

Herbert Pell Papers
Box 25
Roosevelt, FD 1936-1945

C O P Y

The White House

Washington

June 14, 1943.

My dear Mr. Pell:

As you may know, there is about to be established by the United Nations a Commission to investigate war crimes committed by the Axis powers and their agencies. The Commission will have its seat in London. I should be very glad to have you represent this Government on the Commission, greater details concerning which may be obtained from the Department of State, with whose officials you may desire to confer. You would be paid a salary of \$9,000 a year plus costs of transportation to and from London and the customary per diem while outside the United States on the work of the Commission.

If you are willing to accept the designation, I suggest that you arrange to call on appropriate officials of the Department of State at an early date, since it is desired that you shall proceed to London as soon as possible.

Very truly yours,

Franklin D. Roosevelt.

The Honorable
Herbert Pell,
Knickerbocker Club,
805 Fifth Avenue,
New York, N. Y.

August 28, 1943

Dear Mr. President:

I am still waiting in Dutchess County for permission to proceed to London.

I believe that if I were there now I could do useful work, or at least prepare the way so that the work done later would be better and more effective. Almost all the task of the War Guilt Commission is new work and it will have to prepare its instruments from the ground up. It seems to me none too early to begin. Even though the Committee does not meet officially, it would be possible for me in London to get to know the attitude of the various governments in exile, and get a better idea of what is practically obtainable. I am certainly doing no good over here. I am sure you understand how interested I am in the job which lies ahead of us and how anxious I am to get started in the work, which I could do preparatory to the official meeting of the Commission, if I were in London.

I wish you would come over here now and see my place. Since you were here I have been having more fun than a barrel of monkeys directing a bulldozer and a steam shovel, run by the same contractor who excavated for your library. He told me of the obvious enjoyment you got out of watching the machines at work. It is certainly fun seeing it crash through groves of little locusts like a mowing machine across a lawn.

I lunched with David Gray the other day at the Knickerbocker. It will be a great pleasure to be in his neighborhood, and I hope that you will send me there as soon as you can.

I should be obliged if you would let me see you for a few minutes in the near future.

I am

Respectfully,

Herbert Pell.

The President,
The White House.

Herbert Hoover, New York
August 10, 1948

Dear Mr. Resident:

I have just telegraphed asking you for an appointment, any time this week or next, either in New York or in Washington.

You appointed me to the War Guilt Commission in June, for which both Olive and I are very grateful to you.

Since then you have in your public addresses more than once referred directly or indirectly to the ultimate fate of the transgressors. It seems to me very important that this committee should get to work at once, and that, even before organized, its members should gather in London, where we could meet informally and do a great deal of preparation.

My original understanding was that I was to get ready and to go as soon as possible. I immediately arranged my private business so that it could be left in the hands of a trustee, and packed so as to be ready for instant departure. Since then, for nearly two months, I have been waiting, and have received no orders from Washington.

I believe very strongly that it would be for the good of all if my party were sent over as soon as possible. The fact that the American Commissioner was in London would mean a great deal to the unfortunate oppressed in Europe. It would show the enemy that we mean business and might check at least some of the outrages. It would also give me a chance to know the leaders of the other governments, which obviously would be better than to wait until the committee was completely organized and then be presented to them after they have made their contacts and developed their plans.

The whole thing is new, and it is, I believe, most desirable that our representative should be in on the ground floor.

I should be most grateful for the chance of seeing you, and to get off immediately after that.

Olive sends her best.

Respectfully,

Herbert Hoover.

The Resident,
The White House.

London, January 27, 1944

Dear Mr. President:

I have just read with great interest your statement setting up the War Refugee Board, in which you say, "It is the policy of this government to take all measures within its power to rescue the victims of enemy oppression who are in imminent danger of death and otherwise to afford such victims all possible relief and assistance consistent with the successful prosecution of the war."

The work of the War Crimes Commission is progressing favorably. The members seem united in their general purpose. The other day there was a talk at the Foreign Office between Ambassador Winant, Sir Anthony Eden, Sir Cecil Hurst, Chairman of the Commission, and me. Mr. Eden expressed the wish that the Commission should get to work as rapidly as possible. We immediately organized ourselves officially and adopted rules of procedure.

