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Book 844
May 3-5, 1945

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May 3, 1945
9:00 a.m.

REPARATIONS

Present: Mr. D. W. Bell
Mr. Clayton
Gen. Hildring
Mr. Pauley
Mr. DuBois
Mr. Glasser
Com. Richardson
Col. Chandler
Col. Brownell
Mr. Hiddleberger
Mr. Fowler
Mr. Lovett
Mr. Bard
Col. McCarthy
Mr. Downey
Mr. Cox
Mr. Despres
Mr. Lutheringer
Mr. Coe
Lt. Hancock
Mr. Lubin

MR. CLAYTON: Have you a copy of this, Mr. Secretary?
(Indicates Attachment A.)

Mr. Secretary, we have two documents here, one dealing with the aspects of the reparations problem minus the labor question, and another document dealing with the labor question. I suggest that we proceed with the document we were discussing when we last met, and take up the labor document later.

We had finished with paragraph number eight, I believe in our other meeting, so we will go now to paragraph nine.

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"g. As an interim program, pending the formulation of more definitive arrangements, this Government would favor formulation of an immediate program by the Reparations Commission along the following lines:

"a. During the initial period following the collapse of Germany each of the four occupying powers - Great Britain, Russia, France and the United States - may remove from its zone of occupation in Germany plants, equipments and materials (including current output) of such a nature and not in excess of such amounts as may be determined by the Reparations Commission. It shall be our policy to press for inclusion in such an initial removal schedule the categories of plant, equipment and materials described in paragraphs 30, 31 and 32 of the "Directive to the Commander in Chief of the United States Forces of Occupation Regarding the Military Government of Germany" and in paragraph 3 g. above.

"b. The decision as to whether or not the removal of particular plants, equipment or materials out of a zone in Germany is consistent with the purposes of occupation would be made by the commander of such zone, subject to the following conditions:

"i. There would be constant consultation between zone commanders.

"ii. In making a decision as to removal the zone commander would be responsible for carrying out any relevant agreed policies which may be formulated from time to time by the Control Council.

"iii. The Control Council would have an opportunity to consider any particular removal and could veto it.

"iv. Regular reports should be made to the Control Council of transfers for reparation account and the Control Council should keep appropriate Allied agencies currently informed.

"c. During this initial period any one of the four occupying powers could allow, if it so desired, any other

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United Nation entitled to reparations in the form of removals from Germany to take out of its zone plants, equipment and materials of such a nature and not in excess of such amounts as may be determined by the Reparations Commission. Such removals would be subject to the policy and conditions specified in sub-paragraphs (a) and (b) above.

"d. Records should be kept of all deliveries made on reparations account under such interim arrangements and such deliveries should be made without prejudice to the final allocation of reparation shares. The Reparations Commission should determine the principles for valuation of such deliveries."

MR. CLAYTON: Beginning with paragraph 9, are there any comments? That is a rather long one.

Are there any comments on 10?

MR. LOVETT: Yes, sir, I have a couple on ten. The first one is just a request for information, really, as to whether or not that last sentence in the first paragraph reading, "The reparation agency should be given continuing responsibility for drawing up at regular intervals detailed schedules of the amounts and kinds of reparations items to be delivered and should have authority to determine the allocation of specific items among claimant governments." I suppose we realize that we are not covering any basis for allocations, but I assume that is deliberate so that the Commission would consider in its instructions the problem, although it isn't defined in the memo here.

MR. CLAYTON: I think that is correct. I take it it is one of the jobs of the Reparations Commission to determine the amount of reparations and the allocation between the different claimants.

MR. PAULEY: Yes. Well, unfortunately this document won't be binding on the Commission. It is only our policy as set forth, and we have yet to negotiate with the other nations.

MR. CLAYTON: Right.

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MR. LOVETT: The point, Mr. Pauley, that was running through my mind was, are we to use the three basic yardsticks in the Yalta protocol? Are we to weigh the damage suffered by the countries on a merely physical basis, or do we include dollars of expenditure, loss of life, and that sort of thing? In other words, it will take quite a high degree of preparation in order to cover that, and I assume that we didn't attempt to cover it here.

MR. PAULEY: I think that is correct.

MR. BELL: Does the Commission have to approve this handling in removal of all industrial plants?

MR. CLAYTON: The physical job of dismantling.

MR. BELL: Supposing in the zone the British are occupying, do they have the authority to go ahead and dismantle and remove the industrial plants from the zone without the approval of the Reparations Commission?

MR. CLAYTON: Well, I take it that the Reparations Commission, as stated here, will indicate to the zone commander the specific items which it would like to have removed.

MR. BELL: They can't do anything until the Reparations Commission specified that particular plant.

MR. CLAYTON: That would be my understanding from the document.

MR. LUBIN: There are two phases in this thing. In the early stages the Commission may say to the zone commander in Britain, "As far as we are concerned you can move out any plants within these categories." They probably would be the same categories in 30, 31, and 32 that are going to have to be dismantled and torn down, and during that period he can go ahead and do it. Then, also, the Central Commission can say to the French, "You can come in and take any plants you want." Records will be kept, and they will be debited to the receiving countries. That is the first phase.

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Then there is a second phase.

MR. BELL: But there is an allocation of that so there would be a sort of equal credit to the reparations account of those particular countries. It wouldn't give the country who has administrative supervision over the zone with all industrial plants an advantage by getting those plants for itself.

MR. CLAYTON: That is definitely the function of the Commission. The job of the actual physical removal would be, I should think, the function of the zone commander, but it is the function of the--

MR. BELL: The country to which it is allocated is determined by the Commission. They have no advantage by having the zone that has all the industrial plants in it.

MR. LURIN: They may remove such plants, equipment, and materials of such a nature and not in excess of such amounts as may be determined by the Reparations Commission.

MR. BROWNELL: During the early period the only limitation is the amount each country may remove from its zone. That amount is fixed by the Reparations Commission, but you are correct in your understanding that during the initial period no attempt at allocations is made. Now, up to the amount stated, Russia would be able to take out all of a certain type of property, or France would be able to take out all of its certain type of property from their respective zones.

MR. BELL: Who appraises it?

MR. BROWNELL: After removal it is reported by the Control Council, and the Reparations Commission would then have the job of appraising it.

MR. BELL: And there still might be an advantage then to the country.

MR. BROWNELL: There is definitely an advantage to the country that has a richer zone. There is provision for

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equalizing that all out in the over-all final plan, because the value of reparations taken during the initial period would be taken into consideration in any final allocation.

MR. BELL: It is possible for one country to get a larger share of the reparations total than another country.

COL. BROWNELL: During the initial period certainly, and it may be very difficult to equalize it in the over-all period.

MR. LURIN: There are two limitations. First the Reparations Commission determines the nature of the plant that can be removed and the maximum that can be taken out so that if the Commission is fair in its allocations it can say, "You can't take out more than one-half billion dollars' worth of property during this period," which leaves everything else.

MR. DESPRES: On this point in the interim program as in paragraph 9 in the long term program and as in paragraph 10, the thought, as I understand it, behind the interim program is that if you attempted to impose a general freeze on any removals until after a full-fledged reparations body had been established that that would be an untenable position and the attempt is made in the interim program to get the Reparation Commission to propose that the Reparation Commission establish the upper limits as to what can be removed during that period and also the types of equipment that can be removed, and within those limits each occupying power will be free to remove either for its own benefit or to some other Allied country if it chooses to do so, equipment, plants, and materials.

MR. BELL: They have to adjust it in the later period.

MR. DESPRES: This is an attempt to rectify things particularly during the initial period.

MR. CLAYTON: It depends on how long the initial period lasts. If the Reparations Commission could agree fairly promptly on these things, why the amount of stuff that would be removed here in the initial period would be relatively small, but in the long term it is the function of the Reparation Commission to allocate these plants.

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Bob, you had another point, I think, on ten.

MR. LOVETT: Yes, in the third paragraph starting, "the occupation authorities should be responsible for the execution of the plan within Germany. In the execution of the plan, the Control Council should have the authority to withhold from transfer as reparations specific items the removal of which in its judgment would reduce the available economic means below the minimum required to meet the other obligations of the occupation." I have just really a general question there as to the machinery. Perhaps Lubin may have it clearly in mind. Wouldn't it be possible under this language for the Reparations Commission to have assigned plant X, say, in the Russian zone to France? The Russians decline to give it up, and then it goes to the Control Council, and the Control Council votes-- France, Britain, and the U. S.--for removal of the plant. Russia still says no, and under the Control Council arrangements, the plant is not moved. The query is whether it would be appropriate or desirable to provide in this specific type of question that the Control Council act by majority vote?

MR. LUBIN: I don't think it is within our function to tell the Control Council how it must run its business. I mean, that is already an agreement between the four countries relative to how they will operate. The situation as we visualize it is this: The commanding generals in our zone are going to have this plant. They go before the Control Council and present their case. They have a chance to sit down and discuss it, and we assume that after discussion pro and con they may come to some agreement. Let's assume that they don't come to an agreement, and then our commanding general notifies Washington. I think that the first thing that would happen here is that the State Department would get in touch with the Russians and other people and say, "We have got to have this plant, and we are going to tell our general he can keep it." In other words, what we want to do is avoid any dogmatic quick decision. If we are going to over-rule the Commission at any point, we want the Governments to sit down and talk it over; and if they can't settle it in Berlin, do it via their embassies in their major Governments.

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MR. LOVETT: I am afraid I haven't made my point clear. I am not talking about that part of the paragraph, but about the second sentence which relates to the execution of the plan, whether the Control Council should have authority to withhold that plant from France. Now, in that case seventy-five percent of the Control Council might be favorable to withholding, but one member of the Control Council could block and stop the withholding merely by voting no. And it is not provided that that should be referred to the Governments in question.

MR. LUBIN: Oh, yes, the next sentence covers that.

