

At that time, I was informed by the Chief of the Army General Staff that the General Staff of the Navy had also a similar concept in this respect. What the Imperial Headquarters apprehended in those days was America's policy of procrastination by which course Japan might unwittingly be imposed upon. I, too, was generally of the same opinion, so that on the 10th of October I saw the Prime Minister and expressed for his consideration the gist of the concepts entertained by Imperial Headquarters.

73. At two o'clock, P.M. on 12 October 1941 the meeting of the Five Ministers of State was held at Tekigaiso (Prince KONOYE's residence at Ogikubo) in response to an invitation from the Premier. The meeting was attended by Prince KONOYE, Navy Minister Oikawa, Foreign Minister Toyoda, President of the Planning Board SUZUKI and myself, as Minister of War. No responsible person from the High Command of either the Army or Navy was present, or anyone other than the five Ministers. The meeting continued until after 6 o'clock of that afternoon. I did not counsel together with the Chief of the General Staff or with any other Staff officers before participating in the meeting as I was well acquainted with the views of the Imperial High Command. In "The Circumstances Relative to the Third KONOYE Cabinet's Resignation" (Ex. 1148) the following paragraph is found on page 2 of the Japanese original, and also on page 2 of the English version: "However, on the day before the conference, Chief OKA of the Naval Affairs Bureau came and in talking

with him stated that with the exception of the Naval General Staff the brains of the Navy don't want a Japanese-American war, but since the Navy, herself, cannot say 'she cannot do it' in view of her approval of the decision of the Imperial Headquarters, the Navy Minister will propose to leave it in the hands of the Prime Minister at tomorrow's conference; so we would like you to decide on continuing the diplomatic negotiations".

Never did these things come to my knowledge nor to the knowledge of my subordinates at that time.

The purpose of that meeting was an informal conversation among the Ministers concerned with regard to the prospects of the current American-Japanese parley as well as the decision to be taken regarding the issue of peace versus war. The argument went on many hours and the major points in the contention held by several participants are recapitulated here though the details of that discussion have gone out of my memory.

The Contention of Premier KONOYE and Navy Minister Toyoda was that Japan holds fast to the policies held until today there cannot be any hope to conclude the parley with results. Meanwhile as the crux of the difficulty lies in the question of evacuating our troops from China a specific concession on our part on that point may be accompanied by some hope of success. To the Empire of Japan there is left some room about this problem of the evacuation question in which we may retain what is substantial to us and

concede the nominal. That is to say, we may agree at first to withdraw our troops wholesale in conformity with the American requests, and, subsequently, we may yet retain our forces in China under an agreement made with China on an entirely new basis. Practically, this was tantamount to a revision of the decision reached on September 6th. However, the two Ministers did not mention that it was a revision of that decision.

My position was as follows. Judging from the course that the negotiations have taken hitherto, especially from the American reply dated October 2nd, which was made to our proposal founded upon the discussion in the Imperial Conference on September 6th, as well as the American virtual refusal to a personal meeting of the responsible chiefs of the two countries, could anyone entertain the slightest hope that the parley would ever successfully be concluded? To continue the conversations longer will surely result in our being imposed upon by America's dilatory policy. In case we are forced to make war with the United States, we may be placed in a precarious position and suffer considerable restriction in the conduct of such a war by allowing ourselves to drift along with that procrastination. Now is the time, therefore, to make a decision anticipated in the resolution of September 6th. With reference to the withdrawal of our troops from China, we have been acknowledging the principle of complete evacuation from the outset. Negotiations regarding the stationing

of our troops have always been made in accordance with the basic treaties concluded between us and China. The attitude of the Foreign Minister differs in no way from that as here stated. However, the United States aims in quite another direction. It has become quite clear that she is demanding from us our unconditional withdrawal. To put it another way, she is demanding from us an instantaneous and entire evacuation, both in name as well as in fact. Accordingly, any compromise with the United States is inconceivable along the line suggested by the two Ministers to retain what is substantial and to concede the nominal part. If we swallow the American demands, totally giving up the stationing of our troops in China, and withdraw them wholesale, what then will ensue after that? Not only would Japan bring to naught those sacrifices and those efforts paid for in the course of the China Incident of more than four years standing, but also the Chinese contempt for Japan will ever expand if we retire from China unconditionally because of United States duress. Relations between Japan and China will grow worse coupled with the thoroughgoing resistance against Japan maintained by the Communists in China. Certainly the China Incident II and the China Incident III would be the result, and repercussions at our loss of prestige will be keenly felt in Manchuria and Korea. Moreover, difficulties confronting the American-Japanese negotiations are not to be confined to the single question of evacuation, but include also the recognition on our part of the

said four fundamental principles, interpretation to be placed on the Tripartite Pact, non-discrimination of international commerce, and many other matters. Viewed in this dim light, a compromise with the United States became too insurmountable to apprehend: However, I will reconsider my position if the Foreign Minister is of the opinion that there remains any hope of success in this connection. As to the discussion relative to the issue of peace versus war, it has a huge bearing on the Imperial High Command, so that the question could in no way be entrusted to the Prime Minister alone.

The contention of the Minister of the Navy, Oikawa was this: entrust it to the Premier to foretell whether there is any hope in the parley or not. However, at present Japan is placed in such a momentous situation as to decide the issue of peace or war, so if we are to fight at all, now is a good opportunity. Were we to go to war, I hope you will decide it right now. If we while away two or three months time from now on, induced by an equivocal prospect of hope, and after that we are to go to war, the Navy is annoyed indeed. If we are to do it diplomatically, let us do it diplomatically, right or wrong.

But the Navy Minister did in no way refer to the prospect of a desired compromise nor to the methods to achieve it. On those points he wanted to entrust them to the Premier for his decision.

In this way no agreement being reached, mutual consent ensued on my proposition. That is to say:

(1) No alterations are to be made about the policy concerning the stationing of troops, (in China) and also any other policies centered on this theme.

(2) No impairment to the fruits reaped in the China Incident is permissible.

Making these as prerequisites, a diplomatic success is to be sought. An earnest hope was also expressed that a confidence for satisfactory results be formed not later than the time the Imperial High Command see fit. So long as we are proceeding with this determination preparations for military operations are to be suspended. The Foreign Minister will make due investigation on whether the above proposition is possible or not. This agreement was not reduced to writing, however, these observations of mine may be corroborated by an examination of the entry in KIDO's Diary of 12 October 1941 (Ex. 1147).

74. Next morning, I met the Chief of the General Staff and recounted to him a resume of the situation in the five Ministers' meeting, and briefly acquainted him with the items in the said mutual consent, intimating to him to suspend operational preparations while diplomatic negotiations were going on. The High Command was very much perplexed, but somehow his assent was given to it.

75. The 14th of October, incidentally, fell upon the day on which a regular Cabinet council was to be held. On that morning prior to the Cabinet meeting I saw the Premier at his official residence. The conversation did not develop beyond the results reaped in the meeting at "Tekigaiso" on October 12th. The account affecting this conversation as related in Exhibit 1148 ("The Circumstances Relative to the Third KONOYE Cabinet Resignation") though somewhat embellished, roughly corresponds on the whole to the occurrences witnessed there.

At 10 o'clock in the morning, the Cabinet council was opened whereupon Foreign Minister Toyoda expressed an opinion similar to that which he had disclosed during the talk at "Tekigaiso". I also made an explanation which was the same in purport as I had done at that meeting. In this council neither Premier KONOYE nor Minister of the Navy OIKAWA, nor other colleagues, except the Foreign Minister, made any remarks at all. Thus a collision ensued between the Foreign Minister and myself, and all was over.

76. Details about the situation after that event are, so far as I myself was concerned, depicted in Exhibit No. 1148 ("The Circumstances Relative to the Third KONOYE Cabinet Resignation"). On page 12 of the Japanese text, page 7 of the English text (R. 10,250) there is found the following passage: "Chief MUTO of the Military Affairs Bureau called on Chief Secretary Tomita and reportedly

requested that the Navy be asked to make a definite statement at this time. Hence, when Chief Secretary Tomita relayed this to Chief OKA of the Naval Affairs Bureau, the Bureau Chief OKA reportedly stated that the Navy, as usual, cannot say it and that she can say no more than she will comply with the decision of the Premier. etc.," About this matter, I was in possession of a precise report from that man (MUTO). Again on page 14 (page 8 of the English version) of the said Exhibit 1148, there is an item setting forth that I sent SUZUKI, President of the Planning Board, as my proxy to Premier KONOYE intimating that it was better that the decision of September 6th be tentatively reduced to a blank paper state and His Imperial Highness Prince Higashi-Kuni be requested to take the situation into his hand. That doubtlessly is a fact. I met SUZUKI on the 14th of October in the official residence of the War Minister, and requested the Director to comply with my wishes.

77. Briefly, the causes I entertained for the resignation of the Cabinet en bloc were these:

(1) Measures had not proceeded as yet to a point in the American-Japanese negotiations to enable us to ascertain whether or not there was a hope of settling the matters diplomatically.

(2) Determination of the Navy to go to war was uncertain.

In the light of these ambiguities it was obvious that the decision of the Imperial Conference

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on 6 September 1941 was not a proper one. If that decision, therefore, was improper, and was incapable of being carried out, which was my own opinion at that time, the Government that formulated the policy should assume the responsibility and resign en bloc to enable the incoming Cabinet to reexamine and revise the decision of 6 September, and conduct the American-Japanese negotiations with renewed vigor and courage.

FORMATION OF THE TOJO CABINET

78. On October 17th, I was in my official residence making preparations for removal from those premises as my resignation had been tendered the day before. About half past three on that afternoon, I was informed by the Grand Chamberlain that I should proceed to the Imperial Palace immediately as His Majesty so wished. This Imperial call was utterly unexpected, and instantly feeling that His Majesty would be wanting my views concerning the Cabinet resignation en masse or such similar matters, I went to the Palace carrying with me these papers in preparation for the replies to be offered to the Emperor.

79. It was some time past four P. M., as I remember, when I reached the Palace, and I was at once given audience of His Majesty who gave me the Imperial mandate to form the Cabinet. The Imperial utterances are given in the entry of the KIDO Diary of 17 October 1941. (Ex. 1154 - R. 10,291) I asked His Majesty for time to consider, and withdrew.

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While I was sitting in the waiting room, Minister of the Navy, OIKAWA, came to the Palace and was given audience by the Emperor, and the Minister told me afterwards in the waiting room that he had had an Imperial message "to collaborate with the Army". Pretty soon, Marquis KIDO, Lord Keeper of the Privy Seal came into the same room and acquainted OIKAWA and myself with the Imperial message. These remarks of KIDO, are in his Diary as an entry of 17 October 1941, (Ex. 1154) reading: "I imagine that you had the Imperial Message of collaboration between the Army and the Navy. In determining the fundamental policies of the state His Majesty desires that most careful considerations should be made, studying in broad and deep bases the situation at home and abroad, without being particular about the decision reached in the Imperial Conference on September 6th. I offer this statement to you by order of His Majesty." That was what was subsequently recognized as the "Back to Blank Paper (a clean slate) Message of the Emperor".

80. It was completely beyond my conjecture that the Imperial Mandate to form a new cabinet should fall upon my shoulders. The witness TANAKA, Ryukichi, testified before this Tribunal that the accused SATO visited the two senior statesmen ABE and HAYASHI, and intimated to them that "unless TOJO was made Prime Minister it would be difficult to control the Army," (R. 15,873) but, as is well known, I held the opinion that no one other than Prince Higashikuni could control the situation

with success following the resignation of the KONOYE Cabinet. This opinion I had previously made clear to Premier KONOYE and also to the Lord Keeper of the Privy Seal, KIDO, and as I also felt it but proper to bring my opinion to the knowledge of the Senior Statesmen, I requested SATO, who at the time was Chief of the Military Affairs Bureau, to transmit this opinion to ABE and HAYASHI, and he did so.

I was advised that SATO transmitted to these men only the message that I had entrusted to him and nothing more, and that the two senior statesmen listened to him report this message with no comment. I say here with quite some determination that the testimony of TANAKA on that point has no factual foundation whatsoever.

My reason for advocating a member of the Royal blood to head the Cabinet was this: The new Cabinet soon after its formation shall be placed in a position to revise and alter the decision of 6 September. Any Cabinet decision taken by the outgoing Cabinet may be reversed by the incoming Cabinet. But the decision of the Imperial Conference is of a different nature, i.e., it is a decision arrived at by the highest formality involving the participation of the Government as well as the High Command. It was feared that a most perplexing situation would arise in case the High Command refused to consent to the revision or alteration of the decision of 6 September. In such an eventuality a Cabinet headed by one of the Royal blood, by reason of his special position, would be able to surmount that difficulty. Under

the circumstances, I thought it improper that I, myself, should be intrusted with the Premiership to succeed Prince KONOYE, or even to be nominated or ordered to remain as War Minister, and never dreamed that such an event could occur. I felt this all the more strongly especially as I had been the one to advocate the resignation of the 3rd KONOYE Cabinet, and also because I was one of the responsible Ministers who participated in formulating the decision of 6 September. In order to change the 6 September decision the difficulties will be increased if I assume the Premiership or remain as War Minister after the downfall of the KONOYE Cabinet. These were also the thoughts of the military circles at that time. Therefore, if it had not been for the "clean slate" message from the Emperor I might indeed have declined to accept the Imperial mandate to form the new Cabinet.

