

Doc. 2705 Evid.

Folder 43

(24)

Statement of U Thein Maung, M.A., Ll.B., (Cantab),
Barrister-at-Law, sometime Advocate-General of Burma.

I, U Thein Maung, having been asked by the Deputy
Chief of Police, No. 1 Area, to prepare a statement of
my work and activities since March 1942, state as
follows:-

1. I had served loyally and to the best of my ability
in and under the (British) Government of Burma
over five years before March, 1942.
(a) first as Minister for Education, (b) then as a
Member of the Public Services Commission and (c)
again as Advocate-General.
2. I was appointed Advocate-General in January, 1938 and
I was serving as such in March, 1942 at Sagaing
where I had evacuated my office since 23rd February,
1942 hoping that the tide of Japanese invasion would
be stemmed successfully below Pyinmana and Magwe.
3. I held the said appointment and remained at my post
till Sagaing was actually occupied by the Japanese
at the beginning of May, 1942.
4. A few days after the said occupation, the Japanese
Military Police ordered the presiding nun of the
Thameintaw Gyaung, Sagaing Hills, i.e. of the
Gyaung where I was staying with my family and some
members of my office staff, to vacate her Kyaung
immediately, and opened an office there. I believe
that I was under their surveillance since then.
5. A few days later the Japanese Military Police officer
in charge of the said office asked several prominent
refugees in the Sagaing Hills including Sir J. A.
Maung Gyi, Sir Maung Gyee, U Aye (somewhile Home
Minister), U Ba Yin (somewhile Minister for Education),
U Ba Aye, K.S.M., A.T.M., (somewhile a Member of the
Public Service Commission) and myself to move into
Sagaing town proper and to occupy houses allotted by
him. So I had to move into the town and occupy the
house which was directly in front of the new Japanese
Military Police Office.

6. I had to stay in the said house till the 17th August, 1942, i.e., a little over three months and during the said period I was horrified at what I saw and heard of the cruelty of the Japanese Military Police.
7. I was taken by the Japanese Military Police Officer to Maymyo on the 19th May, 1942, along with others, viz., U Aye (somewhile Home Minister), U Ba Yin (somewhile Minister for Education), U Ba Pe (somewhile a prominent M.H.R.) and Dr. U Set, C.I.E., (somewhile Municipal Commissioner of the Rangoon Corporation). There we met some Japanese Army Officers who asked us how Burma should be governed and how peace and order could be restored.
8. On return from Maymyo the same evening, U Aye, U Ba Yin and myself had to pass the night in Mandalay in the dormitory of the Japanese Military Police with some officers and men of the said force.
9. A Japanese Military Officer, who was then popularly known as Bo Mogyo, sent for Sir Maung Gye and myself while he was in Mandalay in the same month of May, I believe, Sir Maung Gye had a talk with him first. After that he merely informed me that he had no more time, that he had said what he had to say to Sir Maung Gye and that the letter would give me the necessary information. Sir Maung Gye then told me that Bo Mogyo desired that he (Sir Maung Gye) and I should neither expect nor accept any office under the Japanese regime and that he had very willingly given him (Bo Mogyo) the assurance not only for himself but also on my behalf. I then told Sir Maung Gye that I heartily agreed with him that I had no desire to serve under the Japanese and that he had rightly given the assurance on my behalf also. The assurance so given was announced in a Mandalay paper within a day or two thereafter.
10. I left Sagaing on the 17th August, 1942, with the consent of the Japanese Military Police Officer and arrived at Rangoon two days later.
11. On arrival at Rangoon I found that my house (No.24-28 Kennedy Street Rangoon) was being used as a Vaccination Depot by the Japanese and I had to go and get it back from what was then known as the Hiraoka Commission.

12. I had to stay in Rangoon till the beginning of October, 1942, as the house was returned to me expressly for my own personal residence.
13. I removed from Rangoon to Paungde with my family at the beginning of October, 1942, and I let my house (No. 26 Kennedy Street, Rangoon) to the People's Bank as I intended to live at Paungde till after the war was over.
14. In April, 1943, i.e., while I was at Paungde and nearly a year after the British had evacuated Burma, I received a telegraphic message from Dr. Ba Maw, who was then Premier under the Japanese Military Administration, asking me to serve as a member of the Burmese Independence Preparatory Commission and to help in the preparation of a Constitution for the Government of Burma. The message was sent to the District Commissioner, Prone (U Thein Nyua) and the latter sent a Police Officer to deliver it to me personally at Paungde.
15. I received a letter also from Sir Mya Bu (somewhat a Judge in the High Court of Judicature at Rangoon) urging me to serve on the said Commission. The letter gave me the impression that it was the desire, if not a command, of the Japanese Military Administration and that it would be improper, if not risky, to refuse to serve on the Commission. This impression was confirmed by other information.
16. I also received information that such prominent personages as Dr. Sir San C. Po, Sir Mya Bu, Sir U Thwin, Dr. U Set, C.I.E., U Aye (somewhat Home Minister) and U Tun Pe (somewhat M.H.R. for the University of Rangoon), whose loyalty to the British Government could not be doubted, would also be members of the said Commission.
17. Under the said circumstances and in view of the fact that I had taken a prominent part in connection with the last two constitutions for the Government of Burma, e.g., as a member of the Burma Deputation to London in 1919-20 and as a member of the Burma Delegation to give evidence before the Joint Select Committee of both Houses of Parliament in 1933-34, I felt that I had no excuse, which would be acceptable to the Japanese Military Administration, for refusal to serve on the said Commission.

