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COMMITTEE 1- FACTS and EVIDENCE

DOCUMENTS

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C.L.7.

CONFIDENTIAL

United Nations War Crimes Commission,
Royal Courts of Justice,
Room 198,
The Strand,
W.C.2.

December, 1943.

Transmission of particulars of War Crimes
to the Secretariat of the United Nations
War Crimes Commission.

By direction of Sir Cecil Hurst and in execution of the decisions of the unofficial meeting of the United Nations War Crimes Commission, which was held on the 2nd December, 1943, under his chairmanship, I have the honour to request you, as the representative of your government at that meeting, to be so good as to inform the National Office, or other competent organ or department of your government that the Commission's Secretariat is ready to receive particulars of the acts amounting to war crimes which your government desires to submit to the Commission, and that the Commission considers it to be of importance for the expeditious progress of its work that such particulars should be supplied so soon as they are available in sufficiently complete form to be suitable for consideration by the Commission.

2. Subject to such modifications as may prove necessary in the course of its work, the general lines on which the Commission is approaching its task are set out in the report of the Sub-Committee which was approved on the 2nd December, subject to the omission in paragraph 8 of the last words, viz. "and will at the same time avoid any semblance of ex post facto legislation," and in paragraph 14, sub-paragraph 5, of the words "reliable and admissible." It was understood that the representatives of the United Nations on the Commission would give their National Offices and governments any necessary explanations, and would be at liberty to show them the report. I venture to suggest that particular attention should be called to the following matters.

(1) It is desirable that, as soon as possible, the official address of each of the United Nations National Offices, or other organ or department which will be responsible for the work in connexion with war crimes, should be filed with the Commission's Secretariat, together with the name of the official in charge and his telephone number.

(2) In order to facilitate the filing, investigation and comparison of the different cases, the Commission attaches importance to their being transmitted to its Secretariat in the same form (see sub-paragraph 6 below).

(3) The Commission feels it will be of assistance to the National Offices, and of great value for the Commission's work, that there should be an understanding as to the points to which attention should be directed in preparing a case for transmission by the National Office to the Commission's Secretariat. In its opinion, the following matters should be made clear in each case:

- (i) What is the offence alleged (see sub-paragraph 4 below) ?
- (ii) Can the offender be identified?
- (iii) What was the degree of responsibility of the offender, having regard to his position?
- (iv) Was the offence committed on the offender's own initiative, or in obedience to orders, or in carrying out a system or a legal disposition?
- (v) What evidence is available in support of the charge?
- (vi) What will be the probable defence?
- (vii) Can the offender be put on trial with a reasonable probability of conviction?

The Commission agreed that, if to give a name, address or other particulars identifying a witness might endanger the security of the witness or of persons connected with him, it would be sufficient for the National Office to describe the witness as "Witness No. -" and register him by that number in its own files.

(4) As regards the first point mentioned in sub-paragraph (3), namely the description of the alleged offence, the Commission has provisionally and for practical reasons adopted, and requests that the National Offices will for the time being follow, the list reproduced in Annex I, which is that agreed upon by the Responsibilities Commission of the Paris Peace Conference in 1919. In doing so, it has been influenced by the fact that Italy and Japan were parties to the preparation of this list and no objection to it was made by Germany.

The Commission accordingly feels that the list can appropriately be utilised for the purpose of enabling the work of the National Offices and the Commission to be pushed forward as rapidly as possible, on the understanding that, as the work proceeds, modifications by way of addition of new offences and, possibly, of exclusion of offences appearing in the list may prove necessary, and that there is no suggestion that the war crimes on whose perpetrators punishment is to be inflicted are restricted to the offences mentioned in the list.

(5) The information transmitted to the Commission's Secretariat will, in all probability, be found to contain gaps which must be filled before the offender can be listed for trial. Any such gaps should, if possible, be brought to the attention of the Secretariat when the case is transmitted. The Commission may be able to help in collecting the material necessary to complete the case.

(6) Arrangements will be made to supply the National Offices with printed forms for use in the transmission of cases to the Secretariat. The form contemplated is reproduced in Annex II, which shows the manner in which it might be filled in in an imaginary case. Cases may be transmitted in this form without waiting for the printed copies.

(7) It is unfortunately necessary (at least, at the outset) to ask the National Offices to transmit the particulars of their cases in the English language, if possible, and, if not, in French, and to attach translations or summaries in one of these languages to any copies of documents written in other languages which they may annex. The originals of documents relied on by the National Offices should not be sent to the Secretariat.

3. In case they may be of use in facilitating communication of its contents to the competent authorities, I enclose three copies of the present letter.

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ANNEX II.

FORM TO BE USED IN TRANSMITTING CASES.

Page 1.

United Kingdom CHARGES against GERMAN WAR CRIMINALS.

Charge No.

Name, rank and unit
of Accused

At present unknown
believed to be Poston

Offence

Murder

Short statement of
facts

Accused, believed to be named Poston, was a guard on duty with Commando 58, at Stalag XC, a Prisoners of War Camp in Germany, and on February 13, 1941, killed by shooting Corporal Menander, No. 803343, of the 30th Hussars, then a British Prisoner of War.

SUMMARY OF EVIDENCE IN SUPPORT.

1. Sergeant Blacksmith's statement of above facts and other particulars were contained in a letter dated February 28, 1941, addressed to J. Farrer, C.S.M, 23831, British man of confidence, Stalag XC (copy attached).
2. German Memorandum dated Berlin, 30 April, 1941, (K.W.2/58. S.N.362/o2o2/2143, Translation R8344) stated that an enquiry had been made by the War Court at Stettin Langfuhr when it had been held that the accused had acted in justified self defence.
3. The British War Office was not satisfied with the finding of the German Court. It wrote to the Foreign Office pointing out that an inquiry into the shooting was held by the War Court at Stettin, but that it did not appear that Sergeant Blacksmith or any other British p/w had been called to give evidence. It was requested that the Protecting Power be asked to enquire from the German Government whether Sergeant Blacksmith or any other British p/w had been called to give evidence. Comment was made on the finding in relation to Sergeant Blacksmith's statement.
4. The German reply dated November 7, 1941, stated that at the Court proceedings the depositions of 6 British p/w had been considered. (Blacksmith, Thomson, Warner, James Sidestep, William Sidestep and Plant). It then discussed the comments contained in the British Government's note.
5. The original German Memoranda are in the possession of the Protecting Power. The original Communications from the Protecting Power covering copies of the reports and the memoranda are in the possession of the Foreign Office.
6. Copies of the documents mentioned above are annexed except those of which copies are not yet available.
7. The following witnesses should on their release be required to make statements and give evidence:-

Page 2.

PARTICULARS OF OFFENCE.

Corporal Menander with Sergeant Blacksmith (P.W.No.) British Camp Leader of Commando 58 was engaged on stable duties. Working with them were three German civilians. About 7 a.m. on the morning of February 13, 1941, a dispute arose between the accused and one of the civilians, named Furster on the subject of the allocation of the duties. Sergeant Blacksmith intervened and took Menander to the Lager for breakfast. At this stage the accused was not present.

The Lager is a small house, 6 men sleeping downstairs and 4 men sleeping upstairs. Menander being one of the latter.

About 7.50 a.m. the p/w. were having breakfast in their respective rooms. The accused entered in a violent temper and asked Sergeant Blacksmith what was wrong with Menander. Sergeant Blacksmith answered the guard to the best of his ability that he should see Menander himself, and that Menander must come downstairs, and the guard shouted accordingly.

When Menander came downstairs, the accused asked him what he had been doing with Furster, "Had he been boxing?". Menander replied "No" and asked where Furster was. The accused then went outside and was followed by Menander who thought Furster was there.

Immediately afterwards Sergeant Blacksmith heard Menander say "Nay, nay, Poston". This was followed by a shot. Sergeant Blacksmith rushed outside and saw Menander lying across the outside door, face downwards. In his right hand, which was flung out, was clutched a half eaten bit of bread. Two other p/w. came out and stepped over Menander with the intention of giving assistance. As they did so they heard a shout, and on looking up saw the accused standing about 10 yards away. He was shouting and recocking his rifle. They realised that unless they got back into the house one of them might get shot. After about five minutes they came out again, and finding the accused had disappeared, they carried Menander back inside the room. He lived for about ten minutes from the time of the shot, but was never conscious.

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C 7
February 18th, 1944.

UNITED NATIONS WAR CRIMES COMMISSION

First Report of Committee I (Facts and Evidence)

Preparation and presentation of cases of war crimes to the Commission

As a result of examining a certain number of cases which have been transmitted to the Commission, Committee I proposes that the Commission should call the attention of the National Offices to the following points:

1. In the opinion of the Commission the papers sent to it in any particular case should indicate:
 - (1) What is the offence alleged?
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 - (7) Can the offender be put on trial with a reasonable probability of conviction?
2. It is desirable that in transmitting a charge the National Office should, in addition to specifying the heading in the List of War Crimes under which the charge falls, indicate what provisions, if any, of the national criminal law (whether civil or military) have been infringed by the accused.
3. It is understood that it may in some instances be impossible, for reasons of security, to identify a witness or witnesses by name in the documents transmitted to the Commission, but the National Offices are requested at least to state, in general terms, the evidence or information on which the charge is based; and the names of the witnesses should be available for communication orally to Committee I or to the Commission, if they are requested.
4. Committee I would be grateful if the National Offices would supply at least four copies of each case transmitted to the Commission - carbon copies on thin paper will suffice - in addition to the signed original.

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UNITED NATIONS WAR CRIMES COMMISSION

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5. It is important that the cases should be marked, in the place provided in the Form, (i.e. "CHARGE NO. . . .") with national serial numbers indicating the way in which the charges are filed by the National Offices. The object is to provide a fool-proof method by which the cases can be identified in any correspondence relating to them between the Commission and the Offices. Unless this is done, cases may be confused with one another, particularly where the name of the accused is not known.

6. Titles, whether military or civil, and the names of military, naval and air formations, units, government departments or organisations etc. should not be translated, but should be left in their original language, with or without a translation, in order that they may be correctly stated in the Commission's list of persons charged with war crimes.

7. Reference to prisoners of war camps should show

- (a) whether the camp is one for officers or for other ranks,
- (b) the official number or description,
- (c) the country in which the camp is situated and its exact location.

8. In view of the possible death or disappearance of witnesses, or of their geographical dispersal, and of the deliberate destruction of evidence by the Axis in occupied countries, the Commission wishes to call the attention of the National Offices to the necessity of recording at once, while it is still available, evidence of war crimes in an authentic form, with a view not merely to the work of the Commission but also to prosecution for such crimes before the competent tribunals.

SECRET

07 (1)
February 1944

UNITED NATIONS WAR CRIMES COMMISSION

FIRST REPORT OF COMMITTEE I (FACTS AND EVIDENCE) AS ADOPTED BY THE COMMISSION

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- (5) What evidence is available in support of the charge?
- (6) Any indication of the probable defence.
- (7) Whether the case appears to be reasonably complete.

2. It is desirable that in transmitting a charge the National Office should, in addition to specifying the heading in the List of War Crimes under which the charge falls, indicate what provisions, if any, of the national criminal law (whether civil or military) have been infringed by the accused.

3. It is understood that it may in some instances be impossible, for reasons of security, to identify a witness or witnesses by name in the documents transmitted to the Commission, but the National Offices are requested at least to state, in general terms, the evidence or information on which the charge is based; and all necessary information in regard to the witnesses should be available for communication orally to Committee I or to the Commission, if they are requested.

4. Committee I would be grateful if the National Offices would supply at least ~~four~~ copies of each case transmitted to the Commission - carbon copies on thin paper will suffice - in addition to the signed original.

5. It is important that the cases should be marked, in the place provided in the Form, (i.e. "CHARGE No") with national serial numbers indicating the way in which the charges are filed by the National Offices. The object is to provide a fool-proof method by which the cases can be identified in any correspondence relating to them between the Commission and the Offices. Unless this is done, cases may be confused with one another, particularly where the name of the accused is not known.

6. Titles, whether military or civil, and the names of military, naval and air formations, units, government departments or organisations etc. should not be translated, but should be left in their original language, with or without a translation, in order that they may be correctly stated in the Commission's list of persons charged with war crimes.

7. Reference to prisoners of war camps, should show, if possible,

- (a) whether the camp is one for officers or for other ranks,
- (b) the official number or description,
- (c) the country in which the camp is situated and its exact location.

8. In view of the possible death or disappearance of witnesses, or of their geographical dispersal, and of the deliberate destruction of evidence by the Axis in occupied countries, the Commission wishes to call the attention of the National Offices to the necessity of recording at once, while it is still available, evidence of war crimes in an authentic form, with a view not merely to the work of the Commission but also to prosecution for such crimes before the competent tribunals.

I.F.T.C.C.

8th February 1944.

THE COMMITTEE ON FACTS AND EVIDENCE

Note by the Secretary General on the first batch of cases
transmitted by the French National Committee

The Cases are:

- A. French charges against German War Criminals filed under Nos. 1 / Fr / G / 1 to 15 / Fr / G / 15 inclusive.
- B. One French charge against an Italian War Criminal filed under No. 16 / Fr / It / 1.

GENERALIZATION

1. As regards the particular cases:-

In 7 cases the name of the accused is given, namely, the 3rd, 4th, 5th, 6th, 8th, 9th French / German cases and the French / Italian case.

In 4 cases the person charged is identified by his rank or office, namely, the first, 9th, 10th, 15th French / German cases.

In 5 cases no indication of the identity of the accused is given, namely, in the French / German cases, the 2nd, 7th, 11th, 12th, 14th.

In nearly all the cases no indication whatever is given as to the kind of evidence on which the charges are based.

In case 2 / Fr / G / 2 there is said to have been a woman witness, and in case 15 / Fr / G / 15 four witnesses are named, and their rank and units given. In case 8 / Fr / G / 8 the name of a witness is given and he is said to be at present in London.

In case 10 / Fr / G / 10 the names of victims are mentioned, and this is also done in case 11 / Fr / G / 11 and case 12 / Fr / G / 12. The name of the victim is also given in the French / Italian case number 16 / Fr / It / 1.

As regards the war crimes which are charged, the following appear to be doubtful:- In 1 / Fr / G / 1 the General in command of the City of Strasbourg and the local Gestapo are charged with crimes No. 1 - Murder and massacres and systematic terrorism, and crime No. 7 - Deportation of civilians. What the

General is said to have done is to have had six young men shot for facilitating the escape of prisoners, and to have deported their families to Germany and broken them up. It seems doubtful whether these cases come within the crimes mentioned.

2. In general:-

- 1) The French National Committee has not complied with the Commission's request that if witnesses could not be named or their identity otherwise indicated without danger to them or persons connected with them, their existence only should be indicated and the witnesses be described by numbers under which they would be registered by the National Office, and the nature of the evidence which they would give should be shown. The sections on the Form entitled "Particulars of Alleged Crimes" and "Notes on the Case" have also been left blank. A question therefore arises as to the adequacy of the presentation of the cases.
- 2) The French National Office has misunderstood the meaning of the heading on the Form "Charge No. ...", which, as shown in the footnote is intended to be filled in with the "serial number under which the case is registered in the files of the National Office of the receiving State". Instead of giving this number it has inserted the numbers under which the war crimes charged in the case are described in the List of War Crimes, although this information also appears lower down on the Form. It is very important that the National Offices should register their cases by numbers and put the relevant number on each Form used to transmit a case. If this is not done there will be no convenient method of identifying the cases filed by the Secretariat with cases filed in the National Offices, and vice versa, particularly as in so many instances the person charged will be anonymous.
- 3) It seems clear that the National Offices should have been requested to state the unit and rank, or the official position of all persons mentioned in connection with cases, in the language of the country to which these persons belong, wherever this is possible. A great difficulty will obviously arise if the National Offices translate these indications of identity into what they regard as the nearest equivalent in French or English, and they have to be translated back into their original language when the list of war criminals is compiled.

