CHAPTER XV
COMMITTEE I—THE EXAMINATION OF CASES AND THE LISTING OF WAR CRIMINALS

A. THE CREATION OF THE COMMITTEE

(i) COMMISSION'S TASK UNDER THE MOSCOW DECLARATION

On 31st March, 1948, when the United Nations War Crimes Commission terminated its existence, the Committee on Facts and Evidence (Committee I) of the Commission held its final meeting to consider the last of 8,178 cases involving 36,810 accused or suspected war criminals, and witnesses to their alleged crimes. Committee I's secretariat was authorised to prepare the 80th and final list of the Commission's "Lists of War Criminals, Suspects and Witnesses". Thereby ended an unrelenting four-year effort to record and investigate the story of Axis war criminality preceding and during World War II, and to assist in bringing to justice the perpetrators of that criminality.

When the Lord Chancellor in the House of Lords on 7th October, 1942, announced, simultaneously with President Roosevelt, the formation of a United Nations Commission for the Investigation of War Crimes, and actually brought it into being on 20th October, 1943, as the United Nations War Crimes Commission, he indicated that the armistice should contain provisions for the handing over of named war criminals. One of the purposes of the proposed Commission was therefore to identify wherever possible the individuals responsible for the commission of war crimes.

While the United Nations War Crimes Commission was being organised in London, a conference of the foreign ministers of the United States, the United Kingdom and the Soviet Union was in progress in Moscow. The Moscow Declaration of the three statesmen, signed on 30th October, 1943, in the name of their three Governments and in the interests of all the United Nations, became, as one authority described it, "a charter and guide for the United Nations War Crimes Commission".

After reciting that Hitler's forces had committed atrocities, massacres and cold-blooded executions in many occupied countries, the Declaration pronounced the solemn warning that on the conclusion of the armistice with Germany:

"... those German officers and men and members of the Nazi Party who have been responsible for or taken a consenting part in the above atrocities, massacres, and executions, will be sent back to the countries in which their abominable deeds were done, so that they may be judged and punished according to the laws of those liberated countries and of the free Governments which will be erected in them.

"Lists will be compiled in all possible detail from all those countries, especially the invaded parts of the Soviet Union, Poland, Czechoslovakia, Yugoslavia, Greece, including Crete and other islands, Denmark, Norway, the Netherlands, Belgium, Luxembourg, France and Italy..."

Quite properly, therefore, the Lord Chancellor, who presided at the meeting on 20th October, 1943, proposed that the Commission should serve two primary purposes:

(1) It should investigate and record the evidence of war crimes, identifying where possible the individuals responsible.

(2) It should report to the Governments concerned cases in which it appeared that adequate evidence might be expected to be forthcoming.

The statesmen present at the inaugural meeting of the Commission were aware of the abortive efforts of the Allied leaders to punish the German war criminals after 1919, when, after peace was attained, a long list of German war criminals, including many military and naval leaders of high rank, was prepared. Following representations from the German Government this list of about 5,000 names was reduced to 892 persons whose surrender was demanded—97 by Great Britain, 334 by Belgium, 334 by France, 29 by Italy, 57 by Poland and 41 by Roumania. It was from among these lists that twelve persons were subsequently tried at Leipzig and but six convicted—a fiasco which undoubtedly sowed the seeds for ruthless disregard by the Nazis, two decades later, of accepted principles of international law governing the conduct of war.(1)

(ii) DEFINITION OF ACTS CONSTITUTING WAR CRIMES

The initial problem facing the Commission was that of defining those acts which would constitute war crimes and for which the Commission would receive and examine cases. After a discussion on 2nd December, 1943, the list of war crimes drawn up by the Commission on Responsibilities of the Paris Peace Conference in 1919, was adopted for an immediate and practical working basis. This list was as follows:

(i) Murder and massacres—systematic terrorism.
(ii) Putting hostages to death.
(iii) Torture of civilians.
(iv) Deliberate starvation of civilians.
(v) Rape.
(vi) Abduction of girls and women for the purposes of enforced prostitution.
(vii) Deportation of civilians.
(viii) Internment of civilians under inhuman conditions.
(ix) Forced labour of civilians in connection with the military operations of the enemy.
(x) Usurpation of sovereignty during military occupation.
(xi) Compulsory enlistment of soldiers among the inhabitants of occupied territory.
(xii) Attempts to denationalise the inhabitants of occupied territory.
(xiii) Pillage.
(xiv) Confiscation of property.
(xv) Exaction of illegitimate or of exorbitant contributions and requisitions.
(xvi) Debasement of the currency and issue of spurious currency.
(xvii) Imposition of collective penalties.
(xviii) Wanton devastation and destruction of property.

(1) For particulars of the Leipzig Trials see Chapter III.
(xix) Deliberate bombardment of undefended places.
(xx) Wanton destruction of religious, charitable, educational and historic buildings and monuments.
(xxi) Destruction of merchant ships and passenger vessels without warning and without provision for the safety of passengers and crew.
(xxii) Destruction of fishing boats and of relief ships.
(xxiii) Deliberate bombardment of hospitals.
(xxiv) Attack and destruction of hospital ships.
(xxv) Breach of other rules relating to the Red Cross.
(xxvi) Use of deleterious and asphyxiating gases.
(xxvii) Use of explosive or expanding bullets and other inhuman appliances.
(xxviii) Directions to give no quarter.
(xxix) Ill-treatment of wounded and prisoners of war.
(XXX) Employment of prisoners of war on unauthorised works.
(XXXI) Misuse of flags of truce.
(XXXII) Poisoning of wells.
(XXXIII) Indiscriminate mass arrests (added by the United Nations War Crimes Commission).