MR. LOVETT: Yes, but I mean at this particular stage it is referred only by a zone commander to--

MR. LUBIN: ...the Control Council. If the Control Council over-rules him on a three to one vote, then the zone commander goes back to his Government, and his Government confers with the other powers.

MR. LOVETT: Well, I think I am talking about the reverse situation. Let's leave the zone commanders out for the purpose of trying to make the point clear. If the Control Council agrees that something should be done by a seventy-five percent vote, the twenty-five percent vote of one member can stop the action. Now, that doesn't give those three votes necessary authority to go back to their Governments at all. The question I am raising is whether or not in spite of the over-all program of the Control Council by one vote to block action where it requires unanimous action it is necessary or desirable-- and I don't know that it is--to include with this specific type of problem a provision requiring majority vote which would mean that any three members could make a decision.

MR. COE: I think in the first place we can't make it. I don't think we can make it in this context because we have already negotiated with the other Governments an agreement about the Control Council and its method of operation. It seems to me, though, that in making such a decision you have to go over the whole gamut of things that

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come up in the occupation, because the whole theory of the Control Council and the zone commander is apparently based on the fact that you agree upon what you all can get together on unanimously in the Control Council; and if you don't do that, full power resides in each zone to do what it likes.

MR. LOVETT: You may be right. I am just getting this doubt off my chest.

MR. COE: I think there are a lot of questions where we would rather have it go by majority if we could.

MR. LOVETT: All I'm asking is whether it is an intelligent thing to do to try to remove this category of questions from the basic unanimous requirement and put it on the basis of the majority vote. I don't know myself. I simply raise the question.

MR. DUBOIS: There are two points. In the first place, of course, each zone commander would have control of his own zone, and two, isn't this true that we provide all the way through here by review by the Control Council--it seems to me as a practical matter, even though you have theoretical possibilities of one blocking it, that after a while the pressure of the three Governments telling another Government, "We don't want this thing done," in a sense like your Security Council where the pressure of opinion is such that it amounts to something, even though one vote may block it--in other words, take for example when a specific issue comes up as to whether or not specific kinds of plants should be moved out of the Russian zone, and the British, U. S., and French commanders say, "We don't think that should go out," that means something to the Russians.

(Secretary leaves the conference temporarily.)

MR. LOVETT: Do you think it does? It hasn't in Bucharest, Sofia, or Budapest or Austria.

MR. DUBOIS: That depends on whether or not you assume it doesn't mean anything. If you assume that it doesn't

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mean anything over a period of time, then it seems your Control Council is going to break down, anyway. I think, myself, it will mean a lot over a period of time.

MR. DESPRES: I think there is another point in this connection, and that is this, as we have it formulated now, the Control Council, if unanimous, can block removal. If the Control Council is not unanimous, the commander of the zone in which the property in question is located can with the approval of his Government block removal.

(Mr. Downey leaves the conference temporarily.)

MR. LOVETT: Now, the only purpose of adopting a majority rule would be to enable three commanders to block removal from a fourth zone when the commander of that fourth zone was prepared to let the item go out. I think that if there were such a rule that the other three could block removal, that if we proposed that kind of a rule, inevitably that would be tied up with a counter proposal. Then I would say we would have to go along with it if we supported this, namely, that the other three commanders could force removal from a fourth zone in the face of everything.

MR. DESPRES: In other words, if the three other commanders should over-ride the commander in the fourth zone when he wanted to remove something, I would say they have to be able to over-ride in this opposite case when the commander in the zone wants to retain something.

MR. LOVETT: If that is sound, and it may be, then I think we have got to bring the language in the next sentence into agreement with the principle and cut out the word essential and substitute something less than that, because essential is too restrictive, I think, on General Eisenhower.

MR. LOVETT: It is more restrictive than the sentence before. It relates to the use of judgment in reducing available economic means below the minimum required, whereas in the next sentence the zone commander is limited by the fact that retention must be based within his zone on something that is essential. That seems to me to be much too tough

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a word. If it relates to the feeding of troops, for example, it may be necessary to give them a certain number of calories a day, but they can sustain life on half that, and it is a question of whether you would call the difference between those two yardsticks essential enough.

MR. LUBIN: That determination would be up to the zone commander. In other words, if Eisenhower said, "It is essential that I have thirty-six hundred calories a day," and if his Government agrees with him, he keeps the food.

MR. LOVETT: I don't read it that way.

MR. LUBIN: It says, "...the zone commander if he believes that the retention of any specific item within his zone is essential to the purposes of the occupation, may with the specific consent--"

MR. LOVETT: So that the yardstick set up for him is essential.

MR. LUBIN: As related to his own government. That criteria comes in only when he is dealing with his own government.

MR. LOVETT: His yardstick is whether he believes it is essential to the purposes of the occupation.

MR. LUBIN: And if he does, he may "...with the specific consent of his Government withhold the removal of such item."

MR. LOVETT: I will only talk about the word essential.

MR. LUBIN: His government will determine whether it is essential enough.

MR. LOVETT: Why don't you leave it out and put the burden on his Government? Here he can't do anything, as I read this, unless he believes that the retention of this specific item is essential to the purpose of the occupation.

MR. LUBIN: In other words, if the other three Governments think that the thing should go out and he still wants it in his zone, then he ought to convince his Government that it is essential.

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MR. LOVETT: If you said that, that would meet my point completely.

MR. LUBIN: That is what it says.

COL. PROWELL: Why shouldn't the same language be used with respect to the judgment of the zone commander as you have used with respect to the judgment of the Control Council and say, "After review in the absence of agreement the zone commander, if he believes that the retention of any specific item within his zone is necessary to maintain the required--to meet the other obligations of the occupation"--as it is now drafted, the question will be decided in the light of essentiality both by the zone commander and on review by the government; and if you follow the language strictly, both the government and the zone commander would have to determine that something was essential, that they couldn't possibly get along without it. The same yardstick should apply in both places. There are many things that perhaps should be exempt and would be exempt if the Control Council should come to agreement that they aren't essential, but still would be the minimum required to meet the other obligations.

(Mr. Riddleberger enters the conference.)

MR. DELPHE: Representative of the four Governments could sit down in Berlin and argue it out and it is agreed that the items should leave the area, then if he still wants the Control Council over-ruled by his Government, which we are saying he can do, then I think he ought to show his Government it is essential for him to have it.

COL. PROWELL: I think essentiality is too strong a yardstick to place on the zone commander.

MR. LUBIN: I don't think it is strong enough.

COL. PROWELL: It means he can't possibly get along without it, that he can't possibly bring food or something else in from the U. S. to take its place. A balance of convenience, a balance of desirability, or even a balance of necessity might indicate that the items should be

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retained in the zone for a while. There is no real reason for imposing that he cannot do it during the first period. During the interim period much weaker language is used.

MR. PAULEY: I can't see where the phrase "essential to civilian requirements," and so forth, departs in any way from the discussion at Yalta. That is the theory on the basis of this whole thing, and as long as the matter of interpreting the word "essential" and what it means is strictly within the hands of the zone commander who represents this Government, I see no hazard there.

COL. BROWNELL: There are many things, Mr. Pauley, that probably should be retained which it could be argued were not absolutely essential.

MR. PAULEY: But it is strictly within the hands of the zone commander.

COL. BROWNELL: It is not entirely, if you limit him by the word "essential." This point, incidentally, is a real point which was discussed in the working committee, and there is one school of thought that the zone commander should not be allowed to block a withdrawal unless there is no other possible means for his taking care of the need in question. To take an extreme example, it might not be essential for him to retain certain food because it would be possible to import from the United States additional food. Yet on balance it might be most desirable to do it by keeping the food in the zone instead of requiring additional food to be shipped from the United States. He should be given more play and more room for a--

MR. CLAYTON: May I just comment on that, Colonel? I don't quite see the point. I mean, I don't see the aptness of your example there, because I can hardly conceive that you would ship food out of Germany if the United States was going to have to ship it back in.

MR. COE: This is specific language with regard to that.

COL. BROWNELL: That only relates to the German people, and it is intended to give the zone commander the right

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in a case of that kind, then there is no use in using the word "essential."

MR. COE: Maybe it is a poor example.

MR. LUBIN: If the zone commander presents his case to the Control Council and it is over-ruled and he still wants to have his way, he ought to make a damn good case to his Government that he can't get along without it.

COL. BROWNELL: That would be so if it isn't for unanimity rule.

MR. PAULEY: That has already been agreed upon, unanimity.

MR. LUBIN: You are saying to the U. S. Government, "Listen, give this guy the right to get into a controversy with his colleagues who have already over-ruled him," and I think before we give him that privilege he ought to make a damn good case that it is going to be hard to get along without this article, and he ought to show his Government before his Government goes to the Russians and says, "We are sorry, we are going to let this guy keep this, anyway." He ought to go to his Government and show that it is essential.

MR. LOVETT: It is hard to explain what really is in my mind. I am asking whether the matter of essentiality can't be left to this Government to determine rather than have the commander on the spot limit it in the referral of the thing to something that he feels is essential. There is no question about the Government in my mind having the ultimate responsibility for determining whether you are to keep it or give it up, and if they want to ship stuff in this country rather than have him retain the thing that he feels is necessary, that is O.K. I am wondering whether we are not limiting the zone commander to the type of problem he can refer. That is the basic thing.

MR. CLAYTON: May I comment on that, Bob? You say that if the zone commander wants to let stuff go out,

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there is going to have to be shipped from this country supplies which he has given up. I don't see that at all. And I think that there is in this document--if there isn't, there should be a provision that under no circumstances will the U. S. agree to any policy which would result in reparations being paid for by the U. S. And if you are going to ship food out of Germany when you know that the U. S. is going to have to promptly ship it back there, you are running the risk there that the U. S. is going to be paying for reparations.

MR. LOVETT: That is what it very definitely does, I think.

MR. CLAYTON: I don't think any of us want to promote a policy of that kind, and that any of us would agree to a policy of that kind.