The general opinion of the Commission is that crimes committed by individuals against the citizens of any of the United Nations, or against their property, should be tried by the nation affected. Of course

traitors

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traitors who have cooperated with the enemy will be attended to by their own fellow citizens. This is in accordance with what you told me in Washington. There remains, however, a very large class of people who have committed crimes against the citizens of more than one country, or who have directed inhuman policies in Germany itself. The consensus is that these will have to be tried by an international tribunal which must be able to act pretty freely on the question of evidence. Manifestly, the type of evidence required in a New York court will be unavailable. This course is satisfactory to the Chairman and to the British Government.

It seems clear that unless some machinery of justice, which can act rapidly and firmly, is provided before the defeat of Germany and Japan no power on God's green earth can prevent a great deal of private revenge, taken by the soldiers of countries which for years have suffered under the brutality of the German Army. For this reason I am suggesting speed on the part of the Commission. Delay and undue legalism will certainly make it impossible to execute the policies which you have outlined in many statements, both off your own bat and in collaboration with the authorities of other countries. These statements have been

received

received throughout the world with the utmost enthusiasm and have been almost the only foundation of hope for nearly a thousand million people in Europe and in Asia, who unite in a demand for justice more deeply (and certainly more permanently) felt even than their request for the necessities of life.

I am extremely proud to be your agent in satisfying this desire. I do not fear the responsibilities, but I need your support.

Respectfully,

Herbert Pell.

The President,

The White House.

BY AIR POUCH

London, February 16, 1944

Personal to the President.

Dear Mr. President:

A very important question of policy is going to come up soon in the War Crimes Commission.

What are we to do about the Jews in Germany and the German saboteurs. For a long time the official radio of Great Britain and of the United States has been calling on Germans to oppose the Hitler Government. A certain number have done so; of these some have been caught and very badly treated. It does not seem right to tell them that because they are German Nationals they are entitled to no protection, even though, to a certain extent at least at our instigation, they have done our work.

There is also the very thorny question of the Jews in Germany. The offences against them certainly seem to be described in your phrase "crimes against humanity" and are surely deserving of punishment. If this matter is not taken up by the War Crimes Commission, there seems to be no organization in the world that can touch those who have persecuted these unfortunate people on account of their religion and their race.

I understand that in the Preamble of the Hague List of War Crimes adopted in the early part of the Century, there was a blanket phrase covering crimes against humanity. In any case these offences were justified by Hitler, at least partially, on the ground that they strengthen the German military force. It seems to me most desirable that they should be considered by the War Crimes Commission, but if I am to advocate this with sufficient vigor to get it through I must have your direct and affirmative support. I do not want to begin such an attempt unless I am reasonably sure of success, which I would be, with the affirmative backing of the United States Government.

I believe that if we fail to take this line Jews all over the world will feel that they have been betrayed and the friends of real justice will be disappointed.

It is, from a legal point of view, a technical extension which many of the members of the Commission will not be willing to make without some ~~support~~ affirmative support, from us, although I am certain that the majority would accept such ruling

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It is, from a legal point of view, a technical extension which many of the members of the Commission will not be willing to make without some ~~support~~ affirmative support, from us, although I am certain that the majority would accept such ruling

March 16, 1944

Dear Mr. President:

I received your letter of March 1st in which you say, "There can be little reason for disagreement on the general proposition that Germany and her satellites should be required to answer for atrocities against the Jews. . . . Presumably it (the jurisdiction of the Commission) would extend to any cases arising during the war period, of which there are many."

At a meeting of the Legal Committee today I proposed this resolution.

It is clearly understood that the words "crimes against humanity" refer, among others, to crimes committed against stateless persons or against any persons because of their race or religion. Such crimes are judiciable by the United Nations or their agencies as war crimes.

It is quite possible that the wording will be changed at the next meeting, but I believe that I can get it through. Naturally I did not use your name as my authority. I merely said that I had adequate authority. There was some opposition based on the theory that this suggestion would have far reaching consequences and would widen the scope of the Commission's work, and some disagreement as to whether these offenses could be considered war crimes. I am sure that the majority of the Commission will support me.

