

● PSF War Crimes Commission

Subject File

Box 190

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*  
Herbert Pell.

The President,  
The White House.

DEPARTMENT OF STATE

THE SECRETARY

To be returned to the White House  
their file

DEPARTMENT OF STATE

THE SECRETARY

February 9, 1944.

MEMORANDUM FOR THE PRESIDENT:

I am attaching, for your signature, a suggested reply to the letter dated January 27 which you have received from Mr. Pell, our member on the War Crimes Commission of Investigation at London.

I am also attaching a proposed instruction to Mr. Pell which I desire to send if you approve.

It was originally intended that the Commission of Investigation should confine itself to the investigation of these war crimes cases and collection of evidence for use in prosecutions.

Sometime ago the British Government suggested that there should also be created a Technical Committee to make recommendations as to the tribunals before which cases should be tried, rules of procedure, etc. We stated that we had no objection.

It now appears from communications that we have received from Mr. Pell that the Commission on which he is serving desires to perform this last-mentioned function in addition to its other work. We are stating in the instruction that we have no objection provided this is what the other Governments desire to do.

We are also giving Mr. Pell, for his guidance, our tentative views as to the nature of the tribunals by which the cases should be handled. These views are expressed in three numbered paragraphs on page 2. I should like to know whether you agree with our ideas on the matter.

This line of procedure departs somewhat from a draft program for the punishment of war criminals which a Legal Committee, organized by the Department, prepared last spring but which has not been considered by other than the Committee. The cardinal feature of the Committee's draft was an international tribunal made up of jurists from civil life.

In

*returned  
along with  
FDR letter  
to Brit  
2/11/44  
hms*

In view of the Moscow Declaration by you, Mr. Stalin and Mr. Churchill concerning the punishment of war criminals, and having in mind the desirability of expeditious action, the Department is suggesting the following procedure:

(1) Where the offense is committed against the nationals of but one of the United Nations, the offender should be tried before the courts of that country, civil or military, as may be desired;

(2) Where the offense is committed against nationals of more than one country, the offender should be tried before a mixed military tribunal ;

(3) As a possible alternative to (2), or as an addition to that procedure, particularly in cases where higher officials, such as Commanding Officers, Mussolini, Hitler, etc., are responsible for policies and practices executed by subordinates, a tribunal composed of civil jurists might be thought to be desirable.

It is important to know whether the instruction is in line with your thinking.

C.H.

C.H.

Attachments:

Suggested reply, for the President's signature, to letter of January 27, from Mr. Pell, and the letter.

Department's proposed instruction to Mr. Pell.

(7187)

*hmc*

THE WHITE HOUSE  
WASHINGTON

February 7, 1944.

MEMORANDUM FOR

HONORABLE CORDELL HULL:

FOR PREPARATION OF REPLY FOR  
MY SIGNATURE.

F.D.R.

Letter from Hon. Herbert Pell, American Embassy,  
London, 1/27/44, to the President, in re work  
of the War Crimes Commission.

*PSF: War Crimes Comm.*

Copy, FDRL, hml, 10-18-48 (made to preserve poor carbon copy in Secretary's file)

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,  
Care of American Embassy,  
London.

(2606)

hms

*Signed original of this letter sent to Mr. Sumner  
State Dept., for delivery.*

*PSF: War Crimes Comm. Files  
2-44*

March 1, 1944

My dear Bertie:

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THIS DOCUMENT IS THE BEST  
AVAILABLE. EVERY TECHNICAL  
EFFORT HAS BEEN TAKEN TO  
INSURE LEGIBILITY.

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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,  
Care of American Embassy,  
London.

BY AIR POUCH



THE FOREIGN SERVICE  
OF THE  
UNITED STATES OF AMERICA

AMERICAN EMBASSY

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 sort of an affirmative support from us, although I am certain that the majority would accept such ruling

with

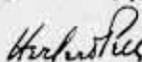
with great satisfaction.

I sincerely trust that you will be able to have instructions sent to me, or send them yourself, that will permit me to procure justice for these unfortunate people.

I have tried to trouble you as little as possible. The Commission is proceeding splendidly.

I am

Respectfully,



HERBERT PELL

The President  
The White House.

P-F: War Crimes *Att. Gen. Comm.* 4-43

THE WHITE HOUSE  
WASHINGTON

September 2, 1943.

MEMORANDUM FOR

THE SECRETARY OF STATE:

Why can't we get Herbert  
Pell off for London? Is there any  
reason for the continued delay?

F.D.R.

THE UNDER SECRETARY OF STATE  
WASHINGTON

February 29, 1944

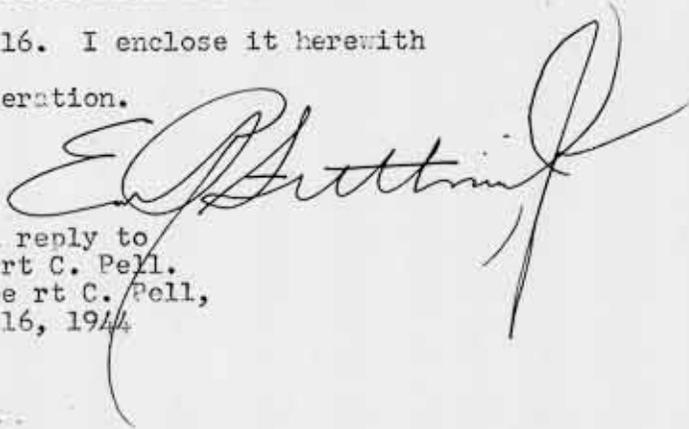
MEMORANDUM TO THE PRESIDENT

Subject: Reply to your letter from  
Herbert C. Pell of the War Crimes  
Commission.

