

Nov. 14, 1946

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Direct by Brigadier Nolan

10,567

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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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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 and HIRANUMA, who are represented by their respective counsel.

We have a certificate of illness of HIRANUMA from the Medical Superintendent of Sugamo Prison. He is unable to attend today.

Dr. KIYOSE.

DR. KIYOSE: Yesterday afternoon I made a remark on the words "Minister of the Navy" appearing on page 2 of exhibit 1189. May we have this term excluded? The defense counsel was able to obtain the correct wording of this telegram, and later I will be able to prove that my wording was correct.

THE PRESIDENT: Your explanation yesterday was accepted. There is no need for any further action.

Mr. Fihelly.

MR. FIELLY: Mr. President and Members of the Tribunal, we are now up to the date November 28, 1941.

As tending to show that Japan had decided to 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. FIEHELLY: 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/"
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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. FIEHELLY: 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

25 "The United States government has (always?)
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. FIDELLY: 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
24
25

1 MR. LOGAN: If the Tribunal please, may I
2 inquire of the prosecution if exhibit 1193 is an
3 intercepted message?

4 MR. FIELLY: 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. FIELLY: 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. FIHELLY: 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. FIHELLY: 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 THE PRESIDENT: Perhaps I assumed that it
21 was an erasure because you had made no attempt to
22 bring up the writing. You are dealing now with the
23 most important documents in the whole of this trial.
24 I do not think it is too much to say that.

25 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. FIBELLY: What was the number of that,
15 Mr. Mantz?

16 CLERK OF THE COURT: Prosecution's document
17 No. 1532-D(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. FINELLY: If our intercepted 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 PRESIDENT: It may.

5 MR. FINELLY: I now read from prosecution
6 exhibit No. 1195:

7 "To: Ambassador NOMURA in U.S.A.

8 "From: Foreign Minister TOGO

9 "Subject: U.S.-Japanese Negotiations

10 "Dispatched 30 November 1941 4:20 A.M.

11 "Telegram No. 857 (Ambassador Code)

12 "Re my telegram No. 844 /Explanation of the
13 telegram missing in English/

14 "We wish you would make one 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 "(S-TT)"
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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 CLEERK 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. FIEHELLY: 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 WAKATSUKI 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. WAKATSUKI'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 HAYASHI 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 ABE 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. TAKATSUKI 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-

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6 lation when they receive it they are at liberty to
7 go to the head of the Translation Section and put
8 their representations before him. If he agrees with
9 them, he will see the prosecution, and the correction
10 will be made at the lectern by the counsel presenting
11 the document or reading it. If he does not agree
12 with them, the defense then will be able to give
13 their version in the course of giving evidence for
14 the defense.

15 As I am reminded by a colleague, I have
16 already told you that twice within the last four
17 days.

18 MR. SMITH: Your Honor, since the blanket
19 ruling, an automatic referring was made about a
20 week ago; and counsel have referred a number of
21 documents to the Translation Section, and so far
22 none of them have come back corrected.

23 THE PRESIDENT: Major Moore spoke to me about
24 this matter this morning, and it appears that he is
25 asked to make a choice between the use of these two
words, "hastening" and "expediting." He was quite
reasonable about it and, in all seriousness, wanted
to know whether it was worth correcting.

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. Fihelly.

22 MR. FIEHELLY: 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. FIHELLY: 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

1 the Fleets and the Naval Operational Bureau. The
2 Fleets were in favor of attacking Pearl Harbor, where-
3 as the Naval Affairs Bureau considered it too much of
4 a speculation and preferred the more conservative
5 method of waiting for the American Fleet in the South
6 Pacific Islands. Admiral YAMAMOTO was very adamant
7 in his belief in his plan to attack Pearl Harbor and
8 he threatened to resign along with his staff if that
9 plan were not carried out.

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 KAYA, 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 IFO, the
15 Cabinet Secretary HOSHINO, General IUTO 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 SHIMADA."