MR. LOVETT: This is not provided for in this document. I think Mr. Clayton has a good point.

MR. DuBOIS: This says, "...if he believes that the retention of any specific item within his zone is essential to the purposes of the occupation--" now, that principle of occupation is already provided for in this document.

MR. LOVETT: It is only in the interim period.

MR. DuBOIS: No, the earlier principle. I think what you say is made clear, and this says "...essential to the purpose," so I think it is already covered.

MR. LOVETT: I don't think it is nearly clear enough, but it just wouldn't make any sense for us to divert stuff from the Pacific war to occupational troops in Germany so that reparations could be paid to some other country.

MR. CLAYTON: It not only doesn't make any sense, but we provide in here that we shall not do it. For example, on page two, sub-paragraph D, "This Government opposes any reparations plan based upon the assumption that the United States or any other country will finance any reconstruction in Germany or reparation by Germany." If you ship food out

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of Germany which makes the food situation so desperate there that the U. S. has got to immediately or shortly thereafter ship the food back in, why then we are paying reparations, which, of course, none of us want to do.

Then again on the bottom of page four--on my copy it is page four, sub-paragraph K, says, "It will be inevitable that the German standard of living will be adversely affected by the carrying out of the Reparations Plan. However, the reparation exactions should be held within such limits as to leave the German people with sufficient means to provide a minimum subsistence standard of living without sustained outside relief; but under no condition should this limitation operate to require the retention in Germany of means to support basic living standards on a higher level than that existing in any one of the neighboring United Nations."

And then 4. says, "To the extent necessary to pay for such minimum German imports as may be determined to be essential, recipient countries should be required to pay so far as practicable for German exports, except removals of existing plant and equipment. Imports for which payment will be sought shall include supplies imported by the occupying forces for displaced persons and German civilians."

It is not quite as explicit in this document as it was in the previous one, and I think that is a weakness of it, that under no conditions shall the U. S. be placed in such a position that it will be, in effect, paying reparations. That was a point that President Roosevelt was very explicit on in our conference with him, and he was very determined that we should not this time be in the position of removing things from Germany for the benefit of other countries in reparations to the degree and extent that would make it necessary soon thereafter or at some later date to supply that or some other item to the German people, thus, in effect, resulting in the United States paying in part the reparations.

The item that you mentioned, Colonel Brownell, would be out at once if we make this document as clear as we should make it.

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COL. BROWNELL: Mr. Clayton, I don't think it would be. I think this point is a very important point, and I am sure that the language as used--and I think my colleagues on the working committee agree--would restrict the power or discretion of the zone commander. As was pointed out, if he thinks that different standards should be placed on the zone commander than we have placed on the Control Council or that we have placed on the zone commander during the interim period--we have discussed examples in the working committee. For instance, the one of synthetic oil plants is usually used. Now, this language is intended by my colleagues to make it harder for the zone commander to say that something is required for his zone and to make it harder for the Government to say that something is required for the zone, because the test is one of essentiality rather than the test that is imposed on the Control Council, and that is that it be not the minimum required to meet the other obligations. I don't see the logic of imposing a stiffer requirement on the zone commander, and I submit that the same test should be used that you used in laying down the rule for the Control Council.

I would not discuss the point so much if it were not that it goes so to the heart of what our Army commander is allowed to do.

MR. LURIN: "After review by the zone commander"--wouldn't this meet your requirements? The zone commander may withhold removal of any specific item if his Government designates such items as essential to the purpose of his occupation.

MR. CLAYTON: Does that meet your point?

COL. BROWNELL: That would not meet my point.

MR. LURIN: The Government decides, and not the officer.

MR. LOVETT: That would help, I think, to meet my main objection, but Mr. Clayton has raised a point that it seems to me is not clearly covered in this particular draft.

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Let's take our old synthetic oil plant again. There is a synthetic oil plant in the American zone. The zone commander says, "I need that in order to keep my troops mobilized." The Reparations Council and the Control Council say, "Give it up." Now, as I understand some of the previous discussions, the theory has been O.K. He gives it up even if he has to ship in a new plant or new gasoline, or whatever it may be, from this country. We feel that that shipment is a method of forcing the United States to pay reparations. We would be just as well off if we shipped that gasoline, well, say, direct to Russia and kept the German plant.

MR. FOWLER: Mr. Lovett, I have a suggestion.

H.W.JR: It is an unfortunate example.

MR. LURIN: That means we have got to keep all the German industries going.

MR. FOWLER: We can repair that by one sentence in paragraph 4. We have the provision, "To the extent necessary to pay for such minimum German imports as may be determined to be essential--" now, that would be your petroleum to keep your wheels turning. "Recipient countries should be required to pay so far as practicable for German exports, except removals of existing plant and equipment."

MR. CLAYTON: Equipment?

MR. FOWLER: Equipment. In order to make it clear, we say, "Exports required to pay for such minimum imports shall be charged to current production prior to reparations." That means that the amounts required to pay for your imports of oil, rubber, food, or whatever the items may be, would be paid for with German exports before those exports could be charged to the reparations account.

MR. CLAYTON: Or credited to it. We had that language in the previous draft, and I think we should have it again.

MR. FOWLER: I think we intended to have it.

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MR. CLAYTON: He had the exact language. It is in 1067, the March 28 document.

MR. FOWLER: To make that case?

MR. CLAYTON: This March 23rd document says, "The first charge on all approved exports"--President Roosevelt himself wrote in that word himself, the word approved. It was the only change he made. "The first charge on all approved exports for reparations or otherwise shall be a sum necessary to pay for imports."

MR. FOWLER: I think it is very important to put that in here.

MR. CLAYTON: I think we should have it, too.

MR. FOWLER: Then I visualize that if you had fifty million tons of coal to export and it appeared that you were going to have to import a certain quantity of oil and rubber, the countries that wanted that coal would have to pay for it, and you would use that money to pay for the imports in terms of oil and rubber. And before anybody could get the coal for nothing, you would have charged them out of current production the amount necessary to take care of your importing program.

MR. LOVETT: That covers it.

H.M.JR.: Is that all right?

MR. DUBOIS: Yes.

MR. CLAYTON: In putting this sentence which I have just read from the March 28 document into the document which we are now reviewing, the sentence reads, "The first charge on all approved exports for reparations or otherwise shall be a sum necessary to pay for imports." It has been suggested that in putting that sentence into the present document that we should except from it, "existing plant and equipment." In other words, if you approve the removal of certain plants or equipment for reparations, you should not require payment for that or align against that to cover any necessary imports.

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MR. LUBIN: Joe had the word "from current production."

MR. FOWLER: "Exports required to pay for such minimum imports shall be charged to current production prior to reparations from current production."

MR. CLAYTON: I don't think "current production" is sufficient, Joe, because there might be large inventories of food or some other materials on hand which--

MR. FOWLER: Right.

MR. CLAYTON: ...which ought to be covered.

MR. FOWLER: "...charged to export of stocks, raw materials, or current production of semi-fabricated or finished production."

MR. DESPRES: I think you have an idea here, Joe, which I am not sure your sentence brings out. I think the notion you are trying to get at is that production for export to pay for minimum imports shall be a part of the minimum economic activity in Germany that we deem essential. I don't think your language quite expresses that.

MR. LUBIN: I think the additional wording you suggest is better, except plants.

MR. CLAYTON: Yes, I think this covers it if we put in parentheses. Read what you have got there now.

MR. DESPRES: "The first charge on all approved exports for reparations or otherwise, other than removals of existing plant and equipment, shall be a sum sufficient to pay for authorized imports."

MR. CLAYTON: "...shall be assumed necessary to pay for imports."

MR. DESPRES: "...shall be a sum necessary to pay for imports."

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MR. FOWLER: "...such minimum German imports as may be--

MR. DESPRES: How about just saying "authorized imports?"

MR. CLAYTON: Or "approved?" We said "approved exports."

MR. DESPRES: "Approved imports." Might that be the first sentence of our paragraph 4?

MR. CLAYTON: It is agreeable that we substitute that sentence as read for the following in paragraph 4, "To the extent necessary to pay for such minimum German imports as may be determined to be essential, recipient countries should be required to pay so far as practicable for German exports, except removals." The proposal is to substitute the language which Mr. Despres read for the sentence I just read. Is that agreeable with everybody?

MR. DESPRES: You might keep both, make the recipient countries pay.

MR. CLAYTON: Well, all right, I am agreeable to keeping it, but I would cut out the phrase "...so far as practicable," because I think they ought to be required to pay for any consumer goods of any kind that they get if that means that we are going to have to reimport it.

MR. LUTHERINGER: Mr. Clayton, I think that phrase was written in, as I recall the discussion of the working group, because it was argued that some countries like Czechoslovakia would be wholly without foreign exchange resources and wouldn't be able to pay for goods which were essential to relief. Now, if we have to make this absolute, why it is made absolute, but I think there are going to be a great many tough situation arise.

MR. CLAYTON: Well, they can. If Czechoslovakia requires goods in Germany for relief for which they are unable to pay--

(Col. McCarthy leaves the conference temporarily.)

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MR. McCLOY: ...and the removal of those goods from Germany means you would have to ship in something in place of it, then I think that the U. S. should decide whether it wants to extend this relief to Czechoslovakia.

MR. COE: You can't settle relief financing methods in these reparations.

MR. CLAYTON: Read the sentence again, please. Please watch this carefully because it is important and you propose to put it in as the first sentence in paragraph 4 of this document, "The first charge on all approved exports for reparations or otherwise (other than removals of existing plant and equipment) shall be a sum necessary to pay for approved imports. Accordingly, to the extent necessary to pay for such minimum German imports as may be determined to be essential, recipient countries should be required to pay for German exports, except for removals of existing plants and equipment."

MR. CLAYTON: If there is no dissent, that change will be made in paragraph 4.