As requested in your memorandum of  
February 22, I have had prepared a proposed  
reply to your letter from Herbert C. Pell  
dated February 16. I enclose it herewith  
for your consideration.

Enclosures:

1. Suggested reply to  
Mr. Herbert C. Pell.
2. From Herbert C. Pell,  
February 16, 1944

A large, stylized handwritten signature in dark ink, likely belonging to E. A. Tamm, is written over the bottom right portion of the document. The signature is fluid and cursive, with a prominent loop at the end.

T-230

*War Crimes Comm folder 2-44*

THE WHITE HOUSE  
WASHINGTON

February 22, 1944.

MEMORANDUM FOR

HON. E. R. STETTINIUS, JR.

FOR PREPARATION OF REPLY

) FOR MY SIGNATURE.

F.D.R.

Personal letter to the President, 2-16-44,  
from Hon. Herbert Pell, American Embassy,  
London, re question of policy in War Crimes  
Commission, concerning Jews in Germany and  
German saboteurs.

**Department of State**

BUREAU |  
DIVISION |

**Le**

ENCLOSURE

TO

Letter drafted **2/29/44**

ADDRESSED TO

**White House**

BY AIR POUCH

*file  
Personal*

*PSF: War Crimes folder  
2-44*



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

March 8, 1944.

ALFORD HOUSE,  
PARK LANE, W.1.  
TELEPHONE: GROSVENOR 4631

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 did 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*  
HERBERT PELL

The President,  
The White House.

(10071) Signed original of this letter sent to the War Crimes Com.  
hms Office of the Secy. State for delivery by pouch. PSF: folder 2-44  
hms PSF

April 5, 1944

My dear Bertie:

I am in receipt of your letter of March 18 quoting a resolution which you proposed to the Legal Committee of the War Crimes Commission.

As indicated in my letter of March 1, I do not feel that I should undertake to pass upon the jurisdiction of the Commission or become involved in its work.

Concerning your suggestion that I might find an occasion to make a public statement on this subject at a press conference, I attach a copy of a statement which I made on March 24, prior to the receipt of your letter.

Very sincerely yours,

FRANKLIN D. ROOSEVELT

Enclosure:  
Statement,  
March 24, 1944.

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.

BY AIR POUCH



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

March 16, 1944

ALFORD HOUSE,  
PARK LANE, W.1.  
TELEPHONE : GROSVENOR 4831

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*

HERBERT PELL

The President

The White House.

DEPARTMENT OF STATE  

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THE SECRETARY

April 4, 1944.

MEMORANDUM FOR THE PRESIDENT

Agreeably to the request contained in your memorandum of April 1, I attach for your signature, a suggested reply to Mr. Pell's letter to you of March 16 regarding War Crimes.

Enclosures:

1. Suggested reply to Mr. Pell, with statement by the President, March 24, 1944.
2. From Herbert C. Pell, March 16, 1944.

CH

*PSF. War Crims Comm' folder 2-44*

*(10770)  
Luo*

THE WHITE HOUSE  
WASHINGTON

April 1, 1944.

MEMORANDUM FOR  
THE SECRETARY OF STATE  
FOR PREPARATION OF REPLY  
FOR MY SIGNATURE.

F. D. R.

Letter from Hon. Herbert Bell, Alfred Hayes, Park Lane, W. 1, London, 2/15/44, to the President, in reply to the President's letter of 2/1/44 in which proposition that Germany and her satellites should be required to enact laws for atrocities against the Jews, and voting resolution with Mr. Bell has proposed in this connection.

(3113)

*hms*

WHITE HOUSE COPY

*Original original of this letter sent to War Crimes Comm. for review 2-8  
Rep. Halls  
for forwarding  
6/11/44  
hms*

*BSF*

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,

FRANKLIN D. ROOSEVELT

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.

*PSF: War Crimes Comm.*

HERBERT CLAIBORNE PELL  
"PELLBRIDGE"  
HOPEWELL JUNCTION, NEW YORK

August 28, 1943

TELEPHONE:  
HOPEWELL JUNCTION 77

CABLE ADDRESS:  
HERCLAIPEL  
NEW YORK

THE WHITE HOUSE  
AUG 30 9 04 AM '43  
RECEIVED

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,

*Herb Pell*  
Herbert Pell.

The President,  
The White House.

(3113)

*hoo*

DEPARTMENT OF STATE  
THE SECRETARY

*CH  
Q.K.  
F.R.  
Carbon initialed  
and returned to  
Secy State  
6/14/44*

June 13, 1944

MEMORANDUM FOR THE PRESIDENT

I am returning Mr. Pell's letter to you of June 5, together with a suggested reply.

We took up with the War and Navy Departments on June 1 a draft of a proposed instruction to Mr. Pell designed to give him guidance on a number of questions, including that relating to atrocities against the Jews. I have asked them to expedite their replies and I am assured that they should be in our hands within the next two or three days.

In view of the broad character of the contemplated instruction, I desire to have your approval before sending it forward, and I shall bring it to your attention the moment I receive replies from War and Navy.

*C.H.*

C.H.

Enclosures:

1. From Mr. Pell to the President, June 5, 1944.
2. Proposed draft letter to Mr. Pell.

BY AIR POUCH  
SECRET



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

London, June 5, 1944

ALFORD HOUSE,  
PARK LANE, W.1.  
TELEPHONE: GROSVENOR 4631

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*  
HERBERT PELL.

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

HP:G

The President,  
The White House.