18. I also felt that civil government under a properly framed constitution would be much better than Japanese Military Administration without any Constitution whatsoever and that I would be failing in my duty to my people and to my country if, I did not help in framing a Constitution for the Government of Burma which would terminate the said Administration.
19. Furthermore, a Japanese Military Officer came to my house at Paungde with the District Commissioner, Prome (U Thein Nyun) and inquired why I had not gone to Rangoon to serve on the said Commission.
20. So I came from Paungde to Rangoon on the 4th May 1943 and served on the said Commission.
21. I soon found (1) that the Commission did not have a free hand and (2) that the Japanese Military Authorities, on whose behalf Major-General Isomura attended most of the meetings, interfered at almost every turn sometimes openly by messages delivered or communicated to the Chairman (Dr. Ba Maw) or to the Negotiations Committee of the Commission (with instructions to treat them as military secrets) and sometimes by private talks and interviews with some members.
22. I also found (1) that they wanted the Constitution to be framed in such a way that all power should be vested in one person viz., Dr. Ba Maw in order most probably that they themselves might be able to get everything done by putting pressure on him (2) that Dr. Ba Maw, who had styled himself as Arnarshin (Dictator) even before British evacuation of Burma, was naturally in favour of all power being centralized and (3) that Dr. Ba Maw and the then Ministers (with the exception of Thakin Tun Ok and Thakin Ba Sein) formed a very powerful bloc.
23. So I had to take a leading part in the Commission and to fight hard against them. I trust that most of the members of the Commission, if not all, will testify that I fought courageously and persistently for the people of Burma and that I succeeded to a certain extent in liberalizing the constitution.

24. The Commission had to appoint a Negotiations Committee at the very outset. The duty of this Committee was to negotiate on various questions of national importance with the Japanese Military Authorities, through a Committee which they had set up specially for this purpose. As a member of the said Committee I found that there was more of dictation by the Japanese Committee than of negotiation, which was permitted, and that several questions of vital importance had to be left, at their instance, for settlement after Declaration of Independence.
25. The Commission had to submit the various parts of the Constitution to the Japanese Military Authorities, as soon as they were ready, for transmission to and for the approval of the Japanese Government.
26. The Japanese Military Authorities asked the Commission to prepare a Declaration of Independence. In fact a draft Declaration was supplied by them to indicate what they expected of the Commission, and I believe that the Declaration as drafted by the Commission had to be sent to them for approval.
27. The Commission was responsible to a considerable extent, though not entirely (for the reasons already stated), for the Constitution and the Declaration of Independence.
28. However, the Commission was absolutely innocent of the Declaration of War which was made by Dr. Ba Maw in his capacity as the Head of State on the 1st August, 1943. The Commission did not know anything about it till it was formally made by him then. Many of them were about to leave the Government House as they were under the impression that the business for the day was over. They were very much surprised when they were called back and the Declaration was made. As a matter of fact the Declaration was not on the agenda for the day at all. Please see annexure A which is a copy of the Detailed Programme of the Functions on the Day of the Burmese Independence.
29. The same must be said of the new Ministers (including myself) who were sworn in on that day. I am not sure whether the old Ministers knew that the Declaration would be made; but think that they also did not know till it was actually made.

30. The main reasons for which I accepted office as Minister for Judicial Affairs are as follows:-

- (1) I was asked by the Chief of the Political Department of the Japanese Military Administration (Mr. Ozeko) to accept office and cooperate with Dr. Ba Maw, who had been chosen and honoured by the Tenno Heika and I believed that refusal to do so would, under the circumstances which were prevailing then, be harmful. My apprehension was justified though ex post facto and somewhat indirectly, by the fact that Thakin Tun Ok and Thakin Ba Sein, who generally followed my lead in the said Commission, were exiled from Burma shortly after Dr. Ba Maw became the Head of State.
- (2) At the same time I realised (a) that actual transfer of civil power from the Japanese Military Authorities had yet to be obtained and (b) that abolition of the Japanese Military Administration would be of no effect in actual practice if the Civil Government were weak and the influence of the Japanese Military Authorities remained as before.
- (3) I felt that negotiations made by the Negotiations Committee of the Commission must be continued, till the respective questions were settled, to safeguard the interests of Burma and her people as against Japan and her ambitions in the various spheres of life and activity. As a member of the said Committee I had been able to gauge Japan's intentions and the extent to which the interests of the country and the people might suffer on account of Japan, and since then I had become much more anxious than I was before.
- (4) I felt that a good deal remained to be done in order that the Burmese people might be free from oppression by the Japanese Army, the Japanese Military Police, their followers and the Japanese Commercial people.
- (5) I felt that the independence of the Burmese judiciary and magistrary must be made real and that Japanese attempts to interfere with their administration of justice must be stopped.
- (6) I felt that law and order must be strictly maintained in the interests of the country.