Of course there can be no doubt of this if you could find the occasion to make a public statement on this subject at your press conference, or if such a statement were made by the State Department. There are numberless people in the world, and millions in the United States, who, if you did this, would find their hope renewed and would rise and bless you. To extend the

definition

definition of "war crimes" to protect these helpless unfortunates is not only a humane act but a statesmanlike one. To say we are only interested in our own nationals is mere chaffering. If any one is to be sure of justice, justice can be denied to no one.

Respectfully,

HERBERT PELL

The President

The White House.

BY AIR POUCH



OFFICES OF THE UNITED STATES REPRESENTATIVE
ON THE
UNITED NATIONS COMMISSION FOR THE INVESTIGATION OF WAR CRIMES

April 3, 1944

ALFORD HOUSE,
PARK LANE, W.1.

TELEPHONE : GROSVENOR 4631

Dear Mr. President:

In your letter of March 1st, telling me that you believed that the War Crimes Commission had the authority to consider crimes against the Jews, you added that this was for my confidential guidance. For this reason I did not quote you in the Commission.

The majority of the members of the Commission seem to believe that their authority to consider this question is doubtful. I have, however, succeeded in convincing them that the question should be taken up. For this reason the following proposal will be considered at the next meeting of the Commission, April 4:

"The Commission is of opinion that the question of the punishment of offences committed in enemy territory against enemy nationals or stateless persons on account of their race, religion, or political opinions, requires immediate consideration. Unless other steps have already been taken, or are in contemplation, with a view to such consideration, the Commission would be ready to undertake this task, if the Constituent Governments so desire. The Commission accordingly requests those Governments to state whether they desire it to undertake a study of this question with a view to making recommendations to them upon it."

As far as I know no organization would be able to consider this question as rapidly and efficiently as the War Crimes Commission. For this reason I believe we should receive instructions as soon as possible to go ahead with this work.

I would not dare to face the Jewish community, or any other people interested in human justice, if I left a stone unturned in my efforts to punish the crimes committed against them.

I trust that I may get the necessary instructions as soon as possible.

Yours respectfully,

HERBERT PELL.

The President
The White House.

BY AIR POUCH
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DECLASSIFIED
State Dept. Letter, 1-11-72
By R. H. Parks Date AUG 31 1972

London, June 5, 1944

Dear Mr. President:

The Chairman of the War Crimes Commission, Sir Cecil Hurst, is sending a letter to the Right Honorable Anthony Eden, a copy of which I enclose.

I have your letter telling me that you believe the powers of the Commission are already broad enough to cover the case of crimes against Jews in Germany which occurred after the declaration of war. I have been steadily trying to get the Commission to realize that this question must be taken up. At first there was some objection, but they have now almost all come around to that point of view, but a good many of them, fearful of responsibility, feel that they should have additional instructions. I myself would have been ready to have gone on at any time and prepared for this contingency, and I certainly will not cease my efforts except on specific instructions to do so.

Not only your statements but those of the leaders of all the other nations have promised that something will be done in this case. I know your sincerity, and would be grateful for direct orders to go ahead which could be exhibited to the Commission, as, of course, your letter cannot.

I am

Respectfully,

HERBERT PELL.

1 Enclosure
Copy of letter to the
Rt.Hon.Anthony Eden.

HP:G

The President,
The White House.

THE WHITE HOUSE
WASHINGTON

June 13, 1944.

My dear Bertie:

I am in receipt of your letter of June 5, 1944 with further reference to the inclusion in the work of the War Crimes Commission of crimes committed by Germany against the Jews.

I am informed by the Department of State that this and other questions deemed to be pertinent to your work are now being considered by the Department of State in collaboration with the War and Navy Departments, and that it is hoped that adequate instructions will be going forward to you within the next few days.

These instructions will be of a character which you can use before the Commission.

Very sincerely yours,



The Honorable
Herbert C. Pell,
Commissioner for the United States
on The United Nations Commission
for the Investigation of War Crimes,
Care of American Embassy,
London.

Ibid., Vol. IX, No. 214, July 31, 1943, p. 62

"Refuge in Neutral Countries for Axis Leaders."