~~CONFIDENTIAL~~  
C.23(1)

1 June, 1944

UNITED NATIONS WAR CRIMES COMMISSION

SCOPE OF THE RETRIBUTIVE ACTION OF THE UNITED NATIONS

LETTER FROM THE CHAIRMAN OF THE COMMISSION TO THE  
RT. HON. ANTHONY EDEN, HIS BRITANNIC MAJESTY'S  
PRINCIPAL SECRETARY OF STATE FOR FOREIGN  
AFFAIRS IN THE UNITED KINGDOM

31st May 1944

Sir,

At the time when agreement was reached between the Governments of the United Nations for the institution of this Commission, the paramount consideration was the need to establish machinery for bringing to justice members of the enemy forces and officials in the enemy administrations, who had been guilty of violations of the laws and customs of war against members of the Allied forces or against inhabitants of Allied territory temporarily occupied by the enemy.

I have been asked by members of the Commission to inform you that in their view it would now be convenient to know whether it is the desire of the Governments of the United Nations that the activities of the Commission should be restricted to the investigation of war crimes "stricto sensu", of which the victims have been allied individuals.

Technically, a distinction can well be drawn between atrocities committed by the enemy which are violations of the laws and customs of war and those which are not, but it will probably be the general view that the need to exact retribution is as great in the one case as in the other.

A category of enemy atrocities which has deeply affected the public mind, but which does not fall strictly within the definition of war crimes, is undoubtedly the atrocities which have been committed on racial, political or religious grounds in enemy territory.

The publicity which was given to the appointment of the Commission for the Investigation of War Crimes led many people to assume that it would be part of the duties of the Commission to investigate atrocities of this character committed by the enemy in enemy territory as well as in occupied territory. I have been approached on occasions by bodies and individuals desirous of knowing whether they could help the Commission in this part of its work. If some other machinery for dealing with the above category of cases is to be set up, the Commission feels that a public announcement to this effect would be helpful, in order that the public at large may understand that effective steps will be taken to ensure that the authors of these atrocities are brought to justice.

/The Governments

**REGRADED  
UNCLASSIFIED**

The Governments of the United Nations may already have in view some plan for bringing the authors of these crimes to justice, but if that is not the case, it is right that you should know that the Commission is prepared to take up this work if by so doing it can assist the Governments of the United Nations.

In conclusion, I would say that it is the hope of the Commission that you will take the initiative in promoting any further discussion between the Governments of the United Nations which the suggestions made in this letter may be thought to require.

I am,

etc.

(Sgd.) Cecil J.B. HURST

Chairman.

T-312

*War Crimes Comm folder*  
*2-44*

THE WHITE HOUSE  
WASHINGTON

June 12, 1944.

MEMORANDUM FOR

HON. E. R. STETTINIUS, JR.

FOR PREPARATION OF REPLY FOR  
MY SIGNATURE.

F.D.R.

Letter to the President from Herbert Pell, Offices of the U.S. Representative of the United Nations Commission for the Investigation of War Crimes, Alford House, Park Lane, W.1, London, 6-5-44, enclosing copy of a letter to Rt. Hon. Anthony Eden, 5-31-44, from the Chairman of the War Crimes Comm., Sir Cecil Hurst, Mr. Pell comments on prev. ltr. from the President re powers of the Commission to cover case of crimes against Jews in Germany.

(3238) Carbon of this memorandum, initialed by the President, returned to the Secretary of State, 7/11/44.

*War Crimes folder*

2-44

DEPARTMENT OF STATE  
THE SECRETARY

*PSF*

June 28, 1944

"CH  
OK  
FDR"

MEMORANDUM FOR THE PRESIDENT

Questions are being raised from time to time by Mr. Pell and are likewise arising in the War Crimes Commission on which it is deemed to be desirable to give him concrete instructions. These questions have to do with (1) the meaning of the term "war crimes" for the purposes of the War Crimes Commission; (2) the period during which war crimes may be said to have been committed; (3) whether atrocities committed by Axis authorities prior to the actual outbreak of hostilities are to be included; and (4) whether punishment by an Axis power of its own nationals may be comprehended within the meaning of "war crimes".

This Department and the War and Navy Departments are in agreement as to the position which this Government should take on these several questions. Specifically, it is agreed:

(1) That for the present purposes of the United Nations, "war crimes" are those committed during the existing war, which for different countries began on different dates;

(2) that the present war in the Far East may be said to have begun July 7, 1937, the date of the Loukouchiao incident, and that the war in Europe may be said to have begun on September 1, 1939 when Germany attacked Poland, and that as between Germany and Czechoslovakia it would probably be permissible to say that March 10, 1939 when German forces invaded Czechoslovakia might be regarded as the beginning of the war between those two countries;

(3) that punishment for war crimes and for atrocities committed against individuals or minority groups prior to the outbreak of war are separate problems. Since the laws of war apply only in time of war and the term "war crimes" on its face refers to crimes committed during the war, it would be unwise to try to bring the pre-war atrocities into the category of war crimes. Moreover, many, if not most,

of

- 2 -

of those connected with post-war atrocities have likewise committed atrocities since the war began and would be caught in this net. However this may be, we see no objection to allowing the Commission to consider pre-war atrocities and making recommendations to the governments on ways and means for dealing with the subject;

(4) that it would be going rather far for the War Crimes Commission to assume jurisdiction over cases relating to punishment by Germany of German nationals, as for example, for acts of sabotage, in view of the fact that all countries have complete jurisdiction over their own nationals, and all penalize acts of sabotage, etc., etc.

I attach a copy of the proposed instruction to Mr. Pell which treats of these matters in greater detail, but before dispatching it, I should be glad to know that you approve.

The Navy and War Departments have formally approved by letters dated June 22 and June 23 respectively.

  
C.H.

Enclosure:

Copy of proposed instruction  
to Mr. Pell.

