

POST WAR PUNISHMENT OF AXIS WAR CRIMES
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Post War Prosecution of Axis War Crimes
(Material taken from Mr. Clark's Jan 15 file)

July 22, 1944

MEMORANDUM TO: Mr. Ferguson
Mr. Saxon
Governor Cochran
War Refugee Board ✓

There is attached hereto a paraphrased copy of a circular telegram received from the Department of State requesting that any information concerning individuals guilty of war crimes be transmitted to the Department of State.

It would be appreciated if any such information that may come to the attention of your offices could be conveyed to this office or to the Foreign Service establishment to which you or any of your representatives may be nearest at the time of receipt.

Selden Chapin
Counselor of Embassy, In Charge

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PARAPHRASE OF CIRCULAR TELEGRAM DATED JULY 17, 1944
RECEIVED FROM THE DEPARTMENT OF STATE.

Should reliable information be received concerning individuals considered to be guilty of war crimes, please transmit by telegram the full name (title, if an official, or position) possible addresses and other data of identification (SECRET. War guilt cases). In Airgram or by despatch description and detail of crimes should be submitted.

A good source for this type of information has been bonafide refugees arriving at various points.

HULL

000786



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execution of captured Americans on trumped-up charges. The sur- render of Germany and liberation of our prisoners has ended that danger.

Summary Action Advocated

The morale and safety of our own troops and effective government of the control area seemed to require prompt resumption of summary dealing with this type of case. Such proceedings are likely to disclose evidence helpful to the case against the major criminals and will not prejudice in view of the measures already suggested to preserve evidence and to prevent premature execution of those who are potential defendants or witnesses in the major case.

I flew to Paris and Frankfurt and conferred with Generals Eisenhower and the staffs of Betts, among others, and arranged to have a representative on hand to clear questions of conflict in any case which may arise. We also arranged an exchange of evidence between my staff and the theatre judge advocate's staff. The officials of the American staff were most anxious to help. For example, the French brought to General Donovan and me in Paris evidence that civilians in Germany had been treated with wrenches three American airmen. They had obtained from the German burgoemeister identification of the airmen, had taken them into custody, and were offered to deliver them to our forces.

Cases such as this are not infrequently perfected. The authorities are enabled to move cases of this class without delay, some by already under way verdicts rendered, some by offering to go on trial.

Trials by Local Authorities

2. A second class of offenders, the prosecution of which will not interfere with the major case, consists of those who, under the Moscow Declaration, are sent back to the scene of their crimes for trial by local authorities. These comprise localized offenses or atrocities against persons or property, usually of civilians of countries formerly occupied by Germany. The part of the United States in these cases consists of the identification of offenders and the surrender on demand of those who are within our control.

The United Nations War Crimes Commission is especially concerned with cases of this kind. It represents many of the United Nations, with the exception of Russia. It has been used to designate a body with which the nations have recognized their accusations and evidence. Lord Wright, representing Australia, is chairman of this commission, and the United States representative.

In London I conferred with Lord Wright and Colonel Hodgson in an effort to coordinate our work with that of the commission wherever there was danger of conflict or duplication. There was no difficulty in arriving at an understanding for mutual exchange of information. We undertook to respond to requests for any evidence in our possession against those listed with the commission as criminals and to cooperate with each of the United Nations in efforts to bring this class of offenders to justice.

Requests for the surrender of persons held by American forces may present diplomatic or political problems which are not my responsibility. But so far as my commission, as well as the appropriate American authorities, is concerned, I advised the appropriate American authorities that there is no objection to the surrender of any person except on grounds that we want him as a defendant or as a witness in the major case.

Third Class of Cases

3. In a third class of cases, each country, of course, is free to prosecute treason charges in its own tribunals and under its

This difficulty of adequately identifying individual perpetrators of atrocities and crimes makes it the more important that we proceed against the top officials and organizations responsible for originating the criminal policies, for only by doing this will there be just retribution for many of the most brutal acts.

II

Over a month ago the United States proposed to the United Kingdom, Soviet Russia and France a specific plan, in writing, for originating the four powers in a protocol establishing an international military tribunal, defining the jurisdiction and powers of the tribunal, and listing the categories of acts declared to be crimes, and describing those individuals and organizations to be placed on trial. Negotiations on such an agreement between the four powers is not yet complete. Our task, however, is to await consummation of international arrangements before proceeding with preparation of the American case. Accordingly, I went to Paris, to the American Army Headquarters at Frankfurt and Wiesbaden, and to London, for the purpose of assembling, or having assembled, instructions and agencies and getting the different organizations coordinated and at work on the evidence. I uniformly met with eager cooperation.

The custody and treatment of war criminals and suspects appeared to require immediate attention. I asked the War Department to deny those prisoners who are suspected war criminals the privileges which would appertain to their rank if they were merely prisoners of war; to assemble them at convenient and secure staffs for interrogation by our staff; and to hold them in the closest confinement ordinarily given suspected criminals.

The War Department has been subjected to a deluge of criticism from the press for these measures, for which it is fair that I should accept responsibility. The most elementary considerations for insuring a fair trial and for the success of our case suggest the imprudence of permitting these prisoners to be interviewed indiscriminately, and the facilities of the press to convey information to each other and to our choice is between treating them as honorable prisoners of war or to classify them as war criminals. In which case they should be treated as such. I have assurances from the War Department that those likely to be accused of crimes as criminals will be kept in close confinement and stern control.

Conferences in London

Since a considerable part of our evidence has been assembled in London, I went there on May 23 with General Donovan to arrange for its examination, and to confer with the United Nations War Crimes Commission and with officials of the British Government responsible for the prosecution of the evidence.

We had extended conferences with the newly-appointed Attorney General, the Lord Chancellor, the Foreign Secretary, the Treasury, and others. On May 29, Prime Minister Churchill announced in the House of Commons that Attorney General Sir David Maxwell Fyfe had been appointed to head the United Kingdom in the prosecution. Following this announcement, members of my staff and I held extended conferences with the Attorney General and his staff. The sum of these conferences is that the British are taking steps parallel with our own to clear the military and localized cases for immediate trial and to effect a complete interchange of planning and preparation of the case by the British and American representatives.

Despite the fact that the prose-

cuture an international military tribunal. It is expected to designate its representative shortly. The Government of the Union of Soviet Socialist Republics, while not yet committed, has been kept informed of our steps. It will unite in the prosecution. We propose to make provision for the case of the United Nations to become adherents to the agreement.

III

The time, I think, has come when it is appropriate to outline the basic features of the plan of prosecution on which we are tentatively proceeding. For the case of the United States, the American case is being prepared on the assumption that an inescapable responsibility is upon this country to conduct an inquiry, preferably in association with others, but alone if necessary, into the culpability of those whom there is probability will accuse of atrocities and other crimes.

Where many such men in our possession. What shall we do with them? We could, of course, set them at large without a hearing. But it has cost unmeasured thousands of American lives to beat and find them. We must free them without a trial would mock the dead and make cynics of the living.

On the other hand, we could execute or otherwise punish them without a hearing. But undiscriminating executions or punishments without right mind and conscience or the members by our children with pride.

The only other course is to determine the innocence or guilt of the accused after a hearing as dispassionate as the times and the horrors we deal with will permit and upon a record that will set our reasons and motives clear.

Fair Hearings Required

2. These hearings, however, must not be regarded in the same light as a trial under our system, where defense is a matter of constitutional right. Fair hearings of the accused are, of course, required to make sure that we punish only the right men for the right reasons. But the procedure of these hearings may properly be obstructive and dilatory tactics resorted to by defendants in our ordinary criminal trials.

War should such a defense be recognized as the obsolete doctrine that a head of state is immune from legal liability. There is more than a suspicion that this idea is a relic of the doctrine of the divine right of kings. It is, in any event, inconsistent with the position we take toward our own officials who are frequently brought to court at the suit of citizens who allege their rights to have been invaded.

We do not accept the paradox that legal responsibility should be the least where power is the greatest. We stand on the principle that responsible government declared some three centuries ago to King James by Lord Chief Justice Coke, who proclaimed that even a King is still "under God and the Law."

With the doctrine of immunity of a head of state usually is coupled another, that officers from an official superior protect one who obeys them. It will be noticed that the combination of these two doctrines means that nobody is responsible. Society as a whole is responsible. Society as a whole is responsible.

Plea of Superior Orders

There is doubtless a sphere in which the defense of obedience to superior orders or similar defense is a conscripted or enlisted soldier is put on a firing squad, he is not to be held responsible for the act. But the case may be greatly altered where one has been promoted because of rank or the latitude of his orders. And, of course, the

viewed thereafter. The individual is expected to plead guilty to offenses, or extenuating circumstances, such as that he joined under duress, and as to those defenses, which should have the burden of proof.

There is nothing novel in the idea that one may lose a part of one's self in order to be able to assert its defense if it falls to an earlier time. In the United States wartime legislation, this principle has been utilized and sustained as consistent with our concept of due process of law.

Major Defendants

Our case against the major defendants is concerned with Nazi master plan, not with individual atrocities and perversions which are the responsibility of any central plan. The work of our case must be factually authentic and constitute a well-documented history of what we are convinced is a grand concerted pattern to include the aggressions and barbarities which have shocked the world.

We must not forget that when the Nazi plans were boldly proclaimed they were so extravagant that the world refused to take them seriously. We write the record of this movement with clarity and precision, we cannot blame the future if in days of customary general interest the act of the war. We must not write incredible events by credible evidence.

What specifically are the crimes with which these individuals and organizations should be charged, and what marks their conduct as criminal? These are the crimes, real danger which will be enmeshed in voluminous particulars of wrongs committed out individual Germans throughout the multitude of doctrine disputes which are part of a lawyer's paraphernalia.

Gauge of Criminality

Those acts which offended the conscience of the world, which were criminal by standards generally accepted in all civilized countries, and I believe that we may prosecute in full accord with the traditions of fairness. This is the divine right of kings, it is accepted internationally.

I think also that through these trials we should be able to establish that a process of retribution by law awaits those who in the future similarly attack civilization.

Before stating these offenses in legal terms and concepts, let me restate the principle upon which it was that affronted the sense of the world of our people. Early in the Nazi regime, people of this country came to look upon the Nazi Government as not pursuing the legitimate state of a member of the international community. They came to view set on as a band of brigands, many every vestige within German law which would entitle an aggregation of people to be looked upon collectively as a member of the family of nations.

Our people were outraged by the oppressions, the cruelties, the murders, the wholesale confiscation of property which initiated the Nazi regime within Germany. They witnessed persecutions, the greatest enormity on religious, political and racial grounds, the breakdown of trade unions and the liquidation of all religious and moral influences. They saw a state within its own boundaries, but was preparatory

to the civilizational great sectors of the conquered populations refused the ordinary protections which they enslaved the populations. The feeling of outrage grew in this country, and it became more and more felt that these were against the whole set of civilized nations by a band of brigands who had seized the instrument of law. In this law, we cannot believe that those instincts of our people were right instincts that they should guide us as the fundamental tests of criminality. We have been regarded as having done the time of Cain and have done so written in every civilized code.

In arranging these trials we must also bear in mind the aspirations with which our people have entered the world war. After expended our men and our wealth to stamp out these wrongs, it was the universal feeling of our people that out of this war should come unmistakable rules and workable machinery from which any who might contemplate another era of brigandage would know that they would be held personally responsible and would be personally punished.

Our people have been waiting for these trials in the spirit of Woodrow Wilson, who has given to international law the gift of vitality which it can only have through real expression of our moral judgment of the rest of the world.

Charges Against Top Nazis

Against this background it may be useful to restate in more technical lawyer's terms the legal charges against the top Nazi leaders and those voluntary associations and those voluntary associations which clustered about them and were ever the prime instrumentalities, first, in capturing the German State, and then, in directing the German State to its spoliation against the rest of the world.

(A) Crimes and offenses against persons or property constituting violations of international law, including the laws, rules and customs of land and naval warfare. The rules of warfare are well established and generally accepted by the nations. The offenses of such conduct as killing of the wounded, refusal of war, firing on undefended localities, poisoning of wells and streams, pillage and wanton destruction, and ill treatment of inhabitants in the occupied territory.

(B) Atrocities and offenses, including atrocities and offenses on racial or religious grounds, committed since 1933. This is only to recognize the principles of criminal law which are generally observed in civilized states. These principles have been assimilated as a part of international law at least since 1907. The fourth Hague Convention provided that inhabitants and belligerents shall remain under the protection and the rule of the law of nations, as they result from the usage established among civilized peoples, from the laws of hu-

manity. International law is more than a scholarly collection of abstract principles. It is the product of an outgrowth of treaties or agreements between nations and of accepted customs. But every custom and every agreement has to be initiated by the action of some State. Unless we are prepared to accept the principle of growth for international law, we cannot deny that our own day has its right to institute customs and to conclude agreements that will themselves become sources of newer and strengthened international law. Law is not capable of development by the action of international law. Law is not capable of development by the action of international law. Law is not capable of development by the action of international law.

There is no continuously sitting international legislature. Innovative revisions in international law are brought about by the action of governments designed to meet a change in circumstances. It grows, as did the common law, as did the decisions reached from time to time in adapting settled principles to new situations. Hence I am not disturbed by the inquiry we propose to conduct.

I after the shock to civilization of the last World War, however, a marked reversion to the earlier and sounder doctrines of international law took place. By the war was thorough established, launching an aggressive war or the institution of a war by treaty was illegal and that the defense of such a war was no longer available to those who engaged in such an enterprise. It is high time that we act on the principle that aggressive war-making is illegal and criminal.

War That Is Justifiable

The re-establishment of the principle of justifiable war is traceable in many steps. One of the most significant is the Briand-Kellogg Pact of 1928, by which Germany, Italy and Japan, in common with ourselves and practically all the nations of the world, renounced war as an instrument of national policy, bound themselves to seek the settlement of disputes only by peaceful means, and condemned recourse to war for the solution of international controversies.

Unless this pact altered the legal status of wars of aggression, it has no meaning at all and comes close to being an act of deception. In 1933 Mr. Stimson, as Secretary of State, gave voice to the American concept of its effect. He said: "War between nations was renounced by the signature of the Briand-Kellogg Treaty. This means that it has become illegal throughout practically the entire world. It is no longer to be the source and subject of international law, or be the principle upon which the rights of nations revolve. It is an illegal thing. . . . By that very act we have made obsolete many of the legal precedents and have given the legal profession the task of re-examining many of its codes in a series of acts which have been enacted since that time. This pact constitutes only one

of the world have been stable of the impact of world war on the billions of countless millions. Such occasions rarely come and quickly pass. We are put under a heavy responsibility to see that our period will direct a firm and thoughtful toward a world's thought of the laws of international conduct, so as to make war less attractive to those who have governments at their destinies of peoples in their power.

I have left until last the first question which you and the American people are asking: when can this trial start and how long will it take? I should be glad to answer if my answer would be foolhardy to name dates. I would be glad to name dates if other agencies, inability to fix definite dates, however, would not excuse failure to state my attitude toward the time and duration of trial.

I know that the public has a deep sense of urgency about these facts. Because I, too, feel a sense of urgency I have proceeded with the preparation of the American case before completion of the diplomatic exchanges concerning the tribunal to hear it and the agreement under which we are to work.

We must now sift and compress within a workable scope voluminous evidence relating to a mul-

tiplicity of national policy, bound themselves to seek the settlement of disputes only by peaceful means, and condemned recourse to war for the solution of international controversies.

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13-MILE GAIN MADE IN CAGAYAN THRUST

Americans on Luzon Pushing Toward Rich Valley Capture Bambang—13 Ships Sunk

By LINDESAY PARROTT
By Wireless to The New York Times
MANILA, Friday, June 8.—Troops of the Thirty-seventh Division pushing up Highway 150 into the rich Cagayan Valley in northern Luzon reached the flatlands of the Santa Ana mountains, first possible airfield site north of the rugged mountains around Baleta Pass. The division's forward elements on Wednesday took Bambang town and pressed three miles beyond in a total advance of thirteen miles from previously reported positions around the village of Artao.

The advance was made after the Cagayan Valley had been pounded on Tuesday by nearly 300 bombers and fighters, and resistance was reported light though the Japanese are known to have their largest remaining concentration of troops in the Philippines somewhere between the Cagayan Valley and Aparri at the northern tip of Luzon.

The thrust north from Artao puts the Americans close to a strategic crossing from the west to the east bank of the San Fe River and within seven miles of the town of Bambang, where the enemy planned or partly constructed an airstrip supplementing the air base at Bagbag, about forty miles distant. Possession of these strips might be expected to give the Americans forward bases from which to strike Japanese positions in the main valley, eliminating the trying flight over the mountains.

In the air war of the Fifth and Thirtieth Air Forces and control bombers of the Seventh Fleet sunk or severely damaged a total of thirteen enemy ships ranging from Formosa to Shanghai, French Indo-China and Borneo. Fifth Air Force Liberators despite heavy weather struck Taito on the east coast of Formosa, starting large fires, while fighters strafed the airstrip.

An announcement from the Fifth Air Force recapitulating activities over Formosa during May stressed that fighter operation over the island has now become one of the largest scale operations in the southwest Pacific area. Exclusive of bomber attacks, fighters flying the Marathon run of 800 miles round trip made more than 600 sorties over Formosa during the month claimed to have caused more than 3,000 enemy casualties.

Credited to the fighters' fire-bombs was the destruction of forty-eight locomotives along Formosa's rail lines, total destruction of one factory, one radio station and a dozen oil storage tanks. Elimination of nearly fifty enemy airfields on Formosa also is credited to the fighters.

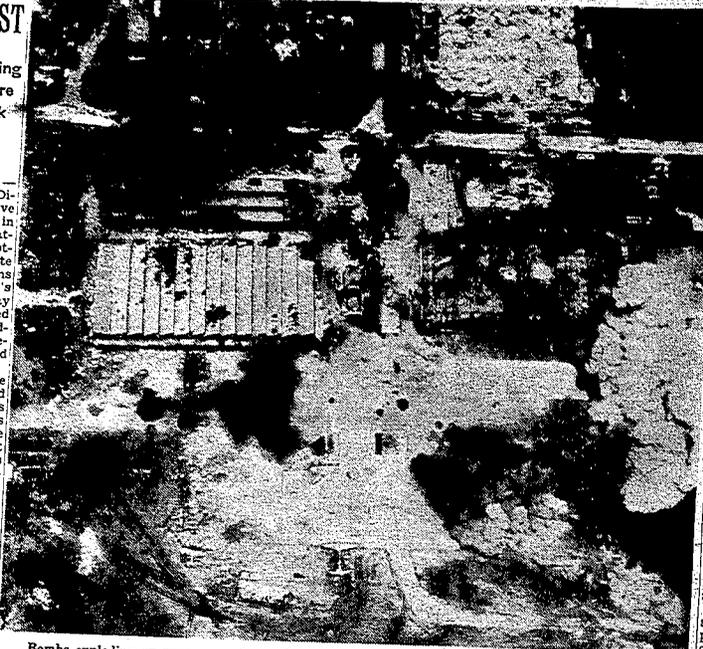
Over the Asiatic coast bombers wrecked five cargo vessels west of Hainan, sank a Japanese freighter off Shanghai, Borneo airfields were again pounded with 200-ton bombs and anti-aircrafts, two freighters were sunk offshore and a Japanese barge in the river mouth at Banjarmasin.

JAPAN'S PERILS SPUR LONG CABINET PARLEY

SAN FRANCISCO, June 7 (AP)—Premier Kantaro Suzuki and his Cabinet held an extraordinary five-hour session today as military reverses, the threat of hunger in the home islands and political confusions hinted that another shuffling of the government might be near.

Suzuki first conferred with Gen. Jiro Minami, president of the new totalitarian party, then went to report to the Emperor on political matters, the Tokyo radio said in a broadcast heard by the Federal

JAPANESE AIRFIELD UNDER ATTACK BY NAVY PLANES



Bombs exploding on runways and near hangars of a base on Kyushu from where the enemy sent out aircraft to operate against our fleet units at Okinawa.

MARINES AT COAST BELOW NAHA FIELD

Continued From Page 1

far the toughest the Seventh Division has encountered since it began its big drive from the Yonabaru area on May 22. Front-line soldiers reported that the machine-guns were perfectly placed so as to cover every narrow dirt road.