Statement by the President

(Released to the press by the White House July 30)

"On August 21, 1942 I issued a statement to the press in which after referring to the crimes against innocent persons committed by the Axis powers I stated:

'The United Nations are going to win this war. When victory has been achieved, it is the purpose of the United States, as I know it is the purpose of each of the United Nations, to make appropriate use of the information and evidence in respect of these barbaric crimes of the invaders, in Europe and in Asia. It seems only fair that they should have this warning that the time will come when they shall have to stand in courts of law in the very countries which they are now oppressing and answer for their acts.'

On October 7, 1942 I stated that it was 'the intention of this Government that the successful close of the war shall include provision for the surrender to the United Nations of war criminals.'

The wheels of justice have turned constantly since those statements were issued and are still turning. There are now rumors that Mussolini and members of his Fascist gang may attempt to take refuge in neutral territory. One day Hitler and his gang and Tojo and his gang will be trying to escape from their countries. I find it difficult to believe that any neutral country would give asylum to or extend protection to any of them. I can only say that the Government of the United States would regard the action by a neutral government in affording asylum to Axis leaders or their tools as inconsistent with the principles for which the United Nations are fighting and that the United States Government hopes that no neutral government will permit its territory to be used as a place of refuge or otherwise assist such persons in any effort to escape their just deserts."

Ibid., p. 62

"Instructions to American Diplomatic Representatives in Neutral Countries.

"The Department of State released to the press at 7:30 p.m., July 31, the following statement:

'The diplomatic representatives of the United States in Stockholm, Ankara, Madrid, Lisbon, Bern, Vatican City, and Buenos Aires have been instructed by the Department of State to bring the President's statement to

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the attention of the Governments to which they are accredited.

The British representatives at the above places and the representatives of the Union of Soviet Socialist Republics in Stockholm and Ankara are making similar representations."

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THE WHITE HOUSE

February 12, 1944

WASHINGTON

My dear Bertie:

I have just received your letter of January 27 regarding the work of the War Crimes Commission and am glad to note that it is progressing favorably.

You state that as to people who have committed crimes against the nationals of more than one country, or who have directed inhuman policies in Germany, the consensus is that they should be tried by an international tribunal which should not be bound by too strict rules of evidence.

I agree with you that action in these cases should be taken as rapidly as possible, but I think that the question as to the nature of the international tribunal is one that should be very carefully considered. If the tribunal is composed of jurists chosen from civil life, it is not reasonable to suppose that it would move very cautiously and might more readily lend itself to resort by the accused and his counsel to legalistic and dilatory tactics. While I do not mean to say that such a tribunal should be ruled out, I should be inclined to think that more expeditious results would be obtained, and perhaps with an equal measure of justice, if it were made up, so far as possible, of able men chosen from the military branches of the service. After all such people know or should know what the rules of warfare are and should be able readily to detect violations of those rules and to give proper consideration to evidence.

I am glad to know that the Commission is impressed with the necessity of speedy action. I am informed that the Department of State is also anxious that the whole matter should be accelerated as much as possible, and that it is sending you instructions containing suggestions concerning the work of the Commission.

Very sincerely yours,

(Sgd) Franklin D. Roosevelt.

The Honorable
Herbert C. Pell
Commissioner for the United States on the United
Nations Commission for the Investigation of War Crimes
American Embassy, London

March 8, 1944.

Dear Mr. President:

I have received your letter and will do what I can to get soldiers on the bench of judges. I think it can be done, and I shall fight to the last to follow your instructions.

I am not writing this letter, however, as Commissioner, and certainly not as an old friend. I am an American citizen interested in the future of my country and a human being interested in the good of the race.

From my observation of the United States, and also from what I have seen abroad, it seems to me that your retention of the office of President is almost vitally necessary for the good of the United States and for the future of the world. Certainly American leadership can be maintained by nobody else. You have the confidence of all forward-looking and hopeful people. This could not be immediately transferred to any successor, however capable.

The Continent of Europe, with about three-fifths of the white people of the world, would accept American leadership with some confidence, where Russian or British would be received with suspicion. As far as the United States is concerned, I believe that most of your reforms have become so set in the minds of the American people that no responsible Party could seriously injure them. Even the Harding and Coolidge gang would not try to establish the Aldrich idea of a single bank.