As for the "clean slate" message, I felt it imperative and was firmly resolved that it must be accomplished without fail, for that was likewise the exact manner of handling the critical situation to my own way of thinking. Another thing to be considered was the need for setting up a system of internal politics that would respond both to peace or to war, there being no one who could at that time forecast which it was to be. In that connection, I concluded that the post of War Minister as well as that of Home Minister had to be assumed by myself, and, in view of the situation then prevailing, requested the Lord Keeper of the Privy Seal to

address the Throne in that respect. I envisaged a fearful trend foreboding an internal confusion which would ensue if peace were decided upon instead of War. To meet such a state of affairs I felt that I should make myself answerable for it as Home Minister. Meanwhile, for one to assume the post of War Minister necessitated that he be on the active list of the Army, as the relevant ordinance so stipulated, so, on the confidential representation to the Throne by His Highness Prince KANIN, I was placed once again on the active list and appointed a full General.

81. With regard to the formation of a new ministry, I found it pretty hard to make up my mind. Considering that there would be no way left for me but to seek the Divine Will to guide me, I hastened to pay homage to the Meiji Shrine, and, secondly, I went to bow before the TOGO Shrine, and later proceeded to the Yasukuni Shrine.. While so engaged, an idea for the formation of the ministry occurred to my mind of its own accord, namely,

- (1) to complete the formation of a cabinet I must go to the last extremity, once the Imperial order to proceed was given to me.
- (2) no delay in constructing a Cabinet is permissible.
- (3) as to the selection of personnel, excepting the candidate for Navy Minister, which was to be left with the Navy,

I determined that it should be made solely on the merits of each man's personal timber, that is to say, those well versed in several administrative capacities

should be assigned suitable posts. In other words, to place persons of sound administrative experience with force of character as well in proper positions so that they might execute vigorously and fearlessly the decisions of the incoming Cabinet. As to those forces and pressures of political parties, and the Zaibatsu, no attention would be paid although all of them were not to be shunned by reason of what they stood for.

82. In the evening of the same day I received the Imperial mandate, and set to work on the formation of the ministry about half past six in the official residence of the War Minister. In choosing the personnel I relied upon my own choice. No consultation was made with anybody else, and I made the selections single handed. In the first place, the Secretary General of the Cabinet was to be chosen as my right hand man. I rang up Mr. HOSHINO at half past eight that evening, and asked him to comply with my wishes. Mr. HOSHINO, having been one of my colleagues in the second KONOYE Cabinet, I considered him the ideal man for the post both in point of previous career and personal ability. He came to see me, accepting my offer at once. In addition, the following persons gave their assent to my offer over the telephone: HASHIDA, (candidate for Education Minister) IWAMURA, (candidate for Justice Minister) INO, (candidate for Agricultural Minister) KOIZUMI, (candidate for Public Welfare Minister) SUZUKI, (candidate for Director of the Planning

Board) and KISHI, (candidate for Minister of Commerce and Industry). The following persons consented to my request after coming to see me for consultation: KAYA, (candidate for Finance Ministry) TOGO, (Foreign Minister) TERAJIMA (Communications and Railroad Minister) and YUZAWA (Vice-Minister for Home Affairs. Two of the latter group, that is TOGO and KAYA, ascertained if our foreign policies were to be conducted strenuously along diplomatic lines. I made it plain to them as to a policy of a "CLEAN SLATE" and answered that we would do our utmost to put through American-Japanese negotiations. As for YUZAWA, although the seat to be assigned to him was that of Vice-Minister, a person of ministerial calibre was needed as I was going to assume the post of Home Minister concurrently. The recommendation from the Navy Minister for a candidate for his successor did not reach me by the midnight of that day. Next morning (October 18th) I was in receipt of an exact report from OIKAWA, the Navy Minister, that Admiral SHIMADA was recommended, and shortly thereafter Mr. SHIMADA came to me, and inquired whether our problems regarding America were to be solved by diplomacy or not, and expressed a desire that a drastic change in the affairs at home be avoided. To his inquiry, I replied by enlarging upon the situation of "back to blank paper" policy, and I assured him that drastic changes at home would of course not be resorted to. After hearing these, my words, SHIMADA gave his consent to assuming the post of Navy Minister.

October 18th fell on the annual festival of the Yasukuni Shrine and on that morning His Majesty paid his personal homage to the Shrine. I also participated in that function. At one o'clock P.M. of that day I tendered to His Majesty a list of personnel for the succeeding ministry, and the investiture of the new Ministers took place before the Throne at four o'clock P.M. Thus the TOJO Ministry came into being.

THE IMPERIAL CONFERENCE OF 5 NOVEMBER 1941

83. Upon the occasion of my receiving the Imperial Mandate to form a Cabinet, His Majesty, from His deep wishes for peace, commanded me, as previously asserted, to return to a policy of a clean slate. Accordingly, after the formation of the Cabinet, the Government, with the cooperation of the Supreme Command, immediately went into deliberations of high state policy on the basis of that injunction. From 23 October to 2 November Liaison Conference were held frequently, and foreign affairs, national strength, and military matters excepting purely strategic problems were most conscientiously studied from all angles in the light of the new situation then existing in domestic and foreign policies. As the result of these consultations, and taking into consideration the American demands of 2 October 1941, a proposal outline on the negotiations with America was decided upon. This later took the form of the decision of the Imperial

Conference of 5 November, and the contents, to the best of my recollection, are almost identical with the latter part of Exhibit No. 779.

84. Following this, deliberations were held on the manner of guiding the subsequent state policy of Japan in accordance with the outline for negotiations with America, and the following three plans were finally drawn up.

The first plan was to continue Japan-America negotiations on the basis of the outline newly adopted for negotiations with America. Furthermore, even in case the negotiations ended in a rupture the Government was to continue its policy of patience and caution.

The second plan called for the termination of negotiations at that stage and immediately decide on war.

The third plan was to continue negotiations with America based upon the outline as constituted but that a determination to go to war should be made in the event of the failure of those negotiations, and operational preparations should be commenced accordingly. A solution through diplomatic means was to be sought by the early part of December. In case the negotiations succeeded, all operational preparations were to be immediately recinded. In case the negotiations ended in failure, a decision to go to war was to be made forthwith. This decision on war was to be taken up at that time as an

independent issue.

85. Some explanatory remarks on the various concepts enumerated above are essential. With regard to the first plan, it is understandable that it was impossible to accept in toto the American proposal of 2 October. Furthermore, in the knowledge of the attitude of the American Government in the past, it was probable that there could be no solution through diplomatic negotiations even along the lines of the outline for negotiation unless there was a change of attitude on the part of America. In other words, there was no assurance that there would not be a rupture in the negotiations. However, even in the case of a rupture, the question of entering immediately into a state of war with America, Britain, and the Netherlands was one calling for more cautious reflection.

One reason for this was that our country had been engaged in the China Incident for over four years and there was yet no settlement of the problem. Judged from the standpoint of Japan's national strength and the sacrifices to be borne by her people there was dire necessity that Japan avoid war with America and Britain on top of the China Incident. It was most desirable to exert the fullest efforts of the nation towards solving the China Incident. Therefore, even in the event of a rupture in diplomatic negotiations Japan should not immediately go to war but should persevere even under extreme difficulties hoping for a recovery at

some future date..

Another reason involved the living conditions of the people as well as the maintenance of military production in view of the continuence of the China Incident. Japan was faced with a truly desperate situation. Moreover, the most important problem of all was the procurement of liquid fuel.. If this fuel problem could be solved, perhaps it would be possible to tide over some of the very serious difficulties, and for this reason the problem of synthetic gasoline was undertaken with the object of producing the absolute minimum of requirements.

The view held in respect to this purpose was, that of all the materials vital to the existence of the nation the one most affected as the result of the embargo by America, Britain, and the Netherlands was liquid fuel, and should matters progress at (the present rate the Navy and the Air Force would) come to a standstill within two years.. This was a serious contemplation from the standpoint of national defense, and moreover, the culmination of the China Incident would be frustrated. If the problem of synthetic petroleum could be solved by speedily completing installations it would be a most fortunate occurrence. Consequently, the most serious study was conducted in that direction. As a result, the conclusion was reached that setting the annual minimum requirements at four million kilotons, it

would require from four to seven years of the concentrated productive capacity of Japan for that industry alone, even by halting the major part of the military production for the Army and Navy. During this period it would be necessary to carry on by drawing on the reserve stock even though it was impractical to operate on the reserve over so long a period. Should this be done, national defense would face a serious danger at some time. Furthermore, to halt the major part of military production was something that the Army and the Navy, engaged in the China Incident, could not countenance. Therefore, to adopt a policy of patience and perseverance under such impediments was tantamount to the self-annihilation of our nation. Rather than await extinction, it were better to face death by breaking through the encircling ring and find a way for existence. To burden the people with war against America and Britain over and above the China Incident was something the Government could not easily urge, but, it was argued, in the interests of the eternal existence of our country and national honor, the people would be willing to undergo further hardships.

86. The second plan, that is to say, the plan to decide to go to war immediately was reasoned upon the basis that it was obviously impossible to accept the American proposal of 2 October, and that, furthermore, there was no hope of surmounting the crisis and normalizing the relations between the two

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countries even along the lines of the "outline for negotiations with America. To continue the negotiations" with America

would result only in playing into the hands of the American policy of procrastination, and with the passage of time the disparity of armaments between America and Japan would further increase, and the reserve stock of oil in our country be lessened day by day with no hope of replenishment.

If there was to be no hope of overcoming the crisis through diplomatic means then emphasis must be placed on the success of strategic measures.

From a strategic viewpoint, November was the most suitable period from a meteorological aspect as well as for operations. However, with December, even though landing difficulties would increase it was still possible to carry out requisite operations. After that time it would be necessary to wait another whole year. In the meantime, there was the danger of an exhaustion of liquid fuel and, on the other hand, during the second half of the following year, the strength of the American Navy would be vastly augmented. This was the view of the Supreme Command.

The position opposing the proposition was that although from the military requirements it may be that the quicker the decision to go to war was made the better, yet, it was not proper to admit that there was no possibility of finding a solution through diplomatic means. As a nation it

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was felt that so long as there was a slight ray of hope in the direction of diplomatic solution those measures should be resorted to up to the very limit insofar as strategic considerations permitted. It was recognized that there would be strategic handicaps but in that case preparations from strategic needs could be advanced side by side with the continuation of diplomatic negotiations. In fact, by so doing it might even contribute to obtaining some reconsiderations on the American side. Also, there would be no operational hinderance at such time as a decision to go to war might have to be made.

87. The reasons for the third plan, that of resolving to fight and to continue with operational preparations in anticipation of the failure of negotiations, on the one hand, and, on the other, to proceed with negotiations are the same as those given in opposition to the adoption of the above-mentioned first and second plans.

88. The Liaison Conference in the final analysis adopted the third plan. Until we arrived at that conclusion it was a most difficult question to determine as to which of the two plans we should proceed with the first or the third. It was decided at two A.M. on 2 November that we should adopt the third plan, but, of those members present, Foreign Minister TOGO and Finance Minister KIYA reserved their approval of the third plan until the next morning, when they communicated their consent.

... 89." On the basis of this third plan an outline for a future policy was formulated at the Liaison Conference which, after compliance with due formality, was proposed to and decided upon at the Imperial Conference held on 5 November 1941. I participated in it, of course, as Prime Minister as well as War Minister. This is the so-called "Essentials for Executing our National Policies of the Empire" decided on 5 November. The text is lost and cannot be presented to this Court, but, according to my memory the gist of it is as follows: (D.D. 2946)

(1) Our Empire with determination to resort to arms against the United States and Great Britain if need be in order to tide over the present crisis so as to secure her self-defense and existence will proceed to negotiate diplomatically with the United States along the lines given in the accompanying gist of plans A and B, but meanwhile will instruct our military to begin operational preparations with the date of using force as the beginning of December, in case the negotiations fail. However, the decision to open hostilities shall be made anew. In other words it does not mean that the war shall automatically commence at the beginning of December.

(2) Our Empire will try to strengthen her cooperation with Germany and Italy, and, immediately before using force, will establish close military relations with Thailand.

(3) In case the negotiation with the United States should succeed by the beginning of

December, operational preparations will be revoked.

What is stated in item (1) in reference to the gist of Plans A and B is the third part of the aforesaid Exhibit 779. In short, we intended to draw up two plans, A and B, and negotiate thereunder with the United States to the extent that we should make secure our self-defence and our position as a nation. Of the two, "Plan A" was the final conciliatory plan, based upon the Japanese proposal of 25 September, and seasoned with the American desires as much as possible, comprising three points of concession as mentioned in Exhibit 2925 (Record 25,966). "Plan B" was the one whereby, in case Plan A should fail, Japan should revert to the stand that she had taken before advancing into South French Indo-China, whereupon America would revoke the freezing orders and agree to Japan's acquisition of the necessities most urgent and essential for her livelihood, apart from past circumstances, thus tiding over the imminent rupture and enabling both parties to resort to further diplomatic negotiations on a new basis. The gist and purport of this plan are shown in Exhibit 1245-H.