Now, let's come back to your 10. It seems to me that the burden of proof ought to be on the zone commander of any zone if he is agreeable to the removal of any plant or equipment from his zone for which the other three zone commanders are requesting removal. I think, Bob, that the burden of proof is properly placed on him, and it seems to me that this language is not too restrictive.

MR. LOVETT: I think the burden of proof should be on the zone commander if he is the minority fellow and that, of course, the decision should be left to the Government. I am merely trying to get the language so drawn as to enable him to refer it to the Government for decision without having to make a show of essentiality at that stage of referral.

MR. DUBOIS: He doesn't have to make a show to the other commanders, as I understand this language. If he leaves it, it is essential he report that fact to his Government. I think it is different from the case that Colonel Brownell put up. It is one thing to say if all four commanders get together and reach an agreement; it is another thing, as Mr. Clayton

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says, that this fellow is bucking three commanders. If he does that, he ought to feel it is essential before he reports it to his Government.

COL. BROWNELL: The others may have a very indirect interest, and he may have a direct interest. He should have the burden of proof, but I think both he and his Government should be allowed to retain an item if it is required for the purpose of occupation.

MR. DuBOIS: Even if they don't think it is essential.

COL. BROWNELL: Even if they don't think it is essential. Essential is one hundred percent wrong wording.

MR. DuBOIS: Essential to the purpose of occupation.

COL. BROWNELL: It is intended for that. You wouldn't be arguing if you wouldn't want to restrict the discretion of both the zone commander and his Government.

MR. DESPRES: You don't want to restrict the discretion of this Government at all.

COL. BROWNELL: The Government also would have to come to the conclusion that it was essential.

MR. DESPRES: The criteria of essentiality to the purpose of occupation will be laid down in the directives that are given to zone commanders by the Government.

Now, I have the feeling that in this discussion we are really talking about the difference that has arisen over IPCOG 1, but I would say that however that came out, this says "...essential for the purpose of the occupation." This Government is free to define its purpose of occupation. It could be to bring the good life to Germans or something of that sort, in which case a great deal would be essential. But I would say that that is not a subject for this document. That is a subject that we do deal with in IPCOG 1.

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MR. DuBOIS: I agree, Colonel, it is an important point. I think that is why you are arguing the other side. We have already stated the purposes of occupation, and we have stated them pretty broadly in the point we just put in. If the commander feels in the light of those purposes it is essential, that is one thing. If he doesn't feel it is essential--

MR. LOVETT: Is it proposed to have the yardstick applied by the Government limited by the word "essential?" That is the way the language reads. The Government, of course--

MR. LOVETT: If so, it is quite a test to place on the Government.

MR. DESPRES: I think the matter might be illustrated in this way: In IPCOG 1 when they call for an effort to produce the maximum miscellaneous agricultural output, that is a part of the program of this Government. Therefore, with respect to Germany, I would say a removal which heavily interferes with this maximum miscellaneous agricultural output objective would be contrary to the purposes of this Government under the terms of that directive.

MR. LOVETT: We might all agree to that, Mr. Despres, but we wouldn't be the ones that are interpreting this thing, and I am struggling to get this language as clear as possible so that the poor fellows that have to decide these questions when they come back won't necessarily be limited by the drafting.

MR. CLAYTON: But, Bob, if this says merely that if he believes that it is essential, it seems to me that that just becomes then a question of his conscience.

COL. BROWNELL: Why not save his conscience? You are saying in effect, Mr. Clayton, that he can get away with it by interpreting the word "essential" to mean something other than essential? Why don't we use the language we have used two lines above and save his conscience?

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MR. DESPRES: What language, "...minimum required?"

COL. BROWNELL: Yes.

MR. DESPRES: I think that is all right.

MR. FOWLER: Let me ask you about this case proposed that the zone commander or the Allied Control Council by the maximum miscellaneous agricultural output or coal output could take advantage of the tremendous demand that there will be for those products to establish a fairly high cash or exchange account with which they could purchase the minimum imports of oil and rubber. Now, in the language as you suggest here there is no burden of going forward on the part of the Control Council or the occupation forces to try and make Germany set by without running synthetic oil plants and synthetic rubber plants. All they have to do is just say, "If we ship this plant out and, therefore, can't operate, that reduces the available economic minimum required to meet the other obligations of the occupation."

Now, it seems to me that more than an automatic certification of that sort is required. We are really asking the zone commander to say that with all of the resources that may be available to him such as production and sale outside, the removal of this plant is going to make it impossible for him to carry out the purpose of the occupation and is, therefore, essential that he maintain it. In other words, you are not leaving any room, it seems to me, for the flexibility of his operations to achieve the purposes we have in mind here, and that is going to one of the primary responsibilities that we are trying to place on him. May I suggest that the language be changed, as follows? I think it would probably be acceptable to everybody. "After review by the Control Council, and in the absence of agreement, the zone commander, if he believes the removal of any specific item from his zone would reduce the available economic means below the minimum required to meet it to attain the purposes of the occupation, he may, with the specific consent of his Government--"

MR. LUMIN: Absolutely not. We would never agree to that, because there would be many, many instances where we

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would want to reduce the capacity of Germany below the means necessary on the theory that those things ought to be brought into Germany from the outside. There will be thousands of cases of that sort.

MR. CLAYTON: This is the language that is used in the sentence above, "In the execution of the plan, the Control Council should have the authority to withhold from transfer as reparations specific items the removal of which in its judgment would reduce the available economic means below the minimum required to meet the other obligations of the occupation."

MR. LUMIN: You have not the judgment of four people there.

MR. CLAYTON: Not four.

MR. LUMIN: You have got the four commanders in the Control Council.

MR. CLAYTON: No, the next sentence shows that the zone commander would only go to the Government in the absence of agreement, so you wouldn't have four.

MR. LUMIN: Well, three.

MR. CLAYTON: Maybe three, or maybe two.

MR. LUMIN: Four people are going to consider this; the judgment of four people is going to be involved, but there will be many instances where you will want to reduce the productive capacity of Germany below that which is necessary to maintain those means, and one of the purposes of this is to see that other countries are not dependent upon Germany.

MR. FOWLER: One of the purposes of the paper is to see how quickly Germany becomes dependent upon other sources of supply for things like oil and rubber, and that is the real concern we have here in this paragraph.

MR. LOVETT: That is true.

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MR. FOWLER: I think it is perfectly true that if after maximizing all of the possible exports and saying all that we hope to get for this is equivalent to two hundred million dollars and here is your table of essential imports--and they will call for so much oil and so much rubber--and the total value of that in the market outside is two hundred and fifty million dollars, and therefore, we will have a deficit of fifty million dollars here to contend with, and the removal of these particular plants is going to reduce our economic means below the point that Germany can afford to pay to buy rubber and oil from the outside market. Then there would be a case here.

MR. LUMIN: I don't believe there would even in that, Joe. I think there would be other less essential items that shouldn't be imported that Germany should go without.

MR. FOWLER: I am assuming it is a completely tight case on the essential import picture. I think it is a drafting problem here.

MR. DUBOIS: Could I try one other version?

MR. CLAYTON: We will have one more try, and that is yours.

MR. DUBOIS: "The zone commander, if he believes that any specific item should be retained within his zone, may, with the specific determination of his Government, if such an item is essential to the purpose of occupation, withhold the removal of such item."

MR. CLAYTON: Would that be agreeable to you, Bob?

MR. LOVETT: That covers our basic point.

COL. BROWNELL: It does not cover the point.

H.M.JR: I am really getting--why don't you say what you are objecting to? Let's have it out. All this sparring!

MR. LOVETT: That would cover my principle.

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H.M.JR: I don't know what all this sparring is about.

MR. PAULEY: Why not go back to the same language that was in there?

H.M.JR: Let's be more frank about this thing. I mean, you have got certain underlying principles, and we have. If there is something that you don't like about it, say so.

MR. PAULEY: May I say this?

MR. LUMIN: Just a minute, Joe.

MR. PAULEY: To come back to the same language that is in there, it seems to me it gives the necessary discretion to our own zone commander. We must bear in mind that this document that we are drafting here is a policy of this Government, and we are only hopeful that it will be acceptable to all the other Governments concerned, and however you change this, you must not think only of your own zone commander, but remember that the thing can work against you with other zone commanders. I think it is entirely satisfactory and discretionary with the zone commander here to the greatest extent that it should be.

MR. CLAYTON: Could we just listen to this one more time, Mr. Pauley? It seems to me that essentially the language which he has read is the same as this. Just read it, please, Joe.

MR. DUBOIS: "The zone commander, if he believes that any specific item should be retained within his zone, may, with the specific determination of his Government, if such item is essential to the purpose of occupation, withhold the removal of such item."

MR. CLAYTON: Isn't that almost the same?

MR. PAULEY: I don't see any difference.

MR. CLAYTON: Well, is that agreeable to you?

MR. FOWLER: It adds one change which I think helps meet Mr. Lovett's point. It removes the burden of the zone

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from certifying the item is essential. All he does is say he thinks it should be retained, and it is up to this Government to make the determination.

MR. CLAYTON: It puts the burden of determination of essentiality on the U. S. Government instead of the zone commander.

H.M.JR: Excuse me. Wait a minute. Let me ask Mr. Lovett and General Hilldring if this is all right. Can they recommend this to the Combined Chiefs of Staff? Because this thing gets back to the very point--I understand the Combined Chiefs of Staff don't want to go along.

GEN. HILLDRING: I don't think--

MR. LOVETT: I don't know anything about that.

MR. GLASSER: Joint Chiefs of Staff.

H.M.JR: I am sorry, but I mean I think it is this thing that has been underlying this whole business. Let's get this thing.

GEN. HILLDRING: From what I have heard this morning, Mr. Secretary--and I don't know--I haven't talked to Colonel Brownell; I just listened to what he said. I don't think the same point is involved here. From what I have heard of the discussion, the Joint Chiefs of Staff did not challenge the policy of our Government that synthetic rubber and petroleum could not be removed from Germany, despite the fact that they might need that petroleum and rubber for their minimum needs, that they didn't take those things off the black list.

