

<u>NAME:</u>		MENTIONED IN FRENCH LIST ON PAGE:	CRIME DESCRIBED IN "PARTICULARS OF ALLEGED CRIME" PARAGRAPH No:
66.	Reiter	15	
✓ 67.	Riemann	16	No particulars with regard to crime or position
68.	Rostalski	8	Paragraph 13.
69.	Ruhlender	3	
70.	Sabliar	15	
71.	Schiebinger	15	
72.	Schimang or Schiewang	9	Paragraphs 2, 8 and 15.
73.	Schlimmer	14	Paragraphs 3 and 15.
74.	Schlinder or Schlindler or Schindler	14	Mentioned in Paragraph 16.
75.	Schlott	13	
76.	Schmid	6	
77.	Schultz	8	Paragraphs 15 and 16.
78.	Schulz	11	
79.	Schutz	4	
80.	Schwarz	15	
✓ 81.	Seefeld	13	Lady telegraphist.
82.	Spenbath or Spenrath	8	Paragraph 11.
✓ 83.	Spindler	10	Lady typist.
✓ 84.	Stahr	16	No particulars regarding crimes or position.
85.	Stockmann	10	
86.	Tanzmann (Not on list.)		Mentioned in Paragraph 15.
87.	Tatge	14	
88.	Vissermuller	4	
89.	Von Vokour	2	
90.	Wagner	1	Killed.
✓ 91.	Walter	7	Interpreter of French Nationality. Paragraphs 5 and 6.
92.	Wannermacher	16	Paragraphs 14 and 15.
93.	Wendt	12	
94.	Weser	5	Paragraphs 12, 15 and 16.
95.	Wess, Alias Ruddop	14	
96.	Willenbrock or Willenbruck.	8	Paragraphs 8, 15 and 16.
97.	Wolff or Wolf	6	Paragraph 2.

-4-

<u>NAME:</u>	<u>MENTIONED IN FRENCH LIST ON PAGE:</u>	<u>CRIME DESCRIBED IN "PARTICULARS OF ALLEGED CRIME" PARAGRAPH No:</u>
98. Wollstadt	13	
99. Zankl	2	
100. Zerwes	15	

17th September, 1945.

COMMITTEE I

Report on the French case No. 1532. (Michel and others).

By E. Schwelb.

1. The person who is described as "General MICHEL" in this charge appears on List No. 7 (Key Men list) under No. 216 under the following description:
MICHEL Dr., High Economic Official. Removal of foodstocks needed by the civil population.

Dr. MICHEL also heads the list submitted by the French National Office under No. 947 (Staff of Militärbefehlshaber in France) (See Minutes Nos. 15, 16, 18 and 24, Summary of Information No. 31 and Docs. I/10 and I/15).

According to the document appended to the charge No. 947 MICHEL was:

MILITAERVERWALTUNGSCHEF, CHEF DER MILITAERVERWALTUNG
und LEITER DER ABTEILUNGEN WIRTSCHAFT.

2. In the same document appears also:

Dr. JEHLE MILITAERVERWALTUNGSVICECHIEF, ABTEILUNGSLEITER DER
ABTEILUNG WIRTSCHAFT II. (GEWERBLICHE WIRTSCHAFT).

3. HERRIGER does not appear among the personnel accused in the charge No. 947.

4. In the present case No. 1532 MICHEL and HERRIGER appear to have been the instigators of a crime which was committed by others, i.e. the persons competent to order arrests and deportations.

There seems to be a prima facie case against both MICHEL and HERRIGER.

UNITED NATIONS WAR CRIMES COMMISSION.COMMITTEE I.Report on the Position re Italian Charges.

By E. Schwelb.

On the 19th September 1945, I was charged with the task of contacting Lord Wright on the question whether he agreed with the Commission entertaining Italian charges against German criminals. (See Minutes No. 31, Paragraph II)

From the Commission's file, I gathered that Lord Wright received an official of the Italian Embassy on 12th July 1945 and that Lord Wright informed him that the Italian Government could present cases but could not, at present, become members of the Commission or receive lists.

The Italian diplomat asked to be instructed how to submit lists and Lord Wright referred him to the Chief Clerk.

In view of this, I submit that it is not necessary to contact the Chairman of the Commission once more on this subject.

I/35.
25th September 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Report on Further Developments in connection with Crimes
Committed by German Doctors (Sterilization, Human Guinea
Pigs, Physical Extermination, etc.)

By E. SCHWELB.

- I. According to the decisions by Committee I, the material obtained from Dr. Theo Lang, Switzerland, has been forwarded both to the Control Council for Germany and to the National Offices (see Docs. I/20 and I/29.) Now a new letter from Dr. Lang dated 15th September 1945, containing additional information, has been received. Dr. Lang has enclosed with his letter a copy of information furnished by him to the competent Swiss authorities regarding crimes committed by Professor Rüdin, Munich, and his accomplices, dated 11th September 1945. A copy of this information has, in addition to the Swiss authorities and to the United Nations War Crimes Commission, been sent also to the Prime Minister, Dr. Fritz Schäffer, Munich, (obviously the head of the German administration installed by the American occupying authorities.)
- II. "Summary of Information No. 41" also contains very valuable information about criminal quasi-medical activities.
- III. Further information is contained in a document "Evaluation Report No. 98." received from the military authorities and containing a statement by Wolfram Sievers, the manager of the organisation Ahnenerbe, who is detained by the United States Military Authorities. The document is in the possession of the Research Office and summarised in "Summary of Information No. 39".
- IV. The Czechoslovak Charge No. 1535 which has lead to the listing of 51 people partly on 'A' and partly on 'S' and the Commission charge dealing with the Beelitz Stiftung also fall within the same complexus.
- V. I propose to circulate the new material received from Dr. Lang, in the same way as the first material received from him was circulated, to the National Offices, and at the same time, in addition, the attention of the National Offices should be drawn to the information contained in the Summaries of Information Nos. 39 and 41 and to the material on which the Czech charge No. 1535 and the Commission charge re Beelitz Stiftung were based.
- V. I further propose that the new material received from Dr. Lang and copies of the Summaries of Information Nos. 39 and 41 be forwarded to the Control Council for Germany.

I/36.
25th September 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Proposals as to the Final Decision on the French Charge No. 1445.
(Gestapo of Vichy.)

By E. SCHWELB.

In its meeting held on 19th September 1945 (Minutes No. 31), Committee I resolved to decide the French Charge No. 1445 on the principle that:

- a) all those who are charged with specific crimes will go on 'A',
- b) all members of the Gestapo staff, including translators and interpreters, who are not charged with specific crimes will go on 'S',
- c) that typists will go on 'W'.

I was charged with the task of preparing a list drafted on these lines. Applying the principle thus decided upon, the final decision would be as follows: (the numbers of persons are those in Doc. I/32.)

The following 53 go
on 'A':

3, 7, 9, 10, 11, 13, 14, 15, 16, 17, 19, 22,
24, 26, 28, 31, 33, 34, 35, 36, 38, 39, 40, 42,
43, 44, 45, 47, 49, 53, 54, 57, 58, 61, 62, 65,
66, 68, 70, 71, 72, 73, 74, 77, 80, 82, 86, 91,
92, 94, 96, 97, 100.

The following 36 go
on 'S':

1, 2, 5, 6, 18, 20, 21, 23, 27, 29, 30, 32, 37,
41, 48, 50, 51, 52, 55, 56, 59, 63, 64, 69, 75,
76, 78, 79, 85, 87, 88, 89, 93, 95, 98, 99.

The following 10 go
on 'W':

4, 8, 12, 25, 46, 60, 67, 81, 83, 84.

Killed:

No. 90 (Wagner.)

and done already

1/37.
3rd September 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

Notes on the Classification of Cases by the Main Commission and by the
Far-Eastern and Pacific Sub-Commission.

By E. Schwelb.

From List No. 1 (August 1945) produced by the Far-Eastern and Pacific Sub-Commission, it appears that the sub-commission has adopted a classification different from that used by the main Commission.

The classification applied by the main Commission is as follows:-
(Decision of Committee I dated 1st March 1944, supplemented by Doc.C.75).

- 'A' Charges to be proposed to the Commission for inclusion in the Commission's list of war criminals.
- 'B' Charges placed on the Committee's Provisional List. This list is to be sub-divided into two sub-divisions;
 - 1. charges in which evidence is reasonably complete,
 - 2. charges in which the evidence is incomplete, but further information will be available before the fighting ceases. (NOTE: List B. has become obsolete).
- 'C' Charges, consideration of which is suspended until the National Office provides further information.
- 'S' A list of suspected persons or of units, whose personnel the Commission considers should be taken and maintained in custody until it has been possible to identify the war criminals, who are to be handed over for trial by a competent court.
- 'W' A list of persons capable of giving evidence regarding the crimes.

The Far-Eastern and Pacific Sub-Commission, on the other hand, has adopted the following classification:

- A-1 cases against named individuals where evidence is sufficiently complete to charge them as actual perpetrators of war crimes,
- A-2 cases against enemy military and civilian personnel where evidence is sufficiently complete to charge them as having been concerned in the commission of war crimes, either by having encouraged them, condoned in them, or in any other way shown their responsibility for them,
- B cases not falling under A-1 or A-2, but where any named enemy individual or military or civilian enemy personnel in authority should be held for interrogation as material witnesses after the cessation of hostilities.

From this, it seems to follow that the Far-Eastern and Pacific Sub-Commission classifications A-1 and A-2 correspond to the list 'A' of the main Commission. The Far-Eastern classification B. corresponds to classification 'W' of the main Commission.

I submit for consideration that the proceedings of the main Commission and of the Far-Eastern and Pacific Sub-Commission be brought into line.

I/37.
3rd September 1945. ✓

UNITED NATIONS WAR CRIMES COMMISSION.

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- B. cases not falling under A-1 or A-2, but where any named enemy individual or military or civilian enemy personnel in authority should be held for interrogation as material witnesses after the cessation of hostilities.

From this, it seems to follow that the Far-Eastern and Pacific Sub-Commission classifications A-1 and A-2 correspond to the list A. of the main Commission. The far-Eastern classification B. corresponds to classification W. of the main Commission.

I submit for consideration that ^{the proceedings} ~~products~~ of the main Commission and of the Far-Eastern and Pacific Sub-Commission be brought into line.

I/38
11th Oct. 1945

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

Note on the French cases Nos. 1616 & 1625

(Requisition of services, confiscation of
horses and carriages)

By E. Schwelb

I

In the case 1616 a man, Lt. HORNUNG, is charged with the crime of "forced labour of civilians in connection with the military operations of the enemy (Doc. C.1, No. 9) and with pillage (No. 13)".

Ad crime No. 9. HORNUNG is charged with having ordered, under threat of internment, all men between 15 and 60 to take part in the building of fortifications.

Article 52 of the Hague Regulations provides that services required from the inhabitants of occupied territory must not be of such nature "as to involve the inhabitants in the obligation of taking part in military operations against their own country". The rights of the occupant under this provision are defined by Oppenheim - Lauterpacht (II, § 170 of the 1944 edition) in this way:

"He may compel them to render services for the repair of roads, bridges, buildings, or other works damaged or destroyed by military operations, or necessary either for the administration of the country or for the needs of the army of occupation, always provided that the services do not involve taking part in military operations.

"Yet the meaning of 'taking part in military operations' is somewhat controversial. Many writers maintain, and Land Warfare likewise asserts, that the words extend to the construction of bridges, fortifications, and the like, even behind the front. But the practice of belligerents has always distinguished between military operations and military preparations, and has not condemned as inadmissible the compulsion of inhabitants to render assistance in the construction of military roads, fortifications, and the like behind the front, or in any other works in preparation for military operations. During the World War, not only the Germans in Belgium and France, but also the Russians in Galicia, compelled the inhabitants to construct fortifications and trenches in the rear, although a generous interpretation of Article 52 ought to have prevented them from doing so. It is to be hoped that a future conference will so amend the Hague Regulations as to make the matter clear."

Ad crime No. 13. The confiscation of horses and carriages is not pillage, nor is it a war crime. Under Art. 53 of the Hague Regulations an army of occupation is allowed to take possession of means of transport. Appliances adapted for the transport of persons or goods may be seized, even if they belong to private individuals, but they must be restored at the conclusion of peace, and indemnities must be paid for them.

II

In the case No. 1625 the accused is charged with the crime No. 9 (see supra). This case differs from the case No. 1625, that the work was to be done at places where military operations were actually being conducted.

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I/39
12th Oct. 1945

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

Note on the French case No. 1604

(Gestapo of Savoy)

By E. Schwelb

I

The French National Office charges 21 persons (1 to 3, 3A, 4 to 20), all members of the staff of the Gestapo of Savoy. In addition, in Annexe 3, para. I(1) a man called LACKNER is mentioned. Altogether 22 persons are charged. Against 13 of them, namely 1.(HEINSON), 3.(MÜLLER), 3A.(VORBUCH), 4.(WEHMAYER), 6.(GOUBEAUD), 7.(BERGER), 10.(KLEIBAUER), 11.(LISY), 12.(BUCHBERGER), 14.(HOFMANN), 15.(PFLIEGER), 16.(BERNEISCH) and LACKNER (mentioned in Annexe 3, para. I(1)) concrete charges are brought forward. There is no doubt that these 13 ought to go on A.

II

The remaining 9 persons are charged by the French National Office acting on the principle of collective responsibility. Committee I, when deciding on the analogous case No. 1445 (see my note prepared for the meeting held on 12th September, 1945, and Doc. I/36) considered itself bound by Doc. C.140 (Czechoslovak Oswiecim charge) where it had been laid down that, inter alia, officials of the security police will be listed on A from a certain rank upwards. Because in the case of the French charge against the Gestapo of Vichy the Gestapo-rank of the individual accused was not known, the decision of the case No. 1445 was based on the principle that

- (a) all those who are charged with specific crimes will go on A;
- (b) all members of the Gestapo staff, including translators and interpreters, who are not charged with specific crimes, will go on S;
- (c) typists will go on W.

If this principle were applied to the present case those of the accused who are not mentioned under I of this paper, should go on S and W respectively.

III

It is submitted that this result is not satisfactory. The question whether a man is to be listed on A or on S depends, according to this practice, on whether or no his rank in the Police hierarchy is known and whether this rank, if known, is above that mentioned in Doc. C.140 p. 2 para. 2 (1) to (III).

The rank of a certain police official in the hierarchy of the respective branch of the Police is very often not known to the inhabitants of the occupied territory, but the S.S. rank of the police functionaries in question is known, because many of them wore S.S. uniforms and insignia.

/ I,

I, therefore, submit that in cases where the Police rank of a person is not known and Doc. C.140 cannot be applied as it stands, also such members of the staff of Gestapo and S.D. offices should, ipso facto, be listed on A who held S.S. ranks from a certain rank upwards. With a view to fixing this rank Col. Wade should be consulted. I personally would propose to fasten the collective responsibility on all S.S. men, acting in the service of the Gestapo and the S.D., from the rank of Unterscharführer - Unteroffizier upwards. This does not, of course, prevent Committee I from listing on A such S.S. functionaries of the Gestapo and the S.D. ~~who are charged with specific crimes.~~

Below that rank
IV

If we apply the principle outlined under III the following will be the result on the position of the nine persons not mentioned under I:

The following would go on A:-

- 2. (HARTENFELS), Lieutenant chef adjoint
- 5. (SCHMIDT), S.S. Captain - Hauptsturmführer
- 8. (MAIWALD), SS. Unterscharführer
- 18. (BIELENSKI), SS. Adjutant chef

The following would go on S:-

- 9. (GASPARD)
- 13. (LESCHOVANI)
- 17. (RAMP)
- 19. (DAMM)

The following would go on W:-

- 20. (DUMONT-DAISY)

V

Summary:-

9, 13, 17 and 19 on S;
20 on W;
all others, including LACKENER, on A.