90. The above decision of a very serious nature was submitted to the Throne informally by me and by the Chiefs of the General Staff of both the Army and the Navy at about five o'clock in the afternoon on November 2nd 1941. While

presenting the submission I could see from the expression of His Majesty that he was suffering from a painful sense of distress arising from his peace loving faith. When His Majesty had listened to what we had to submit He was grave and thoughtful for a time and then with a serious air of concern deplored, "Is there no way left but to determine, against our wishes, to wage war against America and Britain in case our effort in America-Japan talks should fail to break the deadlock". Then he continued, "If the state of affairs is just as you have stated now there will be no alternative but to proceed in the preparations for operations, but I still do hope that you will further adopt every possible means to tide over the difficulties in the America-Japan negotiations."

I still remember quite vividly, even to-day, that we were awe-stricken by these words.

Thus, in compliance with the wish of His Majesty we decided and had the approval of His Majesty to continue further discussion of the matter on November 5th at the Imperial Conference. However, in view of the grave concern of His Majesty, I deliberated upon the subject, and with a view to leaving no stone unturned in the study of the question and by so doing to act in accordance with the anxiety of His Majesty, I determined to hold a joint conference of the Army and Navy Councillors prior to the Imperial Conference of November 5th so that further deliberations on the problem might

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be made in addition to the discussions at the Liaison Conference, Cabinet Meeting and the Imperial Conference. I hastened to obtain the formal approval of His Majesty and arranged to have this conference held on November 4th. I may add that the conference of the Military Councillors was held on that occasion for the first time since the establishment of the Military Councillor system in 1903.

SUPREME WAR COUNCIL

91. On 4 November 1941, one day before the Imperial Conference, this meeting was held. At this Conference, His Majesty, the Emperor, was pleased to submit the question whether or not it was advisable for the Navy and Army High Command to draw up an operational plan to meet the eventualities when Japan-American negotiations could not succeed, pursuant to the agenda of the Imperial Conference to be held on 5 November.

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already
had one*

The Conference was held before the Imperial presence. First Marshal Prince KANIN presided at the Conference, which lasted from about 2 to 4 P.M. of that day, if my memory serves me rightly. I attended the Conference as one of the Councillors in my capacity as War Minister. Although all the details of the proceedings are beyond my memory, I am able to give a summary thereof.

Chief of the Navy General Staff, Admiral NAGANO, first of all explained the position concerning Naval operations, the gist of which is as follows:

If matters continue as at present it is plain that the resiliency of our national strength will be lost, and we will be placed in the worst possible situation. We concur with the Administration in bending all our efforts to tide over this crisis by means of diplomacy, and the Government is now doing its best to attain that end. Meanwhile, however, as for us, we must take into our consideration that we might be placed in a position where we would have no alternative but to decide on the commencement of hostilities in case the above measures end fruitlessly. The High Command desires to make proper operational plans to meet such a contingency judging that in doing so it will contribute at the same time to expedite diplomatic negotiations. In case, however, the Japan-America negotiations fortunately succeed, the operational preparations will be countermanded at once. On this point agreement with the Government is already reached.

As to the prospect of hostilities with the United States, Britain and Holland as a sequence of diplomatic failure, Admiral NAGANO stated that there is a good chance for us in the initial operation and in the first meeting if the commencement of war be in early December, on the basis

they had already been made

what did they base that on? surprise attacks?

of respective actual fighting strength in the Pacific. If the initial operation be properly carried out, we would be in occupation of the strategic points in the South-western Pacific and would also be placed in a position to fight a prolonged war. As there could not be formulated any definite means to induce the enemy to submission the war with the United States and Britain is destined to become a protracted one, requiring firm resolution and thorough preparedness for any eventuality. As to the forecast of the result in case the war becomes a protracted one, it was difficult to predict, because much depends upon incorporeal elements, the total potentials of respective nations and, above all, how the world situations develop, which nobody knows at present.

Such was Admiral NAGANO's explanation, according to my recollection, and no mention was made as to a Pearl Harbor attack at that time.

Next General Sugiyama, Chief of the Army General Staff, expounded on matters relating to the army command, the gist of which was as follows:

Armaments in the Southern regions are going to be strengthened day by day. Army forces there have been increased from three to eight times over the number prior to the opening of the War in Europe, aggregating more than two hundred thousand men and six hundred planes. According to developments in the situation it may progressively increase with

an added speed. In case of war between Japan and America and Britain reinforcements will be dispatched to the zone of battle by the allies from India, Australia and New Zealand, at a strength estimated at 800,000 men and 600 planes.

The basic strength of the Japanese Army is 51 divisions. We are now engaged in the China affair on the one hand, and, on the other, we have to allot a substantial part of that strength for precaution against the Soviet Union, leaving only a smaller portion to be drawn for use in a war against the United States and Britain, which, at the most, could be estimated at not more than 11 divisions. As to the time of opening hostilities no delay can be permitted considering the rapid increase of the military strength of America and Britain, and also meteorological conditions. The date desired was early December.

As the essentials of army operations consist of landing strategy, their success or failure depend much on naval operations. But the Army High Command believes in the success of operations, however tough the task may be, if only the naval plans of the campaign progress in due order.

We must expect and prepare for a protracted war, although we bend every effort to conclude the war in the shortest possible time, utilizing every opportunity in strategy and tactics to demoralize the enemy after the first stage in the southern

regions has been concluded. However, we would be able to frustrate the enemies plan, assuming an invincible position, by occupying and holding military and air bases to the last in conjunction with the maintenance of the sea transportation route.

Defensive measures against the U.S.S.R. and strategy in the China Affair shall remain as heretofore, thus safeguarding against the menace from the North, and continuing to attain the goal in China.

As to the situation in the North, arising out of the operations in the South, it has been explained that the prospect of the Soviet Union assuming an offensive attitude was slim except for some diversion movement in utilizing subversive or propagandistic activities of the communists in Manchuria and China. The moment might occur when the United States shall force the U.S.S.R. to permit the use of certain points in its territory as air or submarine bases in an offensive strategy against Japan. We should concentrate the utmost attention against the Soviet. Especially, when the hostilities in the South become protracted or in case the internal situation of the Soviets becomes convalesced there is a possibility of the Far Eastern Red Army gradually turning to the offensive. As for Japan, it is a vital necessity to put an end to the Southern hostilities as early as possible and prepare for any eventuality in the North.

After the above explanation some questions were propounded by the Councillors, to which the Chiefs of both staffs and myself gave answers. These questions were concerned mainly with topics of operations, although, just now I do not recollect them in detail. Insofar as I recollect, the answers were based on the results of the Liaison Conferences from 23 October to 2 November 1941.

At the end of the Conference a report was unanimously adopted to the effect that the Supreme War Council deem it proper and just that the Army and Navy High Command take measures in their respective jurisdictions to expedite operational preparations to meet the worst possible contingencies.

His Majesty, the Emperor, was pleased to listen to the proceedings, although uttering not a single word from the beginning to the end.

THE IMPERIAL CONFERENCE

5 November 1941

92. The foregoing testimony gives an account of the manner in which discussions were conducted by the Government and the High Command liaison meetings and Supreme War Council held previously to the Imperial Conference of 5 November 1941, and of the results of these discussions.

At the November 5th Imperial Conference the aforesaid program was taken up for discussion.

Here let me correct my former mistake. In my reply to a Prosecution question on 12 March 1946, (Ex. 1158) I confused this particular Imperial Conference with the one convened on 1 December. I must admit that it was an error on my part. My answers as then made, therefore, are subject to correction insofar as they conflict with the contents of my present deposition.

93. The object of holding Imperial Conferences of this kind was to ensure coordination between the Government and the High Command. Under the Japanese system, the Government and the High Command were two separate and independent entities, a circumstance which made it imperative to provide such a coordinating process as the Imperial Conference. The Imperial Conference had no permanent chairman, the Prime Minister, on each occasion, usually presiding by Imperial permission. Decisions made at the Conference, insofar as they concerned administrative affairs, were further submitted to the Cabinet meeting for final decision, while those pertaining to the Supreme Command were taken to the High Command Headquarters, where they were put through the necessary procedures. With these procedures duly taken, the Government and the High Command were to request the Emperor's sanction separately for their several proceedings. Constitutionally, therefore, the responsibility in each instance rested separately with the party concerned, the Cabinet being responsible for decisions in matters of administration, while for those relating to Supreme

Command the High Command was to hold itself responsible, each assuming the duty to execute such decisions respectively. The Directors of the Military and Naval Affairs Bureaus and the Chief Cabinet Secretary were to be present at the Conference, but they were not responsible members. The nature and characteristics of the Liaison Conference and the Imperial Conference being as described above, they were a necessary adjunct for the Government and the High Command to execute their official duties, and were by no means conferences to further the purposes of a conspiracy, as the Prosecution tries to make out.

94. At the Imperial Conference of 5 November I, with the Emperor's permission, pursuant to precedent, assumed the duty of presiding at the meeting, and undertook to explain the circumstances which necessitated the convening of that Conference. The Foreign Minister clarified the diplomatic problems centering around the Japanese-American negotiations, the Finance Minister gave an account of Japan's financial situation attendant upon the war, while the President of the Cabinet Planning Board spoke on the outlook of national resources following the outbreak of war, and the Chiefs of the Army General Staff and the Navy General Staff spoke on their respective operational plans. Then followed a series of questions and answers. President Hara of the Privy Council asked a few questions which were answered respectively by those members of the Government or the High Command directly concerned. Of the particulars

of those questions and answers, however, I have no recollection at present. In short, the third plan formulated at the previous Liaison Conference, and the foreign policy cited therein to be followed in the American negotiations, were adopted and approved.

95. Here I must speak of the circumstances at that time which caused us to conclude that it was necessary to reach decisions made in the Liaison Conferences and at the Imperial Conference. (D.D. 2923)

(1) From the reports from abroad brought to our knowledge by Imperial Headquarters, the Foreign Office, and other reliable sources, it was obvious that the military and economic pressure brought to bear by the United States, Britain, the Netherlands and China upon Japan was being intensified, and that there was a growing tendency noted among these powers to strengthen their cooperative relations. To cite a few instances, Mr. Grady, who had been sojourning in Manila since the end of August of 1941, as special East Asia economic envoy of President Roosevelt, flew to Batavia in early September to have a talk with Van Mook, the Minister of Economy of the Dutch East Indies, and then on to Calcutta via Singapore in mid-September. Early the next month he flew to Rangoon, then to Chungking, Hongkong, and back to Manila. In mid-October he returned to the United States. Apart from this, Mr. Duff-Cooper, of England, who arrived at Manila by air early September, proceeded via Batavia to

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Singapore where he met British Ambassador Carr on September 21st. On September 29 when the British Far East Conference was held at Singapore, Mr. Duff-Cooper met Brook-Pophan, Layton, Crosby, Carr, and Page, /Thomas, the Governor-General of Malaya. Early October he flew from Singapore to India, stopping at Bangkok, where he had an interview with Pibul, and thence on to Rangoon and Calcutta. About the end of August 1941, President Roosevelt announced the intended dispatch to Chungking of a military mission headed by Brigadier-General Magruder. The party arrived at Manila in early October, and after having made the necessary arrangements, left for Hongkong to attend a conference there, and then proceeded to Chungking. They were reported at that time to have made the following boastful statement, "The object of our present visit to China is to help the Chungking regime to carry on the Hostilities against Japan. We intend to make a round of visits to various places in China with our Headquarters in Chungking so that we may achieve the speediest possible fulfilment of our mission. Needless to say, we will visit Rangoon where we will direct our utmost efforts to improve the transport efficiency of arms and other war supplies by the Burma Road."

In early October 1941, the American and British military heads met at Manila. According to reports tous at that time, technical views were exchanged at the meeting regarding various Pacific problems in

all their international ramifications, followed by a series of discussions on the necessary strategical policies to be adopted in that connection. The conferees were General Pophan, the Commander of the British East Asia Army, Brigadier-General Magruder, the Representative of the U.S. Chiang Aid Military Mission, General McArthur, the Commander-in-Chief of the U.S. East Asia Army, and others. The issues taken up for discussion on this occasion were said to be (1) British-American joint aid to Chiang Kai-shek via the Burma Road, (2) a plan for joint operations of the Chungking's Southwest China Army and the British reinforcements in Burma, and (3) a consolidation of American-British joint operations in the Pacific, especially of their joint Air Force operations.

At the end of September we were informed of the announcement made by British East Asia Fleet Commander Layton to the effect that the Singapore Naval base would be offered to the U.S. Navy for use anytime at the latter's request. In October Niemeyer arrived in Manila by air from Singapore, while in the same month the Commander of the British Far Eastern Forces, Sir Brooks-Pophan, left Singapore for Australia. Around the end of October the Australian Premier, Curtin, announced the successful completion of negotiations between the United States, Britain, the Dutch East Indies, New Zealand and Australia with regard to a joint Pacific front. From all these reports, it was patent that the military and economic links connecting the United States,

Britain, the Netherlands and China against Japan were growing increasingly closer and tighter, and that things had at last come to such a pass that only a tiny spark was wanted to set off a great conflagration.