SUMMARY OF MATERIAL FOR CHARGES

AGAINST NAZI LEADERS

Leading Nazis :

| | |
|----------|----------|
| HITLER | BACKE |
| GOERING | FUNK |
| GOERBELS | LAIBERTS |
| HIMMLER | KEITEL |
| FRICK | SPEER |
| DARRE | SAUCKEL |

HITLER

(a) Forced labour and deportations

Report No. 1.

HITLER appointed SAUCKEL on March 21st, 1942, to mobilise manpower including that of citizens of occupied countries for war work in Germany. (For documentary evidence see SAUCKEL file "Forced Labour").

(b) HITLER as supreme head of the Reich was responsible for the policy carried out under GOERING, DARRE AND BACKE which resulted in the starvation of large sections of the population. (For documentary evidence see file Nazi Hunger Policy).

Report No. 2.

(c) HITLER was responsible for the planned extermination and mass-murders of Jews and the depopulation by starvation and cruelty, of the populations of Poland and parts of Russia. (For documentary evidence see files on "Nazi Hunger Policy" and "Mass Murders of Jews").

Report No. 3.
(not yet
completed
11.10.44).

(d) HITLER as supreme head of the Reich was responsible for the systematic cruelties practised on prisoners in concentration camps and persons arrested by the Gestapo. (See Himmler Files).

Report No. 4

(Copies of decrees, speeches, etc., adequate as prima facie evidence, are available in the following cases).

GOERING

(1) Forced labour for citizens of occupied countries in German war industry, and deportations.

Report No. 2a

Grounds: (a) GOERING signed a decree 21.3.42. defining SAUCKEL'S

SUMMARY OF MATERIAL FOR CHARGES AGAINST NAZI LEADERS (Contd.)

powers in the Four Years Plan (of which GOERING is head). SAUCKEL was placed directly under GOERING by HITLER. (For documentary evidence see GOERING file and SAUCKEL file.)

Report No. 6.

- (b) GOERING submitted GOEBBELS name (July. 25, 1944) to HITLER to carry out total mobilisation of manpower, including the manpower of the Occupied Countries for German war industry.

(2) Starvation of parts of Europe

Report No. 2

GOERING as head of the Four Years' Plan was instructed by HITLER'S decree of October 18th, 1936, to control all Germany's economic resources under one leadership; he bears therefore the responsibility under HITLER for the policy by which areas in Europe were under-nourished or starved. (For documentary evidence see file "Nazi Hunger Policy").

(3) Evictions and confiscations

Report No. 7.

GOERING as author of the decree of Sept. 17, 1940, for the eviction of Poles and confiscation of their property is responsible for the action which was in fact taken under that decree. (For documentary evidence see GOERING file under heading of this decree).

(4) Discriminatory legislation

Report No. 8

GOERING was co-signatory with FRICK, of the decree of Dec. 16th, 1941, which imposed a specially harsh and discriminatory system of penalties (including the death penalty for petty offences) upon Poles and Jews. (for documentary evidence see GOERING file under heading of this decree).

SUMMARY OF MATERIAL FOR CHARGES AGAINST NAZI LEADERS (Contd.)

GOEBBELS, on July 25th, 1944, was appointed by HITLER on the recommendation of GOERING to effect the total mobilisation of the German people, and to take corresponding action in the occupied countries. He issued decrees in this sense, and there is evidence that in Norway these have resulted in a fresh drive by TER BOVEN to conscript workers, and to treat those that escape as deserters.

Report No. 6,

FRICK Co-signatory with GOERING of the decree of Dec. 16th, 1941, imposing a harsh and discriminatory regime of penalties on Poles and Jews, who were made liable to death for offences of small gravity. (for documentary see GOERING file on the same charges.)

Report No. 8,

DARRÉ Starvation of parts of Europe, These Ministers under GOERING, BACKE were responsible for the measures which resulted in the starvation of parts of EUROPE (see also under GOERING and report on the FUNK "Nazi Hunger Policy").

Report No. 2

HIMMLER (a) Responsible on the high level for the conditions prevailing in concentration camps in Germany; (for evidence see Himmler's file) Report No. 4(a). (b) and for the cruelties inflicted on arrested persons by the Gestapo police in all countries (see charges already filed with the Commission concerning torturing of persons arrested by the police). Report No. 4(b)

LAMMERS Co-signatory of HITLER'S decree of March 21, 1942, appointing SAUCKEL as plenipotentiary for manpower, with orders to enrol workers in the occupied territories for war industries in Germany. (For evidence see SAUCKEL HITLER file, under Forced Labour). (LAMMERS submits decrees for HITLER'S signature, as head of the Reich Chancery).

Report No. 1

✦

SUMMARY OF MATERIAL FOR CHARGES AGAINST NAZI LEADERS (Contd.)

KEITEL Chief of the Supreme command. He was co-signatory with HITLER and
Report
No. 1 LAMMERS of the decree appointing SAUCKEL to mobilise manpower in the
occupied countries, for war industries in Germany. (for evidence
see SAUCKEL and HITLER files under "Forced Labour").

SPEER Minister of armaments; Head of the TODT organisation responsible for the
Report
No. 9 employment of citizens of occupied countries upon fortifications, etc.,
under inhuman conditions. (for evidence see SPEER file).

SUMMARY OF MATERIAL FOR CHARGES

AGAINST NAZI LEADERS

Leading Nazis :

| | |
|----------|---------|
| HITLER | BACKE |
| GOERING | FUNK |
| GOEBBELS | LANNERS |
| HIMMLER | KEITEL |
| FRICK | SPEER |
| DARKE | SAUCKEL |

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- (c) HITLER was responsible for the planned extermination and mass-murders of Jews and the depopulation by starvation and cruelty, of the populations of Poland and parts of Russia. (For documentary evidence see files on "Nazi Hunger Policy" and "Mass Murders of Jews").

Report No. 3. (not yet completed 11.10.44).

- (d) HITLER as supreme head of the Reich was responsible for the systematic cruelties practised on prisoners in concentration camps and persons arrested by the Gestapo. (See Himmler Files).

Report No. 4

(Copies of decrees, speeches, etc., adequate as prima facie evidence, are available in the following cases).

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Report No. 5.

Grounds: (a) GOERING signed a decree 21.3.42. defining SAUCKEL'S

SUMMARY OF MATERIAL FOR CHARGES AGAINST NAZI LEADERS (Contd.)

powers in the Four Year's Plan (of which GOERING is head). SAUCKEL was placed directly under GOERING by HITLER. (For documentary evidence see GOERING file and SAUCKEL file.)

Report No. 6.

- (b) GOERING submitted GOEBBELS name (July. 25, 1944) to HITLER to carry out total mobilisation of manpower, including the manpower of the Occupied Countries for German war industry.

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GOERING as head of the Four Years' Plan was instructed by HITLER'S decree of October 18th, 1936, to control all Germany's economic resources under one leadership; he bears therefore the responsibility under HITLER for the policy by which areas in Europe were under-nourished or starved. (For documentary evidence see file "Nazi Hunger Policy").

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GOERING as author of the decrees of Sept. 17, 1940, for the eviction of Poles and confiscation of their property is responsible for the action which was in fact taken under that decrees. (For documentary evidence see GOERING file under heading of this decree).

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GOERING'S, on July 25th, 1944, was appointed by HITLER on the recommendation of GOERING to effect the total mobilization of the German people, and to take corresponding action in the occupied countries. He

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Report No. 8.

DAERF

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BAOKS

PUK

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KEITEL Chief of the Supreme command. He was co-signatory with HITLER and
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SECRET

C.12

21
20 April 1944.

UNITED NATIONS WAR CRIMES COMMISSION

EXTENSION OF THE COMMISSION'S COMPETENCE TO WAR CRIMES
NOT COMMITTED AGAINST UNITED NATIONS NATIONALS.

PROPOSAL BY THE CHAIRMAN OF COMMITTEE I.

C 12
Officer [Signature]
20 April 1944

UNITED NATIONS WAR CRIMES COMMISSION

PROPOSAL BY THE CHAIRMAN OF COMMITTEE I.

1. We have all been shocked by the deportations and shootings of hostages which have been carried out by the Nazis in neutral, co-belligerent, or enemy countries such as Denmark, Hungary, Roumania, Italy, etc... The fact that these people were the victims of Nazi measures goes to prove that they acted against the Germans; in all probability their activity was directed towards helping the Allies. Again, on March 27th, 320 Italians were shot as hostages because 32 Germans had been killed in Rome on the 23rd. Obviously, it is a German General who has signed the order to shoot these innocent people, and his name will be disclosed sooner or later. There is little doubt that this man should be considered as a war criminal.

The question then arises by what body measures for the punishment of these crimes will be designed. It is impracticable, for obvious reasons, to include representatives of enemy countries and even of "co-belligerents" in the War Crimes Commission. No National Office will bring these cases before our Commission, and therefore no voice will be raised to demand punishment for the guilty.

2. Some of the principal criminals have signed orders or Decrees which are in themselves, criminal, but, because they have not acted within the territory of any one of the United Nations, no National Office will investigate their case. A study of the documentation available points out that there may be some possibility of indicting some of these persons for measures which they have taken in Germany, (E.g. Ministers, Chief of Gestapo, Generals who have signed orders or decrees allowing crimes to be committed in occupied countries.)

It is therefore proposed :

That any member of the War Crimes Commission shall be entitled to bring before Committee I the case of any person accused of a war crime irrespective of the nationality of the victim or the place where the crime was committed.

N.B. - It is needless to say that the War Crimes Commission will be entitled to reject any case submitted on this way.

Example :

Name of accused : General von HANNEKEN.
Rank : C. in C. German Forces of Occupation in Denmark
Date of crimes : August to December 1943.
Charges : (1) Murder, systematic terrorism,
(2) Deportation of civilians,
(3) Extortment of illegitimate contributions

SHORT STATEMENT OF FACTS

About August 30th, 1943, general von HANNEKEN took over complete control of Denmark, and assumed full powers, including the right to inflict all forms of punishment. He decided that offences such as sabotage would be tried by German Courts-Martial with death penalty provided. The system of hostages was also introduced. The order is signed : "HANNEKEN". Pursuant to these measures :

1. Executions took place among which on November 22nd two Danish labourers were executed by the Germans, and on December 3rd five Danes were executed. Notices of the execution giving the names of the victims were posted and appeared in the Press. In respect of these, HANNEKEN himself approved the execution by refusing to grant pardon;
2. Deportations were carried out : on October 1st one thousand Gestapo men rounded up Jews in Copenhagen ; 1000 Jews were arrested, and on October 11th two (or perhaps three) deportation ships had already left Copenhagen for an unknown destination;
3. On December 5th HANNEKEN imposed upon the city of Copenhagen a fine of 2 million Kroner for the shooting of a German soldier. The order was posted on public buildings and published in the Press; it is signed : "HANNEKEN".

SECRET

C.12
21 April 1944

UNITED NATIONS WAR CRIMES COMMISSION

EXTENSION OF THE COMMISSION'S COMPETENCE TO WAR CRIMES
NOT COMMITTED AGAINST UNITED NATIONS NATIONALS

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Chairman's formula for putting cases on B.1 List (A).

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

The test for deciding whether or not an alleged war criminal should be placed on the provisional list of persons whose surrender is to be demanded is not strictly speaking whether on the material before it the Committee considers that there is a good prima facie case against the accused, but is whether the Committee is satisfied from an examination of the material before it that a war crime of reasonable importance has been committed, and that there is good reason to assume that the alleged offender if and when he is put on trial for the offence will be convicted. It is not, therefore, essential that the name of the accused should be known, if it is reasonably certain that it can and will be obtained in due course; nor is it essential that the evidence should be complete if it is reasonably clear that further evidence can and will be available on the spot when the country where the crime was committed is liberated.

UNITED NATIONS WAR CRIMES COMMISSION

Committee I

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carbon copies X ✓
Copies of
< Chairman's
formula
for
direct
putting cases
on

B 1

list (A) >

COMMITTEE I DOCUMENTS

- I/1 24.4.1945 Looting of Art Treasures and Report of Vaucher Committee.
Report by Wing-Commander Jones.
- I/2 30.4.1945 Proposal by Committee I to convene a conference of the National Offices
- I/3 25.5.1945 Questions of Organisation - Colonel Hodgson's proposals.
- I/4 29.5.1945 Report on the preparation of a special list of S.S. personnel.
(By Dr. Schwelb).
- I/5 12.5.1946 Report No. 1 on charges to be re-classified. (By Dr. Schwelb).
- I/6 4.6.1945 Procedure about material submitted by Military Authorities.
(By Colonel Wade and Dr. Schwelb).
- I/7 7.6.1945 Report No. 2 on charges to be re-classified. (By Dr. Schwelb).
- I/8 9.6.1945 Report on Commission charges 1-8 - Crimes committed in Italy.
(By Dr. Schwelb).
- I/9 8.6.1945 Memorandum by Dr. Litawski and Colonel Wade on Italian and
Hungarian key-men.
- I/10 28.6.1945 Proposal as to the decision on the French charge No. 947 -
Staff of Militärbefehlshaber in Frankreich. (By Dr. Schwelb).
- I/11 3.7.1945 Report on Czechoslovak charge No. 952 - Oswiecim-Birkenau.
As amended by Dr. Eder's communication received July 2nd, 1945.
(By Dr. Schwelb).
- I/12 6.7.1945 Nazi atrocities in Innsbruck, Austria, in November 1938.
- I/13 10.7.1945 Report on the Yugoslav case No. 940 (Italian Courts in Dalmatia).
(By Dr. Schwelb).
- I/14 10.7.1945 Note on the Yugoslav case No. 1014. Terrorism in Krusevac,
Kragujevac and Cacak. (By Dr. Schwelb).
- I/15 12.7.1945 Official inter-Allied Declarations on Dispossession and Looting.
- I/16 14.7.1945 Report on the French charge No. 1056 - Shooting of Prisoners of War
at Bad Sulza. (By Dr. Schwelb).
- I/17 17.7.1945 Note on the French charge No. 1053 - Sinking of French merchantman
by Italian submarine on July 10th, 1940. (By Dr. Schwelb).
- I/17A 18.7.1945 Addendum to I/17.
- I/18 19.7.1945 Crimes committed by Germans and Austrians against Germans and
Austrians. (By Dr. Schwelb).
- I/19 - Report on the Czechoslovak charge concerning the Oswiecim (Auschwitz)
and Birkenau Concentration Camps. To be sent to all the National
Offices as requested by the Czechoslovak representative. Draft.
2.8.1945 (Embodied in Document C.140).
- I/20 - Report on Sterilisation in Germany and occupied countries.- Dr. Lang.
(Submitted by Dr. Eder).
- I/21 1.8.1945 The Trial against Kramer and others - Suggestion by Dr. Schwelb.

