CONTEMPORARY JAPAN
PEARL HARBOUR RAID AND ROBERTS REPORT

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CONTEMPORARY JAPAN: A REVIEW OF EAST ASIATIC AFFAIRS

Both official and non-official quarters in the United States still contend that the telling raid on Pearl Harbour carried out by Japanese naval vessels and warplanes on the first day of the outbreak of the current Pacific war was in contravention of the international usage relative to opening of hostilities. They maintain that Japan "attacked" the territory of America before it dispatched a formal notice of war declaration to the Washington Government. The Roberts Commission appointed by President Roosevelt to inquire into the Pearl Harbour disaster came to the conclusion that Japan's "attack" was in violation of international law and custom. Japan, on its part, is quite satisfied that, by undertaking the Pearl Harbour raid, it did not transgress international law and custom in the least; it merely frustrated the pre-arranged plan of the American High Command to carry hostilities to its shores at an opportune moment. Since the United States is inclined to deride the Japanese version of the case, it would be more than a fair deal to refute its contention by drawing its
attention to the facts enumerated in the Roberts Report—facts which incontrovertibly prove the groundlessness of the accusation of Washington.

The Roberts Report ascertained and submitted the "facts" relating to the attack made by Japanese armed forces on the territory of Hawaii on December 7, 1941, (December 8, Japan time) to the President of America under date of January 23, 1942. It says that at about 7:55 a.m., Honolulu time, on December 7, 1941, Japanese forces attacked Army and Navy installations and ships of the Pacific Fleet in Oahu, and that although the United States and Japan were at peace on that morning, Japan planned to announce to the Secretary of State at 1 p.m. that day, E.S.T. (7:30 a.m., Honolulu time), the severance of diplomatic relation and to effect simultaneous attack on the Island of Oahu and Pearl Harbour. It opines: "The military preparations for this breach of international faith and honour were put in train and the forces for its consummation had been dispatched weeks prior to any initiation of the planned severance of relations."

It is explicit that the Roberts Report's condemnation of Japan is based on its unilateral interpretation of the international procedure relative to declaration of war. It
conveniently overlooks the evidence that this country was compelled to take defence precautions in view of America's military preparations centred on the fixed idea of a probable war with Japan. Yet it mentions that in a letter of January 24, 1941, the Secretary of the Navy advised the Secretary of War that "the increased gravity of the Japanese situation prompted a restudy of the problem of security of the Pacific Fleet in Pearl Harbour. If war eventuates with Japan, it is believed easily possible that hostilities would be initiated by a surprise attack upon the fleet or the naval base at Pearl Harbour. The inherent possibilities of a major disaster warranted a further speedy action to increase the joint readiness of the Army and Navy to withstand a raid of the character mentioned." The Report added that the letter concluded with recommendations for the revision of the joint defence with special emphasis laid on the co-ordination of Army and Navy operations against surprise air raids. The Secretary of War replied to this letter on February 7, 1941, and copies of both letters were sent to Admiral Kimmel, then Commander-in-Chief of the Pacific Fleet, and General Short, then Commanding General of the Hawaiian Department. It must be noted that as far back as January, 1941, the American High Command had been taking precautions against a hypothetical Japanese attack. Therefore, the Japanese assault on Pearl Harbour, which came much later, cannot be characterized as a "surprise raid."
The Roberts Report goes on to narrate that on October 6, 1941, the Commanding General, Hawaiian Department, and the Commander-in-Chief of the Pacific Fleet were advised by the war and Navy Departments of the changes in the Japanese cabinet, of the possibility of hostilities between Japan and Russia and of the probability of an attack by Japan on the United States and Great Britain; while both commanders were warned "to make preparatory dispositions which would not disclose their strategic intentions or constitute provocation against Japan." On November 24, 1941, the Chief of Naval Operations sent a message to Admiral Kimmel in which he stated that in the opinion of the Navy Department "a surprise aggressive movement in any direction by the Japanese, including an attack on the Philippines or Guam, was a possibility." On November 27, 1941, the Chief of Staff of the Army informed the Commanding General, Hawaiian Department, "that the negotiations with Japan seemed to be ended with little likelihood of their resumption; that Japanese action was unpredictable; that hostilities on the part of Japan were momentarily possible; that in the event hostilities could not be avoided the United States desired that this nation should not commit the first overt act; and that the Department Commander was not to be restricted to any course which would jeopardize his defence." On November 29, 1941, the Chief of Naval Operations, it is stated,
transmitted a message to the Commander-in-Chief of the Pacific Fleet directing the latter not to take any offensive action until Japan had committed an overt act. Curiously enough, the Commander-in-Chief of the Pacific Fleet subsequently issued an order to the effect that any Japanese submarine found in the operating area around the Oahu Island should be attacked. It needs no amplification to say that all these highly significant instructions were given to keep the Hawaiian defence on a war alert basis. In addition, the Commander-in-Chief of the Pacific Fleet and the Department Commander were vested with discretionary powers to safeguard the defence of their districts and stations. Under these circumstances, it is self-explanatory that the question of a "surprise attack" did not arise.