The gable-high cement walls, erected originally to protect the native houses from typhoon damage, gave perfect cover to snipers as well as to the machine-gunners. The Seventh had to fight its way literally yard by yard.

The battle went on all day yesterday and from dawn until 3 P. M. today, when Gushian finally was secured. Then Lieutenant McCracken's company struck south and managed to get a foothold on one of the high pine covered ridges near the eastern shore but was not able to win control of this ridge overnight. Possession of this ridge would give us observation clear down to the southern tip of the island; nearly four miles away.

Carrier Planes Supply Troops WITH ADMIRAL HALSEY'S THIRD FLEET, in the Western Pacific, June 7 (AP)—Mud-belted American troops on Okinawa were supplied yesterday with food, ammunition and medicine by Avenger torpedo bombers from United States Third Fleet carriers. The planes supplied were believed to be small groups isolated from main forces by the ebbs and flows of war, and were not indicative of any crisis in the supply problem or breakdown of the aerial pack train from land bases.

Conquest in a Week Predicted NAHA, Okinawa, June 6 (Delayed) (AP)—The major part of the Okinawa campaign may be ended within less than a week, although low cross which undoubtedly continues "Roger."

Six in a Boat Scout Enemy Defenses In 'Last Ditch' Southern Okinawa

Press 'Flagship' Passengers See Rugged Hills Dotted With Caves, Ideal for Defense, on Risky Voyage on Sunlit Sea

By W. H. LAWRENCE
By Wireless to The New York Times

ABOARD U. S. S. NEVER RUN, Below the Japanese Lines off Southern Okinawa, June 6 (Delayed)—You have often heard about reconnaissance in force, but this is a story of reconnaissance in weakness by four men—two naval staff officers and two newspaper correspondents—who sallied forth in a small boat to survey the potential defenses on the shrinking part of southern Okinawa the Japanese still hold.

It all started out with desire to be the first newspaper men who had rounded the southern tip of Okinawa. We were in easy range of whatever guns the doomed enemy may have pulled back with him in his retreat from the Naha-Shuri-Yonabaru line. But before the day was over we had been in behind the enemy's lines. It was that the war on this island is far from over—that the rugged, pine-covered hill mass, honeycombed with caves from Itoyan to Gushian affords the enemy an ideal defensive position from which he may be able to inflict heavy casualties.

In this amphibious scouting party were Al Dopking of the Associated Press and your correspondent, who took along Lieut. Rodney Sutton of Cleveland, Ohio, and Newport, R. I. Lieutenant reference for them. Lieut. Matthews of San Francisco went along to tell us what we could and what we could not see. Our craft was an LCPV named the "U. S. S. Never Run," which is known as the flagship of the Okinawa press fleet because of its red banner on which there is the yellow cross which stands for "Roger."

Enemy Activity Spotted If this line collapses with more speed and at less cost to our

AID FOR PHILIPPINES ASKED BY TYDINGS

Loans, Liberal Tariff, Gift of \$100 Million for Rebuilding Proposed to Senate

Special to The New York Times
WASHINGTON, June 7.—Senator Frank F. Tydings, Democrat of Maryland, who recently headed the Philippine Rehabilitation bill to the Senate today a report of terrible devastation and grave need in Manila and elsewhere in the islands. He recommended aid in the form of loans, a liberal tariff policy and an outright gift of \$100,000,000 for reconstruction and rehabilitation under the supervision of Army and Navy engineers.

He raised Filipino loyalty and urged that no change be made in our policy providing for independence for the islands by July 4, 1946. The Senator said that although the food, shelter, transportation and monetary conditions were critical, not much could be done at the present time because of the war and the principal task was to end it at the earliest possible moment. Anything that prolonged the struggle, he said, "means that our real task is to help stricken countries, particularly the Philippines, is correspondingly curtailed. It means that our own economy is weakened and our natural resources are further exhausted."

Thereafter, he said, immediate aid must be within the limits imposed upon us by our present and coming military operations. "Much has been done," he declared, "and what will be done to alleviate the worst aspects of their distress even in spite of tremendous military demands, but our real program of helplessness must, to a large extent, wait until conditions permit it.

In the meantime, the Filipino Government's national, provincial and municipal is faced with difficult problems. Their ability to obtain revenues has been seriously impaired. I recommend to the Congress and to the administration that if need be, we make such loans as necessary to carry it through this difficult period—say the first three years—and to supplement their diminished revenues."

Senator Tydings urged the United States not to depart from its traditional attitude toward war damages, apart from insurance. He said that so far as he could ascertain this Government has never paid war damages to its own citizens.

"On the other hand," he added, "we would be heartless and unappreciative nation if we did not recognize the dire straits of the Filipino people as a result of the fighting with the Japanese. I therefore respectfully suggest to the Congress that we make a gift of \$100,000,000 for the rehabilitation and reconstruction of the Philippines; this sum to be expended by our Army and Navy in accordance with a program to be worked out by the Congress."

Discussing trade relations, he recommended as a basis of consideration that Government set up a trade relationship with the Philippine nation "which will be flexible enough to inform all contingencies of what our policy is going to be now and in the future."

He suggested a continuing outbreak status which existed at the outbreak of the war for four or five more years.

Franklin Roosevelt Jr. Ends 78 Days in Battle

By The United Press
GUAM, June 7.—Lieut. Comdr. Franklin D. Roosevelt Jr., third son of the late President, arrived at Guam aboard a destroyer escort today en route to Washington, where he will become an instructor at the Navy War College.

Commander Roosevelt participated in three consecutive landings on Luzon, two islands and Okinawa, and has just finished seventy-eight straight days of operations off Okinawa. His ship is credited with having shot down four enemy planes and having rescued six American fliers in that campaign.

His only reaction to war after four years of active duty: "An awful lot of boys out here would like to go home."

700 U-BOATS SUNK IN ATLANTIC WAR

Truman and Churchill Close Record of Sea Strife by Paying Tribute to Allied Fleet

Special to The New York Times
WASHINGTON, June 7.—More than 700 German submarines were destroyed by the Allies during the "long and relentless" struggle to keep the Atlantic lifelines open, President Truman and Prime Minister Churchill revealed tonight in official writing, "Finis" to the Battle of the Atlantic.

In their final joint statement on the U-boat war the President and the Prime Minister reported that the Allies have finished the job which "German U-boats have ceased to operate and are now proceeding under Allied orders."

They hailed the courage and scientific skill that enabled us to keep ahead in the U-boat war which several times gravely menaced the lifelines to Britain. Naval authorities have V-E Day have acknowledged that the Germans came perilously close to victory in the Battle of the Atlantic.

Naval sources have indicated that, though the Battle of the Atlantic is ended and the sea lanes over which our returning soldiers must travel are safe again, there still may be some "foot-keeping" to balance. There are a few U-boats that still have not been listed as sunk, scuttled or captured. It is possible, however, that these few may have been among the U-boats that were sent to the bottom without definite proof of sinking.

One thing is certain—if any U-boats not on the surface and not displaying the surrender flag are encountered by remaining Allied patrols, they will be sunk on sight. Also, in the extremely unlikely event that a few U-boats should attempt to operate in vengeance against Allied shipping, their crews will face the penalty for piracy—death—if captured.

Convoy Losses Put at 1 in 1,000 WASHINGTON, June 7 (AP)—The Navy announced today that less than one out of every 1,000 ships conveyed by it was lost to submarines in the Battle of the Atlantic.

STILWELL CONFERS WITH M'ARTHUR

Visit of Ground Forces' Chief to Manila Is Linked to Land Blow Against Japan

MANILA, June 7 (AP)—Gen. Joseph W. Stilwell, Commander in Chief of all United States Army Ground Forces, has visited Gen. Douglas MacArthur and his staff, it was announced today.

There was no statement of the purpose or results of the visit of General Stilwell, the "Vinegar Joe" who, as United States Commander in Chief in the China-Burma-India Theatre, was formerly Chief of Staff to Generalissimo Chiang Kai-shek.

But the importance of the conference was obvious from the fact that in his new post at Washington General Stilwell is chief of all the millions of Army ground troops now being redeployed to the Pacific.

General Stilwell's visit had come at a moment when Japanese resistance was cracking on Okinawa after a bloody campaign of more than two months, when steadily growing Superfortress fleets were destroying Japan's war industry, when the Chinese Army was on the offensive and when General MacArthur was reaching the last phase of his campaign to free the Philippines.

On Luzon American troops were driving in Cagayan Valley against Japanese troops harassed by powerful guerrilla forces operating all the way to the north coast.

On Mindanao in the south, the Japanese had been split into several isolated groups and the probability of liquidating them was simple one, even though fighting was expected to continue for months.

There was little doubt that the primary subjects of the conference were the Japanese and the American ground forces.



Richard H. Ford

BEVAN MOCKS LADY ASTOR

Calls Her 'Old Gas Bag' and She Replies 'Oh, Dear'

LONDON, June 7 (AP)—Aneurin Bevan, the former butcher boy and Welsh coal miner who became Laborite Member of Parliament called Viscountess Astor "an old gas bag" today in the House of Commons.

"Oh, dear," the noble lady retorted, "I am a noble lady, not a Virginia, and Plymouth replied Mr. Bevan was protesting that Parliament had not sanctioned any sides to encourage home-birds when Lady Astor made an audacious comment.

"Stupidly," the Labor benches cried, "Lady Astor, 65 years old and a staunch Conservative, jumped to her feet and appealed to the presiding officer: 'Why does Mr. Bevan expect complete silence when he repeats himself a hundred times?'"

Mr. Bevan retorted: "It really is intolerable when this old gas bag gets up and gabbles away."



Normalizing DuBarry Lipsticks, 31 each. (all prices plus tax)

THE GREATEST SPORTING GOODS STORE IN THE WORLD



THE GREATEST SPORTING GOODS STORE IN THE WORLD

Elimination of nearly sixty enemy airfields on Formosa also is credited to the fighters.

Over the Asiatic coast bombers wrecked five cargo vessels west of Hainan, sank a 4,000-ton freighter off Shanghai. Borneo airfields were again pounded with 225-ton bombs and rocket projectiles, two freighters were sunk offshore and a third left burning in the river mouth at Banjarmasin.

JAPAN'S PERILS SPUR LONG CABINET PARLEY

SAN FRANCISCO, June 7 (AP)—Ptiemeri Kantaro Suzuki and his Cabinet held an extraordinary five-hour session today as military reverses, the threat of hunger in the home islands and political conferences hinted that another shuffling of the government might be near.

Suzuki first conferred with Gen. Jiro Nishimura, president of the new totalitarian party, and then went to report to the Emperor on political matters, the Tokyo radio said in a broadcast heard by the Federal Communications Commission.

The fact that the Premier saw fit to talk things over first with Nishimura pointed up the increasingly important part that the totalitarian organization is playing in Japanese affairs.

The Tokyo radio gave no hint as to the purpose of the Cabinet session except that it discussed "the various problems of the day."

A series of other Japanese broadcasts showed that these problems were many and pressing.

The army urged Japan's 100,000,000 people to make a suicidal stand against any American invasion with hand grenades and death-dying "bodily attacks against tanks" thus "defending the empire to the last breath."

Already, said the agency, regional rice shortages had developed, and the government was trying to make each area self-sufficient by intensifying the use of potatoes and other "wild vegetation," including dried grass.

In event of invasion, Domei said, "serious shortages" of food would develop in the great city areas of Tokyo, Osaka, Yokohama and Kobe.

The Tokyo newspaper Yomiuri Hoshi expressed concern over American propaganda leaflets being dropped over the home islands, saying such tactics "gained considerable success" against Germany.

TRUMAN RECEIVES KUNG
Special to The New York Times.
WASHINGTON, June 7—President Truman today received Dr. H. H. Kung, close adviser and brother in law of Generalissimo Chiang Kai-shek, who suggested that Mr. Truman arrange a meeting with the Generalissimo "some time in the future" to discuss the war in the Pacific and the future peace. President Truman's views on the suggestion were not disclosed.

Mexico Strikers Get Rise
Special to The New York Times.
MEXICO CITY, June 7—President Manuel Avila Camacho granted a 22 per cent wage increase today to 70,000 textile workers who struck Monday. The workers are expected to return to their factories next week.

Carrier Planes Supply Troops
WITH ADMIRAL HALSEY'S THIRD FLEET, in the Western Pacific, June 7 (AP)—Mid-battle-gauged American troops on Okinawa were supplied yesterday with food, ammunition and medicine by Avenger torpedo bombers from United States Third Fleet carriers.

Troops thus supplied were believed to be some groups isolated from main forces by the ebb and flow of war, and were not indicative of any crisis in the supply problem or breakdown of the aerial pack train from land bases.

Conquest in a Week Predicted
NAHA, Okinawa, June 6 (Delayed)—The major part of the Okinawa campaign may be ended within less than a week, although fighting will undoubtedly continue after that, Maj. Gen. Roy Geiger of the Marine Third Amphibious Corps said today.

Suicide Planes "Checked"
Two correspondents of the Japanese Domei agency indicated their belief that Japanese forces were losing their hold on Okinawa because Japanese suicide planes had been "checked" from getting to their targets by the "effective" American use of "rocket ships and planes."

The Domei correspondents, whose dispatch was recorded by the Federal Communications Commission, did not expand on their statement that rocket ships and planes had been effectively used to block attacks by Japanese suicide pilots.

They reported a great increase in the number of American land-based and carrier-based planes in the Okinawa area and the landing of reinforcements on Nakagusuku Bay and then declared:

Commenting on the course of the battle on Okinawa, the Tokyo Asahi warned in their statement that "the situation has become so tense and grave that it is high time every bit of the nation's war strength be thrown into this single battle of decision regardless of the sacrifices involved."

JAPAN MOVING PRISON
Shanghai Camp for Americans to Be Shifted to North
Special to The New York Times.
WASHINGTON, June 7—The prison camp in Shanghai in which 428 American service men are officially reported held by Japan is being moved to an undisclosed site in North China, the American Red Cross reported today. It is believed that the new site may be near Hotein, Manchuria, where other Americans are held.

Hans Jost, delegate of the International Red Cross Committee, visited civilian assembly centers in Shanghai within the past thirty days. He discussed camp conditions with interned representatives and Japanese officials, and he said that he had found buildings and installations in good condition and the state of health "quite good." Only one American is held there now, he said.

One torpedo uses the tin recovered from 28,000 tin cans. Help sink the Japanese Navy. Tin can collections from curb Wednesdays.

land rounded the southern tip of Okinawa. We were in easy range of whatever guns the doomed enemy may have pulled back with him in his retreat from the Naha-Shuri-Yonabaru line. But before the day was over we had been in close enough and far enough behind the enemy's lines to realize that the war on this island is far from over—that the rugged, pine-covered hill mass home-combed with caves from Itoyan to Gushichan affords the enemy an ideal defense position from which he may be able to inflict heavy casualties.

In this amphibious scouting party were Al Dopping of The Associated Press and your correspondent, who took along Lieut. Rodney Sutton of Cleveland, Ohio, and Newport, R. I., to run interference for them. Lieut. Grant Matthews of San Francisco went along to see what we could do and what we could not see.

Our craft was an LCVF named the "U. S. S. Never Run," which is known as the flagship of the Okinawa press fleet because of its red banner on which there is the yellow cross which stands for "Roger."

Armed With Rifles and Revolvers
Members of the crews were Coxswain Richard L. Atkins of Dallas, Tex., and Motorman Third Class Donald Bradshaw of Casper, Wyo.

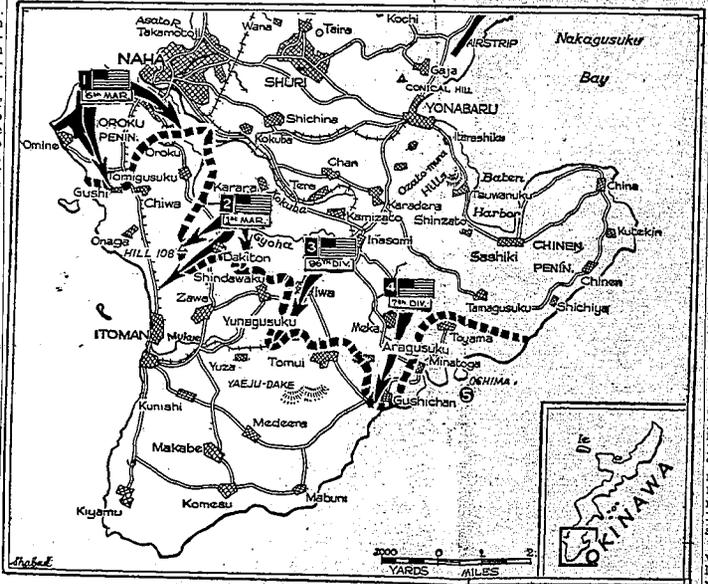
The total armament of this wooden ship which went out to test the Japanese defenses were two forty-five caliber revolvers and three thirty caliber carbines.

Under a bright sun the small boat moved from Vice Admiral Harry Elli's flagship south along the coast past blasted Naha to the Oruku Peninsula, where the sixth shot down.

Enemy Activity Spotted
If this line collapses with more speed and at least closer than the Naha-Shuri-Yonabaru line it will be due almost entirely to the shortage of first-class enemy front line troops. Air spotters above reported considerable enemy activity in the likely strong points of the line.

Just off Itoyan we swung out into the East China Sea and came alongside a small destroyer, obviously a veteran of war in both the European and Pacific theaters, for its superstructure was decorated with one Nazi swastika signifying one German submarine sunk and nine emblems of the rising sun, one for each of nine Japanese planes shot down.

ENEMY'S AREA ON OKINAWA IS FURTHER COMPRESSED



Oroku Peninsula was cleared by marines who reached Gushi and smashed forward 200 yards on their left flank (1). Other marine units took Hill 108, west of Dakiton; sent advance elements to the east Gushichan has been captured (4) and American units have landed on O Island (5).

Speedy marine torpedo bombers went into power dives to fling their rockets at indicated enemy pillboxes and strongholds. We could see dirt flung up by the huge enemy mortar shells, which weigh about 700 pounds.

Several submarines were seen. Naha we came at last to what we had started out to see, and it was indeed impressive. Sometimes close to sea so we could get the best possible view through powerful glasses.

We looked out over a series of commanding ridges beginning with "Last Ditch Hill," western anchor of what may be the new line near Itoyan through the Yaeju Dake hill mass in the center to the sharp, craggy ridges near Gushichan. Wherever there was a break in the thick clusters of scrub pines we could see a cave or retirement ideal for the kind of warfare the Japanese want to wage for the rest of this campaign.

Crown Princess Back in Rome
By Wireless to The New York Times.
ROME, June 7—The Crown Princess Maria José returned to Rome today for the first time since July, 1943. She had been staying for a week or so at the Racconigi castle, near Turin.

Crown Prince Humbert was at the airport to meet her when she landed at midday today in an Allied plane, and the couple immediately drove to the Royal Palace. Their children still are in Switzerland.

U-boats not on the surface and not displaying the surrender flag are encouraged by remaining Allied patrols, they will be sunk on sight. Also in the extremely unlikely position that any "pirate" U-boats should be seen, a program to be announced "Against Allied shipping" their crews will face the penalty for piracy—death—if captured.

Convoy Losses Put at 1 in 1,000
WASHINGTON, June 7 (AP)—The Navy announced today that less than one out of every 1,000 ships convoyed by it was lost to submarines in the Battle of the Atlantic.

The count of convoy losses to U-boats from Dec. 7, 1941, to May 30, 1945, was seventeen merchant ships sunk and fifteen damaged out of 17,707 that sailed under the protection of the United States Atlantic Fleet. This does not take account of hundreds of unescorted vessels that fell victims to submarines.

American naval losses to German submarines in the 1941-45 period were reported as seven vessels sunk and six damaged, the biggest being the escort carrier Black Island, whose loss was announced June 5, 1944.

Bronx Taxi Driver Hero
Daniel Lenge in Pacific Battles More Than Three Years
By Wireless to The New York Times.
OKINAWA, June 6 (Delayed)—Pfc. Daniel Lenge, a 46-year-old five-foot-three-inch taxicab driver from the Bronx, who has been carrying mortar ammunition for the Seventy-seventh Infantry Division during three years of Pacific warfare, like a "savior," he thinks will be the envy of all the men around the backstands at Eighty-sixth Street and Broadway after the war.