- (7) I felt that I would be failing in my duty to my country if I refused to accept responsibility under the said circumstances.
- (8) I also felt that there could be no objection on the part of the British because:-
- (a) it was to their interest also that law and order should be maintained in the country,
 - (b) H.E. the Governor of Burma is reported to have already broadcasted that people could serve under the Japanese regime and (c) I had waited over a year before accepting office.
31. During my tenure of office as Minister for Judicial Affairs, I have always protested against Japanese encroachments on the rights of the Burmese Government and the people of Burma not only in matters which were under the Ministry but also in other matters which were placed before the Council of Ministers. I trust that all my colleagues on the said Council would support this statement of mine.
32. A copy of the gist of my statement to the Japanese Commander-in-Chief on the 18th November, 1944, is annexed hereto as a sample of my efforts to safeguard the interests of the people. It will throw some side light on my work and activities. I may mention that Sir Mya Bu and others were present when I made the statement to the Japanese Commander-in-Chief and that Sir Mya Bu supported me as regards Japanese interference with administration of justice and proclamation of martial law. Five flaps relating to some of the cases which I had in mind at the time of making the said statement are submitted herewith.
33. Japanese Military Authorities posted Japanese military guards and detectives at the residence of all Ministers from the 1st April, 1945. i.e., a few days after the Burmese Army started attacking Japanese Forces to the 24th April, 1945, i.e. a few days before their final evacuation of Rangoon; and the detectives accompanied them (the Ministers) wherever they went.

34. On the 24th April, 1945, all Ministers were asked to evacuate Rangoon. I then led the Opposition, as it were stating inter alia (1) that the interests of peace and order not only in Rangoon but throughout the country, which had not yet been reoccupied by the British, required that the Ministers should remain in Rangoon and (2) that they, as leaders, should share the fate of the people instead of leaving them in the lurch, as suggested, however hard Rangoon might be attacked by the British and Americans.
35. I have remained behind in Rangoon for the above reasons and also for the reason that my conscience is clear. I have done my best (1) to protect the interests of the people of Burma against the Japanese, (2) to maintain law and order in the country in spite of the war and (3) to see that the Japanese did not interfere with the administration of justice. In short, I have done my best to replace the reign of terror under the Japanese with a reign of law under a Constitutional Government with considerable success and I have not done anything improper or against the interests of the country and the people.
36. I have tried to make my statement as full as possible but I am handicapped as I do not know on what points information is required. If it be found to be defective in respect of any particular question I shall willingly supplement it with answers at my examination.

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Examination of U Thein Maung (DCPI/038)

2.6.45.

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Sir J. A. Maung Gyi and I and others were made to live in the houses in the same street. The Japanese probably thought that if the leading members of the Burmese Community live in Sagaing the general public would return. When I and the others mentioned in my statement went to Maymyo on the 19th May 1942, we were each in turn asked for our views on a Constitution for Burma. I pointed out the first immediate necessity was the restoration of law and order. I then said that old Government servants should be employed and was asked by the Japanese whether they would remain loyal to the Japanese. I replied that most of them would not be

likely to turn against the Japanese but in any case they were the most suitable persons to restore quieter conditions. I also said that the question of constitution should be considered later. I do not know what the other members of the party said. They told me afterwards their views were substantially the same as mine.

From May 1942 up to April 1943 I had no connection with political matters. I lived first in Rangoon and later in Paungde. In April 1943 Dr. Ba Maw sent me a telegraph asking me to serve as a member of the Burmese Independence Preparatory Committee. I was also urged by Sir Mya Bu to accept offer as it was more a military order than anything else and it would be unwise to refuse it. I went to Rangoon at the beginning of May 1943 and served on the Commission. At the meetings I soon realized that the Commission was not given a free hand and that if the discussions were proceeding in a way which did not suit the Japanese we were soon informed as to what we should do. For instance, the Japanese said that the Head of the State must not be designated either King or President, that the Head of State must ~~also~~ ^{not} be the Prime Minister and that there must also be a separate office of Prime Minister, and also that there must not be a Legislature. The majority of the members of the Commission were supported by Dr. Ba Maw and his suggestions were always what the Japanese wanted. I led the opposition and was generally supported by Thakins Tun Ok and Ba Sein, U Set, Henzada U Mya and a few others, but we were always out-voted. I was in favour of a Legislature as in my opinion it was impossible to form a responsible government without one. I pointed out that this Commission had to decide very important matters and said that the proceedings should be made public including the communications from the Japanese authorities. This proposal was turned down and we were told that the proceedings were Japanese Military secrets and ~~any one disclosing that the proceedings were Japanese Military secrets and any one disclosing them would be very severely punished.~~ This was nothing more than a threat.