I/40.

I/43

15th October 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Report on Arrests of Persons listed by the United Nations
War Crimes Commission.

By E. SCHWELB.

I

CROWCASS has informed the Commission that persons who may be identical with the following persons listed by the Commission have been arrested by the Military authorities and will be handed over to the national authorities concerned:

- 1) BRUKSCH, Private, wanted by the United Kingdom. (Charge No.32)
- 2) A. KESTING, Gestapo functionary, wanted by Norway (Charge No.603)
- 3) POHL, Oberscharführer, Concentration Camp Grini, wanted by Norway,
(Charge No.391)

The National Offices concerned have been informed directly by CROWCASS.

II

It is proposed that reports about the arrest of persons listed by the Commission (as in I above) will regularly be made by the Secretariat to Committee I and by Committee I to the Commission.

The arrest will also be marked in the files concerned (in the present case in the files Nos.32, 391 and 603.)

ES.

1/41

1.412

20-10-45.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Notes on the United Kingdom Case No.1643 (Discriminatory Measures in Jersey.)

By E. Schwelb.

- I. The United Kingdom National Office charges (1) the Commander in Chief of the German Army in the Channel Islands in April 1943 and (2) Colonel Knackfuss with a crime which it described as No.17 (Imposition of Collective Penalties). The British National Office refers to Article 50 of the Hague Regulation of 1907 and to Article 2 of the Prisoners of War Convention, 1929. The evidence for the charge is contained in an affidavit made by the Bailiff of Jersey and the exhibits to this affidavit; these documents were not enclosed with the charge.
- II. The facts were these: On 30th April 1943 the civil authorities for Jersey received a written notice from Col. Knackfuss that the rations of certain food-stuffs were to be reduced at once for "English" subjects. Persons exempted from the reduction were all "non-English" subjects, including Irish, persons directly employed by the German authorities, together with persons working for the Germans in virtue of the billeting obligations of the States and their families living with them. Certain special classes, such as nursing mothers and the sick, were also exempted.
- At a conference with the representatives of the civil authorities, Col. Knackfuss made it clear that the measure was intended as a reprisal for the sinking of German supply ships by "English" attacks and that it was purposely directed against British subjects.
- Vigorous protests were made by the civilian authorities and Col. Knackfuss subsequently claimed that the measure was not intended as a reprisal, but was dictated by the shortage of supplies consequent upon the loss of supply ships. According to the charge, he amended the order on the 3rd May 1943 (?) so as to apply ration scales to the whole civil population irrespective of their nationality or whether they were employed by the Germans. The rations were restored to what they had been before this reduction on 1st August 1943, Col. Knackfuss intimating that provisions for the Channel Islands had not been disturbed by enemy action during the period of reduction.
- III. The British National Office in its "Notes on the Case" quotes Article 50 of the Hague Regulations but adds that, strictly speaking, it is not applicable. The National Office goes on to say that if it is an offence to inflict a collective penalty as punishment in respect of individual actions of persons in group collectively penalised, it must be still less justifiable in respect to outside military action. The British National Office further refers to Article 2 of the Prisoners of War Convention of 1929, which forbids reprisals.
- IV. It is submitted that the British National Office is right in expressing doubts whether Article 50 of the Hague Regulation is applicable to the present case. Art.50 reads as follows:
- " No collective penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which it cannot be regarded as collectively responsible. "

According to the wording of Article 50, it appears doubtful whether what the accused have done is the imposition of a "penalty" within the meaning of that provision though it must be admitted that the provision speaks of penalties pecuniary or otherwise.

Article 2, Paragraph 3 of the Geneva Convention relative to the Treatment of Prisoners of War, provides that "measures of reprisal against them, (i.e. against Prisoners of War) are forbidden". I do not think that this, as a matter of law, automatically applies to the civil population.

- V. Although, as stated in the preceding paragraph, the two conventional provisions quoted in the charge, do not appear to afford a sufficient legal basis for the listing of the two accused men, it is submitted that, what they have done, is, nevertheless, a war crime.

The discriminatory measures against the British population of the occupied Channel Islands constitute violations of "internal penal laws and of the general principles of criminal law as derived from the criminal law of all civilised nations" (quotation from the indictment No.1. of the Four Great Powers before the International Military Tribunal against Hermann Goering and others.) Racial discrimination in feeding is one of the common measures applied by the Nazis in different occupied territories and forms part of a criminal policy which recently has been given the name of "Genocide" (cf. Raphael Lemkin, "Axis Rule in Occupied Europe", Chapter 9, see particularly page 87 dealing with physical genocide.) The term "genocide" has also been used in the indictment against Goering and 23 others. (See Count 3, Paragraph VIII, A, on page 12).

This is not to say that in the particular instance of Jersey, the Nazis applied the policy of deliberately exterminating all the British subjects, living there, in the same way as they actually did exterminate whole populations in Eastern Europe, particularly Jews, Poles and Yugoslavs, but it cannot be denied that discrimination in the allocation of food-stuffs is one of the characteristics of this policy of "genocide". The general principles of criminal law forbid not only such activities as actually lead to the extermination of hundreds of thousands and millions of human beings. There is no reason why earlier stages of the genocide policy should not also be made the subject of criminal repression. There cannot be any doubt that in the circumstances prevailing all over occupied Europe in general, and in the Channel Islands in particular, the reduction of the food ration would necessarily lead to the lowering of the general state of the health of the inhabitants of the occupied islands and thus cause bodily harm, loss of health and even death to an unknown number of men, women and particularly children.

Such intentional or reckless activities of the occupying authorities are therefore contrary to the criminal law of all civilised nations, certainly also to the criminal law of Jersey and there is no provision of conventional or customary International law which the accused can invoke in their defence as making, what they have done, a legitimate act of warfare, or a legitimate activity of a belligerent occupant within the meaning of the Hague Regulations.

In my opinion, the basis for listing these two persons is to be found in the general principles of criminal law prohibiting genocide practices in all their stages.

1.4 32

I/42.

20-10-45.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Report on the Trial of persons listed by the Commission.

By E. Schwelb.

Committee I decided on 17th October 1945, to list:

- 1) Anton SCHOSSER,
- 2) Josef GOLDBRUNNER,
- 3) Alfons Jacob WILM

on 'A' for the murder of an American Airman. (U.S.A. Charge No. 1636.)

From War Crimes Trial Report No. 1., submitted to Lord Wright by Colonel Hodgson, it appears that the accused Anton SCHOSSER was tried by a Military Commission, was found guilty and sentenced to be hanged. The other two accused will be tried separately.

SECRET

I/43
25th October, 1945

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

Case of S.S. Colonel Langsdorff

(Submitted Colonel Wade)

As no decision has yet been given with reference to the indictment of SS. Colonel LANGSDORFF (see Summary of Information No. 34) for Looting of Italian Art Treasures, and as it appears from the notes dated 12.7.45 and 5.7.45. in file 1.13 (Relations with the Italian Embassy) that the Italian Government is entitled to present charges to the Commission, and that Signor Manzini knows how to frame such charges, it is suggested that the papers in the Langsdorff case should be sent to him, so that he may submit a charge if he wishes.

I/44.
29th October 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Note on Part VI of the Yugoslav Case No.1323.

By E. Schwelb.

In the meeting of Committee I, held on 24th October 1945, I was charged with the task of reporting, in more detail, on the legal questions involved in part VI of the Yugoslav charge No.1323.

The facts are these:

The officers of the Special Court mentioned at the end of paragraph VI of the addendum (the accused Nos. 5, 8, 26, 17, 6, 23 and 22) are charged with a crime committed by moving and/or passing on 17th April 1945 a sentence against two Yugoslav citizens (Matković and Ban) for alleged contact with the American Consul at ZAGREB with a view to having four ships belonging to Matković and sailing at the time in the Western hemisphere, transferred to American and Canadian companies.

- 1) Apart from the fact of belligerent occupation, no fault could be found with the activities of Matković and Ban.
- 2) It is not quite clear whether ZAGREB, which at the time was the capital of the puppet state of Croatia was, in contemplation of the law, under Italian occupation. If it was not, no basis for any Italian jurisdiction was in existence.
- 3) But probably the Yugoslav port of registry of the four ships was occupied by Italy. It is submitted that that does not affect the position. The jurisdiction of an occupant is purely territorial. (FELCHENFELD, the International Economic Law of Belligerent Occupation, p.131.) The occupant cannot even collect debts owing from abroad, still less can he dispose of chattels situate abroad. He has, therefore, no jurisdiction as to property situate outside his reach and is not entitled to impose penal sanctions on the legitimate owner who exercises his right of property.
- 4) The statement of law contained in the preceding paragraphs is in full agreement with the actual practice of the Allies during the second world war, particularly with the British, Norwegian and Netherlands emergency legislation as to ships registered in enemy occupied ports which has been upheld by British and American Courts. (For details see, e.g. my paper "Legislation for enemy-occupied territory in the British Empire", in "Transactions of the Grotius Society Vol.30 (1944), pp. 240 note 4, and 250 et seq.)
- 5) The judgment passed on Matković and Ban appears therefore to be an excess of power by the occupant and by the accused officers of the court.

The fact that they might have been of the opinion that they were exercising proper jurisdiction and that their behaviour was probably in accordance with fascist legislation does not

come in at this stage. This is for the court to decide. (Under Art. 7 of the Charter, the official position of defendants shall not be considered as freeing them from responsibility or mitigating punishment. Under Art. 8 superior order does not free the defendant from responsibility, but may be considered in mitigation of punishment.)

I/45.
17th December 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Proposals as to the final decision on the Yugoslav Case No. 1824.

(Italian Military Tribunal, Section of Lubljana.)

By J. Litawski.

In its meeting held on 12th December 1945, (Minutes No. 42) Committee I decided to accept all charges submitted in this case except those under paragraphs 15 and II(2) on page 5 and under 7 on page 6 and under III(2) on page 8, consideration of which was adjourned until further information could be supplemented by the National Office as to the belligerent status of the persons mentioned therein.

In order to establish a final list of the accused responsible for crimes described in the accepted charges, i.e. under paragraph I (1 - 14 and 16) paragraph II (1, 3 - 6 and 8 - 14) paragraph III (1 and 3) and paragraph IV, the case was adjourned until the next meeting and I was charged with the task of preparing a list.

In my submission the final decision would be to list on 'A' the following persons: (the numbers of persons and charges are those in the Yugoslav case)

<u>No. of accused:</u>			<u>Nos. of charges:</u>
1	...	...	I (1 - 14 and 16).
2	...	...	I (14), II (1, 3 - 6 and 8 - 14), III (3).
3	...	...	II (3), III (1 and 3).
4	...	...	I (1, 2, 5, 6, 7, 8, 9, 12), II (4), IV.
5	...	...	I (1, 2, 14, 16), II (3, 4, 8, 14), III (3).
6	...	...	I (1, 3, 4), II (4 and 10).
7	...	...	I (1, 2, 3, 4, 7, 8, 9, 11, 12), II (13), IV.
8	...	...	I (9, 12), II (1).
9	...	...	I (3, 4, 5, 7, 9, 10, 11, 12, 13, 14), II (1, 5, 6, 11, 12, 13, 14), IV.
10	...	...	I (7, 8, 11), II (5, 6, 11, 12, 13.)
11	...	...	I (16), II (3, 8, 9), III (1).
12	...	...	I (13), II (5).
13	...	...	I (5, 6, 10, 13, 14), II (1, 10, 11, 12, 13, 14), IV.
14	...	...	II (9), III (1).
15	...	...	I (5, 6, 10, 13)
16	...	...	III (1).
17	...	...	III (1).
18	...	...	I (16).
21	...	...	II (5, 8, 9), III (3)
22	...	...	I (2, 3, 4, 6, 8, 10, 16), II (1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 14), III (3), IV.
23	...	...	I (1 - 14 and 16), II (1, 3, - 6 and 8 - 14), III (1 and 3) IV.

The accused Nos. 19 and 20 would be the only two of the accused against whom no charges have been accepted.

Enclosure to E-354/45.

22nd November, 1945.

The Czechoslovak Ministry of Interior recently sent me information concerning MUDr. Wilhelm Pieper who, during the time of the occupation of the Czechoslovak Republic was medical supervisor of the prison in Prague.

I have forwarded this information to the Judge Advocate General and enclose a copy of my letter to him.

Pursuant to a Czechoslovak Charge JUDr. Pieper, landesgerichtes Präsident was listed by the Commission some months ago (List No. 8, page 38, No. 95).

As the arrest of MUDr. Wilhelm Pieper was obviously carried out in consequence of a confusion with JUDr. Pieper I propose that the Commission advise the authorities concerned that JUDr. Pieper listed by the Commission is not identical with MUDr. Wilhelm Pieper who was arrested by the British Military Authorities on June 29th 1945 in Bad Segeberg near Hamburg.

It would perhaps be advisable to add to such a communication that MUDr. Wilhelm Pieper has so far not been charged by the Czechoslovak or any other Government.

E-354/45.

22nd November 1945.

Judge Advocate General's Office,
Spring Gardens,
Cockspur Street,
London, S.W.1.

Dear Sir,

The Czechoslovak Ministry of Interior advises me that MDR. Wilhelm Pieper was arrested by the British Military Authorities on June 29th 1945 at Bad Segeberg near Hamburg, his wife having informed against him.

Dr. Wilhelm Pieper was, during the occupation of the Republic, medical supervisor of the prison in Prague. According to the evidence at the disposal of the Czechoslovak Ministry of Interior Dr. Wilhelm Pieper behaved extremely human throughout the whole period of his activity in Prague, helped Czech prisoners, saved the lives of a number of them and tried in other cases to achieve at least a mitigation of the penalty.

The Czechoslovak Ministry of Interior draws attention to the fact that at the same time as Dr. Wilhelm Pieper, a certain JMDr. Pieper was staying in Prague acting as president of the German Court there. There is the possibility of a confusion of these two persons.

The Czechoslovak Ministry of Interior asks me to bring these facts to your notice without delay.

I shall be obliged if you will advise me as far as possible of your further steps in this matter.

Yours truly,

Dr. H. Mayr-Harting.

1
B-354/45.

22nd November 1945.

Judge Advocate General's Office,
Spring Gardens,
Corkin Street,
London, S.W.1.

Dear Sir,

The Czechoslovak Ministry of Interior advises us that MDR. Wilhelm Pieper was arrested by the British Military Authorities on June 29th 1945 at Bad Sagsberg near Hamburg, his wife having informed against him.

Dr. Wilhelm Pieper was, during the occupation of the Republic, national supervisor of the prison in Prague. According to the evidence at the disposal of the Czechoslovak Ministry of Interior Dr. Wilhelm Pieper behaved extremely human throughout the whole period of his activity in Prague, helped Czech prisoners, saved the lives of a number of them and tried in other cases to achieve at least a mitigation of the penalty.

The Czechoslovak Ministry of Interior draws attention to the fact that at the same time as Dr. Wilhelm Pieper, a certain JUDr. Pieper was staying in Prague acting as president of the German Court there. There is the possibility of a confusion of these two persons.

The Czechoslovak Ministry of Interior asks us to bring these facts to your notice without delay.

I shall be obliged if you will advise us as far as possible of your further steps in this matter.

Yours truly,

DR. H. Mayr-Harting.

Enclosure to H-354/45.

22nd November, 1945.

The Czechoslovak Ministry of Interior recently sent us information concerning MUDr. Wilhelm Pieper who, during the time of the occupation of the Czechoslovak Republic was medical supervisor of the prison in Prague.

I have forwarded this information to the Judge Advocate General and enclose a copy of my letter to him.