It is illuminating that the Roberts Report reveals that on November 27, 1941, the Chief of Military Intelligence set message to the Intelligence Officer on the staff of the Commanding General, Hawaiian Department, directing him "to inform the Commanding General and his Chief of Staff that negotiations with Japan had practically ceased; that hostilities might ensue and that subversive activity might be expected." It is all the more meaningful that on the same day the Chief of Naval Operations flashed a message to the Commander-in-Chief of the Pacific Fleet stating in substance "that the dispatch was to be
considered a war warning; that the negotiations with Japan in an effort to stabilize conditions in the Pacific had ended; that Japan was expected to make an aggressive move within the next few days; and that an amphibious expedition against either the Philippines, Thai or Kra Peninsula, or possibly Borneo, was indicated by the number and equipment of Japanese troops and the organization of their naval task forces.” In face of these two messages, there is no reason to doubt whatsoever that America had envisioned the start of hostilities, and that it had taken appropriate measures thereanent. The Commanding General, Hawaiian Department, was fully prepared against a Japanese raid, and as such, the success of the subsequent Pearl Harbour attack was partly clue to confusion or temporary lack of judgment on the part of the local command and partly due to the efficiency of Japan's attacking forces. It is a sad irony of fate that the Hawaiian Command, having complete knowledge of objective conditions, made a psychological subjective miscalculation. The blunder committed by the United States was of its own making. How can Japan be held responsible for it? For the sake of its own pattern of balanced judgment it is proper that America should look into the implications suggested in the following lines of the Roberts Report:

A suspicious object was sighted in the prohibited area off Pearl Harbour at 6:30 a.m. on December 7, 1941, [December 8, Japan time] by the U.S.S. Antares. Between 6:30 and 6:45 a.m., this object, which was a small submarine, was attacked and sunk by the
which was a small submarine, was attacked and sunk by the concerted action of a naval patrol plane and the U.S.S. Ward.

An estimated force of from 150 to 200 Japanese fighting, bombing and torpedo planes simultaneously attacked Pearl Harbour and all air bases on Oahu at about 7:55 a.m.

It is categorically stated that between 6:30 and 6:45 a.m. a small submarine, that is, a Japanese midget submarine, was deliberately made a victim of the joint action of an American naval plane and a warship. This first act of hostility occurred one hour and some minutes before Japanese aircraft attacked Pearl Harbour. In other words, it is officially admitted that Japan was "attacked" first, and that the Pearl Harbour raid came after. If one favours the estimation that the first act of military hostility committed by a State without giving an advance notice should be accepted in the light of international law relative to opening of hostilities, he must observe that the United States entered into a state of war with Japan when it opened fire on a Japanese submarine between 6:30 and 6:45 a.m. His own judgment will endorse the veracity of the irrefragable fact that Japan was legally and militarily justified in attacking Pearl Harbour.

Certain circles, referring to the Third Hague Convention relative to opening of hostilities, endeavour to press the
view that the said convention forbids a war to be started without being preceded by a formal declaration of war or serving of an ultimatum containing a conditional declaration of war. The convention, as it exists, is principally designed to restrict surprise attacks, and so it stipulates that opening of hostilities should be preceded by a declaration of war or by an advance notification in the form of an ultimatum. It does not concern itself with the actual manner in which hostilities are started. The scrutiny of such a manner is within the purview of international law alone. The Third Hague Convention, in reality, is an idealistic instrument backed by moral obligation. Its terms can be honoured only when no overt act is wilfully committed by a nation. But if an overt act is committed, like the American action in attacking the Japanese submarine, the idealism and the moral obligation envisaged in the convention become automatically null and void. This is the reason why the Third Hague Convention cannot be applied in respect of the Pearl Harbour raid.

The formula for the commencement of a state of war between nations as recognized by international law does not specify a formal declaration of war or serving of a conditional ultimatum. Even if it is agreed that international law desires the formal issuance of an advance notice, it must be pointed out that the moment a hostile act is
committed with the intention of initiating hostilities, that very act, in effect, serves the purpose of a formal declaration of war, unless it can be proved that the act has been committed as a measure of self-defence or of retaliation without any intention of opening hostilities. The American action in attacking the Japanese submarine was neither a measure of self-defence nor a temporary retaliatory step. It was a deliberate action to provoke hostilities and, therefore, Japan was quite within the bounds of international law to construe it as a formal indication of the start of war between the two nations.