- I/22 2.8.1945 Note on the Yugoslav case No. 1143 - Debasement of currency and other offences. (By Dr. Schwelb).
- I/23 - The Luxembourg Courts Cases. (By Dr. Schwelb).
- I/24 17.8.1945 Note on the Yugoslav case No. 1281 - Prefetto di Cattaro: Taking of Hostages. (By Dr. Schwelb).
- I/25 18.8.1945 Report on the Yugoslav charge No. 1323 - Personnel of the Special Tribunal for the Defence of the State, Rome. (By Dr. Schwelb)
- I/26 19.7.1945 Copy of statement obtained from the Foreign Office Research Department, as requested by the Committee in connection with the Yugoslav case No. 940. (See also Doc. I/13).
- I/27 21.8.1945 Note on CROWCASS Detention List No. I. (By Dr. Schwelb).
- I/28 20.8.1945 Four suggestions concerning CROWCASS. (By M. de Baer).
- I/29 23.8.1945 Draft letters to the Four Allied Commanders in Germany and to the National Offices re: Sterilization in Germany (Doc. I/20).
- I/29A 6.9.1945 Note by Dr. Schwelb on transmission of letters referred to in I/29.
- I/30 5.9.1945 Report on the Yugoslav Charges No: 1323 (R/It/114) and No: 1339 (R/It/117), by Dr. R. Zivkovic.
- I/31 6.9.1945 Report by Mr. E. Schwelb on documents submitted by the Jewish Agency for Palestine, concerning 576 German instigators and perpetrators of crimes against Jews.
- I/32 15.9.1945 Analysis of the French charge No. 1445 (Gestapo of Vichy). (By Dr. Schwelb).
- I/33 17.9.1945 Report on the French case No. 1532 - Michel and others. (By Dr. Schwelb).
- I/34 - Report on the position re. Italian charges. (By Dr. Schwelb).
- I/35 25.9.1945 Report on further developments in connection with crimes committed by German doctors (Sterilization, Human Guinea Pigs, Physical Extermination, etc.). (By Dr. Schwelb).
- I/36 25.9.1945 Proposals as to the Final Decision on the French charge No. 1445 - Gestapo of Vichy
- I/37 3.8.1945 Notes on the Classification of Cases by the Main Commission and by the Far-Eastern and Pacific Sub-Commission. (By Dr. Schwelb)
- I/38 11.9.1945 Notes on the French Cases Nos. 1616 & 1625. (By Dr. Schwelb).
- I/39 12.9.1945 Note on the French Case No. 1604. (By Dr. Schwelb).
- I/40 15.9.1945 Report on Arrests of Persons listed by the United Nations War Crimes Commission. (By Dr. Schwelb).
- I/41 20.10.1945 Notes on the United Kingdom Case No. 1643 (Discriminatory Measures in Jersey). (By Dr. Schwelb).
- I/42 20.10.1945 Report on the Trial of persons listed by the Commission. (By Dr. Schwelb).
- I/43 25.10.1945 Case of S.S. Colonel Langsdorff (Submitted by Colonel Wade).
- I/44 29.10.1945 Note on Part VI of the Yugoslav Case No. 1325. (By Dr. Schwelb).

- I/45 17.12.45 Proposals as to the final decision on the Yugoslav Case No. 1824.(By Dr. Litawski).
- I/46 19.12.45. Translation of a letter from: The Director of Enemy War Crimes Research Office.(Dated: Paris, 9th November, 1945).
- I/48 1.1. 46 Notes on Committee I Secretariat Duties.
- I/48 4.1. 46. Transfer of General Dalmazzo(Request by the Albanian Central Commission for punishment of war crimes).
- I/49 4.1. 46 Distributions of Commissions Lists of War Criminals.(Request by British Military Mission, Hungary).
Note by the Secretary of Committee I.
- I/50 4.1. 46 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 Dr.Schwelb).
- I/51 15.1.46. Draft Letter to German Democratic Associations in connection with Control Council Law No.10.
- I/52 21.1.46 Detention of Witnesses.
- I/53 31.1.46 Application of Control Council Law No.10. - Charges submitted by the Legal Commission of the Free German Movement.
- I/54 2.46 Note on United Kingdom Case No.2429.- Scuttling of Enemy U-Boats.
- I/55 20.2.46 Assistance to the Control Council in the matter of the application of Law No.10.
- I/56 5.3.46 Letter from Dr. Hellendall to Dr.Schwelb and circulated to Committee I for its decision.
- I/57 5.3.46 Letter from Dr. Mosheim, Hon.Secretary of the Democratic German Lawyers in Great Britain , circulated to Committee I for its decision.
- I/58 5.3.46 Draft Letter to The Association of Democratic German Lawyers (see para.V of Committee I Minutes No.52).
- I/59 Notes to Documents Series No. 30 By Dr.Mayr- Harting.
- I/60 25.3.46 Letter with Reports 3 and 4, from Dr. Mosheim, Hon.Secretary of the Association of Democratic German Lawyers in Great Britain circulated to Committee I for its decision.
- I/61 25.3.46 Letter with Reports 5 and 6, from Dr. B. Mosheim, circulated to Committee I for its decision.
- I/62 Draft Letter to the Association of Democratic German Lawyers(see para.VI of Committee I Minutes No.56).
- I/63 4.4.46. Acquittals of Persons Listed By the Commission.
- I/64 7.5.46 Report No.7 on crimes committed against German nationals in Germany, submitted by the Association of Democratic Lawyers in Great Britain and circulated to members of Committee I for their information.
- I/65 24.6.46 Statistical Progress Report.
- I/66 1.7.46 Note on Dutch Case 3271.(Means of Deception). By Dr. Litawski.
- I/67 3.9.46 Report on present state of CROWCASS.
- I/68 11.9.46 Report on procedure regarding persons listed as Suspects.
- I/69 28.10.46 Letter from Crawley & de Reva, Solicitors, re. Dr. Rosario Barranco.
- I/70 28.10.46 Memorandum & documents submitted by General Marinov. (continues)

I/1
24 April 1945

LOOTING OF ART TREASURES AND REPORT OF
VAUCHER COMMITTEE

REPORT BY WING COMMANDER JONES AND DISCUSSION IN COMMITTEE I

Wing Commander Jones reported that he had attended at the office of the Vaucher Committee, who had placed all their facilities at his disposal for the purpose of ascertaining whether it was possible to try Nazis concerned in the looting of art treasures as war criminals. The Vaucher Committee had as its purpose the obtaining of the objects, whereas he had investigated it rather from the point of view of the person or persons concerned in removing the objects.

The Vaucher Committee had in its files between 700 and 800 cases of persons who had been concerned in the removal of art treasures in occupied territories. A card index system was used and on these cards the information as to the person and to the object taken was set out. He went through all the cards and extracted about forty cases in which it appeared that the persons mentioned were directly concerned with looting. He went through this list with Dr. Estreicher, a Polish official, who agreed that these persons were the ones responsible for looting, as it was not considered advisable to put up minor officials or persons who were only indirectly concerned in the looting. On the records of each of these persons mentioned was a definite statement that they were responsible for looting, and he asked Dr. Estreicher if he could supply evidence and details to substantiate this categorical statement. Dr. Estreicher supplied a list of what he had, but it appeared that these statements were based in the main on reports received through the Underground Movement, and names were submitted in each case of persons who would be able to substantiate the statement of looting, but he was unable to express any opinion, as there were no statements or any evidence of what these witnesses would be able to say. The witnesses were mainly Polish and at this stage it would appear that it would be necessary for the investigations to be made in Poland. For instance, the first person on the list was Dr. Gustav Abb, a Nazi, who was appointed the head of the German controlled library in Cracow. Dr. Abb had been the director of the Berlin University library, and he was head of the organisation which removed books from various State and private libraries and transferred them to the Central library. What was not taken was destroyed or sent to be made into pulp. The Polish officials consider that this man was the directing mind behind the movement which seized books belonging to Poland or private citizens, and used them for their own purposes. This was a typical example. Most of the Nazis concerned were librarians or professors of various German universities, who have systematically taken whatever art treasures they wanted in Poland, but there were others, such as the wife of the Mayor of Cracow, who, if she fancied some article in a Polish museum, would take it for her own private use.

Wing Commander Jones was unable to say definitely that any charge could be proved against any of these forty persons mentioned, as all he had to rely on was the categorical statement that they were responsible for looting. The evidence from the witnesses to substantiate that was not available.

A good deal of information is set out in the booklet published by the Polish Ministry of Information on "Nazi Kultur in Poland". Most of this was hearsay evidence, but he considered that the evidence would probably be available to support the accusations.

Mr. Oldham considered that the cases were for the "S" List, but Lord Finlay pointed out that Committee I was only concerned with prima facie evidence, and that some of the cases seemed to be suitable for List A: evidence could be obtained later. Wing Commander Jones stated that he would obtain such information as he could in regard to the cases, and pointed out that the Vaucher Committee also had the names of a number of people who, if not themselves responsible, would be able to throw some light on the present whereabouts of the various art treasures. M. de Baer said they would be listed as witnesses. If Poles, the Polish National Office was responsible, but, if Germans, we should ask that they be held in custody. He added that this was also valuable to the Vaucher Committee.

Colonel Wade asked if the organisation Wing Commander Jones had been talking about was the same as the Rosenberg Org Organisation (Einsatzstab Rosenberg, "E.R.R."), but Wing Commander Jones said he was not referring to any particular organisation which had been set up.

Colonel Behle suggested that Colonel Wade's report when ready would prove very valuable to Wing Commander Jones and proposed that Dr. Schwelb should provide him with a copy of C.87(1) to help him formulate one or two cases for submission to the Commission. The Secretariat would also give him stenographical assistance. Colonel Wade pointed out that his report concerned the western countries and Wing Commander Jones said that his information would supplement it, as it concerned mainly the eastern countries, particularly Poland. Lord Finlay proposed that four submission cases should be prepared.

Colonel Behle and M. de Baer thanked Wing Commander Jones for his report and offered the Committee's help, saying that he was at liberty to attend the meetings whenever he liked. They should endeavour to foster each other's cooperation.

SECRET

30.4.1945

I/2

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

NOTE BY ITS CHAIRMAN

Minute

The opinion of members of Committee I is requested on the following question :

It has been proposed in Committee I to convene a conference of the National Offices with a view to the objects hereafter :

1. Pooling the information on war crimes.

The greatest obstacle in the way of punishment is the lack of information, especially concerning the identity of many accused. It would be to the interest of the Allies that such information as they have be pooled. There are several means of obtaining this, namely :

(a) By presenting cases which are as complete as possible. Schematic cases may be sufficient to obtain that the accused be classified "A" by Committee I, but it does not provide much in the way of co-operation with other National Offices. In this respect it could be pointed out how valuable to other countries has been the information contained in some of the cases and reports which have been made (e.g. the Czech and Polish cases on Concentration Camps) ~~the American reports on the massacres of Belgians at Stavelot and the massacres of Americans at Malmédy, etc...);~~

*including the
the cases on
information on
com. against
of other nations*

(b) By informing the National Offices of the possibility of obtaining supplementary information through the Commission (e.g. reports such as the Report of the XIIth Army Group on Breendonck). *the USA army Reports on the massacres of Belgians at Stavelot and* In this respect, Colonel Wade's "Summaries of Information" have not been sufficiently utilised. Perhaps the circumstance that they are written in English has been an obstacle. Attention could be drawn on them in French and a summary of their contents given verbally;

of American Reports on Malmédy

(c) By asking the National Offices to supply the Commission with whatever information they may possess on the German organizations in their country, together with the names of the officer responsible. Incidentally, this would also serve for the future compilation of the reports on specific subjects which this Commission is intended to publish.

2. Explaining to the National Offices the way in which Committee I works and what it hopes to get. It is realised that the Commission has issued document C.87 (1) but there is no doubt that verbal explanations, with a possibility to ask any questions and obtain answers to them would be of even greater value.

3. Examining what is being done and what could be done in respect of crimes committed in Germany against Allied nationals. It seems necessary that the respective scope of work of the National Offices and of the War Crimes Commission should be clearly defined. Generally speaking National Offices have been instituted to investigate crimes committed on their national soil; they cannot practically deal with happenings that have occurred outside their country; as far as crimes committed in Germany are concerned, some National Offices are even incompetent to investigate them. It is possible that the War Crimes Commission may have to undertake *such* investigation. It might be of some use to discuss with the National Offices the proposed institution of a War Crimes Agency in Germany (if our Commission recommends such institution). Otherwise it is urgent that the National Offices be warned that they must take the necessary steps to investigate themselves, immediately and on the spot, any crimes committed in Germany against their nationals, since some of them *believe that the War Crimes Commission is doing this.* Even ~~in so far~~ as crimes committed in occupied countries are concerned some understanding is needed with a view to obtaining some unity of methods.

4. Discussing and reaching an agreement on the best way

of dealing with persons who are accused of having committed crimes against nationals of several Allies (e.g. Concentration Camps Commanders, etc....). It seems necessary that an understanding should be reached as to ¹⁾ who will investigate these cases and ²⁾ where the criminals will be tried.

5. Question of Top Criminals -

x x x
x

Several suggestions have been made as to the place where the conference should be held. Paris has been suggested as the best location. In this ^{connection} ~~respect~~ the opinion of Prof. Gros would be ^{appreciated} ~~of weight~~.

18th May, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

Notes on the members of the so-called
Doenitz Administration

(By the Legal Officer, Dr. Schwelb)

According to reports published in periodicals, the so-called Doenitz Administration or Government consists of the following men :

| | |
|--|--------------------------|
| Minister of Foreign Affairs | - Schwerin-Krosigh. |
| " of Agriculture | - Backe. |
| " of Transport | - Dormmueller. |
| " of Labour | - Seldte. |
| " of Production | - Speer |
| Internal Administration and Education | - Dr. Wilhelm Stuckardt. |

All these men are on one or several lists of the United Nations War Crimes Commission as war criminals.

Schwerin-Krosigh is wanted by Belgium, Czechoslovakia and Poland.

Backe by Belgium, Czechoslovakia and Poland.

Dormmueller by Belgium and Czechoslovakia.

Seldte by Belgium and Czechoslovakia.

Speer by Belgium and Czechoslovakia.

Stuckardt by Poland.

SECRET

18th May, 1945

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

Note on some personnel of the Concentration Camp Oswiecim

(By the Legal Officer, Dr. Schwelb)

The newspaper "Basler National Zeitung" published the names of some of the personnel of the Concentration Camp Oswiecim (Auschwitz). The report was re-printed in "Die Zeitung" of May 18th May, 1945, p. 8.

The following names, contained in this publication, are already on our lists:

Schwartz,
Grabner,
Kirschner.

The following names, contained in the publication, are on our lists, but with differences in the spelling:

Basler National Zeitung:

Auleiner
Schopp
Schiebits
Mandel

List A:

Aufmeier
Schoppe
Stibitz
Frau Mandel, Madel or Madl

The following are not on our lists:

Hobes, Lagerkommandant,
Fellig, S.S. man who boasted to have killed
260 persons on one day,
Rexler, specialist for gas chambers,
Mandel (see supra) specialist for gas chambers,
Gachmann, sadistic guard,
Wischbuetzer, sadistic guard,
Professor Schuhmann .
Dr. Klambeck.

The two last mentioned were parties to the "scientific" experiments with women and children. Schuhmann is proposed for List A in the Commission charge which I have prepared in connection with the "mercy-killing" organisation "Beelitz Stiftung". This charge has been prepared in accordance with the decision of Committee I of May 17th.

Circulated only to members of Committee I.

SECRET

I/3
25th May, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

QUESTIONS OF ORGANISATION

The following suggestions regarding the organisation of the Committee which were contained in a paper presented by Colonel Hodgson to Committee II have been referred by that body to Committee I.

Appointment of Executive Committee

The increasing problems of detail, often concerning matters of an administrative nature, would seem to make it imperative for the Commission to appoint an Executive Committee to both plan and carry out matters covered by policies established by the Commission as a whole. A small committee consisting of the Chairman and committee chairmen can function efficiently with frequent meetings to an extent impossible for the Commission meeting as a whole.

Appointment of Vice-Chairmen

The appointment of one or more Vice-Chairmen might serve to assist the Chairman and make for a more effective organisation.

Increase in Executive Staff and Appointment of Executive Officer.

There should be an increase in the Executive Staff under an Executive Officer who will assume the burden of coordination and office administration. A table of suggested additional personnel and duties is attached. (See below)

Establishment of Central Information Office

There should be established a Central Information Office. The creation of such a central agency somewhere is essential in order to coordinate information between the National Offices and the Military Agencies. This will enable the Commission to ascertain that there is in fact an investigation of at least all major war crimes, and to compile the evidence necessary for either historical purposes, or for the more immediate task of possible prosecution or other ultimate disposition of the Accused. This would include facilities for exchange of information among agencies concerned, and for assembling in the Commission Offices, available and properly indexed, records covering each offence and each person involved.