I was appointed to the Negotiations Committee, the other members of which were Dr. Ba Maw, Thakin Aung San, Thakin Than Tun, U Ba Win and U Tun Aung. I was the only member of the Committee who was not a member of Ba Maw's party. At the Committee meeting Japanese had speeches written in Japanese and these were read out by Burmese interpreters into English and we then made notes and later put these views before the Commission. I asked for copies

of the speeches but they refused to give them to me. In other words, the Committee merely acted as a mouth-piece for the Japanese. Japanese gave the Commission a draft of the Declaration of Independence and the Commission then drew up its own draft incorporating what was laid down by the Japanese. This draft was then sent for approval, to the Military Administration. I knew nothing of declaration of war until Dr. Ba Maw actually read it out. Nobody signed this except by Dr. Ba Maw. I was only offered the appointment of Minister the day before the declaration was made, i.e., 31st July, 1943. I did not refuse the appointment; I knew that there were a large number of questions to be settled and I considered that if I accepted office I should be able to do something in the interests of the people of the country. The Japanese did not interfere with me as a Minister but they did interfere in the Judicial Administration of the district, and I constantly had to protest against this interference with the administration of justice. I was supported in this by others, particularly by Sir Mya Bu, who was then Chief Justice. I did not make any broadcast but made two public speeches one at Government House and one at the Shwedagon Pagoda. On the first occasion I spoke on the creation of the Mahabama Asi Ayon. I said that the creation of this Association was a correct thing as it was to unite all the various tribes and races of Burma. On the second occasion I spoke on the 'Blue Print' and stated that the Secretary of State's declaration that the Governor's rule should last for an indefinite period was unsatisfactory and that even a period of six years recommended in the 'Blue Print' was too long. This speech was made by me about the end of 1944 or beginning of 1945.

I took no particular active part in the actual Government of the country. Everyone from Dr. Ba Maw downwards was dissatisfied with the way in which Japanese controlled everything. Any scheme for the benefit of the country was either pigeon-holed or rejected, by the Japanese authorities. I never visited Japan.

Even the Privy Council could do very little and bills were first referred for approval to the Japanese and then sent to the Privy Council. In the case of two bills Dr. Ba Maw did insist after a considerable delay that they should be placed before the Privy Council even though the Japanese had not approved of them. Ultimately the Bills were enacted but Dr. Ba Maw had to give an undertaking that Nipponese interests in Burma would not be affected.

Had I refused office I should certainly have come under the suspicion of the Japanese Military Police as being anti-Japanese with possible serious consequences. I most certainly did not approve of the Japanese.

I was never told to evacuate to India. I never actually contemplated evacuating as I firmly believed that the invasion would be halted on the Pyinmana-Magwe line. And even when the occupation was complete I was certain that Allied troops would return very shortly.

Signed before me

R. O. & A.C.

(Signature. C.H. RAYNES
Col. (int.)
(Date) 2.6.45.

Signature: THEIN MAUNG
(Date) 2.6.45.

(True Copy)

/s/
(C.B. ORR)
Dy. Inspector-General of Police,
C.I.D., Burma, Rangoon.

森ノ九〇〇乙第三四六號

陸軍

日本軍が使用中ノ印度人ニ対スル裁判權ニ関スル件

昭和十九年七月六日

森第ノ九〇〇部隊參謀長

ビルマ國司法大臣殿

日本軍ニ於テ使用中ノ印度人ノジエー・ビー・サニヤルナル者昭和一九年三月四日詐欺罪ニ因リ告訴セラレ事件ハ目下ラ
 ンゲーン市法院一九四四年刑事上告第一号トシテ審理中
 ナルトコロコサニヤルハ日本軍敵産管理班ニ於テ使用中
 ノ職員ナルヲ以テビルマ國法院ハ同人ニ対シ裁判權ヲ有
 セズ加之本件告訴ニ係ルコトサニヤルノ行為ハ日本軍ノ敵
 産管理班ノ業務ニ関スル公ノ行為ナルヲ以テ此ノ点ヨリ
 スルモ「ビルマ」國法院ハ之ニ対シ裁判權ヲ有セザルコト明ナリ
 仍テ貴國政府ハ市法院ハ「サニヤル」ニ対シテハ裁判權ヲ有セ
 ザルコトヲ理由トシテ同人ニ対スル上告ノ申立ガ却下セラルル様
 措置セラレ度

參考送付書

ランゲーン市法院判事

東京小津結

MORI 7900 Otsu #246
6 July 1944/Showa 19/

From: Chief of Staff, MORI 7900 Unit.
To: Justice Minister, BURMA.

Subject: Jurisdiction over Indian employed by
the Japanese Army.

One J.B. Sanyal, an Indian, who is employed by the Japanese Army, has been accused of fraud on the 4th March 1944 and the case is now being examined by the City Court of Rangoon as Criminal Appeal No. 1 of 1944.

However, as J. B. Sanyal is an employee in the service of the Enemy Property Custodian Corp of the Japanese Army, the Burmese Court does not possess any judicial power over him. Moreover, since the actions of Sanyal as charged in the accusation was a performance of a public act connected with the duties of the Enemy Property Custodian Corp of the Japanese Army, and that when considered from this point, it is evident that the Burmese Court do not possess any judicial power over him.

May We therefore, request, Your Government take the necessary steps so that the application for revision against the said person be dismissed on the ground that the City Court has no Judicial power over him.