(2) Furthermore, news continued to reach us that the United States, Britain and Australia were steadily and vigorously pushing forward with the enlargement of their land, sea and air forces. The U.S. Navy Department published the statement that it had since January 1940 drawn contracts to build 2,831 ships at a total sum of \$7,234,000,000, and that 968 of them were already under actual construction. Late in October 1941, the Secretary of the Navy, Knox, reported on the progress of the Navy's construction program, saying that (a) 346 fighting ships were in commission, (b) 345 fighting ships were under construction or under contract for construction, (c) 323 auxiliary ships were in commission (d) 209 auxiliary ships were under construction or under contract for construction, (e) navy planes on hand on 1 October were 4,535, and (f) 5,535 planes were under construction. It was reported that early in November President Roosevelt requested an appropriation of \$449,720,000 for the building of new planes. Late in October, the Secretary of War, Stimson, announced that preparations were being made to increase the number of Air Academy cadets and conscripts to 400,000, which was about

three times its present size. On the other hand the Australian Prime Minister, Curtin, announced that 450,000 men had been enlisted since the beginning of the European War. In the Philippines, the Chief of the General Staff of the Philippine Army announced that the discharge of active service men had been suspended. It was reported also toward the end of October that Major General Brian, new commander of the Philippine Air Force, had left Washington for Manila. In the middle of September 1941, President Roosevelt sent a Message to the Congress requesting its consideration of a supplementary budget of \$5,985,000,000 in accordance with the National Defence Promotion Law, and closely following that, he presented a supplementary budget bill requiring \$150,198,000 for national defence purposes. From all this, much of it affecting us directly, it was apparent the U.S. was planning an enormous armament program for her Army, Navy and Air Forces.

(3) Prior to these Liaison Conferences and Councils and the Imperial Conferences, the speeches and actions of the leading men of America had become more and more provoking. Toward the end of September 1941 it was reported that Secretary of State Hull had said that the Government was thinking of revising or abolishing the Neutrality Act, and that Secretary of the Navy Knox, on the occasion of the launching of the battleship Massachusetts, referred to the Neutrality Law as "out of date." It was also reported to us that the same Secretary of the Navy stated in late October that a clash with Japan was unavoidable so long as Japan held to her present policy.

(4) Additionally, the following steps were taken against us: (a) The Indian Government repealed the rights for the importation of the cotton and rayon textiles that had been contracted to be shipped from Japan after September 12th of that year. (b) On 29 October 1941 the Indian Government announced the prohibition of all imports from Japan and Manchuria

Thus the pressure of the Allied Powers economically and militarily against Japan became more and more flagrant as time went on. It was under such circumstances as these that the Liaison Conferences in the latter part of October, and the Imperial Conference of 5 November were constrained to make the decisions referred to heretofore.

96. According to the decision of the above mentioned Imperial Conference, the Liaison Conference of 12 November decided on its foreign policy, the details of which are correctly reported in Exhibit No. 1169 (Starting on Page 10,333 of the Record except for that part from the 14th line of page 10,338 to the last line of Page 10,340, which does not constitute the integral part of the decision of that Conference.) Meanwhile, the Supreme Army Command appointed General Terauchi on 6 November to the post of Supreme Commander of the Southern Army, and decided the organization in the southern area. On the same day it also issued orders to prepare for the attack on the key points in the same area, and on the 15th of the same month, it decided

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on the general strategic outline against the United States and Great Britain. Of course, it was only a preparatory action based on an assumption. As War Minister, I knew of this procedure, but the other members of the Cabinet were entirely ignorant of this action by the Supreme Army Command. I do not know what the Supreme Navy Command did during this period. (Def. Doc. 2726)

NEGOTIATIONS WITH THE UNITED STATES UNDER THE TOJO CABINET

97. In the TOJO Cabinet, the Foreign Ministry took charge of the negotiations with the United States, so my personal knowledge is confined to the general outlines.

As I explained previously here, the Third KONOYE Cabinet fell in connection with the Japan-US negotiations relative to the Hull note of 2 October 1941. As soon as the TOJO Cabinet was formed, the Government, with the concurrence of the Supreme Command, informed Ambassador Nomura, through its Foreign Minister on 21 October (Ex. 2917, R. 25,920) of its intention to continue negotiations that on the condition/the negotiations should be started afresh. The gist of the telegram was conveyed to Under-Secretary of State Welles by Minister Wakasugi on the 24th of the same month (Ex. 2959, R. 26,109)

The Japanese Government had prepared the two plans, A and B, for its negotiations with the United States, which were to be conducted under the direction of the Foreign Ministry and according to the general outline decided upon in the Imperial Conference of 5 November 1941.

98. As the Government foresaw increasing difficulties and as the situation required a prompt solution, it was decided to send Ambassador Kurusu to assist Ambassador Nomura in the negotiations, which had, since August, been the wishes of Mr. Nomura. Kurusu left Tokyo on the 5th of November and arrived at Washington on the 15th of the same month. In this procedure there was no design whatsoever to camouflage Japan's intention, if any, to start war. It came purely from the wish to bring the negotiations to a successful conclusion, as was testified to by the witness Yamamoto (R. 25,957-25,958). I was informed by the Foreign Minister that before Kurusu left for the United States he had explained to Kurusu in detail on the 3rd and 4th of November the contents of the definite plan which the Liaison Conference had prepared and intended to present for discussion at the coming Imperial Conference.

99. The Foreign Minister advised Ambassador Nomura that the situation required a rapid solution of the questions involved, and the Japanese wish to that same effect was fully conveyed to the American Government. This is supported by the documents produced during the testimony of the witness Yamamoto.

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(Ex. 2928, 2957, and Record Pages 15,986 and 26,100)

100. The negotiations with the United States were commenced with the A Plan, but the B plan was simultaneously sent to the Ambassador. The process was not a smooth one, the points at issue still being the questions of the Tripartite Alliance, indiscriminate international trade, and the stationing of troops in China. The Japanese Government, in its earnest efforts to avoid a rupture, presented the B Plan ^{which had been sent beforehand} in order to lay aside temporarily the above pending points at issue, and expedite the negotiations within the limits of the most urgent and immediate terms. This is also shown in Yamamoto's testimony (Record 26,028)

101. On 17 November 1941, as the Premier, I delivered a speech at the 77th Diet, then in session, explaining the administrative policies of the Government. (Def. Doc. 226) This manifested the attitude of the Japanese Government toward the negotiations between Japan and America. It may be said that the representations of both parties' had become clear by that time, after six months of negotiations, and that the sole remaining question was whether or not any effort should be made to maintain peace in the Pacific by means of reciprocal concessions by both parties. For this purpose, Japan realized, on her part, the necessity of explaining to the world the limit of the terms that could be borne by her at that time. For the purposes

of safeguarding her independence and sovereignty, the Japanese Government expected:

- (1) That third powers would not disturb Japan in her disposition of the China Incident;
- (2) The elimination of military and economic interference with Japan by foreign powers, and the return to customary foreign relations;
- (3) The prevention of the European War spreading to East Asia.

My speech was followed by that of Foreign Minister TOGO, who elucidated two points in our attitude towards the above negotiations. (Ex. 2743)

The first point was that there should be no necessity of prolonging the time in negotiating with the United States of America. The second point was that we, though fully desirous of concluding the negotiations, should reject any matter injurious to the authority of Japan as a major power. The speeches made by the Premier and the Foreign Minister were broadcast and were announced to the world on the same day. I was advised that the full text of these two speeches appeared in the United States' press.

Therefore, it was assumed that the authorities of the United States Government were well acquainted with them. Regarding the above attitude of the Government, both Houses respectively offered and passed unanimously on November 18th resolutions for assisting and encouraging the Government. Especially, in the House of Representatives, Mr. SHIMADA, member of the Diet, made a speech explaining the resolution, which was considered

to be a reflection of public opinion at that time.
(D.D. 209, 2712)

102. In negotiating on Plan B, our final proposal as mentioned above, the U.S. Government continued its policy of negotiation, and despite all the efforts of both Ambassadors Nomura and Kurusu, the U.S. Government adamantly adhered to its plan of June 21st. The information came to me at that time that, moreover, the United States had communicated with the representatives of England, Holland and China, thus establishing a closer contact with these Governments, which move did not afford me much optimism for the future course of events.

103. Prior to this, in America, England, Australia and Holland, the political situation had become more tense, armaments had been expanded, and the leaders in those countries had been markedly provocative in their attitude towards us. (D.D. 2923) These facts were calculated to have excited the people of our country as well as the Government, and affected the aforementioned resolutions in both Houses. For instance, Premier Churchill of England declared at a luncheon during the inauguration of the Lord Mayor of London, on 10 November 1941, "that should the United States become involved in war with Japan the British declaration will follow within the hour" (Ex. 2956, R. 26,105 - also Ex. 1173, R. 10,352). Two days later, King George proclaimed in His Royal message at the opening ceremony of the Parliament that the British Government had deep

concern in the situation in East Asia. President Roosevelt stated on Armistice Day, just a day previous, in line with those utterances that the United States would fight permanently for the sake of preserving liberty throughout the world. Secretary of Navy Knox went so far as to make a speech on the same day that the time had come to become resolute against Japan. Thus these leaders of America and England had taken an extremely offensive and provocative trend prior to the 77th Session of the Diet.

President Roosevelt declared on November 7th that the withdrawal of Marines stationed in China was under consideration, and announced on the 14th of the same month that the withdrawal had been decided upon. Iraq, then under British influence, severed her diplomatic relations with Japan on November 16. On the other hand, it was reported, about the middle of November, that the Canadian Army for the defense of Hongkong, under the command of Brigadier General J. Lawson, had arrived at Hongkong. Further, the U.S. Government announced, on November 24, its decision of dispatching army forces to Netherlands Guinea. This dispatch of U.S. forces to Holland territory did not leave Japan without concern. On November 21st, reinforcements to the British Far Eastern Army was announced by Navy Minister Alexander of England. Before this, early in November, the U.S. Navy made it public that the progress of naval construction for the two ocean fleets carried out between January and October of that year was as follows: Capital ships, 2 commissioned, 2 launched; Aircraft

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carriers, 1 commissioned; Cruisers, 5 launched; Destroyers, 13 commissioned, 15 launched; Submarines, 9 commissioned, 12 launched. On 25 November it was announced by the U.S. Army authorities in the Philippines that by the end of December mines would be laid in the vicinity of the fortress at the entrance of the Bay of Manila. In response to this, the British authorities at the Straits Settlements declared that mines would be laid at the eastern entrance of Singapore Harbor. Toward the end of November, Secretary of Navy Knox proclaimed that the naval recruiting was at the rate of 11,000 a month. One hundred U.S. residents in Tientsin were evacuated about the end of November. As could only be expected, these joint undertakings by American and Great Britain impressed Japan with the close imminence of a war.

104. Under such tense circumstances, on November 26th, 1941, the U.S. Government, to both Ambassadors Nomura and Kurusu, made a reply to the effect that it, after carefully studying and consulting with the states concerned with Japan's proposal of November 20th, dissented from the proposal, and submitted a note as a basis for further negotiations. This was what has been termed the "Hull Note" of 26 November. Its contents were as set forth in Exhibit 1245-I (Record 10,815). The said "Note" contained not only further adherence to the former assertions on the part of America, but also the following unreasonable demands, which proved to

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be absolutely unacceptable to Japan at that time, namely:

a. The unconditional withdrawal of the Japanese Army and Navy, including Police force, from French Indo-China as well as from all parts of China (including Manchuria).

b. Denial of the Manchoukuo Government.

c. Denial of the Nationalist Government at Nanking.

d. Making the Tri-Partite Alliance a dead letter.

105. Prior to the receipt of that "Note", on the part of Japan, a Liaison Conference was held on 22 November 1941 for a discussion of American-Japanese negotiations. Viewed from the standpoint of the then existing situation, the members of the Conference were not too sanguine of success, yet the Government did not abandon hope, but was making an exploratory study with two eventualities in view, one was our attitude in case America should reject our proposals in toto; the other was with regard to what our next step should be when the United States made some concession to our request concerning especially the requisition of oil.

In the first event there should be no alternative but to act in accordance with the decision made at the consultation in the Imperial Conference on 5 November. In the second eventuality Japan should propose some concrete demands to meet the current situation. It was decided, I remember, to request a

total amount of six million tons of oil from the United States and the Netherlands. (Def. Doc. 2903)

106. From 10 A.M. on 27 November the Government and the Supreme Command held a Liaison Conference at the Imperial Palace. (The 26th United States proposal had not yet arrived at the time of the opening of the Conference). The Foreign Minister informed us of the circumstances and the difficulties of the American-Japanese negotiations. In the meantime, the gist of the U.S. proposition was reported by our Military Attache' in Washington. It consisted of the harsh demands heretofore outlined. A message of similar import was also sent by our Naval Attache'.

107. At 2 o'clock in the afternoon of the same day, 27 November, a Liaison Conference was again held where we carefully discussed the items in the information so received. We were all dumbfounded at the severity of the U.S. proposition. The main points of the conclusion reached after our deliberations were, as I recall, the following:

(1) The U.S. memorandum of 26 November amounts to an ultimatum against Japan.

(2) Japan cannot accept this memorandum. The United States seems to have proposed these conditions knowing full well that they were unacceptable to Japan. Moreover, the memorandum was made with the joint understanding of the other countries concerned.

(3) Taking notice of the recent situation, especially the measures taken by the U.S. towards Japan, and its attitude, together with our natural conclusions from these facts, the United States seemed to have already decided upon war against Japan. Putting it bluntly, Japan might be attacked by the United States at any moment, and she should guard fully against it.

It was decided at this Liaison Conference that since there was no hope, further, in the American-Japanese negotiations, we had better act in accordance with the decisions made at the Imperial Conference on 5 November. But the final decision was to be made not at the Liaison Conference but at the Imperial Conference, and the next Imperial Conference was scheduled to be held on 1 December to which all members of the Cabinet were to be present representing the Government. We set a substantial period between the Liaison Conference and the subsequent Imperial Conference because we knew that His Majesty the Emperor had deep concern over the situation, and wanted to hear the senior statesmen's opinions on this matter. That was why we did not convene an Imperial Conference immediately.