PROPOSED EXECUTIVE STAFF

To be responsible directly to the Commission under the general control of an Executive Officer. No interference with the present activities of the Secretary is contemplated except to relieve that office of administrative details falling within the scope of the new office.

I. Administrative Section: To be headed by a Chief Clerk and adequate staff in order to: Maintain Case Record Files; Maintain Offence Punch-Card File; Index Card Files; and the Registry of Accused and Suspects; and also to control the exchange of information particularly with respect to cases partaking of an international nature.

SECRET

L/4
29th May, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Com m i t t e e I

REPORT ON THE PREPARATION OF A SPECIAL LIST OF S.S. PERSONNEL

(by the Legal Officer, Mr. Schmalb)

(1) The production of the lists of "key-men" (Nos. 7 and 9) was, to a certain extent, a new departure in the proceedings of the Commission. The list with the preparation of which I have been charged and which is being typed at present is a supplement to these two lists and, simultaneously, the practical application of the Commission's resolution concerning the report on the Gestapo, S.S., and S.A. (C.106). The list is based on material supplied by military authorities and contains all S.S. functionaries who were active in any of the following capacities:

- (a) Staff of Ministries and installations directly controlled by the Government, administrative offices, S.S. members of the Reichstag;
- (b) National Socialist Party, its Reich leaders, Reich offices, branches of the party, attached to its central headquarters;
- (c) Central Administration of the S.S. itself (including the Waffen S.S.);
- (d) Reich Police offices;
- (e) Members of the S.S. holding high positions of a permanent nature within the structure of the Wehrmacht (other than those in the Waffen S.S.);
- (f) S.S. Police Offices assigned to the Wehrkreise, higher S.S. and Police Leaders, their subordinated chiefs of the Order Police;
- (g) Regional and Local Offices of the S.S. and Police;
- (h) People in charge of Installations and Establishments of the S.S. throughout Europe.

From this survey it will be seen that the list is not restricted to what was called "key-men" though the great majority of the people listed are of a standing similar to those who were put on Lists 7 and 9. The fact that people holding positions on a lower level than "key-men" are being listed is justifiable on the ground that they were members of so dangerous an organization as the S.S.

In addition, M. de Baer sent to the Commission a complete list of S.S. men including N.C.O.s and men who acted under the Chief of the Security Police and the S.D. in Belgium and Northern France. This list is based obviously on a captured document containing the names of all men who were issued S.S. badges.

The list of S.S. men contains - after omitting people already listed in Lists 7 and 9 - approximately 1000 names.

The list made available by M. de Baer contains 314 names. I submit that it could be added to the main list as an appendix.

I/5
May 12th, 1945.

COMMITTEE I

Report No. 1

on charges to be re-classified

(by the Legal Officer, Mr. Schwelb)

According to the decision of Committee I of 10th May 1945, I have gone through the French cases 2 to 199. From these, I submit the following for re-consideration by Committee I.

No. 2 ERTTEL (probably Ertel), member of the organisation Todt at Montherme, Ardennes, and other places. Charged with manslaughter of a named French employee of the organisation Todt. A witness, Andre Pelletier, is said to have been present in London. Ertel was put on B. Could be listed on A.

No. 49 COMMANDER OF THE P.O.W. CAMP, HAMMERSTEIN, and his subordinates are charged with ill-treatment of Prisoners of War. The charge is based on a statement by a French N.C.O. The commander and the subordinates were put on C. The Commander could be put on A.

No. 54 OTTO, Captain of the S.R. (?). Paris is charged with having organised in Paris groups of terrorists with power to arrest, investigate and to torture. No details were given. The sources are "Rapports officiels". Otto was put on C.

No. 55 HIMMLER, nephew of R.F.S.S. Himmler, captain, chief assistant of the Gestapo, Lyons, was charged with having instigated the establishment of the torture chamber in the Terminus Hotel and with having created the torture chamber in the old Ecole Militaire de Sante. No details were given and Himmler jun. was put on C. In view of his function of "chief assistant" of the Gestapo it is submitted that he could be put on A, the source being "Rapports officiels".

No. 56 MULLER, Commandant, Chief of the Gestapo, Marseilles, was charged with having been the instigator and author of the torture chamber installed at 403, Rue Paradis, in Marseilles. No details were given, the source being official reports. He was put on C, but in view of his function, he could be put on A.

No. 57 COLONEL RETSECK, Gestapo Chief of Toulouse, is charged with having organised special arrest squads whose task it was to torture and murder people at isolated places, farms etc. and to abandon the corpses. The charge is based on official reports, no details being given. Retseck was put on C, but could be re-classified and put on A qua local Gestapo Chief.

No. 58 SCHWEITZER, assistant of Retseck (see above No. 57) at the Gestapo, Toulouse. What was said about Retseck, applies also to Schweitzer.

No. 59 DAUBERSCHUTZ, assistant of Retseck (see above No. 57) at the Gestapo, Toulouse. The same position as in No. 58.

No. 64 BAYER, officer of the Gestapo, Lyon, Fort de Montluc. Bayer is charged with having ordered the shooting of a Frenchman, M. Alfred Escomazie. The charge is based on official reports made up after the examination of witnesses, Bayer was put on B, but he could be re-classified and put on A.

No. 185 CAPTAIN LOTTMANN of Dortmund was charged with having without trial ordered the execution of five persons, among them a pregnant woman. The source is "Services speciaux". On August 9, 1944, Lottmann was put on B 1; on October 3rd, 1944, it was decided to leave him on B 1. It is submitted that - in accordance with the present practice of Committee I - he could be put on A.

No. 196 THE GERMAN DIRECTOR OF THE WOMEN'S PRISON DE LA PETITE ROQUETTE IN PARIS is charged with ill-treatment of the inmates (20 French ladies arrested for "gaullisme"). British services are given as a source. The accused was put on C, but owing to the fact that it should be possible to identify the person who, in 1943, was in charge of the particular prison, he could be re-classified and put on A.

June 4th, 1945.

UNITED NATIONS WAR CRIMES COMMITTEE.

Committee I

NOTE BY COLONEL WADE AND MR. SCHWELB

REGARDING PROCEDURE ABOUT MATERIAL SUBMITTED BY MILITARY AUTHORITIES.

As a consequence of the liberation of concentration camps and prisoner of war camps and the interrogation of enemy prisoners of war a great amount of information is now daily being received by the Commission. We are of opinion that Committee I should give a ruling on the question how this immense amount of material is to be dealt with. Experience has shown that the ^National Offices do not sufficiently react to the Summaries of Information sent to them by the Research Office. We therefore propose the following procedure:

1. Colonel Wade and the Legal Officers would be charged with the task of examining this material and of drawing up Commission charges against all persons who are prima facie suspect of having committed a crime. In preparing these charges Colonel Wade and the Legal Officers should act in accordance with the present practice of Committee I;
2. The charges thus drawn up should be circulated not only to the members of Committee I but, if Committee I thinks this desirable, to all members of the Commission, and, in addition, to these ^National Offices whose nationals appear to be involved as victims of the crime;
3. When these charges are circulated, the members of the Commission and/or the National Offices concerned should be invited to notify Committee I at its next meeting whether they adopt them as charges of the respective countries. If such adoption should not be forthcoming, Committee I should decide upon the charge as a Commission charge, unless the interested National Office or member expressly state that they do not wish the charge taken up at all.

Under Baer

I/7
June 7th, 1945

UNITED NATIONS WAR CRIMES COMMISSION

Committee I

Report No. 2

on charges to be re-classified

(by the Legal Officer, Mr. Schwelb)

This is the continuation of Report No. 1 (I/5) which was decided upon by Committee I in its meeting held on June 6th, 1945 and refers to the French cases 200 to 530.

No. 202 The Commanding Officer of the German troops operating at St. Pierre d'Albigny in Savoy on April 19, 1944. In this case it was decided to put the Commanding Officer on A, the subordinates on C. According to the information furnished by the War Office, the Commanding Officer was Lt. Gen. Karl Pflaum. The charge refers to the torture and execution of several young Frenchmen under most abominable circumstances. The atrocity caused great emotion throughout the region. I, therefore, submit that those subordinates of Lt. Gen. Pflaum, whose names have been given to the Commission by the War Office, could be re-classified from C to either S or A. They are:

Lt. Col. of Police K lbinger, O.C. 19 SS and Police Regiment
Major of Police Wilhelm Fischer, O.C. I Battalion, 19 SS and Police Regiment.

No. 239 Hauptmann Bauquellau. This charge, based on reports from French special services, alleges that the accused murdered a French farmer at Rouvroy (Aisne) in July, 1944. Bauquellau was put on B1. According to the present practice of Committee I he should go on A. I may add that the name "Bauquellau" does not appear to be a possible German surname.

No. 260 This case concerns the camps at Birkenau and at Drancy. Captain Brunner (or Bruckner) of Drancy was put on A on account of the French charge No. 4. With regard to Birkenau (which is part of the Concentration Camp Oswiecim (Auschwitz) - Rajko (Birkenau) in this case only the commander was put on A. In the meantime, many other charges re the Oswiecim camp have been submitted by the French and many other governments, e.g. No. 455 (France), No. 380 (Yugoslavia), No. 304 (Poland), No. 123 (Poland), No. ~~628 (Czechoslovakia)~~ and No. 628 (Belgium). To the Belgian charge also the report of the Soviet Extraordinary State Commission has been attached as an "additif" and on June 6th, 1945, the representative of the Belgian National Office stated that he would extend the charge to the effect that all those names, contained in the Soviet report but not yet on the Commission's Lists, should become charged before the Commission. (See also Colonel Wade's Report No. 27.) Under these circumstances, it does not seem necessary for Committee I to proceed on its own initiative in connection with the charge No. 260, as far as it relates to Oswiecim. With regard to Drancy, Colonel Wade's report No. 27 gives four names of people who all are already on the Commission's Lists on account of charges brought by France, viz;

Br nner, commandant, charges Nos. 4 and 260
Bruckner, official, charges Nos. 5 and 260
Dannecker, official, charge No. 6 (as chief of the service for the repression of Jews in occupied France)
Roethke, official, as successor of Dannecker.

No further action is, therefore, needed.

- No. 280. In this charge which is against the Superior Paymaster (Oberzahlmeister) of an identified Dienststelle and his subordinate and which represents a very good prima facie case both of murder and of pillage committed in June 1944, at Carentan, two vouchers are available, signed by the Oberzahlmeister and containing the statement that a Monsieur Debourdon has made a gift of one cow in each case to the German Army. Probably, because the signature of the Oberzahlmeister was illegible, he was put on B2. It should be possible to identify the accused by his function in connection with the receipts he has signed and he could, therefore, be re-classified A.
- No. 292 A commander SHMIDT of "Die Langen Sarre" is charged to be responsible for the murder of 7 F.F.I. men at Ingrandes (Vienne) in August, 1944. On 20th September, 1944, Committee I put Schmidt on B2 and on 4th October, 1944 decided to make no change in this classification. Schmidt obviously stands for Schmidt, a very common German surname. "Die Langen Sarre" does not make sense. It may possibly be the incorrect reproduction of "Die langen Kerle" which was the designation of the Prussian Guards Regiment, established by the Prussian King Frederick II (or his father) in the 18th Century. In case this regiment was retained in the Army of the Third Reich and if this regiment was located at Ingrandes (Vienne) at the material time (August 1944), it might not be entirely impossible to identify the accused in spite of the fact that he is the holder of a name as common as Schmidt.
- No. 295 The Commander of the occupation troops at Loir-et-Cher in August 1944, is charged with the responsibility for the murder of a member of the F.F.I. On September 20th, 1944, he was put on B. It would be in line with the present practice of Committee I to reclassify him A.
- No. 297 This case is very similar to the last case (295). The commander of the occupation troops between Dole and Belfort in August/September 1944 who was put on B2, could be reclassified A.
- No. 444 The commanding officers, officers, N.C.O.s and men of the "Afrika Korps", 56th Division, 2nd Corps, are charged with the murder of four F.F.I. men. The crime was committed on 28th August, 1944, at Chauffour les Bailly (Aube). The case was adjourned on 10th January 1945.
- No. 452 Six soldiers of the Africa Corps who formed a party of the 15th Division P.G., known as Sicilian Division, are accused of having on 1st September 1944, committed the murder of a French lady at Malancourt (Meuse). The case was adjourned on 10th January 1945.
- No. 475 The procedural position of this case is similar to the last two cases (Nos. 444 and 452). It was adjourned on January 17th, 1945.
- No. 496 This charge which names a number of persons as responsible for crimes committed near Longwy (Meurthe et Moselle) in September, 1944, was adjourned on 31st January, 1945.
- No. 497 This charge which indicts a Lance-corporal Bedurcke and officers, N.C.O.s and men of three German Infantry Regiments of serious crimes committed in September, 1944, at Etreaux (Aisnes) was adjourned on 31st January 1945.

- No. 499 This case, where Kilm Alois, Sonderführer und Dienststellenleiter Zufuhrstelle der Feldkommandantur, and his assistant Schoen are charged with the murder and torture of M. Marland, was adjourned on 31st January, 1945. .
- No. 500 In this case in which an unidentified German fighting unit is involved, it was decided on January 31st, 1945, to communicate with Mr. Kent.
- No. 528 This case is against Captain Otto Tromer who has been identified as having belonged to a German unit which is responsible for the shooting of four F.F.I. men. He was put on C but in view of his rank he should, according to the present practice of Committee I be put either on A or on S.

I/8
9th June, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

REPORT ON THE COMMISSION CHARGES 1 - 8 re: CRIMES
COMMITTED IN ITALY

(By the Legal Office, Mr. Schwelb)

On April 17th, 1945, Committee I dealt with seven charges (then designated numbers 773 to 779) which were based on information sent by the British military authorities. Committee I adjourned the cases and Colonel Wade was asked to make further enquiries.

Colonel Wade has now received information to the effect that the question of these atrocities has been taken up with A.F.H.Q. direct, who are, no doubt, compiling dossiers with all the necessary details. In these circumstances the officer in charge thinks it would be best if we were to refrain from crossing lines and rely on A.F.H.Q. pursuing the matter further. He has no doubt that the result of their investigations will ultimately find its way to the War Crimes Commission, although probably through other channels.

I, therefore, propose not to proceed with the examination of these cases further.

5/9

LIST OF ITALIAN AND HUNGARIAN KEY MEN.

MEMORANDUM TO COMMITTEE I.

In regard to Italian key-men Dr. Litawski has been compiling a list.
It includes, as you will see:

- (a) Mussolini and his Ministers from the time of Italy's intervention in the war till the fall of Mussolini in July 1943;
- (b) Italians holding key positions in Yugoslavia;
- (c) Some prominent Fascist personalities.

Before typing these lists for submission to Committee I, we would like a ruling on the following points of principle:

1. Are all Italians who have held office as Mussolini's Ministers (in list a) to be regarded as key-men in the sense of the definition in the preface to the List 7?
(For example: what about GRANDI, who was, it is believed, instrumental in overthrowing Mussolini?)
2. Should Ministers who held office under Mussolini, and later on under Badoglio be excluded?

Can you let us know your views, in time to get the list ready for the next Committee?

Hungarian List of Key-men.

We have compiled a list of about 30 Hungarian key-men, but in view of the very long lists already published in Hungary—presumably under Soviet auspices—it seems hardly useful to issue such a list.

If the list is to be produced, should Horthy be included?

8th June, 1945.

Handwritten signature

I/10.
28th June, 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

PROPOSAL AS TO THE DECISION ON THE FRENCH CHARGE NO. 947.
(STAFF OF MILITARBEFEHLSHAUER IN FRANKREICH).

