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28th September 1945.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE III.

WAR CRIMES LAW REPORTING.

Notes by the Secretary of Committee III.

The Judge Advocate General's Department has sent to the Research Office of the United Nations War Crimes Commission the transcript of the first three days of the Lüneburg trial and promised to send copies of the transcript from time to time.

I have been studying the transcript so far received. It contains a great deal of information which naturally has not been reported in the daily press. It is particularly questions of international law and of procedure which are of great interest to members of the Commission and to the National Offices which have been dealt with even in the beginning stage of the trial, without being reported in the press. The copying and re-copying of the whole transcript does not seem to be technically possible, but on the other hand it would not be adequate if this valuable information remained only in the files of the Commission.

I therefore propose that a report on the Belsen trial (and similar reports on other trials to be conducted in the future, including trials which will take place before the International Military Tribunal) should be issued by Committee III for the information of the Commission and the National Offices.

In case this proposal should be agreeable to Committee III, I should prepare, as a sample for this kind of reporting, a report on the Belsen trial or on that part of it, the transcript of which will be available at the time. In this report I propose to deal mainly with the legal questions involved, leaving the fact finding aspect to a later date.

In order to illustrate the kind of reporting I propose, which, in my view, falls within the jurisdiction of Committee III, I would like to point out that very interesting discussions and incidental decisions of the court have taken place, e.g. with regard to Regulation 8, Paragraph 2 of the "Regulations for the Trial of War Criminals" made by Royal Warrant on the 14th June 1945 (see Doc.C.131) which reads as follows:

" Where there is evidence that a war crime has been the result of concerted action upon the part of a unit or group of men, then evidence given upon any charge relating to that crime against any member of such unit or group may be received as prima facie evidence of the responsibility of each member of that unit or group for the crime. "

This regulation has been amended by Royal Warrant, dated 4th August 1945, by the addition of the following provision:

" In any such case all or any members of any such unit or group may be charged and tried jointly in respect of any such war crime and no application by any of them to be tried separately shall be allowed by the Court. "

Another interesting legal point raised in the initial stage of the Lüneburg trial was the question of the jurisdiction of the court, particularly the fact that Great Britain has assumed jurisdiction on behalf of all the other allied nations whose nationals have been the victims of the crimes committed in Belsen and Auschwitz.

With regard to this, the public prosecutor has stated, inter alia, that Britain has accepted the responsibility of that trial with the concurrence of the United Nations War Crimes Commission on which all those nationalities are represented and observers have been invited from each of the countries who had nationals in these camps.