumstances - namely, the state
25 of siege in this country, with the limitations and

1 supervision thereby entailed, - this contact has
2 become still closer."

3 We will not read the remainder of this report
4 although the Tribunal might wish to consider the
5 diagrams and maps which follow the part we have
6 read.

7 I also want to point out that this report is
8 dated 27 October 1941, and classified Top Secret.

9 MR. BROOKS: Mr. President.

10 THE PRESIDENT: Mr. Brooks.

11 MR. BROOKS: I would like to raise a point
12 on this affidavit. It appears in paragraph 4 that
13 all of the records and files were destroyed or lost.
14 I am speaking of exhibit 1325. Filed here with the
15 Court are the photostatic copies of something, and
16 from this certificate there is no statement of what
17 is filed with the Court, as far as I can ascertain,
18 as the true copies, or there is no statement that
19 these things that are filed are true certificates
20 prepared -- photostats prepared from originals or
21 otherwise. I thought maybe the prosecution can
22 explain it before we object any further.

23 MR. LAVERGE: Your Honor, what is lodged with
24 the Court --

25 THE PRESIDENT: Can you improve on the

1 affidavit which is carefully drawn? It is for the
2 defense to prove in the course of giving evidence
3 that the affidavit is incorrect. Statements in the
4 affidavit are explicit. They leave no question
5 open. He is the Head of the bureau that received
6 the report.

7 MR. BROCKS: I am considering, though, your
8 Honor, what is lodged with the Court in reference to
9 this affidavit, and there is a copy of something
10 there in Dutch that is supposed to be -- the Clerk
11 tells me is the original file; and then there is
12 some photostatic copies. Now I can't read Dutch.
13 We don't have Dutch interpreters. It would save a
14 lot of work on them.

15 MR. LAVERGE: Your Honor, if I might explain:
16 What is lodged with the Clerk of the Court at the
17 moment is both the original and a photostatic copy;
18 and we were going to request replacement of the
19 original by a photostatic copy so that the replacement
20 the original could be returned.

21 THE PRESIDENT: We authorize that replacement.

22 MR. BROCKS: I won't take up any further time.
23 We will investigate it further. No further objection,
24 your Honor.

25 MR. LAVERGE: We will next present to the

1 Tribunal two documents to show how an attempt was
2 made to establish a Japanese propaganda newspaper
3 in the Netherlands Indies.

4 We tender for identification only, prosecution
5 document 2612, being an official report of the
6 Netherlands Indies Government on Japanese subversive
7 activities in the Netherlands Indies.

8 CLERK OF THE COURT: Prosecution's docu-
9 ment No. 2612 will receive exhibit No. 1326 for
10 identification only.

11 (Whereupon, the document above
12 mentioned was marked prosecution's exhibit
13 No. 1326 for identification.)

14 MR. LAVERGE: We offer in evidence an
15 excerpt from the aforementioned report, prosecution
16 document No. 2612A, being a letter dated 30 May 1938,
17 reproduced as an appendix to the government report.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 2612A will receive exhibit No. 1326A.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 1326A and received in evidence.)

24 MR. LAVERGE: We will now read parts of
25 exhibit 1326A starting at the top of page 2.

1 THE PRESIDENT: are you reading much of it?

2 MR. LAVERGE: Pardon me.

3 THE PRESIDENT: How much are you going to
4 read?

5 MR. LAVERGE: I am going to read in all two
6 pages, your Honor.

7 THE PRESIDENT: You may read it after the
8 recess.

9 We will recess for fifteen minutes.

10 (Whereupon, at 1443, a recess was
11 taken until 1500, after which the proceedings
12 were resumed as follows:)

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

3 THE PRESIDENT: Mr. Laverge.

4 MR. LAVERGE: We will now read parts of
5 exhibit 1326-A, starting at the top of page two:

6 "Accompanying letter, May 30th: 3rd
7 Section of the Europe-Asia Bureau, from KOTANI, Tanun
8 to Mr. KANEKO, Keizo.

9 "I send hereby the original of the scheme
10 and wish you success.

11 "Plan for the Publication of a Daily
12 Paper in the Malay Language by Japanese in the
13 Netherlands Indies

14 "1. Scheme of Publication

15 "a. Saeroen to be appointed Chief Editor.
16 Saeroen who used to be editor of the Pemandangan,
17 who is known amongst the East Indian intellectuals
18 as pro-Japanese and whose dismissal was, therefore,
19 brought about by the wealthy overseas Chinese, is
20 now connected with the 'Aneta' press bureau.

21 "He has close relations with the elected
22 members of the People's Council, Thamrin and Soekardjo,
23 who are the leaders of the native independence move-
24 ment. He collaborates closely with Mr. KUBO, Tatsuji.

25 "b. Plan adviser, Mr. KUBO, Tatsuji. The

1 former director of the Nichiran Shogyo, Mr. KUBO
2 has been in the Netherlands Indies for the
3 last 30 years and is well acquainted with the political
4 and economic world in the Netherlands Indies. He
5 has friendly relations with influential natives and
6 has a clear view of national policy. He would stand
7 behind Saeroen as the leading force.

8 "c. Mr. MOMINOKI, Tatsuo would look after
9 the Japanese news. He is a young man who has been
10 in the Netherlands Indies for more than ten years
11 and has profoundly studied the Malay language. He
12 used to be editor of the Nichiron Shogyo Shimbun and
13 is now a contributor to the Malay daily paper Soeara
14 Oemoen and three other papers. He is in the center
15 of the struggle for the purpose of convincing the
16 East Indians of the true situation of the Chinese
17 conflict and enjoys an established reputation among
18 the intelligentia as being the most proficient
19 expert of the Malay language among the Japanese.

20 "He is to work under Saeroen for the trans-
21 lation of the Japanese news.

22 "d. Daily paper.

23 "e. Place of publication: Batavia, the
24 political center of the Netherlands Indies.

25 "f. Number of pages: 8 to 10.

1 "g. Subscription: 50 to 75 cents per
2 month. Postage extra. Up to ten pages the postage
3 is 1 cent per copy. This subscription may be thought
4 too low but in view of the state of income of the
5 East Indian intellectuals the subscription, including
6 postage, should not be more than one guilder per
7 month."

8 We will not read the paragraph dealing
9 with the budget for the newspaper, but would like
10 to draw the Tribunal's attention to the fact that an
11 initial outlay of 31,000 guilders was to be made and
12 that a monthly deficit was expected.

13 We continue reading near the bottom of
14 Page 3:

15 "The Japanese newspapers in the Netherlands
16 Indies are read by only a very small portion of the
17 Japanese and never come under the eyes of the
18 Chinese, Javanese , etc.

19 "When the paper is printed in Malay and
20 the situation in Japan is made known, a result of
21 inestimable extent can be expected.

22 "When this paper inserts Japanese advertise-
23 ments, explains Japanese Commerce, and furthermore
24 introduces touristic and industrial Japan, not only
25 would same serve to foster amicable relations, but

1 would also save the 60,000,000 East Indian populace
2 from the false reports so characteristic of the
3 Chinese. This plan for a Malay daily paper has
4 already been considered for three years without
5 being realized. However, often the front was formed
6 and, however, frequently discussions took place,
7 publication did not materialize. The Japanese living
8 in Java could hardly counteract Chinese news during
9 the Manchurian conflict and they experienced great
10 hardships through this adverse propaganda.

11 "Now that the Sino-Japanese Incident has
12 become more magnified and complicated, the home
13 country of the Overseas Chinese in the Netherlands
14 Indies is on the verge of becoming the scene of
15 warfare.

16 "The entire Netherlands Indian press is
17 boosting China in order to curry favor with the
18 Chinese who have the real economic power.

19 "In the Netherlands Indies the Chinese
20 publish more than ten papers in the Malay language
21 alone and over ten in Chinese.

22 "For our compatriots there were only two
23 Japanese papers which through the intermediary of the
24 Consulate were fused into one and this contains only
25 news along the line provided by the news service

1 of the Ministry of Foreign Affairs.

2 "Of a Malay daily paper there is under
3 those circumstances, of course, no question. The
4 hope of the Japanese inhabitants is that a Malay paper
5 will insert Japanese propaganda and commercial news.
6 But not only this; others have to be made acquainted
7 with Imperial Japan's love of justice.

8 "The intellectual East Indians of Java,
9 Sumatra, etc., expect Japan to publish a Malay
10 paper under Japanese management and the wishes of
11 Japan and Java coincide remarkably. This opportunity,
12 which is now mature, has been long and eagerly
13 awaited, but if publication is not now begun it will
14 never be realized.

15 "In order to thoroughly study the prospects
16 and the budget I have returned for the third time to
17 the fatherland so as to make a last effort.

18 "I request, dear Gentlemen, that you will
19 agree to this for the sake of our country's march to
20 the South."

21 We offer in evidence a further excerpt
22 from exhibit No. 1326 for identification, another letter
23 reproduced as an appendix to this exhibit. As may
24 be seen from the certificate attached to the letter,
25 the date which is given in the letter as 24 December,

1 is 24 December 1938.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 2612-B will receive exhibit No. 1326-B.

5 (Whereupon, the document above re-
6 ferred to was marked prosecution's exhibit
7 No. 1326-B and received in evidence.)

8 M.R. LAVERGE: We will now read parts of
9 exhibit No. 1326-B, I begin with the text of the
10 letter:

11 "At the end of the year the atmosphere in
12 the fatherland in connection with war conditions is
13 very tense, if compared with other years.

14 "There are very few decorations in the
15 streets, but the first class restaurants are full
16 each day. But one sees no Geisha festivities.

17 "The business for which during so many
18 years I have given myself so much trouble and which
19 I expected to be a success has unfortunately ended
20 in failure again. In these days when the problem
21 of the Southward policy has come to the fore, I
22 cannot find sufficient words to offer apologies to
23 my country.

24 "How worried I felt at the moment of
25 returning from the Foreign Office after inquiring

1 whether any report had yet been received that the
2 publication of the newspaper had commenced. Although
3 I had made up my mind that the banning of my return
4 (to the Netherlands Indies) would be a mere question
5 of time, the only thing that weighs heavily on my
6 mind is the question of progress regarding the "Warta
7 Harian."

8 "I am quite aware of the various local
9 complications, but if you think that it will not do
10 to make Saeroen president and chief editor, please
11 manage (assume control of) it yourself and start
12 publication immediately. It is obvious that the
13 propaganda value would then, of course, become consider-
14 ably minimized. Both KOMINOKI and myself shall defy
15 the oppressive measures of the Netherlands Indies
16 authorities by re-entering the country. I have already
17 conferred with the General Staff about this step which
18 I will take as a final measure.

19 "If the plan with Saeroen should become re-
20 alized before matters come to the aforementioned stage,
21 it would merit many 'banzais' in view of its represent-
22 ing my long-cherished desire. It is the policy of
23 both of us not to force our return until this object
24 has been achieved.

25 "Even if it should become impossible for

1 me to re-enter the country I shall not fail to send
2 you sufficient operating funds. I have entrusted
3 Mr. KOTANI of the Foreign Office with the safe-
4 keeping of yen 5,000 only which I persuaded President
5 MATSUOKA of the South Manchurian Railway Company to
6 give. Further, the Bureau for East Asiatic Economic
7 Research (Toa Keizai Chosa Kyoku) of the South
8 Manchurian Railway Company (under leadership of
9 OKAWA, Shumei) has also promised to give a subsidy
10 of around 50,000 yen per annum as from next year.
11 Also, our elder IWATA takes a great deal of trouble
12 about the matter. He intends to supply Siamese
13 cowhides to the Army and upon its realization as well
14 as his succeeding in acquiring special rights
15 (concessions) in South China he will send about
16 20,000 or 30,000 yen for the work in the Netherlands
17 Indies. Also, as regards the question of shortage
18 of personnel, preparations have already been completed
19 to send some to you promptly depending upon the
20 prospects. In brief, please advise me as promptly
21 as possible of the necessary counter-measures after
22 taking the local conditions at your end into careful
23 consideration. I particularly and ardently hope
24 that you will realize the establishment of a Malay
25 paper. If the publication of a new paper is impossible,

1 I think it would become necessary to buy and to
2 transfer to Batavia the Sinar Selatan."

3 We will now pass over the next few para-
4 graphs and continue reading at the second line
5 from the bottom of page two:

6 "In collecting money for future work
7 the closest contact should be kept with the Ministry
8 of Foreign Affairs and it is urgently desirable
9 thereby in all respects to cooperate with the
10 Consulate-General. Even if NOMINOKI and I are not
11 allowed to return, I trust you are firmly decided
12 to give your service in the interest of the State.
13 Please answer me to c/o Mr. IWATA, Shirokane Dai-
14 machi I, No. 81, Shiba-ku, Tokyo. (Signed)
15 KANEKO, Keizo."

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1 MR. LEVIN: Mr. President.

2 THE MONITOR: Will you please wait?

3 All right.

4 THE COURT: Mr. Levin.

5 MR. LEVIN: I would like to indicate that
6 I do not see the significance of this document,
7 1326-B.

8 THE PRESIDENT: Press propaganda is part
9 of aggression, I suppose.

10 MR. LEVIN: It is possible that on that
11 basis it might be ground for its admissibility;
12 however, it does not appear to come from some person
13 in authority or from an authoritative source.

14 THE PRESIDENT: The Foreign Office is
15 mentioned. It has been read now.

16 MR. LAVERGE: The next two documents, which
17 we will offer in evidence deal with Japanese explor-
18 ation of Dutch New Guinea. We introduce in evidence
19 prosecution document 2612-D, a letter dated 15 March
20 1935, being a further excerpt from exhibit 1326 for
21 identification, and reproduced as an appendix to
22 this exhibit.

23 THE PRESIDENT: The excerpt is admitted on
24 the usual terms.

25 CLERK OF THE COURT: Prosecution's document

1 No. 2612-D will receive exhibit No. 1326-C.

2 (Whereupon, the document above
3 referred to was marked prosecution's exhibit
4 No. 1326-C and received in evidence.)

5 MR. LAVERGE: We will read the first two
6 lines of the heading of the letter, as well as the
7 whole text:

8 "Nanyo Kohatsu Kabushiki Kaisha

9 "(South Seas Development Co. Ltd.)

10 "15 March 1935.

11 "Foreign Outward No. 29, from President
12 MATSUE at Tokyo, also sealed by MIZUHO and SAITO
13 Bunya, (Overseas Section), addressed to Mr. Kosugi
14 NICHINARI at Momi Office.

15 "Subject: 'Foundation of the Dutch New
16 Guinea Oil Company.'

17 "I have the honor to transmit herewith
18 for your reference the reports received from the
19 Naval Staff and from the Consulate-General at
20 Batavia, both dated February 14th, concerning the
21 conditions regarding the starting of enterprises in
22 Dutch territory.

23 "Our company would also like to apply for
24 the permission to do experimental drillings in the
25 territory which has been colored red on the enclosed

1 map.

2 "In this connection thorough study of the
3 Netherlands Indian mining legislation is necessary:
4 I enclose a copy of 'Mining in the Netherlands East
5 Indies and the Mining Law,' and request you to make
6 preparations for the future.

7 "In view of the opinion of the local
8 authorities it is to be expected, of course, that
9 they may not be well disposed towards this applica-
10 tion. I request you, therefore, to bear this in
11 mind and in great secrecy to make investigations
12 regarding the red colored territory which has an
13 area of about 1.7 million hectares and also to
14 inquire about the procedure, etc. for making appli-
15 cations. Also, you will please submit some sort of
16 a definite plan."

17 We offer in evidence prosecution document
18 2612-C, an excerpt from exhibit No. 1326 for iden-
19 tification and reproduced as an appendix to that
20 exhibit.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 2612-C will receive exhibit No. 1326-D.

24 (Whereupon, the document above
25 referred to was marked prosecution's exhibit

1 No. 1326-D and received in evidence.)

2 MR. LAVERGE: As may be seen from the
3 certificate attached to the document, the date of
4 this letter, which is given as May 20, is 20 May
5 1939.

6 We will read exhibit 1326-D entirely:

7 "I trust that you are all in the best of
8 health and working hard.

9 "I beg to also thank you for your
10 various courtesies extended to me on the occasion
11 of my recent furlough return to Tokyo.

12 "After a stay of three days in Palao, I
13 finally leave at noon tomorrow, the 21st, per Palao
14 Maru. It is remarkable how here at Palao the ex-
15 pansion of all tropical industries has continued in
16 all possible directions; the establishment of new
17 companies, large and small, is most astounding. I
18 was greatly impressed (inspired) by the various
19 things which I learned in the course of my inter-
20 views with all of the leading personalities. In
21 brief, I believe this to be nothing else than the
22 realization of the Empire's trend towards filling
23 the needs for various resources that it depends upon.
24 Southern industries, through the hands of the Japanese
25

1 instead of importing same (Tr. Note: from abroad).
2 But it is not possible to have the requirements of
3 Japan which progresses by leaps and bounds satisfied
4 by the Mandated Territories only. The next important
5 problem lies therein that its solution will, of
6 necessity, have to be met by the expansion of the
7 Japanese in Great New Guinea, and I think that the
8 time is rapidly and silently approaching when we
9 shall be taking an active part.

10 "For the sake of the Manyo Kohatsu Kaisha's
11 newly advancing to the Spratley Islands, Mr. TAKEDA,
12 Chief of the General Affairs Section of the Palao
13 office, will be proceeding to the said islands by
14 the 'Saipan Maru' on the 27th. I am informed that
15 in the Island of Hainan, all forms of enterprises
16 are flourishing, and the Manyo Kohatsu's research
17 party, too, is at present engaged in research work.

18 "The aerial route between Tokyo and Palao
19 has been completely opened, and passengers at a fare
20 of 360 yen per person are conveyed to Tokyo in two
21 days. Letters are 30 sen in excess of the ordinary
22 postage. There is one plane per week. Large four
23 motor hydro planes are used and in order to perfect
24 this air line they are piloted by naval officers on
25 the active list (commanded by lieutenant-commanders).

1 "Naval Attache OKUMA, from whom we always
2 have received the greatest possible help for our
3 New Guinea Enterprise Department, has been promoted
4 to the Navy Ministry, and his successor, Naval
5 Captain FURUKI, has already arrived at Palao.

6 "At present a large quay is being con-
7 structed on the Island of Marakaru (Malakai, Palao
8 group) which will be able to accommodate two vessels
9 of 6000 tons. The work is being executed by the
10 Nampo Sangyo K.K., while today, the 20th, with
11 great ceremonial, the ground has been inaugurated for
12 the construction of two 10,000 ton oil tanks. It
13 is extremely gratifying that such large installations
14 which as sine qua non imply the expansion of New
15 Guinea are steadily making headway.

16 "Also, as regards the increase in personnel
17 for New Guinea, I have been informed by Naval Attache
18 OKUMA, after my arrival at Palao, that permission
19 has been given for ten persons. He said: 'Ten
20 persons for New Guinea is rather few, but these ten
21 men must at least be equivalent to 10,000, because
22 they represent a group of only matchless warriors,
23 each of whom is a match for 1,000 men.' I shall now
24 conclude my letter of thanks as well as of Palao news.
25 I ardently hope, my comrades, with the motto 'Health

1 First' in mind, that you will do your best for the
2 exploitation of Great New Guinea.

3 "Palao, May 20.

4 "INOUE

5 "To: Branch Manager, HORIYE,
6 Department Chief, MAKITA, and the Entire
7 Staff at Nomi."

8 We offer in evidence prosecution document
9 2612-E, a letter dated 30 May 1940. This letter is
10 a further excerpt from exhibit No. 1326 for iden-
11 tification and is reproduced as an appendix to that
12 exhibit.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2612-E will receive exhibit No. 1326-E.

16 (Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 1326-E and received in evidence.)

19 MR. LAVERGE: We will now read exhibit
20 No. 1326-E entirely:

21 "Outside on the envelope: HAYASHI, Kyujiro,
22 President-Director of the Japanese South-Seas Assoc-
23 iation, Batavia.

24 "from CHUANG, from British Penang . . . Street
25 167.

1 "Inside the envelope: Addressed to
2 President TSUKIHARA.

3 "Dear President TSUKIHARA:

4 "It is a long time since I saw you last,
5 but I have been feeling an irresistible yearning
6 after you and have been always wondering as to how
7 you are getting along. In any case, I hope that
8 things are going along smoothly with you both in
9 your official and private life.

10 "You were so kind at the time to engage me
11 for the Overseas Intelligence Bureau, but I feel
12 ashamed that I have as yet been able to do so little,
13 which I believe is due to my not being favored yet
14 with the right opportunity.

15 "Recently when the situation in Europe has
16 become tense, and with the prospect of the collapse
17 of this European Empire, your Bureau has with re-
18 doubled energy worked towards realizing the great
19 plan for the domination of East Asia, which is a gigan-
20 tic scheme unparalleled in history. I feel, indeed,
21 extremely happy at the honor of being made a member.
22 In the event of this purpose being achieved in future
23 by rendering meritorious services, it would probably
24 become impossible to fully describe our delight on
25 seeing the blue-eyed people who oppressed us in

1 the past having to hang their heads low beneath
2 the knees of the Japanese people.

3 "In accordance with your instructions to
4 intensify my activities, I have made contact with
5 my comrades in Siam and five of them have already
6 entered that country in disguise. As objects of
7 espionage it is our duty to obtain confederates, to
8 commit sabotage, to incite the natives to hostility,
9 and to spread alarming rumors. In this respect I
10 entirely follow your instructions. These five agents
11 each work separately. You previously wrote me that
12 a high official would come to the South and that
13 we should receive instructions from him on secrecy
14 items. This has now happened, judging from the
15 report in the press that Kyujiro HAYASHI, an
16 important diplomat and also Head of the Intelligence
17 Bureau, has arrived safely at Batavia by a Royal
18 Dutch Company's plane at 4:30 P.M. of the 23rd inst.
19 It is obvious that our work hereafter will increase
20 in seriousness still more and that we shall be re-
21 ceiving definite instructions more and more. It sheds
22 a great light upon us.

23 "From what I have heard, Britain has no more
24 military strength to fight back because British
25 Imperialism has lately suffered disastrous defeats

1 in the European War, and will before long suffer the
2 sad plight of national ruin and a doomed race. To
3 cover their shame, the local authorities have ex-
4 pressly stationed mixed troops, consisting of old
5 and feeble soldiers, at important points of commun-
6 ication, such as railway bridges for defense purposes,
7 and strategic points like air-bases are also in
8 the list of places to be patrolled.

9 "This crazy small nation has the fancy
10 that the stationing of troops in this manner would
11 serve to inspire confidence among the people, quite
12 ignorant of the fact that, by so doing, they are
13 only cutting a still more ridiculous figure of
14 their own hurry-scurry confusion. On investigating
15 the morale of the said mixed troops of volunteers
16 it has been found that they all entertain a grudge
17 in their hearts, and only few among them are willing
18 to sacrifice their lives for this devilish regime.
19 I may safely assert that, should I incite them by
20 taking advantage of their weak spot, these volunteers
21 would find it impossible to fulfill their duties.

22 "In accordance with orders duly received
23 from our superiors we have decided to utilize large
24 amounts in nearest future for the purpose of corrupting
25 the soldiers and the people as well as to organize a

1 fifth column to be ready when the fighting begins.
2 In view of the important nature of the matter, I am
3 afraid that it would be impossible to obtain satis-
4 factory results unless personnel, labor and materials
5 are supplied in large number and volume and reason-
6 ably distributed. As I am enjoying your special
7 patronage I feel I should advise you of all matters
8 in detail. I do hope you will pay due attention to
9 it.

10 "The salary and campaigning expenses that
11 you secretly sent me the other day have been already
12 safely received.

13 "As regards results, it has become further
14 improved and effective propaganda combined with
15 the war situation have convinced soldiers and people
16 that this inferior Government will soon collapse so
17 that another powerful nation must be obtained to
18 guarantee their security, apart from which they
19 are all desirous of rendering their services as a
20 result of having given them a little money. However,
21 the chance has not yet come. My comrades have already,
22 by disguising themselves, succeeded recently in
23 stealing various important topographical maps as
24 well as data regarding the distances of military
25 forces. Should you desire to have them, please

1 advise me, at the same time inform me in detail the
2 manner of forwarding the same, which will skip the
3 attention of the censorship. I shall send it all
4 right.

5 "Please address your correspondence here-
6 after to my former address, as I intend to cast off
7 public suspicion by my removal.

8 "Be so good as to translate this letter
9 into Japanese before passing it on to the higher
10 authorities. Best regards,

11 "(Signed) Chuang Kung Ming

12 "Overseas Intelligence Bureau
13 No. 265

14 "dated 30 May, the 29th Year of the Republic (1940)."

15 We offer in evidence prosecution document
16 15-B, an excerpt from exhibit 803 for identification,
17 being an intercepted telegram sent from Batavia to
18 Tokyo on 2 September 1941.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 15-B will receive exhibit No. 1327.

22 (Whereupon, the document above
23 referred to was marked prosecution's exhibit
24 No. 1327 and received in evidence.)

25 MR. LAVERGE: We will now read parts of

1 exhibit 1327. I might add that as is shown in
2 exhibit 1323, and as will further appear from a
3 document which we will introduce presently, the
4 sender of this telegram, ISHIZAWA, was the Japanese
5 Consul-General in Batavia.
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"From: Batavia (ISIZAWA) To: Tokyo

1 September 2, 1941 #902

2 "Re the first part of Circular #261a from
3 Ambassador HONDA.
4

5 "1. Conditioned by our military invasion
6 of French Indo-China, it is a fact that the government
7 of these islands has drastically stepped up their anti-
8 Japanese tendencies and very evidently assumed an atti-
9 tude of aid to China. This is evidenced by the uncon-
10 vincing control exercised by the authorities here over
11 the anti-Japanese editorials of the Chinese press, the
12 solicitation of funds for the construction of military
13 airplanes for Chungking among Chinese residents here,
14 and their demand for suspension of publication of the
15 Japanese-operated East India Daily News Chinese char-
16 acter edition, as well as the Malayan language magazine
17 Sinarusuratan. However, on the other hand, in order
18 that we may give a sufficiently clear picture of the
19 situation, there is a small group of Chinese resident
20 here whose anti-Japanese tendencies have slightly im-
21 proved as a result of the activities of the government
22 here. However, no sooner than they got the impression
23 that these Chinese were coming slightly closer to us
24 in feeling, it could be seen that they began to exercise
25 their old tendencies on a still greater scale. Japan-
ese who had good contacts with Chinese here were

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1 unmercifully exiled, and these Chinese friends were
2 hauled unceremoniously to the police stations for
3 questioning or possibly taken before the person in
4 charge of Chinese affairs here. It has been anony-
5 mously reported that a statement has been made that
6 they are in danger of their lives. Thus, they have
7 begun to hinder our schemes with regard to the Chinese
8 with more and more determination."

9 We will not read paragraph 2, but will
10 continue reading from paragraph 3 near the middle
11 of page 2 onwards:

12 "3. Having said all this, I endeavored to
13 refute him with all the strength that I could command.
14 RO, however, would not be convinced and adamantly stuck
15 to his statements. Not only is the situation like this,
16 but recently the fact that the police strength on these
17 islands has been greatly augmented has made it extreme-
18 ly difficult for us to carry on our schemes toward the
19 Chinese residents here. As a consequence, the situation
20 practically means that we can do nothing directly.
21 Therefore, I would like to have our organs here for the
22 manipulating of public opinion as well as those who work
23 in the development of our schemes remain passive for a
24 little while. For the time being, we are concentrating
25 our efforts in the collection of intelligences having

1 to do with the activities of Chinese here as well as
2 other things.

3 "4. Therefore, in the meantime, until we
4 have securely brought French Indo-China and Thai
5 within our sphere of influence, I think that it would
6 be most propitious for us to strengthen our schemes
7 with regard to the Chinese here. For this purpose
8 I would like to have sent to these islands influential
9 persons in whom the Nanking Government has much confi-
10 dence, who can command large numbers of followers among
11 the Chinese here, who will have for their main objec-
12 tive the preaching of the doctrine that the Chinese and
13 the Japanese are one, as well as set up organizations
14 to influence Chinese opinion.

15 "These men would have absolutely no relations
16 with either this office or with Japanese persons but
17 would meet in large and small groups and talk with
18 influential Chinese as well as substantial individuals
19 of that group here.

20 "Please transmit this message to Ambassador
21 HONDA in China and to other competent diplomatic offi-
22 cials to whom this information, in your good judgment,
23 might be usable."

24 The next documents will be introduced by
25 General Borgerhoff Mulder.

1 MR. JUSTICE BORGERHOFF LINDER: We will now
2 continue the presentation of our evidence by intro-
3 ducing documents to show how, from the summer of 1941
4 onwards, preparations for military operations against
5 the Netherlands Indies were completed, how aggression
6 against the Netherlands was decided upon, and how
7 the actual military operations were carried out.

8 The Tribunal's attention is respectfully
9 invited to exhibit No. 809, being an ATIS Research
10 Report, entitled "Japan's Decision to Fight." Many
11 relevant parts have already been read; but, with
12 the Tribunal's permission, we will read a few para-
13 graphs which have not been read before. We start
14 reading near the end of the second column of page
15 9 of the English text.

16 "THE ARMY-NAVY CENTRAL HEADQUARTERS
17 AGREEMENT.