By Dr. SCHWELB.
Legal Officer.

I.

As requested by Committee I in its meeting of June 20th, 1945, I have compiled an analysis of the German Military Government (Military Administration) in France, 1943-1944, as it existed according to the document appended to the French Charge No 947. This analysis has been circulated as an appendix to Summary of Information, No. 31.

In the meeting of Committee I, held on June 27th, 1945, it was decided that M. Malezieux should, with my assistance, place before the next meeting of the Committee concrete proposals how to dispose of the charge No. 947 as such, i.e. on which lists the people mentioned in the document should be put.

M. Malezieux has left for France and will not be back in this country before next Wednesday. I had the opportunity of going through the matter with him only cursorily. The following remarks are, therefore, my own and are not officially approved of by the French National Office.

II.

The document contains approximately 660 names of German officials holding positions in the administration of France.

The organisation outlined there, is not restricted to the tasks of a "looting organisation" but covers the whole of a state machinery; it comprises all branches of the executive, excepting the Security and State Police and the Armed Forces. But the stress which is laid on the economic exploitation of France is apparent from the fact that only two Abteilungen are devoted to "administration" including Justice, whilst not less than eight concern themselves with "economics" (Wirtschaft).

None of the persons listed in the document is charged with a particular crime. They can therefore be charged if at all, only as "key-men", i.e. to quote the preface to List 7 their "crimes consisted less in the perpetration of specific atrocities than in their having acted as ringleaders in the organisation of war crimes". Those of the persons whom it is proposed to put on one of the Commission's lists must "have held positions of authority in the government of (France) and must be treated as responsible in virtue of their official position for the various atrocities which have been committed within the sphere of their competence."

Having in mind that we are dealing with several hundred persons not charged with a particular and specified crime, but with people suspected of being responsible for various crimes because of the official positions they held at the material time, we have to de-limit the number of people to be put on our lists both, as it were, vertically and horizontally. Vertically: we have to make a distinction between persons holding higher appointments, like heads of departments, heads of groups and sections, rapporteurs etc. on the one hand, and filing clerks, typists, accountants, etc. on the other.

Horizontally: we must distinguish between the individual departments, groups, and sections, because in some of them there is a very great probability, almost a certainty, that their leading officials are responsible for war crimes, while in others the probability that they have committed criminal offences in their official capacity is rather remote. Gruppe 1 of Abteilung Wirtschaft I (General questions and the elimination of the Jews) and Gruppen A and B of Abteilung Wirtschaft VII (Labour Control, a.o., Labour Mobilisation, Control of the demand for man-power etc.) are examples of the former, the Veterinary Section of Gruppe Verw. I/1 of Abteilung Verwaltung I and the Central Filing Department of Abteilung Wirtschaft I are examples of the latter.

This is, of course, not to say that a German administrative official below a certain rank or serving in a "neutral" department has under no circumstances committed war crimes. It only means that persons who have served in a low rank or in a department, not likely to have been responsible for criminal activities, can be placed on the Commission's list only, if a particular charge is preferred against them as individuals.

III

Applying the principles outlined under (II) I, therefore, propose the following procedure:

- 1) To place either on a key-men list 'A' or on 'S' the following functionaries of all departments:

| | <u>Persons</u> |
|--|----------------|
| a) the three members on the "highest level" of the military administration (Michel, Lehmann and Ermert) (of. p.3. of Summary of Information No. 31). | 3 |
| b) the heads of the Zentral-abteilung and its Gruppen (Jonquieres, Dyckerhoff and Horst) | 3 |
| c) the heads of the three Abteilungen Verwaltung. (Teuchert and Oertzen; no name of the head of Abteilung Verwaltung II Justiz is given). | 2 |
| d) the heads of seven Abteilungen Wirtschaft (Abteilung Wirtschaft VIII is identical with Abteilung Verwaltung III): Zee-Heraeus, Tehle, Reinhardt, Hausmann, Mahs, Seifahrt, Baucht, Kohl (Abteilung Wirtschaft has two Leiter) | 8 |
| e) The Hauptabteilungsleiter of Hauptabteilung Arbeit and his deputy (Glatze, List). | 2 |

| | Brought forward | <u>Persons</u> |
|--|-----------------|----------------|
| 2) To place on the same key-men List 'A' or on 'S': | | 18 |
| a) The Sachbearbeiter of Verw. I/1 General Internal Administration (Seefeldner and Tobias) | | 2 |
| b) six officials of Verw. I/2 (Kultur and Kunst-Verwaltungen, because of their connection with the looting of art treasures; if the Committee should be of opinion that the information about the looting of art treasures in France justifies this procedure | | 6 |
| c) six officials of Verw. II: Justiz. | | 6 |
| d) the Gruppenleiter of Verw. III/1 (Drücke; costs of occupation) | | 1 |
| e) Militärverwaltungsrat Tier of III/1, Rapporteurs on questions of budget, French taxes and German Jewish property. | | 1 |
| f) two officials of Verw. III/2 (German property in France) | | 2 |
| g) Hauptmann Fuhrmann, Generalreferent zu den französischen Ministerien etc. Verbindung zum Reichsministerium für Bewaffnung und Munition. Hauptmann Brandts: Verbindungsoffizier der Waffenstillstandskommission | | 2 |
| h) Gruppenleiter Militärverwaltungsoberrat Dr. Blanke of Wl. I/1 and four officials of Ref. I/C. (Entjudung der Wirtschaft). | | 5 |
| i) Gruppenleiter Militärverwaltungsoberrat Rinke of Wl. I/2 (enemy property) | | 1 |
| j) Gruppenleiter Dr. Mann of Wl. I/4 (Economic Transports) | | 1 |
| k) the Gruppenleiter of Gruppen A to N of Wl. II (some of these Gruppen have two Gruppenleiter) | | 15 |
| l) the Gruppenleiter of Gruppen 1 to 3 of Wl. III. | | 3 |
| m) the Gruppenleiter of Gruppen 1 to 3 of Wl. IV. | | 3 |
| n) the Gruppenleiter of Gruppen 1 and 2 of Wl. V, four officials of Ref. Ia (Questions of principle of export trade and currency regulations, international agreements, legislation) and three officials of Ref. I/C (Goods traffic with the German Reich and the occupied territories). | | 9 |
| o) 5 Referatsleiter of Wl. VI | | 5 |

| | | <u>Persons</u> |
|----|---|-------------------|
| | Brought forward | 80 |
| p) | the Stellvertreter des Abteilungsleiters and all Gruppenleiter, Referatsleiter, Sachbearbeiter and Leiter of Wi. VII (Labour Control) including the two Beauftragte mentioned on page 18. | 14 |
| q) | all officials of the Generalbevollmächtigte für der Arbeitseinsatz, der Beauftragte in Frankreich | 10 |
| r) | Neuendorf and Grote (Special commissioners for Labour questions mentioned at bottom of page 18) | 2 |
| s) | the Chefrichter (Boetticher) and three Oberkriegsgerichtsräte forming the Gericht des Militäerbefehlshabers in Frankreich | 4 |
| | | <hr/> 110 persons |

3) Some of the persons whose names are given in the document and who have not been proposed for the key-men list 'A' or for 'S' under (1) and (2) above, but of whom it is probable that they have knowledge of war crimes could be placed on list 'W'. This applies particularly to interpreters and translators (Dolmetscher); to many Sachbearbeiter and Mitarbeiter.

IV

In examining the adequacy of the above proposal it should be borne in mind that the charge deals with the German administration other than police, and the combatant military units, and that therefore the worst abominable crimes committed by the Gestapo, the Allgemeine SS., the Waffen SS. and some other formations are outside its scope.

1/10
28th June, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

PROPOSAL AS TO THE DECISION ON THE FRENCH CHARGE NO. 947
(STAFF OF MILITARY RESERVE IN FRANCE ETC.).

(By Dr. SCHWEIB, Legal Officer).

I.

As requested by Committee I in its meeting of June 20th, 1945, I have compiled an analysis of the German Military Government (Military Administration) in France, 1943-1944, as it existed according to the document appended to the French Charge No. 947. This analysis has been circulated as an appendix to Summary of Information, No. 31.

In the meeting of Committee I, held on June 27th, 1945, it was decided that M. Malezieux should, with my assistance, place before the next meeting of the Committee concrete proposals how to dispose of the charge No. 947 as such, i.e. on which lists the people mentioned in the document should be put.

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None of the persons listed in the document is charged with a particular crime. They can therefore be charged, if at all, only as "key-men", i.e. to quote the preface to List 7 their "crimes consisted less in the perpetration of specific atrocities than in their having acted as ringleaders in the organization of war crimes." Those of the persons whom it is proposed to put on one of the Commission's lists must "have held positions of authority in the government of (France) and must be treated as responsible in virtue of their official position for the various atrocities which have been committed within the sphere of their competence."

Having in mind that we are dealing with several hundred persons not charged with a particular and specified crime, but with people suspected of being responsible for various crimes because of the official positions they held at the material time, we have to delimit the number of people to be put on our lists both, as it were, vertically and horizontally. Vertically: we have to make a distinction between persons holding higher appointments, like heads of departments, heads of groups and sections, rapporteurs etc. on the one hand, and filing clerks, typists, accountants, etc. on the other.

Horizontally: we must distinguish between the individual departments, groups, and sections, because in some of them there is a very great probability, almost a certainty, that their leading officials are ~~not~~ responsible for war crimes, while in others the probability that they have committed criminal offences in their official capacity is rather remote. Gruppe 1 of Abteilung Wirtschaft I (General questions and the elimination of the Jews) and Gruppen A and B of Abteilung Wirtschaft VII (Labour Control, a.o., Labour Mobilisation, Control of the demand for man-power etc.) are examples of the former, the Veterinary Section of Gruppe Verw. I/1 of Abteilung Verwaltung I and the Central Filing department of Abteilung Wirtschaft I are examples of the latter.

This is, of course, not to say that a German administrative official below a certain rank or serving ~~in~~ a "neutral" department has under no circumstances committed war crimes. It only means that persons who have served in a low rank or in a department, not likely to have been responsible for criminal activities, can be placed on the Commission's list only, if a particular charge is preferred against them as individuals.

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Applying the principles outlined under (II) I, therefore, propose the following procedure :

1) To place either on a key-men list A or on S the following functionaries of all departments:

- | | |
|---|---------------------|
| a) the three members on the "highest level" of the military administration (Michel, Lehmann and Ermert) (cf. p.3 of Summary of Information No. 31.) | <u>Persons</u> 3 |
| b) The heads of the Zentral-abteilung and its Gruppen (Tonquieres, Dyckerhoff and Horst) | 3 |
| c) The heads of the three Abteilungen Verwaltung. (Teuchert and Oertzen; no name of the head of Abteilung Verwaltung II Justiz is given). | 2 |
| d) The heads of seven Abteilungen Wirtschaft (Abteilung Wirtschaft VIII is identical with Abteilung Verwaltung III): Zee-Heraeus, Tehle, Reinhardt, Hausmann, Mais , Seifahrt, Bauch, Kohl (Abteilung Wirtschaft has two latter) | 8 |
| e) The Hauptabteilungsleiter of Hauptabteilung Arbeit and his deputy (Glatze, List). | 2 |

2) To place on the same key-men List A or on S :

- | | |
|--|---|
| a) The Sachbearbeiter of Verw. I/1 General Internal Administration (Seefeldner and Tobias) | 2 |
| b) six officials of Verw. I/2 (Kultur and Kunst-Verwaltungen, because of their connection with the looting of art treasures; if the Committee should be of opinion that the information about the looting of art treasures in France justifies this procedure) | 6 |
| c) six officials of Verw. II: Justiz. | 6 |
| d) the Gruppenleiter of Verw. III/1 (Drücke; costs of occupation) | 1 |
| e) Militärverwaltungsrat Tier of III/1, Rapporteurs on questions of budget, French taxes and German Jewish property. | 1 |
| f) two officials of Verw. III/2 (German property in France) | 2 |

| | <u>Persons</u> |
|--|--------------------|
| Brought forward | 36 |
| g) Hauptmann Fuhrmann, Generalreferent zu den französischen Ministerien etc. Verbindung zum Reichsministerium für Bewaffnung und Munition. Hauptmann Brandts: Verbindungsoffizier der Waffenstellstandskommission. | 2 ✓ |
| h) Gruppenleiter Militäerwaltungsoberrat Dr. Blanke of Wi. I/1 and four officials of Ref. I/C (Entjudung der Wirtschaft) | 5 |
| i) Gruppenleiter Militäerwaltungsoberrat Rinke of Wi. I/2 (enemy property) | 1 |
| j) Gruppenleiter Dr. Mann of Wi. I/4 (Economic Transports) | 1 |
| k) The Gruppenleiter of Gruppen A to N of Wi. II (some of these Gruppen have two Gruppenleiter) | 15 |
| l) The Gruppenleiter of Gruppen 1 to 3 of Wi. III. | 3 |
| m) The Gruppenleiter of Gruppen 1 to 3 of Wi. IV. | 3 |
| n) The Gruppenleiter of Gruppen 1 and 2 of Wi. V, four officials of Ref. Ia (Questions of principle of export trade and currency regulations, international agreements, legislation) and three officials of Ref. I/C (Goods traffic with the German Reich and the occupied territories). | 9 |
| o) 5 Referatsleiter of Wi. VI. | 5 |
| p) The Stellvertreter des Abteilungsleiters and all Gruppenleiter, Referatsleiter, Sachbearbeiter and Leiter of Wi. VII (Labour Control) including the two Beauftragte mentioned on p. 18. | 14 |
| q) All officials of the Generalbevollmächtigte für der Arbeitseinsatz, Der Beauftragte in Frankreich. | 10 ✓ |
| r) Neuendorf and Grote (Special commissioners for Labour questions mentioned at bottom of p. 18) | 2 |
| s) The Chefrichter (Boetticher) and three Oberkriegsgerichtsräte forming the Gericht des Militäerbefehlshabers in Frankreich | 4 ✓ |
| | <hr/> 110 persons. |

3). Some of the persons whose names are given in the document and who have not been proposed for the key-men list A or for S under (1) and (2) above, but of whom it is probable that they have knowledge of war crimes could be placed on List W. This applies particularly to interpreters and translators (Dolmetscher); to many Sachbearbeiter and Mitarbeiter.

IV.

In examining the adequacy of the above proposal it should be borne in mind that the charge deals with the German administration other than police, and the combatant military units, and that therefore the worst abominable crimes committed by the Gestapo, the Allgemeine SS., the Waffen S.S. and some other formations are outside its scope

1/11.
July 3rd, 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

REPORT ON THE CZECHOSLOVAK CHARGE NO. 952. (OSWIECIM-BIRKENAU).

as amended by Dr. Ecer's communication, received on July 2nd 1945.

By Dr. Schwelb, Legal Officer.

The charge is directed against individuals and groups of persons enumerated under Nos. 1 to 369.

a) Nos. 1 to 32 are the members of the German Government in the material time (1939-1945) and, in view of a number of precedents in the practice of Committee I, do not raise any new problem.

b) Nos. 33 to 57 are persons responsible for the direction of the police activities in Germany on the highest level. Apart from items 48 and 56, which concern groups of persons ("all officials of...") with which I shall deal later in this paper, no problems arise here either.

c) Items 266 to 369 concern the persons responsible for the administration of the camps and the actual camp personnel. In my opinion, here also no new questions either of law, or of fact are to be settled by Committee I.

d) Items 58 to 265 refer to the police authorities acting in, or competent for, the different parts of the Czechoslovak Republic.