His souvenir is a steel helmet with a big jagged hole in the top of it. Private Lenge is deeply attached to the helmet, though it is useless for future wear, because it saved him from death when an enemy artillery shell burst nearby recently.

Private Lenge, whose home is at 3829 Carpenter Avenue, is the oldest and one of the best soldiers in the Seventy-seventh, to which he has belonged since it was activated in March, 1942. He wears the Bronze Star for heroism on Leyte, the Purple Heart with oak leaf cluster, the combat infantryman's badge and a number of battle stars and campaign ribbons.

MILITARY MONEY IS USED
Special to The New York Times.
WASHINGTON, June 7—United States service men are using a supplemental military currency in the invasion of Okinawa and other islands of the Ryukyu group, the Treasury, War and Navy Departments report today. This currency has been issued in denominations of 10 and 50 sen and 1, 5, 10, 20 and 100 yen. There are 100 sen to the yen.

The notes bear on their face the words, "Military currency" in English and in Japanese and will supplement, not replace, the local currency, it was announced.

No general rate of exchange between the yen and the dollar has been established. For the pay of troops and military accounting purposes, however, a provisional basis of 1 yen to 10 cents is being used.

the face powder used in the Success Course...
Richard Hudnut
Reminiscing Dubarry Lipsticks, \$1 each. (all prices plus tax)

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In our wealth of merchandise for sports minded men and women, there are many suggestions for new, unusual and interesting prizes for your tournaments.

SPORTING SERVING TRAY \$13.50
Handsome walnut serving tray with colored wooden inlay of assorted sporting subjects.

CALLA LILY CRYSTAL PITCHER . . . \$12.00
Large capacity (46 oz.) with wide pouring lip for beverages. Fine clear crystal, bamboo wrapped handle.

SPORTING CIGARETTE BOX \$15.00
Covered with fine leather, gold-tooled. Inlaid tile top with sporting subjects, hand-painted in color.

ENGLISH ANEROID BAROMETER, \$30.00
Bulkhead type. Indicates slight variation in atmospheric pressure. Compensated for temperature. Polished brass case with 3-inch dial.

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MADISON AVENUE at 69th STREET, NEW YORK 17, N. Y.



000792

JUN 7

Secretary Morgenthau

Miss Hodel

I am sure you will be interested to know that the War Department recently indicated great interest in the War Refugee Board files as a possible source of information and evidence for use in connection with the Department's work with the War Crimes Commission. Certain reports and records in our files were turned over to Colonel Bernays who is working with Justice Jackson on this matter. He was so pleased with the material furnished him that he arranged for two of his men to go through all of our records. We have assigned one of our men to work closely with the War Department on this matter. In addition, we have instructed Mr. McClelland in Bern to make available any files he has to the local representative of General Donovan.

(Signed) Florence Hodel

FH:hd 6/7/45

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000794

DEPARTMENT OF STATE

OUTGOING TELEGRAM

DIVISION OF CENTRAL SERVICES TELEGRAPH SECTION

1945 JUN 9 PM 1 24

*War Dept Bd
(or Deinger)*

AMLEGATION

DC/L
LIAISON

BERN
1980

CONTROL COPY

The following for McClelland is WRB 582.

A representative of General Donovan will contact you shortly concerning war crimes matters. Please make available to him any of your files which he may wish to investigate.

GREW
(ACTING)
(GHW)

For security reasons the text of this message must be closely guarded.

WRB:MEVance:kg
6/7/45

ME

DECLASSIFIED
State Dept. Letter, 1-11-78
By R. H. Parks Date **SEP 8 1972**

000795

CABLE TO AMLEGATION, BERN, FOR MUCLELLAND FROM WAR REFUGEE BOARD

A representative of General Donovan will contact you shortly concerning war crimes matters. Please make available to him any of your files which he may wish to investigate.

THIS IS WRB BERN CABLE NO. 532

2:30 p.m.
June 6, 1945

(Miss Ripple (for the Sec'y), Conn, Hodel, Hutchison, McCormack, Files..

HH

FH:hd 6/6/45

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000797

Post War Punishment

The Nationalist Line:

Who in U. S. A. Screams For Mercy for Germany?

Goebbels' Anti-Semitism Widely Used In Nationalist Press

(In a series of three articles beginning in the last Week-end Edition, PM described the new mask of the pro-fascist movement in America—the "Nationalist" crusade. Beginning in this issue, we'll give you a regular round-up of current Nationalist activities and an analysis of the Nationalist line, as reflected in the Nationalist press.)

By TOM O'CONNOR

Now that the trials of Nazi war criminals are approaching, screams for mercy are rending the air. It is revelatory to see where the mercy pleas are coming from.

The entire press of the Nationalist movement, from the titanic New York Daily News down through Gerald L. K. Smith's fancy book-paper monthly, *The Cross and the Flag*, to the tiniest mimeographed rags of the pipsqueak fuhrers, is urging the application of loving-kindness to the defeated Germans.

For example, John O'Donnell, the *Daily News* columnist who has the distinction of having his words reprinted in more Jew-baiting papers than any other American writer, used his well-worn "mail bag" technique to get the point across in his most recent column, that of June 1.

O'Donnell's thesis is that the atrocity stories were trumped up propaganda, and besides there are always atrocities in war.



Smith

'Just as Stupid'

So he runs what purports to be a letter from a reader, signed "Virginia Confederate," who says the Northern soldiers were guilty of atrocities, and from that points the moral: "You Yankees are just as stupid today when you talk about hanging the generals and admirals of a defeated enemy as your grandfathers were three-quarters of a century ago."

O'Donnell, an immensely clever fellow, does not put into so many words the obvious inference—that the atrocities of Buchenwald and Majdanek were merely acts of war. Gerald L. K. Smith, who dotes on O'Donnell, is less reticent. His plea for mercy for German war criminals is couched in the familiar Goebbelsian this-was-the-Jews'-war-anyhow terms. In the May issue of *The Cross and the Flag* Smith writes:

"If Jewish leadership insists on annihilating and enslaving all people of German blood, regardless of their innocence or their guilt, they will likely bring down on their heads a reaction even worse than that through which they have just passed."

Smith then notes that Bernard Baruch, his brother, Herman Baruch, and Isador Lubin and Samuel Rosenman have all been recently in Europe to deal with problems connected with the peace.

"These Jews are only typical of the ones who are being named to positions of great power in the postwar set-up in Europe. . . . It must be remembered that Christ did not overcome the world by imitating Satan."

Smith, of course, talks about "annihilating and enslaving of all people of German blood, regardless of their innocence or guilt," so that he may seem not to be objecting to punishment of "real" war criminals.

Down the Line

W. D. Herrstrom, the editor and publisher of a Fundamentalist sheet in Minneapolis called *Bible News Flashes*, goes right down the *Daily News* line on atrocities.

"The trouble with atrocity stories," he says on the front page of his May issue, "is that most of them were written before the war began and their release is synchronized with money-raising projects and specific political maneuvers."

Mrs. Dilling

In the same issue Herrstrom defends two defendants in the Washington seditious conspiracy trials—Elizabeth Dilling and Gerald B. Winrod, notorious Jew-baiters accused by the Dept. of Justice of conspiracy with the leaders of Nazi Germany to foment disaffection among the armed forces.

A Sample

For a sample of his thinking, which is typical of the Fundamentalist school of pro-fascists, take this:

"Dumbarton Oaks, Bretton Woods and the San Francisco conference are all pointing toward the coming world super-government, which will be headed by the BEAST of prophecy and which will enslave the world to the antichrist."

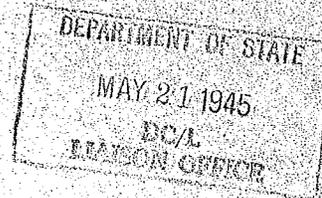
Catholics of the type once called "Coughlinite" are equally ardent in rushing to the defense of Germany. For instance, the May issue of the *Malist*, published in Meriden, Conn., "by Catholic laymen devoted to St. Jude," reprints a speech by Rhys Davies, the British M. P. recently denied a visa to come spread his pacifist views on a lecture tour in this country.

"Punish the war criminals" is a favorite slogan right now," says Davies, as quoted in the *Malist*. "Who are the criminals? In Germany, of course, the war criminals are all in this country. . . . As the nation's war spirit droops, government manufacturers, ~~heads~~, atrocities and slogans . . ."



000799

May 19, 1945



AMEMBASSY

LONDON

3985, Nineteenth

Please request Mann deliver the following message (NRJ 76)
to Dr. Noah Barou, 55 New Cavendish Street, London, from
Dr. Kubowitzki of World Jewish Congress:

NOTE View surrender German southern army, Dr. Riegner
directs our attention to following persons who were instrumental
in persecution of Jews in Hungary, and have retreated to Salzburg
region: 1. Laszlo Andre, Commissioner for Jewish Affairs;
2. Laszlo Baki, Undersecretary for Internal Affairs; 3. Laszlo
Ferenczy, Oberstlieutenant der Gendarmerie; 4. Medgyessy, Attorney;
5. Peter Heim, Chief, Hungarian Gestapo; 6. Gyorgy Olah, Chief
Hungarian press; 7. Ferencz Rajnics, Minister Public Instruction;
8. Istvan Pilotay, Chief Editor UJ Magyarasag; 9. Ferencs Vajta;
10. Ferencs Kiss, head Chamber of Actors; 11. Dome Stojay, former
Prime Minister; 12. Andor Jaross, Minister of Internal Affairs;
13. Mihaly Kolozsvari-Borcsa, head Institute Jewish questions;
14. Gyorgy Takacs, secretary to Commissioner of Jewish Affairs;
15. Lajos Dovenyi-Nagy; 16. Anton Kunder, Minister of Commerce.
Kindly advise War Crimes Commission military authorities view

treatment as war criminals.

W.S.:m.v:kg
5/19/45

UN BOTE

GREW

AC/ELG
GLW

LC

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000200

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000201

CROSS REFERENCE ON POST WAR PUNISHMENT OF AXIS WAR
CRIMES

FOR:

Amendment to this License

Extension of this License

Renewal of this License

Correspondence concerning this application

Other (Specify)

1. FOR WORLD JEWISH CONGRESS LETTER OF MAY 15, 1944, ENCLOSED AN ISSUE OF THE CZECHOSLOVAK GOVERNMENT PRESS BULLETIN OF MAY 9th WHICH BRINGS A SUMMARY OF A CZECHOSLOVAK GOVERNMENT BROADCAST ON THE PUNISHMENT OF CRIMINALS OF WAR.

SEE: 1. COOPERATION WITH OTHER GOVERNMENTS; UNITED NATIONS (CZECHOSLOVAK GOVERNMENT IN EXILE)

000802



6

000003

VIM

That the Guilty Shall Not Escape

LONDON (By Wireless).

ALL war necessarily involves slaughter, suffering and destruction, yet nations may have to defend themselves and their existence and freedom. The British had, five years ago, to face the danger of invasion, defeat and slavery. All these things were threatened by the Germans. They were treacherous aggressors and they are as a nation chargeable with war guilt.

But the war crimes which people are discussing now belong to a different chapter from that of such war guilt. They are atrocities which go beyond the killing, suffering and destruction which are inevitably connected with all war. They have been the special features of the present war. They have been marked by deliberate planning, sometimes in order to strike terror into the invaded countries, sometimes in order to exterminate whole races like the Jews, sometimes to extract information from prisoners by almost unbelievable methods of ingeniously planned torture.

Early in this century great efforts were being made to humanize as far as possible the inevitable horrors of war. Various international conventions met and deliberated and published rules and regulations which were acceded to by almost every nation, including Germany. In particular, there was The Hague Convention of warfare on land which set out a code of rules and declared that the inhabitants and belligerents were to remain under the protection and governance of the principles of

A far-reaching plan has been devised to find and bring war criminals to justice.

By LORD WRIGHT

Chairman, United Nations War Crimes Commission

the law of nations derived from the usages established among civilized peoples, from the laws of humanity and from the dictates of the public conscience.

THAT declaration must be taken to have been intended to cover individual responsibility, to give rights to individuals and to impose responsibility on individuals for breaches, in particular, of the rules for the conduct of war and the treatment of people in occupied countries. It is these breaches that constitute war crimes and expose the guilty criminal to punishment if the offenses can be proved and the offenders identified. There is no question here of revenge, but of justice.

Let us take a very few samples of the sort of things which have been done and for which justice calls for punishment of the guilty. I ask my readers not to be skeptical because the crimes seem too terrible to be true. I choose only a few instances from a very great number, drawing my information only from credible sources, largely from reports of official inquiries.

A policy of race extermination was carried out ruthlessly against the Jews ac-

ording to a plan which can be traced back to Hitler and those members of his Government who were in his immediate circle. I give one instance: At the Birkenau concentration camp in Poland the United States War Refugee Board reported that 1,750,000 Jews from all over Europe were done to death. The scheme was most elaborate. To put it shortly, the victims—men, women and children—were ordered into brick chambers where they were killed by poisonous gas. Their bodies were bundled out and were burned or otherwise disposed of. How many people have been done to death in these camps cannot yet be stated. It has, however, been calculated that in all about six million Jews were deliberately slaughtered in that and other ways.

THE revolting details of what was done in the camps of Germany have appalled the whole world. They would be unbelievable if they were not authenticated. Reliable eyewitnesses have testified to what they have seen at Belsen and Buchenwald.

Last year we were shocked by a massacre at Oradour-sur-Glane, a village in France near Limoges, where the whole

population was, without notice, wiped out. The village was surrounded by SS troops. The men were herded together in a fair-ground or square in the village and were pushed into a barn where they were shot down in batches of twenty.

The women and children were driven into the church, which was set on fire, and all perished except one or two. Meantime the whole village had been burned down. Bodies of young children were afterward found in the church pressed against the confessional. About 750 people thus perished.

THE whole thing was planned and the plan systematically executed under the direction of the German general. Similar massacres took place at other villages in Poland, in France, in Czechoslovakia at Lidice, in Belgium, in Greece and in Russia, where similar revolting atrocities were perpetrated. Each atrocity taken by itself would have been bad enough, but they were obviously done under a settled plan directed by the highest authority of the German state.

I may next refer to the system of torture mainly to extract information. Under The Hague Convention prisoners of war may be interrogated but not forced to answer. In defiance of this the Nazis developed a most ingenious and extremely horrible system of torture. The Gestapo, the dreaded and merciless secret Nazi police, were the principal exponents, along with some sections of the SS. I cannot do more than give a few specimens.

Their fiendish cruelty was met by heroism on the part of the victims. There is, for example, the prisoner found by Allied troops dying at the Gestapo center at Rennes when they captured the place, who could only murmur: "They did not get what they wanted." Or the unknown hero who scribbled on the walls of the torture chamber in Paris the motto, "Une seule devise: N'avez pas. Never confess." The Gestapo and the SS had special training schools to educate men as torturers. Torture was standardized: it was all according to plan. Beating with a rubber hose or iron bars or dog whips or wire-core bludgeons furnished with nails, crushing fingers in presses or by hammer blows, hanging up by wires around the fingers, wrenching out finger and toe nails, electric currents, and a long catalogue which I do not develop further.

It is almost incredible if it were not so fully vouchsafed for by solid evidence. Bodies of victims have been found with the skin flayed off the arms, legs or other parts of the body.

THE main instrumentality which carried out these deeds, this worse than bestial cruelty, was the Gestapo along with some sections of the SS. In particular, the Gestapo, which was a voluntary body, was the main instrumentality of this revolting system of operations. It can truly be described as a criminal organization to join which was to enter deliberately on a course of wickedness and crime.

I must stop this enumeration, but will only mention one more atrocity—that is, rounding up of thousands and thousands of young women in the occupied countries and sending them to forced prostitution in German barracks. The starvation inhuman forced labor and the almost incredible ill-treatment which were regular features of the concentration camps are well known.

When I think. (Continued on Page 84)



"So shall ye reap"—A drawing by William Gropper.

Courtesy ACA Gallery.

Guilty May Not Escape

(Continued from Page 8)
of all the evidence I have seen of the German atrocities I am impatient of people who ask me to define what is a war crime. I am tempted to answer like the man who was asked to define an elephant. He said, "I cannot define an elephant, but I know one when I see one."

The United Nations War Crimes Commission deals with heinous crimes. It would not pick out, bad as that is, the case of a German soldier taking off an old woman's cow. The atrocities reported to the United Nations War Crimes Commission are things outside any ordinary idea of warfare. They are all manifestly part of a systematic plan to crush and degrade and dehumanize the spirit of the peoples who are attacked, if not exterminate them. The similarity of what is done over and over again over a period of years over every part of occupied Europe shows the deliberate scheme of a master mind in villainy and can be traced back to Hitler and his key Nazis.

But, as the object of the Allied nations is justice to the guilty individuals whatever their degree, it is necessary to prove the offenses and identify the men who are responsible and finally to trace the offenders down and bring them to trial and justice. This is sometimes a complicated task. It requires the cooperation of several different instrumentalities. Of these the United Nations War Crimes Commission is most often referred to because it is the only instrumentality specially identified with the task of justice, but it is only one of the agencies whose cooperation is required.

THE system which has been adopted involves four main cooperating agencies:

1. What are called the national offices—that is, each nation which has suffered creates an office of its own to collect evidence of the atrocities and to name and identify as far as possible the culprits accused. This is peculiarly the work of the nation concerned, which would resent foreign detectives working in its country. The acts were done there, the witnesses are there, the language and local conditions belong to the country.

2. The War Crimes Commission, to which the national office has to report the atrocity, then comes in. The commission examines the report and the evidence in support of it, and if satisfied that there is a prima facie case enters the names of the accused on its lists. These lists are sent to the next agency in the chain—that is, the military agencies charged by the Governments with the responsibility for apprehending accused and suspected war criminals.

3. Then comes the function of the military, which is in some ways the most difficult and important of all. The army, in cooperation with other Allied agencies charged with this responsibility, has to give effect if it can to the list of names sent to it—that is, to trace the criminals and

apprehend them. It is obvious how difficult this will be. The Allies have some millions of prisoners of war and among them there must be very many war criminals. No doubt many must elude detection, but the Army is zealous, able and ingenious, and while too much must not be expected, it would be wrong to despair.

4. Finally, if the suspect is tracked and apprehended, he must be tried. This last stage raises its own problems.

THE declaration made at Moscow on Nov. 1, 1943, distinguished two classes of criminals: (a) Those who committed or assisted in atrocities, who were to be returned to the scene of their crimes for trial and punishment by local courts, and (b) the German criminals whose offenses have no geographical localization and who will be punished by a joint decision of the Governments of the Allies. The latter class includes arch-criminals like the members of Hitler's Government and others in analogous positions.

It would, I suppose, not only include key Hitler administrators but also big financiers and industrialists who supported the Nazi regime and rendered it possible.

Thus we see that the whole scheme is organized to secure justice. But it is clear that only to the extent that each of the agencies concerned, including the commission, is organized, staffed, equipped and empowered to act will the scheme be able to function.

The question of the appropriate courts in which to try suspects is important. The Governments have not yet announced how they will deal with the arch-criminals, whether they will try them at all, and, if so, in what courts, or whether they will deal with them by executive action. As to the remainder of the accused, there is more than one possible court.

They might be sent to the local court of the place where they committed the crime, or they may be tried by specially created military courts. This last class of court is well recognized in international law. The court is held under the authority of the Commander in Chief and acts on the principles of international law. It is, of course, different from a court-martial, which is summoned to punish soldiers of the Allied forces guilty of breaches of discipline or of the articles of war. The military court is summoned to try war criminals.

THE major task will be to identify the criminal; the atrocity can in most cases be established by the local evidence. No doubt many German criminals will attempt to escape, but there are few neutral countries left and most of them have declared their intention not to harbor German criminals.

There will need to be very many trials as criminals are apprehended. But these will be spread over a large part of Europe, both in the liberated countries and in

(Continued on Page 35)

THE NEW YORK TIMES

Guilty May Not Escape

(Continued from Page 34)
Germany. The questions will mainly be questions of fact. It is certainly important that there should be no delay in the trials and the punishment.