For Reference sent to: Rangoon City Court Judge.

INTERNATIONAL PROSECUTION SECTION

Doc. No. 2705

14 October 1946

ANALYSIS OF DOCUMENTARY EVIDENCE

DESCRIPTION OF ATTACHED DOCUMENT

Title and Nature: Certified Statement of U. Thein Maung, former BURMESE Advocate-General, of Activities since March 1942

Date: 2 Jun 45 Original () Copy (x) Language: English

Has it been translated? Yes () No (x)

Has it been photostated? Yes () No (x)

LOCATION OF ORIGINAL

CID, Burma (Rangoon)

SOURCE OF ORIGINAL: Deputy Inspector-General of Police, CID, Rangoon, Burma

PERSONS IMPLICATED: Ba MAW

CRIMES TO WHICH DOCUMENT APPLICABLE: Relations with Great Britain

SUMMARY OF RELEVANT POINTS

MAUNG, who was on the Independence (Constitution Framing) Commission in 1943, states that he took up duties under Japanese Control because he felt that a) he could mitigate the fate of his people, and b) the new government would be at least somewhat better.

But experience with Japanese, both in framing the constitution, and in actual government, demonstrated that Japanese had to approve all important measures, openly suggested amendments to the constitution, and refused approval for practically every measure of benefit to the people.

Analyst: W. I. Wagner

Doc. No. 2705

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Heading to the attached documents.

Copy statement by U Thein Maw, Judicial Minister in the administration of Ba Maw in Burma during the Japanese occupation. He is now one of H. M. Judges on the High Court of Judicature at Rangoon.

752.2705

702 # 2705

A true copy of the statement requested in the attached note is forwarded herewith.

U E Maung
The Advocate-General,

C. B. Orr 25/7/46
(C.B. ORR)
for Dy. Inspector-Genl. of Police,
C.I.D. Burma.

No. 424 / orgl .

Date: 20 July 46.

Continuation notes, precis, draft etc.

Mr E. Rung, Advocate-General,
 writes to get a copy of a statement
 made by The Honble Mr. Justice
 Rung to Col. Raynes ~~about~~ after
 the reoccupation about Japanese
 methods in Burma. The D.G., C.I.D.,
 whom Mr E Rung has seen, is
 not prepared to give a copy except
 under orders from this Dept.

Mr E Rung is coming to see
 Chief Secretary about this this
 afternoon.

W. R. ...
 19/7/46

Chief Secretary.

Please give a copy as
 requested by the Advocate-General

W. R. ...
 19/7

D.G. C.I.D.

I, U Thein Maung, having been asked by the Deputy Chief of Police, No.1 Area, to prepare a statement of my work and activities since March 1942, state as follows :-

1. I had served loyally and to the best of my ability in and under the (British) Government of Burma over five years before March, 1942, (a) first as Minister for Education, (b) then as a Member of the Public Services Commission and (c) again as Advocate-General.
2. I was appointed Advocate-General in January, 1938 and I was serving as such in March, 1942 at Sagaing where I had evacuated my office since 23rd February, 1942 hoping that the tide of Japanese invasion would be stemmed successfully below Pynmana and Magwe.
3. I held the said appointment and remained at my post till Sagaing was actually occupied by the Japanese at the beginning of May, 1942.
4. A few days after the said occupation, the Japanese Military Police ordered the presiding nun of the Thameintaw Gyaung, Sagaing Hills, i.e. of the Gyaung where I was staying with my family and some members of my office staff, to vacate her Kyaung immediately, and opened an office there. I believe that I was under their surveillance since then.
5. A few days later the Japanese Military Police officer in charge of the said office asked several prominent refugees in the Sagaing Hills including Sir J.A. Maung Gyi, Sir Maung Gye, U Aye (somewhile Home Minister), U Ba Yin (somewhile Minister for Education), U Ba Aye, K.S.M., A.T.M., (somewhile a Member of the Public Service Commission) and myself to move into Sagaing town proper and to occupy houses allotted by him. So I had to move into the town and occupy the house which was directly in front of the new Japanese Military Police Office.
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7. I was taken by the Japanese Military Police Officer to Maymyo on the 19th May, 1942, along with others, viz., U Aye (somewhile Home Minister), U Ba Yin (somewhile Minister for Education), U Ba Pe (somewhile a prominent M.H.R.) and Dr. U Set, C.I.E., (somewhile Municipal Commissioner of the Rangoon Corporation). There we met some Japanese Army Officers who asked us how Burma should be governed and how peace and order could be restored.
8. On return from Maymyo the same evening, U Aye, U Ba Yin and myself had to pass the night in Mandalay in the dormitory of the Japanese Military Police with some officers and men of the said force.
9. A Japanese Military Officer, who was then popularly known as Bo Mogyo, sent for Sir Maung Gye and myself while he was in Mandalay in the same month of May, I believe. Sir Maung Gye had a talk with him first. After that he merely informed me that he had no more time, that he had said what he had to say to Sir Maung Gye and that the letter would give me the necessary information. Sir Maung Gye then told me that Bo Mogyo desired that he (Sir Maung Gye) and I should neither expect nor accept any office under the Japanese regime and that he had very willingly given him (Bo Mogyo) the assurance not only for himself but also on my behalf. I then told Sir Maung Gye that I heartily agreed with him that I had no desire to serve under the Japanese and that he had rightly given the assurance on my behalf also. The assurance so given was announced in a Mandalay paper within a day or two thereafter.
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Japanese Military Police Officer and arrived at Rangoon two days later.