The Czechoslovak National Office holds these persons and groups of persons responsible for ordering and executing the arrest of Czechoslovak nationals and for committing them to the concentration and extermination camps Oswiecim-Rajsko (Auschwitz-Birkenau), and/or for aiding and abetting these criminal activities. The charge differs from similar charges which so far have been dealt with by Committee I that it indicts not only the persons in authority on the top level (Reich Government, SS. High Command) and the actual perpetrators at the end of the journey (the camp personnel), but that it attempts to establish the guilt and responsibility of the intermediate authorities, i.e. the people competent to exercise local jurisdiction in the different parts of occupied Czechoslovakia and who had the power either to propose or to order the individual arrests and commitments to the camps.

(e) In making charges against these people, who are held responsible for their share in the crime, as it were, on the intermediate level, the Czechoslovak National Office makes two distinctions:

(I) between functionaries of the Ordnungspolizei on the one hand and functionaries of the Sicherheitspolizei on the other. Both were competent to order arrests with a view to commit the arrested persons to a concentration and extermination camp. But there being no sufficient evidence that the regular police (Ordnungspolizei) took a decisive part in these activities, the Czechoslovak National Office proposes to put the officials of the Ordnungspolizei on 'S', while it is proposed to put the persons responsible for the Sicherheitspolizei (Gestapo and S.D.) on 'A'. (Note: It is obviously due to a misprint that throughout the argument the charge proposes

putting people on "List 9" which should be corrected into 'S').

(2) The charge further distinguishes between police authorities having jurisdiction exclusively for Czechoslovak territory (so-called Protectorate Bohemia and Moravia (items 57a to 151) and the so-called Reichsgau Sudetenland (items 153 to 203)), and such police authorities as are in charge of predominantly Reich German or Austrian provinces to which slices of Czechoslovak territory have been "annexed" during the occupation. The latter are: (a) Upper Silesia, to which the Czechoslovak districts of Hlučín, Fryštát and Český Těšín had been added, items 204 to 219; (b) Bavaria, to which parts of the Czechoslovak districts of Domázlitz, Klatovy, Sušice, and Prachatitz had been annexed (items 220-230); (c) the Reichsgau Oberdonau (i.e. the province of Upper Austria) to which parts of the Czechoslovak districts Český Krumlov, Kaplice, České Budějovice and Třebon had been added (items 235-248); (d) the so-called Reichsgau Niederdonau (i.e. the province of Lower Austria) to which parts of the Czechoslovak districts of Znojmo, Mikulov, Jindřichov, Hradec, Dačice, Mor. Budejovice, Moravský Krumlov, Hustopeče and Bratislava had been annexed.

As to the police officials, other than Ordnungspolizei, the charge proposes in the case of the "Protectorate" and of the "Reichsgau Sudetenland" their listing on 'A': as to the police officials of Upper Silesia, Bavaria, Upper Austria, and Lower Austria their listing on 'S'; the reason for this distinction being that a comparatively unimportant part of their activities concerned Czechoslovak territory and Czechoslovak nationals and that they are merely suspect of having committed crimes against Czechoslovaks, a proper prima facie case not being established with regard to them. This accounts for the fact that it is proposed to list such notorious Nazi criminals as Bracht (item 205,) Epp (item 220), Eigruber (item 234) and Jury (item 251) on 'S' only.

(f) When the charge was considered in Committee I on June 27th, 1945, objections were raised by several members of the Committee against a number of items (altogether 61) charging groups of persons under the designations "all officials of..." or "the staff of...".

In the amendment, the Czechoslovak National Office proposes to leave out four out of these 61 items (208, 223, 237 and 254) and with regard to the remaining 57 it proposes a delimitation of the responsibility by charging only:

(i) the administrative officials of the higher administrative police service from the rank of Government Councillor (Regierungsrat) upwards;

(ii) the executive officials of the security police who belong to the Führerlaufbahn des mittleren Dienstes und der Sicherheitspolizei, from the rank of Criminal Secretary (Kriminalsekretär) upwards;

(iii) the S.D. functionaries from the rank of manager (Geschäftsführer) upwards.

Colonel WADE and myself tried to get information from informed quarters how the demarcation line between responsible higher police officials on the one hand and mere clerks and other subordinates on the other should be properly drawn. We were advised that a proper line to draw would be between Beamte, i.e. established civil servants, and Angestellte, i.e. mere office employees. It appears that the demarcation proposed by the Czechoslovak National Office excludes not only all Angestellte, but also a great number of Beamte. A further group of Gestapo officials remains outside, namely persons who,

without being career civil servants, were employed by the German police authorities ad hoc because of their knowledge of local conditions and of the Czech language.

The Czechoslovak authorities will, no doubt, eventually charge also such temporary functionaries of the German Police, as soon as the examination of the German police files, and other inquiries, reveal their identity.

CONCLUSION

According to the established practice of Committee I, there can, in my submission, be no doubt that there is a good prima facie case against the persons either named, or identified by their functions, and proposed for List 'A'.

I/11
July 3rd, 1945

UNITED NATIONS WAR CRIMES COMMISSION

C o m m i t t e e I

REPORT ON THE CZECHOSLOVAK CHARGE NO. 952
(OSWIECIM-BIRKENAU)

as amended by Dr. Ecer's communication, received July 2nd, 1945

by Dr. Schwelb, Legal Officer

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(2) The charge further distinguishes between police authorities having jurisdiction exclusively for Czechoslovak territory (so-called Protectorate Bohemia and Moravia (items 57a to 151) and the so-called Reichsgau Sudetenland (items 153 to 203)), and such police authorities as are in charge

of predominantly Reich German or Austrian provinces to which slices of Czechoslovak territory have been "annexed" during the occupation. The latter are: (a) Upper Silesia, to which the Czechoslovak districts of Hlučín, Fryštát and Český Těšín had been added, items 204 to 219; (b) Bavaria, to which parts of the Czechoslovak districts of Domažlice, Klatovy, Sušice, and Prachovice had been annexed (items 220-230); (c) the Reichsgau Oberdonau (i.e. the province of Upper Austria) to which parts of the Czechoslovak districts Český Krumlov, Kaplice, České Budějovice and Třebon had been added (items 235-248); (d) the so-called Reichsgau Niederdonau (i.e. the province of Lower Austria) to which parts of the Czechoslovak districts of Znojmo, Mikulov, Třebíč, Hradec, Dačice, Moravský Krumlov, Hustopeče and Bratislava had been annexed.

As to the police officials, other than Ordnungspolizei, the charge proposes in the case of the "Protectorate" and of the "Reichsgau Sudetenland" their listing on A; as to the police officials of Upper Silesia, Bavaria, Upper Austria, and Lower Austria their listing on S, the reason for this distinction being that a comparatively unimportant part of their activities concerned Czechoslovak territory and Czechoslovak nationals and that they are merely suspect of having committed crimes against Czechoslovaks, a proper prima facie case not being established with regard to them. This accounts for the fact that it is proposed to list such notorious Nazi criminals as Bracht (item 205), Epp (item 220), Eigruber (item 234) and Jury (item 251) on S only.

(f) When the charge was considered in Committee I on June 27th, 1945 objections were raised by several members of the Committee against a number of items (altogether 61) charging groups of persons under the designations "all officials of ..." or "the staff of ...".

In the Amendment, the Czechoslovak National Office proposes to leave out four out of these 61 items (208, 223, 237 and 254) and with regard to the remaining 57 it proposes a delimitation of the responsibility by charging only:

(i) the administrative officials of the higher administrative police service from the rank of Government Councillor (Regierungsrat) upwards;

(ii) the executive officials of the security police who belong to the Führerlaufbahn des mittleren Dienstes und der Sicherheitspolizei, from the rank of Criminal Secretary (Kriminalsekretär) upwards;

(iii) the S.D. functionaries from the rank of manager (Geschäftsführer) upwards.

Colonel WADE and myself tried to get information from informed quarters how the demarcation line between responsible higher police officials on the one hand and mere clerks and other subordinates on the other should be properly drawn. We were advised that a proper line to draw would be between Beamte, i.e. established civil servants, and Angestellte, i.e. mere office employees. It appears that the demarcation proposed by the Czechoslovak National Office excludes not only all Angestellte, but also a great number of Beamte. A further group of Gestapo officials remains outside, namely persons who, without being career civil servants, were employed by the German police authorities ad hoc because of their knowledge of local conditions and of the Czech language.

The Czechoslovak authorities will, no doubt, eventually charge also such temporary functionaries of the German Police, as soon as the examination of the German police files, and other inquiries, reveal their identity.

CONCLUSION

According to the established practice of Committee I, there can, in my submission, be no doubt that there is a good prima facie case against the persons either named, or identified by their functions, and proposed for List A.

1.412

I/12
July 6th, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Nazi Atrocities in Innsbruck, Austria, in
November 1938

The Commission has received a statement by Sgt. Benson, dated June 22nd, 1945, containing charges of murder committed by Austrian (or German) Nazis against Austrian Jews. (Enclosure)

The case does not fall within the jurisdiction of the Commission, as so far understood; the position is similar to that of the cases presented to Committee I by the Association of German Democratic Lawyers in Great Britain.

Nevertheless a ruling by Committee I as to how this case should be dealt with would be appreciated. The communication of the information either to the Allied Control Commission for Austria, or to the allied military authorities in occupation of the Tyrol, would seem to recommend itself.

C O P Y

Haifa, 22nd June 1945

the: Allied War Crimes Commission,
Law Courts,
Strand, London, W.C.2.

Statement relating to Nazi atrocities committed in INNSBRUCK in November 1938

At midnight on November 9th 1938 the SS and SA of INNSBRUCK were called on parade by Gauleiter HOFER. The assembled men were given the official order to return at 2 a.m. in mufti, as an attack on the Jewish inhabitants of INNSBRUCK was planned for that night by the highest Nazi authorities. The assembled men, who divided themselves into groups of 10 to 15, were given the addresses of the Jewish inhabitants by the head of the Gestapo, Hilliges and Kommissar Mössinger. These groups forced their way systematically into every Jewish home and dragged some of their victims off to prison whilst others were brutally maltreated and seriously injured,

Oberbaurat Ingenieur Richard BERGER (the husband of the undersigned) Dr. Wilhelm BAUER and Ingenieur Richard GRAUBART were beastly murdered. The following were admitted to hospital seriously injured:

Ingenieur Josef ADLER
Karl BAUER
Adolf NEUMANN
Mr. and Mrs. POPPER

Polizeipräsident FRANZELIN, a high ranking SA official, had instructed the police to keep off the streets during that particular night. The police were also ordered not to intervene on behalf of the Jews. At the same time he had ordered the INNSBRUCK telephone exchange not to connect any calls from the Jewish subscribers. FRANZELIN patrolled the streets during that night in the side car of a motor cycle, ridden by a policeman, JUNGENEGER, who is not a Nazi and who was detained for this job, in order to convince himself of the execution of this above-mentioned order to the police.

The following were the main organisers:

Polizeipräsident FRANZELIN
Gauleiter HOFER
Gestapoleiter HILLIGES, Bienerstr. 31
Kommissar MÖSSINGER, Pradlerstr.
Dr. v. GELB, Fallmereystr.
Dr. PFANNER (whose son was active in
one of these murder groups)
Dr. CZERMAK, Anichstr.
Dr. DUXNEURER

STROBL, dentist, Anichstr. 7
SALCHER (brothers)
Dr. MARKL, lawyer
WIESER, Ernst (Kommissar of the firm
Michael BRÜLL), Anichstr.
Dr. KRÖSSL, Brixnerstr.
DICHTL, Igls
LANTSCHNER, Igls
Dr. LANTSCHNER, Karl-Ludwigstr. platz
JANNER, Ernst, P.T. instructor

ZACK (fishmonger) Marktgraben
NEUMAYER (fishmonger's son) Claudiastr.
HOLEFKA, Anichstr. 13

PFANNER Jun., ZACK and NEUMAYER have been identified during the murder of Ing. GRAUBART and Dr. W. BAUER.

I personally informed Dr. HOHENLEITNER, the public prosecutor, of the brutal murder of my husband, Oberbaurat Ing. Richardt BERGER, but he showed no interest whatsoever in any murder committed by Nazis.

(signed) Margarete BERGER
5A Hapoelstreet,
HAIFA (Palestine)

This is a summary of letters written to me by my mother. She is convinced that a number of witnesses of these incidents are still living in INNSBRUCK today and I shall endeavour to trace everyone of them as soon as possible. Should there be any other information required by you, Sirs, will you please kindly let me know and I shall then immediately get in touch with my mother in HAIFA.

Yours respectfully,
Sgt. F.R. BENSON
13051585
Chief Postal Censor,
LONDON

C O P Y

Haifa, 22nd June 1945

the: Allied War Crimes Commission,
Law Courts,
Strand, London, W.C.2.

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Yours respectfully,
Sgt. F.R. BENSON
13051585
Chief Postal Censor,
LONDON

I/13.
July 10th, 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

REPORT ON THE YUGOSLAV CASE NO. 940. (Italian
Courts in Dalmatia).

By Mr. E. Schwelb, Legal Officer.

At its meeting of June 20th, 1945 (Minutes No. 15), Committee I adjourned the case No. 940 (against Giuseppe BASTIANINI and 36 other persons), because it wished to obtain additional information about the character of the courts to which some of the accused belonged, their procedure, and the substantive law which they were called upon to administer.

The Yugoslav delegate has now submitted a memorandum concerning the organisation and working of Italian Tribunals in occupied Yugoslav territory adding that it will appear from the memorandum, that the Italian judicial machinery established in Yugoslavia was one of the instruments used by Fascist Italy to enforce the denationalisation of the Yugoslav population. In his accompanying letter, Dr. Marković asks to hand this Memorandum to Committee I. The memorandum was distributed to the members of Committee at its meeting held on July 4th, 1945.

The following is a summary of the position as it appears from the charge, as supplemented by the Memorandum.

I.

The persons named under numbers 1 to 21 are alleged to be responsible for either the actual commission of, or the participation in, mass murders, ill-treatment, arrest or internment of citizens, as well as the pillage and burning down of entire villages; as a particular example, the ill-treatment of the Orthodox Bishop of Sibenik is mentioned. The accused Nos. 14, 15 and 16, are, in addition, charged with the responsibility for the shooting of 48 hostages. (Part 3 of the charge).

The evidence of these crimes has, it is stated, been collected by the local Yugoslav authorities investigating war crimes in Dalmatia, and has been transmitted to the Yugoslav State Commission. The charge refers to a number of documents. Although these documents are not placed before the Committee, it will be in accordance with the usual procedure to place these persons (items 1 to 21) on 'A', no novel question either of law or of fact being involved.

II.

MAGALDI (No. 2) is further charged with having set up in Sibenik an "Extraordinary Court" which he used as an instrument for committing "ordinary" i.e. common crimes. This court, under Magaldi's chairmanship and with SERRENTINO (No. 3) and CARRUSO (No. 4) as member judges, is accused of having pronounced sentences on innocent people in summary and arbitrary proceedings without any kind of legal provision for the accused. Two examples of such sentences, passed on October 13, 1941, and October 29, 1941, are given which led to the shooting of six and eleven innocent Yugoslav citizens.

Part III of the Yugoslav Memorandum deals with the Tribunale Straordinario della Dalmazia, which seems to be the "Extraordinary Court" mentioned in part 2 of the charge, accusing Magaldi, Serrentino and Carruso.

The Tribunale Straordinario della Dalmazia is stated to have been formed by a Decree of the Governor of Dalmatia, Bastianini, in October 1941 (Decree No. 34). The Yugoslav Memorandum states that this Decree was enacted on October 12, 1941, but was antedated so as to cover a death sentence passed on October 11, 1941.

According to the Memorandum, an agent of the Italian police was killed in Sibenik, the perpetrator of this act was not found, a large number of Yugoslav youngsters were arrested and the ante-dated decree was meant as a "legal basis" for putting these youngsters to death.

This case seems to be different from a case described in the charge which deals with a death sentence passed on the 13th October, 1941, against six men, described as perfectly innocent farmers, who were sentenced by the Extraordinary Court on the basis of mere suspicion of their unreliability vis-à-vis the Italian authorities.