18 "The object of Imperial Headquarters, Army
19 Department and Imperial Headquarters, Navy Depart-
20 ment in setting forth clearly the division of duties
21 and command in joint operations was to promote a
22 maximum display of efficiency. (According to prisi-
23 oner of war, it was issued at the end of October
24 1941. A resume of the contents follows:)

25 "1. The highest ranking Army officer for

1 SUMATRA, BORNEO, the MALAY peninsula, CELEBES, and
2 the PHILIPPINES (including FRENCH INDO-CHINA and
3 THAILAND) will be Field Marshal TERAUCHI, Hisaichi.
4 His command will be called the Southern Army and
5 its Headquarters will be in SAIGON.

6 "2. Plans for escorting large Army con-
7 voys and the place, time and date for landings.

8 "3. Agreements on Aerial Warfare Agree-
9 ments on the places to be attacked by both Army
10 and Navy planes and on the places, dates and times
11 of attacks by Army or Navy planes acting independ-
12 ently. Agreements on the airfields to be used, such
13 as 'XX Airfield will be used primarily by the Army
14 and secondarily by the Navy.'

15 "4. Supply plans.

16 "Plans for the supply of Army landing
17 forces to be effected by Army shipping and for the
18 Navy's support of same.

19 "5. Communications plans.

20 "6. Agreement on occupied territories,
21 cities, and resources such as, 'The BAND-JERMASIN
22 Oil Refinery,' will be controlled by the Navy."

23 In view of the evidence presented on
24 Japanese espionage activities in the Netherlands
25 Indies, the Tribunal might wish to consider the

1 maps, shewing the disposition and strength of the
2 Netherlands Forces, which are reproduced on pages
3 36, 37 and 38, and the map giving details about
4 airfields and air forces in the Southwest Pacific
5 area, reproduced opposite page 33.

6 We respectfully invite the Tribunal's
7 attention to the resolution adopted by the Imperial
8 Conference on 6 September 1941, contained in exhibit
9 588, in which it is stated that Japan will execute
10 her Southern Advance Policy by completing her
11 military preparations for a war with the United
12 States, Britain and the Netherlands by the end of
13 October 1941, and by determining to wage war on
14 the United States, Britain and the Netherlands if
15 there is no hope for the fulfilment of Japanese
16 demands by the beginning of October.

17 We will next offer in evidence two docu-
18 ments, showing how, after the Third KONOYE Cabinet
19 had been replaced by the TOJO Cabinet in October
20 1941, a close study was made of a number of ques-
21 tions which might arise, both at home and abroad,
22 in the event of Japan's entering the war.

23 We offer in evidence prosecution document
24 No. 1585A, a list of questions which, as appears
25 from the certificate attached to the document, were

1 drawn up for the Liaison Conference between the
2 Government and Imperial Headquarters at the end
3 of October 1941.

4 THE PRESIDENT: Admitted on the usual
5 terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 1585A will receive exhibit No. 1328.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1328 and received in evidence.)

11 MR. JUSTICE BORGERHOFF MULDER: We will now
12 read part of exhibit 1328.

13 "(State Secret)

14 "MAJOR ITEMS TO BE RE-EXAMINED CONCERNING
15 ESSENTIALS FOR THE PROSECUTION OF NATIONAL POLI-
16 CIES.

17 "1. What is the future outlook of the
18 European War Situation? (Foreign Ministry and
19 Statistics Bureau)

20 "/Marginal Note/ In the present case.

21 In case Japan initiated war.

22 "2. What is the future outlook from the
23 point of view of strategy in regard to a war against
24 the United States, England and Holland in the
25 initial stage and when protracted over several

years? In the afore-mentioned case what would the
1 military measures of the U.S.A. and England, avail-
2 ing themselves of Japanese unoccupied areas in
3 China be? (Statistics Bureau)

4 "/Marginal note/ The North to be con-
5 sidered simultaneously, also.

6 "3. Assuming that we initiate a war in
7 the Southern regions this fall, what will be forth-
8 coming as relative phenomena in the North? (War,
9 Navy and Foreign Ministries and Statistics Bureau)

10 "4. What are the estimates of the ship-
11 ping to be commandeered by the government and also
12 of the wear and tear thereof during the first three
13 years following the outbreak of a war against the
14 United States, England and Holland? (Statistics
15 Bureau)

16 "5. In this connection, what are the
17 estimates on the transportation capacity of vessels
18 available for civilian purposes in the country, and
19 also on the supply and demand of major commodity
20 items? (Planning Board)

21 "6. What will be the scale of the govern-
22 ment's war budget, and the sustaining power in fi-
23 nance and credit in the event of a war against
24 America, England and Holland? (Finance Ministry)
25

1 "7. What degree of collaboration can
2 we induce Germany and Italy to give us in con-
3 nection with the opening of the war against the
4 United States of America, England and Holland?
5 (Foreign, War and Navy Ministries)

6 /Marginal note/ Opposed to Finance
7 Minister's view in regard to acquisition of re-
8 sources.

9 "8. Is it possible for us to restrict
10 our adversaries of the war to only the Netherlands,
11 or Britain and the Netherlands? (Foreign Ministry
12 and Statistics Bureau)

13 "9. Assuming that the war is to begin
14 next year in March:

15 "How about advantages and disadvantages
16 in foreign relations? (Navy, Foreign and War
17 Ministries and Statistics Bureau)

18 "Outlook on the supply and demand of
19 important resources? (Planning Board, War and
20 Navy Ministries)

21 "How about advantages and disadvantages
22 considered from the strategic point of view?
23 (Statistics Bureau)

24 "Taking the foregoing into consideration,
25 when should the war be commenced? (War, Navy and

1 Foreign Ministries and Statistics Bureau)

2 "In this connection, what about the pos-
3 sibility and advantages of maintaining the present
4 status by giving up the war plan against the U.S.,
5 England and Holland and increasing the production
6 of synthetic oil? (Planning Board, War and Navy
7 Ministries)

8 "10. Will it be possible to attain within
9 the shortest possible time our minimum demand which
10 was decided at the Imperial Conference of September
11 6 by continuing negotiations with the United
12 States? (Foreign, War and Navy Ministries)

13 "To what extent should we modify our minimum
14 demand to arrive at a compromise? And can the
15 Japanese Government accept it? (Foreign, War
16 and Navy Ministries)

17 "Assuming that we accept the United States
18 memorandum of October 2 in its entirety, what
19 change will there be in regard to Japan's inter-
20 national position, especially towards China, as
21 compared with that of before the China Incident?
22 (Foreign, War and Navy Ministries)

23 "11. How will the opening of a war
24 against the United States, England and Holland
25 affect Chungking's determination? (Foreign, War

and Navy Ministries)"

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1 The answers to those questions, contained
2 in exhibit 1328, document 1585A, just received in
3 evidence, which were to be studied by the Foreign
4 Ministry, are contained in prosecution document 1559A,
5 which we now offer in evidence.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1559A will be given exhibit No. 1329.

9 (Whereupon, the document above referred
10 to was marked prosecution's document No. 1329
11 for identification, and was received in evidence.)

12 MR. JUSTICE BERGERHOFF MULDER: We will read
13 part of exhibit 1329, starting at Point 7, near the
14 end of Page 3.

15 "In case of outbreak of war against Britain,
16 America and the Netherlands, how much cooperation can
17 we make Germany and Italy promise?

18 "A. It is impossible to expect a great deal.

19 "a. In case war breaks out this autumn:

20 "Germany has hitherto given us the impression
21 that she would attack America in case a war breaks out
22 between Japan and America. In view of the obligations
23 arising from the Tripartite Treaty, we can expect
24 Germany and Italy to begin war against America depending
25 on our attitude. But in this case, German (and

1 Italian) declaration of war against America would only.
2 mean that they would take further steps in their present
3 relations against America. Their attack upon American
4 vessels and warships in the Atlantic would be inten-
5 sified, and they would play an effective role by divers-
6 ing America in their landing operations on the British
7 mainland, which would help us indirectly.

8 "But it is difficult to expect all these
9 from Germany (or Italy) which might require a prepara-
10 tory period for the next operations after she comes
11 to a pause in attacking Russia. Furthermore, now that
12 the contact /T.N. with Germany/ through the Siberian
13 Railway has been cut off, it is impossible to expect
14 materials and economic assistance from Germany.

15 "As for the case of our advance to the Dutch
16 East Indies, Germany has contemplated pressing the
17 Dutch people in Holland to bring pressure upon the
18 Dutch East Indies, but we doubt its effect at present
19 since a considerable number of German prisoners still
20 remain in the Dutch East Indies.

21 "b. In case war breaks out next spring:

22 "The German forces are hinting to carry out
23 landing operations on the British mainland next spring
24 and the preparations on the French coast seem to be
25 considerably advanced, but we cannot affirm that the

1 operations will be carried out. The attack on the
2 British mainland will indirectly help Japan to fight
3 against Britain and America, but no more direct as-
4 sistance can be expected except the operations of the
5 Japanese and German forces which will indirectly bene-
6 fit each other, since the hope of our contact /T.N.
7 with Germany/ through Siberia will be difficult even
8 next spring. As we are not sure whether the landing
9 operations on the British mainland will take place
10 next spring, it is dangerous to rely upon it.

11 "In both cases of (a) and (b) the greatest
12 help that we can expect from Germany and Italy will
13 be the advance of the German and Italian forces to the
14 Near East, Central Asia and India. In this connection,
15 as our advance must be carried out in accordance with
16 them, a full arrangement is required beforehand.

17 "c. In case war breaks out later than next
18 spring:

19 "When Germany has consolidated her occupied
20 areas and established a new order in Europe, her
21 attack upon Britain will be much more intensified.
22 And consequently it may bring considerably advantag-
23 eous effect upon us to fight America, but we must
24 take into consideration the possibility of peace between
25 Germany and Britain."

1 "8. Can our opponents in war be restricted
2 to the Netherlands or both to Britain and the Nether-
3 lands?

4 "A. No possibility of restricting them only
5 to the Netherlands or to Britain and the Netherlands.
6 As for the attitude to be taken by Britain and America
7 provided that Japan advances by force to the South,
8 namely Thailand, Burma, Singapore and the Dutch East
9 Indies, we have certainly not yet heard of any mili-
10 tary alliance nor any settlement concerning coopera-
11 tion among Britain, America and the Netherlands (or
12 the Chungking regime). But it is almost of no doubt
13 that they have mutual understanding concerning this
14 joint defense in case Japan carries out an armed advance
15 to any one of these countries. The attitude of Britain
16 and America will also be affected to a great degree
17 by the time and manner of our military advance to the
18 south, the international situation at the time, and
19 the internal situation of both Britain and America.
20 It is necessary to take into consideration all probable
21 cases which may take place in this connection, but at
22 any rate we cannot restrict our opponents only to the
23 Netherlands or to Britain and the Netherlands in case
24 of our southward advance, and we must also be ready
25 for Russia's entering the war."

1 "Now we have made the following general
2 forecast concerning each country, judging from the
3 present situation.

4 "1. Britain (including Australia, Canada,
5 etc.). When we advance to the Dutch East Indies we
6 might expect Britain to carry out, first of all, a
7 diplomatic campaign regarding us and the Dutch Indies,
8 but we can expect that she probably will make up her
9 mind to take up arms for her self-defense. (Whether
10 she will take up arms immediately or not will depend
11 on the situation thereof.) Judging from Britain's
12 reports and behavior until the present, we are con-
13 siderably sure of this view.

14 "2. America. In a case as pointed out
15 above, Britain may at once ask for American assistance.
16 Therefore, even if America does not participate in the
17 war immediately, she will, of course, acceleratedly
18 strengthen her military preparations. Then we can
19 suppose that in such a situation she will take the fol-
20 lowing steps:

21 "a. Diversionary measures against us by way
22 of diplomacy.

23 "b. Close her consulates.

24 "c. Recall ambassadors.

25 "d. Severance of her diplomatic relations."

"e. Demonstrations by her navy and air forces.

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2 "But it is dangerous to form such a view that
3 America would take gradual steps toward us, judging
4 from her attitude towards Germany. For we cannot
5 but expect America to take much more prompt steps in
6 case we advance to the south, compared with the case
7 when Germany swept over the European countries. Amer-
8 ica would presumably be unable to overlook the Japanese
9 southward advance as 'another's business' because of
10 the following reasons:

11 "a. In a sense she considers the southwes-
12 tern Pacific area as within the zone over which she
13 has the power of utterance (as seen in the Japanese-
14 American negotiations.)

15 "b. Some materials of the above mentioned
16 area are necessary in America (gum, tin, etc.)

17 "c. She fears lest she should entirely
18 lose her right of utterance in Chinese problems.

19 "d. She is afraid of our occupation of the
20 Philippines.

21 "e. The American public opinion would be
22 more excited than in the case of the European War.

23 "9. Advantages and disadvantages of our
24 foreign relations in case war breaks out about March
25 of next year:

1 "a. Advantages

2 "1. As a result of the Russo-German War,
3 the Soviet forces in European Russia may suffer a
4 crushing blow and be very busy with reconstruction
5 from this winter until next spring. Consequently, a
6 considerable transfer of the strength of the Soviet
7 Far Eastern Army and an increasing unrest within the
8 country are anticipated. Therefore, we think that
9 for us the threat and burden in the north will be
10 less than at present.

11 "2. Depending on the situation there may
12 also be some slight chance of taking diplomatic measures
13 regarding Russia so as to mediate Russo-German peace.

14 "3. As German winter operations are expected
15 to be directed toward Africa, the Near East, and Central
16 Asia, Britain must exert herself to defend these areas.
17 With the preparations to meet German landing operations
18 on the British homeland, etc., the European theatre
19 will become busy; consequently her position in East
20 Asia will be weakened and Germany's diversionary role
21 will be more effective than at present.

22 "4. Even if America does not participate
23 in the war by next March, her preparations for entering
24 the war will be further advanced; consequently inter-
25 nally she will be increasingly troubled by difficult

1 problems of domestic administration and finance; mili-
2 tarily there is a possibility that she will have to
3 divide her strength in the Pacific; while diplomatic-
4 ally there is the possibility that she will have to
5 soften her attitude toward us.

6 "5. We shall get time to improve and strength-
7 en our diplomatic position in the Thailand and French
8 Indo-China areas.

9 "b. Disadvantages

10 "1. We think that our economic difficulties
11 will rather increase by March of next year.

12 "2. Militarily there may be danger in also
13 giving the opponents time for preparation."
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1 We respectfully call the Tribunal's
2 attention to exhibit No. 878, containing decisions
3 of the Imperial Conference of 5 November, 1941,
4 concerning measures to be taken toward foreign
5 countries. With the Tribunal's permission, we will
6 read one paragraph of this exhibit. We start read-
7 ing at the top of page 2:

8 "Policy towards the Dutch East Indies.

9 "In order to help conceal and disguise our
10 intentions, we shall open as soon as possible a
11 series of diplomatic negotiations /with the Dutch
12 East Indies/, in the form of continuation of prev-
13 ious negotiations, with the chief object of obtain-
14 ing commodities needed by our country."

15 We respectfully invite the Tribunal's
16 attention to exhibits 1169 and 1176, containing
17 decisions reached at the Imperial Conference of
18 5 November, 1941, and plans for the execution of
19 the war against the United States, Great Britain
20 and the Netherlands. We would like to draw
21 attention to the fact that in both exhibits on
22 pages 5 and 1 respectively, of the English text,
23 under the heading "Principle for Hastening the
24 Conclusion of the War Against the United States,
25 Great Britain, Holland and the Chungking Regime,"

1 it is stated that Japan will make part of the
2 Netherlands Indies independent and retain other
3 parts in the Japanese Empire.

4 The Tribunal's attention is invited to
5 exhibit 1252, containing the Combined Fleet Ultra-
6 Secret Operation Orders 1, 2 and 7, which provide
7 for naval operations against the Netherlands
8 Indies, to start on 8 December, 1941.

9 The Tribunal's attention is invited to
10 exhibit No. 877, being a decision by the Liaison
11 Conference between the Imperial Headquarters and
12 the Government, dated 20 November 1941, and marked
13 "National Top Secret," which provides for a mili-
14 tary administration to be introduced in the Southern
15 Areas, which are to be occupied, until a decision
16 for their future disposal can be taken at a later
17 date.

18 We offer in evidence prosecution document
19 2612F, an excerpt from exhibit 2612 for identifi-
20 cation, being an intercepted telegram sent by the
21 Japanese Consul General in Batavia to the Japanese
22 Consuls in various places in the Netherlands
23 Indies on 29 November, 1941.

24 THE PRESIDENT: Admitted on the usual
25 terms.

1 CLERK OF THE COURT: Prosecution's docu-
2 ment No. 2612F will receive exhibit No. 1330.

3 (Whereupon, the document above re-
4 ferred to was marked prosecution's exhibit
5 No. 1330 and received in evidence.)

6 MR. JUSTICE BORGERHOFF MULDER: I read
7 exhibit 1330:

8 "Dispatched: November 29, 1941.

9 "Arrived: November 30, 1941.

10 "Sent by: Consul-General ISHIZAWA.

11 "To: Consul NONOMURA.

12 "Subject: Re investigating and reporting
13 of the movements of foreign ships (to be kept secret
14 for 'foreign').

15 "Code No. of signal 344.

16 "Telegram from the Minister, signal No.
17 2431.

18 "Urgent telegram.

19 "As from December 1st, please investigate
20 and telegraph in each instance: nationality, name,
21 port of arrival or departure, date of arrival or
22 departure, port of destination, etc. of foreign
23 merchantmen or warships operating in the Pacific,
24 the Indian Ocean and the South China Sea zones."
25

THE PRESIDENT: We will adjourn now until

1 half-past nine tomorrow morning.

2 (Whereupon, at 1.600, an adjourn-
3 ment was taken until Thursday, 5 December
4 1946, at 0930.)

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1 half-past nine tomorrow morning.

2 (Whereupon, at 1600, an adjourn-
3 ment was taken until Thursday, 5 December
4 1946, at 0930.)

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AIFC

5 DECEMBER 1946

I N D E X
Of
WITNESSES
(none)

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2685	1331		Regulations of the Sixth Committee Approved by the Prime Minister 2 December 1941 - Amended 23 January 1942		11944
1492	1332		Outline of the Economic Coun- ter-Plans for the Southern Area dated 12 December 1941		11948
1112	1333		A draft marked "Foreign Minis- try Top Secret" and entitled: "Policy Towards Neutral Powers and other Problems"	11959	
1112A	1333A		Excerpt therefrom entitled: "Summarized Plan for Management of the South Sea Area" dated 14 December 1941		11960
1987B	1334		The Fundamental Principles of the Remedial Measures for Southern Regions to be oc- cupied as a result of the Great East Asia War (Excerpt from prosecution's document marked exhibit No. 679 for identification)		11968

I N D E X

Of

EXHIBITS

(Cont.)

<u>Doc. No.</u>	<u>Pres. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1621C	1335		Establishment of East Asia Maneuvers for the First Period of Total War (Ex- cerpt from exhibit No. 689 marked for identification)		11974
2402B	1336		Draft of Basic Plan for Estab- lishment of Greater East Asia Co-Prosperity Sphere dated 27 January /SROWA 17/ 1942		12010
1555M	1337		Concerning the Opening of Hostilities Against Nether- lands Forces - Statement of the Government Issued by the Board of Information on 12 January 1942 (An excerpt from exhibit No. 879 for identifi- cation)		12025
1038	1338		Minister of State Shigenori TOGO's Speech 22 January 1942	12027	
1038A	1338A		Excerpt therefrom		12027
1038B	1338B		Minister of State Hideki TOJO's Speech dated 22 January 1942		12034
2624A	1339		A sworn statement of Major G.L. Reinderheff, Royal Netherlands Indies Army		12043

I N D E X
Of
EXHIBITS
(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2618	1340		A Sworn Statement dated 20 May 1946 by Colonel C. van den Hoogenbend, Royal Netherlands Indies Army		12047
2620A	1341		A Sworn Statement dated 10 April 1946 by J. T. van Amstel (Militia Sailor)		12049
2622A	1342		A Sworn Statement dated 22 June 1946 by Lieutenant A.F.P. Hulscwe, Royal Netherlands Navy Reserve		12054
2674	1343		ATIS Report dated 11 August 1943 Containing an Account of the Netherlands Indies Operations (captured enemy document)	12060	
2674A	1343A		Excerpt therefrom		12061
2754	1344		Course of Events Leading up to Decisions on Political Control and Reversion of the East Indies in the Second World War		12068
2339	1345		The Japan Year Book 1943-1944 (pp. 200 and 202)		12096
2339C	1346		Excerpt from the above (pp. 1049 to 1051) The Assembly of Greater East Asiatic Nations - Joint Declaration Adopted on 6 November 1943		12098

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Dcf. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
468	1347		Address of His Excellency General Hideki TOJO, representative of Japan, dated 5 November 1943	12103	
468A	1347A		Excerpt therefrom		12103
2755	1348		Policy in Regard to the Independence of the East Indies		12110
2758	1349		Measures for the Netherlands East Indies' Independence, Data for Foreign Minister's Explanation, 17 July 1945		12116
2759	1350		Decision of the Supreme War Plans Council No. 27, 17 July 1945, re Measures for the East Indies Independ- ence		12120

1
2 Thursday, 5 December, 1946

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

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

12 - - -

13 Appearances:

14 For the Tribunal, same as before.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

17 The Accused:

18 All present except OKAWA, Shun'ei, who is
19 represented by his counsel.

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
24
25

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

3 THE PRESIDENT: Major Moore:

4 LANGUAGE ARBITER: (Major Moore): Mr. Presi-
5 dent, with the Tribunal's permission, I present the
6 following language corrections: Exhibit 1281, record
7 page 11,385, line 1, delete quotation marks. Page
8 11,386, line 12, delete quotation marks. Line 13,
9 delete "KOISO." Line 14, delete "Has decided that."

10 THE PRESIDENT: Thank you, Major.

11 MR. JUSTICE BORGERHOFF MULDER: The
12 Tribunal's attention is respectfully invited to
13 Exhibit No. 588, containing the resolution adopted
14 by the Imperial Conference of 1 December, 1941. Although
15 this resolution has been read previously, on page
16 10,519, of the record, it now appears that the English
17 translation, then quoted, was not correct. The Lan-
18 guage Arbitration Board have been notified of this
19 and have approved the corrections suggested by the
20 Prosecution. With the Tribunal's permission we will
21 now quote the corrected text of the resolution
22 adopted by the Imperial Conference of 1 December 1941.
23 I read: "Our negotiations with the United States
24 regarding the execution of our national policy,
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1 adopted on November 5th, have finally failed. Japan
2 will open hostilities against the United States
3 Britain and the Netherlands."

4 The Tribunal's attention is respectfully
5 invited to exhibit 1214, being an intercepted tele-
6 gram from Tokyo to Asinking, dated 4 December 1941,
7 in which it is stated that although Manchukuo will
8 not directly participate in the war, Britain, the
9 United States and the Netherlands will be regarded
10 as de facto enemies by the Government of Manchukuo.

11 The Tribunal's attention is invited to
12 exhibit 1241, being the minutes of the meeting of
13 the Investigation Committee of the Privy Council,
14 concerning the declaration of war against America
15 and England on December 8th, 1941. More particularly,
16 we wish to draw the Tribunal's attention to the
17 statement by the accused TOJO, on Page 2 of the
18 English text, wherein, answering the question
19 whether or not war will be declared on the Netherlands,
20 he states, that this will be omitted in view
21 of future strategic convenience.

22 The Tribunal's attention is invited to the
23 fact that by its order in paper no. 574, it has
24 taken judicial notice of the fact that on December
25 8th, 1941, the Government of the Kingdom of the

1 Netherlands declared a state of war to exist
2 between the kingdom of the Netherlands and the
3 Japanese Empire.

4 MR. LOGAN: If the Tribunal please, I think
5 that should be made to read "the Government of Nether-
6 lands in exile."

7 THE PRESIDENT: It is for you to prove
8 where it is and what its location amounts to, Mr.
9 Logan.

10 Mr. Cunningham.

11 MR. CUNNINGHAM: Mr. President, if the
12 Court is to take judicial notice of the fact, it
13 occurs to me that it should be a fact upon which
14 there is no contest.

15 THE PRESIDENT: So judicial notice is just
16 what the defense allows the Court to notice. I am
17 afraid we won't find any profit in a continuation of
18 this discussion, Mr. Cunningham.

19 MR. JUSTICE BORGERHOFF MULDER: If the Tri-
20 bunal please, Mr. Laverge will present the next
21 documents in evidence.

22 THE PRESIDENT: Mr. Laverge.

23 MR. LAVERGE: At the end of November, 1941,
24 a new Cabinet Committee had been established under
25 the Chairmanship of the President of the Planning

1 Board, the accused SUZUKI, which was to draw up
2 plans for the economic exploitation of the Southern
3 Areas. This is shown in prosecution document no.
4 2685 which we now offer in evidence.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 no. 2685 will be given exhibit No. 1331.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1331 and received in evidence.)

11 MR. LAVELLE: We shall read exhibit 1331:

12 "Regulations of the Sixth Committee. Ap-
13 proved by the Prime Minister December 2nd, 1941.
14 amended January 23rd, 1942.

15 "Article I. The Sixth Committee shall be es-
16 tablished in the Cabinet for the purpose of dis-
17 cussing and drafting matters concerning economic
18 plans and control centering around the acquisition
19 and development of the resources in the Southern
20 areas (French Indo-China, Thailand and other Southern
21 areas.)

22 "Article II. It shall consist of a chairman
23 and five committeemen. It may appoint temporary
24 committeemen if deemed temporarily necessary.

25 "Article III. The president of the Planning

1 board shall be its chairman.

2 "Article IV. Committeemen and temporary Com-
3 mitteemen shall be appointed or requested by the
4 Prime Minister from among the higher civil service
5 officials of the Planning Board and other government
6 offices concerned.

7 "Article V. The Chairman shall preside over the
8 business of the Committee.

9 "Article VI. The Committee shall have a chief
10 secretary and secretaries. It may also appoint tem-
11 porary secretaries if deemed temporarily necessary.
12 The vice-president of the Planning Board shall be
13 the chief secretary and he shall manage the business
14 of the committee under the direction of the Chairman
15 of the Committee.

16 "Secretaries and temporary secretaries shall
17 be appointed or requested by the Prime Minister
18 from among the higher civil service officials of
19 the Planning Board and other government offices con-
20 cerned. They shall handle the business of the
21 Committee under the direction of superior officials.

22 "Article VII. The general affairs of the com-
23 mittee shall be handled by the Planning Board.

24 "Article VIII. The establishment of the com-
25 mittee and other matters pertaining to it shall be

kept secret.

1 "Matters Pertaining to the Establishment of
2 the Sixth Committee Decided at the Cabinet Con-
3 ference November 28, 1941.

4 "The Sixth Committee, organized with the per-
5 sonnel of the government offices concerned (the
6 Planning Board, the Foreign Ministry, the Finance
7 Ministry, the War Ministry and the Navy Ministry)
8 shall be established in the Cabinet for the purpose
9 of discussing and drafting matters pertaining to
10 the economic plans and control concerning around the
11 acquisition and development of the resources in the
12 Southern Areas (French Indo-China, Thailand and
13 other southern areas.)

14 "The general affairs of this committee shall be
15 handled by the Planning board.

16 "Accompanying the establishment of this com-
17 mittee, the Fifth Committee of the Planning Board
18 shall be abolished.

19 "EXPLANATION

20 "The reason is that although economic problems
21 pertaining to the Southern Areas hereto have been
22 disposed of by the Fifth Committee of the Planning
23 Board, it has become necessary in order to cope with
24 the present situation and carry out the economic
25

1 plans and control centering around the acquisition
2 and development of the resources in the Southern
3 Areas (French Indo-China, Thailand and other
4 southern areas) through a controlled activation of
5 the composite national power under a united political
6 and strategical policy and thereby contribute to-
7 ward the establishment of our powerful national de-
8 fense state, to set up in the Cabinet a committee
9 to discuss and draft matters pertaining to this in
10 particular.

11 "Accompanying the establishment of this com-
12 mittee, the Fifth Committee of the Planning Board
13 is abolished."

14 The first report by the newly established
15 Sixth Committee was dated 12 December 1941 and gave
16 full details concerning the economic measures to
17 be taken in the Netherlands Indies and the other
18 Southern Areas after the occupation. As will be
19 shown later, the economic measures taken by Japan
20 in the Netherlands Indies after their occupation,
21 closely followed the program worked out in this
22 report.

23 We now offer this report, prosecution document
24 1492, in evidence.
25

THE PRESIDENT: Admitted on the usual terms.

1 OBJECTION OF THE COURT: Prosecution's document
2 no. 1492 will receive exhibit No. 1332.

3 (Whereupon, the document above re-
4 ferred to was marked prosecution's exhibit
5 No. 1332 and received in evidence.)

6 A. LAVINER: We shall read parts of
7 exhibit 1332, starting at the top of page 1:

8 "Outline of the Economic Counter-Plans for the
9 Southern Area.

10 "Top Secret. 12 Dec. 1941. The Government and
11 Supreme Command Liaison Committee Report. 16 Dec.
12 1941. Cabinet Meeting Report. Top Secret. Chief
13 Official. Commerce and Industry Ministry.

14 "The Sixth Committee. Contents.

15 "Chapter I. Policy.

16 "Chapter II. The essentials of the Counter-Plan
17 for Area A.

18 "The First Counter-plan.

19 "The Second Counter-plan.