Pursuant to a Czechoslovak Charge JUDr. Pieper, Landesgerichtes President was listed by the Commission some months ago (List No. 8, page 38, No. 93).

As the arrest of MUDr. Wilhelm Pieper was obviously carried out in consequence of a confusion with JUDr. Pieper I propose that the Commission advise the authorities concerned that JUDr. Pieper listed by the Commission is not identical with MUDr. Wilhelm Pieper who was arrested by the British Military Authorities on June 29th 1945 in Bad Soden near Frankfurt.

It would perhaps be advisable to add to such a communication that MUDr. Wilhelm Pieper has so far not been charged by the Czechoslovak or any other Government.



OFFICE OF THE CZECHOSLOVAK REPRESENTATIVE
ON THE UNITED NATIONS COMMISSION
FOR INVESTIGATION OF WAR CRIMES

1-412
AMBassador 2281 Ext. 27.

AMBassador 1527.

3 „Fursecroft“
George Street
London W. 1.

Reference: E-354/45.



22nd November, 1945.

Dear Dr. Litawski,

I shall be obliged if you will distribute the enclosed paper
to the members of Committee I, and arrange for its discussion to be
placed on the Agenda of one of the next meetings of Committee I.

Yours sincerely,

Dr. H. Mayr-Harting.

Enclos.

Dr. J. Litawski,
Legal Officer,
United Nations War Crimes Commission,
Church House,
Gt. Smith Street,
S.W.1.

*Miss Moffat
for filing
20.12 lit.*

*for reference of
Comm. I. No. 40
para IV.
lit.*

III/25.
19th December 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE III.

Request from French National Office raising two questions
of Law.
Referred to Committee III.

The French National Office has submitted to the United Nations War Crimes Commission the text of a letter sent on 9th November 1945 by the Director of the (French) Enemy War Crimes Research Office in Paris, to the French Representative on the United Nations War Crimes Commission, a copy of which, together with the English translation, is appended to this paper.

The Document was circulated to Committee I as Doc. I/46 on 19th December 1945 and Committee I decided in its meeting of the same date to refer the matter to Committee III and ask it for its opinion on both legal questions raised in the document.

2 Enclosures.

I/46

I/46.
19th December, 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

Translation of a Letter from:

The Director of Enemy War Crimes Research Office.

Dated: Paris, 9th November, 1945.

To Professor Gros at The French Embassy,
4, Carlton Gardens,
London, S.W.1.

I have the honour to acknowledge receipt of your letter of 16th October 1945 by which you returned to me file No. 1094/GM/CI concerning a war crime committed in Czechoslovakia. The victim being a citizen of Alsace-Lorraine, i.e. a Frenchman, it is evident that we, and not, as our draftsman assumed, the Czechoslovak Government, are competent to deal with the case.

It seems however, that the matter should be examined by the United Nations Commission and a statement of principle sought. Our files contain one precedent and further cases presenting the same problem will certainly recur.

The problem concerned is that of Alsations enlisted for the German Army by force who then deserted, were sentenced as deserters and shot under a sentence.

The responsibility for the enlisting into the German Army, in disregard of International law, Alsations who are French nationals, belongs to the leaders of the ex-Reich, to the members of the General Staff and to the Gauleiter of Alsace-Lorraine, Wagner, but to what extent are the members of a German Military Court responsible who acted as regular judges and awarded sentences as provided by the German Military Court in case of a soldier deserting from the German Army, even if the deserter were an Alsatian?

In judging the responsibility of the officers and men of whom those Courts were composed, the fact must be borne in mind that they could not be ignorant of the Alsatian origin of the accused. The enlistment of these men in disregard of International law, a fact which must certainly have been pointed out by the defence, should have secured to the accused a high measure of extenuating circumstances. It seems, however, that the German Military Courts judged the cases of Alsatian deserters with particular severity.

You would greatly oblige me by submitting this question of principle to the United Nations Commission and to let me know whether the members of these German Military Courts may be arrested as war criminals, in cases where the awarded sentences appear to have been excessive.

Paris le 9 Novembre 1945.

Le Directeur du Service de Recherche
des Crimes de guerre ennemis.

A

Monsieur le Professeur GROS
Ambassade de France,
4, Carlton Gardens, S.W.1.

J'ai l'honneur de vous accuser réception de votre lettre du
16 Octobre 1945, m'adressant en retour un dossier No 1094/GM/CI,
relatif à un crime de guerre commis en Tchécoslovaquie.

La victime étant un Alsacien-Lorrain, donc un Français, il est
évident que nous sommes compétents pour instruire le dossier et non pas
le Gouvernement tchécoslovaque, comme l'avait jugé notre rédacteur.

Il semble cependant que cette affaire devrait faire l'objet d'un
examen et d'une déclaration de principe devant la Commission des Nations
Unies. Nous avons déjà dans nos dossiers un précédent, et de nouvelles
affaires posant le même problème se présenteront certainement.

Il s'agit en l'espèce d'Alsaciens-Lorrains incorporés de force dans
l'armée allemande, déserteurs, jugés comme tels et fusillés après jugement.

La responsabilité de l'incorporation dans l'armée allemande, au mé-
pris de toute loi internationale, des Alsaciens-Lorrains citoyens français,
incombe aux dirigeants de l'ex-Reich, aux membres du Grand Etat-Major et
au Gauleiter d'Alsace-Lorraine WAGNER. Mais quelle peut être la
responsabilité encourue par les membres d'un Tribunal Militaire allemand
jugant régulièrement et condamnant aux peines prévues par le Code de
Justice Militaire allemand, un soldat déserteur de l'armée allemande,
même si celui-ci est un Alsacien-Lorrain.

A la charge cependant des officiers et soldats composant ces
tribunaux militaires, il faut retenir ce fait d'évidence qu'ils ne
pouvaient ignorer la qualité d'Alsacien-Lorrains des inculpés. Cette
incorporation faite au mépris du Droit International, dont la défense
faisait certainement état, aurait dû permettre aux inculpés de bénéficier
de larges circonstances atténuantes.

Il semble, au contraire, que les Tribunaux militaires allemands se
soient montrés particulièrement sévères pour les Alsaciens-Lorrains
déserteurs.

Je vous serais obligé de soumettre cette question de principe à
la Commission des Nations Unies et de me faire connaître si les membres
de ces Tribunaux militaires allemands peuvent être retenus comme
criminels de guerre lorsque la peine prononcée peut paraître excessive.

I/47.
1st January 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Notes on the Committee I Secretariat.

In view of the recent reorganisation of the department of the Commission's Secretariat responsible for the work with regard to Committee I terms of reference, it has been found necessary to issue the enclosed instructions in order to ensure that the proper procedure be applied by the administrative staff in the processing of charge files and the preparation of the Commission's Lists of War Criminals.

These instructions are circulated to Members of Committee I for their information, and all suggestions and requests as to the improvement of the procedure would be very much appreciated.

The department referred to above is now called the Secretariat of Committee I, and Miss Sirey - the department's Secretary and Registrar - is responsible for all the general administrative duties and enquiries.

Secretary of Committee I.

Enclosure.

UNITED NATIONS WAR CRIMES COMMISSION.

PROCESSING OF CHARGE FILES.

and

PREPARATION OF COMMISSION'S LISTS OF WAR CRIMINALS.

UNDER GENERAL SUPERVISION OF THE LEGAL OFFICER, SECRETARY OF COMMITTEE I.

Note:

(a) Items of processing enumerated sub 1 - 33 inclusive, are in operation during every week.

(b) Items of processing enumerated sub 34 - 51 are in operation approximately once per month, i.e. before issuing of a new Commission's List.

(c) DIVISION OF DUTIES OF THE ADMINISTRATIVE STAFF:

1) THE REGISTRAR is responsible for duties indicated sub 1 - 9, 12, 17 - 22, 30, 39 - 47 and 51.

2) THE CHIEF INDEXER is responsible for duties indicated sub 29, 31 - 38 (35 and 37 in co-operation with the Registrar) and 48 - 50.

3) THE INDEXERS are responsible for duties indicated (under super-) sub 23 - 28 and 36, the later in co- vision of) operation with other staff. (Chief Indexer.)

I. REGISTRATION.

- 1) Cases received by the Secretariat, each in six copies (one original and 5 copies).
- 2) Originals dated, numbered (serial numbers) and filed.
- 3) All copies numbered (serial file numbers).
- 4) Copies sent to members of Committee I and to the Commission's Chairman.
- 5) All names of accused, suspects and witnesses numbered consecutively on original copies.
- 6) All names entered into Registry Book.
- 7) Receipts of cases typed in duplicate, showing every case received, with registered number. One copy sent to National Offices transmitting charges, the other filed.

8) New cases, adjourned cases and addenda selected for next meeting of Committee I.

9) Files transmitted to the Legal Officer.

II. EXAMINATION OF CASES BY THE LEGAL OFFICER.

10) Examination of cases as to facts, evidence and legal points.

11) Preparation of notes on cases for Committee I.

12) Notes typed in 8 copies and distributed to members of Committee I and to the Commission's Chairman. One copy filed.

13) Files transmitted to the Research Officer.

III. VETTING OF CASES BY THE RESEARCH OFFICER.

14) Vetting of cases with regard to personalities and military matters.

IV. COMMITTEE I. MEETINGS.

15) Consideration and classification of cases by the Committee.

16) Committee's decisions recorded in the minutes.

17) Committee's decisions noted and dated on the files.

18) Committee's decision denoted in Registry Book.

19) Files submitted to the Committee Chairman for signature.

20) Files transmitted for indexing, except adjourned cases and those classified as 'C'.

21) Copies of cases returned by members of Committee I to be segregated into filing cabinet according to serial numbers or countries submitting charges, as requested by members of the Committee.

22) Minutes distributed to members of Committee I, the Commission's Chairman, all National Offices, the indexers, etc. One copy filed.

V. INDEXING.

23) All names checked against General Index.

24) Selecting and removing index-cards of persons or units already charged.

25) New data noted on already existing cards.

26) New cards made up for persons and units charged for the first time.

(Only persons classified on A-S-W; not those put on 'C', or with regard to whom decision has been adjourned.)

Note:

1. The following data has to be entered on index cards against each name separately:
 - (a) Name and Christian name,
 - (b) Rank and unit or official position,
 - (c) Data and place of commission of crime,
 - (d) Description of crime,
 - (e) File number,
 - (f) Classification, (A, S, W.)
 - (g) Miscellaneous notes, if any, (e.g. "in custody", physical description, etc.)
- 2.(a) Description in French to be translated into English,
(data sub (b) into German or English.)
(b) Data sub (b) given in German not to be translated.
- 27) Names of Concentration Camps personnel entered into separate Concentration Camps Index.
- 28) All cards indicated sub 25) and 26) together with charge files transmitted to Chief Indexer.

VI. PREPARATION OF COMMISSION'S LISTS.

- 29) Cards made up by indexers to be checked against charge files and then later marked with checking stamp.
- 30) Files segregated into filing cabinets according to
 - (a) countries submitting charges,
 - (b) nationality of accused.
- 31) First segregation of cards according to the nationality of persons (or units):

German,	Italian,
Japanese,	Bulgarian,
Hungarian,	Roumanian,
Albanian,	etc.

- 32) Second segregation of cards into sections and sub-sections, and according to alphabetical order, all this in the following order:
- (a) Names, Christian names (except those under (f)),
 - (b) Persons not known by name,
 - (c) Units,
 - (d) Legal classification: accused (A), suspects (S), Witnesses (W).
 - (e) Countries by which persons are wanted.
 - (f) All persons already listed against whom additional charges have been brought.
- 33) All cards put aside in special boxes awaiting new Commission's List.
- 34) Committee I decides the closing of a new Commission's List.
- 35) All cards accumulated since the last Commission's List are to be rechecked against Registry Book and numbered consecutively, but separately for each of the sub-sections indicated sub 32 (d).
- 36) Lists typed on stencils in order indicated sub 32 (a), (b), (c), (d), (e), (f).

Note: The following particulars have to be entered against each name separately:

- (a) Serial number,
 - (b) Rank and unit, or official position.
 - (c) Date and place of commission of crime,
 - (d) Description of crime,
 - (e) Miscellaneous notes.
- 37) Stencils checked, especially as to the spelling of names.
- 38) Pages numbered and contents index made.

VII. FINAL STAGE.

- 39) Lists duplicated in 200 copies.
- 40) Sets made up.
- 41) Lists inspected by the National Offices concerned.
- 42) Corrections made, as requested by National Offices.

- 43) Lists submitted to Committee I and to the Commission for sanction.
- 44) Sets sent to, and bound copies received back from the Stationery Office.
- 45) All copies numbered.
- 46) Lists distributed in approximately 150 copies, under covering letters.
- 47) List of distributed copies made up showing recipients and numbers of copies allocated.
- 48) All cards relating to the issued List segregated once more in alphabetical order (irrespective of sections sub 32 (d), (e) and (f), but according to nationality of the accused, as under 31.
- 49) All cards marked with the List number and their text underlined.
- 50) Cards segregated into General Index in alphabetical order.
- 51) Filing of correspondence and receipts relating to distribution of Lists.

Note: Instructions as to the Subject-Index will be issued separately at a later date.

For consideration at the
next Committee Meeting.

I/48.
4th January, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Transfer of General DALMAZZO

(Request by Albanian Central Commission
for punishment of war crimes)

Note by the Secretary to Committee I.

The enclosed letter (in translation) dated Tirana 22nd June 1945 and addressed to the "International War Crimes Commission in London" by the President of the Albanian Central Commission for the Punishment of War Crimes, is circulated to members of the Committee for their information and consideration at the next meeting.

This letter, which requests the transfer of General DALMAZZO to the Albanian Government as a war criminal, was originally addressed to Allied Force Headquarters in Italy by the Albanian authorities for transmission to the Commission. It has been now transmitted to the Commission through the Foreign Office.

It its covering letter of 29th December 1945, the Foreign Office advises the Commission that Albania is not a member of the United Nations although His Majesty's Government has recently recognised the present administration as the Provisional Government of Albania.

Same
A General Reuzo DALMAZZO, Commandant of the Italian VI Army Corps operating in DALMATIA, has been charged by Yugoslavia for murder, massacres and systematic terrorism (case No. 1133) and listed on List 'A' by the Commission, (List No. 15, Serial 269).

It has not been found possible to ascertain, at the time of preparing this note, whether DALMAZZO, wanted by Albanian Government and he charged by Yugoslavia are the same person.

Enclosure.

Annex - I/48.

Tirana 22-6-45.

DEMOCRATIC GOVERNMENT OF ALBANIA.

Presidenza del Consiglio (Cabinet ?)

CENTRAL COMMISSION FOR THE PUNISHMENT OF WAR CRIMINALS.

**TO THE INTERNATIONAL WAR CRIMINALS COMMISSION
LONDON.**

Owing to the victory of the Allies over Nazi Germany the terrorist fascist apparatus in Europe collapses together with all consequences; one after another its members are falling into the hands of the liberating Allied Forces. The nations which have been victims of this terror learn with joy that the perpetrators of their miseries are being seized and brought before the courts of justice to answer for their crimes in those places where they carried out their misdeeds. The Albanians, who were the first victims of fascist aggression and carried on a sanguinary war with great sacrifices in order to sustain the anti-fascist block, have learned the right to ask that Albanian or alien criminals who organized and inspired the reign of terror so that she should be prevented from contributing her share to her own war of liberation, shall be handed over directly to her. General DALMAZZO, ex Commander in Chief of the Italian Fascist Troops in Albania, has been arrested in Italy by the Italian authorities. General Dalmazzo, faithful executor of fascist methods, in the spring of 1943, ordered an action in great style against the national liberating forces in central of southern Albania. As a result of this action, wholesale massacres were carried out and entire villages and hamlets were burned to the ground especially in the neighbourhood of Malakstra (Berat).