11. On arrival at Rangoon I found that my house (No.24-28 Kennedy Street Rangoon) was being used as a Vaccination Depot by the Japanese and I had to go and get it back from what was then known as the Hiraoka Commission.

12. I had to stay in Rangoon till the beginning of October, 1942, as the house was returned to me expressly for my own personal residence.

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16. I also received information that such prominent personages as Dr. Sir San C. Po, Sir Mya Bu, Sir U Thwin, Dr. U Set, C.I.E., U Aye (somewhat Home Minister) and U Tun Pe (Somewhat M.H.R. for the University of Rangoon), whose loyalty to the British Government could not be doubted, would also be members of the said Commission.

17. Under the said circumstances and in view of the fact that I had taken a prominent part in connection with the last two constitutions for the Government of Burma, e.g., as a member of the Burma Deputation to London in 1919-20 and as a member of the Burma Delegation to give evidence before the Joint Select Committee of both Houses of Parliament in 1933-34, I felt that I had no excuse, which would be acceptable to the Japanese Military Administration, for refusal to serve on the said Commission.

18. I also felt that civil government under a properly framed constitution would be much better than Japanese Military Administration without any Constitution whatsoever and that I would be failing in my duty to my people and to my country if I did not help in framing a Constitution for the Government of Burma which would terminate the said Administration.

19. Furthermore a Japanese Military Officer came to my house at Paungde with the District Commissioner, Prome (U Thein Nyun) and inquired why I had not gone to Rangoon to serve on the said Commission.

20. So I came from Paungde to Rangoon on the 4th May 1943 and served on the said Commission.

21. I soon found (1) that the Commission did not have a free hand and (2) that the Japanese Military Authorities, on whose behalf Major-General Isomura attended most of the meetings, interfered at almost every turn sometimes openly by messages delivered or communicated to the Chairman (Dr. Ba Maw) or to the Negotiations Committee of the Commission (with instructions to treat them as military secrets) and sometimes by private talks and interviews with some members.

22. I also found (1) that they wanted the Constitution to be framed in such a way that all power should be vested in one person viz., Dr. Ba Maw in order most probably that they themselves might be able to get everything done by putting pressure on him (2) that Dr. Ba Maw, who had styled himself as Arnarshin (Dictator) even before British evacuation of Burma, was naturally in favour of all power being centralized and (3) that Dr. Ba Maw and the then Ministers (with the exception of Thakin Tun Ok and Thakin Ba Sein) formed a very powerful bloc.

23.

23. So I had to take a leading part in the Commission and to fight hard against them. I trust that most of the members of the Commission, if not all, will testify that I fought courageously and persistently for the people of Burma and that I succeeded to a certain extent in liberalizing the constitution.

24. The Commission had to appoint a Negotiations Committee at the very outset. The duty of this Committee was to negotiate on various questions of national importance with the Japanese Military Authorities, through a Committee which they had set up specially for this purpose. As a member of the said Committee I found that there was more of dictation by the Japanese Committee than of negotiation, which was permitted, and that several questions of vital importance had to be left, at their instance, for settlement after Declaration of Independence.

25. The Commission had to submit the various parts of the Constitution to the Japanese Military Authorities, as soon as they were ready, for transmission to and for the approval of the Japanese Government.

26. The Japanese Military Authorities asked the Commission to prepare a Declaration of Independence. In fact a draft Declaration was supplied by them to indicate what they ~~expected~~ expected of the Commission, and I believe that the Declaration as drafted by the Commission had to be sent to them for approval.

27. The Commission was responsible to a considerable extent, though not entirely (for the reasons already stated), for the Constitution and the Declaration of Independence.

28. However, the Commission was absolutely innocent of the Declaration of War which was made by Dr. Ba Maw in his capacity as the Head of State on the 1st August, 1943. The Commission did not know anything about it till it was formally made by him then. Many of them were about to leave the Government House as they were under the impression that the business for the day was over. They were very much surprised when they were called back and the Declaration was made. As a matter of fact the Declaration was not on the agenda for the day at all. Please see annexure A which is a copy of the Detailed Programme of the Functions on the Day of the Burmese Independence.

29. The same must be said of the new Ministers (including myself) who were sworn in on that day. I am not sure whether the old Ministers knew that the Declaration would be made; but think that they also did not know till it was actually made.

30. The main reasons for which I accepted office as Minister for Judicial Affairs are as follows :-

(1) I was asked by the Chief of the Political Department of the Japanese Military Administration (Mr. Oseko) to accept office and co-operate with Dr. Ba Maw, who had been chosen and honoured by the Tenno Heika and I believed that refusal to do so would, under the circumstances which were prevailing then, be harmful. My apprehension was justified though ex post facto and somewhat indirectly, by the fact that Thakin Tun Ok and Thakin Ba Sein, who generally followed my lead in the said Commission, were exiled from Burma shortly after Dr. Ba Maw became the Head of State.