(iii) FILING OF CHARGES BY GOVERNMENTS

On 13th December, 1943, the Secretary General circulated a letter stating that the Commission’s Secretariat was now ready to receive particulars of alleged war crimes which the respective member Governments desired to submit to the Commission. For the purpose of filing, National Offices were asked to submit their cases on a prescribed form, and the following points were laid down as being relevant to each case:

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

Concerning the offence alleged, it was pointed out that the Commission had provisionally adopted the list agreed upon by the Commission on Responsibilities of the Paris Peace Conference in 1919, and in doing so had been influenced by the fact that both Italy and Japan were parties to the preparation of the list and no objection was made to it by Germany. Also, the Commission reserved the right to make such modifications to the list as might appear necessary and there was no suggestion that the war crimes, on whose perpetrators punishment was to be inflicted, should be restricted to the offences mentioned on the list. In actual practice the Commission applied all known sources, written and unwritten, of international law respecting the conduct of war, including, particularly, the various Hague and Geneva Conventions, and rules adopted by individual nations for the guidance of their own armed forces in the conduct of war.
(iv) APPOINTMENT OF SUB-COMMITTEE ON FACTS AND EVIDENCE

At a meeting of the Commission of 4th January, 1944, the Netherlands representative suggested that a sub-committee be constituted to assume responsibility for the placing of the names of war criminals on the Commission’s Lists and the examination of the great influx of cases expected. At a subsequent meeting of 25th January, 1944, the Czechoslovak representative moved that three sub-committees should be instituted, the first of which was to consider facts and evidence, thereby discharging the “fact finding” functions of the Commission. He recommended the establishment of this sub-committee to facilitate the examination of individual cases submitted by the various Allied Governments and the compilation of lists of war criminals. The work of the sub-committee should be subject to confirmation by the Commission, but it would undertake the preparatory work in connection with the cases submitted. This recommendation was approved by the Commission and the Committee on Facts and Evidence (commonly called Committee I) was constituted at a meeting of the Commission held on 1st February, 1944. The Committee first consisted of representatives of Belgium, Czechoslovakia and the United States of America. Shortly thereafter the United Kingdom and Australian representatives were added to it. Australia later ceased to be an active member of the Committee, except for the Chairman of the Commission, Lord Wright, who served as ex officio member of this as well as all other committees of the Commission. During the latter stages of the Committee’s work the Norwegian representative replaced the Belgian representative upon the Committee, which thereafter consisted of representatives of Czechoslovakia, Norway, the United States of America and the United Kingdom.

At its first meeting the Committee had before it 20 cases submitted by France and 12 submitted by the United Kingdom. By 18th February, 1944, as a result of examining these and other cases, Committee I issued recommendations to the National Offices stating that in transmitting charges it appeared to be desirable that National Offices should, in addition to specifying the heading in the list of war crimes under which the charges fell, indicate what provisions, if any, of the national criminal law (whether civil or military) had been infringed by the accused.

It was also recommended that if, in the interests of security, the identity of the witnesses could not be given, some statement in general terms should be sent to the Commission, giving the information on which the charge was based. In view of the possible death or disappearance of witnesses, or the destruction of evidence, National Offices were asked to record at once, while still available, evidence of war crimes in an authentic form, with a view not merely to the work of the Commission, but also to prosecution for such crimes before the competent tribunal. This report was accepted by the Commission at its meeting on 22nd February, 1944, when the Chairman also announced the offer of the British Government to make available facilities for obtaining evidence on oath if any of the United Nations did not possess the requisite machinery.

By the end of February, 1944, Committee I had examined sufficient cases to warrant the inclusion of certain names in the Commission’s Lists.
In many cases it was found that the evidence presented was so complete that the Committee could recommend the listing of the person accused as one wanted for trial for war crimes. In some cases, however, the particulars available either as to the accused or the evidence in support of the charge were incomplete. In this case two possibilities might arise: either that the evidence, though incomplete, might furnish good reason for believing the accused guilty of a war crime, and for such cases the Committee had already established a provisional list, though it had not defined exactly the effect of inclusion in this list. In other cases the particulars were so incomplete that the case had to be adjourned pending the submission of further information. At the meeting of Committee I on 1st March, 1944, it was decided that charges would, for the time being, be classified under three headings:

"A." Charges to be proposed to the Commission for inclusion in the Commission's List or Lists.

But it was also stated that until more experience in the examination of cases had been acquired, the Committee did not contemplate placing persons on List "A."

"B." Charges placed on the Committee's Provisional List.

This list was further divided into two sub-divisions:

1. Charges in which the evidence was reasonably complete.
2. Charges in which the evidence was incomplete and further information was required.

"C." Charges consideration of which was adjourned.

Charges placed on the Committee's Provisional List were later re-examined and largely classified "A."

At the meeting of the Commission held on 7th March, 1944, during a discussion about the proceedings of Committee I, the French representative stated that he had objections to the Committee's procedure, but, in view of the importance of its work, he would submit them in writing.

On 21st March, 1944, the promised statement was made by the French representative, protesting against the very high standards required by Committee I before accepting charges. It was pointed out that after five months existence barely 60 cases had been submitted, most of which were incomplete and were placed on Class "C." This was entirely out of proportion with the real facts of German atrocities in Europe. He stated that Committee I insisted on having witnesses to prove acts attributed to a Gestapo chief, although under some legal systems the real crime would consist in the mere fact of being a Gestapo member operating in an oppressed territory. Moreover, under this system Committee I prevented charges being brought against the persons who bore the gravest responsibility, because there were no witnesses to the crimes which these persons had committed in the form of general orders or decrees. In the case of crimes against prisoners of war it was not possible to identify the culprits until German operational orders could be studied. It was maintained that, whereas in 1918 war crimes had not passed the limits within which individuals could be held responsible, in 1944, when hundreds and thousands
of persons had put to death or terrorised millions of other persons, crimes had assumed a collective character to which no list of individual criminals could do justice. The French representative therefore considered that Committee I might reconsider whether or not the aim of listing individuals would achieve a solution to the problem of suppressing crime. Moreover, since the Germans had exterminated too many witnesses and destroyed too much evidence, it was doubtful if such listing was a practical proposition. In view of the fact that Committee III was concurrently putting forward a proposal that at the time of the armistice all Gestapo and S.S. members should be interned, the attitude adopted by Committee I appeared rather illogical.

The Belgian representative, as Chairman of Committee I, pointed out that the conception of collective responsibility, put forward by the French representative, was outside the competence of Committee I. It was decided that Committee I should continue its work as hitherto, and various members expressed the hope that cases against the leading war criminals would be transmitted to the Commission. It was also agreed that National Offices should be encouraged to submit cases involving key men who had signed their names to public proclamations, ordered that hostages should be shot, civilians deported, etc.

This proposal was discussed at the next meeting of the Commission on 4th April, 1944, when the Chairman and other members expressed the view that it might be necessary to alter the limits which the Commission had fixed for itself in connection with listing war criminals. A resolution was moved and carried, by which the Legal Committee (Committee III) was asked to consider the recommendations made by the French representative and to submit suggestions for overcoming the difficulties.\(^{(1)}\) A further resolution was also adopted requesting the Governments of enemy-occupied countries to submit to the Commission lists of all enemy civil and military persons in authority in each occupied district since 1939, such as Gauleiters, Governors, Chiefs of the S.S. and Gestapo, with as complete particulars as possible about these persons. The Commission subsequently issued on its own initiative two lists of key Nazi war criminals on the basis of information compiled by its Research Office.