108. A Cabinet meeting was held on 28 November at 10 o'clock in the morning. As I recall, at this meeting Foreign Minister TOGO made a detailed report concerning the American-Japanese negotiations. The decision made at the preceding Liaison Conference was under discussion, to which all the Cabinet

*Fleet
in route*

members expressed their agreement. However, we did not decide on war. This was deferred until after the coming Imperial Conference to be held on December 1st.

Ex. 2249

Just prior to the opening of the Cabinet meeting on this day Foreign Minister TOGO saw me and reported on the telegram of 26 November from NOMURA and KURUSU concerning their suggestions on the Imperial message, (Ex. 2249) and he also told me that he had already communicated this matter to Navy Minister SHIMADA. After a careful study of the matter, we reached the conclusion that the measure suggested would not serve to solve the current impasse, and, moreover, now that the note of Secretary Hull had already been handed to us, the method envisaged in the telegram was out of the question. (Apparently the telegram of our Ambassador had been dispatched before they had received Hull's note) In accord with the above decision instructions were forwarded to the Japanese Ambassador in Washington.

109. Following are some facts coming to my knowledge after the war's termination, which I did not know at the time:

*This would
have told
nothing.*

(a) That the American authorities had succeeded in deciphering our secret code and knew our decision before it had been presented to them.

(b) That the U.S. State Department had knowledge that Japan's proposition of 20 November 1941 would be the final one from Japan to the U.S.

111. On the morning a discussion took place between the Government side and the Senior Statesmen. Representing the Government there were present myself as the Premier and War Minister. Navy Minister SHIMADA, Foreign Minister TOGO, Finance Minister KAYA, and the President of the Planning Board, SUZUKI. No one attended from the Supreme Command. The meeting lasted from nine-thirty in the morning until around one in the afternoon. I explained the reasons why we were placed in a position where resort to arms against the United States and Great Britain could not be avoided. Foreign Minister TOGO expounded on the situation of the American-Japanese negotiations. Some questions were asked from the Senior Statesmen's side concerning American-Japanese negotiations and Japan's war potentials etc., which the Government side answered and explained one by one, the details of which I do not recollect at present. The testimony of OKADA, before this TRIBUNAL on 26 September 1947, that I refused to explain on the grounds of a "STATE SECRET" is definitely not founded on fact. The only matters that were not exposed concerned alone those pertaining to pure strategy.

112. After the luncheon the Emperor summoned the Senior Statesmen to his presence and asked their opinions concerning a possible war against the U.S.A. and Great Britain. In addition to the Senior Statesmen, the Ministers of the Cabinet who had been present in the morning and the Lord Keeper of

Emperor, to convey to them the Government's intention relative to opening hostilities against U.S.A., Britain and the Netherlands, and at the same time report to the Throne their opinions in that regard. This procedure was taken because of His Majesty's peace loving spirit, which yearned to assume a most discreet attitude towards such a decision. Those who were called were ex-premiers such as Prince KONOYE, Baron HIRANUMA, General HAYASHI, Mr. HIROTA, General ABE, Admiral YONAI, Mr. WAKATSUKI, Admiral OKADA, and Mr. HARA, the President of the Privy Council. This type of meeting was usually designated as a "Senior Statesmen's Conference" but in substance it was not a conference at all but was no more than a confabulation of the above named senior statesmen. There was no President presiding at the meeting, nor did those in attendance pass any decision. To make it clear, I should like to add that even though those men were called "senior statesmen" they substantially differed from those elder statesmen, or "Genro", at the period of the Russo-Japanese War. Elder statesmen, or "Genros", in those days were those who were specifically named as veteran statesmen of the nation by Imperial rescript and who shouldered responsibilities in participation in the gravest national problems. But senior statesmen at the time of this meeting were not those who were officially nominated as such. They were summoned only because they had occupied the post of premiership in the past. There was no significant difference otherwise between them and ordinary people in general.

(c) That prior to Hull's note of 26 November the U.S. had formulated the draft of a Modus Vivendi based on President Roosevelt's idea, which still left room for negotiations and on the basis of which the United States had intended to carry out her diplomacy towards Japan; that the draft was intended to gain time for the U.S. Navy's replenishment of armaments; that even this temporary agreement was abandoned owing to the strong opposition of the British and the Chungking Governments, and consequently the note as shown in Exhibit 1245-I was adopted, and, finally, that the United States was aware that this note would never be accepted by Japan.

(d) That the U.S. Government also knew that Japan was regarding Hull's note of 26 November as an ultimatum.

(e) That by the end of November 1941, the U.S., together with Great Britain had decided to enter war with Japan and that, moreover, the U.S. was intent on having Japan commit the first overt act. During our many anxious hours in the latter part of that November we never dreamed that these happenings had taken place.

SENIOR ST TESMEN'S MEETING

110. On 29 November 1941, two days before the Imperial Conference, the Government invited the Senior St Tesmen to convene at the Imperial Palace, according to the gracious wish of the

the Privy Seal, KIDO, also attended. The substance of the opinions of the attendants are, I think, plainly recorded in Marquis KIDO's diary, (Ex. 1196, R. 10,452) Placing together the opinions which were expressed then, they consist of the following four points:

(1) Even if the negotiations were broken off, we should refrain from war and make plans for the next move in the future.

(2) There is no alternative left to us but to rely on the Government, since it has finally decided to resort to war after deliberate investigations.

(3) If the war were to become protracted there would be much anxiety as to Japan's capacity to maintain the supply of materials and the trend of public opinion as well. (But no one gave his definite opinion as to the measures Japan should take on this point.)

(4) If this war is for self-existence, we are compelled to wage war even if we foresee eventual defeat. But if it means that we resort to war for a so-called East Asiatic policy, it is highly dangerous.

I explained the Government's intentions on each such point. As to the first, I stated that the Government had racked its brains on it, but after taking into consideration every possible event, the Government had arrived at the conclusion that if we adopt that course notwithstanding the failure of the negotiations Japan's national defense would be jeopardized and her existence as a nation would be

threatened. I explained the reason why the Government had not adopted the first plan of the Liaison Conferences which, as mentioned before, had been held from 23 October to 2 November. There is no need of an explanation about the second point. With regard to the third, I explained as follows: Japan desires an early decisive battle, but in warfare as there is always an opposing enemy on the other side, there will be times when the war situation will not develop as we expected and desired, so we must also be prepared for a prolonged war. We made numerous inquiries anent a prolonged war in the Liaison Conferences, and, in general, the following two constituted the main elements of that problem:

(a) Can Japan's supply capacity hold out in a protracted war, or will there not be any rupture in the fighting morale of the Japanese people?

(b) At what time and in what way can the war be terminated?

With regard to (a) it all depends upon the effects of the initial stage of the fighting. Though we can not of course say definitely about the war, the High Command seems to be considerably confident of success at the outset of the hostilities. (We did not mention the matters concerning pure strategy including a projected attack on Hawaii) If we can attain the anticipated success of which the High Command is so confident, we should be able to mitigate our dire need of supply to some extent by

~~Securing~~ the strategic points and acquiring important war materials, especially oil, and for this purpose both the Army and the Government will exert their utmost efforts. Next is the question of sustaining transportation concerning which we must rely chiefly on the activities of the Navy. With regard to the unrest of the people at large, the Government will take every possible precaution on that feature especially in view of four years of warfare against China and the trend of increasing propaganda and strategy on the part of our enemies, but after all we depend on the loyalty of the people who have never yet failed their country in a moment of crisis.

With regard to (b) many anxieties were expressed in the Liaison Conferences and we investigated a plan to negotiate peace at a proper time through the mediation of the Soviet Union or the Vatican. But we have not yet secured a definite plan with which we are confident, so will any member kindly suggest a successful plan, if there be one. If we succeed in the initial engagement we would secure the strategic points as rapidly as possible so that a plan could be established to hold out in a prolonged war. Thereafter, at first, we will execute an active operation, on the one hand, and on the other cultivate and develop every national potential. Secondly, we will attempt every possible measure both politically and strategically to compel Chungking and Britain to fall out of line and thus induce the United States to falter in her will to

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fight. I explained that we would proceed on the basis of this policy, adding that there were no means in view at present to bring the war to an end; that must and should be decided later according to the then existing circumstances. After a resumption of general discourse the meeting was concluded at four in the afternoon.

113. After the above meeting adjourned a Liaison Conference was held in the Palace, where the subject for discussion to be held on 1 December ("opening of hostilities against the United States, Great Britain and the Netherlands") was taken up and adopted.

114. Suddenly, a little past 3 P.M. on 30 November, I was summoned by the Emperor. I immediately proceeded to the Palace and was granted an audience accordingly. What the Emperor was pleased to say to me was that Prince TAKAMATSU, the Imperial brother, told him that as our Navy's hands are full it desires to avoid war. And the Emperor asked for my comment on this point, whereupon I answered as follows: "It is the common desire of your Government and the High Command to avoid this war. Now that the Liaison Conference, after prudent and scrupulous deliberation, has arrived at a decision, as has already informally been reported to the Throne, there is no remaining alternative but to resort to a war of self-defense. The High Command is fully convinced of victory. If, however, Your Majesty should entertain any shade of doubt on this point you had better summon the Chief of the Navy General Staff and the Navy Minister, and let them explain to your hearts' content".

After 7 o'clock that evening, Marquis KIDO, Lord Keeper of the Privy Seal, notified me by telephone that the Emperor allowed the Imperial Conference to be held on 1 December as slated. (Ex. 1198, R. 10,468)

THE IMPERIAL CONFERENCE OF 1 DECEMBER 1941

115. As is well known now, it was decided in the Imperial Conference on 5 November 1941 that the negotiations with America should be continued with sincerity on the one hand, but, on the other, the Imperial Headquarters should be prepared for "operations." Thus we sought for reconsideration on the part of the United States, and tried to achieve a diplomatic solution. On 26 November, however, when we received the ultimatum from the United States, we believed there was no way remaining to improve the Japanese-American relations by means of diplomatic negotiations, as I previously stated. This deadlock in the negotiations compelled us to a determination to resort to war. The Imperial Conference on 1 December was convoked for that purpose. This Conference was attended not only by the ones who had been present at the Liaison Conference but by all Cabinet Ministers as well. As was usual, I was permitted by His Majesty to preside over the proceedings, which was the usual procedure. That day's agenda was, "Whereas the negotiations with the U.S.A. based on the outline of Japan's national policy, decided on 5 November, having ended in failure, Japan opens war against the U.S.A. Britain and the Netherlands." (Latter portion of Exh. 588) At the outset I, acting in the capacity

of Prime Minister, made the statements as shown in Exhibit 2954 (Record Page 26,702) and then we entered into the discussion.

Foreign Minister TOGO, reported on the results of the Japan-U.S. negotiations as given in Exhibit 2955 (Record Page 26,074).

Admiral NAGANO, Chief of the Naval General Staff, representing the Chiefs of both Staffs of Imperial Headquarters, explained the situation from the military point of view. The main points were the following, as far as I am able to remember:

(1) The U.S., Britain and Holland were further increasing their armed strength. The Chungking forces were redoubling their fighting power with the aid of U.S. and Britain. We could see, from the actions of their leaders, that the U.S. and Britain had already decided to fight.

(2) Our Army and Navy had been preparing for war pursuant to the decision of the preceding Imperial Conference (November 5) and were quite ready to go into operational action as soon as the Imperial command be issued.

(3) As for the Soviet Union, we are on the strictest guard against aggression, but through the aid of diplomacy we do not anticipate any danger at present.

(4) The entire Army and Navy were in high spirits, burning with the desire to serve the nation and the Emperor, and even willing to give their lives if necessary. They were ready to assume their duties with all speed the moment the Imperial

Order was issued.

In the capacity of Home Minister, I then added an explanation about the current public sentiment, the supervision of interior affairs, the protective means adopted for the protection of aliens and diplomatic officials, and something on emergency precautions.

The Minister of Finance spoke on our economic and financial strength, and the Minister of Agriculture and Forestry on the question of food supplies in case of prolonged warfare. Mr. Hara, the President of the Privy Council, made queries on the following points, and the Government and the High Command answered them in the order of their respective competence, the main points being summarized as follows:

(1) The prospect of a naval victory in the face of a progressive increase and reinforcement in U.S. armament. To this question the Chief of the Naval General Staff answered. It was true that the U.S. was pursuing a big armament plan. But 40% of its Naval strength lay in the Atlantic, which could not speedily be transferred to Pacific waters. An increase in the British fleet in the Far East was to be expected to a certain extent and it was already actually taking place. But judging from the European war situation it was apparent that they could not move any major portion of it to the Far East. The power of the U.S. and Britain had the defect of being an allied and a combined force. So if they challenged us in a combat we were ready to meet them with a hopeful prospect of success. The important question was, how

would we manage if the war became protracted. The answer was in effect that it was quite impossible to make any positive calculation on the outcome of the war if protracted, as much depends on varied factors, both actual and implied, the total potentials of the belligerents, and, above all, on the fluctuating world situations of the future. (Even then he did not betray a word on the operational plan including an attack on Hawaii.)