If I were writing merely as an old friend, I should tell you that I much preferred the idea of living in Dutchess County and driving over whenever I wanted to see you; dropping into your library where we could peaceably once more slay the slain and discuss a no more violently controversial subject than how to make old-fashioned cocktails, a subject on which I am told you have heretical beliefs and are an advocate of unjustified and unjustifiable innovations. I would not accuse you of going as far as putting cherries in them, but I stick to the old school of our ancestors. Such a life would manifestly be more fun, but must be put aside. The world needs you, and I am pleased and proud, as will be my descendants, to say that I took a part in your work. By the way, my only descendant, so far, is one of your greatest admirers.

Olive sends her love.

I am

Most respectfully,

HERBERT PELL

The President,
The White House.

BY AIR POUCH

London, November 13, 1944

My dear Mr. President:

I want to take the first occasion to congratulate you on your reelection, which has been welcomed throughout the world.

The War Crimes Commission, to which you were good enough to appoint me, has been meeting for more than a year. It has made some progress, although much too little as far as its original purpose is concerned. Very few names of persons accused of war crimes have been sent in--altogether, well under a thousand. We have, however, recommended setting up courts for the trial of certain classes of prisoners who cannot conveniently be tried by national courts. We have also recommended certain terms to the Armistice Commission, and have asked for the retention of the entire Gestapo. Incidentally, in my opinion, membership in the Gestapo, which is a voluntary organization, should be punished by a sentence of at least ten years. I should like to have your opinion on this. I know there is a great deal of legal objection to it. If you approve, I think I can get this through the Commission without using your name.

Generally the members of the Commission feel that it has been let down, especially by the British law officers.

I have been, as you can imagine, sitting on dynamite for the last several months. The question of the treatment of Jews in Germany has been several times on the point of exploding, both in the Commission and in Parliament. The continued refusal of the British Government even to answer the letters of the Commission on this subject has made it very difficult, and I, in spite of frequent requests, have not been authorized to throw the official force of the United States into the discussion. Having been State Chairman of New York I knew what the effect would have been if it had been published by your enemies that nothing had been done on this subject. At last I breathe easily and feel that I can act much more freely on this matter than before.

I hope that the Department will order me back in December, when I can see you and also attend Claiborne's wedding. I do not like to trouble you, but I really believe it would be a good thing if I could see you for at least half an hour.

Respectfully,

HERBERT PELL

The President,
The White House.

BY AIR POUCH

London, November 16, 1944

Dear Mr. President:

At the meeting of the War Crimes Commission yesterday Dr. Ecer, the representative of Czechoslovakia, made a statement, of which I enclose a copy.

It was decided by the Commission that it would be best to ask me personally to convey to you the congratulations of the Commission on your re-election. This in itself is sufficiently irregular for an International Commission.

There can be no doubt that the unanimous opinion of the Commission is that the interests of the world in general, of the United States, and of each of their countries in particular, has been well served by your re-election. Most of the members, as individuals, expressed to me before November 7th their hope that you would win.

It is quite certain that the majority of the Commission believe that the success of our work, as the success of so many other things, depends almost entirely on you, even though they do not know that it was at your request I forced through the recommendations for military courts, the advantage of which most of them see at the present time.

I can assure you that you have not a more solid and convinced group of admirers and supporters.

I should be grateful if you would send for me. I think our interests would be served by a personal report.

Respectfully,

HP:JG

HERBERT PELL.

The President,
The White House.

STATEMENT MADE BY DR. ECER AT THE MEETING OF
NOVEMBER 15TH 1944.

Since our last meeting, a great event has occurred which is of importance for the cause of the Allies in general and for the work of our Commission in particular.

Franklin D. Roosevelt has been re-elected President of the United States.

All leaders of the United Nations are contributing to their utmost to the common effort of our peoples and in addition each one of them according to his own personality, is giving his special share.

When I try to find the special personal contribution of President Roosevelt, it seems to me that it lies in the moral impetus which Roosevelt is giving to our struggle.

All his declarations, especially those dealing with the crimes of our enemies are throughout, may I say, imbued with the highest sense of moral responsibility. Not one single word of his pronouncements is merely propaganda. All his statements without exception, are expressions of Roosevelt's sincere and earnest determination to do his utmost in order that the promises of the United Nations Leaders concerning the punishment of Axis criminals, should be fulfilled.