20 "Chapter III. The essentials of the Counter-
21 Plan for Area B.

22 "Chapter I. Policy.

23 "1. The principal aim of the policy is to fill
24 the demand for important natural resources and there-
25 by contribute to the execution of the present warfare,

and, at the same time, to establish a system of
1 autarchy for the Greater East Asia Co-Prospcrity
2 Sphere, and speedily find means of strengthening
3 and completing the imperial economic strength.

4 "II. The areas which become the object of this
5 counter-plan shall be: the Dutch East Indies,
6 British Malaya and Borneo, Philippines (the above
7 shall be Area A); French Indo-China and Thailand
8 (the above shall be Area B.)

9 "III. In regard to Area A, the measures shall
10 be divided into two: the first counter-plan and
11 the second counter-plan. Each shall be based on
12 the following policy.

13 "1. The First Counter-plan.

14 "(a) The emphasis shall be laid on the ac-
15 quisition of natural resources, and in the execu-
16 tion of these measures, the securing of necessary
17 resources for carrying out the war shall be the
18 main objective.

19 "(b) Every means shall be adopted to prevent
20 outflow of special resources of the Southern areas
21 to enemy countries.

22 "(c) In the acquisition of resources, emphasis
23 shall be laid so that existing enterprises can be
24 profitably led to cooperation and that efforts shall
25

1 be made to lighten to the minimum the burdens on
2 our Imperial economic strength.

3 "2. The Second Counter-plan.

4 "The completion of an autarchy system in the
5 greater East Asia Co-Prosecrity Sphere shall be the
6 objective, and permanent arrangements for it shall
7 be made.

8 "IV. In regard to Area B, steps will be taken
9 to produce promptly effective measures based upon
10 our pre-arranged policy, and with the utilization
11 of our prestige /coercive power/. which shall be in-
12 creased as a result of the development of situations
13 in Area A, measures shall be adopted to realize our
14 demands for important resources; especially in the
15 securing of food resources, and others. Furthermore,
16 should the situation change suddenly, another policy
17 shall be decided."
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1 "Chapter II

2 "The Essentials of the Counter-Plan for Area A.

3 "The First Counter-Plan.

4 "I. General Rules.

5 "1. All acquired or exploited materials shall
6 be included in the material mobilization plan.

7 "At the beginning of a military operation,
8 all existent important materials shall be collected
9 and secured in accordance with the decisions of our
10 Army and Navy. In regard to the disposal of the afore-
11 mentioned materials, it shall be in accordance with
12 the preceding clause.

13 "2. The order for exploiting materials shall
14 be decided by the Central authorities after consider-
15 ation is given to the changes in war situations and
16 the degree of necessity for resources.

17 "3. The standard for the acquisition of
18 resources for the fiscal year of 1942, and the esti-
19 mated acquisition for the fiscal year of 1944 are as
20 indicated in attached sheet No. 1 and No. 2.

21 "4. Personnel funds (paid out of the budget
22 at present), materials, etc. necessary for the develop-
23 ment of local petroleum and other mineral resources
24 shall be allotted, for the time being, to the Army and
25 Navy."

1 "5. Deficient resources of each district shall
2 be supplied as follows:

3 "a. Self-sufficiency shall be planned as much
4 as possible for necessities of life.

5 "b. Mutual interchange of products between
6 Southern areas shall be made as much as possible.

7 "c. Japan shall be relied upon only for such
8 materials as cannot be found.

9 "6. Mutual interchange of southern products
10 based on the above clauses shall be made in accordance
11 with negotiations carried on between the Army and
12 Navy authorities in the area and at home, and that
13 under government regulation.

14 "II. Development.

15 "1. Petroleum.

16 "(1) Development of resources shall be
17 concentrated on petroleum. Priority for procurement
18 of funds, materials, and all other measures which are
19 necessary shall be provided.

20 "(2) At the outset the petroleum industry
21 shall be managed by the armed forces and as soon as
22 conditions permit, it shall be speedily transferred
23 to private enterprise.

24 "(3) Considering the difficulties in ac-
25 quisition and transportation, appropriate areas shall

1 be developed, and efforts shall be directed especially
2 toward the acquisition of suitable oil for aviation
3 gasoline.

4 "(4) In regard to local refining of oil,
5 needed facilities shall be restored proportionate to
6 the conditions of the existing facilities and upon
7 reference to Japanese and Manchurian productive capacity.

8 "2. Other Mineral Resources.

9 "(1) In the mining industry, the exploita-
10 tive power shall be concentrated on key points, and
11 the principal aim is to exploit the maximum quantity
12 of resources by minimum number of enterprises with
13 excellent efficiency.

14 "(a) Facilities as of current operating
15 conditions, shall be restored as speedily as possible,
16 and a step forward shall be taken to promote exploita-
17 tive enterprises in new areas, for instance: nickel
18 ore, copper ore, bauxite, chromium ore, manganese ore,
19 mica, phosphate rock or other ores for special steel,
20 and non-ferrous metal (tin excepted).

21 "(b) Those exploitative enterprises in new
22 areas that are to be temporarily suspended shall be:
23 Tin ore and Iron ore.

24 "2. The selection of entrepreneurs to take
25 charge of new exploitation of important mineral

1 resources shall be, for the most part, in principle,
2 in accordance with the purport of the following items.

3 "(a) That the exploitation of resources in
4 one place shall be left as much as possible solely to
5 one entrepreneur.

6 "(b) That the entrepreneur must possess
7 excellent and sound experience in this type of industry
8 in the area concerned or elsewhere.

9 "(c) That the entrepreneur must possess
10 ability necessary in the exploitation of resources.

11 "(d) Throughout the Southern Area, the same
12 variety of resources shall be divided and shared by
13 two or more entrepreneurs, so as to avoid the evil of
14 having one firm monopolize one variety. Special
15 resources, however, are not restricted to this rule.

16 "3. Agriculture, forestry and marine products
17 industry.

18 "1. In agriculture, forestry and marine
19 products enterprises, the advance of new Japanese
20 entrepreneurs shall be checked for the present,
21 except in some urgently necessary cases.

22 "2. Each region should endeavor to attain
23 self-sufficiency in most of its food resources.

24 "4. Manufacturing Industry.

25 "Manufacturing industries shall not be set

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1 up in the area as a rule, except special ones (e.g.
2 shipbuilding, repair shops for equipment for natural
3 resource development). This rule is not applicable
4 to industry having equipment already in the area,
5 and can contribute to reduction of the shipping
6 load.

7 "III. Currency.

8 "Although we should endeavor to make the
9 best use of the local currency,

10 "1. at first,

11 "(a) we shall use military currency,
12 which is to be expressed in the local currency of
13 each area.

14 "(b) Military currency shall circulate
15 on a par with local currency. Compulsory measures
16 shall be adopted for that purpose.

17 "(c) Both at home and in the area a
18 well organized structure should be considered for
19 managing military currency.

20 "(d) Any expenses required for acquiring
21 and developing principle natural resources in the area
22 shall be drawn from the war budget at present.

23 "2. In accordance with the steps of
24 controlling the occupied areas.

25 "(a) We should endeavor to control its local

1 system of currency issues as far as possible, and to
2 adjust its function with the military currency system
3 in order to advance gradually towards a unification
4 of both. In line with this, the already issued
5 military currency should be withdrawn in exchange for
6 the local currency.

7 "(b) The liquidation as a result of the
8 unification or withdrawal mentioned above shall be
9 carried out as follows:

10 "1. To use means such as borrowing money from,
11 and floating loans through, the note-issuing banks.

12 "2. To appropriate confiscated enemy property.

13 "3. To order local governments or public
14 corporations to bear a share of the national defence
15 expenditure.

16 "(c) Measures to raise funds for acquiring
17 and developing principal natural resources shall be
18 decided later on.

19 "3. Exchange control in the area should
20 be completely organized to control movement of funds."

21 We shall now read paragraph V on page 7:

22 "V. Transportation.

23 "1. Freight space available for transport -
24 tion to and from Southern areas shall be allotted each
25 month to the Army and Navy."

1 "2. Requisitioned space shall be used for
2 transportation of natural resources.

3 "3. Ships of more than 500 tons, seized in
4 the area, shall be transferred to the central author-
5 ities for disposal, but ships under 500 tons shall be
6 used in the area under the direction of the central
7 authorities.

8 "4. The order and quantity of shipping of
9 southern area resources requiring shipping shall be
10 decided according to their importance."

11 We shall pass over paragraph 6 and continue
12 reading paragraph 7, from the bottom of page 7 onwards:

13 "VII. Economic pressure on the U. S. and
14 Britain.

15 "Natural resources, which are expected to be
16 useful in economic warfare with America and Britain,
17 are as follows:

18 "Rubber, tin, petroleum, quinine, tungsten,
19 Manila hemp, coconuts, palm oil.

20 "VIII. Self-sufficiency of the Army and Navy
21 in the area.

22 "1. Local goods for self-sufficiency of the
23 armed forces should be decided according to the needs
24 of the military operations, and are expected to con-
25 tain mainly the following items:

1 "(1) Provisions and forage (this item should
2 use collections of local goods as far as possible).

3 "(2) Fuel.

4 "(3) Some clothing and building material.

5 Those important materials such as petroleum should
6 be, of course, used most sparingly and within the limit
7 allotted by the central military authorities according
8 to the material mobilization plan.

9 "2. In case manufacturing industry is needed
10 for self-sufficiency of the armed forces in the area,
11 it should be limited to the use of existing equipment
12 under military management.

13 "The Second Counter Plan.

14 "These counter-plans should aim at the com-
15 pletion of a system of autarchy in the Greater East Asia
16 Co-Prosperity Sphere, aid the economic development of
17 the Japanese people in the Southern area on a nation-
18 ally-planned basis, and promote economic exchange
19 between areas within the Co-Prosperity Sphere. The
20 details of this counter-plan will be decided upon at
21 another time.

22 "Chapter III

23 "The Counter-plan for Area B.

24 "These counter-plans should be mainly based
25 on the policies determined by the Fifth Committee. If

1 the situation requires their revision, they will be
2 decided upon at another time.

3 "In regard to marine transportation, regula-
4 tions shall conform to those of Area A."

5 We shall not read the two attached charts,
6 showing the development of production in the Southern
7 Areas as planned by the Committee, although the
8 Tribunal might wish to consider them.

9 We offer for identification only, prosecu-
10 tion document 1112, a draft marked "Foreign Ministry
11 Top Secret" and entitled "Policy Towards Neutral
12 Powers and other Problems."

13 CLERK OF THE COURT: Prosecution's document
14 No. 1112 will receive exhibit No. 1333 for identifica-
15 tion only.

16 (Whereupon, the document above referred
17 to was marked prosecution's exhibit No. 1333 for
18 identification.)

19 MR. LAVIERGE: An excerpt from this document
20 entitled "Summarized Plan for Management of the South
21 Sea Area," dated 14 December 1941, is now offered in
22 evidence.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1112A will receive exhibit No. 1333A.

1 (Whereupon, the document above referred
2 to was marked prosecution's exhibit No. 1333A
3 and received in evidence.)
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1 MR. LAVERGE: We shall read exhibit 1333A:

2 "SUMMARIZED PLAN FOR MANAGEMENT OF THE SOUTH
3 SEA AREA.

4 "December 14 SHOWA 16/1941/

5 "1. The purpose and basic policy.

6 "Our purpose is to guarantee the security of the
7 Empire and establish the organization necessary for
8 projecting the construction of Greater East Asia
9 Co-Prosperity Sphere in which the Empire is the
10 leading power.

11 "The following are the basic policies of a
12 concrete plan for this purpose:

13 "a. Acquisition and utilization of military bases,
14 the rights to station troops (including naval forces),
15 cooperative defense - these military demands indis-
16 pensable for the national defense of the Empire and
17 the safe-guarding of East Asia must be secured.

18 "b. To secure the demands for acquisition of the
19 resources for national defense, such as, petrol, tin
20 and rubber.

21 "securing the demand for tightening of economic
22 cooperation in the Greater East Asia Co-Prosperity
23 Sphere.

24 "c. Removing the political shackles of Europe
25 and America in the South Sea Area, concurrently

1 respecting to the utmost the desire of the southern
2 people for emancipation and independence, but the
3 procedure such as incorporation of any region into
4 the Imperial territory or establishment of a protect-
5 orate must be resolutely carried out when that is con-
6 sidered proper from the standpoint of the absolute
7 necessity for the national defense of the Empire, the
8 degree of stupidity of the natives and other conditions.

9 "2. Summarized plan for management of the
10 Philippines.

11 "a. The Philippines shall quickly become
12 independent.

13 "b. Make them promise to offer the use of mili-
14 tary bases and the other necessary military co-
15 operation to Japan

16 "c. Make an agreement of the close diplo-
17 matic collaboration with the Empire.

18 "d. Make them promise a close economic col-
19 laboration with the Empire.

20 "3. Summarized plan of Treatment of Dutch
21 Indies.

22 "a. Make the Dutch Indies independent as
23 'The Indonesian Federation.'

24 "b. Make them promise the establishment of
25 Japanese military bases."

1 "Make them promise to co-operate with Japan
2 on other points, also.

3 "With regard to their diplomatic policies,
4 make them promise to act hand-in-hand with Japan.
5 Concerning their military diplomacy, Japan shall par-
6 ticipate in their doings. The method of participation
7 shall be decided separately.

8 "c. Make them promise a close economic col-
9 laboration with Japan in the development and utiliza-
10 tion of their natural resources, etc.

11 "d. Make States of the following three dis-
12 tricts, which are capable of constructing self-
13 government, and make a federation of the States:
14 Java (including Madura, Bali and Lombok): Sumatra:
15 Celebes (excluding Tidor, Bali and Lombok, and includ-
16 ing the Lesser Sunda Islands and the Molucca Islands).

17 "e. The following districts which are at pre-
18 sent incapable of self-government, shall be made do-
19 minions of the Federal States, but their control shall
20 be entrusted to Japan: Dutch Borneo, Dutch New Guinea,
21 Dutch Tidor.

22 "f. Owing to military and transportation re-
23 quirements, the Nicou and Lingga Islands in the Singa-
24 pore Straits, and the Anambas and Natuna Islands in
25 the Boreo Straits shall be organized as Japanese ter-

1 ritary and a Japanese Governor-General at Singapore
2 shall administrate them.

3 "4. Surrendered Plan of treatment of British
4 Malaya.

5 "a. Singapore and the other Straits Settle-
6 ments.

7 "1. They shall be organized as Japanese ter-
8 ritory and a Japanese Governor-General at Singapore
9 shall administrate them. However, for geographical
10 reasons Lisuan Island shall be organized as a part of
11 Borneo, which is under the direct control of Japan for
12 administration.

13 "b. The Federated States and the non-Federated
14 States of Malaya.

15 "1. As a rule, make all of the States pro-
16 tectorates of Japan and recognize them as kingdoms as
17 has been generally the situation in the past.

18 "2. Make the present Federation dismember
19 itself and organize a new federation chiefly consisting
20 of the former Federated and non-Federated States.

21 "3. Establish Japan's right of protectorate
22 over the Federation as well as its component states by
23 a treaty of protection, and have a Japanese Governor-
24 General resident in Singapore to direct them and con-
25 trol their administration. "

1 "4. The Kingdom of Brunei, one of the former
2 non-federated States, is not to be included in the Malay
3 Federation, but is to be made a separate Japanese pro-
4 tectorate because of its location in Borneo.

5 "5. The treatment of the States of Paluris,
6 Pongoh, Kelantan and Tranganu, which are regions lost
7 by Thailand /Siam/, shall be considered separately.

8 "5. Summary plan of the treatment of British
9 North Borneo, Sarawak and Brunei.

10 "a. British North Borneo shall be organized
11 as the Japanese territory and shall be governed by a
12 Japanese Governor-General in Singapore.

13 "b. Sarawak, abolishing its English monarchy,
14 shall be organized as Japanese territory and shall be
15 governed by a Japanese Governor-General at Singapore.

16 "c. Make Brunei a Japanese protectorate and
17 recognize it as a kingdom, generally the same position
18 it had before. Establish the Japanese right of pro-
19 tectorate by a treaty of protection, and have a Japanese
20 Governor-General resident in Singapore direct and con-
21 trol its administration.

22 "6. Summary plan of the disposition of Hongkong.

23 "a. Reversion of Hongkong shall be decided
24 contingent upon the settlement of the China Incident.

25 "Note: The management of the areas not men-

1 tioned in the above plan shall be considered separately
2 when necessary according to the changes of the situation
3 hereafter."
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1 MR. LAVERGE: We next offer in evidence
2 prosecution's document 1987-B, an excerpt from
3 prosecution's document 1987, hithertofore marked
4 exhibit 679 for identification. The proffered
5 excerpt consists of parts of copies of two plans
6 dealing with the final disposal of the Japanese
7 conquests, the originals of which plans the witness
8 Kazuo, YATSUCI on 9 October, 1946 testified he
9 obtained from the Research Section of the Japanese
10 War Ministry in February or March 1942.

11 THE PRESIDENT: Captain Brooks.

12 MR. BROOKS: Mr. President, I want to object
13 on this document's introduction in evidence because
14 of the nature of the document, being that of one of
15 the Research Institute plans. That was where the
16 students took the part of various Cabinet members
17 and ministers, if the Court will recall the testimony
18 just referred to by the prosecution. The plans, as
19 set out, were nypothetical cases for the purpose of
20 study. If the Court should recall, in the record,
21 from the testimony of the prosecution's witnesses,
22 these plans -- they testified to under cross-examin-
23 ation -- were never used, and were never referred to,
24 and in none of the other documents have they been
25 referred to in any of the official plans that they

7,

1 used any research plans. Therefore, the defense
2 feels it would be without probative value and would
3 be immaterial and irrelevant to be entered in
4 evidence in this phase of the case.

5 MR. LAVERGE: Your Honor, I am afraid that
6 learned counsel for the defense is not quite correct
7 in his statements here. Prosecution's document
8 1987 consists of three parts. The third part is
9 a study by this National Policy Research Institute
10 which was a private institute. The first two parts
11 are copies of documents which the Institute borrowed
12 from the War Ministry. What we introduced in
13 evidence here are only excerpts from the first two
14 parts, excerpts from documents which originally
15 were in the files of the War Ministry.

16 THE PRESIDENT: The documents as tendered
17 are admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1987-B will receive exhibit No. 1334.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1334 and received in evidence.)

23 MR. BROOKS: I want to call to the Court's
24 attention there is no certificate attached, and I
25 am instructed under the proceedings it was connected

1 ut to this witness that he did identify it, and
2 we would like to reserve our chance to object to
3 that under the Court's ruling.

4 MR. LAVERGE: We will now read passages
5 from exhibit 1334, starting at the top of page 1.

6 "THE FUNDAMENTAL PRINCIPLES OF THE REMEDIAL
7 MEASURES FOR SOUTHERN REGIONS TO BE OCCUPIED AS A
8 RESULT OF THE GREAT EAST ASIA WAR."

9 THE PRESIDENT: Where is that certificate,
10 Mr. Laverge?

11 MR. LAVERGE: Your Honor, there is no
12 certificate because this document, when it was
13 originally introduced, was certified by a live
14 witness who testified that these were the documents
15 which he personally borrowed from the files of the
16 War Ministry.

17 THE PRESIDENT: That is sufficient.

18 MR. LAVERGE: That is on page 7368 of the
19 record.

20 I continue reading:

21 "No. 1. POLICY.

22 "When Japan completely occupies the southern
23 regions belonging to the United States, Great Britain,
24 and the Netherlands as a result of the present Great
25 East Asia War, Japan will be in a position to decide

1 "all matters concerning the type of sovereignty,
2 politics, culture, and economy for these regions
3 according to her own desire. However, as it is
4 seen in the Imperial Proclamation of the Declaration
5 of War, the aspirations of the present war are to
6 excel the Anglo-American domination in the Orient
7 in order to ensure Japan's existence, and also to
8 establish the Greater Asiatic Co-prosperity Sphere
9 in order to secure the stability of East Asia so
10 that it may contribute to the peace of the world.
11 Therefore, the remedial measures touching those
12 regions should be conducted entirely in accordance
13 with the purport of the Rescript.

14 "No. 2 THE MAIN POINTS.

15 "1. When we occupy the southern regions belong-
16 ing to the United States, Great Britain, and the
17 Netherlands, the influences of those countries shall
18 be excelled.

19 "2. There shall be established in these occupied
20 regions special agents to be in charge of matters
21 concerning politics, culture, and economy so that
22 we may set up an all-round plan as soon as possible
23 in order to establish the Greater Asiatic Co-Pro-
24 sperity Sphere which is the aim of the present holy
25 war."

1 "3. In order to ensure the existence of the
2 Japanese Empire and that a national defence state
3 of high degree be built up, the development of the
4 available natural resources of those various regions
5 by their inhabitants under our leadership is a
6 thing to be obtained. The bringing about of the
7 development of such natural resources mentioned
8 above is also of vital necessity for promotion of
9 the well-being of those peoples within the regions,
10 but, taking into consideration the relation of
11 demand and supply of the resources of the East Asia
12 Co-Prosperity Sphere, plans must quickly be made both
13 for an industrial reorganization of the whole Co-
14 Prosperity Sphere, and also, in particular, a counter-
15 plan is necessary for a cut in production of such
16 natural resources as are considered to be over-
17 production to the demand of the Co-Prosperity Sphere,
18 (rubber, tin, sugar, etc.) taking into consideration
19 the living conditions of the inhabitants and the
20 industrial economy of the given areas.

21 "4. After peace and order becomes secured, all
22 occupied regions, with exception of those sections
23 spotted to be military operational bases specially
24 under our direct control in the future, shall be so
25 liberated as to have the natives restore their

1 independence with some properly divided area as a
2 unit in accordance with the ability of the natives
3 residing in each area, provided that the independent
4 unit does not necessarily have to be on 'one race for
5 one nation' basis.

6 "5. The areas to be independent shall be
7 monarchies according to various situations; and
8 in case of necessity these monarchies shall be
9 organized as coalition monarchies.

10 "6. Although self-government for internal
11 affairs will be gradually granted to each country
12 which has achieved its independence, Japan shall
13 exercise control, through some special organization
14 so far as defense and foreign affairs are concerned
15 so as to secure the stability of East Asia.

16 "(December 1941)

17 "A PLAN FOR LAND DISPOSAL WITHIN THE GREATER
18 ASIATIC CO-PROSPERITY SPHERE.

19 "No. 1. Regions coming under Japanese rule where
20 a Government-General will be established."

21 Your Honor, we will not read the long
22 enumeration of countries which were to come under
23 direct Japanese rule, but will turn to the top of
24 page 5.

25 "REGIONS TO BE MADE INTO INDEPENDENT STATES."

"1. EAST INDIAN KINGDOM.

"All Dutch Possessions.

1
"British Borneo, Labuan Island, Sarawak,
Brunei Cocos Island, Christmas Island, Andaman
Islands, Nicobar Islands, Portuguese Timor (To
be bought up in the future)."

We will not read the remainder of this list
of future independent states. The Tribunal might
want to consider it.

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We next present excerpts from two documents
compiled by the Total War Research Institute, con-
taining plans for the consolidation of the Japanese
conquests. These documents are lengthy but they are
considered of some importance by us in view of the
evidence which we will present later concerning the
measures taken by Japan in the territories occupied
by her as a result of the war.

1 MR. LAVERGE: We offer in evidence prose-
2 cution document 1621C, an excerpt from exhibit
3 689 for identification.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1621C will receive exhibit No. 1335.

7 (Whereupon, the document above re-
8 fered to was marked prosecution's exhibit
9 No. 1335 and received in evidence.)

10 MR. LAVERGE: We shall read parts of
11 exhibit 1335. We shall first read the title page.

12 "Top Secret

13 "Establishment of East Asia.

14 "Maneuvers for the First Period of Total War.

15 "Doc. No. - Data of the Total War Research
16 Institute No. 46.

17 "Date of Compilation - 18 Feb. 1942 /17 shows/
18

19 "Number of copies prepared. - 150 copies

20 "Disposition - Kept in the Institute.

21 "Those distributed outside Institute to be
22 returned after use.

23 "Prepared at the Total War Research Institute."

24 We continue to read from the top of page 5
25 onward:

"Chapter I.

"General Policy"

1
2 "The necessary remote areas must be speedily
3 secured to firmly establish a long-term endurance at-
4 titude; by practical application of the alliance, the
5 war against the United States of America, Britain and
6 China will be carried out. The preparations for war
7 against Russia will be completed and we will promote
8 the growth of New China, thereby effecting the first
9 step towards the establishment of the Greater East
10 Asia Co-Prosperty Sphere. If it is unavoidable, we
11 shall wage war against Russia. However, our chief
12 object in pursuing the war to its end lies in the ex-
13 istence and development of our national power and
14 special care should be taken to grasp the right time
15 for war so as not to leave any regrets.

16 "On the termination of the present war, we
17 must endeavor to firmly establish the foundation of
18 the Greater East Asia Co-Prosperty Sphere. We will
19 make it our minimum requirement to prevent another war
20 with China and we shall equip ourselves at the very
21 least with conditions for the defence of our national
22 independence in that direction.

"Chapter II"Strategy"Section I. Direction of the War"
25

1 "1. In our resolution to carry out a long
2 period war, strategic points in the defence circle will
3 be occupied, and while we prosecute the war on one
4 hand, our essential powers of self-sufficiency will be
5 strengthened and secured on the other.

6 "In carrying out the war, England will be
7 our main object, and in order to maintain our position
8 of independence and initiative by every means possible
9 we will give special efforts to the destruction of the
10 American and English fleet. We will further strengthen
11 the prohibition of intercourse between the territories
12 under our power and the United States or England, and
13 will destroy the transportation on the west coast of
14 America as much as possible.

15 "We will take strict precautions in particu-
16 lar against the egress of national defence materials
17 for which the United States and England rely on East
18 Asia.

19 "2. Our attitude towards China will be to
20 separate the occupied territories according to the policy
21 previously arranged and to provide for the development
22 of necessary materials. We will promote the growth
23 of these so as to make them contribute towards the
24 establishment of a New China, and in the meanwhile we
25 will endeavour to crush and destroy the hinterland

1 (T.N. - i.e. Chungking) by exhausting their armed
2 forces, their economic abilities and every other
3 measure.

4 "3. We will try to utilize materials which
5 can be procured in the war zones, thus striving to
6 maintain and promote our national power, and at the
7 same time we will complete our military powers so
8 as to be able to overthrow the revived American and
9 English attacks that will follow the lapse of time,
10 especially any change in the European front.

11 "4. We expect good results from the German
12 and Italian domination in the Mediterranean, the
13 counter-blockade on England proper and the destruc-
14 tion of transportation on the east coast of the
15 United States.

16 "With the development of the situation we
17 will do our best to establish contact in (T.N. probably
18 with Germany and Italy) the Indian Ocean.

19 "5. In case of an actual German landing in
20 England proper, we will turn the resulting shock to
21 our own account and further strengthen our power in
22 the sphere of our influence.

23 "6. We hold it as our general policy to
24 avoid war with Russia at present, and will strive for
25 this end. However, preparations must be made to the

1 utmost, to prepare for any change in the situation.

2 "If the unavoidable happens, such as joint
3 operations by the U.S.A. and Russia against Japan with-
4 in our defence sphere, then we shall seize the oppor-
5 tunity to resort to military methods against Russia.

6 "7. If the Chinese hinterland proposes
7 peace, we are ready to accept it. We will settle
8 Sino-Japanese problems according to our policy pre-
9 viously arranged, and, if possible, we would like to
10 advance and cooperate with India.

11 "8. We will comply with the request to co-
12 operate in the armistice between Germany and Russia,
13 and we may propose it ourselves according to circum-
14 stances. If this is put into practice, our security
15 in the Manchuria-Russian border will be established;
16 if possible, we further desire the advance and coopera-
17 tion of Russia in India and Iran.

18 "In this event, we anticipate a German land-
19 ing on British soil and also her domination in Africa.

20 "9. The cessation of hostilities between
21 our country and the United States and England will be
22 settled at the same time as that between Germany and
23 England. (The U.S.A.)

24 "10. At the moment that hostilities cease on
25 the European front, hostilities will be suspended in the

1 Greater East Asia War. We will try to settle Sino-
2 Japanese matters between ourselves, apart from other
3 problems, as far as possible.

4 "We must strictly guard against Europe and
5 the United States concluding a previous truce at the
6 sacrifice of East Asia. We must also prepare some
7 special way of dealing with things if the worst comes
8 to the worst."

9 We will now pass over the next few pages
10 and continue reading Chapter 2, Section 3, at the middle
11 of Page 10.

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1 "Chapter II Section III Occupied Areas
2 (anticipated occupied areas), and Their
3 Strategic Points

4 "1. The chief object of the territories to
5 be occupied in the Greater East Asia War is to secure
6 the conditions necessary for the accomplishment of
7 the war in accordance with what follows. The terri-
8 tories will be decided upon in accordance with the
9 progress of the operations, and on consideration of
10 how best to gradually solidify the foundation for es-
11 tablishing a nucleus group and a small Co-Prosperity
12 Sphere.

13 "(1) We must secure strategically vital
14 areas which would assist our offensive operations,
15 and at the same time capture the strong-points which
16 would afford a stronghold for the enemy counter-
17 attacks.

18 "(2) To secure territories which produce
19 materials necessary for the establishment of self-
20 sufficiency in order to complete our capacity for
21 prosecuting the war.