PSF: War Crimes Comm. folder 2-44

BY AIR POUCH



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

London, September 20, 1944

ALFORD HOUSE,  
PARK LANE, W.1.  
TELEPHONE: GROSVENOR 4831

Personal to the President

Dear Mr. President:

You may remember that early in the history of the War Crimes Commission you wrote me saying that you preferred a military court. At last you have got it, and it was not an easy thing to get for you, especially, as I never used your name in any of the discussions. When you wrote me, very few members of the Commission appeared to be particularly desirous of any court, and they almost all were opposed to a military one.

I became Chairman of the Committee, which, if a court were acceptable to the Commission, would have the job of organizing it. After some time the Committee was convinced that a court of some kind might be useful, but still in no circumstances a military court. I did not let the preparation of the civil court go on too fast. I held it up, bringing in extraneous subjects and encouraging a certain amount of futile discussion until the idea of the military court had lost most of its terrors. By this time speed had become manifestly desirable. We then began to stress the fact that a military court can be set up by the Commander in Chief very quickly, and that the process of ratification which would be necessary for a civil court would take a great deal of time.

About four weeks ago I succeeded in getting the proposal of a military court out of the Committee, but without recommendation. It was merely reported for the consideration of the Commission. After three very vigorous meetings by the Commission we got it through unanimously, losing a little skin on the way but not as much as I expected.

The proposal for the civil court was rushed to completion and will be taken up at the next meeting of the Commission, and both will be offered to the Governments. It will probably be impossible to avoid some recommendations which I consider superfluous. These courts can both readily be made by the Plenipotentiaries to cover any cases brought before them.

RECEIVED  
SECRETARY TO THE PRESIDENT



POSTAL NO. 1014  
UNITED STATES POSTAL SERVICE  
OFFICE OF THE UNITED STATES ATTORNEY  
WASHINGTON, D. C.

I feel very happy for having succeeded in carrying this thing through, as you wished, against a great deal of opposition, much of it coming from men abler and stronger than I.

I am very grateful to you for having had the opportunity of doing what I believe to be a real service to the country.

I am

Respectfully,  
*Herbert Pell*  
HERBERT PELL.

HP:JG

The President,  
The White House.

Herbert Pell  
American Embassy  
London, W. 1



The President,  
The White House.

BY AIR POUCH

Personal to the President.

PSF: War Crimes Commission ~~The cover up~~

*File  
Confidential*

4-43

London. November 29, 1943.

The President,  
The White House,  
Washington, D.C.

Dear Mr. President:

I have at last arrived in London, unfortunately, to be knocked down by flu on my arrival. I was very lucky, however, to be taken to the United States Military Hospital which gave me the best of care and would not let me out until I was well, although I am still rather weak and stupid.

I called on your cousin, Muriel Robins, who is as attractive as ever. People in America have very little idea of how hardly the English live. I am already much impressed by the cheerful way in which they accept conditions without complaint as part of the necessities of the situation. I was not surprised to have Muriel answer the telephone herself. When I rang the bell at the house, she opened the door, but it was not until I was upstairs and had declined a whisky and soda saying I preferred tea, that I realized that she herself was doing all of the housework in her establishment and taking care of her daughter who is ill. Naturally, I declined to let her make this additional effort. She was looking well and seemed to be in good health and as kind and attractive as ever. She is among your most enthusiastic admirers and is very proud of her relationship as is Sally Collier whom I called on at Claridges Hotel where she is stopping with her charming husband.

So far I have nothing official to report. The Committee has met once and will meet again this week to discuss its purposes and limitations. I sincerely hope that it produces some very tough recommendations. I am perfectly willing to be thrown to the sob sisters if I can do anything to prevent the repetition of this performance.

Of course, my work as American Commissioner is very much hampered by the way of life which is forced on me in London. I cannot comfortably ask people to dine. I have no respectable place to go to and I am not the kind of person who can do good work under uncomfortable

circumstances

*Mr. Crimes Comm. folder*  
*PSF 2-54*

THE UNDER SECRETARY OF STATE  
WASHINGTON

*File*

November 9, 1944

MEMORANDUM FOR MISS TULLY

Subject: Mr. Herbert Pell.

Following our telephone conversation last week on Mr. Herbert Pell's desire to return to Washington for consultation, we have talked to Ambassador Winant, who feels it would be inadvisable for Mr. Pell to return now.

I would appreciate it if you would show the attached memorandum to the president or tell him about it.

*E. A. Tamm*

~~SECRET~~

THE UNDER SECRETARY OF STATE  
WASHINGTON

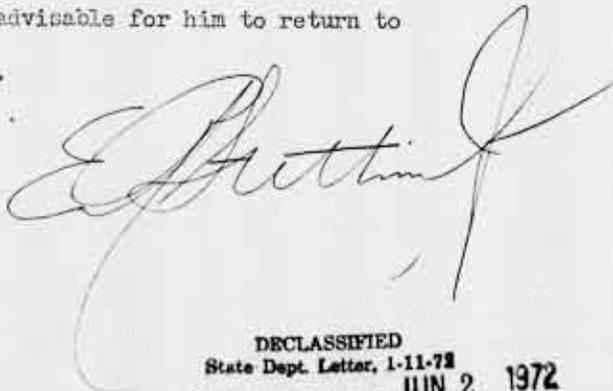
November 9, 1944

MEMORANDUM FOR THE PRESIDENT

Subject: Return of Mr. Herbert Pell.

Mr. Herbert Pell has written to both the Secretary and me asking if he might return to Washington for consultation.

As you suggested, we have consulted with Ambassador Winant, who stated that the Attorney General and Assistant Secretary of War McCloy may be going to London very soon on the problem of war criminals. I have therefore cabled Mr. Pell, saying that for this reason I feel it would be inadvisable for him to return to Washington now.