It is clear that the whole scheme of punishing war criminals involves labor, coordinated effort of the agencies concerned and whole-hearted support on the part of the public.

BUT the object is of paramount importance to the world and to future ages. It is essential to establish that atrocities such as those which have been committed over five years and over a great part of Europe should not escape exemplary punishment. Those committed in Russia have been of peculiar savagery. The Russian Government has its own organization for the recording of war crimes and for the apprehension and trial of the accused.

In the Far East the United Nations War Crimes Commission has established a special branch which sits in China at Chungking and may sit elsewhere. The United States, Australia and the Netherlands Indies have their organizations which work with the War Crimes Commission. The Japanese have exceeded, if that were possible, the German atrocities. They have been guilty of appalling cruelties in New Guinea and the Philippines, and, indeed, throughout the whole of the vast area of the eastern operations.

The mode of trial to be adopted is not a matter for decision by the commission, though it is able to make, and has made, recommendations on that matter and also on the method of punishment. But the decision rests with the Governments. In practice the functions of the commission, though vital to the scheme, are limited. It has made various recommendations and will continue to act with the national offices and the military in a coordinating and advisory capacity.

This is specially true now that Germany is occupied. The commission did some time ago urge the setting up of an agency in Germany along with the military, to investigate crimes and apprehend criminals, and was advised that such an agency was functioning. It is clear that with the occupation of Germany the national offices have a different role in detective work.

I THOUGHT to add that the commission has been hampered in its operations by false rumors—for instance, that there is some disharmony or want of loyalty among its members. This is completely false. The members have a single purpose: to bring the criminals to justice and do everything within their power to achieve that end.

The commission has positively declared its view that obedience to superior orders is not a defense and that heads of states are not immune. This last is a curious revival of the old had idea of the divine right of kings.



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Post War Punishment of Axis War Criminals

DEB

MAY 9 - 1945

Dear Dr. Goldmann:

The following message for you from Riegner was received through the United States Legation in Bern under date of May 5, 1945:

"View surrender German southern army, I direct your attention to following persons who were very active in persecution of Jews in Hungary and who have retreated to Salzburg region according to recent information: 1. Laszlo Endre, 2. Laszlo Baki, 3. Oberstlieutenant der Gendarmerie Laszlo Ferenczy, 4. attorney Medgyessy, 5. Peter Heim, 6. Gyorgy Olah, 7. Ferencz Rajniss, 8. Istvan Milotay, 9. Ferencz Vajta, 10. Ferencz Kiss, 11. Dome Stojay, 12. Andor Jaross, 13. Mihaly Kolosvari-Borosa, 14. Gyorgy Takacs, secretary of Endre, 15. Lajos Dovenyi-Nagy, 16. Anton Kunder. Should advise military authorities view treatment as war criminals."

Very truly yours,

(Signed) Florence Hodel

Florence Hodel
Assistant Executive Director

Dr. Nahum Goldmann,
World Jewish Congress,
1834 Broadway,
New York 23, New York.

*Original signed
by Miss Hodel*

RBH

RBH:inp 5/8/45

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DEPARTMENT
OF
STATE

INCOMING
TELEGRAM

DIVISION OF
CENTRAL SERVICES
TELEGRAPH SECTION

*War Ref. Sec.
O. Sawyer*

EDW-763

This telegram must be
paraphrased before being
communicated to anyone
other than a Government
agency. (~~RESTRICTED~~)

Bern

Dated May 5, 1945

Rec'd 6:15 p.m.

1945 MAY 6 AM 10 12

DIVISION OF
CENTRAL SERVICES

DC/L
LIAISON

CONTROL COPY

Secretary of State,
Washington.

2643, May 5, 7 p.m.

MRB FROM McCLELLAND

From Riegner to Nahum Goldmann, World Jewish Congress.

"View capitulation German southern army, I call
your attention to following people who were very active
in anti-Jewish persecution Hungary and who according
recent information had retreated to Salzburg region:
(one) Laszlo Endre, (two) Laszlo Baki, (three) Oberstlieu-
tenant der Gendarmerie Laszlo Ferenczy, (four) attorney
Medgyessy, (five) Peter Heim, (six) Gyorgy Olah, (seven)
Ferencz Rajniss, (eight) Istvan Milotay, (nine) Ferencz
Vajta, (ten) Ferencz Kiss, (eleven) Dome Stojay, (twelve)
Andor Jaross, (thirteen) Mihaly Kolozsvari-Borosa,
(fourteen) Gyorgy Takaes, secretary of Endre, (fifteen)
Lajos Dovenyi-Nagy, (sixteen) Anton Kunder. Military
authorities should be advised view treatment as war crimi-
nals."

RESTRICTED COPY
RESTRICTED

HARRISON

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PARLIAMENTARY DEBATES

(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT
(UNREVISED)

Vol. 135. No. 36
Tuesday, 20th March, 1945

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Liabilities (War-time Adjustment) (Scotland) Bill—
Committee.

Licensing Planning (Temporary Provisions) Bill—
Third Reading.

→ Motion—War Criminals.



LONDON
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[Lord Ammon.]
 some concession would be made in this matter. The Amendment seeks to confirm the existing rule of law, which is that when a licence is granted for what is in effect hotel accommodation for residents and the supply of food, an assurance has to be given on an application for the renewal of the licence that the conditions on which the licence was originally granted are being observed. It seeks to make sure that that practice will be continued under this Bill. Otherwise, what will happen will be this. The hotels will be enabled to secure complete facilities for the supply of intoxicants, thereby increasing the number of licensed public houses over and above those already agreed to, and should it then be found that the sale of intoxicants is the more profitable side of the business it will be possible to drop the hotel part of the business and turn it wholly into another extra licensed house without the proprietors having gone through the ordinary formalities of the licensing law. It is solely to preserve that public right which I have indicated that I move the Amendment on the Paper.

Amendment moved—
 Page 3, line 16, after ("area") insert the said proviso.—(Lord Ammon.)

2.12 p.m.
 THE EARL OF MUNSTER: My Lords, I think I shall be able to set at rest the fears of the noble Lord who moved this Amendment. As I understand it, the object which he has in view in moving the Amendment is already attained without his Amendment, as there are both in the Bill and in the existing licensing laws powers to do what in fact the noble Lord seeks to do by means of his Amendment. If anything further should be required it would mean an Amendment to the permanent licensing law which clearly could not be made in a temporary measure like this. Let me, first, if I may, explain the powers which exist in order to secure that facilities for food and accommodation are in fact provided at the time when the planning removal takes place under the Bill. It is the general duty of a licensing planning committee to endeavour to secure that the number, nature and distribution of the licensed premises in the area should provide accommodation and facilities for obtaining food in accordance with local requirements, and they are required to make proposals for planning removals of licences

to which they may attach three conditions which will be found in Clause 5, subsection (1) (a). They can further, if they think fit, make it a condition of the planning removal of the licence that adequate facilities for food and accommodation will in fact be provided.

The licensing justices, before authorizing the planning removal, must be satisfied that any conditions specified in the proposals as confirmed have been complied with, and this provision will be found in Clause 6, subsection (2) (c). If therefore a condition has been imposed, the licensing justices are required to see that the facilities are in fact provided and, if they are not, they can refuse the authorization of the removal. I have no doubt that the licensing planning committees will be able to secure adequate provision on these points at the time of the planning removal of the licences. My noble friend has told your Lordships that he was concerned to see that the facilities for food and accommodation which are thus established will not later be abandoned. The powers of licensing justices are very complex and far be it from me to endeavour to explain them to your Lordships, but, quite briefly, the existing licensing law enables the licensing justices to refuse renewals of licences if, on the application for a renewal of the old licence, the justices have become satisfied that the licence holder has persistently and unreasonably refused to supply suitable refreshments at a reasonable price. My noble friend will therefore, I hope, observe that what he seeks to achieve is, in point of fact, already provided for under the existing law. I hope that with these few words I have set my noble friend's mind at rest and that he will withdraw the Amendment.

LORD AMMON: My Lords, on the assurance that the law remains as hitherto, I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause 5:

Submission and approval of proposals by licensing planning committees.

5.—(1) The licensing planning committee for any area may, from time to time,—

(a) formulate proposals for the removals hereafter in this Act referred to as "planning removals", that is to say, for the removal, subject to and in accordance with the provisions of this Act relating to removals and subject to such conditions, if any, as may be specified in the proposals,

of licences from premises in the area to other specified premises therein or to premises on specified sites therein; and

(b) formulate, with the agreement thereto of the persons interested in the premises in question, proposals for the surrender, subject to such conditions, if any, as may be specified in the proposals, of existing licences in respect of premises in the area, and shall submit any such proposals to the Minister, together with such plans and other matter explanatory of the nature and effect of the proposals as may be prescribed or as the Minister may, in any particular case, require.

2.17 p.m.
 LORD AMMON moved, at the end of subsection (1), to insert:

"Provided that before any licensing planning committee has accepted such proposals, the applicant for a licence shall have published in the prescribed manner a notice that they have submitted their application, naming a place at which copies thereof and plans and explanatory matter submitted to the licensing planning committee may be seen at all reasonable hours, and stating the time within which objections to the proposals will be heard and considered by the licensing planning committee."

The noble Lord said: My Lords, in moving this Amendment I am on firmer ground because I know that the existing law is to be abrogated in this case. Hitherto, when a new licence was applied for, the Act laid it down that a notice must be exhibited at the place where the house was to be erected and certain announcements had to be made in the Press so that there would be an opportunity for the public to put forward any objections that they desired to make to the licence. Under a clause in this Bill, that is no longer possible. The public in this case can go forward and lodge objections only after the plans have already been passed. That is an entirely different procedure from the old one. The procedure now is that when the proposals regarding the licence have been completed they are submitted to the Home Secretary, and it is only then that the public can offer any objection and an inquiry can be held. That takes away from the public the right they have hitherto had to object at the outset.

When the Bill was before another place the Minister in charge asked whether religious and other bodies had the same right to object as hitherto, and the Minister said that was so. I am informed, however, that that is not the case. If it should happen that any objec-

tion is upheld then there is an opportunity given to the Home Secretary to refuse to make an order. It is in this particular respect that I beg your Lordships to give this matter some attention, for it also has a bearing on the question of compensation. Under the provisions of the Bill the trade will be able to submit its cut-and-dried proposals to a committee which sits in private and it is only after those proposals have been accepted by the committee that the public will get to know anything about them. This Bill proposes to transfer licences which have fallen into desuetude owing to bombing and put them with no definite objective into new housing estates without any concern whatever as to the public rights of objection which have hitherto existed. It is quite likely that such a licensed house might be placed next a school. Under ordinary procedure it would be possible for people to go to the Brewster Sessions and make an objection. The case would be heard by the licensing justices who if they felt the case had been made out, would prevent that house being erected on that particular site. It seems to me only right and just that that procedure should be followed in this particular instance. I beg to move.

Amendment moved—
 Page 3, line 47, after ("require") at end insert the said proviso.—(Lord Ammon.)

2.21 p.m.
 THE EARL OF MUNSTER: My Lords, I fully appreciate the desire of the noble Lord to secure that the rights of the public are taken fully into account. Perhaps I may be allowed to deal at some length with this Amendment in order to explain the position. My noble friend is wrong in thinking that the applicants should publish notice of the proposals, because that is not really what is laid down in the Bill. Let me explain the course of events. It is the licensing planning committee, not the trade, which will make proposals for the removal of existing licences. If these proposals are confirmed by the Minister—not by the Secretary of State—the actual application for the removal of a licence will be made by the trade to the licensing justices. The proposals made by the licensing planning committee will be considered in respect of each individual licence. In fact, the proposals will be put forward generally for groups of licences the proposals for which are inter-dependent. There seems every

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[The Earl of Munster.] opportunity for the public to be heard, because under Clause 2 the licensing planning committee will consist of members who are in fact the elected representatives of the public; that is to say, the local planning committee. It is the duty of this planning committee under Clause 4 (1) to enter into full consultation with, and to give reasonable opportunity of being heard to, all interests. Should the committee fail in that duty there is the committee fail in that duty there is the power under Clause 4 (2) for the Secretary of State to require them to do so. Full opportunity is provided under the Bill for making public the proposals of the licensing planning committee and for the hearing of objections. That will be found in Clause 5 (2) and (3).

LORD AMMON: I am sorry to interrupt my noble friend, but although he says I am in wrong surely it is he who is wrong. The only chance to object comes after the plan has been agreed. That reverses the position which obtained before this Bill was introduced. I am seeking to avoid that.

THE EARL OF MUNSTER: If my noble friend reads subsections (2) and (3) of Clause 5 he will see that after the planning committee had submitted proposals there is a right to object.

LORD AMMON: I do not know whether the noble Earl and myself really understand each other. I cannot believe that he wants deliberately to mislead, but he must know very well that at present the public have a right to object before that stage is reached. This Bill pushes it off still further and there can be objections only after the planning committee's proposals have been already agreed to.

THE EARL OF MUNSTER: That is true to a certain extent, but the noble Lord has not gone the whole way. If my noble friend will look at subsection (3) of Clause 5 he will see that it says:

"If no objection to the proposals is made to the Minister within the time and in the manner stated in the notice, or if all objections so made are withdrawn, the Minister may, if he thinks fit, confirm the proposals, either with or without modification, but in any other case he shall, before confirming them, afford to any person making an objection an opportunity of appearing before and being heard by a person appointed for the purpose by the Minister."

LORD AMMON: My noble friend is not ingenuous but rather ingenious. That is

two stages further on. I am dealing with the initial stage. At the initial stage the plans should be published, but they are not published.

THE EARL OF MUNSTER: These are not brand new licences.

LORD AMMON: Now you are shifting your ground.

THE EARL OF MUNSTER: These licences are removal licences. It seems to me there is power for the public representatives, from the beginning—

LORD AMMON: They are hamstrung.

THE EARL OF MUNSTER: They are not hamstrung. I have no doubt the planning committee will keep an open mind.

LORD AMMON: What is the good of an open mind if you cannot express it?

THE EARL OF MUNSTER: The noble Lord, I know, is concerned with certain organizations such as churches, chapels and youth organizations, and he wants them to have the opportunity of being heard. I can repeat the guarantee given in another place that full account will be taken of the views of all those organizations. Finally, I ought to make it abundantly clear that in respect of the granting of licences, whether in the licensing planning area or elsewhere, the public will still retain full rights of objection. That is where I think the noble Lord is slightly muddled, if I may say so. The planning committee's only function with regard to new licences is to notify the licensing justices that they have or have not an objection. When the planning committee have made proposals the licensing justices can grant or refuse the licence as they think fit.

LORD AMMON: I am bound to say that I think it is the noble Earl who is muddled or else—I am sure not intentionally—he is trying to muddle your Lordships' House. This Bill does lay down one specific thing. It does away with the right of the public to object to a licence in the first instance. It is no good talking about objections being sent up to the Home Secretary for that I know is in the Bill. The thing to which I am objecting is that you are taking from the public certain rights which they now have and which are statutory so far as the

major Act is concerned. I want to preserve those rights. It is no good going up on behalf of the youth movement after plans have been already passed, for that is too late. What I want to preserve is the initial right.

THE EARL OF MUNSTER: The noble Lord is talking about brand new licences. These are removals of existing licences.

LORD AMMON: I am quite aware of that. I said at the beginning that it was proposed with no definite objective to move these licences to a new house, but I consider these licences ought to be treated as new licences. They are going into new areas and the public ought to retain the rights which they now have.

On Question, Amendment negatived.

Clause 8:

Surrender of licences in licensing planning areas and suspension of provisions as to compensation fund.

8.—(1) Where proposals of a licensing planning committee, as confirmed under this Act by the Minister, provide for the surrender of a licence in respect of premises in their area, then, if such conditions as may be specified in those proposals as so confirmed have been complied with, the licence shall, by virtue of this Act, be extinguished as from such date as may be specified in those proposals as so confirmed or such later date as the licensing planning committee may allow.

(2) The renewal of an old on-licence in respect of premises in a licensing planning area shall not be refused on any ground other than those specified in the Second Part of the Second Schedule to the Licensing (Consolidation) Act, 1910, and accordingly the question of the renewal of any such old on-licence shall not be referred to the compensation authority; no sum shall be paid out of the compensation fund under Section forty-seven of the Housing Act, 1936, or Section fifteen of the Town and Country Planning Act, 1944, in the event of the surrender of any such old on-licence; and paragraph 10 of Part I of the Sixth Schedule to the Finance Act, 1942 (which provides for the extinguishment, on payment of compensation, of an old on-licence in suspense), shall not apply to any old on-licence in respect of premises in a licensing planning area.

Provided that where the licensing justices have decided to refer to the compensation authority the question of the renewal or extinguishment of a licence and, at the time of the decision, the premises in question were not in a licensing planning area, the like proceedings may be had by virtue of that decision as might have been had if the premises had continued not to be in a licensing planning area.

(3) No charge shall be imposed under Section twenty-one of the Licensing (Consolidation) Act, 1910 (which relates to the

compensation levy), in respect of an old on-licence renewed in respect of premises in a licensing planning area, and no charge imposed under the said section shall be levied in respect of premises which, at the date when the charge would, apart from this provision, fall to be levied, are in a licensing planning area, notwithstanding that, when the charge was imposed, they were not in such an area.

2.30 p.m.

LORD AMMON moved to leave out subsections (2) and (3) and insert:

"(2) Where a licence has been extinguished under the preceding sections of this Act, it shall be referred for compensation under Section twenty-one of the Licensing (Consolidation) Act, 1910 (which relates to the compensation levy); and where any compensation authority applies to the Secretary of State for power to increase the statutory levy or for powers to borrow on the credit of the compensation fund, he shall have power to make regulations to meet such application, notwithstanding any provision in the Licensing (Consolidation) Act, 1910."

The noble Lord said: Having regard to what has happened to proposals which one would have imagined would have been more likely to be accepted, I am afraid that I have little hope of getting much support for this Amendment dealing with the question of compensation. However, I do wish to point out the position which will arise under this Bill: At present, when licences are extinguished as redundant, they are compensated for out of a fund which is raised by the trade itself. This Bill proposes to set that aside, simply because, I imagine, the trade are doing very well and are going to get these new licences into new estates, and therefore it is thought pretty certain that compensation will not be called for. I would like to point out once again, as I did on the Second Reading, certain difficulties which may arise. There is no certainty that there will be the populations in the new licensing areas which are estimated. The population of London is reduced now from about 4,500,000 to 2,500,000, and there is no guarantee that the people who have gone are going to return in the same numbers. Surely it is fair that these licences should be treated as redundant licences—that is to say, if upon inquiry it is found that there is no need for them they should be compensated for out of the trade's fund.

Then again there is the difficulty which might arise in connexion with an argument which has been put forward by the noble Earl. If so be that any objection

[Lord Ammon.] should be raised at the stage we have already discussed in relation to Clause 4, and the planning committee should uphold it, the question would then go to the Home Secretary, who will have a very real reason for refusing to accept it because of the absence of compensation. It seems to me only right and fair that we should maintain the position as it is now—namely, that when a licence is found to be unnecessary it should be declared redundant and compensated for in the manner as hitherto adopted. Noble Lords must not blind themselves—and I am sure that they will not do so—to the fact that really this Bill, while it has one or two good points, is seeking to side-track the safeguards for the public that are contained in the existing law, and this I suggest is another instance of it.

2.33 p.m.

THE EARL OF MUNSTER: My Lords, I can assure my noble friend and the House that it is the last intention of the Government to side-track safeguards which the public at the moment possess, with regard to the licensing of public-houses. I do not wish to enter into an argument concerning any previous Amendment, so I propose to deal only with the one which is now before the House. Quite frankly, this Amendment does cut across the whole purpose and scheme of the Bill. As I think I explained on the Second Reading, licences will be surrendered and extinguished by agreement reached after negotiation and without cash payment, the idea being that in return for one or more licences another licence will be removed to a further site. There has been ample experience in the past of a local authority by negotiation with the trade being able to secure without compensation the surrender of many licences. For example, there was one local authority which obtained the surrender of eighteen out of twenty-six licences in return for the removal of the remaining eight to better sites. That seems to me to show that most impressive results have been obtained in the past in the reduction of licences by negotiation and without compensation. I think that this is the experience upon which the Morris Committee built its recommendations which appear in the Report. I might further point out, as again I believe I did on the Second Reading, that we are relying upon the offer of co-opera-

tion which has been made by the Brewers' Society.