22 "(3) To control the areas necessary for
23 the blockade of enemy countries in essential materi-
24 als and the interception of their commerce and com-
25 munication."

1 "2. Every care must be taken to procure
2 materials essential to us in the Southern Regions
3 and at the same time we must control and smash the
4 enemy's military and economic counterattacks. We
5 must thoroughly enforce our counter-blockade of
6 Chungking and of the U.S.A. and Britain in respect
7 of strategy and urgently needed materials. The es-
8 sential points that we must pay attention to in the
9 course of the occupation are given in Appendix No. I.

10 "3. In China, we must overthrow the Chung-
11 king regime and help the growth of a new China, there-
12 by securing a nucleus group, and ensure that all is
13 well with our procurement of materials essential to
14 us. The essential points that we must pay attention
15 to in the course of the occupation are given in Ap-
16 pendix No. II.

17 "4. In the Northern Regions, we must do
18 our best to secure a basic sphere of national de-
19 fence and maintain our superiority in strategic po-
20 sition. At the same time, we must ensure that all is
21 well with our procurement of strategic materials.
22 The essential points to which we must pay attention
23 in the course of the occupation are as given in
24 Appendix No. III."

25 The Appendices are not included.

1 "Chapter II

2 "Section V. The Termination of Hostilities

3 "Chapter II Section V

4 "Part II Conditions of Security

5 "The main point of the conditions to be
6 secured at the termination of hostilities is to ap-
7 proach as near as possible to the concrete ideal of
8 establishing the Greater East Asia Co-Prosperty
9 Sphere, but the extent to which it can be realized
10 depends on our national power at the time, especially
11 on the extent to which we have secured the spoils of
12 our victory, and will also differ according to the
13 length of the war and the general aspect of the
14 world war situation at the time in particular, the
15 position of the countries on our side and the extent
16 of the exhaustion of the countries against us. Any
17 definite prognostication is, therefore, difficult, and
18 the situation will best be met by reliance on circum-
19 stances at the time, and by avoidance of inordinate
20 ambitions.

21 "We shall accordingly not go into details
22 here, but be content to enumerate the three basic
23 principles.

24 "1. When the war is soon over with enemy
25 countries left with a margin of

1 strength.

2 "Our maxim will be the securing of our ex-
3 istence and self sufficiency in the direction of the
4 establishment of the East Asia Co-Prosperity Sphere.

5 "(a) We shall take as our standard for
6 China the policy previously arranged, though if nec-
7 essary there is still some scope for mitigation.

8 "(b) In the Southern Regions, we will se-
9 cure a number of the most important military bases,
10 and establish a preferential hold on essential ma-
11 terials such as petroleum, iron, metals other than
12 iron, and foodstuffs.

13 "(c) (In the Northern regions, we will
14 settle the problems of the Coastal regions.)

15 "III When the war is brought to an end by
16 a single enemy defeat.

17 "Our maxim will be the establishment of a
18 basis for the building of the East Asia Co-Prosper-
19 ity Sphere.

20 "(a) We shall take as our standard for
21 China the policy previously arranged.

22 "(b) In the Southern Regions, we will se-
23 cure the necessary military bases. We shall let the
24 Philippines enjoy independence under our protection
25 and guidance and shall put British Malaya and North

1 Borneo under our jurisdiction. We shall establish a
2 special economic zone in the Netherlands East Indies
3 and secure a preferential hold on materials essential
4 for our country with French Indo-China, all contrib-
5 uting to the foundation of a small scale self-suffic-
6 iency sphere.

7 "(c) In the Northern Regions, we shall
8 take measures to sever East Siberia from the Soviet
9 Union.

10 "III When the war is terminated by an
11 enemy surrender with Japan still
12 left with a margin of strength.

13 "We shall plan the establishment of the
14 smaller Co-Prosperity Sphere at a single stroke.

15 "(a) We shall take as our standard for
16 China the policy previously arranged.

17 "(b) In the Southern Regions we shall se-
18 cure in toto all military bases in the smaller Co-
19 Prosperity Sphere; the Philippines and Burma will
20 have their independence under our protection and
21 guidance. In the Netherlands East Indies and French
22 Indo-China, self-government will be realized and spe-
23 cial zones essential for military and economic pur-
24 poses will be established there. British Malaya and
25 North Borneo will be annexed as Japanese territory

1 and will become the basis of a small-scale self-
2 sufficiency sphere. For Australia and India we shall
3 prescribe the necessary economic union.

4 "((c) In the Northern Regions we shall com-
5 plete the disposal of East Siberia.)

6 "Chapter III

7 "The Establishment of Operational Areas

8 "Chapter III Section II

9 "The Southern Regions

10 "Part I Military Affairs

11 "1. Policy

12 "The aims of the fundamental policy of the
13 military establishment in the Southern Regions war
14 zone are:

15 "(1) In order to accomplish the aims of
16 the present war, strategic strong points of the most
17 urgent necessity must be secured and controlled.

18 "(2) Although the fulfillment of the de-
19 mands of the present operations come first, care must
20 be taken to ensure that everything tends in the dir-
21 ection of the establishment of East Asia.

22 "These aims shall be realized in preference
23 to the other policies for the Southern Regions.

24 "In military establishment, provisions nec-
25 essary for operations and military activities will be

1 first completed, and after that, construction work
2 necessary for the maintenance of public order in
3 the district, general transportation, and the con-
4 trol of communications.

5 "Military administration will be established
6 in the occupied territories during the necessary per-
7 iod of operative activities, to control all the dif-
8 ferent construction work.

9 "11. Outline.

10 "(1) The Army and the Navy will bear par-
11 tial responsibility in establishing military admin-
12 istration, according to operational demands, the
13 characteristics of the area in question, and other
14 factors.

15 "(2) Military administration must grasp
16 the principle of the local administration and tri-
17 vial interventions must be avoided as far as pos-
18 sible. It will try to make use of the existing mach-
19 inery.

20 "(3) The public peace and order in the
21 occupied territories will be secured as far as pos-
22 sible by the ordinary police system and the native
23 army, with the assistance and support of the ex-
24 peditionary forces."

25 We will pass over the next few paragraphs
and continue to read at paragraph 12 on page 15.

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1 "(12) The time for military administration
2 to change to ordinary administration will be generally
3 at the end of the war, after consideration of the actual
4 situation in the areas concerned, though there may
5 be cases when ordinary administration is introduced
6 before the termination of the present war, or the
7 military administration still continued even after the
8 end of the war, according to circumstances.

9 "Part II Politics

10 "No. 1

11 "1. The most important object of political
12 construction in the Southern Regions at present is to
13 comply with the demands of the present war, in
14 consideration of the ideal of the establishment of the
15 Greater East Asia Co-Prosperity Sphere (cf. Draft Plan
16 of the Establishment of the Greater East Asia Co-
17 prosperity Sphere.) In other words, although, of course,
18 we must crush the tendency in the Southern Regions to
19 rely on the United States and Britain and guide them
20 into a belief in ourselves as the leading nation,
21 we must lay stress on facilitating the procurement and
22 delivery of the necessary military materials, and on
23 carrying out operations.

24 "2. The form of administration in the
25 occupied areas will thus be military administration

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during the war. As for its organization, a military commanding officer or a governor-general will be appointed to this office, with a number of able officials and civilians under him, called upon to fully administer the occupied territories.

"It is necessary to choose from the very first the most able military officers and others for all who are to participate in the military administration, not to mention the Governor-General himself.

"The military administration will utilize the present administrative system as far as possible, and special care must be taken to restore and utilize the local system.

"3. Concerning the management of the natives of the occupied territories, it is better not to force assimilative measures even in areas to be later annexed, but to adopt such policies as will agree with the natural abilities of the different races. It will be the policy of military administration to exercise strict control over the natives in all occupied areas who have previously shown hostile feelings towards us, and gradually slacken it. It will be our principle to treat the Europeans and the Americans in the occupied territories as we do the natives.

"4. The Chinese in the occupied territories

1 will also be treated in the same way. Strict supervision
2 will be exercised over those who have previously shown
3 hostility, but the others will generally be treated
4 justly with no special measures taken to oppress them.
5 We will take steps to make them cooperate in the
6 accomplishment of the present war, and especially to use
7 their assistance in the settlement of the China
8 Incident. Furthermore, our rule will be to control
9 the southward advance of the ordinary Chinese during
10 the war.

11 "5. The southward advance of the Japanese
12 will aim at the fulfillment of our wartime demands
13 of a military and economic nature, and, as a rule, it
14 will be restricted to essential personnel for the
15 occupied territories, great care being taken of their
16 selection and education.

17 "In the agricultural field, the rule will
18 be to limit the advance of the Japanese to technical
19 instructors.

20 "The return of Japanese who have lived in the
21 Southern Regions to the areas concerned will be permitted
22 on a preferential basis only to those who are eligible
23 as occupation members, but they must be selected and
24 trained before returning. Adequate selection and
25 training must also be given to military men discharged

1 overseas and the officials who retire abroad.

2 "Furthermore, when coming in contact with
3 different races, officials and civilians must not feel
4 that they are superior to them or treat them with
5 contempt. On the other hand, they must be careful not
6 to spoil the natives by being too anxious to win their
7 hearts."

8 We will again skip a page and continue
9 to read at point 4 near the bottom of page 17:

10 "4. The Philippines

11 "Military administration will be enforced
12 for the present and a central political organ will be
13 established under the Governor-General, which the
14 Philippines will gradually be made to run themselves
15 as far as possible. The independence of the Philippines
16 will be accelerated as fast as possible without waiting
17 for the termination of the war, as it would be a means
18 to instigate the desire for independence among the
19 other natives of the Co-Prosperity Sphere, and as we
20 consider it a good example for the establishment of
21 the Co-Prosperity Sphere. It is needless to say that
22 in this case, too, they will have to cooperate positively
23 in the war against Britain and the United States, and
24 we shall hold onto our rights to station armies and to
25 use certain places necessary as military bases even

1 after the war.

2 "5. Malaya and British Borneo

3 "Military administration will be enforced
4 for the present under the governor-general of the
5 occupation territories; Singapore and Penang will
6 be placed under his direct jurisdiction. The Governor-
7 General will be in direct control of the native rulers
8 and dispatch the requisite controllers to their dominions
9 to direct them. The administration of these dominions
10 and of areas smaller than provinces will be carried on
11 as far as possible on the lines of the existing machinery,
12 through efforts must be made to obliterate British
13 influence which has permeated all administrative organs,
14 so that measures to reform the British way of ruling
15 should be taken. We shall respect the native rulers'
16 political resources and help to raise the (I.N. political)
17 standard of the Malaysians. Furthermore, as regards
18 the effect of economic reforms we will carry out a number
19 of measures, giving the most consideration to the
20 maintenance of public peace and order.

21 "6. Netherlands East Indies

22 "Military administration will be established
23 under the Governor-General and the existing administrative
24 organs will be used to the utmost for minor or local
25 administration. On the principle of Netherlands

1 equality, some of the Dutch officials and Indonesians
2 will be employed indifferently. The most important
3 object in the Netherlands East Indies will be to fulfill
4 our economic demands or those necessary to carry out
5 the operations (especially petroleum), as this area will
6 be adjacent to the front for some time, and strict
7 military administration will be established. Measures
8 to aid the promotion of the position of the Indonesians
9 and to raise the standard of civilization must be adopted
10 to make the Indonesians gradually change their attitude
11 towards the Dutch and give them the hope that within
12 a certain period after the termination of hostilities,
13 they will be permitted to enjoy independence.

14 "7. Burma

15 "Strict military administration will be
16 established in Burma as it is expected to be adjacent
17 to the front for quite a long period. However, the
18 existence of the Burmese' own administrative organ
19 will be recognized and this under our guidance will
20 become the nucleus of an independent government in the
21 future.

22 "Handling of the Indians in Burma must be
23 directed discreetly in consideration of the policy towards
24 India."
25

1 "Part III. Economics

2 "No. 1. Materials for national defense.

3 "1. Policy:

4 "(1) Construction policy during this
5 period is to restore and develop the production of
6 national resources, especially mineral resources, and
7 make these areas an important source of supply for
8 the heavy industry materials necessary for the central
9 power to accomplish the war, thereby aiming princi-
10 pally at the strengthening of our power to carry
11 out the war.

12 "(2) In construction and restoration
13 special stress shall be laid on petroleum, iron
14 ores, bauxite, copper and other non-iron metals.
15 The production of iron ores is the basis, but a
16 certain amount of reserve manufacturing equipment
17 (the selection of non-iron metal ores and a part of
18 the smelting process, if possible) and quite a
19 large amount of equipment for refining petroleum
20 will be constructed and restored.

21
22 "(3) As is the time limit for carrying out
23 these works, for the first and second years, the
24 aim will be the complete restoration of the damages
25 done by the war, after that, the necessary increase
in production will be attained!"

1 "(4) For the aim of procuring necessary
2 materials rapidly, the areas where the least damage
3 was done by the war will be selected.

4 "However, greater importance is attached
5 to the Netherlands East Indies, Malaya and the
6 Philippines in the real construction, as great
7 quantities of materials are expected to be procured
8 in these areas.

9 "(5) As for the method of construction, a
10 national organization will be established to include
11 the Southern Regions and unify and regulate the
12 construction, and under the overall jurisdiction of
13 this body, certain persons responsible for the de-
14 velopment of a certain material in a certain area
15 will be selected to undertake the increase of pro-
16 duction.

17 "(6) The production of such materials as
18 would prove superfluous, such as rubber and tin, will
19 be reduced to the amount necessary for our demands,
20 and the margin of construction power will both be
21 directed towards the more urgent demands. However,
22 in order to avoid confusion in the economy of the
23 area concerned, and to maintain a powerful weapon in
24 the armory of economic warfare by the material con-
25 cerned, a certain amount of production may still be

1 maintained in so far as it does not prove a heavy
2 burden on materials and labor.

3 "Part IV. Ideas and Culture

4 "1. Work in the ideas and culture of the
5 southern races must be carried out on the lines of
6 general policy for the development of ideas and
7 culture set out in Chapter V, and in consideration
8 of the fact that these races have been but recently
9 attached to us, that their standard of civilization
10 is very low, that their racial characteristics are
11 ones of mild behavior and they hold no anti-Japanese
12 feelings.

13 "2. Instruction by reason.

14 "(1) Propaganda.

15 "As the knowledge of Japan held by the
16 southern races is insufficient, every method and
17 occasion must be turned to account for propagating the
18 true Japan, and efforts should be made for the intro-
19 duction of Japan through publications and the estab-
20 lishment of organizations to spread information
21 about Japan. Lectures, exhibitions, moving
22 pictures and musical concerts should be given and
23 all other special methods adopted.

24 "(2) It is necessary to comply with the
25 characteristics and the civilization of each race

1 when carrying out propaganda, which thus has a
2 greater influence; further, the results of this
3 propaganda must be thoroughly investigated, and
4 the selection of the policy to follow also consid-
5 ered, so as to accord with the actual situation.

6 "(3) The propaganda system in the Southern
7 Regions must be extended and strengthened, and the
8 main outline of the propaganda and essential parts
9 of its organization must be held by the Japanese.

10 "(4) Although the object of the propa-
11 ganda is the controlling or intellectual class in
12 each district, special methods of propaganda among
13 the ignorant will also be adopted.

14 "(5) It is necessary to think of a way
15 to utilize the secret Chinese associations in the
16 south for our propaganda.

17 "(6) When the situation permits, it would
18 be a good idea to make the controlling or intellectual
19 class travel in Japan and introduce them to the
20 real situation in Japan, thus making them discard
21 their idea of relying on Europe and the U.S.A.

22 "II. Education:

23 "(1) The existing method and policies should
24 be reinvestigated and those based on the influence
25 of Britain, the United States and the Netherlands

1 should be abolished. Although changes in direction
2 will be made according to the general policy, there
3 will be no great changes in educational institutions
4 during this period, and care will be taken to utilize
5 existing institutions.

6 "(2) We will assist and direct the
7 spreading of national education and the instruction
8 of the younger generation in each district, and in
9 order to implant the idea of the East Asia Co-
10 Prosperity Sphere, text books for children, teachers
11 and the general population will be compiled; we will
12 cooperate in supplying them with teaching materials.

13 "(3) The public thoughts shall be firmly
14 established through the guidance and education of
15 the Army in each district.

16 "(4) Cooperation and guidance shall be
17 given to the training and re-education of the native
18 teachers.

19 "(5) Scholars and educationists of
20 superior ability shall be dispatched from our coun-
21 try to important points.

22 "(6) Elements of superior ability shall
23 be picked from among the various races (in the case
24 of an independent country they shall be recommended
25 by the government concerned and by a well-planned

1 system of sending students abroad. They will be
2 sent to our country (T.N. Japan) to study, and
3 during their stay in our country special institu-
4 tions shall be set up for them, so as to give them
5 proper guidance, and after they have finished their
6 studies practical use shall be made of them under a
7 certain definite policy.

8 "III. Thought Movements:

9 "(1) Although racial movements of an
10 innocent nature, characteristic of the races in
11 the various districts shall be nurtured and encouraged
12 (in case of an Independent country, guidance shall be
13 given indirectly through the Government concerned),
14 steps shall be taken so as to abolish the influence
15 of European and American Liberalism and Communistic
16 ideas. Especially when independence movements are
17 based on narrow-minded racialism or what tends to
18 be racial egoism, same shall be corrected and guidance
19 shall be given so as to make same turn into Oriental
20 moralism.

21 "(2) A powerful thought movement shall be
22 carried out and strengthened for the prosecution of
23 the joint war against Britain and the United States
24 so as to comply with the expansion of the (T.N. success-
25 ful) war results."

1 "(3) Consideration shall be given to the
2 gathering of men of leading spirit and intelligence
3 from the various districts so as to form a spiritual
4 organization representing the whole of East Asia,
5 thereby to contribute towards promoting the common
6 consciousness among the various races.

7 "3. Enlightenment through Facts.

8 "In conformity with the enlightenment based
9 on the above-mentioned ideals, efforts shall be made
10 to make the people realize the idea of the Co-Pro-
11 sperity Sphere through their actual living, by means
12 of concrete and practical measures. However, by
13 taking into consideration the actual situation of
14 the prosecution of war, some shall be realized by
15 degrees from those that are possible (I.N. to realize).
16

17 "(1) Development of Political Ideas.

18 "(1) It shall be made the main principle
19 to respect the natives' political volition as much
20 as possible, and it is necessary that, during this
21 period, efforts shall be made to relieve them of
22 their economic sufferings that are expected to appear,
23 and to adopt such political measures as would not
24 dampen their hopes towards the future. For example,
25 consideration should be given to maintenance and ex-
tension of the natives' rights to participate in the

1 government, the immediate abolition of the bad
2 laws and systems which were enacted by Britain, the
3 United States and the Netherlands that are painful
4 to the natives, the appointment and utilizing of
5 native officials and leaders, and other such measures
6 befitting to the actual conditions, thereby elevating
7 the hopes and enthusiasm of the natives.

8 "(2) The traditional spirit of the various
9 races shall be respected, and protection as well as
10 manifestation of the ancient sages and patriots,
11 whom the natives respect, as well as their surviving
12 descendants, shall also be considered.

13 "(II) Development of Economic Ideas.

14 "(1) It is estimated that the hardships in
15 the material living of the natives during this period
16 will become considerably aggravated, but it must be
17 expected that, for the sake of the prosecution of
18 the war, there may, for a while be no time for
19 considering their sufferings. Therefore, economic
20 development necessitates the utmost care, and not
21 only is it obvious that it must be avoided to cause
22 unnecessary economic sufferings, but the material
23 side of living of the natives requires handling
24 with compassion. For example, consideration shall
25 be given towards adequate measures which would touch

1 the hearts of the natives, such as the assisting
2 and education of the natives, the releasing of
3 farms belonging to hostile British and Americans,
4 the amending or abolition of bad taxes, which had
5 been levied by the British and Americans.

6 "(2) Although the hostile Chinese residents
7 in the South Seas shall be ousted, those who are
8 not so shall have their positions recognized and
9 as for their past support of Chungking, it shall
10 be aimed at making them switch over so as to have
11 them cooperate in the establishment of the East
12 Asia Co-Prosperity Sphere.

13 "(III) Development of Social Culture."--

14 THE PRESIDENT: That is sufficient for
15 the time being. These documents are of vital import-
16 ance as showing what the Japanese intended to do
17 with the conquered territories; nevertheless, Mr.
18 Laverge, it may be that for our purposes you need
19 not read so much of them. You might consider that.

20 MR. LAVERGE: Yes, sir.

21 THE PRESIDENT: We will recess now for fifteen
22 minutes.

23 (Whereupon, at 1047 a recess was
24 taken until 1100, after which the proceedings
25 were resumed as follows:)

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

3 THE INTERPRETER: The President's remark
4 just before the recess has not been interpreted. . It
5 will now be given.

6 (Whereupon, the statement above
7 referred to was interpreted into Japanese.)

8 THE PRESIDENT: Mr. Laverge.

9 MR. LAVERGE: If the Tribunal please, we
10 would like to finish reading this document, which is
11 two more pages, and then read only five pages of the
12 next one, which will not take more than ten minutes.

13 I continue to read at the bottom of page 22:

14 "(1) The customs and morals peculiar to
15 the natives shall not be interferred with, unless
16 same should greatly obstruct the establishment of
17 the Co-Prosperty Sphere, and it shall be made our
18 principle not to disturb or change the tranquility
19 of their private lives as much as possible.

20 "(2) Utmost cooperation shall be given
21 towards the rehabilitation works for the natives
22 having suffered war damages.

23 "(3) For the sake of spreading medical
24 treatment and sanitation, efforts shall be made to
25 build hospitals, travelling clinic organizations,

1 and institutes for the research of tropical
2 medical treatment and sanitation, as well as to
3 improve and expand medical schools.

4 "IV Linguistic Policy:

5 "During this period, efforts shall be
6 stressed for the popularization of the Japanese
7 language for the purpose of attaining the object
8 of making same the common language of East Asia
9 in the future, by banning English and Dutch as
10 official languages.

11 "Various measures shall be adopted such
12 as the opening of Japanese language schools at
13 important places, the appointment of natives who
14 understand Japanese as officials, and the popu-
15 larization of Japanese newspapers and publications,
16 as well as the teaching of elementary Japanese
17 through radio broadcasts.

18 "V Counter-measures towards the
19 Japanese on the spot.

20 "(1) It is necessary to strictly enforce
21 the following plans as the character and practice
22 of the Japanese on the spot who are constantly in
23 contact with the natives bear a decisive effect
24 on the spiritual and cultural development:-
25

"(1) To leave no stone unturned in

1 manifesting the Imperial Army in its true light.

2 "(2) To carefully pick out the Japanese
3 officials for positions on the spot and to
4 strictly enforce official discipline.

5 "(3) As regards the advance of Japanese
6 to the Southern Regions, general crossing-over
7 shall not be permitted, but shall be restricted
8 to only those who are to become the leaders, who,
9 while on the one hand, paying attention to the
10 protection and good treatment of the Japanese
11 residents on the spot, shall make them display
12 strict discipline so as to win the confidence
13 and respect of foreign races.

14 "(4) Importance shall be attached to
15 the education of the Japanese children on the
16 spot, and special institutes shall be erected
17 both in Japan and on the spot for the training
18 of educators to be sent there.

19 "(II) Special institutes shall be
20 established for the selecting, training and
21 dispatching of spiritual and cultural leaders.
22 In other words, plans shall be devised on
23 national scale and enforced for the selection,
24 education and stationing of talented men, who
25 are qualified to introduce the true form of the

1 Empire and to contribute towards the moral
2 consolidation of the East Asiatic Races. These
3 persons must be able to come into close contact
4 with the actual life of the natives as spiritually
5 cultured persons without utilizing any power or
6 authority as a background, and must be qualified
7 to become teachers as well as friends of the
8 natives through the reality of their spiritual
9 and cultural living. It is also their duty
10 to investigate the actual conditions of their
11 respective districts and to gather information.
12 These leaders shall be selected and appointed
13 from the broad field of civilization, from
14 among the talented religionists, artists,
15 educators, scientists, technicians, economists,
16 and social workers.

17 "VI The casting of those considered
18 as injurious to the Establishment of the East
19 Asia Co-prosperity Sphere.

20 "(I) Efforts shall be made towards
21 preventing any Red propaganda activities by
22 the Soviet Union, and a strict control shall be
23 enforced over Communistic movements.

24 "(II) Although it shall be made the
25 principle to convert any anti-Japanese movements

1 by positive education, those of an obstinate and
2 malicious nature shall be crushed.

3 "(III) As it is anticipated that the
4 counter-propaganda of Britain the United States
5 and the Soviet Union will be intensely active,
6 strict restrictions shall be imposed on the
7 listening in to broadcasts, newspapers and
8 publications shall be subjected to strict censor-
9 ship.

10 "(IV) As regards Christianity, the
11 missionary work of hostile English and American
12 missionaries shall be prohibited, and they shall
13 be substituted by native missionaries. More-
14 over, it shall be planned to dispatch Japanese
15 missionaries to the spots.

16 "(V) Literary works of art and pub-
17 lications tending to imply the adoration of
18 Europe and America and which are obstructive
19 to the establishment of the East Asia Co-Pro-
20 sperity Sphere shall be strictly banned, and a
21 clean sweep shall be made of thinkers and cul-
22 tural persons possessing no intention of aban-
23 doning their European and American hostile
24 feelings.
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"VII Miscellaneous:

"The preparatory plans for the Estab-
lishment of East Asiatic Culture and the plans
for the Interchanging of Culture shall be based
on Part I."

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1 THE PRESIDENT: Captain Brooks.

2 MR. BROOKS: Mr. President, I have been asked
3 to check on this matter on these two documents, exhibit
4 1334 and exhibit 1335.

5 THE PRESIDENT: We have already dealt with
6 1334, have we not?

7 MR. BROOKS: Sir?

8 THE PRESIDENT: Have we not already dealt
9 with 1334?

10 MR. BROOKS: That is right.

11 THE PRESIDENT: Well, we do not want to hear
12 any more about it.

13 MR. BROOKS: I told the Court I would --

14 THE PRESIDENT: Two of us cannot talk at once,
15 Captain Brooks.

16 MR. BROOKS: I told the Court I would refer
17 to the matter in the proceedings to make it clear as
18 to weight, not as to admissibility, and to the point
19 that the prosecution referred to. The prosecution
20 referred the Court's attention to page 7368, where in
21 direct testimony the witness YATSUGI stated that these
22 were received from the Research Section of the War
23 Ministry. The Court's attention is also directed to
24 page 7381, where on cross-examination the answer, line
25 21, was that they were borrowed from the Investigation

1 Department of the War Ministry. And then attention
2 is directed to page 7382 on cross-examination on
3 these documents. It says, "If by your question" --
4 line 3 -- "you mean whether this was an official
5 document of the Army, I am unable to answer." I do
6 not have the qualification to give proof on this
7 matter." And on page, the last one, 7385, starting
8 with line 3, the answer in reference to the documents,
9 "I don't know whether the document is official or
10 unofficial . . ." And line 8, where he states that
11 it is stated in the question that he was a member of
12 the unofficial staff of the Research Bureau of the
13 Ministry of War.

14 These things are called to the Court's atten-
15 tion because they would go to the probative value and
16 possibly the weight to be given to these documents.

17 THE PRESIDENT: The fact that they were found
18 in the war office is enough for us.

19 MR. LAVERGE: We now offer in evidence
20 prosecution document 2402B, being excerpts from
21 exhibit 583, for identification.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 2402B will receive exhibit No. 1336.

25 (Whereupon, the document above referred

1 to was marked prosecution's exhibit No. 1336
2 and received in evidence.)

3 MR. LAVERGE: We read a few parts of the docu-
4 ment:

5 "Title page.

6 "Secret.

7 "Draft of Basic Plan for Establishment of
8 Greater East Asia Co-Prosperity Sphere.

9 "By Total War Research Institute.

10 "Date of Compilation: 27 January 17 Showa 1942.

11 "Copies: 150.

12 "Disposition: To be kept within the Insti-
13 tute. Those copies sent outside will be returned after
14 use."

15 We turn to the last paragraph on page 2:

16 "(2) The Form of East Asiatic Independence
17 and Co-Prosperity:

18 "The states, their citizens and resources,
19 comprised in those areas pertaining to the Pacific
20 Central Asia and the Indian Ocean formed into one
21 general union are to be established as an autonomous
22 zone of peaceful living and common prosperity on be-
23 half of the peoples of the nations of East Asia. The
24 area including Japan, Manchuria, North China, lower
25 Yangtze River and the Russian Maritime Province,

1 forms the nucleus of the East Asiatic Union. The
2 Imperial country possession a duty as the leader of
3 the East Asiatic Union.

4 "The above purpose presupposes the inevitable
5 emancipation or independence of Eastern Siberia, China,
6 Indo-China, the South Seas, Australia, and India.

7 "(3) Regional Division in the East Asiatic
8 Union and the National Defense Sphere for the Imperial
9 Country.

10 "In the Union of East Asia, the Imperial
11 Country is at once the stabilizing power and the
12 leading influence to enable the Imperial Country
13 actually to become the central influence in East Asia,
14 the first necessity is the consolidation of the inner

15 It of East Asia; and the East Asiatic Sphere shall
16 be divided as follows for this purpose:

17 "The Inner Sphere -- It is the vital sphere
18 for the Imperial Country; it included Japan, Man-
19 churia, North China, the lower Yangtze Area and the
20 Russian Maritime area.