DECLASSIFIED  
State Dept. Letter, 1-11-78  
By R. H. Parks Date JUN 2 1972

BY AIR POUCH

*file personal*

*PSF: War Crimes Comm. folder 2-4x*



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

London, November 13, 1944

ALFORD HOUSE,  
PARK LANE, W.1.  
TELEPHONE: GROSVENOR 4831

My dear Mr. President:

I want to take the first occasion to congratulate you on your re-election, 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.

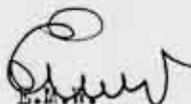
I have been, as you can imagine, sitting on dynamite for the last several months. The question of the treatment of Jews in Germany has been several times on the point of exploding, both in the Commission and in Parliament. The continued refusal of the British Government even to answer the letters of 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 Fell*  
HERBERT FELL

The President,  
The White House.

Respectfully forwarded to the President:

  
E. A. M.

BY AIR POUCH

*PSF: War Crimes Comm folder 2-44*



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

London, November 16, 1944

ALFORD HOUSE,  
PARK LANE, W.1.  
TELEPHONE: GROSVENOR 4831

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,

*Herbert Pell*

HERBERT PELL.

HP:JG

The President,  
The White House.

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C. 20535

SA [REDACTED]

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.

1

- 2 -

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."

ADDRESS OFFICIAL COMMUNICATIONS TO  
THE SECRETARY OF STATE  
WASHINGTON, D. C.



DEPARTMENT OF STATE  
WASHINGTON

*file  
personal*

November 21, 1944

MEMORANDUM FOR GENERAL WATSON:

I am enclosing herewith a sealed letter addressed to the President, which has been received in the Department by air pouch from Mr. Pell at the American Embassy in London.

*G. T. Summerlin*  
George T. Summerlin

Enclosure:  
Sealed letter.



3981  
*ams*

Carbon of this memorandum, initialed by the President, returned to the Secretary of State, 1/6/45.

*War Crimes Comm. folder*

*2-44*

~~SECRET~~

*PSF*

"ERS JR  
OK - You do it - at last  
FDR"

DEPARTMENT OF STATE  
WASHINGTON

December 27, 1944

MEMORANDUM FOR THE PRESIDENT

Subject: The War Crimes Commission

A few days ago I talked with Mr. Herbert Pell, our representative on the War Crimes Commission in London and he said he would be calling upon you shortly to discuss his work.

Mr. Pell complained that he was working under great handicaps in London. The Commission had an insufficient staff and Mr. Pell felt that we had not given him adequate instructions.

There are two questions before the Department on which Mr. Pell has not received instructions:

1. The treatment as war crimes of atrocities committed in Germany against minority groups, largely of German nationality.
2. Our attitude regarding the convention proposed by the Commission for the establishment of an international court to try war criminals.

These matters have been discussed with the British and with the War, Navy and Justice Departments, the whole activity being coordinated by Judge Rosenman. As soon as agreement is reached among the several agencies a proposal will be laid before you.

A complication has arisen in connection with Mr. Pell's work which I have not mentioned to Mr. Pell but of which I think you should be informed.

~~SECRET~~

DEPARTMENT OF STATE  
WASHINGTON

- 2 -

His salary and expenses have been paid from an allocation from the Emergency Fund for the President but last June Congress passed the Independent Offices Appropriation Act, 1945, Section 213 of which provided that after January 1, 1945 the funds appropriated could not be used to meet the expenses of an agency which had been in existence for more than a year unless Congress had specifically appropriated money for it.

Last month we submitted a request to Congress for \$30,000 to continue our activities with the War Crimes Commission until June 30, 1945, but it was disapproved.

The Second Deficiency Appropriation Act, approved June 28, 1944, provides that no part of the Emergency Fund for the President shall be available for projects for which an appropriation has been denied by Congress.

There will, therefore, be no money available after December 31 to finance Mr. Pell's activities, and I have so advised the Embassy in London.

It is my recommendation that Mr. Pell be notified of this situation and that American representation on the War Crimes Commission be carried on by an Army officer, either Lieutenant Colonel Hodgson, the present Deputy Commissioner, or someone else.

May I have your approval to discuss this with Secretary Stimson or Mr. McCloy?

I would

circumstances. I want Olive over here very much. The secretary of the Commission who is held in America apparently to appear some time in February is, I think, highly necessary to the efficiency of the organization. I have taken, a casual English stenographer, whom I had as a private secretary in Portugal, on whose character I can depend, but I do not think that she has the executive ability or the office experience of the regular appointed secretary of the Commission.

In spite of these handicaps, I am going to do everything that I can. Fortunately, Wellington Koo, who is on the Commission, is an old friend of mine whom I have seen off and on since 1907. I would be very grateful if from time to time you would back me in my purposes which will imply taking more responsibility and probably a good deal of blame.

I am,

Respectfully,

*Herbert Pell*

Herbert Pell.

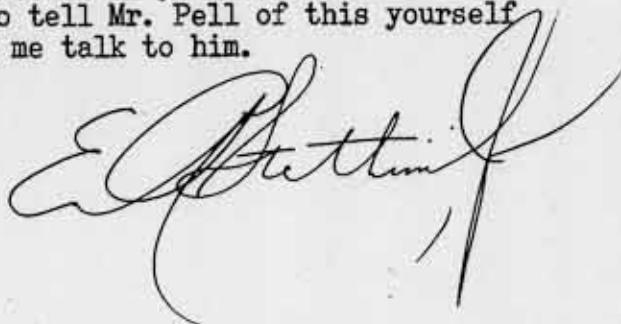
DECLASSIFIED

~~SECRET~~

DEPARTMENT OF STATE  
WASHINGTON

- 3 -

I would appreciate it if you would let me know whether you prefer to tell Mr. Pell of this yourself or would rather have me talk to him.