H.M.JR: No, but we have got some language. You, Mr. Lovett, and you, General Hilldring--you first, please. If this language we are talking about now is acceptable, are you gentlemen in the War Department prepared to recommend this to the Chiefs of Staff--is that what the--

MR. CLAYTON: Joint Chiefs of Staff.

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MR. LOVETT: Well, the most we could do in any event, Mr. Secretary, is to recommend it. If we approve the language as presently suggested, I should think that would be entirely appropriate for General Hilldring and me to state that it has our individual approval. But that is no guarantee that the language would be retained. Is that 1007 there? May I see it? I am not familiar with the point you particularly raised.

H.M.JR: I didn't raise it; the Joint Chiefs of Staff raised it. I think that Colonel Brownell--

MR. CLAYTON: Perhaps in order to get it settled once and for all, Mr. Secretary, maybe we had better read this copy of our other document.

GEN. HILLDRING: I think that language is not contrary to this. I don't think you want to be in a position of approving here something which you can't at the same time recommend to these Joint Chiefs of Staff, and that is why I thought we might just as well settle it. I appreciate the fact that reparations doesn't go to the Joint Chiefs of Staff, but 1007 does, and it is the same point.

MR. LOVETT: It is not related to this document at all.

H.M.JR: But it is the same principle we have been arguing here, and every time we come up against it, we have the same thing that is being raised, so I would like to get it settled once and for all at this level.

MR. CLAYTON: I think you would like for the reparations document in this respect to be consistent with the document we approved on Friday.

H.M.JR: That is right, so the representatives of the Army can go along with it.

MR. CLAYTON: I think that is right. Now, to make sure that is the case, I think we should pause for a moment to read this short communication from the Joint Chiefs of Staff.

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(Reading "Memorandum for the Secretary of War: Secretary of the Navy," dated May 2, 1945, attachment B.)

"The Joint Chiefs of Staff recommend that the Secretary of War and the Secretary of the Navy inform the Secretary of State as follows:

"The Joint Chiefs of Staff have considered the military implications of the proposed directive to the Commander in Chief, U. S. Forces of Occupation, regarding the military government of Germany contained in JPCOG 1, and with the following amendments see no objections from the military point of view:

"a. Delete the period at the end of the last sentence, paragraph 30," and that reads, "You will not postpone enforcement of the prohibitions contained in subparagraphs a and b and the instructions in subparagraph c without specific approval of your government through the Joint Chiefs of Staff," and add the following: "...except that, in your discretion, you may permit the production of synthetic rubber and oil, aluminum and magnesium, to the minimum extent necessary to meet the purposes stated in paragraphs 4 and 5 of the directive."

b. That is the first recommendation, and the next is:

MR. LEVITT: Paragraphs 4 and 5--have you got those?

MR. CLAYTON: They are part of the draft. They relate to purposes of the occupation, minimum standards of living and prevention of starvation, disease, unrest, and so forth, that would endanger the occupying forces.

Now, I have just read the first suggestion they make. Here is the second:

"b. Delete the word 'excluding' in line 3, subparagraph a, paragraph 32, and insert the word 'including' in lieu thereof." Subparagraph a now reads, "prohibit and prevent production of iron and steel, chemicals, non-ferrous metals (excluding aluminum and magnesium), machine tools,

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radio and electrical equipment--" and so forth. With the proposed change it would read, "prohibit and prevent production of iron and steel, chemicals, non-ferrous metals (including aluminum and magnesium)--."

They also propose to, "Also insert the words 'synthetic rubber and oil' after the word 'vehicles' in line 4" of the same paragraph, which would make it read, "automotive vehicles, synthetic rubber and oil, heavy machinery and important parts thereof, except for the purposes stated in paragraphs 4 and 5 of this directive."

The next is "c. Delete the period and add the following words to the last sentence of paragraph 32." The last sentence in 32 reads, "Pending agreement in the Control Council, you will put some measures into effect in your own zone," and they wish to add "as soon as you had an opportunity to review and determine production necessary for the purposes stated in paragraphs 4 and 5 of this directive." I wouldn't think there was anything in those suggestions which--

MR. JR.: I ought to step out of the room because the Joint Chiefs of Staff evidently don't know that the Secretary of the Treasury exists, but I might point out that on the recommendation of Mr. Stimson to President Roosevelt President Roosevelt did appoint a committee composed of the Secretary of State, War, and Treasury to deal with Germany, and that committee, so far as I know, is still in existence. But notwithstanding I am here--I don't know on what basis--to say that the Joint Chiefs of Staff don't know I exist--but on whatever basis I am here, I do say that this is not acceptable to me.

MR. CLAYTON: Will you excuse me just a minute, please, Mr. Secretary? I think perhaps the reason the Joint Chiefs of Staff communication was framed in the way it was is due to the fact that our covering memo to the President sending this, or transmitting this document, was signed by the Acting Secretary of State, and we all as a committee signed, as you remember, on the bottom of it, and I imagine that that is the reason they directed their communication in the way in which they did.

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H.M.JR: It is just the secretariat they wished on us here, and their method of communicating to the Joint Chiefs of Staff, but--

MR. COB: I think this has been handled as a SENCOC document, hasn't it?

H.M.JR: But I am just pointing it out. I am sure no discourtesy was meant.

(Mr. Pauley left the conference temporarily.)

H.M.JR: I think it is stupid the way it was handled, but I am accustomed to that, and I just didn't want to let it pass. But we will go on, anyway.

MR. FOWLER: Mr. Clayton, there are several substantive effects on these amendments.

MR. CLAYTON: Could we pass that for a moment and stick to the reparations document? I don't think that these suggestions of the Joint Chiefs of Staff really materially affect this matter that we have just been discussing.

MR. LOVETT: I don't, either. I don't see that it has--

GEN. MILLER: May I say one thing about this paper?

MR. CLAYTON: Yes, sir.

GEN. MILLER: I think that it can be resolved, Mr. Chairman, if a joint committee of this group and of the JCS get together I think it can be ironed out and resolved.

MR. CLAYTON: May we just not discuss that right now but go on with reparations? We just brought that in because we thought it might affect this matter we are discussing and--

H.M.JR: I don't agree with you. Look, if I understand this thing correctly, the point is whether in the wisdom of the commanding General in Germany he can continue production and that decision can be his.

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Now, the point that we raised the other day is that if the commanding General thought that it was necessary to meet certain production in Germany that he would telegraph the Joint Chiefs of Staff who in turn would ask the President of the United States, or whoever he designated, and pending that decision he could continue production. Is that right?

GEN. MILLER: Well, Mr. Secretary, that was the thing that I advocated here the day that IPCOG I was proposed, and I can't now say that that is agreeable to the Joint Chiefs of Staff, but I do say this, Mr. Secretary, that if IPCOG I had written those words into the document they sent the Joint Chiefs of Staff, that I could have sold that to the Joint Chiefs of Staff; we would have gotten a document back from the JCS approved. Now, the pendulum has gone from one extreme to the other. I am sure, Mr. Secretary, if you throw this back into a joint working committee we can get out of it now something agreeable to both bodies. We have been at both poles, and we have one extremity in IPCOG I and the other extremity here.

Now, I can't say what the JCS--

MR. LUPER: I think we can solve it, because I know the Joint Chiefs of Staff do not want to have anything at all to say about the economic policy of the United States, and they do not intend in this document to say that Germany will be denied its ability to produce petroleum that it needs. They will not go into that question. They don't want to tackle it. It is not for them to say, and that is the point you have in mind.

H.M.JR: I have got two points in mind. First, I have got that point, and it seems to me the thing you are talking about is in the reparations--they are exactly the same point.

(Mr. Bard entered the conference.)

MR. CLAYTON: Mr. Secretary, can't we settle the reparations matter now and leave the other to discussion later in connection with this document? I mean, does it make any difference about this suggestion in regard to the Joint

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Chiefs of Staff as to whether we should adopt this language which Joe has just proposed? If we are all agreeable to that language, can't we adopt it and go on with reparations?

H.M.JR: You can if the Army representatives will say that this language which we agreed on the other day as far as this committee was concerned, is still acceptable to them in the form of a recommendation.

GEN. HILLDRING: I will fight for that language with all I have.

MR. LOVETT: Mr. Secretary, to go back to the history of this committee, the people that have been working on this reparations problem have not been concerned with some of the attitudes expressed there. I think, as General Hilldring pointed out, the Joint Chiefs got off on the wrong foot because the conclusions reached here were not correctly stated in the paper submitted to them. In fact, it was just the reverse.

H.M.JR: I agree.

MR. LOVETT: Naturally they were concerned about it. Now that the matter has been restored to the decision as initially made, General Hilldring and I will do what we appropriately can to express our views and recommendations on this. That is not, however, to say we have any means of compelling the Joint Chiefs of Staff to take action one way or the other.

H.M.JR: What you said is all I want.

MR. LOVETT: All right, sir, that is satisfactory.

H.M.JR: That is all.

MR. CLAYTON: Can we take up reparations?

H.M.JR: Yes.

MR. CLAYTON: Is the language which we were discussing when we picked up this document from the Joint Chiefs of Staff

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agreeable to everybody? I heard no objection? And if there is none, it will be adopted in place of the last sentence-- in place of the third from the last sentence in item 10. We will delete the sentence which reads, "After review by the Control Council and in the absence of agreement, the zone commander if he believes that the retention of any specific item within his zone is essential to the purposes of the occupation, may with the specific consent of his government withhold the removal of such item." For that sentence we will substitute--will you read it please?

MR. DuBOIS: "After review by the Control Council and in the absence of agreement, the zone commander, if he believes that any specific item should be retained within his zone, may with the specific determination of his Government that such item is essential to the purposes of the occupation, withhold the removal of such item."

