

(Particulars with regard to this accused are to be found on page 330 of the Summary). There are no additional documents.

The accused MATSUI was born on 27 July 1878. He graduated from the Military Staff College and after having held various military appointments was appointed Commander of the 11th Division in 1929 (Exhibit 115).

On 9 December 1931 he proceeded to Geneva as a delegate to the Disarmament Conference and was appointed Supreme War Councillor on 18 March 1933 (Exhibit 115).

In 1933 he was appointed Commander of the Formosan Army Corps and on 28 August 1935 placed on the Reserve List.

On 15 August 1937 he was appointed Commander of the Shanghai Expeditionary Forces (Exhibit 115).

On 30 October 1937 he was appointed Commander-in-Chief of the Central China Expeditionary Forces and concurrently Commander of the Shanghai Expeditionary Forces (Exhibit 115).

MATSUI was released from service on 5 March 1938 and on 20 July 1938 was appointed a Cabinet Councillor, which appointment he held until 23 January 1940 (Exhibit 115).

On 5 July 1939 he was appointed to the Committee of the East Asia Commission.

Exhibit 168, page 1674, dated 8 July 1942, discloses that he was Vice-President of the Greater Japan East Asia Prosperity Alliance and advisor to the Japan Imperial Rule Assistance Headquarters Adult Corps. The same Exhibit discloses that he was advisor to the Central Headquarters of the Greater Japan Imperial Rule Assistance Association.

On 29 April 1934 he was decorated with the Grand Cordon of the Rising Sun for meritorious service during the war 1931-1934; and 29 April 1940 he was decorated with the First Class Order of the Golden Kite for meritorious war service during the China Incident (Exhibit 115).

At the time of the "Lady Bird" and "Panay" Incidents, MATSUI was Commander of the Central China Expeditionary Forces, which consisted of two armies, - one commanded by Prince ASAKA

and the other by Lt. Gen. YANAGAWA. While it is clear from the interrogation of the accused HASHIMOTO that the order to sink all vessels proceeding towards Nanking, without regard to their nationality (Exhibit 2188, page 15678), was issued by Lt. Gen. YANAGAWA, it is submitted with or without that evidence that as Commander of the entire forces responsibility for the order falls upon the accused MATSUI.

Prior to the attack upon Nanking, MATSUI issued a proclamation, which was widely distributed by airplane, declaring that the Japanese Army had only good will for the peaceful citizens of China and would do no harm to those who did not resist the Imperial Army (page 2632, Dr. M. S. Bates).

The troops that entered Nanking from the 13th to 16th of December 1937 were experienced troops officered by experienced men (Exhibit 257, page 3460, interrogation of MATSUI).

The evidence discloses that there was no resistance in the city on the part of the Chinese (page 2628, Dr. M. S. Bates).

Page 3894, John G. Magee, there is also evidence that on the 13th of December all Chinese soldiers had left the city (page 2558, witness Hsu-Chuan-Ying).

On the 17 December 1937 MATSUI entered the city and a military review was held which was followed on the 18th of December by a memorial service and a press release by Gen. MATSUI, dated the 18th December 1937 (Exhibit 262, page 3510) states that the army having become considerably exhausted it is necessary for troops in general to take a little rest because the army has been engaged in unremitting landing operations for four months.

The accused MATSUI, left Nanking one week after his entry on 17 December when he returned to Shanghai. (Exhibit 257, page 3459, interrogation of MATSUI).

Evidence of Dr. R. O. Wilson (page 2536), G. A. Fitch (page 4460), Dr. M. S. Bates (pages 2629, 2630) and John G. Magee (page 3894) makes it clear that thousands of civilians, including women and children, were killed by Japanese soldiers

inside the walls of the City and thousands more were marched to the bank of the Yangtze River and mowed down by machine gun fire.

The witness, Dr. M. S. Bates, further states that more than 30,000 soldiers, who had surrendered and laid down their arms, were put down by machine gun fire within the first 72 hours, immediately outside the walls of the City. (page 2630).