During this period, agreements were made with the traitrous organization of the "National Front", represented by the war criminal Ali Kelcyra, agreements known under the name of "Protocollo Dalmazzo - Kelcyra". According to this agreement the Italian Command promised to give all possible help to this organization and to its armed forces. In this way the use of all roads of communication were assured for the Italian troops against any attack on the part of the National Forces of Liberation. According to the above mentioned agreement, the fascist occupation forces helped by the traitrous "National Front" under the command of General Dalmazzo, organized throughout Albania a net work of spying and terrorism. After the arrival of General Dalmazzo in Albania terrorism increased ever more. He it was who started Concentration Camps in Albania (Porto Romano, Kavaje, Burrel), where innocent Albanian men, women and children were kept. In these concentration camps the regime of hunger and every other sort of torture ruled supreme.

General Dalmazzo ordered the wholesale internment of families in concentration camps in Italy... In order to suppress any resistance on the part of the Albanian people, General Dalmazzo ordered the execution of persons chosen amongst the population or in the jails and concentration camps, as a reprisal for any action taken by the National Liberation Forces against the forces of occupation. Everyone knows of the execution of the heroine Margherita TUTULANI together with her brother and four youths from Valona after Maresciallo Lombardi had been killed; the execution of nine youths taken from the Porto-Romano concentration camps; other similar executions at Ravaje and at Tepelene. These are the criminal acts ordered directly by General Dalmazzo, himself.

With horror the population in the neighbourhood of Valona remembers the winter of 1943, when the mercenary dibrani, commanded by the famous criminals Halil Alija and Selim Kaloshi, went there by order of General Dalmazzo to carry out lootings and unmentionable tortures. After the capitulation of Fascist Italy, Gen. Dalmazzo, disobeying the orders of the Badoglio Government as well as those of the National Forces of Liberation, together with General Azzi, commander of the Florence Division, prevented the conjunction of the Italian Forces with the liberating ones on the spot and instead joined up with the German forces.

The slaughters, the destruction of Albanian villages and the organization of all the terrorist apparatus, figure as the crimes committed by General Dalmazzo. The Central Commission for the inquiry into the crimes committed by war criminals, faithful interpreter of the wishes of the Albanian people, begs with insistence for the rapid judgment of war criminals by its own Tribunals, according to the decisions taken by the Allies, and demands that the war criminal General Dalmazzo be handed over so that he may be judged by the Tribunal of the Albanian people.

For the Central Commission,

The President

MANOL KONOMI.

(For Consideration at the
next Committee Meeting.)

I/49.
4th January 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Distribution of Commission's Lists of War Criminals.

(Request by British Military Mission, Hungary.)

Note by the Secretary of Committee I.

A cablegram from British Military Mission, Hungary, has been received by the Secretariat through the Allied Commission for Austria (Surrendered Personnel Section I) advising the United Nations War Crimes Commission that the Commission's Lists of War Criminals are not being transmitted to that Mission.

For the information of the Committee it is submitted that in accordance with the present practice the distribution of the Commission's Lists to the various British elements outside this Commission is as follows:

1. Foreign Office:

Mr. Beaumont,	25 copies,
PID, Commander Hitch,	12 "
PID, Major Fontaine,	1 copy.

2. War Office, AG.3, Lt.Col.Isham, 12 copies,

3. Control Commission for Germany, 4 "

It is not known whether the Commission's Lists are being transmitted by any of the above mentioned authorities to the Allied Commission for Austria.

I/50.

4th January, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

NOTE on a Conference between Sir Alfred Brown,
head of the Legal Department of the British
Control Council for Germany, and Colonel Wade,
Dr. Litawski and the writer.

By E. Schwebel.

On 3rd January, 1946, Sir Alfred Brown, head of the Legal Department of the British Element of the Control Council for Germany called on the Secretariat of the Commission in order to discuss the assistance which could be given by the Commission to the Allied Control Council in connection with giving effect to the Law No. 10 of the Control Council. (See Documents Series No. 15, issued by the Research Office of this Commission).

Sir Alfred Brown informed us that while preparations had been made by the occupying authorities with a view to bringing the war criminals proper, other than major war criminals, to trial, and military machinery to this effect had been established, no preparations had been made and no material collected with regard to the prosecution of persons guilty of "crimes against peace" and "crimes against humanity". Both these categories which are distinguished in Art. 6 of the Charter of the International Military Tribunal from war crimes proper have now been embodied as crimes in Art. II of the Law No. 10.

Without prejudicing the view on this matter which will be arrived at by the proper authorities of the Commission we gave to Sir Alfred, inter alia, the following information.

- (a) In general, the files of the Commission which are based on charges brought by individual allied governments are concerned with war crimes in the narrower sense, namely violations of the laws and customs of war committed on allied territory or against allied subjects.
- (b) Many cases examined by the Commission necessarily deal with crimes that have been committed both against allied and against enemy nationals, e.g. the charges relating to crimes committed in concentration camps, crimes committed under the heading of "racial hygiene" extermination of incurable and aged people, medical experiments and so on.
- (c) The Research Office of the Commission has been collecting material not only regarding war crimes proper, but also criminal activities falling under the notion of crimes against humanity.
- (d) The Commission received in several instances charges referring only to crimes committed against enemy nationals, e.g. the set of charges received from the "Association of German Democratic Lawyers", information received from different Jewish bodies in this country, and to a certain extent files of charges drawn up by the Jewish Agency for Palestine. We informed Sir Alfred that part of this material had, after correspondence with the proper authority, been sent to the Control Council for Germany or Mr. Fahy, the Legal Advisor for the American Zone.

(e) The text of the Law No. 10, that is available to us at present is a re-translation into English of a German translation of the authentic text which was probably in English, French and Russian. If this text gives a correct picture of what is the contents of the Law, it would appear from Art. 2, para. 2. lit (f) that it is a crime under this Law to have held in Germany or in a country allied to Germany and fighting on her side or following her, a superior political governmental or military position, (including a position on the general Staff) or to have held such a position in the financial, industrial or economic field. This seems to be considered a crime at least as far as Art. 2, para. 1 (a) applies i.e. with regard to crimes against peace within the meaning of Art. 2. 1 (a) of the Law and Art. 6 (a) of the Charter of the International Military Tribunal.

If this be so, then the two lists of German war criminals holding key positions (Nos. 7 and 9) produced by the Commission in April and May 1945 should also be of some help to the Control Council.

Sir Alfred Brown asked the writer of this report to prepare a note on this question for him, which the writer is doing simultaneously, but expressly pointing out that what he is transmitting is so far only his private opinion which has not been examined and approved by the Commission.

Colonel Wade promised to Sir Alfred Brown to make available for him those research files which are of interest to the Control Council in view of the task outlined above and Colonel Wade has already sent the papers in question to Sir Alfred.

Sir Alfred Brown further expressed his opinion that it would be appreciated by his office if the private organisations with whom the Commission had been in contact and who had submitted the charges and information to the Commission, e.g. the Association of German Democratic Lawyers, would be invited to continue doing so.

I/50.

4th January 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

Note on a Conference between Sir Alfred Brown,

head of the Legal Department of the British Control Council
for Germany, and Colonel Wade, Dr. Litawski and the writer.

By E. Schwelb.

On 3rd January 1946, Sir Alfred Brown, head of the Legal Department of the British Element of the Control Council for Germany called on the Secretariat of the Commission in order to discuss the assistance which could be given by the Commission to the Allied Control Council in connection with giving effect to the Law No.10 of the Control Council. (See Documents Series No.15, issued by the Research Office of this Commission.)

Sir Alfred Brown informed us that while preparations had been made by the occupying authorities with a view to bringing the war criminals proper, other than major war criminals, to trial, and military machinery to this effect had been established, no preparations had been made and no material collected with regard to the prosecution of persons guilty of "crimes against peace" and "crimes against humanity". Both these categories which are distinguished in Art.6. of the Charter of the International Military Tribunal from war crimes proper have now been embodied as crimes in Art.II of the Law No.10.

Without prejudicing the view on this matter which will be arrived at by the proper authorities of the Commission we gave to Sir Alfred, inter alia, the following information.

(a) In general, the files of the Commission which are based on charges brought by individual allied governments are concerned with war crimes in the narrower sense, namely violations of the laws and customs of war committed on allied territory or against allied subjects.

(b) Many cases examined by the Commission necessarily deal with crimes that have been committed both against allied and against enemy nationals, e.g. the charges relating to crimes committed in concentration camps, crimes committed under the heading of "racial hygiene", extermination of incurable and aged people, medical experiments and so on.

(c) The Research Office of the Commission has been collecting material not only regarding war crimes proper, but also criminal activities falling under the notion of crimes against humanity.

(d) The Commission received in several instances charges referring only to crimes committed against enemy nationals, e.g. the set of charges received from the "Association of German Democratic Lawyers", information received from different Jewish bodies in this country, and to a certain extent files of charges drawn up by the Jewish Agency for Palestine. We informed Sir Alfred that part of this material had, after correspondence with the proper authority, been sent to the Control Council for Germany or Mr. Fahy, the Legal Advisor for the American Zone.

(e) The text of the Law No.10. that is available to us at present is a re-translation into English of a German translation of the authentic text which probably was in English, French and Russian. If this text gives a correct picture of what is the contents of the Law, it would appear from Art.2. para.2.lit (f) that it is a crime under this Law to have held in Germany or in a country allied to Germany and fighting on her side or following her, a superior political governmental or military position (including a position on the general Staff) or to have held such a position in the financial, industrial or economic field. This seems to be considered a

crime at least as far as Art.2. para.1 (a) applies i.e. with regard to crimes against peace within the meaning of Art.2. 1 (a) of the Law and Art.6.(a) of the Charter of the International Military Tribunal.

If this be so, then the two lists of German war criminals holding key positions (Nos.7 and 9) produced by the Commission in April and May 1945 should also be of some help to the Control Council.

Sir Alfred Brown asked the writer of this report to prepare a note on this question for him, which the writer is doing simultaneously, but expressly pointing out that what he is transmitting is so far only his private opinion which has not been examined and approved by the Commission.

Colonel Wade promised to Sir Alfred Brown to make available for him those research files which are of interest to the Control Council in view of the task outlined above and Colonel Wade has already sent the papers in question to Sir Alfred.

Sir Alfred Brown further expressed his opinion that it would be appreciated by his office if the private organisations with whom the Commission had been in contact and who had submitted the charges and information to the Commission, e.g. the Association of German Democratic Lawyers, would be invited to continue doing so.

I/51.
15th January 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Draft Letter to German Democratic Associations in connection with
Control Council Law No.10.

To: Mr. Friedrich Mainzer, and Mr. F. Hellendall,
Association of German Democratic Lawyers, Legal Section, Free German Movement,
15, Park Lodge, Lawyers, 29, Langland Gardens,
St. John's Wood Park, London, N.W.3.
London, N.W.8.

Dear Sir,

On 11th August 1945, the then Secretary General of this Commission informed Mr. Hellendall, who then acted on behalf of the Association of German Democratic Lawyers in Great Britain, that the charges so far presented by the Association of German Democratic Lawyers in Great Britain, have, under arrangements arrived at to this effect, been sent on to the authorities competent for the preparation of cases before Allied Occupation Courts in Germany, who have jurisdiction to try cases of offences committed prior to the occupation. In that letter it was also stated that the presentation of further charges would be useful both in order to assist in the preparation of trials before Allied Military Courts in Germany and to make possible their consideration - in summarised form - by the authorities framing the indictment against the major war criminals.

The summary envisaged in this letter has been produced in a report by the Legal Commission of the Free German Movement in Great Britain, submitted to this Commission in October 1945.

Now, by the Control Council Law No.10, regarding the punishment of persons guilty of war crimes, crimes against peace and crimes against humanity, a uniform legal basis has been established in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal.

I thought that your organisation would be interested in this development and write to inform you that if you would continue presenting them, the United Nations War Crimes Commission would now welcome such charges and reports on crimes as could be passed on to the authorities having jurisdiction to give effect to the Control Council Law. No.10.

Yours sincerely,

Colonel.
Secretary General.

I/51. (1)
17th January, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Draft Letter to the Association of German Democratic
Lawyers and to the Legal Section of the Free German
Movement in connection with the Control Council Law
No. 10.

(Text as adopted at the meeting of Committee I held on 17th January 1946).

Dear Sir,

On 11th August 1945, the then Secretary General of this Commission informed Mr. Hellendall, who then acted on behalf of the Association of German Democratic Lawyers in Great Britain, that the charges so far presented by the Association of German Democratic Lawyers in Great Britain, have, under arrangements arrived at to this effect, been sent on to the authorities competent for the preparation of cases before Allied Occupation Courts in Germany, who have jurisdiction to try cases of offences committed prior to the occupation. In that letter it was also stated that the presentation of further charges would be useful both in order to assist in the preparation of trials before Allied Military Courts in Germany and to make possible their consideration - in summarised form - by the authorities framing the indictment against the major war criminals.

The summary envisaged in this letter has been produced in a report by the Legal Commission of the Free German Movement in Great Britain, submitted to this Commission in October 1945.

Now, by the Control Council Law No. 10, regarding the punishment of persons guilty of war crimes, crimes against peace and crimes against humanity, a uniform legal basis has been established in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal.

I think that your organisation may be interested in this development. The Commission understands that it would assist the Control Council for Germany if they could receive any further charges and reports on crimes and the Commission would be glad to forward any such documents to Berlin should they be submitted. Yours sincerely. (Sgd) Secretary-General.

UNITED NATIONS WAR CRIMES COMMISSION.

I/51 (1)
17th January 1946. ✓

COMMITTEE I.

Draft Letter to the Association of German
Democratic Lawyers and to the Legal Section
of the Free German Movement in connection
with the Control Council Law No.10.

(Text as adopted at the meeting of Committee I held on 17th January, 1946.)

Dear Sir,

On 11th August 1945, the then Secretary General of this Commission informed Mr. Hellendall, who then acted on behalf of the Association of German Democratic Lawyers in Great Britain, that the charges so far presented by the Association of German Democratic Lawyers in Great Britain, have, under arrangements arrived at to this effect, been sent on to the authorities competent for the preparation of cases before Allied Occupation Courts in Germany, who have jurisdiction to try cases of offences committed prior to the occupation. In that letter it was also stated that the presentation of further charges would be useful both in order to assist in the preparation of trials before Allied Military Courts in Germany and to make possible their consideration - in summarised form - by the authorities framing the indictment against the major war criminals.

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I think that your organisation may be interested in this development. The Commission understands that it would assist the Control Council for Germany if they could receive any further charges and reports on crimes and the Commission would be glad to forward any such documents to Berlin should they be submitted.

Yours sincerely,

Secretary General.

I/52.
21st January, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Detention of Witnesses.

The following letter dated 4th January 1946 and addressed to the Secretary General by the United States Representative on the United Nations War Crimes Commission, Colonel Joseph V. Hodgson, is circulated to members of the Committee for their information and consideration:

" At the request of Committee I the following letter, dated 4 December 1945, was transmitted to the Deputy Theater Judge Advocate, United States Forces, European Theater:

" Dear Colonel Mickelwait:

It has been the practice of the United Nations War Crimes Commission to list enemy witnesses to alleged war crimes irrespective of whether voluntary attendance by such witnesses at the trial could be relied upon.

Recently anxiety was expressed by members of Committee I, Committee of Facts and Evidence, as to whether injustice might not be done to willing witnesses by their detention pending trial. Doubt was expressed as to whether the listing of witnesses was justifiable or necessary in cases where their voluntary attendance at the trial could be relied upon.