Largely as a result of the French proposal, warmly supported, in particular, by the Belgian representative, Committee I adopted the practice of listing all members of a military unit for war crimes where it appeared that crimes were committed on such a scale that it could be presumed that all members of the unit could be suspected of taking part in them. The murders at the little French village of Oradour sur Glane, for which the S.S. Panzer Grenadier Regiment No. 4 ("Der Fuehrer") of the Division "Das Reich" of the Nazi forces were held responsible, was an example of such listing. On other cases all members of certain Gestapo units known to have operated in a restricted territory were listed. In general the Committee was extremely cautious in utilising this form of listing. The obvious advantage of such listing was that members of a

\(^{(1)}\) For details of discussions in the Legal Committee on the subject of collective criminality, see Chapter XI, Section A (1).
unit guilty of war crimes of multiple character would be kept in custody until the actual perpetrators could be found.

B. FUNCTIONS AND PROCEDURE OF COMMITTEE I

Committee I, although termed a fact finding body, performed such functions only in the sense that it determined whether ex parte material submitted to the Commission by its member Governments was sufficient to disclose a prima facie case. Its functions did not go beyond the determination of a prima facie case and were therefore not judicial. It could consequently be compared in Anglo-American law to those of a Committing Magistrate or Grand Jury. From the beginning its decisions were based entirely upon information submitted by member Governments. Possessing no information in refutation to that submitted by the member Governments and having no facilities for securing evidence from the accused or from those representing the accused, the Committee had to rely entirely upon the good faith, accuracy, and diligence, of the various member Governments in presenting cases involving bona fide war crimes. It relied upon the various Governments first to satisfy themselves that a war crime of reasonable importance had been committed and then adequately to present the facts to the Committee. Only during the latter stages of its existence did the Committee begin to receive evidence submitted on behalf of persons previously listed. This occurred in only a few cases and in each case the Committee carefully examined the new evidence before deciding whether or not the name of an accused should remain upon the Commission’s lists or should be removed. The fact that the Committee’s decisions were questioned in only a few instances may be taken both as a measure of the Committee’s close scrutiny of submitted cases and of the careful manner in which the various National Offices had prepared the cases.

Following a principle frequently reiterated and approved by the Commission itself, the Committee held that its competence extended to war criminals only and did not include quislings or traitors or those individuals who had committed atrocities against nationals of their own country, unless acts were in fact war crimes in the strict sense and not of a traitorous nature.

When determining whether or not a prima facie case existed in each instance, it may be broadly said that charges were examined for (1) the violation of an accepted law of war crimes and (2) the sufficiency of the facts to constitute a violation of the law. Or, expressed in another way, the Committee attempted to answer three questions with respect to each charge:

(a) do the charges made disclose the existence of a war crime or crimes?
(b) is there sufficient material to identify the alleged offender?
(c) is there good reason to assume that if put on trial, the alleged offender would be convicted?

It has been pointed out that Committee I used as a working basis the list of war crimes drawn up by the Commission on Responsibilities of 1919. In actual practice the Committee, throughout its four years of
existence, found itself constantly being called upon to revise the concepts and notions of war crimes as outlined in this list. Several of the war crimes therein listed were never applied by the Committee and others were extended to embrace the concepts of war crimes, as they had developed since World War I. Some of the practical problems met and solved by Committee I, in examining individual cases submitted by member Governments, will be discussed in subsequent pages. In this connection it may be noted that with one exception, that of Ethiopia, the Committee examined no cases other than those submitted by member Governments. In one instance an organisation known as the Association of German Democratic Lawyers submitted a number of cases largely arising out of murder and other atrocities committed against Jews in Germany prior to the beginning of the war. Committee I recommended, and the Commission approved its action, that these charges should more properly be submitted to the Allied Authorities in Germany for prosecution under the Allied Control Council Law No. 10, as they essentially involved crimes against humanity. Similar action was taken with respect to charges submitted by the Legal Commission of the Free German Movement in Great Britain. The Commission did recognise crimes against humanity as being within its terms of reference at a meeting held on 30th January, 1946. However, apart from a small number of Czechoslovak cases, Committee I did not engage in the listing of crimes against humanity, but confined itself to war crimes stricto sensu. In the few Czechoslovak cases in which crimes against humanity were raised, listing was approved only in instances where the crimes committed, prior to the outbreak of war, formed a part of a definite pattern of many similar acts. Similarly only a few United States cases were submitted to the Committee with charges of crimes against peace.

The Jewish Agency for Palestine prepared and attempted to file with the Commission, about 500 cases involving atrocities committed by the Nazis against the Jewish population in Poland. Here again Committee I regretfully refused to assume jurisdiction and suggested to the Jewish Agency that these cases be submitted by one of the member Governments. Many of these cases were later submitted by the Polish National Office, which had, in the meantime, assumed responsibility for investigating and preparing such of the original Jewish Agency cases as arose out of atrocities in Poland.

As has been mentioned elsewhere, Ethiopia petitioned the Commission for permission to submit cases arising out of the Italo-Ethiopian war of 1935-36. After much discussion as to whether or not the competence of the Commission extended to war crimes committed during that war, the Commission, at its meeting on 29th October, 1947, did finally agree to receive a limited number of Ethiopian cases. These cases, 10 in number, were examined by Committee I during the last month of its existence and the accused placed upon the Lists of the Commission. During the last year of the Commission's existence the Government of Albania tried unsuccessfully to secure the consent of the Commission to the filing of cases before Committee I, but here again the Commission returned to

(1) See Chapter VII, Section B (iv) 3.
its original idea that cases should be filed only by member Governments and in the case of Albania it was pointed out that this Government had initially been engaged in war against the United Nations. It cannot be too firmly emphasised that in the final analysis the value of the work of Committee I was almost wholly dependent upon the good faith of the member Governments in submitting *bona fide* cases based upon adequate evidence, and, without exception, the member Governments kept that faith.