21 "The Smaller Co-Prosperity Sphere -- This
22 is the smaller self-supplying sphere of East Asia
23 and includes the inner sphere plus Eastern Siberia,
24 China, Indo-China and the South Seas.

25 "The Greater Co-Prosperity Sphere -- This is

1 the larger self-supplying sphere of East Asia, and
2 includes the smaller Co-prosperity Sphere, plus
3 Australia, India and island groups in the Pacific.
4 Parallel with the divisions shown above and at the
5 same time the following spheres of national defense
6 for the Imperial Country shall be set up, and those
7 spheres shall be made the basis for the defense of
8 East Asia.

9 "Basic Sphere -- It covers approximately
10 the inner sphere and is the zone which requires ab-
11 solute safety.

12 "Defense Sphere -- Covering approximately
13 the smaller Co-prosperity Sphere, it is the zone which
14 must be perfectly defended against any invasion from
15 Europe or America.

16 "Sphere of Influence -- Generally corre-
17 sponding to the size of the Greater Co-Prosperty
18 Sphere, it is this zone in which a superior position
19 should be maintained against attacks from Europe or
20 America.

21 "For the present, the smaller Co-Prosperty
22 Sphere (the defense sphere) shall be the zone in
23 which the construction of East Asia and the stabili-
24 zation of national defense are to be aimed at. After
25 their completion there shall be a gradual expansion

1 toward the construction of the Greater Co-Prosperity
2 Sphere (the sphere of influence);"

3 I now turn to page 9, middle of page, chap-
4 ter 3:

5 "Chapter 3. Political Construction.

6 "(1) Basic Plan.

7 "The realization of the great ideal of
8 constructing Greater East Asia Co-Prosperity requires
9 not only the complete prosecution of the current
10 Greater East Asia current war but also presupposes
11 another great war in the future. Therefore, the
12 following two points must be made the primary start-
13 ing points for the political construction of East
14 Asia during the course of the next twenty years.

15 "1. Preparation for war with the other
16 spheres of the world.

17 "2. Unification and construction of the
18 East Asia Smaller Co-Prosperity Sphere.

19 "The following are the basic principles for
20 the political construction of East Asia, when the a-
21 bove two points are taken into consideration:

22 "a. The politically dominant influence
23 of European and American countries in the Smaller
24 Co-Prosperity Sphere shall be gradually driven out
25 and the area shall enjoy its liberation from the

1 shackles hitherto forced upon it.

2 "b. The desires of the peoples in the
3 sphere for their independence shall be respected
4 and endeavors shall be made for their fulfillment
5 but proper and suitable forms of government shall
6 be decided for them in consideration of military
7 and economic requirements and of the historical,
8 political and cultural elements particular to each
9 area."

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1 THE PRESIDENT: Mr. Laverge, I have received
2 a note from a colleague. He asks what is the use of
3 reading this first draft when the second has already
4 been read?

5 MR. LAVERGE: Your Honor, the draft I read
6 previously has a later date than this one.

7 THE PRESIDENT: That is what my colleague
8 suggests, I think.

9 MR. LAVERGE: The draft read previously
10 deals with the first five years, and this draft deals
11 with the next twenty years. It is, therefore, that
12 this draft comes in order behind the previous one.

13 THE PRESIDENT: That appears in the para-
14 graph you are about to read, I take it. Proceed with
15 it. But we must trust your judgment, up to a point,
16 of course.

17 MR. LAVERGE: I will continue reading.

18 "It must also be noted that the independence
19 of various peoples of East Asia should be based upon
20 the idea of constructing East Asia as 'independent
21 countries existing within the New Order of East Asia'
22 and that this conception differs from an independence
23 based on the idea of liberalism and national self-
24 determination.
25

"c. During the course of construction,

1 military unification is deemed particularly important,
2 and the military zones and key points necessary for
3 defense shall be directly or indirectly under the con-
4 trol of our country.

5 "d. The peoples of the sphere shall obtain
6 their proper positions, the unity of the people's minds
7 shall be effected and the unification of the sphere
8 shall be realized with the Imperial country as its
9 center.

10 "e. The autonomous position of the sphere
11 shall be strengthened by mutual supplying of needs. An
12 outline of the distribution of the East Asiatic peoples
13 and their character is given in the Table 6.

14 "(2) The political form of the East Asiatic
15 areas after twenty years.

16 "The ideal political forms 20 years hence
17 for the areas of East Asia when organized upon the
18 principle mentioned above may be given as follows:
19 (They are the ultimate forms, and the time and means
20 of their realization will vary according to the situa-
21 tion. Military affairs within the Co-Prosperty
22 Sphere will be taken up by the Imperial Country in
23 view of the necessity for defense. The details of
24 this defense are, however, here excluded."
25

I now turn to paragraph 9 on page 12, your

Honor.

1 "9. British Malaya and North Borneo

2 "a. Singapore and such of its nearby areas
3 (including the Dutch East Indies) as are of military
4 importance shall be made parts of our territory at an
5 appropriate time.

6 "b. In the other regions, sultans or local
7 lords shall be allowed to exist, and, after their
8 unification, they shall be our protectorate, their
9 autonomy being allowed.

10 "The people of this area are too low in
11 living standards and political capacity to stage any
12 racial movements. Therefore, it is necessary to bring
13 up the native races in conformity with the military
14 and economic requirements.

15 "10. The Dutch East Indies and nearby areas
16 (excluding areas to be incorporated)

17 "They shall have their independence, when a
18 suitable time comes, under the organization of an 'In-
19 donesian Federation.' They shall be placed under the
20 protection of our country. This protection is necessi-
21 tated by economic and military considerations.

22 "In the area hitherto called the Dutch East
23 Indies, the area centering around Java has, it is re-
24 cognized, a comparatively high standard of culture, and
25

1 also has carried on a rather intensive campaign for
2 independence. Culturally and politically /Javanese/
3 independence is recognized to be appropriate. But
4 the rest of the land, despite a few installations and
5 businesses, is generally an area of primitive barbarity
6 with a small number of native tribes. This is very
7 marked in Guinea. In view of the above circumstances
8 and from the military development of East Asiatic
9 Sphere natural resources points of view, the area
10 will, even after its independence, require consider-
11 able protection and interference.

12 "11. Hawaii, Midway, the Australian man-
13 dates, New Guinea, the Eastern Archipelagos, New
14 Caledonia and other South Pacific Islands

15 "As these islands are of great military
16 importance and have no notable races, they shall be
17 made a part of our territory as necessary.

18 "12. Australia and New Zealand.

19 "They shall become our territory ultimately
20 as the construction of East Asia progresses. The aim
21 shall be to make them areas for the emigration of the
22 Japanese race.

23 "13. India.

24 "In accordance with the progress of East
25 Asiatic construction, the aim will be to make India

1 an independent country and a unit in the East Asiatic
2 Union. The necessary relationship with our country
3 will be maintained."

4 I should like to read two more pages, your
5 honor.

6 "(3) The Cardinal Points of East Asiatic
7 Unification

8 "East Asia can be said to be a Co-Prosperity
9 Sphere only when the peoples of the sphere have real-
10 ized a firm and solid union into the same ideal of
11 East Asiatic construction as our own. Especially in
12 view of the probable strife against the other world
13 spheres while the construction is carried on, the East
14 Asiatic peoples' ties should be strong enough as to
15 enable our country to rise in leadership of the coun-
16 tries of the Sphere.

17 "That purpose primarily and essentially
18 necessitates the perfection of the Imperial Country's
19 high-degree defense structure and the strengthening of
20 the national power spiritually and materially. Only
21 on this foundation can the Union of East Asia be set up.

22 "Since the construction of the East Asia
23 Co-Prosperity Sphere has the Imperial Country as its
24 center and since the construction is furthered by the
25 Imperial Country, the substance of the unification

1 lies in the Imperial Country becoming actually the
2 center and in the strengthening of the direct ties
3 between our country and the countries and nations of
4 the Sphere. The detailed methods of unification vary
5 according to the differences in the people's conditions
6 (in their politics, economics, histories and cultures),
7 and vary also with varying degrees of military impor-
8 tance as seen from the standpoint of the defense of our
9 country and of East Asia. Though the details depend
10 on the country involved, some principles in this con-
11 nection may be given as follows:

12 "1. Cooperation among Japan, Manchukuo and
13 China shall be strengthened.

14 "2. Manchukuo in the north and the Malayan
15 area in the south shall be the key points of East
16 Asiatic construction. The relations of both areas
17 with our country shall be unseverably strong.

18 "Committees shall be formed, for instance, by
19 the peoples of the sphere under Japanese guidance for
20 mutual settlement of the peoples' various affairs and
21 for mutual understanding and cooperation. The offices
22 of the committees shall be, if necessary, located in
23 Japan.

24 "An absolutely uniform system of administra-
25 tion shall not be adopted for the unification of the

1 peoples whose historical, cultural and particularly
2 living conditions vary to a notable extent.

3 "3. Military key points shall be secured.

4 "4. Popular economic dependence upon our
5 country shall be strengthened.

6 "5. The common ideals of the establishment
7 of the Co-Prospcrity Sphere shall be enforced for that
8 construction.

9 "6. Emigration of able-bodied Japanese
10 overseas shall be encouraged.

11 "7. The universal diffusion of the Japanese
12 language and the inte-change of culture shall be
13 carried out."

14 THE PRESIDENT: Mr. Laverge, I think that the
15 general opinion of the Members is that you are over-
16 elaborating.

17 MR. LAVERGE: All right. We will not read
18 any further from this document.
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1 We respectfully invite the Tribunal's
2 attention to Exhibit 675-A, being excerpt from a
3 file of newspaper articles from the 'Taiyo Dai
4 Nippon.

5 With the Tribunal's permission, we will
6 read a few paragraphs from an article entitled "The
7 Greater East Asia Sphere Under Imperial Influence" by
8 the accused HASHIMOTO, appearing in the Taiyo Dai
9 Nippon of 5 January 1942, which have not been read
10 before. We start reading at the last paragraph on
11 page 5 of the English text.

12 "Although full studies are necessary and
13 careful considerations should be given to the racial,
14 historical, economic, military and other factors in
15 deciding how these countries should be divided and
16 administered. I think it appropriate to apply the
17 following general principles:

18 "1. Give independence to each race and give
19 each its proper place.

20 "2. Incorporate completely into Japanese
21 territory those areas where the inhabiting races have
22 no capacity for independence, or areas which are
23 strategically important.

24 "From this standpoint, Greater East Asia
25 may be divided administratively as follows:

1 "1. Districts which are to be Japanese territory:

2 "a. Hainan Island and Hong Kong.

3 "b. Malaya, Sumatra, Borneo and Celebes.

4 "c. Ceylon Island and the opposite coast
5 of India.

6 "d. Australia, New Guinea and New
7 Zealand.

8 "e. Other islands in the Pacific and
9 Indian Oceans (excluding Madagascar).

10 "2. Independent Countries:

11 "Manchukuo, China (special areas to be
12 designated in North China and Fukien), Burma (in-
13 cluding Bengal area of India), French Indo-China
14 (French control to be withdrawn in the future), India,
15 Philippines, Afghanistan (to be given Baluchistan),
16 Siam (to be given portions of Malaya and Burma), and
17 Java.

18 "Territories incorporated into Japan should
19 be administered by Governor-Generals, while Japanese
20 advisers should be appointed for independent states.
21 Military and diplomatic affairs should be placed
22 absolutely under Japanese guidance. Other matters
23 also should be controlled by Japan.

24 "A Supreme Council for the Greater East
25 Asia Sphere under Imperial Influence should be set up

1 in Tokyo, under which there should be set up a
2 Planning Board for the Greater East Asia Sphere
3 under Imperial Influence in order to handle business
4 affairs."

5 And then one more paragraph near the bottom
6 of page 7:

7 "Education and Religion

- 8 "1. The cardinal principle is to spread and in-
9 culcate the ideology of the Greater East Asia
10 Sphere under Imperial Influence.
11 "2. The spirit of labor should be cultivated.
12 "3. Anti-American and Anti-British movements should
13 be launched and solidarity sought.
14 "4. Culture should be improved and guidance given
15 so as to develop superior races. This is to
16 prepare for the great future fight between the
17 white race and the colored races whose culture
18 is inferior to that of the European races.
19 "5. There should be freedom of religion, but
20 Christianity should be destroyed step by step,
21 while 'TFNNO' teaching should be disseminated
22 and thoroughly inculcated step by step.
23 "6. The Japanese language should be the common
24 language in the Greater East Asia Sphere under
25 Imperial Influence."

1 On 11 January, 1942 the first Japanese
2 troops landed in Netherlands Indies territory and
3 the Japanese government issued an official declara-
4 tion on this occasion. This declaration is con-
5 tained in prosecution document 1555-M, an excerpt
6 from exhibit 879 for identification, which we now
7 offer in evidence.

8 THE PRESIDENT: Admitted on the usual
9 terms.

10 CLERK OF THE COURT: Prosecution's docu-
11 ment 1555-M will receive exhibit No. 1337.

12 (Whereupon, the document above
13 referred to was marked prosecution's
14 exhibit No. 1337 and received in evidence.)

15 MR. LAVRGE: We will read exhibit 1337.

16 (Reading) "Excerpt from Tokyo Gazette, Vol.
17 V, No. 8, February 1942, page 415.

18 "CONCERNING THE OPENING OF HOSTILITIES
19 AGAINST NETHERLANDS FORCES

20 "-----Statement of the Government Issued by the Board
21 of Information on January 12, 1942-----

22 "Although the Japanese Government previously
23 declared war on the United States and the British
24 Empire, they have refrained from taking any hostile
25 measures against the Netherlands in their earnest

1 desire of avoiding, if possible, calamity of war
2 befalling the inhabitants of the Netherlands East
3 Indies. The Netherlands Government, however,
4 have notified the Japanese Government that, in view
5 of the opening of hostilities by Japan against the
6 United States and the British Empire with which the
7 Netherlands is in a close and inseparable relation-
8 ship, they recognize that a state of war has come
9 to exist between Japan and the Netherlands. Not
10 only that, the Netherlands forces have since actually
11 resorted to various hostile acts toward Japan and,
12 furthermore, the Netherlands has turned her colony
13 of East Indies into bases of the United States, the
14 British Empire and the Netherlands in their war against
15 our Empire.

16 "Japan entertains no intention whatever of a
17 hostile nature toward the innocent inhabitants of
18 the Netherlands East Indies. But, in view of the
19 necessity of destroying the hostile acts of the
20 Netherlands as well as of protecting the lives and
21 property of Japanese nationals there, the Imperial
22 Japanese military and naval forces commenced
23 hostilities against the Netherlands forces on
24 January 11."
25

We offer for identification only, prosecu-

1 tion document 1038, a collection of stenographic
2 records of the proceedings of the Japanese Diet.

3 CLERK OF THE COURT: Prosecution's docu-
4 ment 1038 will receive exhibit No. 1338 for identi-
5 fication only.

6 MR. LAVERGE: We offer in evidence an
7 excerpt from prosecution document 1038, a speech by
8 Foreign Minister TOGO before the 79th Session of
9 the Diet on 22 January, 1942. That should be 97.

10 THE PRESIDENT: Admitted on the usual
11 terms.

12 CLERK OF THE COURT: Prosecution's document
13 1038, being excerpt from the previous exhibit, will
14 be given exhibit No. 1338-A.

15 (Whereupon, prosecution document
16 No. 1038 was marked prosecution's exhibit
17 No. 1338 for identification only, and excerpt
18 from said document was marked prosecutor's
19 exhibit No. 1338-A and received in evidence.)
20

21 MR. LAVERGE: We will read exhibit 1338-A.

22 (Reading)

23 "Minister of State Shigenori TOGO's

24 Speech

25 (January 22 1942)

"I have the honor to state my view here,

1 when Japanese Forces are winning under the august
2 virtue of His Majesty, American and British invasion
3 bases are being overturned, and the great undertak-
4 ing of the establishment of Greater East Asia is
5 making progress.

6 "I pray for the success of our soldiers,
7 who are fighting at the front, and mourn from my
8 heart for the war-dead. At the same time I feel
9 sympathy and pay my respects to those Japanese people
10 who are stationed in enemy countries and in the
11 theater of war, where they are enduring hardships,
12 and I wish their health.

13 "Now we are fighting with a great determin-
14 ation and advancing the aim of this war. Although
15 our enemies have spread propaganda, it has been
16 admitted by the peoples of the world that it is truly
17 unavoidable for us to take up arms in this war. The
18 emancipation and prosperity of East Asia must not
19 be satisfied by the leaders of America and Britain.
20 We are going on towards our aims with a conviction
21 that the emancipation and prosperity of East Asia
22 are our tasks which are given by the world. We are
23 justified for this war, and so the Japanese Forces
24 are winning marvelous war results where the spirits
25 of Gods are issued forth. These facts have startled

1 the world.

2 "As I stated before the previous Diet
3 session, this is the war in which we down America
4 and Britain, who have been selfish, invasive and
5 aggressive, and who have intentions of controlling
6 the world. On the other hand, the nature of this
7 war is for the emancipation of East Asia and for the
8 establishment of the new world order. Accordingly,
9 the governments of Manchukuo and China have fully
10 understood our intentions in the prosecution of the
11 war since its outbreak and have cooperated with a
12 positive zeal. French Indo-China has also cooperated
13 with Japan. Thailand has discerned the aim of this
14 war and has also cooperated with Japan. She has been
15 determined to eliminate American and British in-
16 fluences, which have been the roots of evil in East
17 Asia. On December 21 last year, she concluded the
18 alliance with Japan. The Japanese Government will
19 pay respects to the excellent views of the leaders of
20 Thailand and give full support to their constructive
21 efforts. Actually cooperation between the two has
22 increased. And thus, our diplomatic organization
23 has been steadily completed. The spirit of coopera-
24 tion between Japan and these friendly countries has
25 made the carrying out of the war and control of the

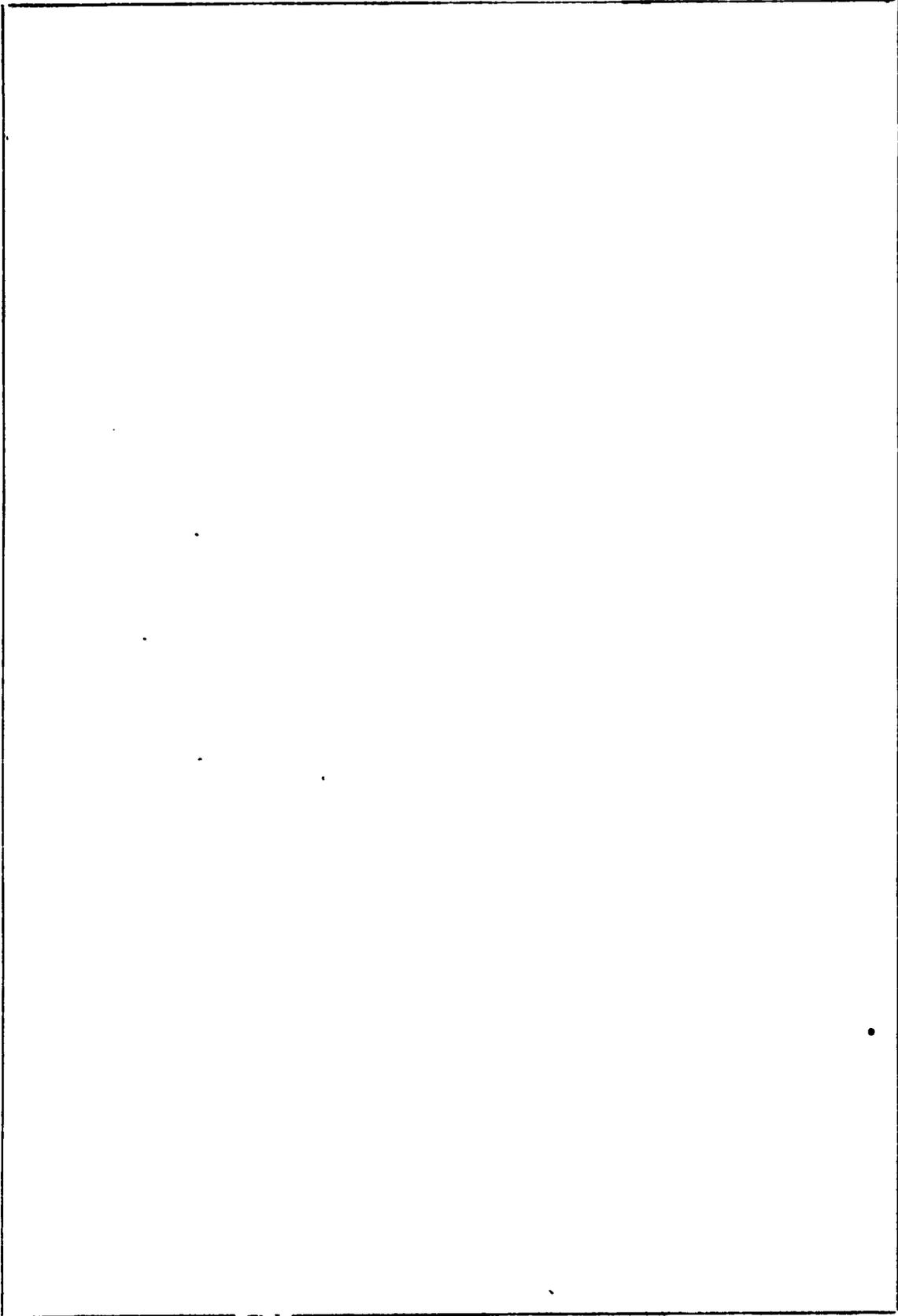
1 South easy.

2 "As you know, the connection between
3 Japan, Germany and Italy has become ever increasingly
4 tight, and the close cooperation has been embodied,
5 step by step in military affairs, economy, diplomacy,
6 and all the other matters. Whatever America and
7 Britain may do to attempt to separate Japan, Germany,
8 Italy, and other friendly countries from each other,
9 there must be no room allowed them to accomplish
10 this aim. The iron combination of the Axis Powers
11 stands as firm as a rock, which will become more and
12 more dense. Of course, the Axis Powers are quite
13 different from the so-called group of Allied Powers
14 who gathered many exiled governments. The Neutrality
15 Pact between Japan and the Soviet Union has still
16 been kept and remains unchanged.'

17

18 "We are going to keep the good relations
19 between Japan and the neutral countries in South
20 America and Europe from now on to as long as possible.
21 If the countries in South America are not tempted by
22 America and do not show their hostile and unfriendly
23 attitudes toward Japan, we will fully respect their
24 positions. So we will gaze with keen interest at the
25 present Rio de Janeiro Conference. Our true enemies

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1 same time it decides the joint destiny of all races
2 in East Asia; so it is natural that the areas abso-
3 lutely necessary for the defense of East Asia must
4 be grasped by Japan. It is also natural, in view
5 of the justification of this war, that the areas which
6 have been American and British territories, be given
7 their proper standings in accordance with the tradi-
8 tions and cultures of their races.

9 "It is truly evident that this war, the
10 aim of which is the establishment of the Greater
11 East Asia Co-Prosperity Sphere, based on such funda-
12 mental principles, is quite different from the so-
13 called invasive war. The leaders of America and
14 Britain, who want to explain this war with the word
15 'invasive', have only proved that they kept to that
16 idea and style in accordance with their doings. We
17 did not expect the fighting of races which has been
18 propagated by our enemies, so we have not admitted any
19 necessity for it. Japan also does not fight with a
20 narrow-minded exclusive intention. The idea of the
21 Greater East Asia Co-Prosperity Sphere has not the
22 nature of exclusiveness. Accordingly, it is evident
23 that the relation of economy and communication will be
24 dense between the countries in this sphere and the
25 other friendly countries as the establishment of this

sphere makes progress.

1 "In order to carry out the construction of
2 the Greater East Asia Co-Prosperity Sphere, Japan,
3 who has had the leadership of all races in East Asia,
4 must have her grand view and conception and clear
5 cognition in regard to the principle of co-prosperity.
6 Moreover, she must show her positive attitude accord-
7 ing to the construction of the East Asia Co-Prosperity
8 Sphere in her various organizations and fully meet
9 the expectations of the races in East Asia. Conse-
10 quently, our duty has been more and more grave, and
11 we, the Japanese nation, must conquer various diffi-
12 culties with the connection of all Japanese, accomplish
13 the glorious undertaking, and reward to the honor that
14 we live in the Holy era when our country is rising."'
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1 We offer in evidence prosecution document
2 1038-B, a further excerpt from this same exhibit
3 for identification, being a speech by Prime Minister
4 TOJO before the same session of the Diet, on
5 22 January 1942.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1038-B will receive exhibit No. 1338-B.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 1338-B, and was received in evidence.)

12 MR. LAVERGE: We will read the speech.

13 "Minister of State Hideki TOJO's Speech.

14 "At the opening ceremony of the Imperial
15 Diet, H.I.H. the Emperor honored us with an Imperial
16 Rescript. We are filled with trepidation and gratitude.
17 In obedience to the Imperial thought, we must pursue
18 our respective duties with might and main, promptly
19 prosecute the aim of the war, and thus ease His
20 Majesty's anxiety.

21 "I am very happy to say, since the outbreak
22 of the war, there has been no enemy who has been able
23 to stop the Japanese troops from advancing. We are
24 winning gloriously everywhere and upset almost all
25 the enemy's strategic points in East Asia in a short

1 time. We are strengthening more and more the pressure
2 upon the Chiang Kai-shek regime. Our defense of
3 northern frontier is perfect. It is a matter for
4 hearty congratulations that by these victories the
5 prestige of our country is being enhanced. This is
6 solely attributable to the august virtues of His
7 Majesty, for which we are filled with gratitude. I
8 express my thanks and pay my respects to the brave
9 Japanese soldiers who are winning numerous battles
10 on the various fronts in vast areas in spite of the
11 heat and cold for their pains and distinguished
12 military services from the bottom of my heart. I
13 mourn for the dead and sympathize with the bereaved
14 families and the wounded.

15 "Now, the cardinal principle for directing
16 the Greater East Asiatic War, in which Japan is now
17 engaged, is, while expanding our fighting strength by
18 securing strategic points in Greater East Asia and
19 by bringing under our control areas containing impor-
20 tant resources, to fight out this war until the United
21 States and Britain are defeated by carrying out
22 aggressive operations in close concert and cooperation
23 with Germany and Italy. America and Britain have for
24 a long time prepared to conquer the world. These two
25 countries are the most wealthy. I can easily imagine

1 they will counter-attack obstinately and try to
2 recover from their discouraging situation, so we must
3 prepare for various difficulties and a long war.
4 The true war must be in the future. In order to
5 carry out the aim of this holy war, all our people
6 must do their best for our country with the faith
7 of victory in defiance of difficulties. The spirit
8 of thrift, militarism, and self-devotion to the State
9 are indispensable, not only to overcome these diffi-
10 culties at the present but also for our country to
11 thrive.

12 "Now, Japan is engaged in the undertaking
13 of establishing the Greater East Asia Co-Prosperity
14 Sphere, as she pushes the grand military operations
15 with all her might. The fundamental purpose of
16 establishing this Greater East Asia Co-Prosperity
17 Sphere comes truly from the great spirit of Japanese
18 foundation; namely to enable all nations to find their
19 proper place, and to establish the order of co-
20 prosperity based on morality in which Japan is the
21 center. This establishment will be made by the
22 cooperation of various races in vast areas. The new
23 areas which will take part in this establishment have
24 been extremely exploited and their development of
25 culture has been bitterly checked by America and

1 Britain for the past 100 years, despite their great
2 resources.

3 "Japan is going to establish an eternal
4 peace in Greater East Asia, and will moreover construct
5 a new world order with friendly countries under this
6 new plan with which we will make an epoch on human
7 history in East Asia, including these new areas. Of
8 course, this is really a great undertaking. The aim
9 of this important undertaking is to lead our military
10 successes to final victory.

11 "In constructing this, we have a mind to
12 bring under our power those areas which are absolutely
13 indispensable for the defense of Greater East Asia and
14 to deal with the others properly in accordance with
15 traditions and culture of every race, and the changes
16 of war situations.

17 "Our Imperial Army and Navy forces have
18 already captured Hongkong, taken the greater part of
19 the Philippines, and suppressed the best part of
20 Malay. Moreover, recently they have occupied strategic
21 points of the Dutch East Indies. In view of the fact
22 that among these areas Hongkong and Malay have been
23 British dominions for many years, and are bases of
24 trouble in East Asia, we will not only eliminate
25 the roots of evil, but will also make them strategic

1 Points of defense in Greater East Asia.

2 "Regarding the Philippines, the honor of
3 independence will be given them willingly by Japan,
4 if they understand our true intention and cooperate
5 as members of the establishment of the Greater East
6 Asia Co-Prosperity Sphere. Our intention for Burma
7 is the same as for the Philippines.

8 "When Dutch East Indies and Australia con-
9 tinue their bearing to resist Japan we will crush them
10 without hesitation. However, when their inhabitants
11 understand our true intention and cooperate with us,
12 we will give support to their development and welfare
13 with our full understanding.

14 "It is very regretable that the Chiang Kai-
15 shek regime continues to resist Japan, and we will
16 crush them to the last. I hereby emphasize there is
17 now a chance for them to gaze correctly at the world
18 situations, to abandon old relations with them,
19 America and Britain, and to take part in the great
20 undertaking of constructing the Greater East Asia
21 Co-Prosperity Sphere.