This discussion took place in connection with a British case, and Mr. Kent, Representative of the United Kingdom National Office, was asked to furnish the Commission with a statement on the position of the British Authorities in the matter. Copy of his letter to the Commission of 30 October 1945 is enclosed. Committee I took notice of this letter at its meeting held on 8 November 1945.

At a meeting held on 28 November 1945, the Committee felt it necessary to ask for information as to the procedure applied by the United States and French Authorities in respect to the retention of voluntary witnesses listed by the Commission. The United States Representative agreed to ascertain what was the practice applied in this respect by the United States Authorities.

It is therefore requested that this office be furnished with the desired information.

Sincerely yours,

JOSEPH V. HODGSON,
Colonel, JAGD.
United States Commission,
United Nations War Crimes Commission.

Today I am in receipt of a reply, dated 27 December 1945, which I quote for the information of Committee I:

" Dear Colonel Hodgson:

Your letter of 4 December 1945, relative to the practice followed by American authorities in connection with detaining friendly witnesses has been received.

The phrase "friendly witnesses" as used by us insofar as detention problems are concerned is applied to the limited class of witnesses whose voluntary attendance at prospective trials can reasonably be expected and whose attitude toward American authorities and the war crimes operation, in particular, is such that actions on their part which would hinder the expeditious development of the cases in which they are involved as witnesses cannot be reasonably anticipated.

For our operations we encounter two main categories of "friendly witnesses", those whose location is known and those whose location is not known. We do not file Wanted Reports with CROWCASS on the former but do file on the latter. However, on the face of such Wanted Reports we state specifically, "Apprehend but do not detain".

Sincerely yours,

/s/ C.B. Mickelwait.

C.B. Mickelwait,
Colonel, JAGD,
Deputy Theater Judge Advocate. "

I/53.
31st January 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

Application of Control Council Law No.10. - Charges
submitted by the Legal Commission of the Free German Movement.

According to the decision of Committee I the letter approved by it (Doc.I/51(1)) has been sent to the Association of German Democratic Lawyers and to the Legal Commission of the Free German Movement in Great Britain.

The latter organisation has now submitted to the Commission six charges against German nationals for crimes punishable under the provisions of the Control Council Law No.10. (Nos. 10 - 15) The numbering starts by No.10, the charges 1 to 9 were submitted last year and forwarded by the United Nations War Crimes Commission to Mr. Fahy, Chief Legal Advisor for the American zone of Germany.

Copies of these charges, Nos. 10 to 15 are herewith circulated to the members of Committee I. The question of the procedure to be adopted in dealing with these cases is being placed on the agenda of next week's meeting of Committee I, to be held on Thursday, 7th February, 1946.

TRANSLATION. (Copy)

SUMMARY OF MEMORANDUM OF CAPTAIN DI FURIA, FERNANDO, REGARDING HIS DUTIES IN SLOVENIA FROM THE 25th. JUNE, 1942 to 8 SEPT. 45.

Mobilised on 25 June 42, sent to "Isonzo" Division as Commander of the Carabinieri of said unit, stationed at Novo Mesto, Slovenia, with 37th. and 38th. Carabinieri Section (mobilised). Duties of Carabinieri of said Division. Due to lack of sufficient personnel, said Carabinieri were employed as guards at Divisional H.Q., Control, Patrolling of Novo Mesto and in escorting internees to the Klagenfurt, never employed as combat or mopping-up operations units. Duties of Captain di FURIA, bureau chief, liaison between Divisional Staff Officer his direct superior, and the commanders of the two Section Duties of his dependents: -

(1) Escorting internees from Novo Mesto to Concentration Camps in Italy. Regular Divisional units had mopping-up duties. The Divisional Staff Officer requested the Carabinieri escort from Novo Mesto to Italian Concentration Camp which was done by train. This was the only operation in which the Carabinieri were involved.

Before Captain di FURIA'S arrival, the Yugoslav PW's were statically interned, and in the same period General Gaudenzi, Chief of the Army Corps, gave orders for the arrest of 7-8 persons at Novo Mesto, due to information obtained from the anti-communist organisation "Bela Garda" to which the Divisional H.Q. replied that the political situation was stable and the arrest of these persons unnecessary but H.Q. Army Corps, had them interned. Due to the undersigned's interest, of Lt. Col. ERMANNO ROSSI, Chief of the Staff of the Division, and of General MACCARIO, the internees were released and returned home some months before the 8th. September, 1943.

(2) Confiscation of partisan families' property H.Q., Army Corps gave reprisal orders against families of partisans in September-October 1942, which involved the Division's jurisdictional territory (Novo Mesto and Cernomeli).

Militia Consul Mammo Riodi was in charge of reprisal operation at Novo Mesto, with orders coming directly from H.Q., Army Corps. At Cernomeli such operations were carried out by the Local Commander and the Local Carabinieri, who had nothing to do with the Division. The Commanding General gave orders, for the confiscation of property of 20-25 families, which was not wholly carried out as the Lieutenant of the Carabinieri for sentimental or for humanitarian reasons, sent a Non com a day before the actual operation who asked the names of the families from the Local Municipal tylist, thus tipping off the families concerned of the eventual confiscation of their property.

This permitted them to leave the town, and the few objects left were regularly confiscated in order to justify the execution of the order. Said families returned before the 8th. September, 1943.

Proof of Captain di FURIA'S moderation in executing his orders had come from -

MISS PINOAR JURIC, Giulia, living near the Andrianih pharmacy. The ANDRIANICH pharmacy.

MR. ABSECC, wife of an employee of the railway station of Novo Mesto. The above-named persons could testify to his benevolence.

Further, Captain di FURIA showed his anti-fascist feelings by the following actions:

(a) Before the 25th of July, 1943, Captain di FURIA, through his Warrant Officer, Antonio MOCCERINO, came in contact with partisans, and informed his Chief of Staff, Lt. Col. ROSSI, ERMANNO, and the Vice-Commander of the Division, General CERRUTI, of his anti-fascist decisions. Together they met the partisan representative of the "Carnar" Brigade, on the Starna road, 15 km. off NO-

No record was reached at that time, as the British Liaison Officer, whose name does not recall, wanted the Division to pass over under the Command of partisan brigades operating in Slovenia.

After the 8th. of September, 1945, Captain di FURIA deserted, living as an outlaw, and in September, 1945, he joined the "Martiri del Piave" Brigade, Venice, and took part in the liberation of the City on 28, 29 and 30 April, 1945.

In the beginning of May, Captain di FURIA went to Florence, and found his name in the "Italia Nuova" of Rome, dated 11th. February, 1945, as an accomplice of General ROATTA.

This accusation may have a logical explanation.

The list comprises two thirds of the names of officers of the other three divisions of the Army Corps.

While the "Gasciateri delle Api, Granatieri, and Lombardia" divisions were mobile, the "Isone" was stationed at Nuovo Nesto and its officers' names easier to get. This may also explain why Lt. Col. MIRABELLA and Lt. Col. MEZZI, who arrived 15 days before the 8th. September, 1945 and who were administrative officers are comprised in the list. Therefore, as Captain di FURIA was well known, for the population presented demands for releases of PWs and internees who regided in Novo Nesto, the inclusion of his name in the list could be easily explained.

On the basis of these circumstances and with the help of personal data furnished, the writer asks that Competent Authorities interest themselves in the examination of the case of the officer in question.

Signed: Capt. FERNANDO DI FURIA.

UNITED NATIONS WAR CRIMES COMMISSION.

Note on United Kingdom Case No. 2429.

Scuttling of Enemy U-Boats.

By Dr. J. Litawski.

The United Kingdom National Office charges Oberleutnant Gerhard GRUMPELT, an officer of the German Navy, with the scuttling of two of the newest type of enemy U-boats carried out over thirty-six hours after the Instrument of Surrender of the German Armed Forces came into operation. The National Office describes the alleged crime as a violation of the terms of surrender, and by analogy refers to Oppenheim's Treatise, page 453, paragraph 253, which deals with the question of the plea of superior orders.

2. The charge is based on the Instrument of Surrender signed on May 4th, 1945, which provided that all hostilities on land, on sea or in the air had to cease at 0800 hours on May 5th, 1945. This instrument, however, does not provide any conditions with regard to scuttling or managing of the instruments of war which are usually embodied in all Conventions between armed forces of belligerents stipulating terms of surrender. Such conditions were, for instance, provided in all subsequent Conventions signed with the German Command after May 4th, 1945, i.e.,:-

- (a) Unconditional surrender of German Forces at Rheims signed on May 8th, 1945, (paragraph 2);
- (b) Unconditional surrender of German Forces at Berlin signed on May 8th, 1945, (paragraph 2);

and

- (c) Declaration regarding the defeat of Germany and the assumption of superior authority in respect of Germany signed on June 5th, 1945, (Article 5).

3. The question, therefore, arises whether the action taken by the accused was lawful, or not. With regard to this, Oppenheim is of opinion that unless otherwise expressly provided, a surrender is concluded under the obvious condition that the surrendering Forces become prisoners of war, and that all war material and other public property in their possession, or within the surrendering place or ship, are surrendered in the condition in which they were at the time the surrender was signed. Nothing prevents Forces fearing surrender from destroying their provisions, munitions, arms and other instruments of war which, when falling into the hands of the enemy, would be useful to him. Again, nothing prevents a commander, even after negotiations regarding surrender have begun, from destroying such articles. But when once a surrender has been signed, such destruction is no longer lawful, and if carried out, constitutes perfidy, which may be punished by the other party as a war crime.

4. From the evidence submitted in the case it appears that at 0400 hours on May 5th, 1945, that is, after the Instrument of Surrender in question had been signed, the accused received from his superiors an order which implied that all U-Boats within certain latitudes should be scuttled and that

.....

Cuxhaven was included in this order. (First affidavit, page 2). From the evidence it appears also that the accused knew of the subsequent cancellation of that order (page 8) and was presumably present at the meeting at Admiral Kleikampf's Headquarters on May 5th, 1945, where all the officers of the German Navy assembled there had to give their word of honour to the Admiral that they would not scuttle their craft. (Page 9).

5. Notwithstanding, the accused decided to carry out the previous order subsequently cancelled and scuttled two U-Boats on May 6th, 1945, between 23.30 hours and 23.59 hours, that is, over thirty-six hours after the Instrument of Surrender came into operation.

6. In view of the foregoing, it is quite clear that the action taken by the accused had nothing to do with the carrying out of superior orders, and that the accused acted individually and on his own initiative. According to Article 41 of the Hague Regulations of 1907 such action entitles the injured party to demand the punishment of the offender. The accused should, therefore, be listed on 'A'.

UNITED NATIONS WAR CRIMES COMMISSIONNote on United Kingdom Case No. 2429.Scuttling of Enemy U-Boats.By Dr. J. Sitawski.

The United Kingdom National Office charges Oberleutnant Gerhard GRUMPELT, an officer of the German Navy, with the scuttling of two of the newest type of enemy U-Boats carried out over thirty-six hours after the Instrument of Surrender of the German Armed Forces came into operation. The National Office describes the alleged crime as a violation of the terms of surrender, and by analogy refers to Oppenheim's Treatise, page 453, paragraph 253, which deals with the question of the plea of superior orders.

2. The charge is based on the Instrument of Surrender signed on May 4th, 1945, which provided that all hostilities on land, on sea or in the air had to cease at 0800 hours on May 5th, 1945. This instrument, however, does not provide any conditions with regard to scuttling or damaging of the instruments of war which are usually embodied in all Conventions between armed forces of belligerents stipulating terms of surrender. Such conditions were, for instance, provided in all subsequent Conventions signed with the German Command after May 4th, 1945, i.e.,:-

- (a) Unconditional surrender of German Forces at Rheims signed on May 8th, 1945, (paragraph 2);
- (b) Unconditional surrender of German Forces at Berlin signed on May 9th, 1945, (paragraph 2);

and

- (c) Declaration regarding the defeat of Germany and the assumption of superior authority in respect of Germany signed on June 5th, 1945, (Article 5).

3. The question, therefore, arises whether the action taken by the accused was lawful, or not. With regard to this, Oppenheim is of opinion that unless otherwise expressly provided, a surrender is concluded under the obvious condition that the surrendering Forces become prisoners of war, and that all war material and other public property in their possession, or within the surrendering place or ship, are surrendered in the condition in which they were at the time the surrender was signed. Nothing prevents Forces fearing surrender from destroying their provisions, munitions, arms and other instruments of war which, when falling into the hands of the enemy, would be useful to him. Again, nothing prevents a commander, even after negotiations regarding surrender have begun, from destroying such articles. But when once a surrender has been signed, such destruction is no longer lawful, and if carried out, constitutes perfidy, which may be punished by the other party as a war crime.

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5. Notwithstanding, the accused decided to carry out the previous order subsequently cancelled and scuttled two U-Boats on May 6th, 1945, between 23.30 hours and 23.59 hours, that is, over ~~thirty~~ thirty-six hours after the Instrument of Surrender came into operation.

6. In view of the foregoing, it is quite clear that the action taken by the accused had nothing to do with the carrying out of superior orders, and that the accused acted individually and on his own initiative. According to Article 41 of the Hague Regulations of 1907 such action entitles the injured party to demand the punishment of the offender. The accused should, therefore, be listed on 'A'.

20th February 1946.

I/55

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Assistance to the Control Council in the matter of the application of
Law No. 10.

The following letter received from the Chairman of the Association of German Democratic Lawyers, is circulated to members of Committee I for information.

" Dr. Fr. Mainzer,

15, Park Lodge,
St. John's Wood Park,
London, N.W.8.

Pri. 4991.

18th February 1946.

The United Nations War Crimes Commission,
Lansdowne House,
Berkeley Square,
London, W.1.

Dear Sirs,

For the kind attention of the Secretary General.

" I thank you for your letter of the 17th January. I have great pleasure in informing you on behalf of the Association of German Democratic Lawyers that the Association will be very glad indeed to assist you in the preparation of charges against war criminals. The Association have formed a committee which consists of experienced specialists on criminal law who will study the cases submitted to them and will report on them to you. Furthermore, our Association has contacted other associations and the press in order to collect material and we hope to be in a position to supply with you some more cases shortly.

" May I take this opportunity of informing you that the letter dated 11th August 1945, and mentioned by you, was not submitted to our Association so that we were unable to reply to it. The letter was addressed to Mr. Hellendall who did not submit it to our Board and I am asked by the Board to tender you our apologies for the non-reply. I should be grateful if you would kindly send all further communications either to our Secretary, Dr. Mosheim, 16, Elgin Court, W.9., or to myself at the above address.

" You would greatly oblige me by letting me have a copy of the Control Council Law No.10, and I thank you very much in advance.

Yours sincerely,

ON BEHALF OF THE ASSOCIATION OF
GERMAN DEMOCRATIC LAWYERS.

THE CHAIRMAN.
(sgd) F. Mainzer.

I/56.
5th March 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

The following letter from Dr. Hellendall is circulated to Committee I for its decision:

"

29, Langland Gardens,
London, N.W.3.

1st March, 1946.

Dr. E. Schwelb,
Legal Officer,
United Nations War Crimes Commission,
Lansdowne House,
Berkeley Square,
London, W.1.

Dear Dr. Schwelb,

With further reference to your letter of the 31st January last, I should be glad if you would kindly let me have another 20 forms for further war crime charges to be submitted.

Would you also be kind enough to let me have the address of the Control Commission for Germany (American Section), Legal Branch, to which I understand charges for crimes against humanity committed in the American Zone must be submitted.

Thanking you in anticipation,

Yours truly,

(Sgd) F. Hellendall.

F. HELLENDALL.

"

I/57
5th March, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

The following letter from Dr. B. Mosheim, Hon. Secretary of the Association of Democratic German Lawyers in Great Britain is circulated to Committee I for its decision:

Association of Democratic German Lawyers
in Great Britain.