Of the 8,178 cases examined by the Committee, in which nearly 37,000 persons were listed, the Committee was asked to reconsider only an insignificant number of cases and of these actually removed 3 names from the Commission’s Lists. When evidence for the defence become available after an accused had been listed in a particular case, the Committee was always ready to review the case and decide, in the light of the evidence as a whole, whether or not the accused’s name should remain on the List. The fact that so few cases had to be reconsidered was largely due to the Committee’s practice of adjourning any incomplete or questionable case until such time as the National Office filing such case could provide evidence of a nature sufficient to satisfy the Committee that the accused should be listed.

In the early months of the Committee’s work the cases submitted were, in many instances, based upon vague or incomplete evidence. This was naturally so, since most of the territories in which crimes had been committed were then under enemy occupation, but as the various countries were liberated and as Governments returned, and were able to collect evidence “on the spot”, the evidence submitted to Committee I in substantiation of the various charges became increasingly more detailed and explicit. As it became easier to collect evidence against war criminals the Committee tightened its instructions for the submission of cases which, for more than two years, had largely consisted of statements of fact backed by information available from the various National Offices. Committee I successively required first that the National Offices submit the names of witnesses, next that they submit pertinent extracts from the testimony of witnesses and finally, during the last year of the Committee’s work, that full statements of witnesses be made available to substantiate the individual charges of the National Offices. Some nations, Poland and Yugoslavia in particular, complained that the submission of documented cases to both the Commission and the extradition authorities was an unnecessary duplication of effort and that listing by Committee I should be sufficient to ensure the extradition of an alleged war criminal from the hands of the detaining authority to the authority requesting the alleged criminal for trial. However, as has been elsewhere observed\(^{(1)}\) the Commission maintained that it had no authority or responsibility for the act of extradition and that its sole function was to advise the detaining authorities whether or not, in the opinion of the Commission, a *prima facie* case existed against a particular war criminal. It was for the Commanding Officer in the respective zones of occupation to determine, in the final analysis, whether or not an accused war criminal should be delivered up for trial. It may be pointed out that the detaining authorities in Germany,

\(^{(1)}\) See Chapter XII, Section C (iv).
throughout the Commission's existence, maintained that listing of war criminals by the Commission was given great weight in determining whether or not that war criminals should be extradited for trial.

It has been previously noted that during the early months of the existence of Committee I some difficulty was experienced in determining just what listing should be given to individual accused war criminals with respect to the evidence presented against them at the Committee meetings. The Committee finally evolved four listings designated as "A", "S", "C" and "W". "A" listing was reserved for those war criminals against whom the Committee believed a clear prima facie case had been presented and whom the Committee believed should be delivered up for trial. "S" listing was made in the case of accused war criminals against whom the Committee found a prima facie case, but against whom the case was not so strong as to warrant "A" listing. As a practical matter this listing came to be assigned to those alleged war criminals who appeared to be guilty of war crimes but against whom the National Offices had been unable to collect a large amount of definite evidence. They were to be regarded as "suspects" rather than "accused". "C" listing, at first applied to adjourned cases, was eventually reserved by the Committee for alleged war criminals who could not be identified. Witnesses to war crimes were listed "W" by the Committee.

The total numbers of the various listings indicate that 24,453 persons were listed "A", 9,520 "S", and 2,556 "W", during the four years of the Committee's existence. Of the 8,178 individual or collective cases considered, 148 were classified as "C" cases and 306 were withdrawn or remained adjourned. A special priority, or "AA", listing for those alleged war criminals accused of particularly shocking or heinous war crimes was for a short time attempted, but soon abandoned on the advice of Allied detention authorities who were already making every effort to locate those war criminals listed by the Commission.

C. SOME SIGNIFICANT WAR CRIMES CASES AND PROBLEMS CONSIDERED BY COMMITTEE I

While Allied courts and tribunals, in all areas of the world, were engaged in trying the war criminals of World War II, deciding difficult questions of international law and thereby creating legal precedents, Committee I of the United Nations War Crimes Commission was engaged, even before the first war crimes trials were held, in considering the many difficult questions of fact and law that were to arise before those courts and tribunals. Some of the questions considered were completely novel to international law; others involved the interpretation of recognised principles of international law in the light of modern warfare. All were carefully considered, whether by the Committee on Facts and Evidence (Committee I), the Legal Committee (Committee III), or by the Commission in plenary session. It would require a whole volume in itself to discuss adequately and describe even the more important of these thousands of cases and

(1) See Appendix III, Statistical Report of the activities of Committee I, Tables I, II and IX.
scores of legal problems arising therefrom. A few of the more interesting cases and questions are presented here as illustrative of the work done by Committee I during its four years' existence.

(i) THE FRENCH BLACK MARKET CASE

One of the most significant cases coming before Committee I, and which because of its novel legal implications involved a prolonged study by both that Committee and by Committee III was a French case (Commission No. 4695) against one Colonel Veljens and 36 other Germans who were charged by the French with the war crime of economic pillage.(1) It was alleged that the accused were given the responsibility, under Goering's Four-Year Plan, of organising the black market in occupied territories in the West in order to enable the importation into Germany of the greatest possible quantities of French goods. A central administration was created for "using the black market to the greatest extent and in the best financial conditions for the Reich", according to a document signed by the accused Veljens. Nine-tenths of the buying operations were financed from French payments of German occupation expenses. The French alleged that the operation enabled the Germans to drain the French economy and to cause a resultant inflation in France.

One of the questions in this case was whether it entailed pillage, which is expressly forbidden under Article 47 of the Hague Regulations of 1907. Committee III in its report(2) pointed out that the Nuremberg Judgment had recognised "that the territories occupied by Germany were exploited by Germans in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy". Committee III's report held that this case could not come within a precise definition of pillage in that the goods in question were not taken against the will of the legitimate owners but in the course of a business transaction, however illegal under French law or damaging to France's economy.

However, Committee III considered that the acts alleged in the French case were a violation of Article 49 of the Hague Regulations, which provides that if the occupant levies money contributions in the occupied territory, "this shall only be for the needs of the army or the administration of the territory in question". It was also agreed that the activities of the accused in this case amounted to a conspiracy to violate French municipal law, which the perpetrators were bound to respect.

When Committee III's report came before the Commission for approval on 18th June, 1947, Lord Wright stated that he considered it undesirable for such an attempt to be made to define precisely the term "pillage" as used in the Hague Convention. To do so, he said, was to disregard the wider and more modern and practical view of this offence as found in the Charter, Control Council Law No. 10, and in the Nuremberg Judgment. He believed that the French case should be considered as a composite war crime of stripping a nation of its goods without compensation and consequently a violation of international law. The substance of the transaction, Lord Wright indicated, was the important consideration.