(2) Movement of Siam and our Attitude Toward Her. To this question, I in the main made answer, and my answer was this: With the progress of our strategic operations Siam was moving in a very delicate manner strategically as well as diplomatically, especially as the British Government had a latent influence upon her. It was, therefore, desirable that both the Government and the High Command take special precaution and adopt proper measures toward Siam in our pursuit of strategic operations against the U.S. and Britain. In view of the increased intimate relations between that country and Japan of late we had a confidence that we could pass through its territories in friendly fashion in the event of action against the U.S. and Britain.

(3) Possible Air Attacks by the Enemy on the Homeland of Japan and our Plans against It.

To this the Chief of the Army General Staff answered as follows: The initial success or failure had much to do in deciding the issue not only at the beginning of war but also in its later course. So if we win

the initial battles there will be comparatively little possibility of our homeland being mass-raided. But depending upon the length of the war, we could not say there was no fear of it at all. In some circumstances the U.S. might make a confidential request to the U.S.S.R. for the use of bases, against which move, however, we had to be very cautious. In such a case, the homeland would require infinitely better protection. In case of the outbreak of war, the military authorities were prepared at once to take some emergency measures for air defense. But at first they would be unable to spare an adequate defense power for the homeland because the fighting forces at the front would require increased anti-air-raid equipment. This, however, would be improved in the course of the continuation of war.

Finally, Hara, the President of the Privy Council, summarized his opinion as follows:

(1) The attitude of the U.S. was unbearably hard on Japan. It would be futile to try further means. War, consequently, would be unavoidable.

(2) There was no doubt about our initial success. But in case the war becomes prolonged, the people had to be guarded against restlessness. Even though protracted warfare seemed to be unavoidable, it was more desirable to conquer such factors and come to an early conclusion. The Government was therefore requested to do its best toward that end.

(3) There might be a danger of an inner collapse of the nation if the war be drawn out.

The Government should be very careful on this point.

I answered concerning the above points as follows:

We would be very careful regarding what he said pertaining to general/^{war}measures. We would also try our best to bring the war to the earliest possible conclusion. The Government and the High Command are proceeding with their war plans under a mutual understanding that even after our decision to fight, we will relinquish our war plans at any time provided the U.S. acceds to our representations before the blow is struck, and grant us an opportunity to find a solution to a peaceful settlement. In the case of a prolonged warfare we would be very careful to guard the people against restlessness and maintain law and order internally by preventing disquieting influences to arise from within, and disturbing artifices to be injected from without. We realized that our responsibility for our country was great at this critical moment. In other words, we were prepared. If His Majesty decided on war we would further strengthen our resolution to serve His Majesty's cause and ease his August mind by cementing the cooperation between the Government and the High Command in carrying out, with careful thought and foresight, our plans and measures, thus maintaining a national unity of purpose towards a firm confidence in ultimate victory for the accomplishment of the final purposes of war. Therefore the proposal was adopted. His Majesty, the Emperor, uttered not a single word during this Conference.

116. The Cabinet, prior to the Conference, held a special meeting at 9:00 A.M. on the same day and decided that the Government practically had no objection to the proposal to be submitted to the Imperial Conference on that day. All the Cabinet Ministers attended this Imperial Conference, and we regarded the decision of the Conference to be taken as the decision of the Cabinet. On the part of the High Command, it also took the necessary course of action under its respective competence and responsibility.

117. As to affairs of state consummated through the above described procedure, the entire responsibility rests, in effect, upon the responsible persons in the Cabinet and in the Supreme Command, and not with the Emperor. Even though some explanation on this point has hitherto been given by me, further exposition should be made so that with regard to the true position of the Emperor there shall be no possibility of a misconception. That, to me, is quite important.

(1) In issuing a mandate for the formation of a new Cabinet the Emperor acted invariably in former days upon the recommendation of the "Genros". In later years, such as the period contemplated here, the Emperor acted upon the recommendation of the "Elder Statesmen", and upon the advice of the Lord Keeper of the Privy Seal, who was responsible for constant assistance and advice to the Throne. The Emperor accepted these recommendations and this

advice, and there was no precedent in our history where an Emperor, disregarding those recommendations and that advice, issued a mandate according to his own opinions to any person to formulate a new Cabinet. As for the appointment of the Chiefs of Staff of the Supreme Command, the custom followed was that recommendations were always made through a long established process. In the Army, for example, the three Chiefs (War Minister, Chief of the General Staff and Inspector General of Military Education) would have a joint consultation, after which the nominee would be by mutual agreement submitted for Imperial sanction by the War Minister, who has the responsibility for assisting the Emperor in that respect. This same procedure was employed in the selection of the Chiefs of Staff of the Navy Supreme Command by the appropriate officials of that service. And in these cases, too, I do not recall any instance where the Emperor, of his own will, made an appointment at variance with the recommendations and the advice of those responsible for the choice as prescribed by long established official procedure, and in usage during the MEIJI, TAISHO and SHOWA eras.

(2) All affairs of state are conducted on the advice offered by the Cabinet and the Supreme Command as outlined, the Emperor never taking personal action on administration or High Command without such advice. This system was provided by the former Constitution of Japan, and by an adherence to its

specifications and following the custom established by His predecessors, the Emperor studiously refrained from placing a veto upon any final decision made by the Cabinet and the Supreme Command on their responsibility.

(3) Occasionally the Emperor expressed his own wishes and at times gave suggestions, but even these were issued on the recommendation of the Lord Keeper of the Privy Seal, who assumed the responsibility for constant assistance and advice to His Majesty. This was already testified to by a certain defendant during the course of this trial. Even as concerns these wishes and suggestions of the Emperor, the political counsellors of the Cabinet or the military advisors of the Supreme Command in charge offered the Emperor their advices determining the Emperor's desires after a careful study of them on their own responsibility. By immemorial usage, as explained heretofore, all their conclusive recommendations and suggestions were sanctioned without fail by His Majesty. I recall no instance where the Emperor refused to accept the persuasion of these political counsellors and military advisors.

Summing it up, the Emperor had no free choice from the governmental structure setting up the Cabinet and the Supreme Command. He was not in a position to reject the recommendations and advice of the Cabinet and High Command. His wishes or hopes were necessarily assisted by the Lord Keeper, and even these hopes when expressed finally were to be scrutinized by

+ | the Cabinet or the Supreme Command. Recommendations | +
and suggestions after this careful examination had
to be approved by the Emperor and never to be
rejected. That, then, was the position of the
Emperor before and during the most perplexing
period in the history of the Japanese Empire.

+ | These facts being what they are, it was solely
upon the Cabinet and the Supreme Command that the
responsibility lay for the political, diplomatic and
military affairs of the nation. Accordingly, the
full responsibility for the decision of 1 December
1941 for war is that of the Cabinet Ministers and
members of the High Command, and absolutely not the
responsibility of the Emperor.

IMPORTANT MATTERS DURING THE PERIOD FROM THE END OF
THE IMPERIAL CONFERENCE OF 1 DECEMBER TO THE OUT-
BREAK OF THE WAR

118. Since the decision to commence hostilities
was reached in the Imperial Conference of 1 December
1941 up to the actual outbreak of war two items of
importance were studied, (1) the preparations for
carrying out the commencement of hostilities and
(2) the execution of State Affairs connected with
these preparations. The Staff Officers of both the
Army and the Navy of Imperial General Headquarters
were responsible for the execution of the former,
as the Government did not have any responsibility
in such matters as concerned the Supreme Command.

However, there were some matters which, in view of the exertions of the Supreme Command, had to be dealt with within the field of military administration. With regard to these I assume the administrative responsibility as War Minister for such as fell within my official sphere although, needless to say, as for matters concerning naval administration I was not in a position to participate either as War Minister or even as Premier. In this connection, I wish to call the attention of the TRIBUNAL again to Regulations of the Army General Staff (Ex. 78) and Regulations of the Naval General Staff (Ex. 79) in which it is clearly indicated that both the General Staffs are responsible for assisting the Emperor in matters concerning the Supreme Command of the Army and Navy. This was the doctrine of the independence of the Supreme Command, which is peculiar but fundamental in the Japanese system. Under this doctrine no administrative office can interfere in the execution of operations and tactics, or, in other words, administrative officers have no voice whatever in matters concerning genuine Supreme Command. Accordingly, an administrative department of the Government or Ministry cannot undertake any responsibility or interference in policies of that nature. Of all the Ministers in the Cabinet, only the War and the Navy Ministers occupy positions which differ from that of the other Ministers in the sense that these two Ministers were participants in the council of war. That is to say, both the War and Navy Ministers participated

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in administrative matters which had direct or in-
direct relations with operations including personnel

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Testimony B

in administrative matters which had direct or indirect relations with operations including personnel affairs. However, even in these cases, the War and Navy Ministers did not take part in the decision for operational plans, which is the substance of the operations, nor in the implementation of such plans. Both War and Navy Ministers were informed of matters concerning operational plans only after these plans had been reported and assented to by the Emperor. With regard to these matters, the testimony of the witness ISHIHARA, Kanji is correct (Record Page 22,153).

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At this juncture where reference is made to the Supreme Command I feel I should clarify some items respecting Ex. 1979-A, which are attributed to me as my answers to the interrogation of the Prosecution on 14 March 1946, inasmuch as these answers do not convey my meaning exactly or fully:

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(a) The members of Imperial Headquarters consist mainly of members of the Army and Navy General Staffs, and partly by members of the Army and Navy Ministries concurrently (other than the Ministers of War and Navy) They are divided into Army and Navy Departments of Imperial Headquarters and are under the control of the respective Chiefs of the Army and Navy General Staffs.

(b) The Ministers of War and Navy are not included in Imperial Headquarters as regular members, as has been stated in the above Exhibit. Yet it is stipulated in the regulations that War and Navy Ministers can attend the Imperial Headquarters Conference as "participants" with

respective assisting members, the reason for such a provision being that military and naval administrative matters connected with High Command may thereby be handled with dispatch. However, during my tenure of office as War Minister there was not a single occasion when I had to attend such a Conference. Furthermore, a War Minister is not permitted to participate in the decision of affairs purely in the nature of High Command. Such matters are communicated to the War Ministry only after a final decision in Imperial Headquarters. (Def. Doc. 2942)

(c) A regular Imperial Headquarters' Conference, to be held in the presence of His Majesty, had not been held during the entire period that I held the position of War Minister. The meetings to which I mentioned in the above Exhibit as having attended were meetings for the purpose of exchanging information between the Army and the Navy, and they were not Imperial Headquarters Conferences in their proper sense.

119. From 1 December 1941 to the outbreak of the war, Liaison Conferences were held frequently. At these conferences decisions were made on numerous issues having an important connection with the preparation for the execution of operations and also with affairs of state. The more important of these, as I recollect, are the following. These matters lay outside the sphere of pure Supreme Command, as stated in the above paragraph, but they had some connection with both the High Command and Military Administration requiring therefore some co-ordination between the two.

(1) The note to be handed to the United States and the decision as to the time of its delivery.

(2) The decision on the guiding principles in the conduct of the war thereafter.

(3) The decision on administrative principles of occupied areas.

(4) The measures to be taken in relation to foreign countries following the outbreak of war.

(5) The drafting of the Imperial Rescript for the declaration of war.

120. The decision on the note to be handed to the United States and the time of its delivery. On 8 December 1941, (Tokyo Time) the Japanese Government, through Nomura, the Japanese Ambassador to the United States, handed the United States Government the notification intimating the Japanese Government's determination to sever diplomatic relations with the United States, and its intention to open hostilities. The text of this notification is as set forth in Exhibit 1245-K. The Foreign Ministry was responsible for all the diplomatic steps concerning this notification.

Prior to this, at the Liaison Conference of 27 November 1941, our attitude vis-a-vis the Hull note of 26 November, which was regarded by us as the ultimatum of the United States was decided as stated previously. According to my recollection, Foreign Minister TOGO presented the draft of the notification for discussion at the Liaison Conference of 4 December based on the above decision. This proposal was

approved unanimously. Moreover, I remember that the following procedure was agreed upon:

+ a. All diplomatic steps concerning our last note were to be left to the Foreign Minister

b. This notification was to be in the nature of a notification of war based upon International Law, and Japan was to reserve freedom of action after handing the notification to the United States.

+ c. The handing of the notification to the United States Government must be carried out, without fail, before the opening of the attack. The notification must be handed by Ambassador Nomura to the responsible official of the United States Government. The notification to the American Ambassador to Japan was to be handed over after the opening of the attack.

+ Togo
+ With regard to the delivery of the notification prior to the commencement of the attack, the Emperor had frequently instructed both myself and the two Chiefs of the General Staffs, and the Emperor's wishes in this connection were conveyed to all members of the Liaison Conference and they were all fully aware of them.

+ (d) The time of the delivery of the notification to the United States was to be decided upon after consultation between the Foreign Minister and the two Chiefs of the General Staff, since there was a precise interrelationship between diplomacy and strategy. The strategic plan for attacking Pearl Harbor and other places, and troop movements,

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+ / especially the time of launching the attacks, was / X
made top secret by Imperial Headquarters, and not
even a fraction of it was revealed. Accordingly,
of the attendants at the Liaison Conference all
Cabinet Members except War and Navy Ministers knew
nothing of it. As War Minister, I was informed
of it very secretly by the Chief of the Army General
Staff, but the other Cabinet Members did not know of
it. In the relevant part of my interrogations ad-
mitted in evidence as Exhibit No. 1202-A I stated
that both Foreign Minister TOGO and the President
of the Planning Board, SUZUKI, had knowledge concerning
the time of attacking Pearl Harbor. This is entirely
a misrecollection on my part, and, therefore, I
wish to correct it now in my testimony here.