In one place the Roberts Report writes that "the Commander-in-Chief of the Pacific Fleet issued an order that any Japanese submarine found in the operating areas around the Island of Oahu should be attacked." The Roberts Commission found that this order "went beyond the authority given him by the Navy Department." If that is so, the attack on the Japanese submarine was not prompted by any necessity of self-defence; it was, in fact, a calculated overt act of a belligerent nature. The Japanese attack on Pearl Harbour which followed this act of hostility was a legitimate hostile action undertaken after a state of war between Japan and the United States had been created by the latter's armed forces.

With regard to the allegation that America was forced to accelerate its defence preparedness in view of Japan's "aggressive intention," it must be borne in mind that this
country up to the last minute had been sincerely desirous of retrieving the situation in the Pacific by means of conciliatory negotiations. Official statements made from time to time unequivocally clarified that Japan never entertained any motive of aggravating the situation in the Pacific. The American Government not perfected a military encirclement of Japan in collusion with Chungking, London and the refugee Dutch Government, but also imperilled the self-existence of this country by freezing its economic assets—a step which was concurrently executed by America's "democratic " partners. This economic war in its application constituted an act of belligerency. Notwithstanding that, the Japanese Government, showing utmost patience, submitted a conciliatory proposal to the Washington Government for the just and reasonable settlement of all pending issues relating to East Asia. Diplomatically, America's non-acceptance of this proposal of Japan meant the serving of an ultimatum on this country, and militarily; the prompt action taken against a Japanese submarine in the early morning of December 7, 1941, Honolulu time, initiated the actual opening of hostilities between the two countries. It is evident from this analysis that the Roosevelt Government is to be blamed for provoking an unnecessary war with Japan.

The Roberts Report in conclusion penalizes Japan for
having disregarded "international law and custom relating to declaration of war." Since it refers to declaration of war, it must be presumed that it has included the Third Hague Convention in the scope of international law. By way of amplification, it may be added that this convention, which was adopted at the Second Hague Peace Conference, under Article I stipulates that an act of hostility shall not be instituted by one party without giving the other party an advance notice in the form of a declaration of war or an ultimatum containing a conditional declaration of war. It does not make any provision for the time to elapse between the submission of the said advance notice or ultimatum and the start of an act of hostility. Any Power, in consequence, has the legal privilege to commit an act of hostility a half hour before the submission of the advance notice or even simultaneously with the initiation of war. Noting this flaw, the Netherlands delegate to the Second Hague Peace Conference moved an amendment to the effect that "twenty-four hours shall be prescribed as the time to elapse between the dispatch of an advance notice and the commission of an act of hostility." The Russian delegate seconded the amendment, but the delegates of Japan, America and France voiced their opposition to it. The French delegate, who drafted the convention, went so far as to assert that the requirements of modern warfare
absolved an attacker from giving his enemy more time than was absolutely necessary to receive a communication in respect of an impending attack. The Netherlands amendment was lost and the Third Hague Convention was adopted without any provision for time limit. In adhering to the convention, General Porter, American delegate, made it clear that the United States would not be bound by its stipulations in case it decided to wage a war in self-defence. This reservation on the part of the United States reflected its intention to remain free from joint international obligations concerning the manner in which an act of belligerency should be committed and hostilities initiated. The inclusion of the phrase "self-defence" in the reservation was either a case of political euphony or a diplomatic cliché designed to give a new elastic definition to the phrase itself whenever the United States elected to justify its own mode of starting hostilities.

If the American contention that Japan attacked Pearl Harbour without a formal declaration of war is treated in the light of the stipulations of the Third Hague Convention, it will be noticed that the attack on the afore-mentioned Japanese submarine by American forces constituted a hostile act not recognized by the convention. On the other hand, the Japanese raid on Pearl Harbour was made one hour and a few minutes after the United States had "attacked " Japan. The American attack, as has been pointed out earlier, was not at all an act of self-defence. According to the Roberts Report, Japan planned to
announce to the Secretary of State at 1 p.m. that day, E.S.T. (7:30 a.m., December 7, Honolulu time), the severance of diplomatic relations and to effect simultaneous attack on the Island of Oahu and Pearl Harbour. It then adds that "at about 7:55 a.m., Honolulu time, on December 7, 1941, Japan forces attacked Army and Navy installations." This admission beyond doubt exposes that the attack on Pearl Harbour was carried out after the time mentioned in the Roberts Report concerning the rupture diplomatic relations.

The relevant extracts quoted herein from the Roberts Report on Pearl Harbour corroborate the legality of Japan's "attack" on Pearl Harbour and reveal the falsity of American chagrin. The subjective miscalculation on the part of the Hawaiian Command under no circumstances can be used as a painted truth to give a different picture to what had actually taken place. The fact-loving American people must ponder over the "facts" recorded in the Roberts Report, for in that event they will realize by themselves that the initiative for the start of the present Pacific war was taken by their Government, and that the Japanese raid on Pearl Harbour was motivated by the incontestable necessity of safeguarding national self-defence and self-existence in view of a hostile act perpetrated by American forces without any previous warning.