22 "It is a matter for congratulation that all
23 the people of Manchukuo, China, and Thailand have
24 made constant efforts together with Japan for the
25 establishment of the Greater East Asia Co-Prosperity

1 Sphere and that French Indo-China has also cooperated
2 in it.

3 "It is a matter for mutual congratulation
4 that our friendly countries, especially Germany and
5 Italy, are steadily obtaining war results with Japan
6 for the establishment of the new world order. We will
7 tightly unite with them in military, diplomatic, and
8 economic relations, and make progress to accomplish
9 our joint aims. The situation which we intend to
10 effect is that at the beginning of the war we will
11 establish military administration, set about the
12 immediate tasks necessary for the prosecution of war,
13 prepare for the great construction of the future and
14 make expand the limits of participation in the adminis-
15 tration of the inhabitants, with the establishment of
16 public peace, order, and defense in East Asia. In
17 view of the fact that our scheme regarding the construc-
18 tion of Greater East Asia is farsighted, it is neces-
19 sary to prepare thoroughly so as to take care of the
20 establishment and to obtain the cooperation of offi-
21 cials and civilians whose abilities are all mobilized.

22 "In accordance with the beforementioned
23 situations, and in order to expect the development of
24 our country, the present immediate duty is to crush
25 our enemies more and more, strengthen our fighting

1 power, and establish the organization for the certain
2 victory. Therefore, all national systems must be con-
3 centrated upon them.

4 "Consequently, all departments of the
5 government will establish the policies necessary for
6 the prosecution of war, and carry them out promptly.
7 Namely, in order to maintain and increase the
8 producing capacity in war-time, we will concentrate
9 materials, labor, electric power and funds chiefly
10 into the leading enterprises which are more impor-
11 tant than others, and make the most of the equipment
12 which we have now, and at the same time, we will
13 take into consideration the expansion of production
14 of important industries necessary for the national
15 defense, and the counter-plan for the war-time foods
16 necessary for the security of the national life. At
17 the present the most important problem is transpor-
18 tation facilities rather than the shortage of resources,
19 so we will make special efforts to construct ships,
20 thereby improving and strengthening communications
21 and transportations. Again, in order to prosecute the
22 national policies, the accumulation of people's funds
23 is absolutely necessary. Accordingly, it is the
24 Government's intention to exert further efforts in
25 the future for the promotion of people's savings."

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1 that these speeches might be considered to lay down
2 Japan's basic policy for the construction of a
3 Greater East Asia Co-prosperity Sphere under Japanese
4 leadership.

5 We shall now offer in evidence a number of
6 documents, dealing with Japanese military operations
7 in the Netherlands Indies. The next three of these
8 documents will show how the Japanese armed forces
9 attempted to seize the important oil installations on
10 the Island of Borneo in the Netherlands Indies. In
11 this connection we would like to draw the Tribunal's
12 attention to exhibit 628, which has been recently read
13 by us. It was stated therein that in order to obtain
14 possession of the industrial resources of the Nether-
15 lands Indies intact, those who in any way destroyed
16 or damaged industrial installations would be severely
17 punished.

18 We offer in evidence prosecution document
19 2624-A, a sworn statement by Major G. L. Reinderhoff,
20 Royal Netherlands Indies Army.

21 THE PRESIDENT: Mr. Blewett.

22 MR. BLEWETT: If the Court please, we ask
23 the prosecution if this witness is going to be pro-
24 duced for cross-examination, either direct or cross-
25 examination.

1 THE PRESIDENT: What would you hope to be
2 the effect of the cross-examination?

3 MR. BLEWETT: If your Honor please, we are not
4 quite certain from this document if this is what the
5 witness actually saw or what he heard. I would like
6 to inquire from the prosecution the purport of this
7 document.

8 THE PRESIDENT: Perhaps we will be able to
9 judge what he heard and what he knew independently.

10 The document is admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 2624-A will receive exhibit No. 1339.

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 1339, and was received in evidence.)

16 MR. LAVERGE: We shall read part of exhibit
17 1339, starting at the eleventh line from the top of
18 page 1.

19 "Q. What can you relate concerning all you
20 know about the war crimes committed at the occupation
21 of BALIKPAPAN by the Japanese?

22 "A. I only know about the above mentioned
23 war crimes on account of my work with the N.E.F.I.S.
24 (at that time at BRISBANE), from interrogations, inter
25 alia, of the Javanese Sergeant SARBINI and the

1 Javanese Rifleman BENOH; later on, after contact in
2 Batavia in 1945 with personnel originating from
3 Balikpapan. All this is recorded with NEFIS.

4 "2. As for the threatened prospect of murder
5 at BALIKPAPAN and TARAKAN I know the following:

6 "In January 1942, whilst still prisoners of
7 war, together with Lieut. Col. S. DE WAAL, Reserve
8 Captain VAN DER VEGT and Reserve Captain COLIJN on
9 board the Japanese Staff ship, the following was
10 communicated to Capt. COLIJN and myself: that we were
11 to be transported by motor launch to BALIKPAPAN;
12 that if the destruction of the oilworks at BALIKPAPAN
13 should be effected, in the event of imminent Japanese
14 landings - as he had stated would be the case - further,
15 if BALIKPAPAN were to be defended, or even if the
16 Dutch garrison were to resist such landing, then all
17 POWs and all other European residents of both sexes
18 at TARAKAN would be killed, as well as all soldiers
19 and European residents of both sexes who might fall
20 into the hands of the Japanese at BALIKPAPAN.

21 "This statement is recorded in a document made
22 out in Japanese characters and undersigned with name
23 stamps, with English translation attached. Contents
24 were read out by the Chief of Staff, a Major, with
25 the help of an interpreter, in the presence of the

1 Commanding General, a Major-General, Division Com-
2 mander, plus five other Japanese officers. This
3 occurred in the long room of the ship on which we
4 were prisoners.

5 "When later on, we managed to leave the Lutch
6 motorboat used by Japanese on the way, and to reach
7 BALIKPAPAN by a Lutch Navy plane, the above-mentioned
8 document with its English translation was handed over
9 to the Troop Commander, Licut. Col. VAN DEN HOOGENBANL.
10 When Capt. COLIJN and I were sent on by plane to
11 BANDOENG, these documents were delivered to General
12 Headquarters there."

13 THE PRESIDENT: Are you going to give us
14 evidence of what NEFIS means, or will that be--

15 MR. LAVERGE: That, your Honor, can be seen
16 from the certificate; that is the Netherlands Forces
17 Intelligence Service. That is the counterpart of
18 ATIS in Tokyo.

19 THE PRESIDENT: We will adjourn until half
20 past one.

21 (Whereupon, at 1200, a recess was
22 taken.)
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AFTERNOON SESSION

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

3 THE PRESIDENT: Mr. Blewett.

4 MR. BLEWETT: If the Court please, just before
5 the recess I raised a question concerning exhibit
6 No. 1339 concerning an ultimatum. The next document
7 concerns that ultimatum and I should like to ask the
8 prosecution if that ultimatum is to be presented to
9 the Court.

10 MR. LAVERGE: The ultimatum is not available
11 itself, Mr. President, but we have the affidavits of
12 two persons who both saw and handled it. The ultimatum
13 itself has been lost due to war.

14 MR. BLEWETT: The affidavit states that it was
15 turned over to a high officer of the Netherlands Army.

16 MR. LAVERGE: I don't want to be giving
17 evidence, but the point is that practically all the
18 records of the Netherlands Indies Government have been
19 destroyed during the Japanese occupation.

20 THE PRESIDENT: You are giving the best evi-
21 dence available?

22 MR. LAVERGE: Yes, sir.

23 THE PRESIDENT: You cannot do more.

24 MR. LAVERGE: We offer in evidence prosecu-
25 tion document 2618, a sworn statement by Colonel

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1 C. van den Hoogenband, Royal Netherlands Indies Army.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document

4 No. 2618 will receive exhibit No. 1340.

5 (Whereupon, the document above referred
6 to was marked prosecution's exhibit No. 1340 and
7 received in evidence.)

8 MR. LAVERGE: We shall read part of Exhibit
9 1340, starting at the beginning of the last paragraph
10 on page 1:

11 "On January 20, 1942, an ultimatum from
12 the Japanese Commander of the troops at Tarakan was
13 handed to me, in my capacity as commander of the
14 troops at Balikpapan, by Captain of the Reserve Colijn,
15 Administrator of Tarakan, Captain of the Infantry
16 Reinderhoff- (both of whom had succeeded in escaping
17 from captivity as prisoners of war) - in the presence
18 of Captain of the Reserve K. Scholtens, Manager of
19 the B.P.M. at Balikpapan, and Naval Commander van
20 Nieuwenhuizen. The ultimatum was drafted in Japanese,
21 and English translation being attached. It stated that
22 overwhelming Japanese forces were advancing on Balik-
23 papan and that, in view of their superiority, I was
24 requested to surrender Balikpapan to them in its
25 entirety and undestroyed. If I did not comply with

1 this request, all Europeans would be murdered.

2 "After reading this document, I asked Mr.
3 Colijn whether all the Europeans to be murdered would
4 include the Europeans, amongst whom were women and
5 children, who were already in Japanese hands at Tarakan.
6 Mr. Colijn was of opinion that these would be included,
7 and requested me to accept the ultimatum in order there-
8 by perhaps to alleviate the fate of the Europeans in
9 Tarakan. The reply was drafted in English, wherein
10 I stated that I had received the necessary orders as
11 regards destruction, which, therefore, had to be carried
12 out.

13 "I had the reply sent through Naval Lieutenant
14 K. M. R. van Brakel, since deceased, who, as I heard
15 later from others, handed over this letter to the crew
16 of the Japanese vessel from which Messrs. Colijn and
17 Reinderhoff had escaped, which vessel he found near
18 the Makham-delta.

19 "I may add to this, that I was informed that
20 in Tarakan no murders took place, but they did occur
21 at Balikpapan on February 20, 1942. I was not present
22 at Balikpapan on that date, as on January 24th I had
23 fought my way to the airport of Samarinda II, and
24 thence on February 8th I had been evacuated to Bandoeng.

25 "Why in regard to the two men who brought you

1 the ultimatum, did you speak of escape from captivity
2 as prisoners of war?

3 "Messrs. Colijn and Reinderhoff were official-
4 ly appointed as bearers of the ultimatum and were,
5 therefore, on their way in a boat with some Japanese.
6 On the way they hailed a Dutch plane, which picked them
7 up and brought them to me. The accompanying Japanese
8 were persuaded to agree to this.

9 "What happened further to the ultimatum?

10 "I handed over the ultimatum to Messrs Colijn
11 and Reinderhoff who left by aeroplane for Java on
12 January 20th, with instructions to hand this document
13 to the Commander-in-Chief."

14 We offer in evidence prosecution document
15 2620A, a sworn statement by J. T. van Amstel.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 2620A will receive exhibit No. 1341.

19 (Whereupon, the document above referred
20 to was marked prosecution's document No. 1341
21 and received in evidence.)

22 MR. LAVERGE: We shall read part of exhibit
23 1341, starting at the tenth line from the top of page 1:
24

25 "In January, 1942, I was serving on a trans-
portship, under the command of Lieutenant Engles R.N.

1 At sea near Tarakan we were attacked by and shot at
2 from a Japanese plane. The plane also dropped bombs
3 which did not hit the mark. I was shot in my right
4 calf. A naval flying boat transported me to Balikpapan,
5 where I was accommodated in an emergency hospital.
6 This was on January 11, 1942.

7 "The Japanese invaded Balikpapan on January 24,
8 1942. Around February 20 a rumour circulated in the
9 hospital, which was especially spread around by native
10 male nurses, that on February 24, 1942, all Europeans
11 were to be slaughtered. On February 23, 1942, all white
12 people, totalling eight, all patients, were fetched
13 from the hospital and taken away. They left me alone,
14 probably because I have a rather dark skin.

15 "In the night of February 23/24, 1942, I es-
16 caped from the hospital and mingled with the popula-
17 tion of Dam kampong near there. I dressed up as a
18 native. On February 24, 1942, the inhabitants of that
19 kampong were called together by the Japanese, I was
20 among those people. We were taken to a place on the
21 beach, the old fort Kiandassan, where I saw that the
22 Europeans, white people, were already standing together.
23 I was at about 50 meters distance from the group of
24 Europeans.
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"I recognized in the group Dr. Arns, doctor

1 of the B. P. M., Dr. Dick Staal, Captain doctor, vicar
2 Kruisberg, and one of the eight patients who had been
3 taken from the hospital the day before, called Rosenberg.
4 I also saw three catholic priests dressed in white.
5 I saw a district-officer in uniform and a police
6 inspector in uniform. A Japanese officer started a
7 conversation with that district-officer of which I
8 could not understand a thing, but I saw that during that
9 conversation that officer was ill treating the district-
10 officer by blows in his face with the hand, and further
11 with the scabbard over his body. There was a lot of
12 shouting by Japanese standing near, so that I could not
13 understand anything. The Jap officer who had started
14 the talk with the (Dutch) district-officer, drew his
15 sword and hewed off both the district-officer's arms,
16 a little above his elbows, and then his two legs at
17 the height of the knees. The district-officer was
18 also taken to a coconut tree, bound to it and stabbed
19 to death with a bayonet. The body remained hanging
20 on that tree. After this, the same officer went
21 over to the policeman in uniform; I heard later that
22 his name was Karseboom; he was kicked and beaten with
23 the hand and with the sword in the scabbard. After
24 this, that (Jap) officer hewed off his arms under the
25 elbow and his legs near the knees. I heard him shout

once more 'God save the Queen'. With bayonet thrusts
1 and kicks the policeman was made to stand up and,
2 standing on his leg stumps, he was stabbed to death
3 with a bayonet. One of the Roman Catholic priests,
4 I do not know his name but it was a grey-haired man,
5 stepped forward and started a conversation with the
6 Japanese officer which I did not understand, but which
7 may have been a request to pray. I saw at least that
8 he kneeled down near the bodies and prayed. He then
9 blessed both bodies and the whole group of Europeans.
10 The Europeans were then formed into groups of 10 to
11 15 each, and their hands were tied on their backs. The
12 group was driven into the sea by shouting, kicking and
13 hitting Japanese, until they were in the water up to
14 about their breasts; then they were shot at one after
15 the other, slowly, by Japanese soldiers, until all had
16 died.

(5)
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18 "It was impossible to float away into the
19 sea because at about 30 meters from the beach there
20 was a barbed wire entanglement. Thus all the Europeans
21 were driven into the sea, group by group, and slaughter-
22 ed off in the same manner. Among the last group were
23 the three Catholic priests. Again I saw the old one
24 among them start a conversation with the Jap officer,
25 I saw him blessing the floating bodies, after which

1 that group also was driven into the sea and killed
2 off. The entire group of Europeans killed thus must
3 have numbered from 80 to 100 men. The natives were
4 forced to look on, those who wanted to go away were
5 brought back with beatings and violence. I also saw
6 some native women faint."

7 I won't read any more of this.

8 THE PRESIDENT: Mr. Elwett:

9 MR. ELWETT: If the Court please, the defense
10 calls for the production of this witness for cross-
11 examination.

12 THE PRESIDENT: Is he in Tokyo or in Japan?

13 MR. LAVERGE: He is not in Tokyo, your Honor.
14 If my information is correct, he is in the Netherlands
15 Indies.

16 THE PRESIDENT: We will give you all facilities
17 to interrogate him, Mr. Elwett. We will consider
18 whether he could be called as a witness but you must
19 give us some reasons why he should be called.
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1 MR. LAVERGE: The next two documents which
2 we submit in evidence will show how, after Japanese
3 troops had landed on the main island of the Nether-
4 lands Indies, the Island of Java, the Japanese Com-
5 mander-in-Chief in the Netherlands Indies threatened
6 the Netherlands authorities that unless all Nether-
7 lands Forces surrendered, the town of Bandoeng in
8 Java would be bombed.

9 We offer in evidence prosecution document
10 2622-A, a sworn statement by Lieutenant A.F.F. Hul-
11 sewe, Royal Netherlands Navy Reserve.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 2622-A will receive exhibit No. 1342.

15 (Whereupon, the document above re-
16 ferred to was marked prosecution's exhibit
17 No. 1342 and received in evidence.)

18 MR. LAVERGE: We shall read part of Ex-
19 hibit 1342, starting at the first paragraph at the
20 top of page 2:

21 "On February 22, 1942, as a naval ratings,
22 second reserve, untrained, I was called up for ser-
23 vice with the Royal Navy, with orders to report to
24 the Navy Department at Bandoeng. I reported there
25 on 23 February and was attached to a section of the

1 War Office, under the direct orders of Commander L.
2 Brouwer, R.N. (at present in Tokyo, Japan.) On 2
3 March I was commissioned as sub-lieutenant, Royal
4 Naval Reserve, Special Service Branch.

5 "On 6th March at approximately 22.00 hours I
6 was summoned by my colleague of the Bureau for East
7 Asiatic Affairs, H. HAGENAAK (at present in Holland)
8 to attach myself immediately to the suite of His Ex-
9 cellency the Governor-General of the Netherlands East
10 Indies, where I duly reported. The next morning

11 I informed the War Office.

12 "On 7th March at approximately 15.30 hours the
13 Governor-General and his suite moved from the resi-
14 dent's house to a villa on a hillside on the outskirts
15 of Bandoeng, after a Japanese bombing attack, during
16 which bombs had fallen on all sides of the Resident's
17 house.

18 "During the early part of the morning of 8 March
19 there were several Japanese planes continuously over
20 Bandoeng. Because of the danger of air attack - I
21 do not remember whether any bombs were actually
22 dropped; in any case not in our vicinity - the
23 Governor-General and most of his suite (I amongst
24 them) were in the very large and commodious air raid
25 shelter built deep into the hillside. The shelter

1 G.O.C. Airforces, who made a fiery speech com-
2 memorating Japan's victory. After considerable
3 time, two hours at least, the Governor-General was
4 asked to choose a small number of people to ac-
5 company him at the coming talks, as there would not
6 be sufficient space to accomodate the whole Nether-
7 lands East Indies party. Eventually we proceeded to
8 a married officers' quarters close by.

9 "The talks were held in the dining room; the
10 front room was filled with newspaper reporters and
11 moving picture people and the communicating double
12 doors were wide open. The Governor-General sat
13 facing Lieut. Gen. IMAMURA; at his right hand Lt.
14 Gen. Ter Poorten, I do not remember the seating of
15 Maj. Gen. Bakkers (Chief of Staff) and Maj. Gen.
16 Pesman (G.O.C. Bandoeng area.) Behind the chairs
17 Messrs. Kiveron, Idenburg and myself - possibly
18 also Mr. Hagenaar, were left standing. On Lt. Gen.
19 IMAMURA's right was his Chief of Staff, on his left
20 the G.O.C. Airforces. Behind their chairs there
21 stood a considerable number of Japanese officers, at
22 least twenty.

24 "The talks must have started about 16.30 hours.
25 I have no clear recollection of the exact sequence
of the questions and answers, nor, of course, of their

1 complete contents. However, this was my first at-
2 tempt at interpreting and I found it uncommonly dif-
3 ficult, particularly as Lt. Gen. IMAMURA persisted
4 in quoting a draft, written in the usual high flown
5 style, more easily read than understood. The result
6 was that after about ten minutes I was floundering
7 so badly that a Japanese left the ranks behind the
8 General's chairs and offered to take over and was
9 permitted to do so; he was T. MIYOSHI, formerly of
10 the Japanese Consulate-General at Batavia.

11 "The first question was, whether the Governor-
12 General as Commander-in-Chief of the Netherlands East
13 Indies sea, land and air forces had come to submit
14 the surrender of these forces. The answer took some
15 time, as it gave rise to several new questions. The
16 short of it was: no, he had come because he had
17 been summoned to be present at talks concerning the
18 surrender of Bandoeng, with the threat that this town
19 was to be destroyed by aerial bombing in case he did
20 not appear. Furthermore he was unable - willingness
21 apart - to hand in any surrender terms, as his con-
22 stitutional powers as Commander-in-Chief of the N.E.I.
23 Forces had been expressly cancelled by the Nether-
24 lands Government a few days previously. The reply
25 to these statements was, that the Japanese were not

1 going to let themselves be tricked by a piece of
2 political skull-duggery and, that in their eyes, the
3 Governor-General still was the Commander-in-Chief of
4 the N.E.I. Forces.

5 "The next point was: surrender of the N.E.I.
6 Forces. The Governor-General maintained that he had
7 been summoned in connection with the surrender of
8 Bandoeng only. This question was entered into at
9 some length. The Japanese made two points: 1.
10 Bandoeng was only of small importance, it was theirs
11 for the taking, as the outer defences had already
12 been smashed; two or three days more would see them
13 in the town. 2. The G.O.C. Airforces insisted that
14 the surrender of Bandoeng - town or area - would be
15 useless, as air reconnaissance had shown con-
16 siderable bodies of N.E.I. troops withdrawing into
17 the difficult mountain area around the Bandoeng
18 plateau.

19
20 "The upshot of these discussions was the renewed
21 demand of the Japanese Commander-in-Chief that the
22 Governor-General tender the unconditional surrender
23 of all N.E.I. Forces, the demand now accompanied by
24 the threat that unless he complied, Bandoeng was to
25 be bombed flat.

"After some more talk the unconditional surrender

1 was agreed to, with two or three days grace for
2 ti ops in outlying areas. The whole proceedings were
3 verbal; I do not remember the Governor-General signing
4 any document."

5 We offer for identification only, prosecu-
6 tion document 2674, being an ATIS report, dated 11
7 August, 1943, containing an account of the Netherlands
8 Indies operations as found in a captured enemy
9 document.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2674 will receive exhibit No. 1343 for identifi-
12 cation only.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 1343 for identification.)

16 MR. LAVEGGE: We offer in evidence an ex-
17 cerpt from the aforesaid report, prosecution's
18 document 2674A.

19 THE PRESIDENT: Admitted on the usual terms.

20 MR. LEVIN: Mr. President.

21 THE PRESIDENT: Mr. Levin.

22 MR. LEVIN: I would like to object to the
23 admission of this document on the grounds that its
24 origin, or authenticity, is doubtful.

25 THE PRESIDENT: It is an English translation

of a captured document, according to the certificate.

1 MR. LEVIN: This states, "containing an
2 account of the N.E.I. O.P., as related by a Lieut.
3 Colonel, apparently copied from the Osaka MAINICHI."
4 Now, they have to come to some conclusion as to where
5 it was copied from, and the doubt is created as to
6 where it was obtained. It seems to me it is not in
7 the same category as a captured enemy document or a
8 document found in the official files of the govern-
9 ment.
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11 THE PRESIDENT: The Charter contemplates
12 such things as diaries, which I take to include
13 private diaries being used where they are captured.

14 Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 2674A will receive exhibit No. 1343-A.

17 (Whereupon, the document above re-
18 ferred to was marked prosecution's exhibit
19 No. 1343-A and received in evidence.)
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of a captured document, according to the certificate.

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Mr. LEVIN: This states, "containing an account of the N.E.I. O.P., as related by a Lieut. Colonel, apparently copied from the Osaka MAINICHI." Now, they have to come to some conclusion as to where it was copied from, and the doubt is created as to where it was obtained. It seems to me it is not in the same category as a captured enemy document or a document found in the official files of the government.

THE PRESIDENT: The Charter contemplates such things as diaries, which I take to include private diaries being used where they are captured.

Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 2674A will receive exhibit No. 1343-A.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1343-A and received in evidence.)

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1 MR. LAVERGE: We shall read one page of
2 exhibit 1343A starting at the top of page 1.

3 "BARGAINING UNTIL THE LAST MOMENT.

4 "Cowardly Surrender.

5 "At 1600 hours, we arrived at the aerodrome.
6 HQ was at the side of the aerodrome. In one of
7 the HQ rooms there were a number of high ranking
8 DUTCH INDIES officers and also about 10 men wearing
9 civilian clothes, so I realized for the first time
10 that the Governor General was here. There was an
11 interview with the enemy Governor-General and his
12 subordinates shortly afterwards in the house of a
13 certain officer of the DUTCH INDIES Flying School.
14 It was in a neat room. There was a long table in the
15 centre. Three generals, the Army Comdr., the Army
16 Chief of Staff and BUTAI Comdr. ENDO were seated on
17 the right. Behind these, sat the Staff Officers.
18 Governor-General TARKENBERG and his subordinates
19 came in. Across from the Army Comdr. was the Gover-
20 nor-General, on the left of him was the Army Comdr.-
21 in-Chief TERFOORTEN. next were various Staff Officers,
22 while the enemy staffs and civilian officials stood
23 in the rear. The Governor-General and Army Comdr.-in-
24 Chief were questioned by Comdr. ITAMURA as to what
25 power they possessed. Governor-General stated that

1 he does not have the prerogative of supreme command
2 which was a very strange thing. It is a funny thing
3 that from long ago, the military and civilian ser-
4 vices were in the hands of the DUTCH INDIES Governor-
5 General yet only the Navy was under the direct con-
6 trol of the Queen. I don't know if it was the evading
7 of the responsibility on the arrival of WAVELL that
8 caused the trouble. And again when the Army Comdr.
9 asked, 'Will you surrender unconditionally?' the
10 Governor-General was calm, shook his head. Then
11 he said, 'Just a moment, I don't know whether he is
12 a reporter or a photographer by the door, so will
13 you please have him removed.' 'In that case, why
14 did you come?' asked the General. 'You asked me,
15 so I accepted your invitation and came. I was plan-
16 ning to discuss the matter with the JAVA Civil
17 Administration,' he retorted. Next he faced the
18 Comdr.-in-Chief of the Army and asked, 'Will you
19 surrender unconditionally?' 'Please only accept the
20 surrender of BANDOENG!'. 'The BANDOENG area is not a
21 problem as far as we are concerned.' 'The only
22 problem is, are you willing to surrender uncondition-
23 ally, or do you refuse to surrender the DUTCH INDIES?'
24 He said, 'I know very well that we are not an enemy
25 of the JAPANESE Army.' At that time the Governor-

1 General stared pointedly at the Comdr.-in-Chief of
2 the Army. No matter how many times he was questioned,
3 he only mentioned the armistice of BANDOENG.

4 "General IIMURA solemnly said, 'There is no
5 use for further questioning. If you don't sur-
6 render unconditionally, there isn't any other way
7 but to attack continuously. Your commanders will
8 return to BANDOENG immediately. You will be pro-
9 tected by our troops up to the sentry line, but if
10 you step over the sentry line, we will attack
11 BANDOENG with our aircraft which are on the aero-
12 drome loaded with bombs. However, I will give you
13 this last chance to consider. I will give you ten
14 minutes from now to make the final decision,' and so
15 saying he arose."

16 "We will not read further from the document.
17 The next documents will be introduced by Mr. G.
18 Osmond Hyde.

19 THE PRESIDENT: Mr. Hyde.

20 MR. HYDE: Mr. President, Members of the
21 Tribunal, we now come to the last section of our
22 proof, referring to Japanese occupation and consoli-
23 dation of Japanese conquests. We offer in evidence
24 prosecution document No. 2754, entitled "Course of
25 Events Leading up to Decisions on Political Control

1 and Reversion of the East Indies in the Second World
2 War", a document found in the Japanese Foreign Office.

3 Mr. President, with respect to the certificate
4 I desire to call your attention to the following:
5 There is one certificate attached to the processed
6 copies. There is a usual certificate attached to
7 the original. Through inadvertence, when the
8 second certificate -- that is the one that is at-
9 tached presently -- was put on the copies, the usual
10 certificate was removed. However, the usual one
11 is with the original document handed to the Clerk.

12 THE PRESIDENT: Mr. Logan.

13 MR. LOGAN: If the Tribunal please, we object
14 to the introduction of this document and any further
15 evidence offered by the prosecution with respect to
16 any political acts that were taken by Japan in the
17 Netherlands East Indies after December 8, 1941. I
18 would like permission to argue this motion, if the
19 Court please.

20 THE PRESIDENT: That is based on the formal
21 declaration of war by the Netherlands?

22 MR. LOGAN: That is right.

23 THE PRESIDENT: Well, that involves the de-
24 cision of the question now of whether it was an
25 aggressive war by the Japanese against the Netherlands.

1 We will hear that argument at the conclusion of
2 all the evidence. If we support your view, then,
3 Mr. Logan, of course this document and others will
4 be disregarded necessarily.

5 MR. LOGAN: If it is possible, however,
6 we would like to have a decision on this at this
7 time because it would involve a saving of time on
8 the part of the Tribunal listening to more documents
9 and testimony which is proposed to be introduced by
10 the Netherlands prosecution; and, also, it would
11 narrow the issues and assist the defense in the
12 preparation of their cases.

13 THE PRESIDENT: Your point is that it is
14 no longer a mixed question of law and fact; that
15 the mere declaration formally, as may have been made
16 by the Netherlands made it purely a question of law.

17 MR. LOGAN: That is right, your Honor. In
18 other words, once the declaration of war was made
19 by the Netherlands, Japan could no longer be accused
20 of aggressive war by virtue of her taking the
21 offensive.

22 I might also point out, your Honor, that it is
23 also immaterial and irrelevant to the charges in the
24 Indictment under which this prosecution section is
25 proceeding; to wit; 1, 4, 5, 14 and 32.