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 NAGANO 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. FIELLY: May I proceed?

19 THE PRESIDENT: Mr. Fihelly.

20 MR. FIELLY: 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. 1632W (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. FANELLY: 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. FIBELLY: 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. FIELLY: 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 THE PRESIDENT: You will read it after the
21 recess, Mr. Fihelly. We will recess now for fifteen
22 minutes.
23

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 (M) Navy trans. 30 Nov. 1941
14 (R-5)"

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1 MR. FIEHELLY: 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. FIELLY: 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. FIHELLY: 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. FIHELLY: 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 "A I can't answer such a question as that.
17 It is a problem for the Foreign Minister. The orders
18 were that the final note was to be surely delivered.
19 Since the Foreign Ministry had such an order, the
20 question of how or why it was not carried out is a
21 technical one which is the responsibility of the
22 Foreign Minister.

23 "Q Did not you and the members of the cabinet
24 see the contents of the note before it was sent?
25

"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 I read the last page, page three, of the
25 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 identifi-
15 cation 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 mentioned
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:

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2 "Q At this last Liaison Conference pre-
3 ceding the Imperial Conference of December 1st or
4 2nd, you expressed the same views on international
5 laws and treaties which you arrived at as a result
6 of your studies?

7 "A Yes.

8 "Q So that when the Liaison Conference
9 arrived at a final decision to attack America and
10 Great Britain, they had accepted your views on these
11 matters?

12 "A Yes, of course, they had.

13 "Q Who, in addition to yourself, spoke
14 at that conference, expressing similar views in
15 regard to international laws and treaties?

16 "A The Foreign Minister spoke on this
17 point since he was the one chiefly responsible,
18 and my researches resulted in my agreement with his
19 views. There was no question raised by any other
20 member present since the responsible officials had
21 made that decision.

22 "Q Prior to the attacks on Great Britain
23 and the United States, why was not a declaration of
24 war made to either?

25 "A We thought that when the final note,

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. FIHELLY: 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. FIEHELLY: 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. FIEHELLY: 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.

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 NOMURA 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 I repeat the question for clarity:

17 "Q Did you say anything to the Emperor con-
18 cerning the telegram from KURUSU and NOMURA with
19 respect to President Roosevelt?
20

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 exhibit 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. FIELLY: 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
24 "Q Could you give me the names of the indi-
25 viduals at the liaison conferences and the Cabinet
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, MUTO 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 (Whereupon, at 1200, a recess was taken.)

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. Fihelly.

MR. FIELLY: We had reached, Mr. President and Members of the Tribunal, the date, December 1, 1941, just before lunch.

To show that there was a meeting of elder statesmen held just prior to December 1st, we next refer to Court exhibit 1158-A, which is an extract from the TOJO interrogation of March 11, 1946, and read pages 6 to 8 of the interrogation from pages 1 to 2 of this exhibit.

(Reading):

"Q. When and why was a meeting of ex-premiers held prior to the last Imperial Conference of 1 December 1941?

"A. You mean the Senior Statesmen?

"Q. Yes.

"A. That was convened by the Emperor.

"Q. When?

"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, HIRANUMA.

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:
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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	IWAMURA	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	MUTO	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	HARA	President of Privy Council"
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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 CLERK OF THE COURT: Prosecution's document
21 No. 2500 will be given exhibit No. 1209 for identi-
22 fication only.

23 (Whereupon, the document above mentioned
24 was marked prosecution's exhibit No. 1209
25 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..."

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. FIELLY: 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 875a.

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. FIELLY: 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 "Wherever 'England and the United States'
10 and 'English and Americans' occur in the text, we
11 changed them to 'England, the United States, and
12 the Netherlands' and 'English, Americans and Nether-
13 landers.' "

14 Footnote "Not available," the word
15 "Japanese" in parentheses, "Trans. 12/11/41 (5)."

16 We next offer in evidence International
17 Prosecution Document No. 220-J, a statement handed
18 to the Secretary of State on December 5th by
19 NOMURA to show that Foreign Minister TOGO's former
20 instructions, just read to the Court within a few
21 minutes, were carried out in Washington.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 220-J will be given exhibit No. 1215.

