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DX E was introduced in lieu of direct examination of Fumitoshi Yamanaka (R 651) who had previously testified as a prosecution witness (PX 180, 181; R 292). Yamanaka was a second lieutenant in the Intelligence Section engaged in monitoring and intercepting Allied broadcasts in both code and voice. About mid-April of 1945 a telegram was received from either the General Defense Headquarters or General Staff Headquarters in Tokyo under the name of either the Chief of Staff of the General Defense Headquarters or the Vice Chief of General Staff. The telegram was in code and was decoded by the telegram section of the headquarters. This document was shown to the witness by Captain Aihara, he stating that it related to their section and therefore he had better read it. Its contents were to the effect that in the future no enemy fliers other than fighter pilots, carrier based pilots, senior ranking pilots of B-29's and other important fliers, would be sent to Tokyo. Others would be suitably disposed of (Hoka wa tekigi ni shochi subeshi). After receiving this telegram and still in the month of April, Major Kikkawa of the 6th Section of the General Staff Headquarters came to this headquarters to explain the war situation and intelligence matters and the witness heard him say substantially that in other places B-29 fliers were being done away with and it would be appropriate for Western Army Headquarters to do likewise and in the event one flier was sent to Tokyo and others of the same group were killed, Tokyo was to be notified or else it would be bad. From this, witness received the impression that fliers held at the headquarters should be killed without a trial and, since a staff officer of the Central Headquarters had made this statement, that such was also the opinion of Tokyo. Witness was positive that Kikkawa's above statement was made around the latter part of April.

On cross-examination, the witness stated that since Kikkawa was a staff officer from the General Staff Headquarters; he thought that the opinion of the Central Headquarters was the same but Kikkawa did not definitely so state (R 652).

Exhibits D, E and G were admitted into evidence, they being extracts from prosecution exhibits from Case 328, U. S. v. Okido (R 654-655). These all relate to a letter from Colonel Yamamura, Chief of the Foreign Affairs Section at Kempei Tai Headquarters in Tokyo, addressed to the Central District Kempei Tai Headquarters at Osaka, said letter being top secret. The tenor thereof was that Kempei Tai should urge or suggest execution of air crew members upon army commanders. This letter came about the middle of June and subsequently airmen in the Osaka Area were executed without trial.

Yoshinao Sato, an accused, convicted under Specifications 1, 2 and 3, testified after being advised of his rights. About the first part of April Sato had a conversation with the abovementioned Major Kikkawa, the substance being the same as the above related testimony of Yamanaka. Kikkawa stated that from that time on the General Staff Headquarters did not want fliers sent to Tokyo because the B-29 fliers did not have any more important information and that only the pilot on a fighter plane should be sent. Yamanaka told Sato that Kikkawa stated that if Western Army Headquarters decided to execute crew members from the same plane, Tokyo should be notified so that they could carry out the execution also. Sato worked for Kikkawa and when, subsequent to this conversation with Kikkawa, that is, the latter part of April or the early part of May, a telegram was received from the Assistant Chief of Staff of the General Headquarters addressed to the Chief of Staff of the Western Army Headquarters which conveyed the same meaning, he was willing to act thereon. Sato then consulted with Captain Wako in Wako's office and Wako stated that the right way of handling this was by a military tribunal but that the official procedure as to military tribunal should be eliminated (R 656-658).

About one or two days later shortly after 10 May, another discussion was held in Ito's office, Sato, Ito, Wako and Ehatsu being present. Wako explained about the Doolittle case in Shanghai and that the circumstances made it difficult to conduct official trials and therefore it was Wako's opinion that action should be taken without a trial procedure. Ito did not agree with this stating that an official military tribunal should be created and requested that investigation of those fliers confined by the Western Army be conducted immediately by the Kempei

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