3 { As I remember, at the Cabinet meeting on
5 December 1941, Foreign Minister TOGO explained the
gist of the Japanese final note to the United States,
to which all the Cabinet members agreed.

4 { On 6 December, the Japanese Government gave
Ambassador Nomura instructions by wire that after
serious deliberation the Government had decided on
a note to be sent to the United States; that the
Government will instruct him further by wire as to
the time of handing this note to the United States;

that the Ambassador should make all preparations so as to enable him to present the note to the American Government at any time after its receipt.

(For details reference is made to Yamamoto's testimony on Page 26,097 of the Transcript). Thereupon the text of the note was wired to him.

On 7 December, the following day, the Japanese Government gave instructions by wire to Ambassador Nomura to hand the note in person to the United States (preferably to the Secretary of State) at 1:00 P.M. sharp Washington time on 7 December. To recapitulate, with regard to the handing of the notification to the United States, the Japanese Government had every intention that it should be delivered before the attack on Pearl Harbor, and took action in strict accordance with this intention. I conscientiously believed at that time that the delivery was made rigorously in conformance with the Foreign Minister's instructions. It was but natural for us to place full faith on our diplomatic official in executing a function of such vital importance in strict compliance to pre-arranged instructions, and it was a matter of great regret to the Japanese Government upon learning subsequently that the actual delivery of the note was delayed. As to the contents and the handing of the final note to the United States, the Cabinet and the Liaison Conference relied entirely upon and trusted the Foreign Ministry to exert the utmost endeavor in the light of international law and the conventions.

121. Decision on the guiding principles in the conduct of the approaching war. Although the exact date escapes my memory, the agreement was reached in the Liaison Conference pertaining to the principles in conducting and directing the execution of the coming war. Portions of this agreement were decided upon at the Liaison Conference previous to 1 December, by way of preliminary preparation, but for purposes of clarification shall list them at this point concisely:

a. Immediately after the outbreak of the war against the U.S., Britain and the Netherlands, efforts will be made through political and strategic measures to bring about the fall of both Britain and the Chungking Regime.

b. The key points in the strategic districts in the Philippines, British Malaya, the Netherlands East Indies and Southern Burma will be swiftly occupied in accordance with the plan set up by the Supreme Command. A foundation for self-sufficiency will be established through an assured occupation of those regions. Moreover, preparations will be perfected to meet possible changes in the situation to the North. The Supreme Command estimated the required time for these preparations at about five months. The military operations thereafter will be conducted in conformity with the conditions obtaining at that time, particularly with the results of naval warfare.

c. Declaration of war will at first be limited to the United States and Britain. For the time being no declaration of war will be made against the Netherlands. The existence of a state of war will

be announced if the need arises for a resort to arms. However, simultaneously with the outbreak of the war, the Netherlands will be regarded as a quasi-hostile country, and appropriate measures will be taken towards her on this status.

d. No change will be made in relation to the policies pursued to date to expedite settlement of the China Incident. Hongkong will be attacked simultaneously with the outbreak of the war. The British concession at Tientsin, the International Settlement at Shanghai, and other rights and interests of hostile countries in China will be dealt with accordingly.

e. With respect to the Soviet, the neutrality pact will be respected and the policy of maintaining tranquility in the North will be adhered to. Soviet-American cooperation will be carefully watched.

f. Request for the passage of Japanese troops through Thai territory will be made prior to the advent of Japanese troops on Thai borders.

g. Japan will not request Manchoukuo and the Nanking Government to participate in the war; only their friendly cooperation will be expected.

h. A treaty of a non-separate peace will be concluded with Germany and Italy. An offer was made to Germany and Italy of a non-separate peace treaty on 29 November 1941, at the time the negotiations with the United States were ruptured. However, no notification was made to them as to the date for opening hostilities. It was after the outbreak of

X the war, namely, 11 December 1941, ~~that this treaty~~ was concluded. This clearly indicates that no close cooperation existed between Japan and Germany and Italy prior to the outbreak of war, and Japan's decision to go to war was made without regard to the attitude of Germany and Italy, and was dictated purely by the needs for self-defense.

i. The time of opening hostilities will be kept secret.

j. The preparations for the commencement of hostilities along the lines of the decision made on 1 December will be recalled in the event U.S.-Japanese negotiations should result in an understanding before 8 December.

As the attack on Pearl Harbor at the outset of hostilities was solely in charge of the Navy Division of the Imperial General Headquarters, I had no connection with it whatsoever. However, I will testify on the political phase of the matter in a later paragraph.

Q On 1 December the Army Division of the Imperial General Headquarters issued orders for commencement of preparations for opening hostilities to the Commander-in-Chief of the Southern Area Army, the Commander-in-Chief of the Expeditionary Forces in China and the Commander of Forces in the Southern Seas. At the same time it was directed that as soon as the U.S.-Japanese negotiations reached an understanding, these preparations should be called off. Since all

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matters concerning the Supreme Command absolutely were outside my jurisdiction I cannot testify as to them. (Def. Doc. 2947)

122. I shall next submit evidence pertaining to the administrative principles enunciated concerning prospective occupied areas.

(1) As one of the preparatory measures for military operations we decided on the principles concerning the administration of future occupied areas in the South, which was made at the Liaison Conference held, to the best of my recollection, on 20 November 1941. (Ex. 877) These principles were communicated to the respective Commanders simultaneously with the order of the Supreme Command for commencement of preparations for opening hostilities.

(2) The fundamental ideas governing the decision on the principles for administration of occupied regions, held at that time, was to administer occupied territories in line with the following basic policies and in accordance with developments of military operations.

a. Occupied territories shall be placed under the military administration for the time being and shall be carried on under the supervision of operational forces.

b. Such military administration shall be abolished as soon as possible and independence or self-government shall be granted as promptly as expedient in so far as local political conditions warrant,

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with due regard to previous historical sub-division. These independent or self-governing regions shall be required to cooperate with the establishment of the Greater East Asia Co-prosperity Sphere entertained by Japan and, depending on local conditions, asked to assist in the prosecution of the war.

(3) The outline of the administration in the southern occupied regions is as shown in Exhibit 877, the highlights of which are as follows:

- a. The restoration of peace and order within the occupied areas, and the stabilization of the life of the inhabitants.
- b. The prompt and speedy acquisition of the critical natural resources needed for national defense.
- c. The achievement of local self-sufficiency of the forces engaged in military operations.

The following were conditions to be observed in the execution of the above principles:

- a. To utilize existing governmental agencies, to respect existing organizations and racial traits, customs and habits, and to recognize freedom of religion.
- b. To win over local foreigners to cooperate with the military administration; as to those who refuse to cooperate, they were to be requested to withdraw.

c. With respect to local Chinese residents, a severance of relations with Chungking was to be sought and cooperation with our policies was to be obtained.

d. Japanese nationals advancing to the South were to be carefully selected.

123. I shall next testify to the measures to be taken against foreign countries with respect to war. As stated above, we decided not to declare war against the Netherlands; the Netherlands declared war against us on 10 December 1941. On 12 January 1942, Japan proclaimed the existence of a state of war between Japan and the Netherlands. (Ex. 1337)

Next, I shall touch upon the relations with Thailand. The following decision was reached at the Imperial Conference on 5 November 1941, namely, "In case of war against the United States, Britain and the Netherlands, intimate military relations should be established between Japan and Thailand".

(1) In accordance with this decision it was further agreed at the Liaison Conference of 23 November 1941 that Japan just prior to the advent of its force to the Thai border, which had then been decided upon provisionally, should request of that Government the transit of troops over its territory, extending facilities for the passage and arranging suitable measures to avoid any unforeseen conflict between Japanese and Thai forces.

(2) In case the British forces should invade Thailand before the advent of Japanese forces,

Japan should immediately inform the Ambassador in Thailand of that fact, and cross into Thai territory after an understanding was reached between both parties. Subsequent to the decision on commencing preparations for war of 1 December 1941, communications on the above measures were dispatched to the forces at the spot in order to enable them to carry them out prior to commencing passage. The reasons for taking these steps arose from the special relations existing between Japan and Thailand at that time.

The Japanese Government, in view of the friendly attitude of Thailand, particularly of Premier Pibul, relied heavily on her and was confident that the negotiations for the aforesaid passage of our forces would come to a successful conclusion.

However, we refrained from presenting the request prematurely because of the fear that it might be disclosed to the British. Consequently, in accordance with orders, the Japanese Ambassador to Thailand commenced negotiations with the Thai Government for passage just prior to the advent of our forces.

It so happened, however, that the Thailand Premier was away on a trip, and it was not until around noon of 8 December that the agreement was signed. (Ex. 3035) Previous to this, the Japanese army forces had received intelligence to the effect that the British forces had entered the southern part of Thai territory. A skirmish between Japanese and Thailand forces occurred at a certain restricted area on the southern coast of Thailand, but it was entirely concluded by 3 P.M. on the 8th of December due to measures

taken by the Thai Government. The crossing of the Thailand border by British forces was confirmed as previously testified to before this court by Colonel Wild, (R. 5691-5692) and I received intelligence on that matter at the time. I remember that Vice-Minister KIMURA stated in my name at the 78th Session of the Imperial Diet, held on 15 December, that "the British Empire, by means of both political and strategic influence, has long been putting pressure on Thailand with a view to manoeuvring her into participation in the Anti-Japanese Front. Recently Britain under cover of darkness at midnight of 7 December has broken through the Malaya border and invaded the southern part of Thailand, thereupon our army forces with the support of the Navy have completed landing operations at strategic points of the Malaya Peninsula at dawn of the 8th." (Def. Doc. 2710)

124. The decision on the Imperial Rescript on the declaration of war and its promulgation. Japan promulgated the Imperial Rescript on the declaration of war on 8 December 1941 on the first day of war. This Imperial Rescript has been introduced as Exhibit No. 1240. As is clearly indicated in the first paragraph of that document, this Rescript was solely addressed to the people of Japan, and it does not fall into the category of a communication of commencement of hostilities, as contemplated under international law.

So U.S. had no Decl. of War?

125. Prior to this, when we received the United States ultimatum as contained in the Hull note of 26 November 1941, we felt that the commencement of hostilities could not be avoided any longer, and it was decided at the Liaison Conference held about 29 November, if I remember correctly, to start drafting the Imperial Rescript on a declaration of war. The final draft of the Imperial Rescript was decided upon at the Cabinet Council on 5 December and at the Liaison Conference on 6 December, and submitted to the Throne on 7 December 1941. However, in view of the gravity of the subject, I made two or three interim reports to the Throne prior to its final form. On these occasions we amended the following two points in the Imperial Rescript in obedience to His Majesty's wishes, on the responsibility of the Cabinet:

The first is, a line of the 3rd paragraph of the Rescript, reading, "It has been truly unavoidable and far from our wishes that our Empire has now been brought to cross swords with America and Britain" which was amended and added in accordance with His Majesty's wishes. The second, is an amendment to the concluding part of the Rescript, which was transmitted through the Lord Keeper of the Privy Seal, KIDO, to Cabinet Secretary Inada. The original wording of the concluding paragraph of the draft read, "raising and enhancing thereby the glory of the 'Imperial Way' within and without our homeland", which was thence, according to the

Imperial wish, amended to read "preserving thereby the glory of our Empire". His Majesty's true intent and purpose can be easily understood from the foregoing two amendments. (Ex. 3340 - Sec 240, 241)

The transaction of the promulgation of the Imperial Rescript on the declaration of war was submitted to the Privy Councillors for discussion. I remember it was past 11 A.M. on 8 December 1941 that the above Rescript was announced by the Cabinet, after deliberations in the Privy Council, and the Imperial sanction obtained. The general outline of the deliberations in the Privy Council is as represented in Exhibit No. 1241. (Records of 8 December 1941) It is stated in that Exhibit that I explained before the Investigation Committee of the Privy Council to the effect that as the war against America, England and Holland was decided upon 1 December the negotiations with America since then were continued only for strategic considerations, and also that Japan was not going to declare war against Holland in view of future strategic convenience.

Now, my statements before the Privy Council were recorded not through stenographic methods but were only summarized by the Secretary. Hence they do not correctly convey what I actually said on that occasion. What I actually said was as follows: "The decision to go to war against the United States, Britain and the Netherlands was made on 1 December. After that date preparations for the commencement of hostilities were foremost in our efforts.

However, even in the course of these preparations, we continued to hope for some possibility, however faint, of arriving at a diplomatic settlement through reconsideration of the matters on the part of the United States. If this hope materialized we contemplated the suspension of all military operations. However, war had actually broken out, but inasmuch as we were not anticipating any attack on the Netherlands at the outset of hostilities it was deemed unnecessary for Japan to declare war against her. For this reason Holland was not included in the Imperial Rescript". That was the gist of my report to the Council.