25 (Whereupon, the document above

1 referred to was marked prosecution's exhibit
2 No. 1215 and received in evidence.)

3 MR. FIELLY: 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. FIELLY: 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 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 1217 and received in evidence.)

11 MR. FIHELLY: 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 "Will the Ambassador please submit to the
20 United States Government (if possible to the Secretary
21 of State) our reply to the United States at 1:00 p.m.
22 on the 7th, your time."
23

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."
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21 Bottom of page, the word "SECRET."

22 With respect to translation, "(A) Navy
23 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. FIHELLY: 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. FIHELLY: 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 PRESIDENT: 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. FIEHELLY: 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. Peterel
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

19 (Whereupon, a discussion was had
20 off the record by the Members of the Tri-
21 bunal.)

22 THE PRESIDENT: Can you give us any reason
23 for calling him for cross-examination?

24 MR. FURNESS: Just to inquire whether these
25 are based on any international time belts or based
on geographic calculations. I notice that in the

1 preceding exhibits most of the different times are
2 exact hours apart, but in Kota Bahru particularly
3 it was not hours apart but hours and some odd
4 minutes. In other words, whether it is based on
5 geographical calculations or on specific time belts
6 on which people would agree.

7 THE PRESIDENT: For the time being, the
8 Court can see no good reason for calling him.

9 MR. FURNESS: Could we inquire whether he
10 is in Tokyo so that, if he is, we can talk with
11 him?

12 BRIGADIER NOLAN: I have made inquiries, Mr.
13 President, and he is not in Japan.

14 We now offer in evidence IPS document No.
15 2405, an affidavit of Mr. Grew, one time the United
16 States Ambassador to Tokyo, which, in our submission,
17 proves items 4, 5, 7, 8 and 22 of the time chart
18 marked as exhibit 1222.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 2405 will receive exhibit 1224.

22 (Whereupon, the document above re-
23 ferred to was marked prosecution's exhibit
24 No. 1224 and received in evidence.)

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 GREW, 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 787-792
13 of the above-mentioned Volume headed 'Memorandum handed
14 by the Japanese Ambassador (NONURA) 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 ARAYA, 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

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SHIRAO?

A Yes.

BRIGADIER NOLAN: I offer in evidence, Mr. President, IPS document No. 2597, being the affidavit of SHIRAO, Tateki.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 2597 will receive exhibit No. 1225.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1225 and received in evidence.)

BRIGADIER NOLAN: I now read from exhibit No. 1225:

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 knew, 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. NAKAYAMA, 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 HURAKAMI 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, Tateki 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, Tateki 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

1 THE PRESIDENT: Dr. KIYOSE.

2 DR. KIYOSE: I have three or four questions
3 to ask this witness.

4 CROSS-EXAMINATION

5 BY DR. KIYOSE:

6 Q You have stated in the last part of your
7 affidavit that you read and understand English and
8 understood the contents of this affidavit.

9 Did you write this affidavit in English?

10 A No, in Japanese.

11 Q Then, did you listen to the English trans-
12 lation of the Japanese affidavit which you made, and
13 signed that?

14 A Yes, I read the translation into English and
15 affixed my signature thereto.

16 THE MONITOR: "I was asked to read it, which
17 I did, and then signed."

18 Q Then you did not see the Japanese text of
19 this affidavit?

20 A Your question is not clear, sir.

21 Q The Japanese affidavit has been circulated
22 among us defense counsel. Have you never seen or read
23 the Japanese affidavit?

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.

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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 A No, he did not have the authority to give
25 orders, but we interpreted it as being the request

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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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