16 Elgin Court,
London, W.9.

2nd March, 1946.

The United Nations
War Crimes Commission,
Lansdowne House,
Berkeley Square,
London, W.1.

For the attention of the Secretary General.

Dear Sirs,

With reference to your communication of January 17th and the answer of Dr. F. Mainzer - our chairman - dated February 18th I enclose herewith the copy of two cases which our Association submitted to

The Legal Division (Rear)
Control Commission for Germany, B.E.,
21 Princess Gardens, S.W.7.

following a request by the Legal Division. These two charges will be sent by the same post.

You would oblige me in letting me know whether further charges can refer to crimes which occurred in the Russian zone of occupation during the period from 30.1.1933 to 1.7.1945?

Yours faithfully,

(SGD) B. MOSHEIM

(Dr. juris) B. Mosheim
Hon. Secretary.

1 Enc.

I/58
5th March, 1946.

DRAFT LETTER TO
THE ASSOCIATION OF GERMAN DEMOCRATIC LAWYERS
(SEE PARA.V OF COMMITTEE I MINUTES NO. 52)

Dear Mr. Mainzer,

With reference to your letter of 18th February, 1946, written on behalf of the Association of German Democratic Lawyers, I am instructed by the competent Committee of this Commission to bring to your attention that in accordance with the rules of procedure adopted by the Commission in dealing with charges of the kind you contemplate submitting, the Commission's action would merely consist in transmitting them to the appropriate authorities for further action. The Commission would not take any share in the preparation of such cases.

Yours sincerely,

Secretary General.

NOTES TO DOCUMENTS SERIES NO. 30 BY DR. MAYR-HARTING

By Control Council Law No. 11, certain provisions of the German Criminal Law were repealed (cf. Documents Series No. 30.).

Part of these provisions were considered by Committee I about a year ago when dealing with the Czechoslovak charge Z-7/44 (No. 424) (Sondergerichte). Committee I then came to the conclusion that provisions applied by the Special Courts (Sondergerichte) violated principles recognised in the laws of all civilised nations.

These provisions include the "Ordinance on Wrongdoers against the People" (Verordnung gegen Volkschaedlinge) of 5th September 1939 (RGBl I, 1679) and the "Ordinance on Extraordinary Measures concerning Radio" (Verordnung ueber ausser ordentliche Rundfunk massnahmen) of 1st September 1939 (RGBl I, 1683), which were repealed by Control Council Law No. 11, Art. II lit. f. and e. respectively.

A scrutiny of the charges so far submitted will show that Committee I considered also the application of a series of provisions not yet repealed, a war crime.

It is, therefore, suggested that Committee I, with the help of their archives and, where necessary, asking the National Offices for their support, collects the provisions of the German Law (not only the German Criminal Law) the application of which has been considered a war crime. It should then draw the attention of the Allied Authorities to these provisions informing them of the reasons which let the Commission to place the persons responsible for and administering them, on their list of War Criminals.

19th March, 1946.

Dr. J. Litawski,
Secretary of Committee I,
United Nations War Crimes Commission,
Room No. 302,
Lansdowne House,
Berkeley Square, W.1.

Dear Dr. Litawski,

1/59
Will you please distribute the enclosed notes to Documents
Series No. 30. to the members of Committee I, and place their
discussion on the agenda of one of the next meetings of the Committee.

Yours sincerely,

Dr. H. Weyr-Harting.

Office of the Czechoslovak
Representative on the
United Nations War Crimes
Commission



RECEIVED

20 MAR 1946

Anad.....

Dr. J. Litawski,
Secretary of Committee I,
United Nations War Crimes Commission,
Room No. 302,
Lansdowne House,
Berkeley Square, W.1.

3. FURSECROFT
GEORGE STREET,
LONDON, W.1

AMBassador 2281 ext. 27
AMBassador 1527

19th March, 1946.

1.412
I/59

Dear Dr. Litawski,

1/59. Will you please distribute the enclosed notes to Documents
Series No. 30. to the members of Committee I, and place their
discussion on the agenda of one of the next meetings of the Committee.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'H. Mayr-Harting'.

Dr. H. Mayr-Harting.

I/60

25th March, 1946

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

The following letter, together with Reports 3 and 4, from Dr. B. Mosheim, Hon. Secretary of the Association of Democratic German Lawyers in Great Britain is circulated to Committee I for its decision:

Association of Democratic German Lawyers
in Great Britain

16 Elgin Court,
London, W.9.

March 19th, 1946.

The Secretary General,
United Nations War Crimes Commission,
Lansdowne House,
Berkeley Square,
London, W.1.

Dear Sir,

re: Nazi War Crimes under Control
Council Law No. 10

I submit two further cases (Report No. 3 and 4).

Report No. 3 deals with a case committed in the Russian zone of occupation. We noticed that according to the contents of your communication of 11th inst. the United Nations War Crimes Commission "would be prepared to receive and transmit any cases submitted to them" by our Association.

Further reports will be brought to your attention.

I should like to point out that Report No. 4 repeats literally the accusation submitted to our Association.

Yours faithfully,

(Signed) B. MOSHEIM

(Dr. juris)

Hon. Secretary

Report No. 3.

In January, 1938 Dr. juris Arthur P. Kosterlitz, then in Berlin and member of the Berlin Bar -, now at 8, Belsize Park Gardens, London, N.W.3 was arrested by the Gestapo and taken to the "Reichs-Sicherheits-Hauptamt" Prinz-Albrecht Str. Berlin W. On his arrest a warrant (Schutzhaftbefehl) for protective custody was handed to him charging him with treason (Vorbereitung zum Hochverrat). In the course of the hearings, it was intimated to him that he was charged with having been the courier between an oppositional officers' group of the Wehrmacht called the "Grals-Ritter" and the Otto Strasser Group in Prague, Czechoslovakia.

The Gestapo-officer WIGGERS was in charge of the case and used the following means of pressure -

- 1) Wiggers said to Dr. Kosterlitz his head was not worth a penny - so great an amount of evidence by witnesses was against him. As a matter of fact Dr. Kosterlitz was never confronted with any witness and no statements were read out to him.
- 2) Wiggers threatened Dr. Kosterlitz with the arrest of his wife. Wiggers added Mrs. Kosterlitz would be taken to a concentration camp and after four weeks confronted with her husband who then would certainly be prepared to open his mouth.

In February 1938 the Gestapo's application for a judicial warrant of arrest and the opening of judicial proceedings was refused by the court because there was no crime.

Witness - Dr. juris Arthur P. Kosterlitz of 8, Belsize Park Gardens, London, N.W.3.

Report No. 4.

The witness

Dr. Albert COSSE, medical practitioner at
Remscheid (at the Main Railway Station - 'Phone Number 42707),
Rhineland gives the following account -

"Miss Erna MARCHAND was a patient of mine for many years and a faithful friend of my wife. The Jews were examined in 1941 and the Nazi Doctor NICKEL of Remscheid tormented them. I was the only doctor to dare to give treatment to the Jews and, besides, I was friendly with most of them and we visited each other in our homes. The last Jews living at Remscheid were ordered to get ready to be sent away in 1941. Miss Marchand who suffered from a Thrombosis and to whom I gave treatment made an application to the Gestapo to be allowed to remain in Remscheid. The Gestapo instructed her to see Doctor Nickel. Dr. Nickel treated the woman like cattle and threw her out. She had to go the same way as the other Jews. She visited us on Sunday afternoon for the last time. We had coffee together and Miss Marchand promised us solemnly she would not commit suicide. We took leave from each other. It was heartbreaking. Mrs Antonie RUFF stayed with her until late at night and left her at 1.00 a.m. Shortly afterwards Miss Marchand took 20 tablets of veronal she had hidden. Miss Marchand had to be taken to an hospital. In the street Miss Marchand kept crying "Doctor NICKEL has killed me". Miss Marchand died on November 13th, 1941, without having regained consciousness. I arranged for the cleaning and maintenance of Miss Marchand's grave."

I/61

25th March, 1946

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

The following letter, together with Reports 5 and 6, from Dr. B. Mosheim, Hon. Secretary of the Association of Democratic German Lawyers in Great Britain is circulated to Committee I for its decision:

Association of Democratic German Lawyers
in Great Britain

16, Elgin Court,
London, W.9.

March 23rd, 1946.

The Secretary General,
United Nations War Crimes Commission,
Lansdowne House,
Berkeley Square,
London, W.1.

Dear Sir,

re: Nazi War Crimes under Control Council Law No.10
Crimes against humanity

Further to my letter of March 19th, 1946 I submit two further reports (Nos. 5 and 6).

I should like to point out that report No. 5 comprises several hundreds of cases. The report can perhaps be used when the case of the accused Julius Streicher will be dealt with by the Military Tribunal at Nuremberg to demonstrate the acts of violence that were perpetrated in the sphere of the accused Streicher who apparently denies any knowledge of such terrible crimes.

Yours faithfully,

(Signed) B. MOSHEIM
(Dr. juris)

Hon. Secretary.

Enclos.

Report No. 5.

Charges against Deputy Gauleiter Holz and associates at Nuremberg.

In connection with the riots against Jews during the night from 10th November to 11th November, 1938 at Nuremberg Jews who were owners of houses were summoned to the office of the Labour Front ("Arbeitsfront") and forced to convey their real estate to Deputy Gauleiter Holz at Nuremberg. He who refused was pushed into a cellar, put face to a wall and kept in the cellar until he complied. In this connection acts of violence occurred. For instance Justizrat Dr. juris Justin Goldstein, then at Nuremberg, now of 34 Frognal Court, London, N.W.3. was badly wounded and had to be taken to the Jewish Hospital at Fuerth (near Nuremberg). In many cases the "Sellers" not only failed to receive the selling price but furthermore had to enter into an obligation to the effect that they undertook to repay mortgages - at least partly. This had to be done for the benefit of the people to whom Deputy Gauleiter Holz transferred the property "bought" in the way described above.

All the names of Nazis involved in these crimes are recorded in the documents respective kept in the Public Notaries Offices' Nos. I, II, III, IV and VI at Nuremberg and at the Land Registry ("Grundbuchamt"), Nuremberg. In view of the criminal character of the acts the holder of Notary's Office No. V, one Dr. juris Hoffmann, refused to co-operate.

Witnesses -

1. (Justizrat Dr. juris) Justin Goldstein of 34, Frognal Court, London, N.W.3.
2. Mr. Kolb, Secretary General of the Jewish Community at Nuremberg who is now back at Nuremberg.
3. (Dr. juris) Julius Nuernberger, barrister-at-law who is now back to Nuremberg and chairman of the present Jewish Community at Nuremberg.

Note: In the course of the program at Nuremberg at least 10 persons lost their lives and about 100 Jews were more or less seriously wounded.

Report No. 6.

(Dr. juris) Walther Ostwald, then of Herwarth Street at Muenster, Westphalia, now of 12, Randolph Gardens, London, N.W.6. was arrested at his home on 17th May, 1935 upon a warrant for arrest issued by the Gestapo Bielefeld, Westphalia. As reason for the arrest was given the contents of a lecture delivered on 30th April, 1935 at the synagogue of Bielefeld. Dr. Ostwald was first taken into police custody and, about 3 weeks later, to Esterwegen concentration camp, where he was kept for about six months. During his stay at Esterwege concentration camp Dr. Osterwald was many times beaten up and otherwise maltreated. The man responsible for Dr. Ostwald's arrest and subsequent transfer to the concentration camp was the Gestapo Officer KAUFMANN at Bielefeld, born about 1900 who according to his own statement was a former "Gerichts-Referendar" and was at that time in charge of Jewish affairs at the Gestapo office at Bielefeld, Westphalia.

Witness - (Dr. juris) Walther Ostwald of 12, Randolph Gardens, London, N.W.6.

I/62.

DRAFT LETTER to the ASSOCIATION OF DEMOCRATIC GERMAN LAWYERS -
(See para VI of COMMITTEE I MINUTES No.56.

Dear Dr. Mosheim,

With reference to your letters of the 19th and 23rd March, I have to inform you that the four charges (Reports Nos. 3, 4, 5 and 6) submitted by your Association have been transmitted to the Legal Department of the Control Council for Germany.

I am also instructed to bring to your attention that at the last meeting of the competent Committee of the Commission the question of procedure in dealing with such charges in future was under further consideration. In order to expedite the procedure, the Committee considered it more practicable if charges and reports you contemplate submitting were in future communicated by your Association direct to the Control Council for Germany and copy of them submitted to this Commission for information.

Yours truly,

Secretary General.

Note: Similar letter would be sent to the Legal
Commission of the Free German Movement.

SECRET

I/63

UNITED NATIONS WAR CRIMES COMMISSION

4th April, 1946

COMMITTEE I

ACQUITTALS OF PERSONS LISTED BY THE COMMISSION.

In connection with Doc. Misc. No. 17 and the subsequent discussion in the Committee meeting held on 28th March, 1946 (Minutes No. 56, page 2, para III), the following information kindly furnished by the Office of the United Kingdom Judge Advocate General is circulated to the members of Committee I.

It is to be noted that persons indicated under 13), 14), 15), 18), and 23) have not been listed by the Commission.

Ad 12) This was not a strong case and the defence produced a witness who was in a slit-trench next to the accused who corroborated the accused story that he did not surrender. I know that the accused and the witness had no opportunity of discussing the case before trial. Had I been aware of the evidence that the witness could have given I do not think he would have been put up for trial.

Ad 13, 14 & 18) These were all Hungarian guards at Belsen and the prosecution was not able on the evidence available at the trial to prove that the persons ill-treated were Allied nationals.

Ad 15) As in so many cases the witnesses did not turn up at the trial and consequently the court, in view of the evidence given by the accused, gave him the benefit of the doubt.

Ad 16) The evidence in this case for the prosecution was all German who were proved to be unreliable and definitely biased.

Ad 17) The evidence here was of displaced persons, some of whom disappeared before the trial and others in evidence admitted that they had exaggerated when giving their original statements.

Ad 19) This man had been in arrest some considerable time. He was a civilian and there was evidence to show that the unknown prisoner of war was, himself, guilty of an assault.

Ad 20) This was not a serious case and I was surprised that the Court gave such a heavy sentence.

Ad 21 & 22) I cannot comment on remission of punishment made by the confirming officer.

Ad 23) Here again the evidence was German and presumably the Court did not accept this evidence.

I/64.
7th May, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

The following Report (No. 7) on crimes committed against German nationals in Germany has been submitted to the Control Council for Germany by the Association of Democratic German Lawyers in Great Britain, and is circulated to members of Committee I for their information:-

"Report No. 7.

Crime against humanity.

Dr. Juris Kurt Hiller - formerly of Berlin - now living in London, (48, Woodstock Avenue, N.W.11), who was well known as antimilitarist writer in Pre-Hitler-Germany was arrested by the SS on July 14th, 1933 and taken to the notorious Columbia House at Berlin - Tempelhof of Columbia Strasse. This was a SS.-prison. Dr. Hiller was kept there for nearly 3½ months without having any opportunity to contact a defence counsel. He was never informed of the charges against him. Dr. Hiller was then transferred to the concentration camp Brandenburg. During his stay in Columbia House Dr. Hiller was inhumanly ill-treated. The following SS men of the many who maltreated Dr. Hiller can be identified:-

- 1) SS man KRAMER smacked Dr. Hiller's face several times brutally and hit him on the breast.
- 2) SS man LIPKE (or Luepke) was in charge of four men who flogged Dr. Hiller until he collapsed bleeding from many wounds.
- 3) SS man Fitzner refused to open Dr. Hiller's cell door during the night when Dr. Hiller wished to go to the lavatory. Fitzner threatened Dr. Hiller he had to expect to be killed at any time.
- 4) SS Truppfuehrer Rautenberg lashed Dr. Hiller's face at several occasions; Rautenberg ordered Dr. Hiller + several "special exercises" in the yard. Rautenberg got Dr. Hiller hand-cuffed for days.
- 5) SS Kommissar told Dr. Hiller he would keep him for four or five years in a concentration camp.
- 6) SS Truppfuehrer Moser ordered Dr. Hiller to march in double quick time this being against the instructions of the doctor.
- 7) SS Surgeon Dr. Strauss remarked Dr. Hiller deserved the maltreatment and added he would do his best to get him in a concentration camp.
- 8) SS man Harfenstein (or Havenstein) robbed together with associates the food parcels sent by relatives of Dr. Hiller. Furthermore he forced Dr. Hiller to sign a document in which Dr. Hiller confirmed to have received a warrant of arrest. Actually Dr. Hiller did not receive such a warrant.