CARRYING OUT THE PEARL HARBOR ATTACK

126, Japan on 1 December 1941 for the first time made preparations for opening hostilities and, following the strategic plans of the Army and Navy divisions of the Imperial General Headquarters, undertook to break through the enemy encirclement at four points, namely, Hawaii, the Philippines, Hongkong and Malaya. The operations were solely pointed at military targets. The attack was opened at dawn of 8 December (Japanese time). This operation was arranged in the strictest secrecy by the Supreme Command. As Minister of War, I had been notified of its general outline through the Chief of the Army General Staff but no cabinet colleague, other than myself and the Minister of Navy, were acquainted with the operation. During

this period of preparation for operational moves it was my belief that should the Japanese-American negotiations fortunately come to an understanding, I could immediately transmit the matter to the Supreme Command, upon which the Supreme Command would immediately suspend action. I felt confident that the Supreme Command would not hesitate to call off operations despite its thoroughgoing plans and its confidence as to the outcome. I was not without anxiety that the plan of attack might collapse by being forestalled by an enemy attack. My apprehension was based upon the fact, judging from intelligence received at that time, as mentioned previously, that America and Britain had already determined to wage war against Japan. In the order of the Supreme Command under date of 1 December 1941, concerning the commencement of preparations for war, it was inserted that in case of an attack by the enemy hostilities should be entered into. (Item B of the instructions from Chief of Naval General Staff to Commander-in-Chief of Combined Fleet dated 21 November 1941 appearing on Page 76 of Ex. 809 also TANAKA, Shinichi testimony R. 27,020) In other words, there existed a high probability that the enemy might open the attack. We did not anticipate at that time that America was directing the war so as to force Japan to make the first overt act.

127. To the best of my recollection, it was at 4:30 A.M. of 8 December 1941 that I received news from the Navy of the successful attack on Pearl Harbor.

f I was enthusiastic and grateful for this miraculous success. The Army and Navy information departments of Imperial General Headquarters announced at 6 A.M. on the same day that we had entered into a state of war with America and Britain. At 7:30 A.M. on the same day the Cabinet was called into extraordinary session, and on that occasion the complete plans of military operations were explained for the first time by the Army and the Navy Ministers. In the meantime we had also received reports on the success of our operations in the Malay area.

* ? 128. The circumstances surrounding the delay in the delivery of our final note to America was clarified by the witnesses Kameyama and Yuki. (Record Pages No. 26,186-26,209) The time of the delivery of the note was decided upon after careful study on the part of the Foreign Ministry and the Supreme Command apropos the attack on Pearl Harbor. Accordingly, as alluded to previously, a resort to such dubious measures as to wilfully delay the delivery of the note in order to secure the success of the attack was inconceivable. Furthermore, as borne out by the evidence, since the United States had full knowledge of our attack prior to its actual launching, and had completed the necessary measures to cope with the situation, such an act as to delay the delivery of the note on our part would not have had any particular effect.

* "an attack"

Admits himself that

Togo knew of

P. H.

attack?

THE PRESIDENT'S MESSAGE TO THE EMPEROR

129. About 1 A.M. on 8 December 1941 (I do not recall the exact hour) Foreign Minister TOGO suddenly called on me at the Prime Minister's residence, and told me that Ambassador Grew visited him and after informing him that the President of the United States had sent a personal message to the Emperor handed him a copy of this document. The Foreign Minister also informed me that he was going to deliver the message to the Emperor. I asked the Minister if the message contained any concessions from the position hitherto taken by the U.S. and got the reply that there were none. I told him that although I had no objection to his reporting the matter to the Emperor, I was afraid that by this time the planes of our task force would be beginning to take off from the carriers. The Foreign Minister left me and I believe he immediately reported it to the Throne.

That was the first time I knew of the President's message. It is absolutely untrue, therefore, as alleged by the Prosecution, that I had previous knowledge that the President's message would be forthcoming from America; much less is it true that the Army or the Government contrived to delay the delivery of such message. In this country no subject would even think of committing such an outrageous act of lese-majeste as to wilfully delay a message from the head of a nation addressed to the Emperor.

How about former wire suggestion?

RESPONSIBILITY FOR CONTROL AND SUPERVISION OF ADMINIS-
TRATIVE BUSINESS

130. In the military organization of Japan the responsibility for controlling and directing subordinates is divided into two categories, according to the nature of the matter concerned.

(1) The first category covers matters which arise within the chain of command of the Supreme Command; that is to say, matters concerning strategy, security, transport, and the treatment of prisoners of war during the period of their transportation to P.O.W. camps established by the Minister of War. All these matters fall within the category relating to the system of jurisdictional responsibility of the Supreme Command, and therefore the final responsibility involved in these matters rests with the Chief of the General Staff. Citing examples from events in this trial, the occurrences which took place on the Malay Peninsula, on the Bataan Peninsula, and the affairs which occurred en route on transport vessels are matters which occurred prior to the internment of prisoners in the P.O.W. camps established by the Minister of War, and, therefore, fall within the jurisdiction of the individuals in the chain of command of the Supreme Command directly concerned.

(2) The second category covers matters which occur within the jurisdictional authority of the Minister of War. For example, the treatment of prisoners of war after internment at Detention Camps,

established by the Minister of War, or the treatment of civilian internees interned in the war zones, except for China, are of this classification.

Consequently, the treatment, for example, of the war prisoners employed in the construction of the Burma-Siamese Railway, falls within the jurisdiction of the War Minister.

+ (With respect to the second category I assume administrative responsibility as Minister of War for the period from the beginning of the Pacific War up to 22 July 1944.) X

Regarding the affairs in the first category, I take administrative responsibility incumbent on the Supreme Command as the Chief of the General Staff from February 1944 to July 1944.

(Should there be any questions concerning foreign affairs such as protests from enemy countries, or through the international Red Cross, during the period of 1 September to 17 September 1942, I also take administrative responsibilities as the Minister of Foreign Affairs.)

(Should there be any incidents involving the treatment of civilian internees in Japan proper during the period from 8 December 1941 to 17 February 1942, I also assume administrative responsibility in my capacity as Minister of Home Affairs.)

Further, as Prime Minister and concurrently as War Minister I am politically responsible for matters

relating to the promulgation of the P.O.W. punishment law. However, the question of my legal responsibility or criminal liability for these matters is entirely one for this Tribunal to determine, and I have nothing whatever to say on this point other than to state frankly that at no time during my entire career did I ever contemplate the commission of a criminal act.

131. In the following I shall cover some of the issues which arose in connection with the treatment of Prisoners of War while I occupied the post of War Minister. In regard to prisoners of war as well as to civilian internees and inhabitants in occupied territories, I gave orders in accordance with the P.O.W. Treatment Regulations (Exh. 1965, Page 3) and P.O.W. Service Regulations (Exh. 1965, Page 14) prohibiting maltreatment and imposition of forced labor, and directed that they should be treated with humanity according to the principles of international law and the regulations. Additionally, in January of 1941, by War Ministry Instructions No. I, issued the "Field Service Instructions" (Sonjinkun) in which directions were given to all army officers, soldiers and civilian employees of the Army as to their behaviour at the front. (Exh. 3069) Everyone going to the front during the Pacific War was given a copy of this "Field Service Instruction" and a thorough dissemination of the spirit of the instructions was aimed at. (Testimony of the Witness, Ichinoe, Record 27,433). My views as War Minister on matters which the Prosecution

alleges were unlawful acts are given in Exhibit 1981-A.

132. As to the Geneva Protocol, it was not ratified by Japan. As a matter of fact the Japanese conception regarding prisoners of war differs from that of Europeans and Americans. Furthermore, differences in every day living conditions, as well as customs and manners between Japanese and other nationals, together with the enormous number of Prisoners covering such a vast area and embracing many different races, plus the acute shortage of various materials and supplies, made it impossible for this country to apply the Geneva Protocol verbatim.

The statement that the Japanese conception regarding P.O.W.'s differs from that of Europeans and Americans means that from ancient times the Japanese have deemed it most degrading to be taken prisoner, and all combatants have been instructed to choose death rather than be captured as a P.O.W. Such being the case it was considered that a ratification of the Geneva Protocol would lead public opinion to believe that the authorities encouraged them to be captured as prisoners, and there was fear that such a ratification might conflict with the traditional idea concerning P.O.W.'s and this fear had not been dispelled up to the beginning of this war. In response to an inquiry from the Foreign Office regarding the Geneva Protocol the War Ministry replied that although it could not announce complete

adherence to this Protocol, it perceived no objection to the application, with necessary reservations, of its stipulations concerning Prisoners of War. In January 1942 the Foreign Minister announced through the Ministries of Switzerland and Argentina that Japan would apply the Protocol **with modification (Junyo)** (Exhibits 1469-1957). By the term "apply with modifications" (Junyo) the Japanese Government meant that it would apply the Geneva Protocol with such changes as might be necessary to conform to the domestic law and regulations as well as the practical requirements of existing conditions. This was stated clearly in the note of the Japanese Government, dated 22 April 1944, made in reply to the protest of the American Government. (Def. Doc. 2775). The Army's interpretation of conditions/^{was} identical, and action was taken accordingly. The P.O.W. Treatment Regulations and other rules are consistent with the above statement.

DISCIPLINARY LAW FOR PRISONERS OF WAR

133. The disciplinary law for prisoners of war was amended in March 1943 (Exhibit 1965, Page 29 and the following pages in the English version.) There were two reasons for this amendment. First, the said Disciplinary Law for Prisoners of War was first enacted in the 38th Year of Meiji (1905) and contained the classification and the designation of the penalties which were in use previous

to the existing penal law; secondly, the original P.O.W. Penalty Law was enacted at the time of the Russo-Japanese War, and the conditions prevailing in this war were vastly different from those in the former war as for instance, the complexity of racial differences among P.O.W.'s, the variations in their nationalities, and, particularly, the number of P.O.W.'s involved being beyond comparison, thus making the entire situation much more complicated. Consequently, we were confronted with the necessity of effecting a reform in the control and supervision of P.O.W.'s.

134. The cardinal principles of reform in the Disciplinary Law for Prisoners of War are as follows: First, the new legislation adjusted those articles relating to the crime of violence ~~or~~ insubordination against P.O.W. Supervisors, the crime of escape in mass-conspiracy, and the crime of breach of parole. Second, the new law adopted new rules for penalties relating to misconduct such as prisoners' mass-meetings, assault and intimidation, and the formation of bands for the purpose of killing, wounding, intimidating, insulting or insubordination against P.O.W. supervisors, and these were all based upon the idea of applying with modifications the Geneva Protocol, and were drafted with the conviction that they were not in conflict with the Protocol.

MILITARY REGULATIONS FOR THE PUNISHMENT OF ENEMY
FLYERS

199. The penalties for those persons violating wartime laws and regulations during an air raid are provided for in the Vice War Minister's communication issued by order of the War Minister (Ex. 1992). The motive for this communication was as follows: When, on 18 April 1942 the Doolittle fliers invaded the Tokyo Area, atrocities were committed by these flyers in violation of international law and regulations. It is unnecessary to recall that these same atrocities instigated against a civilian population constituted war crimes according to established International Law. As a result a huge cry arose demanding truculent action, from the standpoint of national defense, to prevent such atrocities in the future. On the other hand it was considered highly important in future air raids to prevent rigorous treatment to plane crews by troops on the spot out of hatred to them. It was concluded essential that all these cases go to trial, and be disposed of after due deliberation as to whether or not particular acts constituted violations of international law and regulations. In view of the foregoing considerations, this communication of the Vice Minister was issued in July 1942. Based upon this communication, "Military Regulations for the Punishment of Enemy Flyers" was enacted in August 1942, in the name of the Commander-in-Chief of the Japanese Forces in

not of most facts?
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Def. Doc. 3000

China. (Exhibit No. 1991). This law is an assembly of the rules and customs of land warfare and of the draft regulations concerning aerial warfare, and was, therefore, not in the nature of a new set of regulations, but was rather a compilation of the principles of the law and regulations then existing in international practice.

136. As regards the punishment of the flyers who raided the Japanese homeland on 18 April 1942, a trial was held pursuant to the aforesaid court-martial law at a Court established in Shanghai, and all eight prisoners were sentenced to death. As to paying the penalty for these crimes, the court reported its findings to the Imperial Headquarters as required, and the Chief of the Army General Staff consulted with the War Minister, stating that the sentences should be carried out as pronounced by the Court unanimously. Being fully aware of His Majesty's gracious concern on such matters, I, as the War Minister, after an informal report to the Throne, took measures to have the death penalty of five of the prisoners commuted.

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CONSTRUCTION OF THE THAILAND-BURMA RAILWAY

137. The object sought in plans for the construction of the Thailand-Burma Railway was to expedite supplies to the Japanese forces in Burma as well as to facilitate commerce and communications between the two countries. On account of the relentless depredations to the sea-borne traffic by

g.e.a.?

enemy submarines, it became vitally important to open a land route to that area, and this railway was surveyed and constructed by order of the Army General Staff. As War Minister, I was consulted and agreed to the proposed undertaking by the General Staff. With respect to labor in connection with the work on the railway, I agreed to the employment of prisoners of war, which were placed under the jurisdiction of the War Minister. The railway route lay at a great distance behind the front lines and there being no military operations in progress in that area at that time it was quite apparent the construction work on this railway could not be construed as being confined within the class of military operations prohibited to prisoners of war labor by the Hague and Geneva Treaties and, moreover, the district was not an uncommonly unhealthy one for that area. Many Japanese soldiers, employed there side by side with the P.O.W. were treated equally with men of other and stronger nationalities, and there was not ever the faintest thought in our minds that this type of employment would ever be challenged as prohibitive under international standards.

deaths?

138. It was the Chief of the Army General Staff who undertook to direct the construction work of the railway but, as War Minister, I held the administrative responsibility as supervising authority over the P.O.W.'s. When informed in May 1943 of deficiencies in the sanitary conditions and treatment of the P.O.W.'s engaged in the work