(1) See III/80. 3.3.41. *The French cases Nos. 4695 and 4698, referred to Committee III*.
(2) See Document III/86. 4.2.47. *The French Case No. 4695*. 
Therefore, the Commission agreeing, the definition of pillage in the case was omitted and the report otherwise approved.\(^{(1)}\)

When Committee I finally disposed of this case the accused were listed on two counts: (a) exaction of illegitimate and exorbitant contributions (Article 49 of the Hague Regulations), and (b) systematic violations of French municipal law (Article 43 of the Hague Regulations).

Another French case (Commission No. 4698) introduced a charge of economic pillage, in that two German accused set up a company in Paris in 1941 to import into France hides and tanning extracts for the French foot-ware and hides industry. It was alleged that the French manufacturers were forced to buy inferior products at exorbitant prices with a resultant drain on French economy.

Committee I adjourned this case for study, and Committee III in a report\(^{(2)}\) concluded that on the evidence submitted, a *prima facie* case of a war crime was not established under Article 47 of the Hague Regulations or under the term of "plunder of privaté or public property" in the Charter of the International Military Tribunal.

It was pointed out that the charge did not allege that the accused did not pay full value for their goods or that they re-sold the goods at a higher value by criminal means. And in view of the fact that the products of the French manufacturers, however inferior the materials, were sold in Germany, it could not matter that the French manufacturers were forced to buy the German raw materials from which the goods were made.

(ii) ACTS COMMITTED IN COURSE OF DUTIES AS ENEMY AGENTS

A Netherlands case (Commission No. 3476) presented another problem frequently arising before Committee I. In this case one Irma Seelig, a German Jewess living in Holland, was charged with complicity in murder in that she betrayed her former colleagues in the Dutch underground movement. It appeared that the accused had originally been a member of the Dutch underground, but had been arrested by the Nazis for her activities, and had then become a confidential agent for the German S.D. The Committee held that her activities could not be considered as war crimes. Similar rulings were made in other cases where it appeared that acts were committed in the course of the normal duties of an agent or spy, however treasonable and reprehensible such acts might appear to the nation against whom the agent or spy was operating.

While Committee I consistently held that traitors and quislings could not be listed *per se* as war criminals, it did not hesitate to list traitors or quislings as accused war criminals when it appeared that these persons had actually committed war crimes in the course of their activities, whether against their own nationals or those of other allied countries.

\(^{(1)}\) See C.282. 9.6.47. *Exploitation of the Black Market as a war crime. French case No. 4695. Report by Committee III.*

\(^{(2)}\) See C.253. 25.5.47. *French case No. 4698 (alleged pillage through economic activities; making French tanners and manufacturers of footwear work for the benefit of Germany).*
(iii) DENATIONALISATION AS A WAR CRIME

Under what circumstances attempts to denationalise the inhabitants of occupied territory should be considered a war crime was a question occasionally before Committee I. It is clearly the duty of belligerent occupants to respect, unless absolutely prevented, the laws in force in occupied territory. Article 43 of the Hague Regulations provides that family honour and rights and individual life must be respected, and under Article 56 the property of institutions dedicated to education is privileged. This would necessarily imply that the education conducted in those buildings is likewise protected.

Both the Nazi and Italian occupation authorities made concerted efforts in certain of the occupied territories, particularly in Greece, Poland and Yugoslavia, to uproot and destroy national cultural institutions and national feeling. This effort took various forms including a ban on the use of native language, supervision of the schools, forbidding the publication of native language newspapers, and various other devices and regulations.

The whole question was presented at an early period in a Yugoslav case (Commission No. 1434) charging several Italians with denationalisation activities in Yugoslavia.(1) In this case the Committee laid down the rule, thereafter followed, that only those individuals responsible on a high or policy level should be considered guilty of denationalisation. Thus, low-ranking military personnel or teachers acting under orders were not listed for the war crime of denationalisation. Each case was judged on its own merits in the light of this rule.(2)

(iv) MILITARY NECESSITY

Committee I had often to decide whether a given set of facts arising from the destruction of personal property, public property, or local monuments was a war crime, or whether such destruction was justified on the basis of military necessity in time of war. For example the Committee refused to list for war crimes those Germans responsible for the demolition of a French lighthouse at Pas-de-Calais in September, 1944 (Commission No. 3603). Generally, the test applied was whether military operations were in progress, or were imminent.

Another case of this nature (Commission No. 6582) involved a German officer who had completely destroyed a large Roman Catholic church when his unit left Horst-Melderslo in Holland. The Committee decided that, while military necessity may have existed for the destruction of the spire of the church to prevent its use as an allied observation tower, no necessity existed for the complete and utter destruction of the whole church. Accordingly the accused was listed on “A” for wanton destruction of religious buildings and monuments.

This same test—whether recognised military operations or a battle

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(1) See C.149. 4.10.45. Criminality of attempts to denationalise the inhabitants of occupied territory. Report by Committee III.
(2) See also C.175. 14.2.46. Denationalisation by dismissing employees.
were in progress—had to be applied in large numbers of cases involving what the National Offices considered to be the murder of innocent civilians. In a war in which civilians, as well as those in uniform, became combatants on occasion, it was essential to determine whether a battle was actually in progress when an alleged war crime was committed, or whether an innocent-appearing civilian was in fact a member of an underground army killed in the course of executing a military mission.

(v) CONISCATION OF PROPERTY BY NAZI-APPOINTED ADMINISTRATORS

It was a Nazi practice in occupied territories to appoint German administrators of certain private factories and places of business, usually those owned by persons of Jewish racial extraction. Many of those administrators were charged as war criminals for having taken these properties as their own. No difficulty was experienced in determining the existence of a war crime where the property was simply stolen without the payment of any compensation, but doubts occurred when the evidence indicated that transfer of such property arose under colour of sale, in some instances apparently \textit{bona fide}, or where some compensation was indicated.