DECLASSIFIED  
State Dept. Letter, 1-11-72  
By R. H. Parks Date JUN 2 1972

T-451

*PSF: War Crimes Comm folder  
2-45*

THE WHITE HOUSE  
WASHINGTON

January 3, 1945.

MEMORANDUM FOR  
THE SECRETARY OF STATE

Please send me a brief report on the status of the proceedings before the War Crimes Commission, and particularly the attitude of the U. S. representative on offenses to be brought against Hitler and the chief Nazi war criminals. The charges should include an indictment for waging aggressive and unprovoked warfare, in violation of the Kellogg Pact. Perhaps these and other charges might be joined in a conspiracy indictment.

F. D. R.

WASHINGTON  
THE WHITE HOUSE

THE WHITE HOUSE  
WASHINGTON

Jan. 3rd, 1944

Dear Grace:

John asked me to give you the attached for  
Father.

Two evenings ago, Father asked John to write  
out a suggested memo for Father to send to  
Ed S. The attached is the suggestion.



WASHINGTON  
THE WHITE HOUSE

MEMORANDUM TO THE SECRETARY OF STATE

Please send me a brief report on the status of the proceedings before the War Crimes Commission, ~~with particular reference to the~~ ~~situation~~ and ~~in~~ particularly the attitude of the U. S. representative on offenses to be brought against Hitler and the chief Nazi war criminals. The charges should include an indictment for waging ~~an~~ aggressive and unprovoked warfare, in violation of the Kellogg Pact. Perhaps these and other charges might be ~~in~~ joined in ~~an indictment~~ a conspiracy indictment.

signed: FDR

Published in Foreign Relations of the United States, the Conferences at Malta and Yalta, 1945, pp. 401-402.

*DDR*

*Will you refer to me about this?*

*PSF: War Crimes Comm.*

~~SECRET~~ 2-45

DEPARTMENT OF STATE  
WASHINGTON

January 6, 1945

MEMORANDUM FOR THE PRESIDENT

Subject: War Crimes Commission

The following is in response to your memorandum of January 3:

Briefly the status of the work of the War Crimes Commission is as follows--

The Commission has compiled two lists of war criminals, one German, the other Italian. They contain over seven hundred names, including Hitler, Goebbels, Goering, Himmler, Streicher, etc. It has recommended (1) that, generally speaking, the cases should be tried in the national courts of the countries against which the crimes have been committed; (2) that a convention be concluded providing for the establishment of a United Nations court to pass upon such cases as are referred to it by the Governments; and (3) that pending the establishment of such a court there be established mixed military tribunals to function also in addition to the United Nations court when the latter is established.

The American representative on the Commission has gone along with these recommendations and thinks, as do all of us, that Hitler and the chief Nazi war criminals should be included.

The



PSF: War Crimes Comm folder  
2-45-  
~~CONFIDENTIAL~~

March 10, 1945

Dear Jerry:

I have your letter of February 24, concerning our friend Herbert Pell. You may be assured that it will have the most careful consideration.

I appreciate your kind words regarding my work, and thank you for your good wishes.

Very sincerely yours,

F. D. R.

Mr. Jeremiah T. Mahoney,  
Phillips, Mahoney & Fielding,  
100 Broadway,  
New York 5, New York.

DECLASSIFIED  
By Deputy Archivist of the U.S.  
By W. J. Stewart Date JUN 2 1972

Department of State

BUREAU  
DIVISION

*Le*

ENCLOSURE

TO

Letter drafted

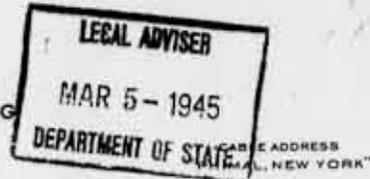
*3/6*

ADDRESSED TO

*To. Miss Tully*

N. TAYLOR PHILLIPS  
JEREMIAH T. MAHONEY  
WARREN C. FIELDING

PHILLIPS, MAHONEY & FIELDING  
ATTORNEYS AND COUNSELORS AT LAW  
100 BROADWAY  
TELEPHONE WORTH 2-0480



NEW YORK 5, N.Y.

February 24, 1945.

Hon. Franklin D. Roosevelt,  
The White House,  
Washington, D.C.

My dear Mr. President:

As you know, there has been a great friendship between our mutual friend, Herbert Pell, and myself for many years. This goes back even before 1921 when, with your help, in a little conference which you will probably recall, I was able to elect Herbert Chairman of the Democratic State Committee. I have been very proud of the splendid work Herbert has done since that time in his different activities, including the various diplomatic posts to which you appointed him. As a member of the Crimes Commission representing our Government, I think Herbert has so acted as to gain the approval and the confidence of all our people who want to see the totalitarian leaders properly punished.

You may recall that I started to fight the Nazi as early as 1935 when, as President of the Amateur Athletic Union of the United States, I did my best to prevent a team of American athletes from going to Berlin to compete in the Olympic Games there in 1936.

Many of our mutual friends and I in particular would like to see Herbert continued as America's representative on the Crimes Commission. I am sure he would at all times represent you and our country in a most acceptable manner, and with courage and efficiency. I would be very happy, therefore, if you could give his redesignation as a member of that Commission most serious consideration.

Bob Wagner likewise I am sure, an old friend of Herbert's, would also like to see Herbert reappointed.

Permit me to congratulate you on your splendid work at the Crimea. I am positive now the American people are satisfied that it was a mighty wise thing to continue you for a fourth term.