With regard to the last part of my noble friend's Amendment—that which deals with power to increase the compensation levy or to borrow—I am told that there is already power under the Licensing Act, 1910, for a compensation authority to raise loans on the security of the Compensation Fund, subject to the approval of the Secretary of State. Therefore there is no need for any new provisions in that matter. As I have said, licences will be extinguished and surrendered by agreement reached after negotiation, without cash payment, and as we hope that the Brewers' Society will be working with us in the cases to which this clause refers, your Lordships will be well advised, I suggest, to accept the clause as it stands at the present time. I appeal to the House to do so.

LORD AMMON: In the light of the explanation which has been given by the noble Earl, I beg leave to withdraw this Amendment.

Amendment, by leave, withdrawn.

THE EARL OF MUNSTER: My Lords, I beg to move that the Bill do pass.

Moved, That the Bill do now pass.—*(The Earl of Munster.)*

On Question, Bill passed.

WAR CRIMINALS.

2.37 p.m.

LORD ADDISON rose to ask His Majesty's Government as to the progress being made by the War Crimes Commission, and as to the nature of the proceedings to be taken to secure the punishment of such major criminals as Hitler and Mussolini; and to move for Papers. The noble Lord said: My Lords, the inquiry which is on the Order Paper in my name,—to ask His Majesty's Government as to the progress being made by the War Crimes Commission, and as to the nature of the proceedings to be taken to secure the punishment of such major criminals as Hitler and Mussolini—is, I submit, a timely inquiry. We are confronted today with very rapidly moving events in the war in Europe. The Prime Minister, with his great authority, told us only a few days ago of his conjecture that the war in Germany might end by the early summer or the summer. If that is so—

and I am quite sure that we all hope that it will be so—it is of first-rate importance to recognize the demand of decent people all over the world that the men who have been responsible for the atrocities of this war should be punished. I am not speaking at all vindictively. I am only voicing what I feel sure is a sentiment common to all of us—that justice demands that the horrible crimes for which these men have been responsible, or at all events have been authorized, should be condemned by humanity.

If the war ends soon, it may well be that we shall be caught unprepared to deal with these matters. It is to inquire as to the steps which have been taken to secure that that does not happen that I have placed this Motion on the Paper. We all remember, I am sure, what happened in 1918, when, in spite of the many undertakings that those guilty of particular crimes should be punished, beginning with the Kaiser himself, in fact little or nothing happened save procrastination. Unless we are ready with proper proposals and adequate measures at the end of the war in Europe, it may be that the Nazi leaders will escape somewhere or other and make provision for disappearing. In addition to that, if we are not ready beforehand there may be very prolonged delays.

I think it is true to say that never before in history has there been on such a scale the organized cruelty which we have witnessed during this war. There has even been the attempted extirpation of whole populations, without any regard to any share which they have taken in the war. Apparently under the Gestapo there have been schools for torturers and other horrors of that kind. People have been taken by train-loads to be murdered, and the machinery of murder has been constructed beforehand. I am not sure whether, even if we do our best to recall similar events in history, we shall find anything approaching a parallel to what has happened during these last years. I remember, when a young man being greatly moved by Mr. Gladstone's speeches on the Armenian massacres, and we had from time to time pogroms against the Jews in Russia and elsewhere; but never before has there been anything like the scientific and organized cruelty that this war has witnessed.

On 1st November, 1943, a Declaration was issued in Moscow, signed by our

Prime Minister, President Roosevelt and Marshal Stalin, in which the war criminals were divided into two classes. It was stated that in the case of major criminals, whose offences have no particular geographical localization, such as Hitler, they shall be "punished by a joint decision of the Governments of the Allies." The Declaration then went on to refer to another class of criminal, and said:

"Germans charged with atrocities in invaded countries shall when arrested, be sent back to the country where the crime was committed, and there judged and punished under the laws of that country."

The Declaration went on to explain that it would be the duty of the occupying military authorities to arrest, identify and extradite the criminals. As a result of that, we have had established the War Crimes Commission, which is an instrument of the United Nations, presided over by a distinguished member of this House, Lord Wright. There is in Moscow another body, called, I think, the Russian Extraordinary State Commission, which is dealing with similar matters. I should like to inquire what relation there is between the two bodies; what arrangements there are for the interchange of information between them, and what arrangements there are for acting so far as possible in common.

I should like to say a word first of all about what I may call the Class II criminals referred to in the Moscow Declaration—that is, Germans charged with atrocities in invaded countries. There must be very great numbers of these people, from high officers down to privates. The organization of cruelty in terms of numbers must have reached a stage in Germany under the Gestapo where its followers are counted in many thousands; there must be thousands of these willing agents of abomination. Lord Wright, the Chairman of the Commission, in a letter some time ago to *The Times*, put the position extraordinarily well when he said:

"The majesty of justice may best be vindicated if the criminals are publicly tried in the places where the crimes were committed. It is a point of sovereignty for a country to execute its own criminal law. The same rule will properly be applied to higher German officials, who do not personally execute the crimes, but who, exercising their commands within the territory, order their subordinates to do so."

The War Crimes Commission, I take it, are collecting information as to these

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[Lord Addison.] persons, of whom there must be vast numbers, and are, I hope, making arrangements so that when the time comes it will be possible for them to be dealt with. We may hope that they will be arrested and passed over to an authority which I trust will then be ready to be set up in the different countries.

I should like to call attention, however, to one point with regard to these "Class II" criminals—namely, that this category consists of criminals who have committed their offences in occupied countries, and not of criminals who have committed their offences in their own country. We cannot, however, pass over what has happened in Germany with regard to the Jews. There have been wholesale deportations and massacres by Germans in Germany of Jews who were German subjects. That class of offender is not dealt with in this definition at all, and I should like to know whether arrangements are in contemplation for dealing with offenders of this class. I see that in another place on January 31 Mr. Richard Law said this:

"... crimes committed by Germans against Germans are in a different category from war crimes and cannot be dealt with under the same procedure. . . . It is the desire of His Majesty's Government that the authorities in post-war Germany shall mete out to the perpetrators of these crimes the punishments which they deserve."

I think we shall all agree that those who order the deportation by the train-load of German Jews for the purposes of massacre should not go unpunished, and it is in respect of them that I am making this inquiry. Mr. Law said it was the desire of His Majesty's Government that the authorities in post-war Germany should "mete out to the perpetrators of those crimes the punishments they deserve." I do not know how sanguine we are of a German authority being set up in Germany that will deal with these people. For my part, I would not be very sanguine, and I should hope that if any authority is to be set up in Germany to deal with them it will be set up by the United Nations.

THE LORD CHANCELLOR (VISCOUNT SIMON): Would my noble friend forgive me? I know he would not for a moment want to create any confusion. The statement of Mr. Law does not contemplate

that they will be German tribunals: it contemplates that upon the defeat of Germany the Allies will set up the organization and the tribunals under which such process might take place. I do not want the other idea to spread.

LORD ADDISON: That is the very kind of information that I was seeking to elicit. Mr. Law's statement referred to "the authorities in post-war Germany," and I am very glad to know that by the term "authorities" the Lord Chancellor means the authorities of the United Nations in Germany. As I had read the statement I thought it possible that it was expected there would be some German authorities brought in, and I am very glad to find that that is not the correct interpretation. But at all events it is quite evident that, outside the category of criminals who have committed offences in occupied countries, there should be adequate machinery created to deal with this kind of criminals in Germany itself. It was that particular point that I was seeking to raise.

Now I come to what are described in the Moscow Declaration as "Class I criminals," the major criminals, those "whose offences have no particular geographical localization," the men who have authorized these cruelties, these unspeakable barbarities. I understand there is no international court which can deal with these men, and I understand that there is no criminal code in International Law. I would like to get a little information, if possible, with respect to these Class I criminals. How are they to be named, and who is going to name them? Those are two very important inquiries. Then I would like to ask how they are going to be dealt with when they have been named. Clearly, the Moscow Declaration, which goes on to say that they are to be "punished by a joint decision of the Governments of the Allies," puts aside any notion that you cannot punish the head of a State: they are to be punished by the Allies.

Looking up this subject, so far as I have been able to do so, I find that on August 2, 1815, there was an Allied Convention which declared that Napoleon was their common prisoner. It went on to say, "He will be punished without trial," and that "he would be given no further opportunity of disturbing the peace of the world." That was done by

the decision of the Allies. I refreshed my memory from Mr. Lloyd George's book as to Lord Birkenhead's report to the War Cabinet on the question of the trial of the Kaiser. I saw that he found no difficulty at all in deciding that the Kaiser should be brought to justice and that there would be no obstacle in bringing him to justice from the fact that he happened to be the head of a State. He went to present to the authorities of that day two procedures, one which I hope is that adopted by the United Nations, and the other one on which I have a word to say. He said that the Allies might say

"We are prepared before the bar of history to take upon ourselves the responsibility for saying that this man"—

that is, the Kaiser—

"has been guilty of high crimes and misdemeanours."

He went on

"and that he should be punished in his own person."

Then the noble and learned Lord set out an alternative method whereby the head of a State might be dealt with.

On that I see a statement in a letter from the noble and learned Lord, Lord Wright, which appeared in *The Times* in which he discussed the possibility of the alternative in dealing with these major criminals—namely, the provision of a special tribunal. The first words are most important—"If they are to be tried," those are the governing words. He goes on:

"It must I think be by a new adjudicated board or body, to be established, I suppose, by the main Allied Nations. Such a body would not be a court of law in a technical sense, but it might truly be described as a court of justice. It would have to be a special creation, with its own constitution and powers."

He adds that it would make its own rules and its decision would be final. I remember that in the memorandum presented by Lord Birkenhead for dealing with the Kaiser there were two suggested methods and it is with regard to them that this inquiry is being made. Lord Wright in that letter sets out very clearly that if you decide to have a trial it would have to be by some new kind of tribunal. I can imagine the interminable delays to which that would give rise. You would have a series of trials of Warren Hastings lasting nearly as long, because the ingenuity of these people would be very great. Their necks are in question; and I

am perfectly certain that if the tribunal method were adopted for dealing with these major criminals the world would be confronted with a series of long-drawn-out hearings one after the other, which would finally nauseate and disgust everybody. I sincerely hope that that would not be considered, but I should be glad if, as the result of this inquiry, I am given some assurance on the matter. It is absolutely vital that the naming and punishment of these major criminals should be by the decision of the United Nations and that the intent and general scheme of the Moscow Declaration should be adhered to.

The first thing I want to inquire about is the arrangements and the names. There are certain names that are in the mind of everybody, and I express the hope that, although he may have disappeared for the time being into the obscurity of his refuge, we should not forget Mussolini. He was the inventor of the Fascist system and his cruelties and abominations shocked the world years before Hitler got well started. I hope that both he and some of his chief-myrmidons will be fresh in our minds. I do not forget Count Grandi, a very arrogant person, who has now found refuge, for the time being, in Spain.

NOBLE LORDS: Portugal.

LORD ADDISON: Portugal, is it? Anyhow, it is equally convenient. I would like to know what steps are being taken to determine who these people are who are to be dealt with in this category, and if any arrangements have been made for ascertaining who should be named in this classification. Secondly, when they have been named, what arrangements are in contemplation for dealing with them? because it may well be that before many months are over we shall be confronted with the task of dealing with these people. I dare say they will take refuge in the Bavarian Alps, or somewhere, so far as they can, but I hope a good number will be apprehended. Clearly, however, it is urgent that the arrangements should be well in hand for dealing with them, and it is in order to elicit information on that point that this inquiry is addressed.

Another matter on which I am afraid there is general anxiety is what steps are to be taken to secure their arrest and detention. I feel sure that these men, who are alleged to have accumulated masses of wealth, in one way or another,

[Lord Addison.]
and to have extradited it as well as they could, will themselves disappear as quickly as possible when the time comes. I would like to know what arrangements have been made in that regard, so far as it may be desirable to state them. Of course it may not be desirable to speak of them very openly, in which case I shall quite understand the noble Viscount's reticence. At the same time, however, it is well to be assured that there is not only a determination but a decision upon ways and means of getting hold of these people when the time comes.

In connexion with that, we have noticed with relief the assurances given by several neutral countries that they will not harbour these men after the war. One hopes that those good intentions will be lived up to, but I think we should expect and the world would expect that if, say, Hitler sought refuge in the South of Ireland, or in Switzerland or the Argentine, the Allies should be prepared to take steps to dig him out. We should not be content by the presentation of a series of polite notes, to leave him where he is; and I think it is desirable that we should be informed as to what steps, if any, can be taken to secure that those who have taken refuge in neutral countries shall not thereby be safeguarded in their immunity from justice. I have put a series of interrogations, all of them, I hope, practical, and I feel sure that the public is exceedingly anxious—all over the world, I believe, people are anxious—that in this great matter there shall be no miscarriage of justice. I beg to move.

3.4 p.m.

THE EARL OF PERTH: My Lords, debates have recently taken place in your Lordships' House on various aspects of this subject of war criminals, and we have had very important, and, to my mind, highly satisfactory declarations from the noble and learned Viscount who sits on the Woolsack and who replied on behalf of the Government. I therefore rather assume that your Lordships will not desire again to enter into the general substance of the question of war criminals, but are desirous to learn, in the words of the Motion introduced by the noble Lord, Lord Addison, "What progress is being made by the War Crimes Commission". I hope, as does the

noble Lord, Lord Addison, that we shall receive assurances that if the war should terminate sooner that some of us dare anticipate, arrangements are sufficiently advanced to ensure that the war criminals will be brought to trial without delay and, if found guilty, that just and swift punishment will be given to them, to use the words of the Yalta Conference. My remarks, therefore will be comparatively brief, but there are one or two points on which I should like to lay some emphasis.

We on these Benches feel that all those responsible for acts of calculated savagery in occupied territories, for the holding and execution of innocent hostages, for brutality in concentration and prisoners camps and for the massacres and tortures of people of the Jewish race, whether inside or outside Germany, must not be allowed to escape the penalties of their crimes. Further, we feel that the punishment of these criminals will, in itself, be a lesson which we hope may be impressed on the minds of existing and potential German militarists. We hold, too, that it is of great importance that the trials of persons who are accused of such acts should be held as quickly as possible, and that therefore their surrender to the authorities of the United Nations should form part of the terms of the armistice or should indeed accompany any offer of unconditional surrender. Speedy justice must be meted out. Any delay or dragging out of the trials should be most strenuously avoided. Whether this aim can best be effected by courts of summary jurisdiction or by Courts Martial is a matter which I should be content to leave to the Governments of the United Nations, who, I feel quite certain, are fully aware of the need of avoiding any procrastination. Of course, as the noble Lord pointed out, the Germans, remembering what happened after the last war, will certainly use every trick and every wile to secure delay. They must not be allowed to succeed. So much for the main issue.

I want to deal very shortly with the second part of the Motion:

"and as to the nature of the proceedings to be taken to secure the punishment of such major criminals as Hitler and Mussolini."

It is, I think, on this point, that some anxiety has been aroused in this country and perhaps, indeed, elsewhere, because while we are determined that such gross

war criminals must be brought to book, International Law, so far as I know and I confess I am not at all an expert on it, seems to distinguish between political and criminal motives and actions. I suggest, however, to your Lordships, that in the case of Hitler and his immediate associates you cannot draw any such distinction. No such distinction should be made. Hitler, Himmler, Goering and Goebbels, for instance, should not be tried on political grounds, but because they have caused or have been responsible for certain abominable crimes which utterly violate the laws of war. I would ask your Lordships to remember that it is the very essence of the doctrine of the Nazi State that orders flow from the Führer and his immediate subordinates and the execution of such orders is in obedience to their instructions. The Nazi hierarchy cannot escape the consequences of this system. The responsibility, therefore, falls directly upon them. I very much hope that the United Nations will act on this theory and that no State trial of these arch criminals will be admitted. That I think will be quite impossible for the reasons which have already been given.

I also think that political considerations are not and should not be an issue. The only trouble may be that the crimes of Hitler and his satellites are so numerous that it may be difficult to choose the exact grounds on which they should stand trial. Let me read to your Lordships some of the violations of the laws of war of which they have been guilty. I take these from a small pamphlet which has been issued by a body known as the London International Assembly. It is an unofficial body but a large number of the United Nations were represented on it by personalities whose views carry great weight. They are talking of the violations of the rules of law and of the crimes of which I think Hitler and his subordinates are certainly guilty. They are: Common murder or mass murder of civilians; murder of prisoners of war; putting hostages to death; wilful starvation of populations; excessive removal of foodstuffs; depriving persons of shelter, clothing and other means of subsistence; internment or segregation in inhuman conditions; mass deportations, serious ill-treatment or torture of civilians or prisoners of war; imposing collective punishment. The category is a very formidable one.

LORD STRABOLGI: Is there nothing about the laws of sea warfare?

THE EARL OF PERTH: That is not mentioned here particularly. There are a great number of other crimes such as the killing of wounded prisoners of war. I am only giving the offences against civilians which I think are particularly appropriate to this Motion.

LORD STRABOLGI: I interrupted because the laws of sea warfare are codified, and it is most easy to prove infractions of them.

THE EARL OF PERTH: It would certainly not be difficult to prove infractions in the particular instances I have quoted. I suggest, therefore, that certain of the most firmly established of these crimes or accusations should constitute the causes of trial, and that if, as I can hardly doubt, the guilt of the accused is clear, they should, because of these, be condemned as common criminals and the question of political status should in no way enter into consideration. I think this conception offers another advantage. If we find, as I trust may not prove to be the case, that we are forced to request the surrender by neutral countries of any highly-placed Nazi leaders, while there may possibly be some legal justification for refusing the surrender of persons accused on political grounds, surely, my Lords, there can be no ground for a refusal to surrender to justice common malefactors.

3.15 p.m.

VISCOUNT MAUGHAM: My Lords, I first addressed your Lordships on this great and important topic in the year 1942, and I am afraid I then inflicted on you a rather long speech as a result of a very careful consideration of the facts that were then known. This time I shall be much shorter, and I will begin by admitting that my views have, to some extent, changed. The main point which I was in doubt about before was whether it was right that these war criminals should be tried by judicial bodies, whether the persons to try should be lawyers, Judges, people who were bound by all our rules, for instance, among others, particularly bound by our laws of evidence which, as your Lordships are probably aware, are very much stricter than those which obtain in any other country in Europe; and whether there should be a formal indictment in which the alleged crime for

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[Viscount Maugham.] which trial was proposed should be one known to the systems of laws which obtain in this country. I was, of course, dealing largely with trial by our Courts and our people, and I was not attempting to make any suggestion as to trials by an Allied country in respect of the crimes with which it was mainly concerned.

Now, having given the matter great consideration since that time, I must say I am thoroughly of the opinion that war crimes should not be tried by lawyers and people who are bound by the rules which would obtain in a British court of justice. I think they should be tried by military tribunals, or mainly military tribunals, who will not be bound by the strict rules which we find work very well with respect to such crimes as the Courts have to try in this country, but who will be bound simply by ordinary opinions of fairness and justice which obtain just as strongly in a military court as in a court of lawyers. The more I think over the matter the more it seems to me clear that that must be so. A great number of the so-called war crimes are not crimes at all in a legal sense, because there is not any penalty laid down for a breach of the infringements of The Hague and other similar Conventions, and there is no court which is given instructions to try breaches, however horrible, of the laws of war. This is not a legal question at all; it is for a victorious Army to exact such penalties as it thinks necessary in the case of such people as it may find within its own power. But it is ridiculous, as I think, to submit to a court of justice such crimes as those which are only called crimes because we have not a suitable word for them, and which are not legal crimes in any real sense.