This question arose in a Netherlands Case (Commission No. 6247) in which one Walther Neine, a Reichdeutscher, who had been appointed "Verwalter" of a Jewish-owned factory in Amsterdam, was charged with the war crime of pillage in that it was alleged he used the firm's own money to "buy" it for himself. It appeared that he had the machinery sent to his address in Germany just prior to the time the Germans evacuated Amsterdam. The members of the Committee questioned whether or not a \textit{bona fide} sale of the factory and its contents had been made to the accused. However, the Netherlands representative displayed a copy of the balance sheet for 1943 in which it appeared that the accused had actually taken the sum for the purchase of the factory from the firm's capital. Accordingly the accused was listed "A".\(^1\)

(vi) DISCRIMINATION IN ISSUING RATIONS

One of the United Kingdom cases (Commission No. 1643) involved the Commander-in-Chief of the German Army in the Channel Islands in April, 1943, and a Colonel serving under his command, who were charged with violation of Article 50 of the Hague Regulations of 1907. It was alleged that in April, 1943, the civil authorities in Jersey, received a written notice from the Colonel to the effect that the rations of certain foodstuffs were to be reduced at once for "English subjects". The Colonel made it clear that the measure was intended as a reprisal for the sinking of German supply ships by "English attacks" and that the order was directed purposely against British subjects. The Committee found itself unable to decide whether Article 50 of the Hague Regulations was a proper basis for the charge, but did decide that a war crime had been committed and placed the accused upon List "A".\(^2\)

\(^1\) See also III/65 of 4.11.46, III/68 of 6.11.46 and III/72 of 20.11.46, all of which concern Netherland charges relating to seized property.

\(^2\) See 1/41, 20.10.45. Notes on the United Kingdom case No 1643 (discriminatory measures in Jersey. Note by E. Schwellb.)
(vii) CONCENTRATION CAMP CASES

Among the most serious charges presented to Committee I were those involving the Nazi concentration camps in which millions of persons were sent to their deaths. The record of murder of millions of innocent persons in these camps, particularly in Poland, was almost unbelievable in its enormity of Nazi criminality. Hundreds of both the higher officers in the camps and the personnel of much lower degree, who actually committed atrocities and personally caused the deaths of inmates, were listed at various times by the Committee. Early in its proceedings the Committee recognised that other Nazis who had been engaged and responsible for filling these death camps were as guilty as those who actually managed and operated the camps. In a Czechoslovak case (Commission No. 952), for example, several hundred German Police officers operating in Czechoslovakia were charged with having arrested and sent to a concentration camp thousands of innocent people.\(^1\) In this case not only the actual perpetrators of the atrocities were listed but also the intermediate authorities, namely, persons who exercised local police jurisdiction in the occupied territories of Czechoslovakia and who either gave orders for the arrest of Czechoslovak citizens or who carried out such orders.

(viii) THE SCUTTLING OF ENEMY U-BOATS AFTER AN ARMISTICE

The United Kingdom (Commission Case No. 2429) charged one Gerhard Grumpelt, an officer of the German Navy, with a war crime in that he had violated Article 41 of the Hague Regulations of 1907 in scuttling two German U-Boats 36 hours after the Instrument of Surrender of the German Armed Forces came into operation. The scuttling was done in violation of the terms of surrender and after the accused had received from his superiors an order that no more U-boats were to be scuttled. The Committee held that by his violation of the terms of surrender the accused had clearly committed a war crime.\(^2\)

(ix) IMPROPER WEARING OF UNIFORM AS A MEANS OF DECEPTION

This problem arose first in a Dutch case (Commission No. 3271) in which the Netherlands Government charged two members of the German armed forces with violating the "International Rules of Land Warfare" in that one of the accused, an officer, gave order to the second accused, a soldier, to disguise himself as a member of the Royal Mounted Police. The soldier, aided by four other German soldiers similarly clothed, was thereby able to take a Dutch railway bridge on the German-Dutch frontier on the day Germany invaded the Netherlands, by removing an explosive charge placed there to forestall a German crossing.\(^3\)

This means of deception was clearly one of the ruses of war or stratagem recognised under Article 24 of the Hague Regulations. However, such deception, according to the view of the Committee, was improper when

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\(^1\) See C.140, 2.8.45. Oswiecim (Auschwitz) and Birkenau concentration camps. Report of Committee I on a charge presented by Czechoslovakia.


\(^3\) See 1/66. 1.7.46. Note on Dutch case No. 3271 by Dr. Litawski, Legal Officer.
used during the time of actual attack or defence, when, according to the unanimous opinion of authorities on international law, belligerent forces ought to be certain who is friend and who is foe. Therefore, the Dutch case and other similar cases later presented before Committee I, was a violation of Article 23(f) of the Hague Regulations which reads as follows:

"in addition to the prohibition provided by special conventions, it is particularly forbidden . . . to make improper use of a flag of truce, of the national flag, or of the military insignia or uniform of the enemy, as well as of the distinctive signs of the Geneva Convention".

In this particular case the Dutch uniform was used by the accused at a time when Dutch territory was being invaded and actual fighting was going on. Those improperly wearing the uniform could not be considered as spies in the circumstances and were therefore war criminals.

(x) USE OF CIVILIANS IN THE CONSTRUCTION OF FORTIFICATIONS

Various cases were presented to the Committee involving the question whether or not civilians in occupied territory could, under international law, be forced to engage in activities either of a military nature or assisting in some manner military operations. This question was raised in a French case (Commission No. 1616) in which a German accused was charged with having forced all the male inhabitants of the town of Merschweller, between the ages of 15 and 60, to participate in the construction of fortifications during November, 1944. At that time the Committee took cognisance of the view held by some authorities on international law that it is not unlawful for an occupant to force the inhabitants to render assistance in the construction of fortifications behind the battle front or in any other works in preparation for military operations. This view is based upon Article 52 of the Hague Regulations which provides that services required from inhabitants of occupied territory must not be of such nature "as to involve the inhabitants in the obligation of taking part in military operations against their own country". In this case, however, it appeared that the accused had impelled the inhabitants to do work at places or to construct fortifications at places where military operations were actually being conducted or were imminent, and the accused was put on list "A".

The Committee in many similar cases made a distinction between military operations and military preparations and declined to list as accused war criminals those responsible for forcing civilians to render assistance in constructing military roads, fortifications and the like behind the lines of military operations.

A related question often arising involved the right of occupying authorities to confiscate means of transport. Under Article 53 of the Hague Regulations an army of occupation is allowed to take possession of means of transport. Appliances adopted for the transport of persons or goods may be seized, even if they belong to private individuals, but they must be restored at the conclusion of peace, and indemnities must be paid for them. The Committee applied the factual test of whether or not there had been a formal requisition of privately owned means of
transport as evidenced by a requisition slip or other proof of good faith. Military necessity, including the question of there being a battle or retreat in progress, and the likelihood of conveyances being used against the occupying forces in later military operations, was likewise a factor to be considered by the Committee in deciding whether a prima facie case existed.