With best wishes always for your good health and happiness,  
I am

Very sincerely,

JTM:MB

*Jeremiah T. Mahoney*

~~CONFIDENTIAL~~

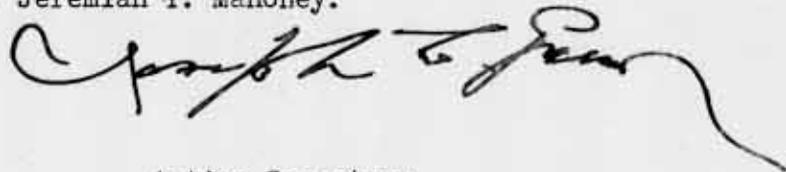
DEPARTMENT OF STATE  
WASHINGTON

March 8, 1945

MEMORANDUM FOR THE PRESIDENT

Subject: Transmission of Suggested  
Reply to Letter From  
Mr. Jeremiah T. Mahoney

In compliance with your memorandum of March 3,  
1945, I am enclosing a suggested reply to the attached  
letter from Mr. Jeremiah T. Mahoney.



Acting Secretary

Enclosures:

1. Suggested reply to  
Mr. Mahoney.
2. From Mr. Mahoney,  
February 24, 1945.

DECLASSIFIED  
State Dept. Letter, 1-11-72  
By R. H. Parks Date JUN 2 1972

(2531) Signed original of this letter sent to the Secretary of State <sup>PSF. War Crimes Comm. folders</sup> 2-44  
for forwarding **COPY FOR THE WHITE HOUSE**

PSF

February 12, 1944

My dear Bertie:

I have 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

4129

THE WHITE HOUSE  
WASHINGTON

March 3, 1945. *AM*

MEMORANDUM FOR

THE ACTING SECRETARY OF STATE:

FOR PREPARATION OF REPLY.

FOR MY SIGNATURE -- Dear Jerry.

F.D.R.

Ltr of 2/24/45 to the President from Jeremiah  
T. Mahoney, 100 Broadway, New York 5, N.Y.;  
re reappointment of Herbert Pell as member of  
the Crimes Commission.

PSF: Wm. Cumes Comm. Freder  
2-45

PSF

March 22, 1945

Dear Bertie,

I have received and carefully examined your letter of March 5 regarding war crimes.

I have discussed the whole situation with the Secretary of State and have asked him to discuss it with you. I suggest that you arrange with him for an appointment.

Very sincerely yours,

F. D. R.

The Honorable  
Herbert Pell,  
Care of Knickerbocker Club,  
807 Fifth Avenue,  
New York 21, New York.

RECORDED 10/10/50

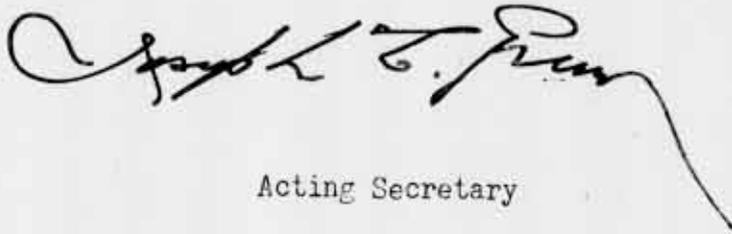
DEPARTMENT OF STATE  
WASHINGTON

March 21, 1945

MEMORANDUM FOR THE PRESIDENT

Subject: Letter from Mr. Pell  
on war crimes.

Referring to your memorandum of March 16, I attach a suggested reply to the letter from Mr. Pell regarding war crimes. I also return Mr. Pell's letter. He makes a number of extravagant statements but I do not think that we need go into them.



Acting Secretary

Enclosures:

1. To Mr. Pell.
2. From Mr. Pell,  
March 5, 1945.

*PSF: War Crimes Comm. folder  
2-45*

4191 THE WHITE HOUSE  
WASHINGTON

March 16, 1945.

**MEMORANDUM FOR**

**HON. E. R. STETTINIUS, JR.**

**FOR PREPARATION OF REPLY  
FOR MY SIGNATURE.**

**F.D.R.**

Ltr of 3/5/45 to the President from Herbert Pell, Knickerbocker Club, 807 Fifth Ave., New York 21, N.Y.; re the War Crimes Commission, hopes the President will be able to find an occasion to see him and discuss this subject with adequate time.

W.H. Reg. 3/16/45  
Sheet #1 (2 sheets)

KNICKERBOCKER CLUB  
807 FIFTH AVENUE  
NEW YORK 21, N. Y.

March 5, 1945

The Honorable  
Franklin D. Roosevelt  
White House  
Washington, D. C.

Dear Mr. President:

I was glad to see your statement that the war criminals would be punished. For more than a year I have been in London trying to develop machinery to carry out pledges made by their leaders to the nations collectively and individually. I was able to get through a series of recommendations which would, if adopted, be amply adequate for the purpose. It would be the merest affectation to pretend that this was not largely my work or even that very much would have been done had I not continuously pushed the Commission according to your instructions.

The Commission has recommended (1) an agreement between the United Nations to give up to each other war criminals who may have escaped into their territory; (2) the consideration of methods of recovering war criminals who have escaped to neutral countries; (3) the retention of the Gestapo somewhat on the theory of a police round-up. (4) We have recommended, in accordance with your wishes, the use of military courts for trying those cases which for any reason cannot be tried by local courts; and (5) the establishment of a court of civilian judges to be used if any particular nation prefers.

About a year ago I moved that offenses committed against Axis citizens and other non-nationals of the United Nations because of race, religion or political opinion, should be treated as war crimes. In spite of the outspoken opposition of the assistant sent me by the State Department, I managed to get this point of view adopted, and on the 29th of May a letter was sent to the Foreign Secretary of Great Britain to the effect that these crimes had shocked mankind and should be punished, and offering to consider means of doing it. No answer had been received when I left London, nor did I get any comment from the Department.