Witness:- Dr. Kurt Hiller of 48, Woodstock Avenue, London, N.W.11.

+ to carry out

"The famous left wing political writer Erich Muehsam of Berlin was arrested shortly after Hitler's coming to power in 1933. He spent several months at Brandenburg concentration camp where he was grossly ill-treated and where several attempts to murder him were made. On February 2nd, 1934 Muehsam was transferred to Oranienburg concentration camp. After the purge of 30th June 1934 the prison staff which until then had consisted of SA men were replaced by SS men. SS Brigade-Fuehrer Eike was appointed Commandant and SS Sturm-Fuehrer Eckardt Adjutant. On July 9th, 1934 after darkness Muehsam was called into the office of Eike who gave him the order to take his life by hanging within the next 48 hours. A few hours later Eckardt told Muehsam the suicide had to be committed in the course of the same night. The next morning Muehsam's body was found in the lavatory in the yard, hanging down from a beam, the body fastened by a rope. Fellow prisoners who as sailors, dockers etc., had special experience of knotting slings were unanimously of the opinion that the knotting in question was performed by highly experienced men. Muehsam was, however, known to everybody to be a very unhandy man. The position of the body as fixed by the rope to the beam was such that the body obviously had been put there after the death had occurred. Muehsam had repeatedly said - the last time shortly before the murder - he would never commit suicide.

Witnesses for the murder:

- 1) Walter Detlef Schultz of 48, Woodstock Avenue, London, N.W.11.
 - 2) Guenter Schworthing at Stenbaeck, Hagastroem, Sweden."
-

I/65

24 June, 1946

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

STATISTICAL PROGRESS REPORT

The enclosed document is circulated to members of Committee I for their information and consideration at the next meeting to be held on 27th June, 1946.

It is submitted that this document, if accepted, be circulated as a Commission Document.

Secretary to Committee I

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

STATISTICAL PROGRESS REPORT

(1st February, 1944, to end of May, 1946)

Annotated by the Secretary to Committee I

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Shortly after the United Nations War Crimes Commission was created, it recommended to the Governments that National War Crimes Offices be established to investigate in the first instance reports concerning war crimes, and to submit to the Commission in the form requested, charges concerning the offences investigated by them.

In response to the Commission's recommendation, Agencies of this kind have been set up by all Governments, members of the Commission.

In the investigation of war crimes and examination of charges submitted by the National Offices, the Commission, as an international organisation, embodies the impartial decision of the Governments that there is a case justifying the arrest and handing over for trial of the accused by the apprehending authorities who are thus not called upon to act upon ex parte statements by a single Government.

The preparation, form of submission and presentation by the National Offices of cases and charges of war crimes have been set forth in Document C.87(1) (consolidated) of 19th April, 1945.

Cases filed with the Commission are, according to the Commission's rules of procedure, considered and examined by Committee I, Committee on Facts and Evidence, in the presence of representatives of the Governments (National Offices) submitting the charges.

As to procedure and processing of charge files by Committee I and its Secretariat and preparation of the Commission's Lists of War Criminals, reference is being made to Document I/47 (consolidated) of January 1st, 1946.

The Commission is further charged with reporting to the member Governments cases of war crimes in which there appears to be prima facie evidence sufficient to justify the apprehension and trial of individuals accused of war crimes. This is the second aspect of Committee I's terms of reference. In this respect the Commission as an international agency functions in a manner resembling that of a committing magistrate reporting to the Governments names of the individuals accused. This is being done in the form of the Commission's Lists of War Criminals with which also all apprehending authorities concerned are being supplied and thus called upon to take the necessary action.

The present document covers the statistical aspect only of Committee I work, since its inception.

The rules of procedure and legal rulings adopted and established by this Committee, while considering charges and deciding upon the responsibility for war crimes, as well as a survey of war crimes committed during the last war with a commentary on the most important cases submitted by the Governments, will be dealt with in separate documents at a later date.

TABLE ITOTAL NUMBER OF CASES (DOSSIERS) RECEIVED BY THE COMMISSION

The following figures show the total number of cases (dossiers) received by the Commission, irrespective of the nationality of war criminals charged therein and the Governments (members of the Commission) by which they have been submitted.

<u>Year</u>	<u>Cases</u>
1944	464
1945	1,726
1946 (<u>to end of May</u>)	1,311
	<hr/>
	3,501

Note

1. First cases registered by the Commission were received on 1st February, 1944.
2. All cases fall under two categories: (a) individual cases and (b) collective cases, according to whether they include charges against one or more persons or units, and no distinction between these two categories has been made while arriving at the above figures.

The total number of persons actually charged and listed by the Commission (Tables II, III and the following) is much higher than that of cases (dossiers) submitted.

EXPLANATORY NOTE ON TABLES II - VIII

The following Tables II and III, and consequently also Tables IV-VIII, have been set up on the basis of periodical Lists of War Criminals issued by the Commission and not upon the General Alphabetical Index of names. As all cases received by the Commission are being registered and examined by Committee I according to countries submitting them, the periodical Lists of War Criminals are being accordingly prepared and divided in separate sections, each of them including all persons or units charged by one country, irrespective of whether any of them might have been also charged by any other country. Some of them have, in fact, been charged several times. Therefore, the figures shown in Tables II and III do not represent the total number of persons and units actually listed in the General Alphabetical Index of War Criminals kept by the Commission. As the publication of such alphabetical, consolidated list (index) must necessarily be deferred until the very final stage of the Commission's work, the total number of persons and units actually listed by the Commission to date is not available. Nevertheless, it may be safely assumed that the number of persons and units listed several times in the periodical Lists does not exceed 5% of the total figures in Tables II and III.

While arriving at the figures shown in Tables II-VIII, account has been taken of all changes and alterations in each List as indicated in subsequent Lists.

Repartition of Tables II and III according to individual countries submitting charges and nationality of persons or units charged and listed, is shown in Tables IV-VIII.

Cases which have not been accepted by Committee I (so-called "C" cases), and adjourned cases, are shown in Table X.

TABLE II

TOTAL NUMBER OF PERSONS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION

(32nd List issued in May, 1946 inclusive) +

	<u>WAR CRIMINALS</u>	<u>SUSPECTS</u>	<u>MATERIAL WITNESSES</u>	:	<u>TOTAL</u>
Germans ++	10,799	2,256	535	:	13,590
Japanese +++	354	56	17	:	427
Italians	723	39	9	:	771
Albanians	2	-	-	:	2
Bulgarians	175	4	-	:	179
Hungarians	48	-	-	:	48
Rumanians	4	-	-	:	4
	<hr/>	<hr/>	<hr/>	:	<hr/>
	12,105	2,355	561		15,021

+ List 32 issued in May, 1946, includes charges accepted by Committee I up to 2nd May. Charges accepted later during the month of May (about 1,000 persons and units in number) will be included in the latest List, No. 38, now in preparation.

++ These figures do not include Germans holding Key Positions and listed in special Lists 7 and 9 (TABLE XII)

+++ These figures do not include Japanese listed by the Sub-Commission (TABLE XIII).

Note

1. Additional charges brought against persons once charged by the same Government and listed, are not included. These are shown in TABLE IX.
2. Persons listed as unknown by name are included in the above figures.
3. In cases where the description of a person charged reads: "X.Y. head of or his successor or successors at the material time", each case has been counted as involving one person.
4. In cases where the description of a group of persons charged involves an unspecified number of persons unknown by name and holding similar official positions in a number of unspecified but different places of the same administrative district or region - each group has been counted as a unit. (See TABLE III).

TABLE III

TOTAL NUMBER OF UNITS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION

(32nd List issued in May, 1946 inclusive)⁺

	<u>WAR CRIMINALS</u>	<u>SUSPECTS</u>	<u>MATERIAL WITNESSES</u>	:	<u>TOTAL</u>
Germans	70	183	2	:	255
Japanese	13	12	-	:	25
	—	—	—	:	—
	83	195	2		280

+ List 32 includes charges accepted by Committee I up to 2nd May. See explanation (+) to TABLE II.

Note.

1. In cases where the description of a group of persons charged involves an unspecified number of persons unknown by name and holding similar official positions in a number of unspecified but different places of the same administrative district or region - each group has been counted as a unit.
2. Additional charges brought against units once charged by the same Government and listed, are not included. These are shown in TABLE IX.

TABLE IV

NUMBER OF PERSONS LISTED BY INDIVIDUAL COUNTRIES

(32nd List issued in May, 1946 inclusive)

	<u>Total</u>	<u>GERMANS</u>		
		<u>War Criminals</u>	<u>Suspects</u>	<u>Material Witnesses</u>
AUSTRALIA +	:	(See United Kingdom)		
BELGIUM	2,315	1,829	362	124
CANADA+	30	22	1	7
CHINA	-	-	-	-
CZECHOSLOVAKIA	1,187	780	406	1
DENMARK	54	43	11	-
FRANCE	6,155	4,748	1,110	297
GREECE	16	16	-	-
INDIA +	:	(See United Kingdom)		
LUXEMBURG	34	33	1	-
NETHERLANDS	329	246	47	36
NEW ZEALAND +	:	(See United Kingdom)		
NORWAY	464	249	210	5
POLAND	865	824	39	2
UNITED KINGDOM	1,158	1,077 ++	40	41
UNITED STATES	333	318	12	3
YUGOSLAVIA	580	550	13	17
COMMISSION +++	70	64	4	2
	<u>13,590</u>	<u>10,799</u>	<u>2,256</u>	<u>535</u>

+ Australian, Indian and New Zealand cases against German war criminals are being submitted through the United Kingdom National Office and have been included in the latter's figures. Future Canadian cases will also be submitted through the United Kingdom National Office.

++ 98 of these, charged for having committed crimes against non-British nationals in Concentration Camps and the like, have been listed upon United Kingdom cases as they are to be tried by British Military Courts in Germany.

+++ These persons have been listed by the Commission on its own initiative.

TABLE VNUMBER OF PERSONS LISTED BY INDIVIDUAL COUNTRIES

(32nd List issued in May, 1946 inclusive)

	<u>J A P A N E S E</u>			
	<u>Total</u>	<u>War Criminals</u>	<u>Suspects</u>	<u>Material Witnesses</u>
AUSTRALIA	94	82	3	9
BELGIUM	-	-	-	-
CANADA	-	-	-	-
CHINA +	(See Chungking Lists: Table XIII)			
CZECHOSLOVAKIA	-	-	-	-
DENMARK	-	-	-	-
FRANCE	3	3	-	-
GREECE	-	-	-	-
INDIA	(Included in United Kingdom figures)			
LUXEMBURG	-	-	-	-
NETHERLANDS	-	-	-	-
NEW ZEALAND	(Included in United Kingdom figures)			
NORWAY	-	-	-	-
POLAND	-	-	-	-
UNITED KINGDOM ++	107	75	24	8
UNITED STATES	(223	194	29	-
	(See also Chungking Sub-Commission Lists)			
YUGOSLAVIA	-	-	-	-
COMMISSION	-	-	-	-
	<u>427</u>	<u>354</u>	<u>56</u>	<u>17</u>

+ Chinese cases are being listed by the Sub-Commission in Chungking.
(See TABLE XIII)

++ A number of these cases have been submitted by the United Kingdom on behalf
of the Indian and New Zealand National Offices.

TABLE VINUMBER OF PERSONS LISTED BY INDIVIDUAL COUNTRIES

(32nd List issued in May, 1946 inclusive)

	<u>I T A L I A N S</u>			<u>Material</u>
	<u>Total</u>	<u>War Criminals</u>	<u>Suspects</u>	<u>Witnesses</u>
AUSTRALIA	(Included in the United Kingdom figures)			
BELGIUM	-	-	-	-
CANADA	(Included in the United Kingdom figures)			
CHINA	-	-	-	-
CZECHOSLOVAKIA	-	-	-	-
DENMARK	-	-	-	-
FRANCE	12	12	-	-
GREECE	-	-	-	-
INDIA	(Included in the United Kingdom figures)			-
LUXEMBURG	-	-	-	-
NETHERLANDS	-	-	-	-
NEW ZEALAND	(Included in the United Kingdom figures)			
NORWAY	-	-	-	-
POLAND	-	-	-	-
UNITED KINGDOM +	111	98	5	8
UNITED STATES	-	-	-	-
YUGOSLAVIA	648	613	34	1
COMMISSION	-	-	-	-
	<u>771</u>	<u>723</u>	<u>39</u>	<u>9</u>

+ A number of these cases have been submitted by the United Kingdom on behalf of the Australian, Canadian, Indian and New Zealand National Offices.

TABLE VII.

NUMBER OF PERSONS LISTED BY INDIVIDUAL COUNTRIES.

(32nd List issued in May, 1946 inclusive)

	ALBANIANS				BULGARIANS				HUNGARIANS				RUMANIANS			
	Total	War Criminals	Suspects	Material Witnesses	Total	War Criminals	Suspects	Material Witnesses	Total	War Criminals	Suspects	Material Witnesses	Total	War Criminals	Suspects	Material Witnesses
AUSTRALIA																
BELGIUM																
CANADA																
CHINA																
CZECHOSLOVAKIA									1	1	-	-				
DENMARK																
FRANCE																
GREECE																
INDIA																
LUXEMBURG																
NETHERLANDS																
NEW ZEALAND																
NORWAY																
POLAND																
UNITED KINGDOM													4	4	-	-
UNITED STATES																
YUGOSLAVIA	2	2	-	-	179	175	4	-	47	47	-	-				
COMMISSION	2	2	-	-	179	175	4	-	48	48	-	-	4	4	-	-

TABLE VIII.

NUMBER OF UNITS LISTED BY INDIVIDUAL COUNTRIES

(32nd List issued in May, 1946 inclusive)

	<u>GERMAN</u>				<u>JAPANESE</u>			
	Total	War Criminals	Suspects	Material Witnesses	Total	War Criminals	Suspects	Material Witnesses
AUSTRALIA	(Included in United Kingdom figures)				22	11	11	-
BELGIUM	2	1	1	-	-	-	-	-
CANADA	-	-	-	-	-	-	-	-
CHINA	-	-	-	-	(See Chungking Lists)			
CZECHOSLOVAKIA	224	58	166	-	-	-	-	-
DENMARK	-	-	-	-	-	-	-	-
FRANCE	23	5	16	2	-	-	-	-
GREECE	-	-	-	-	-	-	-	-
INDIA	(Included in United Kingdom figures)							
LUXEMBURG	-	-	-	-	-	-	-	-
NETHERLAND	-	-	-	-	-	-	-	-
NEW ZEALAND	(Included in United Kingdom figures)				-	-		
NORWAY	-	-	-	-	-	-	-	-
POLAND	-	-	-	-	-	-	-	-
UNITED KINGDOM	6	6	-	-	1	1	-	-
UNITED STATES	-	-	-	-	2	1	1	-
YUGOSLAVIA	-	-	-	-	-	-	-	-
COMMISSION	-	-	-	-	-	-	-	-
	255	70	183	2	25	13	12	-

TABLE IXADDITIONAL CHARGES +

AUSTRALIA	-
BELGIUM	...	...	112
CANADA	...	...	-
CHINA	...	...	-
CZECHOSLOVAKIA	...	...	100
DENMARK	...	...	1
FRANCE	...	...	268
GREECE	...	...	-
INDIA	...	...	-
LUXEMBURG	...	...	-
NETHERLANDS	...	...	8
NEW ZEALAND	...	...	-
NORWAY	...	...	5
POLAND	...	...	117
UNITED KINGDOM	...	...	34
UNITED STATES	...	...	27
YUGOSLAVIA	...	...	70
COMMISSION	...	...	-
			<hr/>
			742

+ This Table shows the total numbers of additional charges brought against persons and units once listed by the same Government.