(xii) THE TAKING OF HOSTAGES

The question of whether or not the taking of hostages during war is per se a war crime, faced Committee I during the early stages of its existence and it decided that the taking of hostages is not as such a war crime, having in mind the confused state of international law upon this point. It was recognised that, although the practice was a harsh one which should be dispensed with, such practices for the purpose of maintaining lines of communication of a belligerent occupant might be justified from the standpoint of the occupant. During World War II, however, the Nazis in occupied territory resorted to the practice not only of taking hostages but of doing so in an indiscriminate manner and of freely executing hostages. Committee I consistently held that this practice was in fact a war crime.

The Commission had, at a meeting of 9th May, 1944, added the following to its provisional list of war crimes: "indiscriminate mass arrest for the purpose of terrorising the population, whether described as the taking of hostages or not". Most of the cases presented to Committee I fell well within this war crime so that the question really arose whether or not a practice of mass arrests and executions of hostages had occurred. If so, a war crime had been committed under the ruling of the Commission.

(xii) DELIBERATE BOMBARDMENT OF UNDEFENDED PLACES

While the 1919 Commission on Responsibilities listed deliberate bombardment of undefended places as a war crime, Committee I during its existence did not rule whether or not bombardment from the air of undefended places in the course of military operations constituted a war crime. The 4th Hague Convention of 1907 forbade the bombardment of undefended places "by any means whatever". Clearly, it was not contemplated that this prohibition should cover military objectives. The whole question hinged upon what constituted an "undefended place". In this field of war crimes, Committee I did list, in some instances, Nazis and Italians charged with responsibility for bombing undefended villages in occupied territory, as reprisals. During the last two months of the Commission's existence a Polish charge was filed, in which various Nazi generals were charged with responsibility for the bombing of the civilian population in undefended places during the opening days of the invasion of Poland by Germany. The question of whether or not such bombing came within the notion of war crimes in the light of modern warfare was never decided, since the majority of the members of Committee I

(1) See, however, C.250. 10.3.47. Deliberate bombardment of undefended places. Report by Committee III.
considered the problem too complex to be resolved in the short time remaining of the Committee's existence. The question was, therefore, left undecided, as indeed it has been in the minds of authorities on international law.

(xiii) GIVING INFORMATION AS A WAR CRIME

The problem whether and to what extent giving information, or denunciation, is a war crime under international law became an important one during World War II in view of the activities of certain criminal organisations of the Axis powers, particularly the Gestapo and the S.D. The only relevant provision thereon in conventional international law is Article 44 of the 4th Hague Convention of 1907 which provides:

"a belligerent is forbidden to compel the inhabitants of territory occupied by it to furnish information about the army of the other belligerent or about its means of defence".

However, this provision does not deal with those persons actually giving the information, whether they be members of the occupying forces and authorities, or inhabitants of occupied territory. Committee I held, therefore, that the giving of information as such did not constitute a war crime under existing international law. However, the Committee adopted the principle that a person acting as an informer committed a war crime if by giving information he became a party to a war crime recognised as such in international law, e.g. murder and massacre, torture of civilians, internment of civilians under inhumane conditions, or forced labour of civilians, and other like crimes.

It was held by the Committee that where the giving of information led to the committing of a war crime, such act clearly fell within the notion of complicity in that crime, provided that all the other general conditions which normally constitute complicity were present. Therefore, it was usually considered that the informer must give the information voluntarily and not as a result of involuntary pressure such as duress or necessity, and that he could be presumed to be aware that his action would lead to the committing of a war crime. This rule would particularly apply where information was extracted by means of torture or grave threats.(1)

(xiv) WAR CRIMES ARISING FROM ILLEGAL ACTS OF GERMAN COURTS AND TRIBUNALS

Many cases presented to Committee I arose from the conduct of German courts and Nazi special tribunals in occupied territories. The judgments of these courts and their procedure was frequently such as to be contrary to all civilised concepts of justice or international law.

Numerous cases charging various Nazi prosecutors and judges with war crimes arose in Luxembourg, Poland and Czechoslovakia, the "annexed" territories of the German Reich. In these areas special courts known as Standgerichte and Sondergerichte were set up to administer German justice. Such courts were characterised, according to the evidence

(1) See C.248. 6.3.47. Giving information as a war crime. Statement adopted by the Commission on 5th March, 1947.
presented to Committee I, by excessive penalties (the Sondergerichte was authorised to impose sentences even beyond the official maximum penalty if "sound public feeling" called for it), the fixing of the manner of the execution of the death penalty by administrative officers after sentences had been passed rather than by the court, and by a generally summary procedure which prevented an accused from presenting on his own behalf even a semblance of defence.\(^{(1)}\)

Committee I recognised that a belligerent occupant under international law had the responsibility of maintaining order in the occupied territory but the Committee never recognised the right of a belligerent occupant to alter and transform the judicial system of the occupied territory, nor the right of a belligerent occupant, as Germany did, to constrain the courts to pronounce their verdicts in the name of the occupant. However, the Committee declined to consider it a war crime in any instance where a German court, however illegal, sitting in occupied territory, had passed sentences not normally considered unjust for the type of offence committed and where it appeared that the accused had had a fair trial. It must be pointed out, however, that these instances, as exemplified by the Committee I cases, were rare. That the Committee took a correct view on this question of the German occupation courts was indicated when a United States military tribunal at Nuremberg passed various sentences on a number of accused occupying high positions in the Nazi judicial system in what was known as the "Justice" case.\(^{(2)}\)

In a Yugoslav case (Commission No. 956) members of the Italian Military Court in Cetinje were charged with having passed death sentences on captured officers and men of the National Liberation Army of Yugoslavia.\(^{(3)}\) The evidence showed that these officers and men had fought in accordance with the provisions of the Hague Regulations and before the country was occupied, and that there was no justification for their being sentenced. Accordingly the Committee voted to list the accused on List "A".

Accused were also listed in another Yugoslav case (Commission No. 940) in which it was alleged that a Special Court in Sibenik had held persons guilty merely because they belonged to a certain political party before the war or were, at the time of trial, members of a national liberation organisation. The facts indicated that sentences were even passed because those before the court failed to give a Fascist salute during trial. Further evidence showed that young girls were condemned for belonging to a subversive organisation on the mere evidence that they all wore the same type of shoes.