We are not a legislative body; our powers are merely recommendatory. Our recommendations have been before the governments for a considerable time, and as far as I know, except for a series of letters sent to neutral governments, nothing whatsoever has been done about any of them. They have rested in the files of the State Department.

Obviously it will take a certain time to arrange an international agreement among the United Nations for the mutual

Hon. Franklin D. Roosevelt

(2)

March 5, 1945

surrender of war criminals. The establishment of a court of civilian judges would take a long time, and even military courts could not be set up over night. In the meanwhile nothing is being done.

Early in December, I returned to the United States expecting to see you, to discover the progress which had been made in the consideration of the Commission's recommendation, to receive fresh instructions and to return to London very early in January. It appears that some time in December the Congress passed a State Department Deficiency Bill but did not include anything for the War Crimes Commission, which, according to Mr. Hackworth, Legal Advisor of the State Department, means that the Commissioner could not return, although there apparently remains enough money to run the Commission with clerks, offices, etc. This took place in December but I was not notified of it, and when I saw you on the 9th of January I expected to go over to the State Department for a formal farewell and immediately to return to London. It was then that I was told that I could not go back. There was apparently no intention of notifying me of this until I took positive steps to find out.

I need not tell you how a performance like this will affect the prestige of our country. The great criticism of the United States in other countries is not based on a distrust of our intentions, but on a lack of confidence that we will carry them through. This affair is widely known not only in the United States but in Europe, and is undoubtedly being used by those who are supporting the influence of other nations and trying to undermine ours.

I firmly believe that the adequate punishment of war criminals is a thing which will make the beginning of a third war more difficult. I do not want to see the many statements by the great Democratic leaders turned into mere propaganda, the War Crimes Commission considered as eye-wash and its recommendations buried in files. There should be some action taken. I trust that you will be able to find an occasion to see me and discuss this subject with adequate time.

I am,

Respectfully,

*Herbert Pell*

Herbert Pell

*file* PSF: War Crimes Comm.

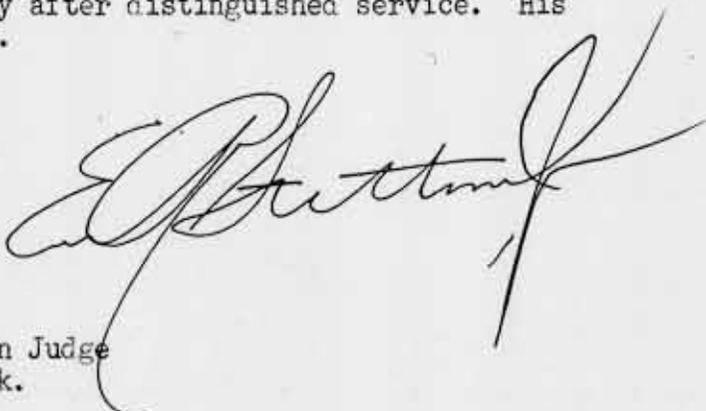
DEPARTMENT OF STATE  
WASHINGTON

April 7, 1945

MEMORANDUM FOR THE PRESIDENT

Subject: American Representation on War  
Crimes Commission in London.

Since Joe Davies is ill and is not able to go to London in connection with the work of the War Crimes Commission and as I understand it is your intention that Judge Rosenman is to make only a general survey of the situation and is not to remain in London, I wish to suggest to you, as American Commissioner, the name of Judge William Clark. He is now a Colonel in the Army and I believe he is known to you from Harvard and Fly Club associations. He has a very fine record, not only as an Army Officer but as Judge of the United States Circuit Court of Appeals for the Third Circuit, New Jersey. He is especially interested in the subject of war crimes and is very anxious to undertake this work. Although a Republican, he has, so far as I am aware, never taken part in partisan politics. Joe Grew and Jimmy Dunn think highly of him and believe him to be admirably fitted for that particular job. He is about to be retired from the Army after distinguished service. His record is enclosed.



Enclosure:

Memorandum on Judge  
William Clark.

MEMORANDUM ON JUDGE WILLIAM CLARK

Born Newark, New Jersey, February 1, 1891; son of J. William and Margaretta (Cameron) Clark; graduate of Newark Academy, 1904; graduate of St. Mark's School, 1908; B.A. Harvard, 1911, M.A. 1912, LL.B. 1915; married Marjorie Blair, September 20, 1913; children - Anne, John William, Ledyard B. Admitted to New Jersey bar, 1916, counsellor at law, 1920; member Lindabury Depue & Faulks, 1920-23; appointed judge New Jersey Court of Errors and Appeals, 1923; judge U. S. District Court, New Jersey, 1925-38; judge U.S. Circuit Court of Appeals for the Third Circuit, since July 5, 1938. Entered First R.O.T.C., Fort Meyer, Virginia, May 1917; commissioned 2d lieutenant, August 1917, and assigned to 314th Field Artillery; first lieutenant January 1918; captain September 1918; overseas service one year; silver star citation "for gallantry in action"; major Field Artillery, O.R.C.; received Certificate of Graduation from Business and Professional Men's Company at Plattsburgh Barracks, New York, August 3, 1940; entered U.S. Army, March 24, 1942, with rank of lieutenant colonel. Trustee New Jersey Historical Society, New Jersey Museum Association. Member American, New Jersey and Essex County bar associations, Association of the Bar of the City of New York, American Law Institute, American Society of International Law, American Academy of Political Science. Republican. Presbyterian. Home: 117 Library Place, Princeton, New Jersey.

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,

FRANKLIN D. ROOSEVELT

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.



THE FOREIGN SERVICE  
OF THE  
UNITED STATES OF AMERICA

AMERICAN EMBASSY

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

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

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