TABLE X
CASES NOT ACCEPTED, OR ADJOURNED

	<u>NOT ACCEPTED</u> (so-called 'C' cases)			<u>ADJOURNED</u>	
	<u>In toto</u>	<u>In part</u>		<u>In toto</u>	<u>In part</u>
AUSTRALIA	8	10	:	-	-
BELGIUM	5	38	:	8	7
CANADA	-	1	:	-	-
CHINA	-	-	:	-	-
CZECHOSLOVAKIA	1	10	:	4	2
DENMARK	-	-	:	1	-
FRANCE	32	204	:	33	14
GREECE	-	1	:	-	1
INDIA	-	-	:	-	-
LUXEMBURG	1	-	:	5	-
NETHERLANDS	5	8	:	3	1
NEW ZEALAND	-	-	:	-	-
NORWAY	-	3	:	-	-
POLAND	-	5	:	2	-
UNITED KINGDOM	75	174	:	14	11
UNITED STATES	5	58	:	-	-
YUGOSLAVIA	4	73	:	18	11
COMMISSION	-	-	:	-	-
	<hr/>	<hr/>		<hr/>	<hr/>
	136 +	585 ++		88	47

+ 29 'B' cases included
++ 26 'B' cases included

Note.

1. Cases classified as 'C' have not been accepted because Committee I was not satisfied that there is or will be sufficient evidence to justify a prosecution of persons or units charged therein. To this category belong also cases which, in the opinion of Committee I, do not constitute a prima facie case of a war crime.

Consideration of a 'C' case may be re-opened at any time provided the National Office concerned submits information and evidence sufficient to justify listing of persons charged therein as war criminals.

2. "In part" - means that charges against some persons or units charged collectively in a case have for some reason been considered as not sufficiently substantiated. With regard to these cases National Offices have been asked for additional information.
3. "'B' cases" - cases which have been accepted by Committee I but listing of the persons involved has for some reason been postponed.

14
TABLE XI.

LISTS OF WAR CRIMINALS ISSUED BY THE COMMISSION

Serial No.	Date of Issue	Categories of criminals involved	TYPE OF LIST
1	December 1944	A	Germans
2	December 1944	A	Italians
3	March 1945	A	Germans
4	March 1945	A - S - W	Japanese
5	March 1945	A - S - W	Germans, Italians, Albanians, Bulgarians, Hungarians, Rumanians.
6	April 1945	A	Germans
7	April, 1945	K	Germans Holding Key Positions (See TABLE XII).
8	May 1945	A - S - W	Germans
9	May 1945	K	Germans Holding Key Positions (See TABLE XII)
10	June 1945	A - S - W	Germans
11	July 1945	A - S - W	Germans
12	July 1945	A - S - W	Italians, Hungarians.
13	August 1945	A - S - W	Germans
14	October 1945	A - S - W	Germans
15	October 1945	A - S - W	Italians, Bulgarians.
16	December 1945	A - S - W	Germans.
17-23 (one volume)	January 1946	A - K - W	Japanese listed by the Sub-Commission. (See TABLE XIII)
24	January 1946	A - S - W	Japanese
25	February 1946	A - S - W	Germans
26	February 1946	A - S - W	Italians, Bulgarians, Hungarians, Rumanians.
27	March 1946	A - S - W	Germans.
28	March 1946	A - S - W	Germans
29	April 1946	A - S	Japanese
30	April 1946	A - S - W	Germans
31	May 1946	A - S - W	Germans
32	May 1946	A - S - W	Germans
33-37 (one volume)	June 1946	A - W	Japanese listed by the Sub-Commission. (See TABLE XIII)

Note

"A" stands for WAR CRIMINALS
 "K" " " WAR CRIMINALS HOLDING KEY POSITIONS
 "S" " " SUSPECTS
 "W" " " MATERIAL WITNESSES (ENEMY).

TABLE XII.LISTS OFGERMAN WAR CRIMINALS HOLDING KEY POSITIONS

	<u>Number of Persons Listed</u>
List No. 7	353
List No. 9	209
	—
	562

Note

Persons included in the above Lists were listed by the Commission on its own initiative.

As to the procedure adopted for listing persons holding key positions, reference is being made to the respective Lists.

TABLE XIIICHUNGKING SUB-COMMISSION'S LISTSOF JAPANESE WAR CRIMINALS

(issued up to April, 1946)

Total number of War Criminals and Material Witnesses (Sub-Commission's Lists Nos. 17-21, 33-37)	.....	1,196
Total number of War Criminals holding Key Positions (Sub-Commission's Lists Nos. 22 and 23)	.....	130
		—
		1,326

Note.

These Lists have been prepared and adopted by the Far Eastern and Pacific Sub-Commission in Chungking and reproduced by the Commission as its Lists Nos. 17-23 and 33-37. (See TABLE XI).

UNITED NATIONS WAR CRIMES COMMISSION.

I/67.
3rd September, 1946.

COMMITTEE I.

REPORT ON PRESENT STATE OF CROWCASS.

The following notes by Lt. Colonel SAVILL, AAG AG3 (B) (VW) on the Conference at CROWCASS held on 19th August, 1946, are circulated to members of Committee I for their information and consideration at the meeting to be held on 5th September 1946.

1. I attended the Conference at CROWCASS (Berlin) 19 Aug as representative of the War Office and of UNWCC

2. Those present at the Conference were :-

Chairman Lt.Col. HEIM - Commander of Berlin Documents Center and responsible (US) to US Legal Div for the operation of CROWCASS

Lt.Col. LUCK - AAG CROWCASS, and British representative on the (Br) 4 power Permanent Commission for CROWCASS.

Lt.Col. - AAG, AG 3 (B) (VW), and acting representative of SAVILL (Br) UNWCC

Major - DAAG, A(PS4), HQ BAOR
KAESTLIN (Br)

Major ? - Judge Advocate's Staff, USFET.
(US)

Mr. B. - Representative of US Legal Division.
SMITH (US).

Miss (?) - Representative of Subsequent Proceedings Division
(US) at NUREMBERG.

The French and Russian representatives did not attend.

3. Lt.Col.LUCK described the move of CROWCASS from Paris to Berlin in May and June and the arrangement/the US Document Center for a loan of 10 Enlisted Men and a gradually increasing number of German staff who had been screened by the Security Police.

4. The Permanent Commission of CROWCASS and the Legal Directorate, Allied Control Council, were taking what appeared to be an over-long time to come to an agreement. The Americans and British wished to get CROWCASS going again as soon as possible and it was therefore agreed between these two nations that the Americans should undertake responsibility for the operation of CROWCASS as an interim measure pending the further deliberations of the Permanent Commission and the Legal Directorate which aim at providing for its operation on a Four Power basis.

5. At the date of the Conference the staff consisted of

2 Lt.Cols	}	U.S.
1 Major		
10 Enlisted Men		

1 Lt. Col	}	British
1 Major		

2 Cpts }
2 drivers } British

115 civilians German.

An increase of up to 260 civilians is intended as soon as they can be trained.

6. The work being undertaken at present is:

- (a) dealing with back-log from 15 May to 1 Aug.
- (b) handling current work coming in. This is at present confined to sorting reports alphabetically and taking statistics. Until the back log has been cleared no queries can be answered, but it is expected that some service in this respect should start by 15 Sep.

7. Reports awaiting publication in lists for the period 15 May - 1 Aug
are

Wanted Reports	6,000
Detention Reports	51,000

(Wanted and Detention Reports have continued to flow in from all nations while CROWCASS was closed down).

8. Before these reports are finally listed they are to be checked against releases and transfers which have been notified since 15 May.

9. Although Lt.Col. SAVILL stressed that UNWOC were most anxious that the publication of Detention Lists should be given first priority it was nevertheless decided that Wanted Lists should be published first. The reason for this is that in the British and American Zones detainees are now being released and it was particularly desired that the latest Wanted Lists should be published as soon as possible in order that no wanted men should be released as a result of lack of information.

It was anticipated that the Wanted List up to 1 Aug (6,000) would be published by 21 Sep.

10. Of the 51,000 Detained Reports 30,000 should be ready for typing in Detained Lists (after checking against releases and transfers) by 1 Sep. Matching against Wanted Lists has already been done on the 30,000. Typing can be done at 8,000 names a day, and it was hoped that the 30,000 would be ready to start being issued in Detention Lists by 15 Sep.

11. The remaining 21,000 will follow but matching has yet to be done.

12. CROWCASS hope by mid-November to be one month behind schedule as opposed to three months as at present.

13. CROWCASS agreed to consider the issue of Consolidated Lists periodically

and the question of separate lists for

- (a) War Criminals
- (b) Automatic arrestees and Security Suspects.

14. CROWCASS undertook to issue monthly lists of releases and other casualties. Would nations please keep them fully informed on this subject?
15. CROWCASS check Wanted and Detained Lists for matching and when they find likely matches they notify the wanting Nation concerned by letter. CROWCASS would appreciate it very much if nations would inform them whenever this information has proved to be successful.
16. Would nations please notify CROWCASS when for one reason or another men shown on Wanted Lists are no longer wanted.
17. It was suggested that it would be helpful if the date of the Detention Report was put in as additional information on the Detention List, but this was ruled out owing to lack of space. At present all essential information is included and each name takes up a complete line right across a foolscap page sideways.
18. If a nation sees from a Detention List that another nation holds a prisoner that they want but that there is no indication as to where he is held then the method of obtaining the surrender of the prisoner is for the wanting nation to approach the detaining nation through its member on the UNWCC.
19. CROWCASS wished all nations to know that they could not deal with wanted names that reached them in ordinary letter form. Nations must use the official Wanted Report (copy attached for the information of UNWCC).

28 Aug 46.

SD (

I/66.
1st July 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Note on Dutch Case 3271. (Means of Deception).
By Dr. J. Litawski. Legal Officer.

I. The Dutch Government charges two members of the German armed forces with violating the "International rules of land warfare" in that one of the accused, an officer, gave orders to the second accused, a soldier, to disguise himself as a member of the Royal Mounted Police. The second accused obeyed these orders and both of them, aided by four other German soldiers, were instrumental in taking a Dutch railway bridge on the German-Dutch frontier on the day Germany invaded Holland (10th May 1945), by removing the explosive charges placed there, to forestall a German crossing.

II. The act committed by the accused is an example of the application by a belligerent party of means of deception known in International Law as ruses of war or stratagems. These are deceptions employed in the interest of military operations for the purpose of misleading the enemy. Such deceit is of great importance in war and the belligerent parties are allowed to employ to a large extent different sorts of ruses. This contention finds confirmation in Article 24 of the Hague Regulations which says that "Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible".

III. To means of deception belongs inter alia the use of the national flag, the military ensigns and the uniforms of the enemy. As regards this kind of ruses, according to Oppenheim's International Law, theory and practice are unanimous in prohibiting the use of such stratagems during actual attack and defence, since the principle is considered inviolable that during actual fighting belligerent forces ought to be certain who is friend and who is foe.

As to the relevant provision of International Law, in this respect reference is being made to Article 23 (f) of the Hague Regulations which reads as follows:- "In addition to the prohibitions provided by special Conventions, it is particularly forbidden -..... to make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as of the distinctive signs of the Geneva Convention". This provision should be, of course, read in conjunction with Article 22 which says that "Belligerents have not got an unlimited right as to the choice of means of injuring the enemy".

Commenting on Article 23 (f), the already quoted authority on International Law stresses that this provision does not prohibit the use of these means of deception without qualification, but only their improper use, thus leaving the question open what uses are proper and what are not.

With regard to this particular aspect, it is to be pointed out that the use of Dutch uniform by the accused was effected at the time when Dutch territory was being invaded and actual fighting was going on, thus qualifying the accused's action as improper.

The impropriety of this act is aggravated by the fact that at the material time Holland was attacked by Germany treacherously without any declaration of war, a circumstance which places the act of the accused on the border of perfidy. Such perfidy, as distinguished from stratagems (ruses, means of deception) is prohibited as constituting a breach of good faith.

From the foregoing it would appear as not controversial that the act

/committed

DRAFT

268.

11th September 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

REPORT ON PROCEDURE REGARDING PERSONS LISTED AS SUSPECTS.

In the Meeting of Committee I held on 5th September 1946, the question of procedure regarding persons listed as Suspects was considered in the light of past experience.

The Committee took note of the fact that the original intention of the Commission, when deciding to classify certain persons and units as "Suspects", as set forth in Doc. C. 82, of 12th March, 1945, had fallen into abeyance so far as the military authorities are concerned, and that in actual practice no distinction now seemed to be made between persons listed as War Criminals, and those listed as Suspects, the latter being surrendered on demand in the same way as the former. The Committee thought this practice undesirable, especially in view of the fact that in accordance with the original intention persons listed as Suspects should have been simply detained, and surrendered only when the National Offices concerned have forwarded further evidence direct to the holding authorities which satisfies them that persons should, in fact, be surrendered.

While taking into account the desirability of not diminishing the value of the present lists of Suspects and the difficulty with which the military authorities have been confronted in that they did not know the evidence which had to be investigated before surrender was possible, as well as the fact that now so much more evidence is available to National Offices, and that national investigating teams are given every facility, the Committee is of opinion that the Commission's practice with regard to listing of Suspects should be very much tightened up.

Therefore, the Committee agreed that while no retroactive decision would be advisable, it nevertheless proposes that with regard to future cases in which, in the past, persons would have been classified as Suspects, such cases should, in future, be adjourned and the National Offices concerned asked for further investigation and information, and exception made only in certain types of cases where it would seem desirable to emphasise the distinction by listing certain categories of persons as Suspects, i.e., in cases where members of concentration camps staff, the Gestapo or named persons of military units were concerned.

This would apply to persons whose responsibility for war crimes committed en masse is self-evident, and against whom sufficient formal evidence could only be collected by the National Offices after the suspected persons were apprehended and/or the principal accused and enemy witnesses interrogated.

Such persons would be listed as Suspects on the ground that sufficient prima facie evidence has been established as to the connection between their official position or membership of organisations mentioned above and the crimes committed.

I/69.
28th October, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

The following letter received from Crawley & Reya, Solicitors, and dated 22nd October, 1946, is circulated to members of Committee I, for their information and consideration, at its next Meeting.

"Dear Sir,

2507
H/39/1
We have been asked by our Correspondent in Rome, Sir John Serrao, K.B.E., to enquire on behalf of his Client, Dr. Rosario Barranco who, during the War, was Commissioner of Police in Nice, whether any proceedings are pending against him. Apparently some notification has been sent to him under dossier n.1267 that charges as a war criminal would be made against him on the initiative of French Authorities.

Sir John Serrao has sent us a memorandum from which it would appear that any proceedings would be misconceived, but we shall be grateful if you could advise us of the position so that we may inform Sir John Serrao.

Thanking you for any further information you may be able to give us.

We are,

Yours faithfully,

(Signed) CRAWLEY & DE REYA.

The Secretary,
War Crimes Commission,
~~Lansdowne House,~~
Berkeley Square,
W.I.