Similar French cases arose out of the failure of the Nazis to recognise the existence of the French Army of Resistance (F.F.I.). In one of the earlier French cases (Commission No. 624) the Committee placed upon its list members of the German Courts Martial who were charged with sentencing to death members of the F.F.I. captured after "D" Day.

\(^{(1)}\) See I/99, 2.12.47. Information on the "Sondergerichte" in occupied Poland. Letter from the Polish representative.

\(^{(2)}\) For a brief discussion of this case and others held before the "Subsequent Proceedings" Courts see Chapter XI Section D (i) 2.

\(^{(3)}\) See III/32. 203.46. Yugoslav cases Nos. 1323 and 1426 (Crimes of Italian Judges).
Another problem, arising with respect to accused members of various German special courts, was that involving those courts which sentenced to death deserters from the German army, who as nationals of an occupied country were forced and impressed into the German armed services. These cases largely arose out of death sentences passed upon inhabitants of Alsace Lorraine and Luxembourg. In one of the early cases of this nature filed by Luxembourg (Commission No. 991) a German Summary Court Judge was charged with sentencing to death 21 Luxembourg inhabitants for protesting against the introduction of compulsory military service with the German army. The accused was placed on List "A" by the Committee.

In the Alsatian deserters case filed by France, it appeared that the Germans compulsorily enlisted the inhabitants of Alsace Lorraine into the German army under the theory that Alsace Lorraine had been, after its occupation in 1940, formally annexed to the German Reich. The Commission, after studying the matter, held that there existed no Reich law incorporating Alsace Lorraine in the German Reich nor any general conferment of German nationality on the inhabitants of this territory. Moreover, the annexation by one belligerent of territory belonging to another is illegal if it takes place while hostilities are still in progress. It had been argued that the German military judges in sentencing the Alsatian deserters had done so in properly conducted trials, but the Commission ruled that such death sentences were passed in the course of upholding a flagrant violation of international law. If the judges knew the Alsatians to be of that nationality they had caused the alleged deserters to die without justification and were therefore prima facie guilty of committing a war crime. In any event it appeared that the judges had passed more severe sentences on Alsatian deserters than on deserters of German nationality, and that in itself constituted a war crime.\(^{(1)}\)

An interesting development arose in connection with the last Luxembourg case of this nature (Commission No. 6829) when one Backa, a German Wachtmeister of the Gendarmerie in Luxembourg, was charged with hunting down and killing five Luxembourg deserters from the German army. It appeared that these deserters were killed while resisting capture. It was the opinion of the Committee that compulsory enlistment being illegal, even those responsible for hunting down the alleged Luxembourg deserters could be listed for war crimes. It was decided, however, that in the case of the accused Backa, his responsibility was not great enough to warrant charging him as a war criminal for acts which he, as a low ranking member of the Police, committed in the normal course of his duties.

In another French case (Commission No. 1350) members of a German Supreme Military Tribunal were charged with illegally sentencing hundreds of Frenchmen to death. Evidence was presented to show that the accused Frenchmen were not permitted to call their own witnesses and that their defence counsel had informed the accused Frenchmen that they could

\(^{(1)}\) See III/41 of 10.5.46. and C.202. 30.5.46. Report on the question of the criminality of German officers who sentenced to death as alleged deserters French Nationals from Alsace Lorraine.
not effectively assist them without running the gravest personal risk to
themselves. This case depended not upon the question of whether or
not the German court had the right to try the accused Frenchmen, but
whether or not the accused were accorded a fair trial under normal
civilised practices of justice. The Committee decided to list the members
of the court as war criminals, and thus laid down a precedent followed in
other cases of a similar nature in which it appeared to the Committee that
elementary practices of justice had been ignored by German courts.

(xv) DESTRUCTION OF POLISH FORESTS AS A WAR CRIME

During the final months of its existence the Committee was asked in a
Polish case (Commission No. 7150) to determine whether ten Germans,
all of whom had been heads of various Departments in the Forestry
Administration in Poland during the German occupation (1939-1944),
could be listed as war criminals on a charge of pillaging Polish public
property. It was alleged that the accused in their official capacities caused
the wholesale cutting of Polish timber to an extent far in excess of what was
necessary to preserve the timber resources of the country, with a loss to
the Polish nation of the sum of 6,525,000,000 złoty. It was pointed out that
the Germans, who had been among the first as a nation to foster scientific
forestry, had entered Poland and wilfully felled the Polish forests without
the least regard to the basic principles of forestry. The Polish representa-
tive presented a copy of a circular signed by Goering under date of 25th
January, 1940, in which were laid down principles for a policy of ruthless
exploitation of Polish forestry. It was decided by the Committee that
prima facie existence of a war crime had been shown and nine of the
officials charged were listed as accused war criminals.

(xvi) OTHER LEGAL PROBLEMS

Apart from those mentioned above, the following are examples of
questions of substantive law which Committee I and the Commission had
to examine and decide over and over again, when dealing with particular
charges brought by the National Offices:

The treatment of quislings and traitors; the responsibility for certain
legal enactments; questions as to forced labour of civilians; misuse of flags
of truce; pecuniary reprisals imposed on the civilian population; acts of
persecution committed during the war by Italian authorities against Italian
nationals of Yugoslav race; the legal status of guerilla fighters and partisans;
the responsibility of commanders for offences committed by their sub-
ordinates and of administrators of occupied territory; the responsibility
of persons holding key positions; racial discrimination in food allocation
by the occupation authorities; employment of prisoners of war on un-
authorised work; the interpretation of the detailed provisions of the 1929
Prisoners of War Convention; the compulsory enlistment of the inhabitants
of occupied territory in the armed forces of the occupant; the seizure of
means of transport by an occupying force; responsibility for unjustified
imprisonment; the responsibility of the commander of an Italian submarine
who torpedoed a French merchant vessel on sight after the conclusion
of the French-Italian armistice of 1940; the implications of the war crime of "usurpation of sovereignty"; and many other questions.

Committee I, like the United Nations War Crimes Commission itself, was frequently in its decisions and work engaged in an undeveloped branch of international law. Concepts of the laws of war undoubtedly have seen a period of the most intensive change during the Commission's existence. Whether the Commission made a significant contribution to the cause of international justice will, like the Allied trials of war criminals, depend upon the verdict of History.