It is clear, too, that rules of evidence which apply to cases of trial in a country where the witnesses are nearly all of them in your jurisdiction are one thing, but quite another thing are the rules of evidence when you have got to get witnesses from all over the Continent who are subject to entirely different ideas of law, who are perhaps not all of them aware of the sanctity of an oath, and whom it will be very difficult to get before a tribunal. People of that kind ought not to be judged by principles which we apply in a court of justice with a Judge of the High Court sitting and able to put

forth the principles which we have adopted for many years and which are suitable for our country, but are not in the least suitable for some of the sort of crimes which would have to be tried.

The more I think of the matter the more I feel inclined to say quite clearly that this is not a legal matter at all. I do not claim for myself any authority whatsoever in the advice I shall give, unless it be such authority as can be gained from the fact that I have given the matter very great consideration. I am not speaking as a lawyer. I am speaking as one who has read very carefully what happened after the last war and has given great thought to the question of what is going to be done when this war reaches an end and we come to the trial of people who have been guilty of these crimes which horrify mankind. There is one other thing I want to say which to my mind is of very great importance. Nobody is more convinced than I am that people who have been guilty of the terrible things which have been read out to your Lordships, and of which I could give you another list now—crimes against the person which involve death, misery, torture—are worthy of punishment. I would not for my part hesitate to think that breaches of The Hague Convention which have been treated as crimes in nearly all the reports which have dealt with these matters should also be punished. But this I think is not a question for lawyers, but for commonsense men who will take the trouble to consider the matter.

I am perfectly satisfied, having read nearly everything published on the question of German atrocities, that the criminals within any definition of war crimes which you choose to adopt run not into hundreds or thousands but into millions. The number of Germans who have been guilty of crimes either because they were under orders or because they were people in authority to order these things, include, no doubt, one third of the forces employed by the Germans in the present war. When we talk of punishing them all we have to think of what we are saying. I have agreed with others that military tribunals are the best tribunals, but they cannot act without what they take to be sufficient evidence of guilt. It will not be very easy to get witnesses in a great number of cases. It will take a very long time to try some of these people on a question of identification, and it will also

take time to get some evidence of the brutal acts of which they have been guilty. On no possible view of the expedition which such a tribunal can exercise can it be imagined that if you attempted to try all the people who have been guilty of these horrible atrocities you could get through the work in five years. It will take much longer. Some of these people will be difficult to find in the early years and impossible to find after five years. It will become a toss-up who will be found guilty because it will be a toss-up whether you can find them and whether, if you find them, you can get evidence which would justify any tribunal in convicting them.

Accordingly I press very urgently on the people who are engaged in settling by negotiation with other Allied Powers the system which has to be adopted for the purpose of doing the best we can to inflict punishment, to pause before they adopt principles so wide that millions of people will be held to be criminals who ought to be tried for their offences. I will observe that the Russians, who are a very practical race, in the various reports which they have given of the men who are guilty of offences within the meaning of the usual phrase "war crimes" have confined themselves to people in some sort of authority, people who were in a position, though not without considerable danger to themselves to exercise powers of influence and protest so as to prevent crimes of that kind being committed. You cannot find, in any list which the Russians so far as I have seen have ever published, anything about the rank and file of the German people whom they desire and whom they intend to punish. I am convinced myself that is the only principle you can adopt. I have said this before to your Lordships and I know that many of your Lordships agree with me. There is all the difference in the world between an ordinary common soldier, to use the classical phrase, obeying an order to shoot some hostages against a wall and the position of the commanding officer in charge of that firing party who orders the shots to be fired. In the one case the commanding officer is in a position to protest; but the soldier who said "I will not fire" would be shot himself immediately.

It is useless I think to try and include all these people in the list of persons who are to be caught and tried. It is far better not to spread your net too wide.

If you do that you will not get as many as if you had a much narrower aim as to the sort of people whom you want to punish. From my point of view, and I should imagine from the point of view of many of your Lordships, it is not because of our hatred of these people that we want them tried, but because we want to inculcate lessons which will be remembered for many centuries long after all of us have passed away. Those lessons will be driven home more by punishing people in authority who have given orders than by attempting to get the rank and file who may have the defence of acting under superior orders open to them under some jurisdictions if not under ours.

These are the main things I want to say to your Lordships and I do not want to detain you any longer except by one remark. Something has been said about chiefs of State and a great deal of consideration had been given to the topic. I shall not, however, deal with that matter and for a reason which I commend to those who are going to follow me, and who may have something to say on the subject which may be of great value. I am strongly of opinion that it is not in the public interest, and not in the interests of our fellow-countrymen who may happen to be in Germany, that the Government should make any precise statement at the present time as to the course to be taken in regard to the chiefs of State, who, I confess, are as guilty as others. I think it would be much better for us not to say anything on that topic. Accordingly I myself, strong as my opinions are on the subject, shall say nothing whatever about it. Those, my Lords, are the only things that I think I can usefully add at the present moment, and I hope that they may be deemed worthy of consideration.

3.31 p.m.

VISCOUNT CECIL OF CHELWOOD: My Lords, we have listened to an extremely interesting and valuable speech from my noble friend Lord Maugham. Speaking as a lawyer he begged us very earnestly to consider certain matters. I hope that he will not think me impertinent if I say that, in my opinion, nobody except a lawyer could possibly have delivered the speech which he has just made. That speech was entirely—and very properly and rightly—concerned with legal and procedural difficulties, which it

[Viscount Cecil of Chelwood.] It is certainly most important should be considered, but which, I venture to think, are not the kind of points which would occur to anyone who had not had the legal training that my noble friend has been so lucky as to receive. As I understand it, there is really no dispute at all about the broad principle that war crimes must be punished, and there is not any very great dispute, so far as I know, about the way in which those criminals who may be regarded as the instruments of these crimes, the executioners and torturers acting under orders—those men who have been personally and directly responsible for the crimes—are to be tried, by general agreement, in the countries where the crimes were committed, and, as far as possible, according to the principles of law which prevail in those countries. A good deal of what my noble friend has just said, if I may say so with very great respect, seems to me to be swept away if that principle is adopted.

We have seen it in actual operation in the case of the Russian trials at Kharkov and Kiev, for instance. We only had a very imperfect report of what occurred, but it seemed to me that those trials were admirable both in their conception and their execution. A very important special body of Judges was created for the purpose, and they were directed to try certain criminals for crimes. The criminals who were brought before them were charged with what would be in any civilized system ordinary crimes which were not the less crimes because they were committed in the course of warfare but outside all the agreed rules of warfare that exist among civilized nations. These men were tried, and, so far as one can gather, they had every opportunity of defending themselves, and of testing the evidence given against them. The trials did not last long because the facts were perfectly clear. The guilty men were punished according to their deserts. That being so, I do not know that I think it very important that we should, at this moment, discuss the question of whether the tribunals should be mainly military or mainly legal, or any of the other very interesting and important questions involved in this matter which my noble and learned friend has just raised. We stick to the principle that the place where the crimes were committed will rule the law and the procedure that is adopted, and that, subject always

to the broad principles of justice—that a man before he is condemned must have opportunity to answer for himself and bring whatever evidence he likes with a view to showing that he is not guilty of the crimes charged against him—subject to those and other principles, all questions of admissibility of evidence and so on will be settled by the law of the place where the trial takes place.

I do not propose to say anything about that type of war crime where the actual person who has committed the crime is to be charged. But there remains, it seems to me, a much more important class of case, which is referred to in the notice which we have before us. Those are the cases of individuals who are described as "major criminals"; that is to say, the people whose orders brought about these crimes, who often authorized them in particular cases, who, in all cases, approved them, and who are, therefore, the persons really guilty and the great offenders against civilization in this matter. There is a dispute about them which I have not heard, I am glad to say, in this House but which is commonly raised abroad. It is said by some: "You cannot try a man like Hitler in that kind of way. His great crime is political crime, and that cannot be tried in a court of law. It must be tried by administrative action, by agreement between the Governments concerned, and then he must be sentenced or punished, with or without any hearing." As I understand it from those who take that view that is regarded by them as a political act and not as an act of legal justice. I think that arises because there is not a clear distinction drawn between what are and what are not political offences.

The waging of an aggressive war without any justification, which is the broad description of the political offences with which we should charge the rulers of the German State, and the actual atrocities which have been referred to by the previous speakers—which are quite irrespective of the guilt or otherwise of the actual war of aggression—are crimes of a quite different character, and should be dealt with in an entirely different way. No one can condemn more strongly than we do in this House the crimes of aggression which were committed by those who plunged Europe and the world into this war. They were absolutely indefensible.

They have involved vast destruction and political and civil oppression. They have produced an immense increase of human misery, and we all think they have had no possible excuse. All this talk about *Herrenvolk*, or whatever it is called, German culture and all the rest of it, is quite irrelevant and perverse, and is the merest screen for outrageous personal and national vanity. What I feel very strongly is that if we are to consider the persons mentioned in this Motion and others as guilty of political offences, and if we say that they are not to be tried as ordinary criminals, then it will have the most scandalous result that we shall not be trying these people who are the real cause of all these crimes, and we shall be trying those who can at any rate say that they had been acting under the orders of others.

I admit that to bring these political offences before a judicial tribunal and to try the people who are charged with them is not an easy matter. There are technical difficulties. It will be difficult to frame the charge and to say of what crime they are accused. It might be very difficult to distinguish between one type of war and another, to say what is justification for a war and what is not, and so on. I can therefore quite understand those who say: "These actions have done immense harm, and they are very wicked, but they are not what we ordinarily understand by crimes, in the sense of offences which can be tried before a judicial tribunal." I have even heard it said that, apart from any technical difficulties of that kind, it would be unwise to try to bring such acts as these before a judicial tribunal, because it would merely give the criminal an opportunity to use the trial as a platform from which he would preach his pernicious doctrines.

Although, therefore, I am most anxious that these major criminals should be tried, I hope that we shall try them for what are in the ordinary sense of the word crimes, and not for political offences. As I have already said, they have clearly been guilty of these crimes. Undoubtedly the great horrors at Maidarek were ordered and directed from headquarters, and it is even said—I do not know with what truth—that Himmler was one of the people who came to inspect the station there to see that everything was going on in the way that was desired at head-

quarters. Apart from that kind of thing, no one can doubt that the murder vans and all the elaborate apparatus of crime and cruelty must have been authorized, and was authorized without doubt, by people sitting in an office in Berlin, and particularly, as has been said, by the Leader, by Hitler himself. For these crimes these men at the top ought to be brought before a criminal court and ought to have to answer.

After all, our primary object, I hope, is not merely to obtain the execution of men of whom—and rightly—we profoundly disapprove; our object is to set up again a decent standard of international intercourse and a decent standard of international morality. That is the main thing that we want to do, as I understand it; and we want to convince the world—the public opinion of the world, and even of Germany—that these shocking acts are the result of that pernicious body of doctrine which His Holiness the Pope has so rightly described as "State idolatry." That is what we have to do. We have to show that these things are horrible and wicked, that they represent a degradation of international standards taking us centuries back, and popularizing proceedings which we thought had been ruled out of all human action. It is that terrible evil which has been done to the whole world that we desire most of all to set right in the future.

For that reason, it seems to me that the first step which we have to take is to bring before an impartial tribunal these horrible events; to have them investigated; to make it quite clear that they really did occur and that they really were the result of the principles laid down by the Government in Berlin; and then to punish those in Berlin who were responsible for these horrible things being done. It seems to me that that is what we ought to aim at. Punishment should follow proof of the crime; the principle of law should be again established in international affairs, and should be allowed to take its course. That is what I hope that we shall do, and that is what I trust that the noble and learned Viscount on the Woolsack, when he comes to reply, will be able to tell us is going to be done, and is animating the policy of the Government, because it is only by that action that we can begin to lessen the fearful evil which has been done by German cruelty to the world.

3.47 p.m.

THE LORD ARCHBISHOP OF YORK. My Lords, I shall detain the House for a very few minutes only. I am glad that the noble Lord, Lord Addison, has raised this question. Large numbers of people in this country are anxious about this question of the punishment of war criminals, but I think that we in this country hardly realize how deeply the matter is felt by many of our Allies. Our Allies, of course, have been exposed to sufferings which we mercifully have escaped. We, it is true, have suffered greatly through the raids upon our cities and through the loss of life of so many on the field of battle, but we have not suffered the horrors of invasion, with all the cruelties which it has brought when the German has been the invader, and our Allies feel about the war criminals with an intensity which it is impossible to exaggerate. When I was in Russia a year and a half ago, I felt that there was a different atmosphere from that which we have here in speaking about the war criminals.

Only last week this came home to me in a very graphic way when I was in Holland. One evening, talking with the owner of the house in which I was staying—man of education and position—very quietly he and his family told me what they had been suffering during four years. They told me of the terrorism, of the waking at night. They told me how the farms round about them had been deliberately and systematically pillaged so that nothing whatever was left. They told me of friends and neighbours who had come back from concentration camps and shown them the marks of the cruelties which they had suffered. They told me of a boy, ten years old, who was deliberately beaten to death in cold blood. All this was told me quietly and unemotionally. Then just at the end the man broke out with "We hate the Germans, we hate them all". There is this intense feeling among our Allies about the question of the punishment of the war criminals. It is not merely a question of revenge, it is something much deeper, it is something which sense that justice should be vindicated.

Whenever I speak of war criminals, however moderately I may frame my words, I receive afterwards a number of letters from people telling me that it is unchristian and wrong to demand the

punishment of these people. It would, of course, be much more pleasant for me or for anyone on these Benches to plead for mercy, but sometimes justice has to take precedence of mercy, just in the same way as righteousness has to take precedence of peace. And it is for the sake of justice, for the vindication of that underlying sense of the difference between right and wrong, that we demand that these criminals should receive their punishment. It is not only for the vindication of justice, it is, as other noble Lords have already pointed out, so that their punishment may be a deterrent for future generations, that mankind may know that civilized nations will never tolerate this kind of crime, and that sooner or later punishment is bound to follow on their heels.

We have always to be careful about whom we punish, whom we brand as war criminals. I myself would divide those who are guilty into three very different classes. There are the master criminals, Hitler, Himmler and his gang, those who have corrupted Germany, those who have ordered these hideous crimes to be committed in every part of the world. I agree entirely with what the noble Viscount has just said, that these people should be condemned not for their political offences but for their criminal offences. But as I am not a lawyer I would venture to say something else. I should like to see these people outlawed, so that there would be no public trial, with all its excitements and sensationalism, and those who caught them, when their identity was established, should at once put them to death. Then, secondly, there is the larger class of those who have carried out these cruel and savage orders. Here I think you have to distinguish. There are some who, I think, can plead quite justifiably that they have been acting under orders, and this must be their excuse. But there are some orders which in no circumstances ought to be obeyed, and acts for which no order is a justification. I am not thinking of the horrible tortures in the concentration camps, I am thinking of the burning of women and children in the town in the south of France, when the population was massacred; I am thinking of crimes which no man ought to commit, however strong the order is which is given to him. I agree that the people whom we ought to punish here are the subordinates who were in authority, who could have

refused the order to carry out these crimes, and who sometimes undoubtedly carried out these crimes on their own initiative, with enthusiasm and delight.

Then there is a third class of the guilty, a very different class. I am thinking of the whole of the German people. We cannot entirely distinguish the German people from the Nazis, they have some share in the guilt. After all, they supported Hitler year after year, with the greatest enthusiasm. But there are innocent among them as well as guilty. On those people the doom is already falling, they are suffering the humiliation of defeat, they are suffering invasion, they are seeing the destruction of their cities and their homes, and when peace comes their country will be entirely disarmed. On these sufficient punishment is already falling. When we are demanding the punishment of the war criminals I think we ought to make it plain that we have no idea of indiscriminate killing, but that the men who are the master criminals and the men who have been directly responsible for the worst atrocities are the people who are to be condemned and punished with all the severity that is possible.

There is just one word I would like to add. I hope that when the noble Viscount replies he will make it plain that we are not only thinking of the war criminals of the past but of the war criminals who are now at this very moment perpetrating their crimes. Conditions in liberated Holland are bad enough, though we are doing our best to bring relief to the suffering people there. Occupied Holland is still shrouded with a veil of darkness, but through the darkness from time to time there comes news, and that news is horrible. Every Belgian, every Dutchman I spoke to last week spoke to me of their anxiety about the position in occupied Holland. There they had reason to believe people are being deliberately starved, deliberately terrorized; there the executions are going on. I hope it will be made plain that those who are responsible for these horrors in Holland at the present time will also be called to the bar of justice.

3.57 p.m.

LORD WRIGHT. My Lords, I will not interpose at any length, because I am quite satisfied that at this stage you want to hear from the Lord Chancellor statements on a good many matters on which he

alone as representing the Government is capable of giving information. But as I have now been Chairman of the United Nations War Crimes Commission for something like six weeks, and have obtained some acquaintance with the position and the functions of that body, which all the papers seem to regard as so mysterious, if they do not regard it as mischievous and impotent, I may perhaps very briefly indicate what its functions are, how limited they are, and how much it has been embarrassed by the duty of secrecy which has been imposed upon it, and very properly on the whole, because secrecy is necessary to avoid reprisals. The habits of the Germans in the way of reprisals are peculiar and drastic, and if there were executions, or even news of the intention to apprehend and punish important Germans, they might at any moment retaliate on the enormous number of prisoners who are in their hands. Secrecy has therefore been to a large extent necessary, and has been willingly accepted by the Commission. At the same time, the members of the Commission in many cases have families living in the occupied countries, and they have been compelled to remember the risk of the members of their families being victimized.

Now the Commission itself is not only limited by the secrecy which prevents it from disclosing its proceedings but it has a very limited sphere of operation. It has a limited but, I venture to think, a most important duty. There is an articulated scheme, as I understand it, for the practical purpose of bringing to book, of tracing and apprehending, the war criminals. That practical scheme involves a certain machinery, articulated, and a certain division of function. You have first the work of detection in the actual areas in which the crimes have been committed. You must do that first. If you are going to proceed by any process of law you must know what facts you want to prove and what witnesses you are likely to be able to get. That is to be done by the local action of the particular country which is affected. It is done by what are called the local officers, and it is from them, at this stage, before the occupation of Germany, that information must come which will justify the next step in the process—namely, the preparation of cases by the local officers and the submitting of those cases to the Commission.

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[Lord Wright.]
 Here the Commission comes in, and the Commission comes in as an international body. It is a body consisting of representatives of fifteen different Allied nations. It is not responsible to any superior body except the individual Governments or their combined forces. It is the creature of the various Allied Governments and is responsible to them, and to them alone. It is not responsible to this Parliament, though it would undoubtedly value and derive a benefit from any advice, suggestion or instruction which the Parliament may make. That is the next step. The third step is the sending of the names in lists from time to time to the member Governments—the people who are listed as criminals when the Commission has studied the various reports from the local officers relating to the individuals accused. So that now you have the Commission sitting as an international body, representing the majesty of International Law and of inter-Allied unity, dealing with the reports from the local officers and, on those reports, picking out cases and the names of those individuals whom they consider to have been guilty about whom there is *prima facie* evidence of guilt. These lists then are sent to the military forces through the Governments, and the Army receive these lists and warrants to apprehend the persons named in them. So that really at this stage you may regard the Commission as a sort of committing magistrate, issuing its orders or requirements to the military to arrest. That, of course, is all procedure, but it is vital to the operation of the whole scheme, and it has been very carefully worked out and is being applied in a great care and in the most conscientious way.

The Commission, I may say at once, regards itself as essentially engaged in the execution of justice. It is not a vindictive body. The members of the Commission know, many of them by actual experience and all of them by careful reports, what has been done in the occupied countries. Unfortunately—or fortunately—the English people have too much experience and are very apt to regard as exaggerated and propaganda reports which reach them from time to time. But members of the Commission mostly know better—some of them, at least. In any case even people who do not know from their own personal

knowledge and experience cannot fail to give effect to the detailed, circumstantial and authoritative stories and reports from time to time. It is on these reports that the Commission issues its fiat to the Army and in that way lifts the proceeding from the region of local justice to the plane of international justice.

I am satisfied in my own mind—perhaps quite wrongly, but, still, I can only speak for myself—I am satisfied that there is such a thing as an international criminal law. If there is not, why is the Commission created by the member Governments? What is it doing at all if there are no things which can be called war crimes and which can be the subject of punishment if appropriate means can be devised? I cannot here deal with that matter. I shall simply state that that is my view, and that is the underlying purpose and assumption of the United Nations' War Crimes Commission. The Commission itself, therefore, is not merely, as it were, a bottle neck through which reports of atrocities have to pass before they can come out into the open; it is really a mark, a token, an imprimatur of international justice operating in this way.