MR. LUBIN: Why don't you just--

H.M.JR: Excuse me. Will that be the same language as 1067?

MR. CLAYTON: No, Mr. Secretary, that is a reparations language, but it doesn't belong in 1067.

H.M.JR: But pending--

MR. LOVETT: This deals with the permanent business.

MR. DuBOIS: To this extent, you see, as I understand it, to the extent that the determination of whether or not these things are to remain even temporarily will depend upon the decision of this Government to communicate it through the Joint Chiefs of Staff that they are essential even for that temporary purpose.

MR. LOVETT: Our recommendation to the Joint Chiefs of Staff will be in line with the sentence just read. Whether they will adopt that precise language or not, I am unable to say.

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H.M.JR.: That is agreeable to me.

GEN. HILLBORG: I would support that view.

H.M.JR.: All right.

MR. CLAYTON: All right, that takes care of that. Are there any other suggestions about paragraph 10?

Mr. Secretary, it seems to me that when this is rewritten that we should have one more meeting at the risk of somebody who will think of something else that is to be changed. I think it is important that we have one more meeting and go over it very carefully. It is an entirely important document, as we all agree, I am sure. As to this Reparations Document, I think we should have it redrafted in accordance with our agreement here today and then go over it one more time.

MR. DOWNEY: Mr. Clayton, in one of the earlier sections of this document a change was made in line with the suggestion Mr. Bard made. We have a small suggestion to make on that.

MR. CLAYTON: On the Reparations Document?

MR. BARD: Paragraph 3 c. at the end.

MR. DOWNEY: That last reference to merchant shipping. You remember, it was suggested the other day that in the first instance the general policy should be to get all of the merchant shipping wherever situated into the pool. I think the Navy feels also that in the eventual treatment of Navy shipping we should not necessarily now accept the principle that it should go to the country in whose zone they happen to be for the reason that so much of the German shipping by the action of the British Navy, the American Air Forces, and the British Air Forces, has been forced into positions in the Baltic that probably would artificially put much more in the Russian zone than normally would be the case. I would like to suggest, therefore, in that parenthetical clause where we say that, "This Government favors the inclusion of German ocean going tonnage in the shipping pool until the end of the war against Japan", that we insert there "...and its division on some fair basis thereafter." Just leave the thing open.

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MR. LUBIN: Would you prefer to have it in nine?

MR. DOWNEY: It wouldn't make a bit of difference.

MR. LUBIN: O.K. Each of the four occupying powers may remove from its zone of occupation in German plants, equipment and materials including current output and excluding ocean-going merchant tonnage.

MR. DOWNEY: You say 9?

MR. LUBIN: Yes.

MR. DOWNEY: That would implementing the idea. I would like to get the idea in where we mentioned it first that our notion is that the ships should go first into the pool and thereafter be subject to some fair division, but not necessarily a strictly zonal division. I just want to leave it open.

MR. CLAYTON: I think the point is very well taken. We might put it in both places, in 9 at the point that you suggested, and then put in 9 the way Mr. Lubin suggested.

MR. DOWNEY: That would be perfect.

MR. DOWNEY: It is excluding ocean-going ships?

MR. DOWNEY: That is right.

MR. LUBIN: Yes.

MR. DOWNEY: That may not be exactly the right terminology but I think for the purposes here it is adequate.

MR. CLAYTON: What flag will they go under when they go in the pool?

MR. DOWNEY: I don't know.

MR. CLAYTON: I don't think you are really solving the problem by discussing its distribution after the end of the war with Japan, or termination of the pool. Isn't your

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problem really first, that they enter the pool, and second, the terms on which they enter the pool, under which flag.

MR. DOWNEY: What I am trying to do is not to be foreclosed.

MR. BARD: A pool is a joint operation.

MR. DOWNEY: We don't know what is going to happen.

MR. LUBIN: The flag does not necessarily determine the ownership.

MR. CLAYTON: There is one point before we leave this first reparations document that Mr. McCloy--

H.M.JR: The rural buergermeister?

MR. CLAYTON: Do, but he had a very good point that I don't believe is adequately covered, if covered at all, in this document, and that is that guns and ammunition and things of that kind should not be considered subject to removal as reparations, that they should be destroyed, and I think that is a good point. I think it ought to be covered in there that guns and ammunition and things of that kind should not be considered as items to be removed as reparations because, of course, we don't want to get into a question of dividing up war-making equipment with these different countries, and his point was that things of that kind should be destroyed immediately, and I think that that is a very good point. But we can discuss it here if anybody has a different point of view.

MR. FOWLER: Isn't it the existing production in the form of guns and war equipment that is on hand as distinct from that that might be produced by the plants in question, but the existing stocks of those guns and ammunition--war-making equipment--aren't they confiscated as war booty?

(Mr. Reil leaves the conference.)

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MR. FOWLER: And by that device remove from the American reparations--

GEN. HILLKING: The trouble, Joe, is that you come into the problem then of having to provide ammunition for them which has been produced only in Germany. If you could be sure that it wouldn't serve in the end to continue the plants which originally produced them in order to replace the weapons themselves, I think it would be all right.

(Mr. Lubin leaves conference temporarily.)

MR. FOWLER: That is a very good suggestion in the light of what you have said.

MR. CLAYTON: Aside from the point that General Hildring has made, isn't it a good plan just to destroy that stuff?

GEN. HILLKING: It is a two-edged sword. If we could avoid the replacement problem by equipping French divisions with German equipment, we would save the American taxpayer a lot of money.

(Mr. Pauley re-enters the conference.)

MR. BARD: You have got a program now supplying France with a lot of stuff. You wouldn't want to include ships in that.

MR. DESPRES: For most types of weapons--

MR. CLAYTON: Not ships.

MR. DESPRES: The weapons would not be good for very long unless they get replacement parts, and if we don't let them open the factories--

MR. LOVEY: The French factories, to be specific, have been making parts and ammunition for German metric calibers. They have a somewhat different problem. I would like to see it go. I don't know whether it is apropos here or not, but we have a specific problem that I think might be brought out

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to get Mr. Pauley's judgment on. Take a case like the vast underground factories like in Nordhausen, to be specific. There was another one with some twenty-seven kilometers of tunnels. Nordhausen has approximately four hundred five thousand square feet of artificially ventilated manufacturing space under a mixture of limestone and granite cliff. It is almost impossible to get to it. From the point of view of future peace, the Air Force would like to see all the ammunition and junk we could get together put in that place and blow it up so it comes down and thereafter provide that everything that Germany builds be built on the surface of the ground, because otherwise they are going to go underground, and as I say, these two enormous plants over there--

MR. PAULEY: Certainly you have no disagreement with me on that.

MR. LOVETT: And if--I am bringing this up now because we ought to retain enough of this explosive or other junk to put in there and bring the whole works down. You could do it.

MR. PAULEY: I heartily endorse it.

MR. CLAYTON: I do, too.

MR. HARD: Some of those big plants are in the area Russia would take over.

MR. LOVETT: That is right; that is why I mention it. If we could collapse those big underground things; and if we can require in some fashion that Germany thereafter--if they do any rebuilding at all, they be permitted to build only on the surface, I think we would go a long way toward preserving peace.

MR. CLAYTON: If the committee agrees that some provision be written into this document regarding guns and ammunition, the destruction of it, why, I suggest that we ask the War Department to try to draft a clause that would cover that.

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GEN. HILLDRING: Joe, isn't that one of your projects?

MR. FOWLER: Absolutely, yes, sir.

GEN. HILLDRING: Aren't you working on this early and late?

MR. FOWLER: General Minton, General Wolfe and Admiral Husek are compiling--

MR. LOVETT: A special commission.

MR. FOWLER: Project one, two, and four of our group --

MR. DEEPER: It is a complicated little matter of language. There are the samples you don't want to destroy, but keep for examination, and so forth. That is why I thought it would be useful if the War Department--

GEN. HILLDRING: My point is, rather than refer it to the War and Navy Departments, refer it to your committee.

MR. LURIN: As far as this commission is concerned, all we want are instructions. We can't treat those things as reparations. How you handle them, we don't give a damn.

MR. CLAYTON: Will the working group try to include a paragraph to that effect in that sense? Now, we have this very short document, one page and a quarter, on the use of German labor and reparations.

MR. FOWLER: Mr. Chairman, since the last meeting I have had several talks with Mr. Crowley on this point, and I want to make several points clear for the record, first, in reference to taking this matter to the public, it was very definitely implied in his remark that that would be only after he would have become a private citizen, and there was no implication on his part as a member of this committee to transfer our discussions to the public. I think that was not implied, and I want to make it clear here for the record. Two, we have had discussions with him on this matter, and I am persuaded that the difference is only in language and clarity of statement and not any

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different in substantive point of view, and the draft that was submitted here this morning would have his endorsement for inclusion either as a separate document or as a paragraph in the paper in which we have been addressing ourselves.

MR. CLAYTON: Fine.

Now we will read it. (Reads "Draft Statement of Labor Reparations," attachment C.)

Now, what is the first comment to be made on this document?

H.M.JR: I would like to ask a question. Are there any records of what was said at Yalta with regard to this subject?

MR. CLAYTON: Yes, sir, there are. I think so far as I know there are one or two copies locked up in a safe. I have never seen one.

MR. PAULEY: I have seen it, Mr. Secretary.

H.M.JR: You have?

The point I am making is, I don't think we want to fly in the face of something that might injure our position vis-a-vis Russia. If we knew what was in the document--

MR. PAULEY: I can only say this, that the discussion was general, and we at least participated in it without objection to the discussion on the use of labor, but there was nothing that I know of in the discussion that would preclude our taking this position that has just been read.

H.M.JR: You are confident of that?