1 THE PRESIDENT: If there were no charge in
2 respect of the Dutch except aggressive war, there
3 might be something in what you say; but, of course,
4 we have the conventional war crimes alleged by the
5 Dutch against the Japanese.

6 MR. LOGAN: The conventional war crimes
7 involves another proposition of law, your Honor.
8 I am arguing strictly on political acts such as
9 any nation takes towards a vanquished nation.

10 THE PRESIDENT: The decision on the points
11 you raise would not discharge the Dutch prose-
12 cution from the case. We would still be here to
13 the end of it hearing Dutch evidence and submissions.
14 We will not give our decision piecemeal. One
15 judgment is contemplated by the Charter.

16 MR. LOGAN: I appreciate that, your Honor;
17 but this question now goes to the materiality and
18 relevancy of the evidence proposed to be introduced.

19 THE PRESIDENT: The decision is as I have
20 already stated, Mr. Logan.

21 MR. LOGAN: I, of course, must accept it,
22 your Honor.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 2754 will receive exhibit No. 1344.

1 (Whereupon, the document above re-
2 ferred to was marked prosecution's exhibit
3 No. 1344 and received in evidence.)

4 IIR. HVDE: I will read through the first
5 paragraph only at this time.

6 "Course of Events Leading up to Decisions on
7 Political Control and Reversion of the East Indies
8 in the Second World War.

9 "1. Prior to the outbreak of World War II various
10 estimations were made by the Supreme Command and the
11 government regarding the problem of political control
12 and reversion of the southern occupied areas, including
13 the Dutch Indies. From the outset, however, the
14 Foreign Ministry had attached importance to the
15 independence of the Dutch Indies."

16 I will leave that document for a few moments.

17 Before taking up the next documents, in order
18 to show what the Foreign Ministry and other Japanese
19 authorities meant by the use of the term "independence"
20 in connection with the occupied territories, we desire
21 to call the Court's attention, for consideration in
22 connection with this section of our proof, to the
23 various plans of Japan prior to and immediately after
24 the outbreak of the war for the future of the occupied
25 territories, contained in the following exhibits:

1 exhibit No. 628, exhibit No. 1334, exhibit No. 1333A,
2 exhibit No. 1336, and exhibit No. 1335.

3 We further draw the Court's attention in con-
4 nection with the actual decisions, negative or
5 positive, of Japanese authorities with regard to
6 the future of the East Indies to exhibit No. 877,
7 Details of the Execution of Administration in the
8 Southern Occupied Territories, and with regard to
9 the public utterances of Japan's Government in this
10 respect to exhibit No. 1338B, Speech of Prime
11 Minister TOJO in the Diet on 22 January 1942.

12 The intentions of Japan with respect to the
13 Greater East Asia Co-Prosperity Sphere are further
14 indicated in prosecution document 1086. the meetings
15 of the Privy Council on the proposed establishment
16 of the Greater East Asia Ministry in the period of
17 9-24 October 1942.

18 Prosecution document 1086 has heretofore been
19 marked exhibit 687 for identification. This document
20 is now offered in evidence.

21 MR. LOGAN: If your Honor please, we move to
22 strike out this summation of the various documents
23 which have just been offered in evidence. They have
24 all been read. There is no necessity for that.

25 THE PRESIDENT: There is no objection to a

1 brief restatement of the purpose of introducing
2 these documents. It is for our convenience.

3 MR. HYDE: Was the document admitted?

4 THE PRESIDENT: The document?

5 MR. HYDE: I tendered document 1086 which
6 has hithertofore been marked exhibit 687 for identi-
7 fication.

8 THE PRESIDENT: Well, that is admitted on
9 the usual terms.

10 This one is already marked for identification,
11 N. 687. Now you want to tender it finally.

12 MR. HYLE: That is correct, sir.

13 THE PRESIDENT: It will have the same number.
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1 Mr. HYDE: Mr, President, it was identified
2 on 9 October 1946.

3 I now will read parts from exhibit No. 687.
4 I will read the first four lines at the top of page 1:

5 "The First Meeting of the Investigation Com-
6 mittee concerning establishment of the Greater East
7 Asia Ministry and eight other items. Meeting held
8 on 9 October 1942 (Friday) at Privy Council Office"

9 From the list of persons attending this meet-
10 ing we will read only the names of those who are now
11 accused:

12 "Councillor MIFUNE

13 "Prime Minister, concurrently War Minister TOJO

14 "Chief Secretary of Cabinet HOSHINO

15 "President of the Planning Board SUZUKI

16 We continue to read from the top of page 2:

17 "(Meeting called to order 1:30 P.M.)

18 "Chief of Investigation Committee calls meet-
19 ing to order.

20 "Premier TOJO made an outline explanation
21 regarding the purport and the contents of the draft.

22 "Committee Member ISHII inquired that:

23 "(1) The establishment of the Greater East
24 Asia Ministry will excite suspicion as though Japan
25 will consider the hitherto friendly countries of the

1 East Asia Sphere as Japan's colonies. It may lead to
2 such that both material and spiritual co-operation
3 cannot be expected. Consequently, would the enemy
4 countries not take advantage of this and would it not
5 cause concern in bringing about an unfavorable effect
6 in the attitude of India? Would it not be better to
7 establish a combined organization of East Asia coun-
8 tries than risk such disadvantages?

9 "To this inquiry Premier TOJO replied:

10 "In order to achieve victory, which is an
11 absolute necessity for Japan, the combined fighting
12 power of East Asia must be strengthened. However,
13 the various organs of Japan in the Co-Prosperity Sphere
14 at present are confusedly set up and find difficulty
15 in maintaining unified and active measures. Therefore,
16 it is desired to establish a ministry and to appoint
17 a responsible minister, thereby establishing an appro-
18 priate national policy in achieving the aforementioned
19 aims, and to be sure of a swift and decisive execution
20 of this policy. Moreover, Japan has already openly de-
21 clared to the world the construction of Greater East
22 Asia, so there is no need of restraint in using the
23 term 'Greater East Asia Ministry' at this time. It
24 is preferable to use this term voluntarily. In regard
25 to the effect it may have toward foreign countries, the

1 countries within the Co-Prosperity Sphere all have
2 ties with Japan and since after all, the object of
3 this draft is to plan for the benefit of the Co-
4 Prosperity Sphere, this misunderstanding will be
5 solved. In regard to other third countries, it is
6 sufficient if counteracted with propaganda and there-
7 fore, will not be grounds to hesitate on this plan.
8 In regard to the attitude of India, no reaction is
9 noticed. The East Asia Combined Organization Pro-
10 posal will be studied hereafter as a political prob-
11 lem and has no relation to the establishment of the
12 Greater East Asia Ministry'.

13 "Committee Member KINAMI (Hiroshi) inquired:

14 "2. In treating the independent countries
15 within the Greater East Asia Sphere as mandates of
16 Japan or as occupied territories, the question was
17 asked whether this would not be the cause of uneasi-
18 ness of these countries and the cause of alienation
19 of the people.

20 "Prime Minister TOJO replied that this draft,
21 from the viewpoint of achieving victory, is intended
22 to establish an organization for the construction of
23 Greater East Asia. In its operation close attention
24 should be paid in regard to the alienation of the re-
25 lative countries."

1 We now turn to the top of page 4, and I will
2 read the first three lines:

3 "The Second Meeting of the Investigation
4 Committee Concerning the Establishment of the Greater
5 East Asia Ministry and Eight Other Items. Meeting
6 held on 12 October 1942 (Monday) at Privy Council
7 Office".

8 We will now read the names of those who are
9 now accused who were present:

10 Prime Minister, concurrently War Minister TOJO
11 Chief Secretary of the Cabinet HOSHINO
12 President of the Planning Board SUZUKI
13 Councillor MINAMI, (Hiroshi).

14 We now turn to the top of page 5 and I will
15 read to the middle of page 7:

16 "(Meeting Called to Order 10:00 A.M.)

17 "Chief of Investigation Committee SUZUKI calls meeting
18 to order.

19 "From Committee Member USHIO:

20 "(1) He asked whether it was not necessary
21 to have a powerful liaison organ between the Greater
22 East Asia Minister and the Ministers of the other
23 offices, besides the Liaison Committee. Prime Minister
24 TOJO replied that since war guidance is a problem of
25 the entire state the Government and the Supreme Command

1 have already set up a liaison conference and is now
2 deciding the basic policy. Foreign Minister TANI stated
3 that, in regard to the relations between the Foreign
4 Office and the Greater East Asia Ministry, there is a
5 direct mutual exchange of important foreign informa-
6 tion, and besides, with the shifting of personnels,
7 and etc., practical liaison will be effected. . .

8 "(2) He queried into the relations of the
9 Greater East Asia Ministry with the administration of
10 the Southern occupied zone, and stating in effect
11 that it would be better to have administration in
12 occupied zones in the interim replaced immediately by
13 a permanent Greater East Asia Administration and there-
14 by create a fait accompli. In reply to his query made
15 to the views of the Government authorities, Prime
16 Minister TOJO stated that the Southern Occupied Areas
17 are now under military administration and, therefore,
18 the authority of the Greater East Asia Ministry is
19 excluded; but eventually full preparations will be
20 made providing for the time when the Southern Occupied
21 Areas detaches itself from military administration
22 onto civil administration. Furthermore, the military
23 itself is desirous of having the military administra-
24 tion in the Southern Occupied Areas speedily replaced
25 by civil administration; and even now designs are being

1 made to have the Inspector-General and the Inspectors
2 of the Military Administration gradually replaced by
3 Civil Service Officials.

4

5 "(5) He inquired as to the scope of the
6 Greater East Asia Sphere. Prime Minister TOJO re-
7 plied that it will include the KWANTUNG PROVINCE, SOUTH
8 SEA ISLAND GROUP, MANCHURIA, CHINA, SIAM, FRENCH INDO-
9 CHINA, and the newly occupied areas brought about by
10 the Greater East Asia War. Consequently, with the in-
11 crease of occupied areas, its sphere will be enlarged;
12 thus each gave their reply.

13 "Then following from Committee Member FUTAGAMI

14

15 "(Recess from 12.10 p.m. to 1.30 p.m.)

16 "(3) He queried as to the purport in special-
17 ly providing a provision (Article No. 19) for concert
18 and cooperation in the Greater East Asia Ministry
19 Legislation. Chief of Legislation Bureau MORIYAMA
20 replied that although the military administration zones
21 within the Greater East Asia Sphere should, as a matter
22 of fact, be dropped from the supervision of the Greater
23 East Asia Minister, it was specially decided to have
24 the Greater East Asia Ministry handle matters connected
25 with administration of occupied zone in order that

1 fruits be borne of unified war and administrative
2 policies and also, in preparation for the time these
3 areas will become free of military administration.

4 "(4) He queried on the matter regarding the
5 appointment of commissioned officers on active service
6 to civil service posts in the Greater East Asia
7 /Ministry/ as stipulated in the separate plan, and the
8 reason for having superb commissioned officers to
9 handle civil service matters in time of war. Prime
10 Minister TOJO replied that since military administra-
11 tion is now effected in Southern Occupied Areas and
12 that in view of the fact that the actual state of af-
13 fairs in CHINA also require serious views in the
14 maintenance of public security, it necessitates the
15 civil service officials of the Greater East Asia
16 Ministry to have thorough knowledge and experience in
17 regard to the Army and Navy.

18

19 "From Committee Member OBATA:

20 "He asked whether there is any fear in the
21 establishment of the Greater East Asia Ministry caus-
22 ing injury to the prestige of independent nations in
23 the Greater East Asia Sphere, and eventually causing
24 weakening in the mental and material cooperation as
25 requested by our Empire; and on the other hand,

1 availing enemy powers to commit malevolent propagandas.
2 Premier TOJO replied that military operations during
3 the early stages of the Greater East Asia War have, as
4 a whole, made favourable progress and nearly all the
5 strategical key points in East Asia have been occupied.
6 But the question of vital importance at present is in
7 the construction of a Greater East Asia with these
8 points as its foundation. The future operations of
9 enemy countries will be a demonstration of their ma-
10 terialistic power in the highest degree and, counter-
11 attacks will be made by them from footholds now remain-
12 ing in their hands. It could be deemed that the aspect
13 of war, hereafter, shall display a much intensified
14 situation. Therefore, it is urgently necessary that
15 plans be made for the construction of Greater East Asia
16 by a single effort at this moment, utilizing the ad-
17 vantage, when the enemies have not yet begun their
18 counter-attacks; and thus provide for the winning of
19 victory which is the first requisite today. For this
20 matter, adjustment for the necessary organization shall
21 be made with this plan. Furthermore, the influence
22 affecting a third power belongs to the problem of
23 secondary significance and does not become a reason
24 for hesitating the construction of the Greater East
25 Asia. Suppose it did give rise to misunderstanding

1 among the various countries in the East Asia Sphere,
2 a proper employment of the new organization would,
3 eventually, give understanding to the various coun-
4 tries in the East Asia Sphere that the construction of
5 East Asia would be to their own advantage."
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1 "(3) The nations of the world will be
2 divided into two groups; of which the state affairs
3 of one group will be handled not by the Foreign
4 Office but by the Greater East Asia Ministry. The
5 question was asked whether there would not be con-
6 sternation that the countries under this category
7 would treat Japan as a colonization ministry.

8 "Foreign Minister TANI replied that Japan
9 has special diplomatic relations with the various
10 independent countries in the Greater East Asia
11 Sphere. Since internal guidance of their diplomacy
12 is also being conducted, there is no need of appre-
13 hension. It is similar to the special agreement
14 existing between French Indo-China and France.
15 Since France respects the intentions of Japan re-
16 garding French Indo-China, actually it is impossible
17 to believe that French Indo-China will deal with Japan
18 as a colonization ministry. On the part of Japan,
19 the French ambassador has conferred with the Foreign
20 Minister concerning the local problems of French
21 Indo-China, but no objections were made. Replies
22 to this effect were respectively made.

23
24 "Committee Member TAKEGOE stated that when
25 Japan holds East Asia in its power as in the present,
there is no necessity in establishing the Greater

1 East Asia Ministry which will only help to raise
2 a problem. Furthermore, in order to make the
3 Southern Occupied Areas constructive, it is better
4 to change the military government immediately to
5 civil government.

6 "In asking the opinions of the respective
7 authorities, Premier TOJO replied that since deter-
8 mining the essence for the construction of East
9 Asia and conceiving a unified policy are pressing
10 necessities of the moment, the unification of var-
11 ious organs to arrange for a new organization
12 requires immediate attention. Regarding the question
13 of changing the military government to civil govern-
14 ment, the reply was that it will be immediately
15 carried out, even before the war is concluded,
16 when peace and order is established and when the
17 situation is normal."

18 We turn to the top of page 8. I will
19 read four lines:

20 "The Third Meeting of the Investigation
21 Committee regarding Establishment of the Greater East
22 Asia Ministry and Eight Other Items.

23 "Meeting held on 14 October 1942 (Wednesday)
24 at Privy Council Office."
25

We will only read the names of the accused

1 who attended: "Councillor MINAMI (Jiro); Prime
2 Minister concurrently War Minister TOJO; Chief
3 Secretary of Cabinet HOSHINO; and President of
4 Planning Board SUZUKI."

5 We turn to the top of page 9:

6 "Committee Member IZAWA asked: * * *

7 "(2) Committee IZAWA pointed out the fact
8 that in Formosa, only few native Formosans were
9 being accepted as government and municipal officials.
10 He then asked how can one expect to assimilate
11 the different peoples of the Greater East Asia
12 Sphere in order to bring about the sound establish-
13 ment of Greater East Asia when even in quasi-
14 homeland Formosa, such discrimination exists.

15 "TOJO replied that the establishment of
16 Greater East Asia is based on the spirit of Hakko Iu
17 (T.N. Gathering the eight corners of the world
18 under one roof) and that it would not be difficult
19 to assimilate even the different peoples if dealt
20 with this spirit. /TOJO continued/ that subjects
21 of territories should not purposely be excluded
22 from being appointed as government and municipal
23 officials and that it should gradually be reformed
24 in accordance with the aforementioned spirit."

25 We turn to the top of page 10. I will read

four lines:

1 "The Fourth Meeting of the Investigation
2 Committee concerning the Establishment of the
3 Greater East Asia Ministry and eight other items.

4 "Meeting held on 15 October 1942 (Thursday)
5 at Privy Council Office."

6 We will only read the names of those who
7 are now accused who are in attendance: "Councillor
8 MINAMI (Jiro); President of the Planning Board
9 SUZUKI."

10 We turn to the top of page 11:

11 "(Meeting called to order 1:30 p.m.)

12 "SUZUKI, Chairman of the Committee, called
13 the meeting to order. Matters concerning the es-
14 tablishment of Greater East Asia Ministry and the
15 revision of some general rules of other ministries
16 were presented before the Committee.

17 "TORIYAMA, Chief of the Legislation Bureau,
18 roughly explained the aforementioned two subjects.

19 "Committee Member MINAMI (Hiroshi) inquired:
20 Are there any intentions to change the name of
21 Greater East Asia Ministry? Since the distinction
22 between customary diplomacy and extranormal diplomacy
23 is vague, is it not preferable to consider the rela-
24 tions with other countries and not use the word
25

1 customary diplomacy officially but to dispose of it
2 in actual practice?

3 "Minister of State SUZUKI replied that
4 he considered the name Greater East Asia Ministry
5 proper because the name bespoke straightforwardly
6 the consistency of establishing Greater East Asia
7 and that he had no intention to change it. Chief
8 of Legislative Bureau MORIYAMA /added/ that since
9 the jurisdiction of the Greater East Asia Minister
10 consisted in the performance of administration
11 duties in various fields, it would not be proper
12 to exclude customary diplomacy in practice.

13 "(2) /Committee Member MINAMI (Hiroshi)
14 /inquired why was it necessary to have the Greater
15 East Asia Minister supervise the extranormal diplom-
16 acy with countries within the Greater East Asia
17 region.

18 "Chief of Legislative Bureau MORIYAMA
19 replied that countries in the Greater East Asia
20 Sphere are mutually in a family relationship. There-
21 fore, the diplomacy between these countries and the
22 diplomacy between other independent countries differ
23 in character markedly. Moreover, since there is an
24 intimate and inseparable relationship between for-
25 eign policies and /extranormal diplomacy/ in the

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Greater East Asia area, it was decided to leave
the Greater East Asia Minister take charge."

We turn to the top of page 12.

1 "The Fifth Meeting of the Investigation
2 Committee Concerning the Establishment of the Greater
3 East Asia Ministry and Eight Other Items.

4 "The meeting was held at the Privy Council
5 office on 19 October (Monday), 1942."

6 This meeting was attended by only one of the
7 Accused, Councillor MINAMI.

8 We continue reading at the second line from
9 the bottom of this page:

10 "(Meeting convenes at 10:10 A.M.)

11 "Chairman SUZUKI announced opening of the
12 Meeting.

13 "Committee member FUTAGAMI states: (1)

14 The overseas organs of the Greater East Asia Ministry
15 are officially under the command of the Foreign Minister
16 concerning matters of customary diplomacy; and under
17 the command of the Greater East Asia Minister on those
18 of extranormal diplomacy. Furthermore, since the
19 distinction between customary and extranormal diplomacy
20 is not clear, they /overseas organs/ receive orders
21 separately from the both ministers of the central
22 government on the same issue. He asked whether or not
23 there is fear of this giving cause to bewilderment so
24 that they would not be able to act properly. Foreign
25 Minister TANI replied that the relations of our Empire

1 with the countries in the Greater East Asia sphere
2 are somewhat the relations between relatives and it is
3 the ideal of our Empire to have this further strengthened
4 and developed into the relations of a single large
5 family, and that during this period it could be eventually
6 led to a point where diplomacy would not be needed any
7 more. But at the present stage, due to need for respect
8 of dignity and the exchange of documents, it is
9 necessary that customary diplomacy be continued.
10 Within this extent will the overseas organs come under
11 the superintendence of the Foreign Minister.

12 "(1) Committee member MITSUCHI asked the
13 reason why it was inappropriate to have extranormal
14 diplomacy come under the jurisdiction of the Foreign
15 Office, and customary diplomacy under the Greater East
16 Asia Ministry, respectively, in regard to our foreign
17 relations with the independent countries in the
18 Greater East Asia Sphere.

19 "Foreign Minister TANI and the Chief of the
20 Legislative Bureau MORIYAMA replied that the Greater
21 East Asia Ministry, after all, assumes charge of affairs
22 on the establishment of the Greater East Asia, and since
23 its contents cover the various fields in politics,
24 economy and culture, extending over the whole area of
25 Greater East Asia, it is necessary to have all the

1 various items of diplomatic policy toward independent
2 nations in the Co-Prosperity Sphere be charged to the
3 care of Greater East Asia Ministry. Moreover, it would
4 be appropriate to have international courtesies and
5 conclusion of international treaties, etc., which are
6 customary diplomacy, be charged to the care of the
7 Foreign Ministry."

8 We now turn to the top of page 15.

9 THE PRESIDENT: Mr. Hyde, what is the purpose
10 of reading all this? This is now October 1942. Do
11 you submit that what you are reading is evidence of
12 aggression, that even at that hour it discloses the
13 purpose of the war was not self-defense by the Japanese,
14 but some aggressive design? To what issue is it
15 relevant except that of aggressive war? It has no
16 bearing on conventional war crimes or on crimes against
17 humanity, certainly. The only thing left are crimes
18 against peace. The peace was broken twelve months
19 before. The purpose, if it has any purpose -- I do
20 not know whether you are clear in your own mind about
21 it -- must be to show that Japan entered the war not to
22 defend herself, but in order to build up this vast empire.

23 MR. HYDE: Your last statement, your Honor,
24 is exactly our position. That is the purpose of this.
25 It shows what they were going to do --the question of

1 aggressive war, conquest, domination. They are
2 showing their intentions.

3 THE PRESIDENT: Well then, does it require all
4 this elaboration and reiteration? Isn't it all
5 cumulative?

6 MR. HYDE: Yes, it is cumulative, but it
7 also discloses the names of the accused who from
8 time to time participated in formulating these plans
9 and the policy that was pursued.

10 THE PRESIDENT: Very few of the accused whose
11 names you read made any contribution to those debates.
12 TOJO did.

13 MR. HYDE: Your Honor, it is sometimes
14 difficult to know just how much evidence a court
15 might require. This I admit is cumulative.

16 THE PRESIDENT: You could mention the names
17 of those accused as taking part in that Greater
18 East Asia Co-prosperity Sphere.

19 MR. BROOKS: I would like to object to such
20 procedure unless the Court defines what it means by
21 "taking part," so that we have some idea of the defense
22 to establish in that case under the charges in that
23 Indictment.

24 THE PRESIDENT: I will clarify that for you --
25 "taking part in aggression."

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We will adjourn for fifteen minutes.

(Whereupon, at 1445 a recess was taken until 1500, after which the proceedings were resumed as follows):

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

3 THE PRESIDENT: Mr. Hyde.

4 MR. HYDE: Mr. President, may I make just
5 a further observation with respect to the question
6 you raised before we recessed?

7 THE PRESIDENT: Yes.

8 MR. HYDE: As you have stated, Mr. President,
9 this part of our proof deals with aggression. We are
10 dealing primarily with class A crimes; B and C are
11 involved only in so far as there might be some over-
12 lapping. Our purpose is to show that this was a
13 war of aggression and conquest and domination.

14 THE PRESIDENT: Crimes against peace is the
15 best term to use.

16 MR. HYDE: We think -- the execution of their
17 plans, we think, is the best way to show what they in-
18 tended to do.

19 THE PRESIDENT: So we thought, but the
20 question is whether you have not already given suf-
21 ficient evidence of this Greater East Asia Co-Prosperity
22 Sphere and what it involved. It is material to know
23 who among the accused, if any of them, took part in
24 that operation from time to time. That is to say,
25 who supported it. But you have gone far beyond that.

1 However, we have to rely on your judgment to some
2 extent. We are only concerned that you keep the real
3 issue in mind and watch the evidence you are tendering.

4 MR. HYDE: If I have the Tribunal's permis-
5 sion, I should like to point out the dates of the
6 remaining meetings in the documents from which I have
7 been reading, and indicate in addition thereto the names
8 of the accused who were present, and that would be all.

9 THE PRESIDENT: You might include any impor-
10 tant speeches. We do not want to shut those out.

11 MR. BROOKS: Mr. President, I was going to
12 object unless it was shown the extent they participated
13 or influenced the decision; that their mere presence
14 alone would not be enough, I didn't think.

15 THE PRESIDENT: You should give the decision.
16 You know most of them have been unanimous. I do not
17 recollect any dissent.

18 MR. HYDE: May I indicate the meetings and
19 those present?

20 THE PRESIDENT: Yes.

21 MR. HYDE: On page 15 of the document, the
22 minutes for the meeting held on the 20th of October,
23 1942. are commenced. At that meeting the following
24 of the accused were present: Jiro MINAMI; Navy
25 Minister SHIMADA; Chief of Naval Affairs, Navy Minister

OKA.

1 Now turning to page 17 of the document,
2 where we find that the seventh meeting of the com-
3 mittee was held on the 20th of October, 1942 --
4

5 THE PRESIDENT: If these were just dis-
6 cussions leading to no decision, and none of the
7 accused took part in the discussions, what bearing
8 have they? I am referring to the last two meetings.

9 MR. HYDE: Yes, sir.

10 THE PRESIDENT: The accused TOJO took part
11 in the earlier meetings. You see, all this may be
12 interesting, but if it is not relevant or material
13 we cannot consider it.

14 MR. HYDE: With respect to the meeting on
15 the 20th of October, 1942, the minutes of which start
16 on page 17 of the document, we find that Councillor
17 MINAMI, Jiro, Navy Minister SHIMADA, and Chief of
18 Naval Affairs, Navy Ministry OKA were present.

19 I would like to read from page 19, starting
20 with the third paragraph from the end, and read two
21 paragraphs:

22 "Committee Chief SUZUKI stated to the effect
23 that this draft is not based upon the rules of right-
24 eousness but on the rules of might, and for the reason
25 that it would be unsatisfactory as a far-sighted

1 national plan, if there is unity of opinion in the
2 committee, he could assume the responsibility of
3 the negotiations and in all frankness, endeavor to
4 have the government listen to this, but if there is
5 lack of complete unity in the committee, it would be
6 difficult to accept this responsibility.

7 "In connection with this, Committee members
8 ISHII, USHIO, and IKEDA said to the effect that even
9 though there was a lack of unity in the committee,
10 it would be advisable to have the Committee Chief
11 take the trouble of negotiating with the government
12 and requesting its consideration if there existed a
13 majority opinion. To this, Committee member IZAWA
14 concurred."

15 THE PRESIDENT: SUZUKI is not an accused,
16 is he?

17 MR. HYDE: No, your Honor.

18 And now the last meeting on page 20 of the
19 document, the eighth meeting held on the 21st of Octo-
20 ber, 1942, at this meeting the following accused
21 were present: MINAMI, Jiro, Prime Minister TOJO,
22 Chief of the Bureau of Naval Affairs OKA.

23 I will read the last paragraph on page 21:

24 "Chairman SUZUKI proceeded to give an account
25 of his interview with Prime Minister TOJO concerning

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1 the negotiations for the amendment of the original
2 proposal agreed upon at the previous Committee
3 meeting. He said that the Prime Minister was
4 firmly determined to adhere to the original proposal,
5 and could under no circumstances agree to the amend-
6 ment, and that the Committee, therefore, had no
7 choice but to express its views frankly when re-
8 porting the results of the investigation. All com-
9 mitteemen expressed thanks to the chairman and de-
10 cided to drop the problem."

11 At this point we respectfully invite the
12 Tribunal's attention to exhibit 90, Imperial Ordinance
13 707, dated 1 November 1942, providing for the
14 organization of the Ministry of Greater East Asiatic
15 Affairs, of which the relative articles were read on
16 9 September 1946, at page 5186 of the record.

17 The prosecution now offers in evidence
18 document 2339, an excerpt from the Japan Year Book
19 1943-44, exhibit 1324 for identification. This
20 document contains part of the speech of Prime Minister
21 TOJO in the Japanese Diet on 15 June 1943, expressing
22 the Japanese Government's announced policy with regard
23 to the East Indies.
24

25 THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

1 No. 2339-B will receive exhibit No. 1345.

2 (Whereupon, the document above re-
3 ferred to was marked prosecution's exhibit
4 No. 1345 and received in evidence.)

5 MR. HYDE: We will now read exhibit 1345:

6 "The Japan Year Book 1943-44 Pages 200 and
7 202.

8 "The 82nd Session of the Diet.

9 "On June 16 a three-day extraordinary
10 session of the Diet was convened to approve a number
11 of official measures designed to intensify the prose-
12 cution of hostilities on a far more effective total
13 war footing than hitherto. This was the 82 session
14 of the Diet which, displaying a remarkable speed,
15 transacted the entire scheduled business and resolved
16 to exert its utmost to enhance further the fighting
17 potentiality of the nation. Premier General Hideki
18 TOJO, speaking on the opening day of the Diet, made
19 a seven-point declaration. He affirmed that the de-
20 fense preparations of greater East Asia had been
21 strengthened appreciably, and that Nippon was making
22 all arrangements to launch decisive operations. Ex-
23 plaining that the relations with the Nanking Govern-
24 ment had become strikingly smooth and close, he
25 declared for the first time that independence would

1 be granted to the Philippines within this year.