(2) At the same time I realised (a) that actual transfer of civil power from the Japanese Military Authorities had yet to be obtained and (b) that abolition of the Japanese Military Administration would be of no effect in actual practice if the Civil Government were weak and the influence of the Japanese Military Authorities remained as before.

(3) I felt that negotiations made by the Negotiations Committee of the Commission must be continued, till the respective questions were settled, to safeguard the interests of Burma and her people / as against

Japan and her ambitions in the various spheres of life and activity. As a member of the said Committee I had been able to gauge Japan's intentions and the extent to which the interests of the country and the people might suffer on account of Japan, and since then I had become much more anxious than I was before.

(4) I felt that a good deal remained to be done in order that the Burmese people might be free from oppression by the Japanese Army, ~~the Japanese~~ Military Police, their followers and the Japanese Commercial people.

(5) I felt that the independence of the Burmese judiciary and magistracy must be made real and that Japanese attempts to interfere with their administration of justice must be stopped.

(6) I felt that law and order must be strictly maintained in the interests of the country.

(7) I felt that I would be failing in my duty to my country if I refused to accept responsibility under the said circumstances.

(8) I also felt that there could be no objection on the part of the British because :-

(a) it was to their interest also that law and order should be maintained in the country,

(b) H.E. the Governor of Burma is reported to have already broadcasted that people could serve under the Japanese regime and (8) I had waited over a year before accepting office.

31. During my tenure of office as Minister for Judicial Affairs, I have always protested against Japanese encroachments on the rights of the Burmese Government and the people of Burma not only in matters which were under the Ministry but also in other matters which were placed before the Council of Ministers. I trust that all my colleagues on the said Council would support this statement of mine.

32. A copy of the gist of my statement to the Japanese Commander-in-Chief on the 18th November, 1944, is annexed hereto as a sample of my efforts to safeguard the interests of the people. It will throw some side light on my work and activities. I may mention that Sir Mya Bu and others were present when I made the statement to the Japanese Commander-in-Chief and that Sir Mya Bu supported me as regards Japanese interference with administration of justice and proclamation of martial law. Five flaps relating to some of the cases which I had in mind at the time of making the said statement are submitted herewith.

33. Japanese Military Authorities posted Japanese military guards and detectives at the residence of all Ministers from the 1st April, 1945, i.e., a few days after the Burmese Army started attacking Japanese Forces to the 24th April, 1945, i.e. a few days before their final evacuation of Rangoon; and the detectives accompanied them (the Ministers) wherever they went.

34. On the 24th April, 1945, all Ministers were asked to evacuate Rangoon. I then led the Opposition, as it were stating/inter alia (1) that the interests of peace and order not only in Rangoon but throughout the country, which had not yet been reoccupied by the British, required that the Ministers should remain in Rangoon and (2) that they, as leaders, should share the fate of the people instead of leaving them in the lurch, as suggested, however hard Rangoon might be attacked by the British and Americans.

35. I have remained behind in Rangoon for the above reasons and also for the reason that my conscience is clear. I have done my best (1) to protect the interests of the people of Burma against the Japanese, (2) to maintain law and order in the country in spite of the war and (3) to see that the Japanese did not interfere with the administration of

justice. In short, I have done my best to replace the reign of terror under the Japanese with a reign of law under a Constitutional Government with considerable success and I have not done anything improper or against the interests of the country and the people.

36. I have tried to make my statement as full as possible but I am handicapped as I do not know on what points information is required. If it be found to be defective in respect of any particular question I shall willingly supplement it with answers at my examination.

Examination of U Thein Maung (D&PI/038) 2.6.45.

Q.....

Sir J.A. Maung Gyi and I and others were made to live in the houses in the same street. The Japanese probably thought that if the leading members of the Burmese Community live in Sagaing the general public would return. When I and the others mentioned in my statement went to Maymyo on the 19th May 1942, we were each in turn asked for our views on a Constitution for Burma. I pointed out the first immediate necessity was the restoration of law and order. I then said that old Government servants should be employed and was asked by the Japanese whether they would remain loyal to the Japanese. I replied that most of them would not be likely to turn against the Japanese but in any case they were the most suitable persons to restore quieter conditions. I also said that the question of constitution should be considered later. I do not know what the other members of the party said. They told me afterwards their views were substantially the same as mine.