Exhibit 324, page 4537, being a chart showing victims buried, shows a total of 155,337, while Exhibit 327, page 4547, being a report on War Crimes at Nanking prepared by the Procurator of the District Court, states that the number of victims killed totalled 278,586.

There were thousands of cases of rape (page 2634, Dr. M. S. Bates) and looting was carried on on a vast scale. In some cases it was well organized and fleets of armed trucks under the direction of officers were used to remove the stolen property (page 2635). Approximately one-third of the city was destroyed by fire (page 4592, Exhibit 329).

A German Foreign Office in China report (page 4604, Exhibit 329) states that the fall of Nanking clearly shows a lack of discipline, atrocities and criminal acts not of an individual but of an entire army. In our submission much of it must have been deliberately ordered.

Both Dr. Bates (page 2644) and John G. Magee (page 3928) state that there were an inadequate number of military police available in Nanking and that the gendarmes began to do the same things the soldiers were doing.

The evidence shows that complaints were made almost daily to the Japanese Embassy at Nanking (page 3922) and reports from members of the diplomatic corps, and their press men, that the Japanese Army at Nanking had committed atrocities were reported to the Foreign Office (ITO, page 3506).

The atrocities continued for weeks after the fall of the city and Dr. Bates states (page 2644) that after February 6 and 7 there was a notable improvement in the situation and

although many serious cases occurred between then and the summer they were no longer of a mass or wholesale character.

Mr. Magee (page 3922) states that after about six weeks it began to taper off, although many individual things happened after that.

The witness, Hsu-Chuan-Ying at page 2954 says that the Japanese authorities did not try to stop the atrocities and not a single proclamation or notice was put on the street to stop them. Both John G. Magee (page 3941) and Dr. Bates (page 2642) say that there was no serious effort made to stop the atrocities.

It is interesting to note that so far as punishments were concerned, MATSUI's recollection is that the only entries in his diary concerned the court martial of an officer, and perhaps three soldiers, in connection with rape of Chinese in Nanking.

MATSUI returned to Japan in February of 1938 and was succeeded by General HATA on the 17 February 1938 (Exhibit 256, page 3445). Upon his return, according to his interrogation (page 3464) MATSUI was not asked to make a report but states that while he does not know for certain there must have been investigations and reports. That his recall was merely window-dressing is shown by his appointment within a few months as Cabinet Councillor and his subsequent high decoration for his services.

With regard to his political activities, in 1929 MATSUI in his capacity as Director of the Second Section of the General Staff, called a meeting in Berlin of all the military attaches in European countries (interrogation of MATSUI, Exhibit 733A, page 7644) at which meeting there was discussed sabotage measures to be taken in case of war with the USSR, and a survey of the future activities of White Russians in foreign countries and the intelligence work against the USSR by Japanese military attaches stationed outside of the USSR.

Exhibit 732A, page 7658, the witness, General Ching Teh-chun, states that in the autumn of 1935 MATSUI was in

Peiping hoping to establish a branch of the Greater East Asia Association and advocated in his conversation with General Ching that Asia should be the Asia of the Asiatics and that European and American influences should be expelled (page 2317).

On the 14 July 1937, according to KIDO's diary, MATSUI called and he talked on matters such as discontinuing the dispatch of troops to North China and became indignant (Exhibit 2254, page 16217) and the affidavit of YAMAGITA, Commander of the Kwantung Province Defense Army, describes MATSUI as one of the military authorities in Tokyo active in the occupation of Manchuria (Exhibit 723, page 7580).

At the time of his arrest MATSUI was President of the League for the Revival of Greater East Asia and belonged to a number of Pan-Asiatic organizations (interrogation of MATSUI, Exhibit 733A, page 7644).

It is submitted that MATSUI was a member of the conspiracy throughout the entire period charged and the motion made on his behalf should be dismissed.