2 "The gist of the Premier's speech follows:

3 "The populations in Malai, Sumatra, Djawa,
4 Borneo, Celebes and other places under Nipponese
5 military administrations are assiduously attending
6 their cooperation toward Nippon. Even in the midst
7 of war, they have been liberated and accorded educa-
8 tional and cultural blessings under the sympathetic
9 guidance of the Nipponese authorities, so that they
10 are now enjoying a life of hope and happiness never
11 experienced in the past. It is, I believe, a matter
12 of hearty congratulation for the Indonesian people.

13 "It is our intention to go further and, in
14 pursuance of the aspirations of the natives, to take
15 measures step by step envisaging the participation
16 of the native populations in government to the extent
17 commensurate with the degree of their ability in the
18 course of the year. In particular, we intend to realize
19 this state of affairs as early as possible in Djawa in
20 view of the advanced conditions of the island and in
21 response to the desire of the people there."

22 THE PRESIDENT: Well, that speech does not
23 add very great weight to the prosecution's case.

24 MR. HYDE: It may have some bearing when
25 the witness that will be called later gives his testimony.

1 MR. HYDE: We offer in evidence prosecution
2 document 2339-C, an excerpt from the Japan Year Book
3 1943-44, exhibit 1324 for identification. This excerpt
4 is to be found on pages 1049 to 1051, and contains the
5 joint declaration of the Assembly of Greater East
6 Asiatic Nations, adopted on 6 November 1943, as well
7 as an account of the proceedings of the said Assembly
8 on 5 and 6 November 1943.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2339-C will receive exhibit No. 1346.

12 (Whereupon, the document above referred to
13 was marked exhibit No. 1346, and was received
14 in evidence.)

15 MR. HYDE: I will read a part of the exhibit
16 just referred to, starting at the top of page 1

17 "The Assembly of Greater East Asiatic Nations
18 Joint Declaration Adopted on November 6, 1943.

19 "It is the basic principle for the establish-
20 ment of world peace that the nations of the world have
21 each its proper place, and enjoy prosperity in common
22 through mutual aid and assistance.

23 "The United States of America and the British
24 Empire have in seeking their own prosperity oppressed
25 other nations and peoples. Especially in East Asia, they

1 indulged in insatiable aggression and exploitation,
2 and sought to satisfy their inordinate ambition of
3 enslaving the entire region, and finally they came
4 to menace seriously the stability of East Asia. Herein
5 lies the cause of the present war.

6 "The countries of Greater East Asia, with a
7 view to contributing to the cause of world peace,
8 undertake to cooperate toward prosecuting the War of
9 Greater East Asia to a successful conclusion, liber-
10 ating their region from the yoke of British-American
11 domination, and assuring their self-existence and self-
12 defense, and in constructing a Greater East Asia in
13 accordance with the following principles:

14 "1. The countries of Greater East Asia through
15 mutual cooperation will ensure the stability of their
16 region and construct an order of common prosperity
17 and well-being based upon justice.

18 "2. The countries of Greater East Asia will
19 ensure the fraternity of nations in their region, by
20 respecting one another's sovereignty and independence
21 and practicing mutual assistance and amity.

22 "3. The countries of Greater East Asia by
23 respecting one another's traditions and developing
24 the creative faculties of each race, will enhance the
25 culture and civilization of Greater East Asia."

1 "4. The countries of Greater East Asia will
2 endeavor to accelerate their economic development
3 through close cooperation upon a basis of reciprocity
4 and to promote thereby the general prosperity of their
5 region.

6 "5. The countries of Greater East Asia will
7 cultivate friendly relations with all the countries of
8 the world, and work for the abolition of racial discrim-
9 inations, the promotion of cultural intercourse and the
10 opening of resources throughout the world, and contri-
11 bute thereby to the progress of mankind.

12 "The Assembly of Greater East-Asiatic Nations
13 was officially opened at 10 a.m. on November 5, 1943
14 in Tokyo. Attending this great conclave of nations
15 were the Representatives of the six independent nations
16 of Japan, China, Thailand, Manchukuo, the Philippines,
17 and Burma. Also present was Subhas Chandra Bose, Head
18 of the Provisional Government of Azad Hind, as Observer.

19 "Representing the united will of the one bil-
20 lion people of East Asia, the 46 Representatives,
21 Associates, and Observers arrived at the scheduled
22 time on the morning of November 5 and entered the ante-
23 chamber of the imposing Imperial Diet Building, ex-
24 changing cordial greetings with each other."

25 Turning to the bottom of page 2, the last

1 paragraph:

2 "The second day session began at 10 a.m.
3 November 6, in the same chamber, attended by all the
4 representatives, associates and observers. It began
5 with a proposal being made by Prime Minister General
6 TOJO, the Japanese Representative. After an earnest
7 exchange of opinions among the Representatives, a
8 recess was called at 11:50 a.m.

9 "Joint Declaration Approved. With the recess
10 being ended at 0:40 p.m. Prime Minister General TOJO
11 rose at 0:45 p.m. and receded to the Assembly the draft
12 of the Joint Declaration, which was welcomed with great
13 applause. He then asked the Representatives to stand
14 if they approved the draft, to which request the Repre-
15 sentatives of the six nations stood up as one man, ac-
16 companied by surging waves of thunderous applause. The
17 time was 0:55 p.m."

18 I turn to the last page, the third line from
19 the top:

20 "The names of the representatives, associates
21 and observers are as follows:" And from the list I
22 will read the names of the accused who were present.

23 "His Excellency General Hideki TOJO Prime
24 Minister.

25 "His Excellency Admiral Shigetarō SHIMADA,

1 Minister of the Navy,

2 "His Excellency Mr. Mamoru SHIGEMITSU, Minister
3 of Foreign Affairs

4 "His Excellency Mr. Naoki HOSHINO, Chief
5 Secretary of the Cabinet

6 "His Excellency Major-General Kenryo SATO,
7 Director of the Bureau of Military Affairs, Ministry
8 of the Army

9 "His Excellency Vice-Admiral Takazumi OKA,
10 Director of the Bureau of Naval Affairs, Ministry
11 of the Navy."
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1 We offer for identification only prosecution
2 document No. 468, being a volume of speeches made be-
3 fore the Assembly of Greater East Asiatic Nations by
4 the representatives of the various countries.

5 CLERK OF THE COURT: Prosecution's document
6 No. 468 will receive exhibit No. 1347 for identifica-
7 tion only.

8 THE PRESIDENT: Admitted on the usual terms.

9 (Whereupon, the document above-
10 mentioned was marked prosecution's exhibit
11 No. 1347 for identification only.)

12 MR. HYDE: We offer in evidence prosecution
13 document No. 468-A, an excerpt from the aforementioned
14 document, being an address of His Excellency General
15 Hideki TOJO, Representative of Japan, on 5 November
16 1943.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 468-A will receive exhibit No. 1347-A.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 1347-A and received in evidence.)

23 MR. HYDE: I will read just a part of this
24 document, starting on page 1:

25 "ADDRESS OF HIS EXCELLENCY GENERAL HIDEKI

1 TOJO, REPRESENTATIVE OF JAPAN.

2 "November 5, 1943.

3 "As the representative of the sponsor nation,
4 I have the privilege to extend to you the sincere
5 greetings of the Japanese Government and to make
6 a statement of their views."

7 I turn to page 3, the second paragraph:

8 "It is my belief that for all the peoples
9 of Greater East Asia the present war is a decisive
10 struggle upon whose outcome depends their rise or
11 fall. It is only by winning through this war that
12 they may ensure forever their existence in their
13 Greater East-Asian home and enjoy common prosperity
14 and happiness. Indeed, a successful conclusion of
15 this war means the completion of the very task of con-
16 structing the new order of Greater East Asia."

17
18 Now, I go to the bottom of page 3, next to
19 the last paragraph:

20 "It is my belief that to enable all nations
21 each to have its proper place and to enjoy the blessings
22 of common prosperity by mutual efforts and mutual help
23 is the fundamental condition for the establishment of
24 world peace. And I must furthermore say, that to
25 practice mutual help among closely related nations in
one region, fostering one another's national growth

1 and establishing a relationship of common prosperity
2 and well-being, and, at the same time, to cultivate
3 relations of harmony and concord with nations of
4 other regions is the most effective and the most
5 practical method of securing world peace."

6 I will read the next three paragraphs only:

7 "It is an incontrovertible fact that the
8 nations of Greater East Asia are bound, in every
9 respect, by ties of an inseparable relationship.
10 I firmly believe that such being the case, it is
11 their common mission to secure the stability of
12 Greater East Asia and to construct a new order of
13 common prosperity and well-being.

14 "This new order of Greater East Asia is to
15 rest upon the spirit of justice which is inherent in
16 Greater East Asia. In this respect it is funda-
17 mentally different from the old order designed to serve
18 the interests of the United States and Britain who do
19 not hesitate to practice injustice, deception and
20 exploitation in order to promote their own prosperity.

21 "The nations of Greater East Asia, while
22 mutually recognizing their autonomy and independence,
23 must, as a whole, establish among themselves relations
24 of brotherly amity. Such relations cannot be created
25 if one country should utilize another as a means to

1 an end. I believe that they come into being only
2 when there is mutual respect for one another's au-
3 tonomy and independence, then one prospers through
4 another's prosperity and all countries give expression
5 to their true selves."

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1 Continuing with document 2754, exhibit 1344,
2 commencing at the top of page 2:

3 "At the time of this decision Prime Minister
4 TOJO was rather in favour of independence and the
5 Foreign Ministry also supported the plan, but the
6 Supreme Command maintained strong opposition, as
7 mentioned above; while others again, took the stand
8 that once independence was granted, Japan, for the
9 sake of her personal honour would have to respect the
10 independence to the last, and would be in a difficult
11 position when negotiations, peace, etc., came one day
12 to be considered, and that for this reason the status
13 quo should be maintained. Territorial incorporation
14 was thus finally decided on.

15 "2. Though the Japanese Army authorities
16 on the spot were greatly dissatisfied with this deci-
17 sion, they made no representations of their oppo-
18 sition. Mr. Soekarno, who visited Japan soon after
19 the Greater East Asia Conference, made an earnest
20 request to Prime Minister TOJO to grant the East
21 Indies area her independence. The meeting, however,
22 ended without any definite reply from TOJO and Soekarno
23 returned to Java greatly disappointed."

24 We now offer in evidence,-- if the Court
25 please, I will read a little more before I offer this

1 next document.

2 "Later, HAYASHI, Chief of the Justice
3 Administration, who was then Supreme Councillor
4 for the Military Administration in Java, came to
5 Tokyo, by approval of the Supreme Commander of the
6 Japanese Army on the spot, with the problem of inde-
7 pendence for the East Indies, and did his utmost
8 to get it accepted by the circles concerned. Foreign
9 Minister SHIGEMITSU supported the proposal and made
10 efforts for the alteration of the decision mentioned
11 above. With the formation of the KOISO Cabinet,
12 the arguments for independence gradually began to
13 carry more weight.
14

15 "For instance, at the first War Super-
16 vision Conference of the KOISO Cabinet, it was
17 decided, in an article of "The Policies to be Taken
18 in the Future for the Supervision of the War", that
19 a statement concerning independence for the East
20 Indies should be declared at the next Diet Session.
21 As for the circumstances which had led to this de-
22 cision, the Mariana defense line on the Pacific
23 front had been broken and the United States was
24 rapidly turning to the offensive. The situation
25 was such that the new Cabinet had to take some new
measures for uniting Greater East Asia, and it was

1 only natural that the Foreign Ministry should insist
2 upon the plan for independence. The central authori-
3 ties of the army now also inclined to approve of
4 this plan in compliance to the requests from the
5 Army authorities on the spot, for the reason that
6 racial consciousness had been so noticeably enhanced
7 in Java and Sumatra, the areas under Army Military
8 Administration, that thanks to leaving the problem
9 of independence so vague, it was gradually becoming
10 difficult to secure the cooperation of the native
11 inhabitants.
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13 "The naval authorities, however, still
14 maintained such strong opposition, that the pro-
15 motion of the independence policy was entirely
16 deferred as far as the areas under the Navy's Mil-
17 itary Administration were concerned,"
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1 Diet session that the East Indies shall be made
2 independent in the future.

3 "2. The former Netherlands Indies (ex-
4 cluding New Guinea) shall be the scheduled terri-
5 tory to be made independent. (The Navy's approval
6 reserved).

7 "3. The Form of Independence and the
8 relations with the Empire shall be determined
9 separately. However, steps shall be taken so that
10 the Empire's requests shall be fully attained.

11 "4. The Time of Independence shall be
12 determined separately by taking into account the
13 condition of progress in the political ability of
14 the people, but a too premature enforcement of
15 Independence shall be avoided. Moreover, the
16 question as to whether the entire territory shall
17 be made independent at the same time or be made
18 independent by degrees shall be decided upon accord-
19 ing to the conditions at the time.

20 "5. In Java measures shall be taken in
21 accordance with the following, while respecting
22 the initiative of the people:

23 "a. In conformity with the Declaration
24 of the Imperial Government, efforts
25 shall be made promptly towards the

1 consistency of the purport of same.

2 "b. Radical changes in the present status
3 of the military administration shall
4 be avoided, but the participation in
5 politics by the people shall be still
6 further strengthened and expanded, and
7 they shall be given political train-
8 ing.

9 "c. To recognize as speedily as possible
10 the investigating and studying by the
11 inhabitants on the spot of matters
12 necessary for Independence.

13 "d. The Indonesian songs and the use of
14 Indonesian flags, hitherto prohibited,
15 shall be permitted.

16 "6. As for the various other territories,
17 measures corresponding to the foregoing Paragraph
18 shall be adopted as far as possible so as to con-
19 form to their respective actual conditions."
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1 We continue again the reading of exhibit 1344,
2 at page 3, paragraph 2:

3 "For this reason, no definite policy was
4 decided in regard to independence, except that Prime
5 Minister KOISO merely made a statement at the Diet
6 Session to the effect that the independence for the
7 East Indies area would be encouraged in the future.
8 (Annex II)."

9 Annex No. II is already in evidence as part
10 of exhibit 277, the speech of Premier KOISO before
11 the 85th Diet Session on 7 September 1944. With the
12 Tribunal's permission we would like to read one para-
13 graph therefrom, starting at the bottom of page 6 of
14 the English text.

15 "As to the East Indies, Japan permitted the
16 inhabitants to participate in politics according to
17 their wish. The inhabitants throughout the East Indies
18 have continuously endeavored to carry out the Greater
19 East Asia War, recognizing the real intention of Japan.
20 They have also been cooperating remarkably with the
21 military government there. In view of these facts
22 we declare here that we intend to recognize their
23 independence in the future in order to ensure the eter-
24 nal happiness of the East Indian race. In this way
25 the Japanese government intends to continue with her

1 former policy toward Greater East Asia and by develop-
2 ing strongly the spirit of the Greater East Asia Joint
3 Declaration, she expects to live up to the trust of
4 the nations of Greater East Asia. Thus, if Greater
5 East Asia, with Japan as its center and under the firm
6 belief of victory, further increases its solidarity,
7 concentrates its forces both spiritually and materially,
8 and prosecutes ardently the 'Holy War', which aims at
9 the reconstruction of Greater East Asia, we firmly
10 believe that we can destroy the ambitions of America
11 and England and can express our ideals concerning the
12 world forever."

13 "We continue again with the reading of exhibit
14 1344, starting at paragraph 3 on page 3.

15 "3. Subsequently, the war situation took a
16 turn for the worse and sea-transportation between Japan
17 and the South was definitely at an end. For this
18 reason, demands for economic self-sufficiency by the
19 troops on the spot were greatly increased, and it became
20 notably difficult to win the hearts of the native
21 inhabitants of Java and Sumatra by mere abstract state-
22 ments about independence.

23 "The Army authorities on the spot had pre-
24 viously established a Central Advisory Council in Java,
25 in accordance with the policy of political participation

1 for the native inhabitants, but this was no more than
2 a consultative body for political administration. The
3 deciding of a definite policy for the preparation
4 of independence thus became an imminent problem.

5 "The Navy, on the other hand, no longer had
6 any further reason to adhere to its past opposition
7 views, as the abandonment of the South had already
8 been taking place since the fall of the Philippines.

9 "Since the beginning of 1945, the opinions
10 of the Army and the Navy had become uniform over the
11 problem of independence for the East Indies, and other
12 matters.

13 "Consequently, after the following discussion
14 was held by the authorities concerned of the three
15 Ministries at the Supreme Advisory Conference of
16 July 17th, it was decided that, 'The Empire shall
17 recognize the independence of the East Indies at the
18 earliest possible opportunity. For this purpose,
19 preparations for independence shall be immediately
20 promoted and intensified.' (Annex III) and (Annex IV).

21 "Less than a month later the Empire had sur-
22 rendered and this was never put into effect."
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1 We now offer in evidence Annex 3, just
2 mentioned, which is prosecution document 2758, en-
3 titled "Measures for the Netherlands East Indies
4 Independence; Date for Foreign Minister's Explana-
5 tion, 17 July, 1945.

6 THE PRESIDENT: Admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution's docu-
9 ment No. 2758 will receive exhibit No. 1349.

10 (Whereupon, the document referred
11 to was marked prosecution's exhibit No.
12 1349 and received in evidence.)

13 MR. HYDE: I will read exhibit 1349.
14 (Reading)

15 "Measures for the N.E.I. Independence'
16 "Date for Foreign Minister's Explanation,
17 "17 July, 1945."

18
19 "1. In the East Indies, there have been
20 fierce Independence movements ever since the time of
21 the Dutch occupation. 'Indonesian for the Indonesians'
22 was the earnest desire of the separatists. As soon as
23 our Army occupied the East Indies after the outbreak of
24 the Greater East Asia War, the above pioneers all
25 rendered whole hearted cooperation to us in the expect-
ation that the golden opportunity for Independence had

1 offered itself. They have achieved successful results
2 in their activities as members of the Chuo Sangi-In
3 (Central Advisory Council) and as officials or members
4 of local administrative organizations. On the other
5 hand, the Greater East Asia Joint Declaration was
6 issued in November of the year before last clarifying
7 the Empire's great policy to respect the Independence
8 of every country in Greater East Asia. Simultaneously,
9 with the establishment of Independence in Burma and
10 the Philippines and of the Free India Temporary Gov-
11 ernment, the desire of the leaders of Independence
12 Movements in the East Indies also was greatly encour-
13 aged.

14 "The Empire, on her part, regarded it proper
15 to carry through the spirit of the Greater East Asia
16 Declaration and to make some kind of gesture in regard
17 to the problem of Independence for the East Indies as
18 a reward for the cooperation and expectation of the
19 native inhabitants.

20 "Accordingly, after deliberation at the
21 Supreme War Supervisory Conference of Sept. 5th, last
22 year, former Prime Minister KOISO, in his declaration
23 of the government's policies at the 85th Extraordinary
24 Session of the Diet on Sept. 9th, made a statement that
25 'The Empire is ready to recognize Independence for the

1 East Indies in order to secure everlasting welfare
2 for her people', thereby clarifying the Empire's
3 intentions on this problem.

4 "Of course, at the Supreme War Supervisory
5 Conference of Sept. 5th, it was merely decided that
6 the above statement was to be made at the Diet Session;
7 and in regard to the areas to which Independence was to
8 be granted, there was no question to Java and Sumatra,
9 but nothing definite was decided on the rest of the
10 areas. Only it was decided to permit the use of the
11 Indonesian song and the Indonesian flag which had
12 heretofore been prohibited, and to encourage and in-
13 crease the participation in politics by inhabitants
14 to give the native inhabitants a chance to investigate
15 and study matters necessary for the Independence.

16 "II In response to the above statement by
17 the Imperial Government, an Independence Investigation
18 Committee was established in Java; while in Sumatra
19 and Celebes also, measures had been taken to encourage
20 participation in politics by native inhabitants. Nec-
21 essary preparations had been under way, when in the
22 statement of Sept. 7th, last year, it was merely
23 stated 'her Independence shall be recognized in the
24 future', and no time for it had been indicated. To
25 promise the Indonesians their Independence and have

1 its realization in a state of uncertainty for a
2 long time, will, it is feared, give rise to doubts
3 as to the sincerity of our Empire.

4 "Especially, at this moment when the enemy's
5 counter-offensive is already about to extend to a cor-
6 ner of the East Indies, it will be imminent, from the
7 necessity of seeking a more positive cooperation from
8 the native inhabitants, to further materialize the
9 statement made last year and to decide clearly the
10 time for the Independence and announce it at home and
11 abroad, thereby clarifying the Empire's true intentions
12 towards the complete adjustment of Independence for
13 Greater East Asia.

14 "From this standpoint -- "

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1 THE PRESIDENT: Is it worth while con-
2 tinuing to read this?

3 MR. HYDE: It just indicates what their
4 attitude really was as spoken, and we will later
5 show it to the Court as it was actually carried
6 out. I will refrain from reading the balance of it,
7 your Honor.

8 I would like to put in one more document.

9 We now offer in evidence Annex 4, which
10 is prosecution document 2759, and is entitled,
11 "Decision of the Supreme War Plans Council No.
12 27, July 17, 1945, re Measures for the East Indies
13 Independence."

14 THE PRESIDENT: Admitted on the usual
15 terms.

16 CLERK OF THE COURT: Prosecution's docu-
17 ment No. 2759 will receive exhibit No. 1350.

18 (Whereupon, the document above
19 referred to was marked prosecution's
20 exhibit No. 1350 and received in evidence.)

21 MR. HYLE: If the Court please, I would
22 like to read this document. This will conclude our
23 documentary evidence before the presentation of our
24 witnesses.

25 From the Chief of Staff Osamu Army Corps.

Lated September 7, 1944. (Reading:)

1 "We hereby notify you that, based on the
2 Prime Minister's proclamation regarding the grant-
3 ing of the independence of the East-Indies at the
4 85th Special Session of the Diet today, the 7th of
5 September, it is decided that the army will meet
6 the situation properly generally in accordance
7 with the following stipulations:" --

8 THE PRESIDENT: What are you reading
9 from? We haven't that document. We have docu-
10 ment 2759.

11 MR. HYLE: I apologize, your Honor. I am
12 sorry.

13 I will read exhibit 1350, document 2759.
14 (Reading:)

15 "Decision of the Supreme War Plans
16 Council, No. 27, July 17, 1945, re
17 Measures for the East Indies Independence.
18

19 "I Policy

20 "In order to contribute towards the com-
21 plete prosecution of the Greater East Asia War,
22 the Empire shall recognize as soon as possible the
23 Independence of the East Indies. For this purpose,
24 preparations for the Independence shall be hastened
25 and reinforced immediately."

"II Outline

1 "(1) The area to be made independent shall be
2 the former Netherlands East Indies.

3 "(2) Preparations for the Independence shall be
4 pushed throughout the entire territory and as soon
5 as preparations are completed in the principal
6 areas, the Independence of a new nation shall be
7 proclaimed throughout the entire territory. How-
8 ever, as regards the administration of areas where
9 preparations are not completed, steps will be
10 taken to transfer those areas by degrees under the
11 jurisdiction of the new nation in accordance with
12 the state of the progress of preparations.

13 "For this purpose, an Independence Pre-
14 paratory Committee shall be speedily organized
15 in Java, and be made to prepare various matters
16 necessary in carrying out the Independence."
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1 "(3) The scheduled date of Independence shall
2 be roughly fixed as soon as possible and shall be
3 announced by the Independence Preparatory Committee,
4 together with the areas designated as the domain of
5 the new nation.

6 "(4) The polity, political system, name of
7 the country and the scope of the citizens shall be
8 established by public opinion.

9 "(5) Through the policy concerned with the
10 Independence, efforts shall be made to promote the
11 race-consciousness of the people, and to make them
12 contribute toward the complete prosecution of the war.
13 Measures shall be taken to prevent with all efforts,
14 any hindrance to operations and preparations.

15 "(6) The execution of this policy at the
16 actual place shall be entrusted entirely to the hands
17 of the army there."

18 We call the witness, Major de Weerd.

19 THE PRESIDENT: Well, it is not worthwhile
20 swearing this witness in tonight.

21 We will adjourn until half past nine tomorrow
22 morning.

23 (Whereupon, at 1555, an adjourn-
24 ment was taken until Friday, 6 December 1946,
25 at 0930.)

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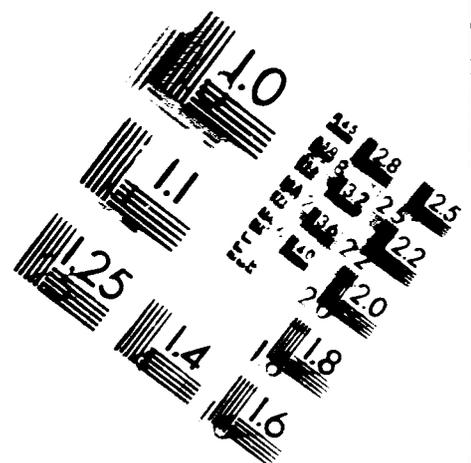
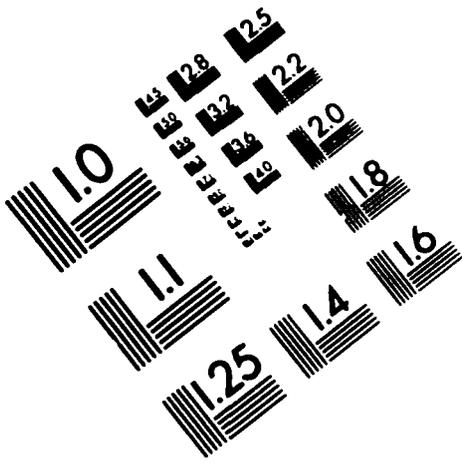
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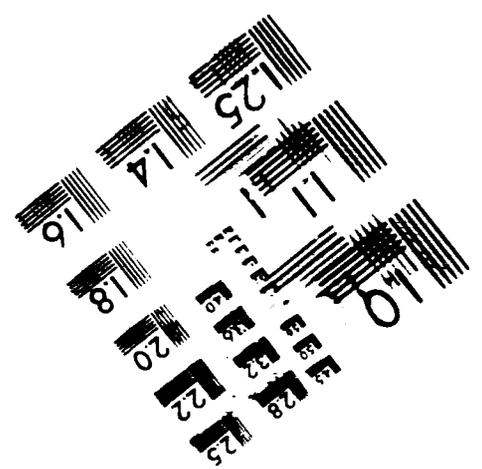
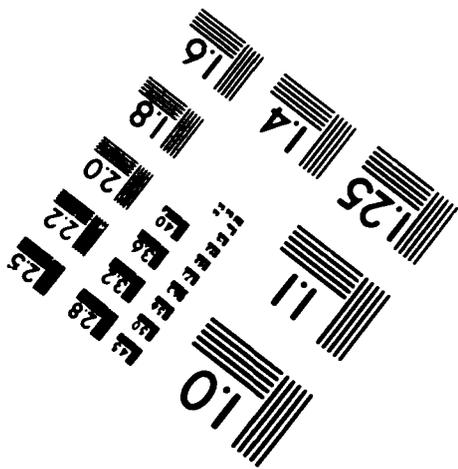
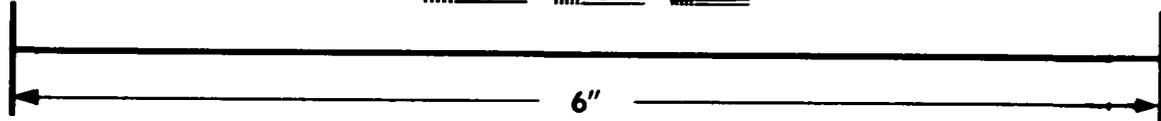
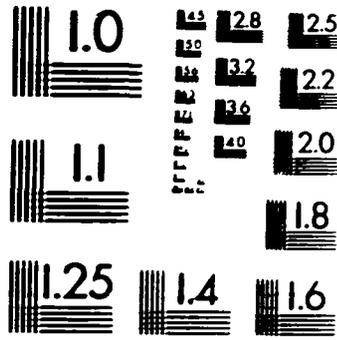
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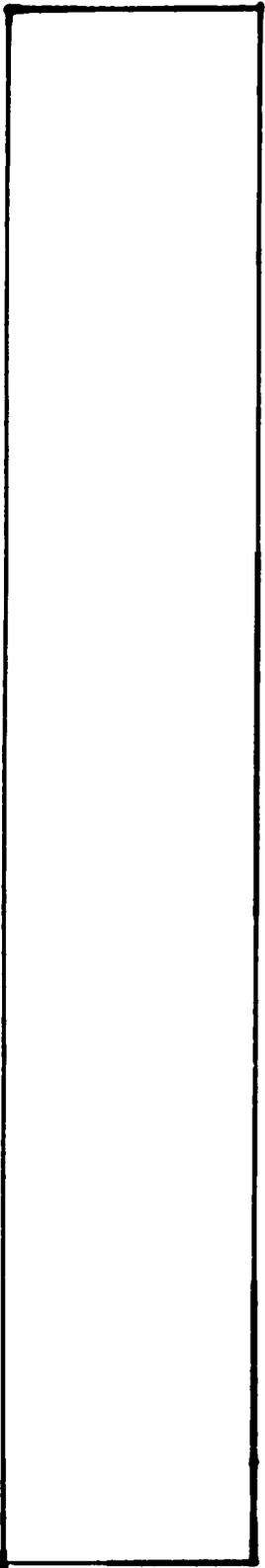
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