If this interpretation of the charge on the one hand, and the Memorandum on the other, be correct, the three members of this court are accused of having committed murder in three concrete cases:

- (a) the case of the youngsters condemned to death even before the Decree was actually promulgated (11th October 1941);
- (b) the case of the six farmers (13th October 1941); and
- (c) the case of the eleven innocent inhabitants (October 29th, 1941).

The Memorandum goes on to state that the court in the four cases above sentenced over fifty people to death. It is not clear whether these four cases include the three cases mentioned above, or whether they are in addition to them.

The Court had no permanent seat but functioned mostly in Sibenik (Sebenico) and in Split (Spalato). The three cases mentioned above are all located in Sibenik.

If the statements contained in the Yugoslav charge and in the Yugoslav memorandum are accepted as prima facie evidence, then it is submitted that it is not necessary to analyse the provisions regarding the setting up of the Tribunale Straordinario della Dalmazia, because on this evidence, the three sentences passed on 11th, 13th and 29th October, 1941, do not seem to have been passed in bona fide exercise of the judicial office, whatever the contents of the enactment setting up the court may have been.

From this point of view, it would not be necessary for Committee I to commit itself to a definite pronouncement whether the setting up of the Tribunale Straordinario and accepting office to sit on it as such constitute a crime and Committee I would have a sufficient justification for charging the three members of the court for the (three) actual judgments cited.

If this be correct, the case of the Tribunale Straordinario differs from the Czechoslovak cases regarding Sondergerichte and Standgerichte (Nos. 389, 424 and 464; see my Report dated April 3rd, 1945), in that here it is not necessary to have recourse to the general provisions of the enactments concerned, the actual results arrived at in several proceedings of the court establishing prima facie evidence of the commission of crimes clothed in the form of judicial process.

III.

If Committee I would like to base its decision not on the actual facts of the three trials mentioned respectively in the charge and the

Memorandum, but on the wider ground that the setting up of the Tribunale Straordinario and accepting office in it as such constitute a war crime, it would have to consider the following peculiarities of the Decree establishing the Tribunal, which are pointed out by the Yugoslav memorandum:

- (a) only one sentence could be passed: the death sentence;
- (b) the organisation and procedure of this court were regulated by three articles only;
- (c) in regard to the proceedings the Decree provided only that the accused could have a counsel;
- (d) the sentence was to be carried out forthwith and without delay;
- (e) everything else was left to the arbitrary will of the chairman.

By way of comparison it may be said that neither the Military Government Courts set up by the Western Allies in Italy (the provisions are published in the British Yearbook of International Law, 1944, pp. 156 et seq.), nor the Military Government Courts set up by the Western Allies in Germany (see Doc. C. 132), nor the British Military Courts set up in the British zone under the Royal Warrant (see Doc. C. 131) suffer from the defects (a) to (e) supra. But in spite of that, I personally very much doubt whether the mere setting up of similar courts and the mere acting as a member of them is criminal, provided that the occupation in the course of which the courts are being set up is not illegal and provided that the courts exercise their judicial office properly and bona fide, i.e. passing sentences only on persons who are convicted of having committed crimes falling under the jurisdiction of these courts.

IV.

In addition to the three members of the Tribunale Straordinario, the Yugoslav charge also accuses several persons responsible for the activities of a new court, called "Special Court" set up at Sibenik for the same criminal purposes.

The charge states that the persons responsible for the activities of this "Special Court" are the persons named under Nos. 4 to 19.

This statement seems to be erroneous. The person charged under No. 4 (Carruso) was a member of the Tribunale Straordinario and is charged as such, while the persons charged under Nos. 5 to 19 do not seem to have had any connection at all with either type of court. They are charged, in part 1, as responsible for terrorism unconnected with judicial proceedings, as e.g. Ferretti (No. 17), Pividori (No. 18) and Canazzoni (No. 19) with the ill-treatment of the bishop and his valet and with looting the bishop's belongings, and Sestilli (No. 14), Bungaro (No. 15) and Terranova (No. 16) with the shooting of hostages.

It is the persons named under Nos. 22 to 34 who are stated to have been judges of the Special Court, the persons named under Nos. 36 and 37 to have been prosecutors before the court and No. 35 to have been chief prosecutor in Zadar (Zara).

V.

As to the "Special Court", the charge states that it was established in 1942, that it tried over 5000 people, over 400 of whom it sentenced to death. The cases were invariably tried without a proper investigation being made, the sentences were often decided upon even before the trial took place, thus revealing, according to charge No. 940, the fact that the Court was carrying out sheer judicial crimes.

The charge mentions one concrete case, i.e. the putting to death of 26 innocent inhabitants on January 29, 1942. Particular circumstances of this case are not given.

The Yugoslav memorandum, on the other hand, states that the Tribunale Speciale della Dalmazia was formed not, as is stated in the charge, in 1942, but by a proclamation by Mussolini dated October 24, 1941. It is not clear, therefore, whether the "Special Court" mentioned in the charge and the Tribunale Speciale, mentioned under IV in the Memorandum, are the same institution and whether, what is said in the Memorandum about the latter applies also to the former.

About the constitution and procedure of the Tribunale Speciale della Dalmazia, the following is said in the Memorandum:

- (a) It was designed as "the opposite number" of the Special Court for the Defence of the State (Tribunale Speciale per la Difesa di Stato) in Rome;
- (b) In spite of the fact that Articles 11 to 15 of the relevant Decree provided for civil as well as military judges, all the members of the Court were military;
- (c) The organisation was in every respect analogous to the organisation of the Tribunali Militari di Guerra;
- (d) It was a political tribunal, important powers being reserved to the Governor of Dalmatia;
- (e) The tribunal was competent to try offences against "War discipline", which included anything from the non-delivery of wool to murder;
- (f) There was no guarantee that the accused could defend himself, the maxim in dubio pro reo was not applied, motions put forward by the prosecutor were accepted, he was an omnipotent personality and it was he who determined the type and severity of the punishment:

The reasons summarised under (a) to (d) do not appear to make the establishment of, and the acceptance of service on, such courts as such a criminal offence, although the Tribunali Militari di Guerra (c) applied the procedure called "guidizio direttissimo" which appears to have had a somewhat too summary character. The circumstance listed under (d) brings the Tribunale Speciale perilously near the German Sondergerichte and (e) throws also a light on them in which they appear to have been from the very beginning designed not as courts fulfilling bona fide judicial functions, but as instruments of political repression.

In spite of that I personally would rather hold that the description of the general provisions applicable to, and applied by, these tribunals is not precise enough to be classified as prima facie evidence of the criminality of their mere setting up.

VI

We are, therefore, also with regard to these Tribunali Speciali thrown back on the amount of evidence produced as to their actual functioning.

It was already pointed out that the charge mentions one case only, where the "Special Court" sentenced 26 innocent inhabitants to death, (January 29, 1942). (See supra V).

The Memorandum mentions a number of other cases, without giving dates, names or a description of actual circumstances:

(a) Pronouncement of sentences as a result of vague indications, such as friendly relations from childhood or professional relations (apparently with actual perpetrators of alleged crimes), photographs showing cheerful picnic parties;

(b) A person was held guilty because he had belonged, before the war, to a certain political party, or had been a member of a national organisation;

(c) Many of the accused were sentenced merely because, during the trial, they refused to give the fascist salute;

(d) In one case the Court accepted as conclusive evidence of membership of a "subversive organisation" the fact that all the accused persons who were all young girls from Sibenik wore the same shoes;

(e) The court acted upon hearsay evidence, given by the occupying authorities or their agents.

Particularly the circumstances indicated under (a) to (c) taint the courts with a character which is at least very near the borderline between the exercise of military jurisdiction on occupied territory and the commission of a war crime. The difficulty which arises for Committee I comes from the fact that the Memorandum obviously has not been compiled in order to substantiate a criminal charge, but its purpose is to give a general picture of the activities of certain types of Italian courts as instruments of denationalisation. The Memorandum therefore omits any concretisation and documentisation of its allegations, it does not give either names, or dates, or places and it is, therefore, a matter for Committee I to decide whether it accepts the general statements contained in the Memorandum, as prima facie evidence of the occurrences alluded to.

If it does, the further question will have to be decided, whether the persons named under Nos. 22 to 37 should be put on 'A' or on 'S'. Nos. 22 to 34 (13 persons) were judges of the Special Court. From the foregoing it appears that no data about the trials being given, it is also not stated which of the 13 judges have taken part in those trials where the irregularities pointed out supra under (a) to (e) occurred. From this, according to the usual practice of Committee I, it would follow that the Chairman of the Court (Maggiore; No. 22) and the prosecutors (Nos. 35 to 37) should go on 'A', the rest (Nos. 23 to 34) on 'S'.

Against this, it might be pointed out that, according to the charge, the Special Court has tried no less than over 5000 people and sentenced to death over 400, from which it could fairly be argued that probably all the 13 judges must have taken part in this great number of proceedings. In view of this also a decision to put all the judges on 'A' could reasonably be made.

I/13
July 10th, 1945

UNITED NATIONS WAR CRIMES COMMISSION

Committee I

REPORT ON THE YUGOSLAV CASE NO. 940
(Italian Courts in Dalmatia)

By Mr. E. Schwelb, Legal Officer

At its meeting of June 20th, 1945 (Minutes No. 15), Committee I adjourned the case No. 940 (against Giuseppe BASTIANINI and 36 other persons), because it wished to obtain additional information about the character of the courts to which some of the accused belonged, their procedure, and the substantive law which they were called upon to administer.

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The following is a summary of the position as it appears from the charge, as supplemented by the Memorandum.

I

The persons named under numbers 1 to 21 are alleged to be responsible for either the actual commission of, or the participation in, mass murders, ill-treatment, arrest or internment of citizens, as well as the pillage and burning down of entire villages; as a particular example, the ill-treatment of the Orthodox Bishop of Sibenik is mentioned. The accused Nos. 14, 15 and 16, are, in addition, charged with the responsibility for the shooting of 48 hostages. (Part 3 of the charge).

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II

MAGALDI (No. 2) is further charged with having set up in Sibenik an "Extraordinary Court" which he used as an instrument for committing "ordinary" i.e. common crimes. This court, under Magaldi's chairmanship and with SERRENTINO (No. 3) and CARRUSO (No. 4) as member judges, is accused of having pronounced sentences on innocent people in summary and arbitrary proceedings without any kind of legal provision for the accused. Two examples of such sentences, passed on October 13, 1941, and October 29, 1941, are given which led to the shooting of six and eleven innocent Yugoslav citizens.

Part III of the Yugoslav Memorandum deals with the Tribunale Straordinario della Dalmazia, which seems to be the "Extraordinary Court" mentioned in part 2 of the charge, accusing Magaldi, Serrentino and Carruso. The Tribunale Straordinario della Dalmazia is stated to have been formed by a Decree of the Governor of Dalmatia, Bastianini, in October 1941 (Decree No. 34). The Yugoslav Memorandum states that this Decree was enacted on October 12, 1941, but was ante-dated so as to cover a death sentence passed on October 11, 1941.

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This case seems to be different from a case described in the charge which deals with a death sentence passed on the 13th October, 1941, against six men, described as perfectly innocent farmers, who were sentenced by the Extraordinary Court on the basis of mere suspicion of their unreliability vis-à-vis the Italian authorities.

If this interpretation of the charge on the one hand, and the Memorandum on the other, be correct, the three members of this court are accused of having committed murder in three concrete cases:

- (a) the case of the youngsters condemned to death even before the Decree was actually promulgated (11th October 1941);
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The court had no permanent seat but functioned mostly in Sibenik (Sebenico) and in Split (Spalato). The three cases mentioned above are all located in Sibenik.

If the statements contained in the Yugoslav charge and in the Yugoslav memorandum are accepted as prima facie evidence, then it is submitted that it is not necessary to analyse the provisions regarding the setting up of the Tribunale Straordinario della Dalmazia, because on this evidence, the three sentences passed on 11th, 13th and 29th October, 1941, do not seem to have been passed in bona fide exercise of the judicial office, whatever the contents of the enactment setting up the court may have been.

From this point of view, it would not be necessary for Committee I to commit itself to a definite pronouncement whether the setting up of the Tribunale Straordinario and accepting office to sit on it as such constitute a crime and Committee I would have a sufficient justification for charging the three members of the court ~~for~~ the (three) actual judgments cited.

If this be correct, the case of the Tribunale Straordinario differs from the Czechoslovak cases regarding Sondergerichte and Standgerichte (Nos. 389, 424 and 464; see my Report dated April 3rd 1945), in that here it is not necessary to have recourse to the general provisions of the enactments concerned, the actual results arrived at in several proceedings of the court establishing prima facie evidence of the commission of crimes clothed in the form of judicial process.

III

If Committee I would like to base its decision not on the actual facts of the three trials mentioned respectively in the charge and the Memorandum, but on the wider ground that the setting up of the Tribunale Straordinario and accepting office in it as such constitute a war crime, it would have to consider the following peculiarities of the Decree establishing the Tribunal, which are pointed out by the Yugoslav memorandum:

- (a) Only one sentence could be passed: the death sentence;
- (b) The organisation and procedure of this court were regulated by three articles only;
- (c) In regard to the proceedings the Decree provided only that the accused could have a counsel;
- (d) The sentence was to be carried out forthwith and without delay;
- (e) Everything else was left to the arbitrary will of the chairman.

By way of comparison it may be said that neither the Military Government Courts set up by the Western Allies in Italy (the provisions are published in the British Yearbook of International Law, 1944, pp. 156 et seq.), nor the Military Government Courts set up by the Western Allies in Germany (see Doc. C.132), nor the British Military Courts set up in the British zone under the Royal Warrant (see Doc. C.131) suffer from the defects (a) to (e) supra. But in spite of that, I personally very much doubt whether the mere setting up of similar courts and the mere acting as a member of them is criminal, provided that the occupation in the course of which the courts are being set up is not illegal and provided that the courts exercise their judicial office properly and bona fide, i.e. passing sentences only on persons who are convicted of having committed crimes falling under the jurisdiction of these courts.

IV

In addition to the three members of the Tribunale Straordinario, the Yugoslav charge also accuses several persons responsible for the activities of a new court, called "Special Courts" set up at Sibenik for the same criminal purposes.

The charge states that the persons responsible for the activities of this "Special Court" are the persons named under Nos. 4 to 19.

This statement seems to be erroneous. The person charged under No. 4 (Carruso) was a member of the Tribunale Straordinario and is charged as such, while the persons charged under Nos. 5 to 19 do not seem to have had any connection at all with either type of court. They are charged, in part 1, as responsible for terrorism unconnected with judicial proceedings, as e.g. Ferretti (No. 17), Pividori (No. 18) and Canazzoni (No. 19) with the ill-treatment of the bishop and his valet and with looting the bishop's belongings, and Sestilli (No. 14), Bungaro (No. 15) and Terranova (No. 16) with the shooting of hostages.

It is the persons named under Nos. 22 to 34 who are stated to have been judges of the Special Court, the persons named under Nos. 36 and 37 to have been prosecutors before the court and No. 35 to have been chief prosecutor in Zadar (Zara).

V

As to the "Special Court", the charge states that it was established in 1942, that it tried over 5000 people, over 400 of whom it sentenced to death. The cases were invariably tried without a proper investigation being made, the sentences were often decided upon even before the trial took place, thus revealing, according to charge No. 940, the fact that the Court was carrying out sheer judicial crimes.

The charge mentions one concrete case, i.e. the putting to death of 26 innocent inhabitants on January 29, 1942. Particular circumstances of this case are not given.