MR. PAULEY: However, my own personal position in this matter is that I don't want to express any comment on this particular thing at all, except to simply say that it either does or does not meet the entire viewpoint of this group to the President, and if there are other viewpoints, I will present those to him. I would like to have the benefit of everybody's discussion on it.

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MR. REARD: You don't think this paper would create a strong controversy based on what is in the Yalta agreement?

MR. PAULEY: There is nothing to date that I have read that--I should put it this way--that there is nothing I have read that we have said that would be contrary to this. I don't believe that this is exactly the Russian's idea of the situation, however, but I see nothing inconsistent in our presentation of this viewpoint. It may not be agreed to by Russia or the British.

MR. CLAYTON: I think that is the point, whether there is anything in this document which is inconsistent with the discussions that surrounded the Yalta agreement; and if there is not, I think we might proceed with the discussion, don't you, Mr. Pauley?

MR. PAULEY: Yes.

MR. CLAYTON: I take it there is no comment on 1. 2 is as follows: "This government is strongly of the view that Germans other than those deserving of punishment should not be called upon to perform compulsory labor service outside Germany."

MR. LOVETT: Does use of the words "...deserving of punishment should not be called upon to perform..." instead of sponsor, or something like that, carry a connotation of requirement of a trial of some sort?

MR. FOWLER: The specific language spelling out 2 is in 3. I think your point is better raised in connection with 3 than 2.

MR. LOVETT: O.K.

(Secretary leaves the conference temporarily.)

MR. LOVETT: It was to lay background for 3 where there are completely different programs, as I understand it. War criminals will be tried, and a program for other groups which will not require court proceedings--

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MR. FOWLER: They will only require those proceedings that are adequate to satisfy the language that the individual is definitely determined by appropriate process to be in the group.

MR. CLAYTON: I think 3 is the point, really, that we want to discuss.

MR. LOVETT: I have no views on the thing at all. I am trying to respond to Mr. Paulay's suggestion that if there are any possible weak points in here we take a good look at them. And reading the thing for the first time as I have here this morning--

MR. COE: Really, instead of "...other than those deserving of punishment," it should be, "...other than those included in 3."

MR. CLAYTON: I think that 2 is sort of surplusage and 3 says very definitely that compulsory labor services should be required only from individuals definitely of that type, and so forth. Doesn't it make 2 sort of surplusage?

MR. FOWLER: I think if you want to say "...other than those referred to in paragraph 3," it would be perfectly satisfactory. It is just a question of getting a definitive statement of principle.

MR. COE: You have the same thing in 3, Joe, "Compulsory labor service should be required only from--"

MR. FOWLER: If you want to say that this Government is strongly of the view that compulsory labor service should be required only from individuals, that--

MR. COE: Then you have got the whole thing.

MR. LOVETT: You may get some assurance that vis-a-vis the American public by having a statement in two.

MR. FOWLER: That is right.

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MR. LOVETT: Either by the use of the words "...deserving of punishment," or "...responsible for certain action."

MR. BARD: I would like to bring up the question as to whether the word "Germans" is broad enough. You have got Italy; you have got a strange fishy crowd that is fighting us steadily. You might have the same with the segment of the Poles that might have been back of the Germans. I don't think "Germans" is a broad enough term.

MR. MIDDLEBENDER: Mr. Secretary, perhaps I could elaborate on that point by saying "...under Nazi legislation." It is very far-reaching. I think this language would catch almost any person of German descent in these areas around Germany.

MR. BARD: You've got several divisions of Italians that just surrendered.

MR. LOVETT: This is a paper relating only to reparations from Germany.

MR. PAWLEY: I think the point is well taken, plus the fact that it is well known that the Russians have already taken more than one million so-called sympathizers out of Rumania. And what they are doing with them, no one knows. But I think all of those points should be discussed, not exclusively with the view of what we want to do with them, but the problem--anticipating what the Russians' thinking along this line might be.

MR. LUBIN: In view of the fact that the first sentence refers to the Yalta Agreement and deals only with German labor, it is necessary to use the words in 2, "This Government is strongly of the view that persons other than those." This might become a general policy with respect to the U.S.

MR. CLAYTON: I suggest that we change paragraph 2 to read as follows, "This government is strongly of the view that persons other than those specified in 3 below as deserving of punishment should not be called upon to--"

MR. LUBIN: Will, my objection to that is this, we may find other groups or individuals who don't fit into this category that have been cooperating with the Germans that we will want to put under the category of deserving of punishment.

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MR. CLAYTON: That is covered in the latter part of 3, "...or leading collaborators, supporters of and participants in the Nazi party or administration." If it isn't, the language at the beginning of three is wrong, because it says, "Compulsory labor service should be required only from individuals," and so forth.

Now, with that discussion, see if you will agree on this: Change 2 to read as follows, "This government is strongly of the view that persons other than those specified in 3 below as deserving of punishment should not be called upon to perform compulsory labor service outside of Germany," which now reads, "Compulsory labor service should be required only from individuals definitely determined by appropriate process to be war criminals, members of the Gestapo, the S.S., the Sicherheitsdienst der S.S., leaders of the S.S., or leading collaborators, supporters of and participants in the Nazi party or administration." Now, it is those two paragraphs that we are considering.

MR. LOVETT: And the thing I am trying to raise, will, is the lumping in one group here of that class of war criminals in which the War Crimes Commission apparently is considering some sort of judicial determination, and the other group beginning with the members of the Gestapo, and so forth who are determined through appropriate process to be parts of that organization. Perhaps you could distinguish between them by saying something like this, "...to be required only from individuals determined by appropriate process to be war criminals, and sentenced to such labor," and 3, "...individuals definitely determined by appropriate process to be members of the Gestapo, the S.S., and so forth."

MR. CLAYTON: See if this doesn't meet it, "Compulsory labor service should be exerted only from war criminals or individuals definitely determined by appropriate process to be members of the Gestapo."

MR. HARD: War criminals covers everybody, no matter whether they are Poles, French, or--

MR. CLAYTON: And instead of "or." Then it would read, "Compulsory labor service should be required only

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from war criminals and individuals definitely determined by appropriate process to be members of the Gestapo," and so forth.

MR. LOVETT: When you say "...from war criminals," does that mean that you pick them up after they have been sentenced, or you pick them up after they have been determined war criminals? Because otherwise they might be sentenced to six months of hard labor, whereas, you want to give them three years.

MR. FOLMER: As a person is convicted as a war criminal and individuals definitely--

MR. CLAYTON: This is not in lieu of punishment for being a war criminal. These war criminals could go on the compulsory labor service, and either before they go on or after they go on, they could suffer whatever punishment is meted out to them by a court by judicial process. This language will take care of that, because as a Reparations Document, it doesn't raise the question whether this person is available. The court might say he is available, and they could pick him up, or say, "Six months at hard labor." he is not available for reparations until he is made available for that type of work.

MR. LOVETT: But this would not stop you from using those fellows.

MR. GLASSER: They are only available if the court says so.

MR. CLAYTON: "Compulsory labor service should be exerted only from war criminals and individuals definitely determined by appropriate process to be members of the Gestapo."

MR. GLASSER: May I raise a possible change in your number 2? Can we say--instead of "or," say, "...or otherwise deserving of punishment." If you will read it back, I will stop you.

MR. CLAYTON: Then you introduce qualifications that have not been covered, apparently, anywhere, and you want to

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say this Government is strongly of the view that persons other than those specified in 3 below or otherwise deserving of punishment--well, 2 takes care of a good deal of it otherwise, and if you want to put another--how do you cover it?

MR. GLASSER: What we want to cover is, I should think that in 2 that those persons who are deserving of punishment--that is the test of their selection for compulsory labor service.

Now, we say that in 3 we have various classes of persons that would fit that standard. Now, there may be others. You say they are covered by this general category, but really, they are not, because you might want to include those who are, for instance, members of the werewolf organization or violators of curfew laws or those who are opposing occupation that had not, perhaps because of age, been in the SS or the various organization.

MR. CLAYTON: Who is going to determine?

MR. FOWLER: That is the problem here.

MR. GLASSER: Well, they are available for reparations if they are members of the werewolf organization.

MR. LUBIN: Let's assume that some citizen who has never been a member of these organizations just sabotaged the occupation.

MR. LOVETT: He comes under the active underground.

MR. LUBIN: And he was sentenced by the American Military Court in Germany to ten years of hard labor, and the Court says, "We can have him for reparations. Why shouldn't we take him?"

MR. CLAYTON: Isn't that covered in 3?

MR. LUBIN: It is five months from now that this happens.

MR. LOVETT: The point they are trying to make is, this deals only with those whose bad actions have occurred

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previously where there is a bad group whose actions continued later, underground, werewolf, or whatever you want to call it.

MR. FOWLER: It is a point looking to the future that we will want to take into account. It would seem to me, though, that it raises some questions of procedure and of standards and tests, and what we are really doing here is saying that now that those people who are war criminals and who are determined by appropriate processes to have been members of these groups are going to be included.

Now, when you bring in either "...or otherwise deserving of punishment," or look to it which includes categories we aren't discussing here, or you deal with people who in the future may be determined deserving of punishment, it seems to me we are getting into questions that had better be handled by some kind of supplementary process other than this one here.

MR. GLASSER: We are not handling--what we are doing in number 3 is simply saying we will not take anybody unless he is deserving of punishment. Later on we make no provision in this document for taking care of future werewolf organizations, but at least our policy is clear that if in the future at some future time we want to take care of them, we can under the general policy of 2. There is no provision here for taking of traffic violators or even future werewolf members to putting them on these gangs. However, our policy is such that they can be included later.

MR. FOWLER: I think when you get into this question of who is otherwise deserving of punishment without defining whether you are referring to people who steal bread or violate some of the German laws or ordinances or some of the special laws that are issued by the occupation authorities, you get to questions of degree which we are--

MR. GLASSER: We are not taking those up here; we are not considering that. All we are saying is in the future in accordance with United States policy they can be considered and discussed. We are not deciding that question here at all.