From May 1942 up to April 1943 I had no connection with political matters. I lived first in Rangoon and later in Paungde. In April 1943 Dr. Ba Maw sent me a telegraph asking me to serve as a member of the Burmese Independence Preparatory Committee. I was also urged by Sir Mya Bu to accept offer as it was more a military order than anything else and it would be unwise to refuse it. I went to Rangoon at the beginning of May 1943 and served on the Commission. At the meetings I soon realized that the Commission was not given a free hand and that if the discussions were proceeding in a way which did not suit the Japanese we were soon informed as to what we should do. For instance, the Japanese said that the Head of the State must not be designated either King or President, that the Head of the State must also be the Prime Minister and that there must not be a separate office of Prime Minister, and that there must not be a Legislature. The majority of the members of the Commission were supported by Dr. Ba Maw and his suggestions were always what the Japanese wanted. I led the opposition and was generally supported by Thakins Tun Ok and Ba Sein, U Set, Hensada U Mya and a few others, but we were always out-voted. I was in favour of a Legislature as in my opinion it was impossible to form a responsible government without one. I pointed out that this Commission had to decide very important matters and said that the proceedings should be made public including the communications from the Japanese authorities. This proposal was turned down and we were told that the proceedings were Japanese Military secrets and any one disclosing them would be very severely punished. This was nothing more than a threat.

I was appointed to the Negotiations Committee, the other members of which were Dr. Ba Maw, Thakin Aung San, Thakin Than Tun, U Ba Win and U Tun Aung. I was the only member of the Committee who was not a member of Ba Maw's party. At the Committee meeting Japanese had speeches written in Japanese and these were read out by Burmese interpreters into English and we then made notes and later put these views before the Commission. I asked for copies of the speeches but they refused to give them to me. In other words, the Committee merely acted as a mouth-piece for the Japanese. Japanese gave the Commission a draft of the Declaration of Independence and the Commission then drew up its own draft incorporating what was laid down by the Japanese. This draft was then sent for approval, to the Military Administration. I knew nothing of declaration

of war until Dr. Ba Maw actually read it out. Nobody signed this except by Dr. Ba Maw. I was only offered the appointment of Minister the day before the declaration was made, i.e., 31st July, 1943. I did not refuse the appointment; I knew that there were a large number of questions to be settled and I considered that if I accepted office I should be able to do something in the interests of the people of the country. The Japanese did not interfere with me as a Minister but they did interfere in the Judicial Administration of the district, and I constantly had to protest against this interference with the administration of justice. I was supported in this by others, particularly by Sir Mya Bu, who was then Chief Justice. I did not make any broadcast but made two public speeches one at Government House and one at the Shwedagon Pagoda. On the first occasion I spoke on the creation of the Mahabama Asi Ayon. I said that the creation of this Association was a correct thing as it was to unite all the various tribes and races of Burma. On the second occasion I spoke on the 'Blue Print' and stated that the Secretary of State's declaration that the Governor's rule should last for an indefinite period was unsatisfactory and that even a period of six years recommended in the 'Blue Print' was too long. This speech was made by me about the end of 1944 or beginning of 1945.

I took no particular active part in the actual Government of the country. Every-one from Dr. Ba Maw downwards was dissatisfied with the way in which Japanese controlled everything. Any scheme for the benefit of the country was either pigeon-holed or rejected, by the Japanese authorities. I never visited Japan.

Even the Privy Council could do very little and bills were first referred for approval to the Japanese and then sent to the Privy Council. In the case of two bills Dr. Ba Maw did insist after a considerable delay that they should be placed before the Privy Council even though the Japanese had not approved of them. Ultimately the Bills were enacted but Dr. Ba Maw had to give an undertaking that Nipponese interests in Burma would not be affected.

Had I refused office I should certainly have come under the suspicion of the Japanese Military Police as being anti-Japanese with possible serious consequences. I most certainly did not approve of the Japanese.

I was never told to evacuate to India. I never actually contemplated evacuating as I firmly believed that the invasion would be halted on the Pyinmana-Magwe line. And even when the occupation was complete I was certain that Allied troops would return very shortly.

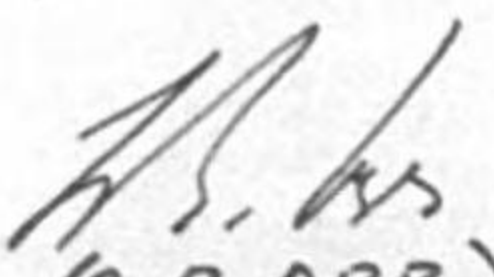
Signed before me

R. O. & A.C.

(Signature. C.H. RAYNES
Col. (Int.)
(Date) 2.6.45.

Signature: THEIN MAUNG
(Date) 2.6.45.

(True Copy)


(C. B. ORR)
Dy. Inspector-General of Police,
C.I.D., Burma, Rangoon.

INTERNATIONAL PROSECUTION SECTION

Doc. No. 2706

14 Oct 1946

ANALYSIS OF DOCUMENTARY EVIDENCE

DESCRIPTION OF ATTACHED DOCUMENT

Title and Nature: Affidavit of WATANABE, Kadzuko, re
Document of 4 Nov 1935, Implicating ARITA, Hachiro

Date: 27 Sep 46 Original Copy Language: Japanese

Has it been translated? Yes No

Has it been photostated? Yes No

LOCATION OF ORIGINAL

Document Division

SOURCE OF ORIGINAL: Investigation Division

PERSONS IMPLICATED: ARITA, Hachiro

CRIMES TO WHICH DOCUMENT APPLICABLE: Relations with USSR

SUMMARY OF RELEVANT POINTS

Analyst: W.H.WAGNER

Doc. No. 2706