The Yugoslav memorandum, on the other hand, states that the Tribunale Speciale della Dalmazia was formed not, as is stated in the charge, in 1942, but by a proclamation by Mussolini dated October 24, 1941. It is not clear, therefore, whether the "Special Court" mentioned in the charge and the Tribunale Speciale, mentioned under IV in the Memorandum, are the same institution and whether, what is said in the Memorandum about the latter applies also to the former.

About the constitution and procedure of the Tribunale Speciale della Dalmazia, the following is said in the Memorandum:

- (a) It was designed as "the opposite number" of the Special Court for the Defence of the State (Tribunale Speciale per la Difesa di Stato) in Rome;
- (b) In spite of the fact that Articles 11 to 15 of the relevant Decree provided for civil as well as military judges, all the members of the Court were military;

- (c) The organisation was in every respect analogous to the organisation of the Tribunale Militari di Guerra;
- (d) It was a political tribunal, important powers being reserved to the Governor of Dalmatia;
- (e) The tribunal was competent to try offences against "War discipline" which included anything from the non-delivery of wool to murder;
- (f) There was no guarantee that the accused could defend himself, the maxim in dubio pro reo was not applied, motions put forward by the prosecutor were accepted, he was an omnipotent personality and it was he who determined the type and severity of the punishment;

The reasons summarised under (a) to (d) do not appear to make the establishment of, and the acceptance of service on, such courts as such a criminal offence, although the Tribunale Militari di Guerra (c) applied the procedure called "giudizio direttissimo" which appears to have had a somewhat too summary character. The circumstance listed under (d) brings the Tribunale Speciale perilously near the German Sondergerichte and (e) throws also a light on them in which they appear to have been from the very beginning designed not as courts fulfilling bona fide judicial functions, but as instruments of political repression.

In spite of that I personally would rather hold that the description of the general provisions applicable to, and applied by, these tribunals is not precise enough to be classified as prima facie evidence of the criminality of their mere setting up.

VI

We are, therefore, also with regard to these Tribunali Speciali thrown back on the amount of evidence produced as to their actual functioning.

It was already pointed out that the charge mentions one case only, where the "Special Court" sentenced 26 innocent inhabitants to death. (January 29, 1942). (See supra V).

The Memorandum mentions a number of other cases, without giving dates, names or a description of actual circumstances:

- (a) Pronouncement of sentences as a result of vague indications, such as friendly relations from childhood or professional relations, (apparently with actual perpetrators of alleged crimes), photographs showing cheerful picnic parties;
- (b) A person was held guilty because he had belonged, before the war, to a certain political party, or had been a member of a national organisation;
- (c) Many of the accused were sentenced merely because, during the trial, they refused to give the fascist salute;
- (d) In one case the Court accepted as conclusive evidence of membership of a "subversive organisation" the fact that all the accused persons who were all young girls from Sibenik wore the same shoes;
- (e) The court acted upon hearsay evidence, given by the occupying authorities or their agents;

Particularly the circumstances indicated under (a) to (c) taint the courts with a character which is at least very near the borderline between the exercise of military jurisdiction on occupied territory and the commission of a war crime. The difficulty which arises for Committee I comes from the fact that the Memorandum obviously has not been compiled in order to substantiate a criminal charge, but its purpose is to give a general picture of the activities of certain types of Italian courts as instruments of denationalisation. The Memorandum therefore omits any concretisation and documentisation of its allegations, it does not give either names, or dates, or places and it is, therefore, a matter for Committee I to decide whether it accepts the general statements contained in the Memorandum, as prima facie evidence of the occurrences alluded to.

If it does, the further question will have to be decided, whether the persons named under Nos. 22 to 37 should be put on A, or on S. Nos. 22 to 34 (13 persons) were judges of the Special Court. From the foregoing it appears that no data about the trials being given, it is also not stated which of the 13 judges have taken part in those trials where the irregularities pointed out supra under (a) to (e) occurred. From this, according to the usual practice of Committee I, it would follow that the Chairman of the Court (Maggiora; No. 22) and the prosecutors (Nos. 35 to 37) should go on A, the rest (Nos. 23 to 34) on S.

✓ Against this, it might be pointed out that, according to the charge, the Special Court has tried no less than over 5000 people and sentenced to death over 400, from which it could fairly be argued that probably all the 13 judges must have taken part in this great number of proceedings. In view of this also a decision to put all the judges on A could reasonably be made.

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I/14
10th July, 1945

UNITED NATIONS WAR CRIMES COMMISSION

Committee I

NOTE ON THE YUGOSLAV CASE NO. 1014.

Terrorism in Krusevac, Kragujevac and Cacak

I

H. KORI G.m.b.H. (item 16) is a Limited Company, (Gesellschaft mit beschränkter Haftung) comparable to an English Private Company.

DIDIER-WERKE A.G. OFENBAU (item 19) is also a Limited Company (Aktiengesellschaft) comparable to an English Public Company.

These companies are charged with having constructed and delivered special ovens for the cremation of the bodies of executed persons.

It is doubtful whether the construction and delivery of appliances for the cremation of the bodies of executed persons constitutes a crime. The positions appear to be distinguishable from the case of the Berlin firm of FAULHABER, the partners of which have been listed on a Commission charge for having delivered gas chambers for the extermination (killing) of living persons.

In case Committee I should regard also persons who delivered appliances for the disposal of dead bodies as accessories to the crimes by which the prisoners had been killed, it would be necessary to find out the persons in charge of and responsible for the two companies. I very much doubt whether Corporations aggregate can as such be listed as war criminals. Even in English law a corporation aggregate cannot be indicted for criminal offences involving violence. Most continental legal systems do not know at all the criminal responsibility of corporations.

The persons responsible for the two companies could be found out without difficulty from the Commercial Registry (Handelsregister).

II

On page 3 of the charge it is stated that MEISSNER gave the actual order for the punitive expedition in October and December 1942.

According to page 4, General Ritter von GRABENHOFE (probably Grabenhof or Grabenhofer) was, a.o. responsible for certain crimes.

These two names do not appear in the list of accused.

E. Schwelb.

SECRET

1.412 ✓
I/15
12th July 1945

UNITED NATIONS WAR CRIMES COMMISSION

Committee I

OFFICIAL INTER ALLIED-DECLARATIONS ON
DISPOSSESSION AND LOOTING

In connection with the statement made by Professor Gros when dealing with the French case No. 947 (Staff of Militärbefehlshaber in France) in the meeting of Committee I, held on July 11th, 1945, I herewith submit, for the convenience of members, extracts from the relevant Inter-Allied Declarations on Axis looting, as far as they are of interest for the problem of prosecuting war criminals.

Egon SCHWELB
Legal Officer

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1. The Inter-Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation or Control, dated January 5th, 1943.

"The Governments of the Union of South Africa; the United States of America; Australia; Belgium; Canada; China; the Czechoslovak Republic; the United Kingdom of Great Britain and Northern Ireland; Greece; India; Luxembourg; the Netherlands; New Zealand; Norway; Poland; the Union of Soviet Socialist Republics; Yugoslavia; and the French National Committee:

Hereby issue a formal warning to all concerned and in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practised by the Governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.

Accordingly, the Governments, making this Declaration and the French National Committee reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the Governments with which they are at war, or which belong, or have belonged to persons (including juridical persons) resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.

The Governments making this Declaration and the French National Committee solemnly record their solidarity in this matter."

2. From the Covering Statement by His Majesty's Government in the United Kingdom to the Declaration, dated January 5th, 1943.

"His Majesty's Government in the United Kingdom have today joined with sixteen other Governments of the United Nations, and with the French National Committee, in making a formal Declaration of their determination to combat and defeat the plundering by the enemy Powers of the territories

which have been overrun or brought under enemy control. The systematic spoliation of occupied or controlled territory has followed immediately upon each fresh aggression. This has taken every sort of form, from open looting to the most cunningly camouflaged financial penetration, and it has extended to every sort of property - from works of art to stocks of commodities, from bullion and bank-notes to stocks and shares in business and financial undertakings. But the object is always the same - to seize everything of value that can be put to the aggressors' profit and then to bring the whole economy of the subjugated countries under control so that they must slave to enrich and strengthen their oppressors. ...

... the ruthless and complete methods of plunder begun in Central Europe are now being extended on a vast and ever-increasing scale in the occupied territories of Western Europe.

His Majesty's Government agree with the Allied Governments and the French National Committee that it is important to leave no doubt whatsoever of their resolution not to accept or tolerate the misdeeds of their enemies in the field of property, however these may be cloaked, just as they have recently emphasised their determination to exact retribution from war criminals for their outrages against persons in the occupied territories."

3. From the Explanatory Memorandum issued by the Parties to the Declaration, dated January 5th, 1943.

"The Declaration makes it clear that it applies to transfers and dealings effected in territory under the indirect control of the enemy (such as the former "unoccupied zone" in France) just as much as it applies to such transactions in territory which is under his direct physical control.

In the Declaration the parties "reserve all their rights" to declare invalid transfers of or dealings with property, rights, etc. which have taken place during the period of enemy occupation or control of the territories in question. It is obviously impossible for a general declaration of this nature to define exactly the action which will require to be taken when victory has been won and the occupation or control of foreign territory by the enemy has been brought to an end. Dispossession has taken many forms and all will require consideration in the light of circumstances which may well vary from country to country. The wording of the Declaration, however, clearly covers all forms of looting to which the enemy has resorted. It applies, e.g. to the stealing or forced purchase of works of art just as much as to the theft or forced transfer of bearer bonds."

"... The parties making the Declaration have accordingly decided as a first step in this direction to establish a committee of experts, who will consider the scope and sufficiency of the existing legislation of the Allied countries concerned for the purpose of invalidating transfers or dealings of the nature indicated in the Declaration in all proper cases. The Committee have also been asked to receive and collect available information upon the methods adopted by the enemy Governments and their adherents to lay their hands upon property, rights, etc. in the territories which they have occupied or brought under their control. When a report is available from this committee of experts the whole question will be reviewed by the Governments making the Declaration and the French National Committee. The other Governments of the United Nations will be informed of the results of this enquiry."

4. From the Final Act of the United Nations Monetary and Financial Conference, Bretton Woods, 1944.

"Resolution VI
ENEMY ASSETS AND LOOTED PROPERTY

Whereas, in anticipation of their impending defeat, enemy leaders, enemy Nationals and their collaborators are transferring assets to and through neutral countries in order to conceal them and to perpetuate their influence, power, and ability to plan future aggrandizement and world domination, thus jeopardizing the efforts of the United Nations to establish and permanently maintain peaceful international relations;

Whereas, enemy countries and their nationals have taken the property of occupied countries and their nationals by open looting and plunder, by forcing transfers under duress, as well as by subtle and complex devices, often operated through the agency of their puppet governments, to give the cloak of legality to their robbery and to secure ownership and control of enterprises in the post-war period;

Whereas, enemy countries and their nationals have also, through sales and other methods of transfer, run the chain of their ownership and control through occupied and neutral countries, thus making the problem of disclosure and disentanglement one of international character;

Whereas, the United Nations have declared their intention to do their utmost to defeat the methods of dispossession practised by the enemy, have reserved their right to declare invalid any transfers of property belonging to persons within occupied territory, and have taken measures to protect and safeguard property, within their respective jurisdictions, owned by occupied countries and their nationals, as well as to prevent the disposal of looted property in United Nations markets; therefore

The United Nations Monetary and Financial Conference

1. Takes note of and fully supports steps taken by the United Nations for the purpose of:

(a) uncovering, segregating, controlling, and making appropriate disposition of enemy assets;

(b) preventing the liquidation of property looted by the enemy, locating and tracing ownership and control of such looted property, and taking appropriate measures with a view to restoration to its lawful owners;

2. RECOMMENDS:

That all Governments of countries represented at this Conference take action consistent with their relations with the countries at war to call upon the Governments of neutral countries

(a) to take immediate measures to prevent any disposition or transfer within territories subject to their jurisdiction of any

(i) assets belonging to the Government or any individuals or institutions within those United Nations occupied by the enemy; and

(ii) looted gold, currency, art objects, securities, other evidences of ownership in financial or business enterprises, and of other assets looted by the enemy; as well as to uncover, segregate and hold at the disposition of the post-liberation authorities in the appropriate country any such assets within territory subject to their jurisdiction;

(b) to take immediate measures to prevent the concealment by fraudulent means or otherwise within countries subject to their jurisdiction of any

(i) assets belonging to, or alleged to belong to, the Government of and individuals or institutions within enemy countries;

(ii) assets belonging to, or alleged to belong to, enemy leaders, their associates and collaborators; and

to facilitate their ultimate delivery to the post-armistice authorities."

1/16.
14th July, 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

REPORT ON THE FRENCH CHARGE NO. 1056.

(shooting of Prisoners of War at Bad Sulza).

By Mr. E. Schwelb, Legal Officer.

The Charge is based on a captured document, containing Orders of the Day of the Commanders of the Prisoner of War Camp at Bad Sulza, extracts of which have been made available to the National Offices concerned, (France, United Kingdom, Czechoslovakia, Yugoslavia), and to the Embassy of the U.S.S.R.

I.

The French charge is, of course, restricted to incidents of which French prisoners of war have been the victims.

The Enclosure to the Order of the Day No. 1/23/44, dated 29th August, 1944, contains the announcement that, inter alia, two French prisoners of war (André Poulain and Charles Lagarde) were shot "whilst attempting to escape" on the 13th and 22nd of June 1944, respectively. The Order of the Day No. 1/23/44, dated 1st September, 1944, to which this Enclosure is attached, contains the commendation by the commander Colonel Schaal (item 1 of the charge), of Gefreiter Heyne (item 2 of the charge) for his prudent and resolute behaviour in preventing the flight of a French prisoner of war. Heyne was granted an extraordinary leave of five days for excellent acts of service.

Simultaneously, the Order of the Day contains commendations of Schwebe, Woitaschek, Drechsel, Sieger, Boerner and Aschenbach (items 3 to 8), for resolute behaviour towards Prisoners of War who attempted to escape or who showed themselves to be obstinate ("die sich aufsässig zeigten").

There is, therefore, a great amount of probability that Heyne (2) was responsible for the shooting at least of one of the two French prisoners of war and that 3 to 8 were responsible for the death of the other prisoners of war whose shooting had been announced, including the other French prisoner, one British prisoner and one Soviet prisoner.

Colonel Schaal was at the material time (June to September, 1944) commander of the camp.

II.

On November 1st, 1944, it was announced in the Order of the Day No. 25/44 that SS. Obergruppenführer and General der Polizei Erbprinz von Waldeck (item 9 of the charge) will inspect, a.o. the camps in the Wehrkreis IX and the Camp Commander, Colonel Schaal, ordered all his subordinates to admit him to all camps and to furnish to him information.

From the Order of the Day dated February 14th, 1945 (No. 5/45) it follows that Erbprinz zu Waldeck as "der Höhere Kommandeur der Kr. Gef. i. W.K. IX" has commended two N.C.O.s for resolute behaviour towards prisoners of war who attempted to escape or showed themselves obstinate. They did make use of their shooting weapon in time and energetically.

The then Camp Commander, Oberst Trefz expressly acceded to this commendation.

The particular incident, mentioned in the Order of the Day of 14th February, 1945, did not concern French prisoners of war; the shooting of two Slovak prisoners had been announced. But though the name of Prince Waldeck appears in the dossier for the first time in November, 1944, there is in accordance with the practice of Committee I a prima facie case against him also with regard to the shooting of the two French prisoners of war in June, 1944, because as Höherer Kommandeur der Kr. Gef. i. W.K. IX (Higher Commander for prisoners of war in the Wehrkreis IX) he is responsible for what is going on under his command. His personal responsibility is, of course, still more definite with regard to similar incidents that happened after November, 1944, e.g. the shooting of the two Slovak prisoners in December, 1944, and January, 1945.

III.

Conclusions.

1. There is a good prima facie case against the nine accused.
2. Additional Officers and men could be charged by the other National Offices mentioned in the introduction to this paper.