I ought to have finished the sequence of events, because the Army, if they apprehend the named parties, the named criminals, have then to dispose of them in accordance with the scheme which has been developed by the United Nations and which is embodied in the Moscow Declaration. You have already heard what that is. The ordinary criminals—I call them ordinary, though I should think that if you had tortured a hundred people to death you would scarcely be ranked as an ordinary criminal, still with that particular limitation they are ordinary criminals—when the Army has apprehended them, are to go to the countries in which the crimes were perpetrated. The real trouble is to identify and apprehend the criminals, and that is where all the difficulties will come in. I was talking to a distinguished soldier, a brigadier, who has had very great experience in detective work of this kind, though in different areas and departments, and he said he sympathized with the whole scheme. Thinking of the problem in its technical aspects he said that if 10 per cent. of the criminals were apprehended and dealt with that would be very satisfactory. I

should think that it would be almost more than satisfactory.

I have not said anything so far about the "major criminals," as they are called, because the door leading to them is closed and barred against the Commission. These people are to be dealt with by the Allied Powers. What the Commission can do is to put them on the list of war criminals and they have done that. I do not know why the papers have constantly asked: "Is Hitler on the Commission's list?" or why people have imagined that he would not be. They have been put on the list and are on the list. I believe they are also on a separate list that the Government keep but I know nothing about that.

In the six weeks or so in which as Chairman I have been concerned in the affairs of the Commission, I have, along with my associates and colleagues, thought of a great many mechanical improvements and of a great many things that can be done to advance the work, but I do not want to deal with them now. In particular, however, I should very much desire to get into contact with the Russian organization for dealing with war criminals. There is no possibility now, as I gather, of their becoming members of the Commission or members of an enlarged Commission. There are diplomatic reasons, I understand, which would make that impossible, but I see no reason at all why there should not be an intercommunication of counsel, advice and information, and I am doing what I can to bring that about.

I will say only one thing more. It has sometimes been said that the members of the Commission were not whole-hearted in their work and that they were governed by various sinister influences or secondary motives. I can certainly say from close acquaintance with them that my associates are all men animated by a desire to achieve justice according to the forms of justice, and have a profound desire to achieve it so that this time there shall be no fiasco, no failure of justice, no immunity granted to these malefactors. I want to say at once that the Commission, when it puts Hitler on its list, is not thinking of a political crime, it is thinking of a crime in the ordinary sense. For instance, at one of the Polish concentration camps, according to figures compiled by the Americans, 1,750,000 persons have

been done to death in the brick gas chambers that have been examined lately. That is no accidental act, it is part of a deliberate scheme. It is repeated in different places and in the same way, and there is evidence which may justify, or presumably justify, the conclusion that that organized slaughter was done under the direction of a single organizing mind. If that is brought home to Hitler, as it seems according to the ordinary simple rules of evidence it can be brought home to him, why is he not chargeable as a murderer. One could follow that out almost indefinitely. But it is in that spirit that the Commission has elicited the names of these people who are called "major criminals" and it treats them as murderers, assassins, thieves, torturers and the like.

4.17 p.m.

LORD ROCHE: My Lords, perhaps it is rather hard on your Lordships, having listened to three distinguished lawyers, to listen even for a few minutes to one who is a mere lawyer. I say three lawyers because the most lawyer-like speech of all was delivered by my noble friend opposite, Viscount Cecil, who, greatly to the disadvantage of the law, has for some time left it. Where there is a difference of opinion, and there was some difference of opinion as to method, between the noble Viscount opposite (Viscount Cecil of Chelwood) and my noble friend Lord Maugham, I confess I am by the side of Viscount Maugham in wishing for not too meticulous, lawyer-like methods in our proceedings. We must do justice and we must do it in the proper way, but I confess I like better the methods suggested by my noble friend Lord Maugham, and, as I understand them, the methods of the Russians in the same sense, than the over-elaborate proceedings which I gather would find greater favour with the noble Viscount opposite. I am content, too, with regard to what one may call the rank and file of the offenders, that matters are in good shape and order under the Commission over which the noble Lord, Lord Wright, presides, and of which he has given us so interesting an account. I think we may safely leave them to that Commission and to the proceedings that are being undertaken.

With regard to the major offenders, those named for example in his Motion, the noble Lord, Lord Addison, with the appearance of bland simplicity which

[Lord Roche.] always marks his essential suitability, has professed an alarm as to the unpreparedness of the Government which I can hardly think he feels. But that is his way of eliciting information when it is desirable to elicit it. I confess that I feel no such anxiety. I find in the Declarations emanating not only from Moscow but repeated in the Crimea, evidence that they are prepared to deal with them. It is quite true that for reasons of policy and prudence they do not go into details and I do not suppose the noble Viscount on the Woolsack will feel impelled to do so today. There are two reasons. One has been mentioned by several speakers—namely, the danger that might be involved to other persons—and the other is the old simple maxim that you should catch your hare before you proceed to cook it.

How these persons are to be dealt with and by what tribunal is a matter, not of difference of principle, but of method. Your Lordships may feel assured, as I feel assured, that the matter will be dealt with justly and in the sense desired by the most reverend Prelate who spoke so movingly of his own experiences. Provided they are dealt with justly there are a good many reasons why they should be dealt with not by an ordinary judicial tribunal but by political action. It is not a question of political crime; it is a question of political treatment of atrocities and crimes, which is a very different thing. In the history of the world they have been so dealt with before when tyrants' heads have been cut off or other tyrants have been sent to the end of the world, and I have no doubt they could be properly and justly dealt with so to-day. Two things which I conceive to be important are that we should know that the Allied Governments are determined to deal with them, and are prepared to deal with them justly. If we know that, what more do we want?

I would only point out to your Lordships that there are reasons for dealing with them in a manner that may be commendably described as by political action rather than by way of being remitted to an ordinary tribunal, and this may be the explanation why they have not been sent to the Commission of the noble and learned Lord, Lord Wright. Some of these atrocities, as I prefer to call them, because they are worse than crimes, are not war atrocities at all; they were com-

mitted before the war. Aggressive war is bad enough, but to make aggressive war under the authority and guise of treaties and even alliances is a kind of war atrocity which would very properly be dealt with by political action. That happened in the case of Poland, Norway, Holland—I could go through the whole list, including Russia. It is another reason why there may be advantages in dealing with this matter not by judicial procedure though in a judicial manner but rather by political action. If that is the course that His Majesty's Government decide should be taken I for one would be satisfied and I hope your Lordships would be also.

4.24 p.m.

THE LORD CHANCELLOR: My Lords, this is the third or fourth time your Lordships' House has discussed the general question of war crimes and I entirely agree with what was said by my noble friend Lord Addison, in his opening sentence, that it is timely that we had another discussion now, for the matter is not only vastly important but is becoming obviously one which is approaching direct action. It is now a year and a half ago since this subject of the methods of inquiry and the like was first debated in your Lordships' House, and it was then my duty to explain the views of the Government and to point out to your Lordships some of the considerations which since then have become quite familiar, but which were not, I think, at first so fully appreciated in all quarters. There is another matter in connexion with this subject which is universally admitted in our debate to-day and is worthy of note. We may not entirely agree as to the way in which certain matters should be handled, but we are all agreed that they must be dealt with, I trust promptly and certainly justly, in connexion with two sets of people, who, though in a broad sense they may be covered by an expression like war criminals, yet stand in very different relation to one another.

As my noble and learned friend Lord Roche has just said, perhaps the most important thing I could say in closing the debate this afternoon is to repeat what I have already said, and gladly say again, that we mean to deal with both sorts of criminals. In fact, I regard it as a perfectly impossible proposition that we should create elaborate machinery to deal with the individual, the officer who can-

be shown himself by his own immediate orders to have brought about some horrible atrocity in the course of war which is contrary to every rule and practice which International Law has endeavoured to preserve—it would be an absurd proposition that you should try people of that sort and leave the major criminals out. I am quite sure if anything of that sort happened, in this country at least, not much time would pass before there would be public protests against the whole thing; that you are letting slip the real authors of the crime and are devoting yourselves merely to examining the concrete wickedness of an individual serving under their general orders. That is a situation which really cannot be allowed to arise. For myself and for the Government as a whole I can here assert with every confidence and absolute truth that it is the big criminals as well as the small criminals that have been the subject of the closest consideration in Government discussions.

It must be so, for a reason which was pointed out just now by my noble and learned friend Lord Roche. If you use the word in its correct narrow sense a "war crime" is necessarily something that is perpetrated during the war. It is a breach of a criminal kind by the enemy of the rules which are to govern, which International Law enjoins must govern, the horrible business of warfare, in an endeavour at any rate to limit its horrors and its beastliness. But of course the real offence which the whole free world knows has been committed by what at Moscow are called the "major criminals" is not limited to the war period. Something has been said this afternoon, and quite rightly, about the horrible maltreatment of the Jews. Much of that was before the war began. Moreover, in many cases this maltreatment has been by the high authority of the German Government. The declaration stands of the author of *Mein Kampf* in reference to German-Jews who were his fellow countrymen—"You may have shown for years past your strict support of the German State, and acted with perfect loyalty to the German State." Yet that did not save them against this abominable calculated prolonged campaign of atrocity against a set of people whose only crime was that they belonged to a particular race. I do not think that when the world takes upon itself to try to clear up this

ghastly situation it is going to fail to observe those facts, though those facts fall strictly outside what may be called war crimes.

Therefore I have a little to say on both heads of the subject, the major criminals and what are called the ordinary war criminals. First of all, as regards the War Crimes Commission. Lord Wright gave us a very clear and interesting account of it. It is an international Commission; it is not a body which the British Government can direct. The United States appoint their representative; the Government of the United Kingdom appoints one—in this case not Lord Wright but Lord Finlay. Some fourteen or fifteen other Allies have each appointed their representatives. The body itself, as I say, is an international body and the primary object of that body—Lord Wright called it a somewhat limited object, but it is very important—is to collect and supply information which is absolutely necessary if we are going justly to deal with what has been called the ordinary war criminal. Listening just now to the Lord Archbishop of York giving his most moving account of what he himself had learned in Holland or elsewhere from those who had been under the cruel Prussian jackboot, I could not help asking myself, as he so vividly communicated to us what these unhappy people had said, in how many cases did they mention to the Archbishop the name, the identity, the rank of the person who was really responsible for the crimes? Yet if you are going to prosecute any ordinary war criminal for a war crime, it is absolutely essential to show that you have got hold of the right man. That is absolutely vital. Yet in many cases it is the very last thing which when we hear of these shocking events we are likely to learn. This is what the Commission endeavours to supply.

Therefore, the primary object of the United Nations War Crimes Commission is to act as a receiving body which would have before it in the greatest detail the versions that were available of the specific war crimes committed in particular places and resulting in the victimization of particular people, and to do everything in their power to assure themselves that they had true and trustworthy information in sufficient detail for them to be able to say, "This is a true Bill, these are the people, or this is the person, wanted for that crime." That is absolutely essential.

[The Lord Chancellor.] before you can pass from general denunciation to the punishment of a particular Captain or a particular Colonel, or whoever it may be, in the German Army. Otherwise you have no ground for saying: "That is the man who did it, or directed it."

You will observe that I am limiting myself for the moment to what I call ordinary war crimes. The second thing—it is part of the same really—is, what is the weight of the evidence available for this? Mere rumour will not carry you very far. Who is there who can prove, when the time comes, that a certain man was guilty or help to identify the person who approved of what was done? As I, myself, know vast masses of evidence have been most carefully examined by the United Nations War Crime Commission for the very purpose of ascertaining these essential facts. It is not as easy as general denunciation, but it is absolutely necessary before you can start a just prosecution. It would be impossible, of course, for the Commission, by itself, or through its officers to go roaming over Europe trying to collect information. As my noble friend Lord Wright explained just now, National Offices have been set up each of which gets the information that is coming in either from its Army or from refugees, or from any other source, pieces together all it can, and then presents it to the Commission for the purpose of further examination.

I must admit that at one time I felt disappointed, I will not say disheartened, because I did not think that the results of all this analysis were coming forward as freely as I, for one, had certainly hoped. I wish here to testify, of my own knowledge, that there is a very great improvement in that respect of late. Certainly the diligence with which members of the Commission have applied themselves to their task cannot be doubted, and there is good reason I believe to expect even more abundant material from the Commission in the future. But so long as the Armies of the Allies were fighting outside Germany, still more when they were far away, their opportunities to get anything like first-hand information were very limited. But when, for example—I take this instance because I know that it has actually occurred—an Allied Army made its way into Italy, and began forcing its way up Italy, it reached places

where there had been British officers and men held, often in horrible conditions in Italian prison camps. Then it got at once first-hand information from those it was able to rescue, very often with the names and descriptions and the other full details which any prosecuting office must have before it can feel itself on solid ground.

I make the prophecy that, as the Allied Armies penetrate further and further into Germany, they will get more and more information and be able to take more and more cross-sections, which will help them to put together the various pieces of evidence, and enable them in greater measure to provide the information that is wanted. But they have already provided very considerable lists of individuals. As the result of this sifting they can, in most cases, actually name, and in other cases identify by description fairly closely. As a consequence, as Lord Wright has said, these names are passed to the Armies and there is a sifting process going on by which, whenever it is possible, the man who is wanted is, as it were, kept back and not allowed to pass into the general mass of German prisoners—certainly not allowed, I hope, to be carried far away. To that extent, this selection of the people who are wanted for war crimes is now going on. Within the last few days, or within the last week or two at any rate, there has been a further list, provided by the Commission, going to the Foreign Office and to the other Governments concerned, which is all additional material for laying hands on an individual and holding him for trial. It is obviously right that we should not attempt to stage such trials until Germany is beaten. I will not mention the reasons, but they will appeal to every man of common sense. On the other hand, it is equally important that when the time does come, the machine, the just sure machine which shall find out who is guilty and mete out punishment, shall be ready to operate quickly.

I recollect that my noble and learned friend Viscount Maughan pointed out during the earlier debate that one of the great defects of the system which was followed after the last war arose from the fact that the Allies committed the incredible folly of allowing an armistice and the cessation of all fighting without demanding any individuals to be then and there surrendered. It was only after the signing of the Treaty of Versailles long

afterwards that provision of this sort was made, and by that time all sorts of possible opportunities had been lost. Criminals had fled, evidence was stale—even, perhaps, the intense sense of the importance of dealing with this matter had slightly evaporated, and no doubt the whole thing was a ghastly failure. We do not want to repeat that, and that is why I said, in a previous debate in your Lordships' House, that it was the fixed determination of the Allies, including our own Government, that we would, in connexion with anything in the nature of a cessation of hostilities, demand at that stage the surrender of such persons as we could name and identify, the better to carry through this process.

I think that it was very wise of my noble and learned friend Lord Wright to warn us that the actual number of cases which will be brought to trial and punished will inevitably fall far short of corresponding to the wickedness which has been perpetrated. I wish it were not so, but I do not see how that can be avoided. To my mind it is more important to show the world, when the occasion comes, that men who have thus been properly identified, and whose criminal action is proved to the satisfaction of a fair-minded tribunal, are dealt with severely and promptly, than that we should have a more ambitious scheme which would be very likely, in the end, to be "lost in shallows and in miseries." I should add that President Roosevelt, who has been in close co-operation with us on this subject, took the opportunity of declaring, in October, 1943, when the organization of this business started, that he wished it to be understood by the German people that the plans which we were working out did not threaten the lives of vast masses of Germans, as though it were possible to exact punishment wholesale without regard to the individuals concerned, but that we were resolved to deal with the real criminals who could be proved to have taken part in a definite crime.

I was very grateful to my noble and learned friend Lord Maughan for his extremely candid speech. He has been taking a little holiday, and there is nothing like a holiday for providing an opportunity for reflection. He seems to have used his holiday to very good purpose. He comes back fresh and invigorated,

as we are all glad to see, and says quite boldly that on mature reflection he thinks that there is a great deal more to be said for military tribunals than perhaps was supposed at an earlier stage. I am not making a pronouncement—I do not know—but as far as a personal opinion goes I confess that I am of his view. It is not, of course, a Court Martial which is in mind; a Court Martial can deal only with those who are subject to military law. What is in mind is a Military Court, and it is beyond all question that a properly constituted Military Court has jurisdiction in an occupied country to deal with war crimes. Without going any further than I should, I may say that at any rate provisionally the British Government have made the most detailed plans in order that if that method is finally chosen it can be put into operation, as far as we are concerned, very promptly. A great many highly technical matters have to be considered, such as the rules of evidence and the constitution of the tribunal.

VISCOUNT CECIL OF CHELWOOD: Can you tell the House whether the Russian Courts which tried the criminals at Kharkov and Kiev were what could be described as military tribunals?

THE LORD CHANCELLOR: I could not say; I do not know enough about it. On this subject I noticed the very important observations of Lord Wright, that he would like to feel that he was in closer touch with the Soviet tribunals. I agree with him. But that is only one way of dealing with the matter, and all I have to say on that is, that as far as the British Government are concerned I know that we have worked behind the scenes on this subject with great intensity. I must point out to your Lordships, of course, that the decision to be taken is not a decision of our own Government alone. To some extent, if there be some portion of Germany for which we take special responsibility after the war, then within that area it might be so, but the general decision has, of course, to be a decision of the Allies as a whole. There are many things to consider, and it may be that, just as different views have been expressed in this debate, so there may be a certain difference of view between the different authorities concerned—not a quarrel, but simply the kind of difference

[The Lord Chancellor.] which arises from the extreme complexity and novelty of the subject.

But, while I do not at all wish to be on record in such a way as hereafter to be reproached, I would communicate to the House my own present belief, which is that although the War Crimes Commission was not able at first to provide the results which I confess I had hoped for, I certainly think that the services which it is now able to render, with the additional information which it is obtaining from many quarters, are most valuable. I think that all the Allied Governments owe it a great debt, and I hope that this work will be continued. I am confident that the information which they have given is information of which good use can be made when the time comes.

I must now turn briefly to the other matter, which perhaps bulks even larger. As I have already said, I am perfectly unrepentant regarding the proposition that if you want to find the great criminals you must find them at the top. But, as was recognized at Moscow, and as has been recognized throughout this debate, the considerations which determine how one should proceed are not altogether the same in their case. I have already pointed out that at least in the view of many people part of the infamous atrocities for which these criminals ought to be held responsible occurred before the war, and occurred at the expense of their own German fellow-citizens. Those are not war crimes in the strict sense. That alone creates a difficulty. There is a further difficulty which has not been mentioned expressly in this debate, but which is always in my mind. Perhaps we pass rather too rapidly over this conception of having a judicial body in the nature of a Court, but without too much technicality, to deal with these major criminals. No doubt a Court might be devised to try them, but there is something else that a criminal Court has to do; it has to settle the punishment. Personally, I find it very difficult to think that however wisely the Court is constituted, and even though there are appointed to it some of the best brains and the most highly-trained experts in the countries concerned, if that Court is to act completely independently—and it would be nothing short of a fraud to put up a so-called judicial body which in fact took

its orders from various Governments—it could settle the sentences; because, after all, the punishment of these people is, as my noble and learned friend Lord Roche pointed out, an immense political act. It may affect the history of the world for years and years to come. While I do not seek to lay off this gown and wig and join my noble friend Lord Maugham as the simple rustic, I avow that I do not personally quite see how a tribunal, as one usually thinks such a tribunal is constituted, could very well have such a prodigious responsibility as to select the punishment.

There are intermediate ways, perhaps. There is one which has not been mentioned this afternoon but which I have spent a good deal of time in considering. I do not put it forward as the suggestion of the Government at all—it is a personal reflection which may be worth considering. It is this. After all, one of the great distinctions between these major criminals and what we have for convenience called the ordinary war criminal is this, that nobody in the world doubts what the major criminals have done. You certainly do not need the proof in the same way that you need proof if you have a particular man, A. B., who has got to be shown to be guilty of the special crime charged. There is really no doubt what these people have done. They set themselves, by methods rightly denounced in this debate, to make themselves masters of Europe and to bully the world, and they have done it by means which are so horrible and atrocious and contrary to every rule which we hoped that civilization had agreed to observe, even in wartime, that there can be no question as to the character of their action.