Therefore, Roosevelt's re-election is a further guarantee to us that our work will not be a failure like the work of our predecessors in 1919, when very solemn statements were very soon completely abandoned.

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I suggest sending a telegram of congratulation to President Roosevelt, on behalf of our Commission. I do not regard this as being merely an act of international courtesy. It should express our gratitude for his past services to our work and our firm conviction that with his help, we shall be able to carry out our task successfully and so contribute to the moral reconstruction of a world devastated not only by arms but also by the crimes of our enemies, and to the restoration of law and justice. Otherwise the military victory and the material reconstruction would be in vain.

The text of the telegram which I suggest, would read as follows:

"Mr. President,

The United Nations War Crimes Commission send you sincere congratulations on your re-election. We realise with gratitude the great moral support you gave to our work in the past, by your declarations concerning the punishment of the crimes committed against humanity by Germany, Japan and their Allies. We are convinced that in the future, with your help, we shall be able to carry out our task successfully and so contribute to the moral reconstruction of the world and the restoration of law and justice.

Sir Cecil Hurst, Chairman."

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THE WHITE HOUSE

February 12, 1944

WASHINGTON

My dear Bertie:

I have just received your letter of January 27 regarding the work of the War Crimes Commission and am glad to note that it is progressing favorably.

You state that as to people who have committed crimes against the nationals of more than one country, or who have directed inhuman policies in Germany, the consensus is that they should be tried by an international tribunal which should not be bound by too strict rules of evidence.

I agree with you that action in these cases should be taken as rapidly as possible, but I think that the question as to the nature of the international tribunal is one that should be very carefully considered. If the tribunal is composed of jurists chosen from civil life, it is only reasonable to suppose that it would move very cautiously and might more readily lend itself to resort by the accused and his counsel to legalistic and dilatory tactics. While I do not mean to say that such a tribunal should be ruled out, I should be inclined to think that more expeditious results would be obtained, and perhaps with an equal measure of justice, if it were made up, so far as possible, of able men chosen from the military branches of the service. After all such people know or should know what the rules of warfare are and should be able readily to detect violations of those rules and to give proper consideration to evidence.

I am glad to know that the Commission is impressed with the necessity of speedy action. I am informed that the Department of State is also anxious that the whole matter should be accelerated as much as possible, and that it is sending you instructions containing suggestions concerning the work of the Commission.

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(Sgnd) Franklin D. Roosevelt.

The Honorable
Herbert C. Pell
Commissioner for the United States on the United
Nations Commission for the Investigation of War Crimes
American Embassy, London

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THE WHITE HOUSE
WASHINGTON

March 1, 1944

My dear Bertie:

I am in receipt of your letter of February 16 regarding the jurisdiction of the War Crimes Commission with respect to German saboteurs and Jews in Germany.

There can be little reason for disagreement on the general proposition that Germany and her satellites should be required to answer for atrocities against the Jews. I do not undertake, however, to pass on the extent of the jurisdiction of your Commission in these matters. Presumably it would extend to any cases arising during the war period, of which there are many. Those occurring before the war period or which for other reasons may not fall within the category of war crimes, will have to be dealt with by the United Nations. I should suppose, however, that a large percentage of the perpetrators of atrocities in the pre-war period, have also committed, or have been implicated in the commission of, atrocities during the war period, and hence will be subject to punishment as war criminals.

The matter concerning German nationals who have committed acts of sabotage in Germany, is somewhat different. In the first place, I can imagine that there would be great difficulty in determining whether the saboteurs acted because of exhortations by radio from the United States or Great Britain, or whether they simply acted on the basis of their own feelings and instincts. In the second place, we would be going rather far to undertake to punish officials of an enemy country for penalizing its own nationals for acts of sabotage against that country. All countries, including our own, penalize such acts. Treatment accorded by Germany to nationals of the United Nations for acts, or alleged acts, of sabotage is, of course, a different matter, and might well fall within the jurisdiction of the Commission.

These views are for your confidential guidance.

Very sincerely yours,

FRANKLIN D. ROOSEVELT

The Honorable Herbert C. Pell
Commissioner for the United States on the United Nations Commission
for the Investigation of War Crimes. c/o American Embassy, London