I can imagine the drawing up of a charge against these people, so framed as to bring out the undoubted general facts about them, and I can even imagine their being offered the opportunity to challenge these facts before any tribunal you please. But that is a very different thing from that which the noble Lord, Lord Addison, objected to just now, and in my personal opinion rightly. If you start all the paraphernalia of a trial, what would be the length of the indictment, how many witnesses would you want, when would it stop, and how many speeches would have to be made? And all the while the facts are beyond dispute. While therefore I am most heartily with the noble Viscount,

Lord Cecil, in saying that everything that is done here has to be done with justice, that it is justice that we are out for—and I do not deny that even an avowed and confessing criminal in the ordinary way is entitled to have his guilt proved—still I do think there are very special circumstances here which well justified the Allies when they met in drawing a distinction between the two.

Your Lordships will observe what it is that was said in the Moscow Declaration. The words are very striking, because in the earlier part of the Declaration there is a most detailed description of the methods that are going to be followed in the case of the ordinary criminals, and then follow the words which we have all heard many times:

"The above Declaration is without prejudice to the case of the major criminals, whose offences have no particular geographical localization, and who will be punished by the joint decision of the Governments of the Allies."

Since that there has been the meeting in the Crimea, and your Lordships have in mind the White Paper that has been published, containing a series of very definite and very striking declarations and resolutions adopted by the three principal Allies and their representatives. I think I should tell the House that the Crimea Conference made no effort whatever to qualify the Moscow Declaration. The Moscow Declaration stands, the sentence I have just read from it stands. And indeed in the Crimea Declaration of February II, there occurs the sentence that these Allies "have the inflexible determination to bring all war criminals to just and swift punishment." There is your swift action.

But I think I should say to the House that the question of how exactly these arch-criminals should be dealt with was not discussed in detail at the Crimea Conference. It did so much that I should have thought that that was not very difficult to understand. But there is another statement in the published Declarations of the Crimea Conference: it is that there is to be a regular meeting of the Foreign Secretaries under machinery which is being established for regular consultation, and that they will meet as often as necessary. There can be no doubt that the question of the procedure for dealing with the major war

criminals will be one of the matters which the Foreign Secretaries will discuss at an early date. As I have said, our own Government have really given a great deal of attention to this, and I am quite sure we shall find that our Foreign Secretary is well equipped to deal with it in more detail as soon as opportunity offers. But the fact is that the exact procedure for dealing with these people is a matter which is still under consideration between the Allied Governments, and therefore it is not possible for me to say what arrangements will be finally agreed to. His Majesty's Government have their view and will present it to others, but it would, of course, be quite improper even to attempt to make a unilateral statement where this is essentially a thing to be agreed and accepted by the Allies in unison, as I believe it certainly will be.

I hope what I have said has been of some interest to your Lordships and has cleared the ground. But I should like to say in conclusion that, like some who have spoken, I regard this question of dealing with the war criminals as something very much more than mere retaliation. That is not the conception that is in my mind at all. If things such as have been done can be done in the face of heaven, and if humanity is not capable effectively of dealing with them and exposing them and punishing them, then indeed it would seem that humanity is doomed. Justice is a very much greater thing than a collection of verdicts for the prisoner or for the prosecution. It is really fundamentally the basis of our free life. When President Roosevelt, in a very famous and moving declaration, spoke of the Four Freedoms, there were many of us who thought round for a fifth. To my way of thinking the fifth freedom is the right of a free man and woman to know that the Powers which govern the world will be strong enough to repress outrageous evil. Nothing is more essential to our British system than that we give to this right to justice a very practical shape. Civilization cannot advance unless everybody is enabled to feel that the law is strong enough to protect him from hideous wrong. International Law is a very weak and uncertain thing in practice to-day. It is absolutely essential that we should all combine to strengthen it, and I cannot think of any single contribution more likely to

[The Lord Chancellor.]
strengthen and put in their proper shape these worldwide rules of right and wrong than that the war criminals should be dealt with on the basis that those who are guilty of these awful offences will be swiftly and justly punished.

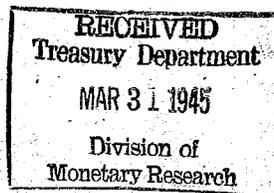
I thank Lord Addison for having raised this subject again. I have spoken under that necessary reserve which comes from having had a great deal to do with the consideration of it when it really cannot be laid out now in more detail. I find the subject not by any means easy but,

of course, of overwhelming importance, and I am sure the debate this afternoon has rendered a useful public service.

LORD ADDISON: It is unnecessary for me to add anything. The concluding words of the Lord Chancellor's speech fully justify the proceedings this afternoon and I think that they have rendered notable public service. I beg leave to withdraw.

Motion for Papers, by leave, withdrawn.

House adjourned at five o'clock.



000824



000225

New York Post
FEB 27 1945

U. S. Defines War Criminals To Include Jews' Persecutors

By WILLIAM O. PLAYER JR.
Post Staff Correspondent

Mexico City, Feb. 27.—The U. S. government's first definition of war crimes, broad enough to cover the persecution of Jews within Germany, is set forth in a resolution sponsored by the American delegation to the Inter-American Conference here.

The resolution provides uniform procedure for the delivery to proper authorities of alleged war criminals who seek refuge in American Republics.

It classes as war criminals all

EXCLUSIVE

"the Axis leaders and their associates who have caused to be committed" and all individuals who have actually committed "heinous crimes" violation of the laws of war, existing treaties, the rules of international law, the penal codes of civilized nations or the "concepts of civilized life."

Would Avenge German Jews

The fifth category would close almost all the loopholes that now

exist in international law. In particular, it would remove the technical objection raised in some quarters to punishing those responsible for a government's crimes against its own nationals such as the Nazi regime's atrocities against Jews of German nationality.

Priority to Be Fixed

Practically no opposition to the U. S. resolution is anticipated. Its sponsors feel that once adopted it will provide an important criterion for other agencies concerned with war criminals such as the Allied War Crimes Com-

mission in London.

Under the U. S. proposal for the extradition of war criminals the Inter-American Juridical Committee sitting in Rio de Janeiro would draft a plan for determining priorities in the cases of refugees sought by two or more governments or intergovernmental agencies. Presumably, the first claim on such criminals would be granted to whoever had the most serious charges against him, instead of to the first country requesting his return, as is now the practice with regard to ordinary criminals.

000026

FEB 13 1945

Pell Advocates Punishment for Lesser Nazis

Says Sparing of Any Guilty of Race Crimes Would Abet Germany's Youth in 1960

Punishment not only of Nazi leaders but of lesser Gestapo officers who were directly involved in crimes against religious and national minorities was called for last night by Herbert C. Pell, former American representative on the United Nations War Crimes Commission, at a meeting of electors and delegates to the American Jewish Conference.

Emphasizing that "we are asking for justice, not revenge," Mr. Pell told the meeting at the Hotel Commodore that "our eventual goal is the prevention of World War III and the crash of the world to barbarism."

Speaking on a program which included Dr. Nahum Goldman, representing the World Jewish Congress, the former crimes commissioner declared that "punishment is absolutely necessary" for those who took part in Nazi outrages. It will not do, he said, to hang the leaders, then "pat the smaller men in the Gestapo on the head, give them a hot dog and tell them not to do it again."

Another Hitler in the future, he said, may remind the German youth of 1960 that "your Uncle Fritz lived to a comfortable old age to tell you of the fun that he had in Poland, in Norway or in France." The boy of 1960 will not be likely to be taken in, he said, if he remembers his "Uncle Fritz" hanging on a tree in the neighborhood. Asserting that "at least ten million" died indirectly as a result of the war, Mr. Pell asked: "Is it too much to ask that one man should hang for ten murders?"

Dr. Goldmann stressed the need for helping Jews in liberated countries who are "penniless, homeless, lacking food, clothing and the elementary necessities of human life." Calling restoration of Jewish property the "problem of greatest importance," he charged nothing has been done about it. Red tape and legal procedure have

made a joke of the problem, he said.

He urged conference members to use strong pressure to obtain the assistance of the American and British governments and told the conference that "we will have to fight every step of the way to lay foundations for Jewish life in Europe." Calling for immediate opening of Palestine for large European emigration, he branded present restrictions as "unbearable."

The conference also adopted a resolution calling for abrogation of the British White Paper governing Palestine and expressing regret that Congress had failed to appropriate \$10,000 to finance continued American participation in the crimes commission. Dr. Israel Goldstein, co-chairman of the interim committee of the conference, presided.

*Post-Jewry provided
to 1945 War Crimes*

The New York Times

FEB 5 1945

PELL RECEIVES BACKING

Federation for Polish Jews Demands Reappointment

Reappointment of Herbert C. Pell as American member of the United War Crimes Commission was urged at a meeting of the American Federation of Polish Jews yesterday in the Hotel McAlpin.

Representative Emanuel Celler demanded the immediate reinstatement of Mr. Pell. He also demanded that Jewish representatives be among the commissions or judges that will try Nazi war criminals.

Senator James M. Mead of New York sent a message saying he would support the request of the State Department for an appropriation for salary and expenses for American participation in the United Nations War Crimes Commission.

Mr. Pell sent a letter, read at the meeting, in which he described Nazi atrocities against Jews during the German occupation of Hungary. He was United States Minister to Hungary during part of the occupation.

200228

The Washington Post

FEB 3 1945

War Crimes

It is encouraging to note that the British government has had a change of heart regarding the prosecution of Germans guilty of outrages against Jews and other minority elements inside the Reich. Like our own State Department, the British Foreign Office for a long time appeared to cling to the view that such crimes, while to be deplored and denounced, could not be punished by any international tribunal, since they were a domestic matter.

This attitude was strongly opposed by Herbert C. Pell, the American delegate on the United Nations War Crimes Board, and, at his persistent urging, by the board itself. But until this week the British government refused its support of the board's recommendations. On Wednesday, however, Richard K. Law, Minister of State, announced in the House of Commons that, despite the fact that crimes committed by Germans in Germany could not be dealt with under the same procedure as crimes committed by Hitler's agents in occupied countries, the perpetrators of atrocities against German Jews, anti-Nazis and others in the Reich would be punished.

A similar pledge has now been given by Acting Secretary Grew. He declared yesterday after persistent heckling from the press that the plan worked out by the department calls for the punishment of German leaders and associates for their responsibility "for the whole broad criminal enterprise . . . including offenses wherever committed, against the rules of war, and against minority elements, Jewish and other groups, and individuals." So far, so good.

000829

U.S. WILL AVENGE JEWS IN GERMANY

Asks Allied Accord In Punishing Nazis For Atrocities

Washington, Feb. 1 (AP)—The United States has proposed to Britain and other allies definite plans for punishing Nazi leaders and other Germans guilty of atrocities against the Jews inside Germany.

This was announced tonight by Joseph C. Grew, Acting Secretary of State, to meet criticisms aroused by the dismissal of Herbert C. Pell as American member of the United Nations War Crimes Commission.

Pell had wanted the German persecutors of German citizens tried as war criminals even though some questions had been raised as to whether these crimes could technically be classed as war crimes under international law.

British Stand Revealed

A policy declaration by Grew made it clear the United States, like Britain, distinguished between regular war crimes and those atrocities committed against Jews and other minority groups inside Germany, but the statement declared the United States emphatically intends to see that criminals of both types "shall be punished."

The British position was announced yesterday in Parliament by Minister of State, Richard K. Law.

Plodded by the same controversy, Law said Britain is determined to see that authorities in postwar Germany deal out to the perpetrators of atrocities inside the country "the punishment they deserve."

Cited As Roosevelt Objective

Grew said American officials have been working on specific proposals to achieve that objective, which he said President Roosevelt has set forth repeatedly.

"Pending the outcome of current discussions with our allies on this subject," Grew said, "these proposals cannot be published."

"I wish, however, to state categorically that these proposals are as forthright and far-reaching as the objectives announced by the President which they are intended to implement."

'Inexorable Determination'

"They provide for the punishment of German leaders and their associates for their responsibility for the whole broad criminal enterprise devised and executed with ruthless disregard of the very foundation of law and morality, including offenses wherever committed against the rules of war and against minority elements, Jewish and other groups, and individuals."

Grew said the State Department welcomes public discussion of the Pell incident, which, he said, "has made clear the determination of our people that the guilty shall be punished."

"The Department of State and the Government share that inexorable determination."

Pell Explains Dismissal

Pell attributed his own dismissal to dissatisfaction with his work and made it clear he believed that dissatisfaction was in the State Department.

Earlier, Sir Cecil Hurst, British member of the commission, had resigned in a conflict with the British Foreign Office because he wanted his Government to support a proposal which Pell had made and the commission had approved—to try Germans who had committed atrocities against the Jews as war criminals.

OF COURSE YOU ARE FOR MR. PELL!

Then Ask Your Government to Take An Unequivocal Stand On War Criminals Now! Don't Let Legal Quibbling Save The Murderers From The Gallows!

In our confused times we have become used to many strange and inexplicable occurrences. Yet what is happening now in the councils of the United Nations War Crimes Commission is something so amazing that it surpasses the imagination of even the greatest of skeptics and cynics. The situation may be summarized as follows: Two decent, courageous, far-sighted and outstanding statesmen of the United Nations—Sir Cecil Hurst of Britain, and Herbert C. Pell, an American—were squeezed out of the War Crimes Commission because they demanded three things:

1. That all war criminals of the Axis powers, regardless of rank and position, be brought to trial for the unspeakable atrocities that were committed against human beings.
2. That these war criminals should be tried and punished even if they committed crimes against Jews of their own countries.
3. That in order to translate the Moscow declaration on atrocities into concrete action, an international conference be convoked for the purpose of setting up a United Nations War Crimes Court.

These two courageous champions of humanity were pressing their governments for a solution for almost a year, but the British Foreign Office did not even offer a reply to the courtesy of the presentations of Sir Cecil Hurst. In disgust and embitterment he resigned, making his protest universally known. Some weeks later, Mr. Herbert C. Pell found himself dismissed as the American representative on the Commission. The official reasons for the "purge" of these two champion statesmen—Sir Cecil Hurst for "ill-health" and Mr. Pell for the lack of an appropriation of \$30,000 for himself and his staff—as well

as the legalistic hair-splitting brought forward against bringing to trial Axis criminals for having tortured and killed Jews, are senseless and inhuman.

There is no use indulging in any legalistic discussions. It is enough to say two things:

By virtue of the Nuremberg laws, the Jews in Axis countries have long ceased to be nationals of those countries. They have been excommunicated, denationalized and transformed into stateless people—in fact, a new ethno-political entity which the Hebrew Committee of National Liberation so rightly designates as the renescent Hebrew nation.

Should International Law fail to acknowledge this fact, to justify the crimes committed against those people, then there is only one conclusion to be drawn: something is wrong with International Law and therefore it must be changed or abandoned in the interest of historic justice. The world must not permit the establishment of an axiom that red tape supersedes Justice.

If legalistic excuses will remain the basis of the United Nations attitude to the worst crimes history has ever witnessed, there is no hope for humanity and civilization to survive. Leaving crimes of this kind unpunished on the pretext that they were committed only against Hebrews, would mean to allow the continued existence of a lawless zone for crime and extermination. Within this zone the philosophy of barbarism would continue to feed on its own cruelty and make the coming peace less than an armistice, a situation that would lead to another war, just as surely as the present war followed the last, because of an incomplete peace.

Mr. Pell, in his recent statements, expressed this certitude in the most convincing and pro-

phetic, though dispassionate manner:

"The conviction and punishment of those responsible for the suffering of this war is not a matter of revenge, but of justice. The persecution of minorities is an easy and, from ancient times, regularly used means of establishing tyrannical governments which inevitably become belligerent sooner or later. Every such government must canalize discontent and transmit the hostility provoked by its own methods at home into hatred of foreign countries.

"The persecution of a minority will tend at first to consolidate the gang and will coo the opposition of all citizens, even those not belonging to the persecuted minority. Let us suppose a shopkeeper in Berlin sees a Jewish shop next to him raided and wrecked. It is manifest that such a man will hesitate before opposing the Nazi organization."

"I am thinking of our unborn children and I see myself damned, in the most literal and theological sense of the word, before I will leave a stone unturned that might save them from a third world war."

But it is not only a question of the future. What makes this a very grave and urgent problem is that most of the estimated million or more Hebrews still alive in German-occupied Europe are former Axis citizens and while being in constant danger of death, which hundreds of them meet daily, the Germans are being informed that crimes committed against Hebrews are not considered war crimes. In their criminal way of thinking, the German murderers might very well look upon the present policy of the War Crimes Commission as tacit consent to their incessant mass murder of Hebrew men, women and children.

But Mr. Pell and Sir Cecil Hurst are not dreamers. They are realists who foresee what is going to happen tomorrow. To uphold them, public opinion in this country, as well as in England, must stand up and join their voices to those of Mr. Pell and Sir Cecil.

The Hebrew Committee of National Liberation made the

following requests of the governments of the United Nations:

1. That they issue a joint declaration proclaiming that crimes committed against Hebrews in Europe, irrespective of the territory on which the crime was committed, the citizenship or lack of citizenship of the victim at the time of death, be considered as a war crime and punished as such.

2. That the governments of the United Nations concerned instruct their representatives on the War Crimes Commission to see to it that the above mentioned declaration is put into effect.

3. That representatives of the Hebrew people be given membership on the War Crimes Commission and that temporarily, until such time as a Hebrew National Sovereignty be re-established, the Hebrew Committee of National Liberation be authorized to constitute the Hebrew representation on the War Crimes Commission.

In backing these requests, we appeal to every man and woman in this country to demand that Mr. Pell be immediately restored to his function on the United Nations War Crimes Commission and given authority to act on behalf of the United States Government for the punishment of war criminals.

The American people, heirs to a glorious tradition, keepers of a sacred flame of justice, must take a firm stand on these demands. We must not nullify the ideals for which our sons and brothers are dying in Italy, on the borders of the Reich, in the Pacific Islands and on the Seven Seas.

In the name of humanity, for which the America of Washington, Lincoln and Tom Paine stands, won't you join us in our struggle and let your Congressman and Senator know immediately where you stand on this matter? Ask them to make available the appropriation for the War Crimes Commission without delay.

Join us by mailing this coupon NOW.

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I am with you in the campaign to bring about United Nations action with a view to trying and punishing war criminals, regardless of rank or position, who committed unspeakable atrocities against the Hebrew people of Europe, and for helping achieve Hebrew representation on the War Crimes Commission.

In order to enable you to carry out this campaign successfully, I am joining you with my contribution of \$_____.

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000232

February 2, 1945

MEMORANDUM FOR THE FILES

Mr. Pehle and Mr. DuBois discussed with Secretary Morgenthau today the attached proposed cable to Secretary Stettinius in the light of the statement issued by Acting Secretary of State Grew on February 1, 1945.

It was decided that, in view of the statement issued by Mr. Grew, this cable should not be pushed at this time.


F. Hodel

000833

Proposed Cable to Secretary Stettinius from Grew,
Morgenthau and Stimson

We regard the unfortunate publicity concerning
Pell's resignation from the War Crimes Commission, on
alleged ground that crimes against stateless and Axis
nationals are not regarded as war crimes, as a real
set-back to the purposes for which the War Refugee Board
was set up. We therefore urge that a statement be
issued at the present conference to the effect that
such acts are war crimes and that those guilty of such
crimes will be punished. Failing action by the conference
along the foregoing lines, we strongly recommend that the
State Department publicly announce this Government's in-
tention to punish all war criminals, including those who
have committed crimes against stateless persons and Axis
nationals.

O.K. W.M.J.

100834

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000835

EXECUTIVE OFFICE OF THE PRESIDENT
WAR REFUGEE BOARD

INTER-OFFICE COMMUNICATION

DATE FEB 1 1945

TO Mr. DuBois

FROM Miss Hodel

I feel that it is extremely important that a cable along the attached lines be despatched as soon as possible to Secretary Stettinius. I have discussed the matter with General O'Dwyer and he is in full agreement with the proposed action.

JH.

Attachment.

000236