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MR. BARD: This is only advisory to the Reparations Commission, anyway. If this question comes up in Moscow that this should be included so they can discuss it--

MR. CLAYTON: See if this would cover it, "This government is strongly of the view that Germans, other than those specified in 3 below, or otherwise determined by appropriate processes as deserving of punishment, should not be called upon to," and so forth.

MR. FOWLER: Who is going to determine that they are worthy of this particular type of punishment, and how that is going to be provided for?

Now, we are going--in the light of the record up to date we are taking these particular groups, and we are making them available and eligible for this type of service. It seems to me that you are opening up Pandora boxes if you bring in any general classification to a lot of very fine questions of degree which, if you are going to provide for here--it isn't just a simple drafting problem of including a general category which is an open-door clause for building up this compulsory labor service to unpredictable dimensions.

MR. COE: What do you think the dimensions of this pressure group are, Joe? Have you made any figures?

MR. FOWLER: No.

MR. COE: I know the French themselves have asked for three million.

MR. FOWLER: And it is that kind of three million requests for compulsory labor service without reference to whether or not the individuals are--their actions or conduct are deserving of this kind of very special extraordinary treatment which is the problem that is bothering us. It is that three million figure.

MR. LUNN: If you read that sentence again--

MR. CLAYTON: If I may read my suggestion, I think it is better, "This government is strongly of the view that persons

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other than those specified in 3 below as deserving of punishment should not be called upon to perform compulsory labor service outside Germany," and that we add to 3 after the word "administration" the following: "...or of other similar organizations hostile to Allied purposes." I think that is better.

MR. FOWLER: Does that modify the leading collaborators, supporters of, or participants in, or--

MR. LUNN: I would say it should, because anybody who becomes a member of the werewolves would do that voluntarily. You can't force these guys to join.

MR. FOWLER: You are worrying about the werewolf case, which I am willing to take into account. I am worrying about the fellow who violates the traffic ordinance or steals a little bread.

MR. LUNN: This says he has not to deal--it extends the Nazi party or administration to other organizations, other similar organizations hostile to Allied purposes. In other words, to Nazi type organizations which may rise in the future.

MR. SEPRON: It would be leading collaborators, supporters, and participants in the Nazi party or administration, or in other similar organizations, hostile to Allied purposes.

MR. LUNN: I wouldn't say there you want "leading," I would say, "...or members of," because if you are going to have new organizations in the future; they are not going to be drafted into them; they are going to be voluntary members.

MR. FOWLER: What is an organization hostile to Allied purposes? Is that a labor union that becomes organized, say, six months after we are in occupation?

MR. LUNN: If you are going to get to that extreme--

MR. FOWLER: That is the extreme you get to.

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MR. LAMM: If you send a man to forced labor because he joins a labor union, you might as well stop sending.

(Mr. Stanley leaves the conference temporarily.)

MR. BARD: You are making recommendations to the Reparations Committee that they can talk about that subject which may come up. That is all we are doing.

MR. MAYTON: And this says, Joe, that he has to be determined by appropriate process to be such a person, you see.

MR. BARBER: It says, "...other similar organizations," similar to the Nazi party.

MR. FOWLER: Well, I think this requires quite a statement. Let's look these facts in the face. What we are doing is indulging a principle of guilt by association, which is justified, according to our traditions, because we think we can clearly establish a case that persons who have been members of the groups identified here or by that token without any other proof as to the action that they may have committed as members of that organization; in becoming active members of the organization, they have so bound themselves into the acts that are committed by that organization, and you are going to, without any further proof of individual action other than becoming members of this organization, to pull them into this particular type of treatment. Now, that is an expedient which we are adopting here to provide for the mass induction of groups into this compulsory labor service.

Now, if you want to add something to cover the persons who are guilty of substantial action in opposition to the purposes of the occupation, it seems to me that you--we ought to go back to our principles of finding the individual guilty of those actions. Everybody knows what happens. Somebody starts a club or organization, a marching and charter club or trade union or a literary society, or God knows what, and all of a sudden somebody proves that certain members of that organization meeting together under that

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particular cloak foster and develop certain conspiratorial actions in which the hundred and hundreds of members who joined it in good faith, no assuming that they were being tied into an organization of that sort, are included into this particular type of service.

Now, the groups that we have identified here--as Mr. Middleberger pointed out yesterday, we know that any German who became a member of these groups or was a leader, collaborator, supporter, or participant in the Nazi party is by that token, even though he went into it with his eyes open and knew what was going on--what you are talking about is something for the future. We would have no objection to including here, "or others convicted of substantial action hostile to the purpose of the occupation deserving of similar punishment." On the other hand, I don't think we want to go out too far in allowing this principle of guilt by association for future organizations and future groups that may develop--

MR. MIDDLEBERGER: Couldn't we meet our point by perhaps another sentence merely to the effect that members of the underground or other organizations dedicated to the Nazi system or ideas would be eligible for compulsory labor?

MR. FOWLER: Sure, something of that sort.

MR. BARD: I think if you say, as Joe has, "...or other Nazi organizations"--

MR. FOWLER: "...or others found guilty--"

MR. BARD: I agree with you that you don't want to subject a whole organization to what a few individuals might do.

(Mr. Downey reenters the conference.)

MR. FOWLER: These individuals were ready to do that, but in the future organization--

MR. BARD: If the question of werewolves comes up when you are talking, in most cases you can discuss it.

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MR. FOLEY: I am just wondering. I think your wording was all right.

MR. FOLEY: I was just wondering about the application of this via military organizations in a concrete case. Suppose somebody wrecks a freight train. You go out and get the fellows that put the dynamite on the track and the fellows that bought the dynamite and the fellows that were tied in and by their action furnished a definite conspiracy against the occupation. You don't necessarily--

MR. HAND: ...seek the whole organization.

MR. FOLEY: ...seek the whole organization if it might have other legitimate functions.

MR. LUNN: This has "...leading collaborators, supporters of--"

MR. FOLEY: Mr. Lunn says he doesn't want that modification, the emphasis on "leading" to apply to this additional category.

MR. CLAYTON: Let's see if this language that is to be added to paragraph 3 would cover it, "...or other persons determined by appropriate process to be members of the underground or other organizations dedicated to the continuation of Nazism."

MR. LOVETT: We want to hit the military and not just the Nazis in there, too.

MR. COE: Add "militarists."

MR. DENTON: That is not a separate thought.

MR. LOVETT: Sure it is.

MR. COE: We use Nazism and militarism in 1947.

MR. GLASSER: Can we say, "...dedicated to purposes hostile to the United Nations?"

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MR. CLAYTON: That is very broad.

MR. FOLEY: There are cases in the courts going back for years and years in this country for which all defenders of civil liberties and justice have opposed this type of mass condemnation of individuals.

Now, we are making an exception here in these particular cases because there is, of course, well-established proof regarding these groups. Now, you open that up to the future, and it works back.

MR. CLAYTON: All right, but would this be satisfactory, "...or other persons determined by appropriate process to be members of the underground or other organizations dedicated to the continuation of Nazism or German militarism?"

MR. FOLEY: I have no objection to making it broader in a different way.

MR. HAND: Will you restate what you said a minute ago?

MR. FOLEY: "...or other persons determined by appropriate process to be members of the underground or other organizations dedicated to the continuation of Nazism or German militarism."

MR. LUNN: Wouldn't it be "engaged"?

MR. FOLEY: "...requiring substantial punishment."

MR. HAND: I think that is all right.

MR. JR: I like Mr. Lovett's suggestion about bringing in the military.

MR. LUNN: Couldn't you say, "...others engaged or determined by appropriate authority to be engaged in acts--?" Would that take care of it?

MR. CLAYTON: It seems to me this covers it, "or other persons determined by appropriate process to be members of the underground or other organizations dedicated to the continuation of Nazism or German militarism."

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MR. LUBIN: Instead of using "organization," say "...to be engaged in activities."

MR. CLAYTON: "...to be engaged in activities dedicated to the continuation of Nazism or German militarism."

MR. COE: You don't dedicate.

MR. LUBIN: "...in activities--"

MR. DESPRES: "...directed to--"

MR. CLAYTON: "...directed toward the continuation -- "...or all other persons determined by appropriate process to be engaged in activities directed toward the continuation of Nazism or German militarism."

Is that agreeable?

MR. FOWLER: This language here, I think is broader and would be more preferable, "...or other persons determined by appropriate process to be guilty of action requiring substantial punishment."

MR. LUBIN: That may have nothing to do with the fellow who is working to retain militarism in Germany.

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MR. LOVETT: Mr. Fowler, isn't there confusion between the type of actions which bring criminal proceedings and subsequent jail sentence and the types of activities--this is broad, you have to envisage--which do not put the fellow in jail, but make him take a part in rebuilding the damage that the action that he is continuing to perpetuate brought about?

MR. FOWLER: Now, I think to answer that--yes, sir, in discussing this 4 b., the standard of living and conditions of employment, should conform to humane standards. There was some suggestion that we modify the humane standard in our original draft to read, "...according to that required of prison labor or convict labor," and the problems you are going to treat in this category are not even deserving of that type of treatment. I have no quarrel with that point, but this compulsory labor service, being a mild kind of temperate punishment that you might give a fellow for stealing a loaf of bread--this process is a pretty serious business. Mr. Cronley's point is, I think, that the punishment is to fit the crime.

MR. LOVETT: They are going to get pushed around, there is no question about that, but doesn't Mr. Clayton's language really cover the point that we are discussing here? Doesn't it essentially meet your objective?

MR. CLAYTON: I would like to point out, just to support what Mr. Lovett has said, that in this 3 we specifically include as people eligible for this compulsory labor service people who are guilty of

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petty crimes in the ordinary criminal sense, and the persons who will be required for compulsory service will only be members of the Gestapo and other organizations of that character, and leading collaborationists, supporters of, and participants in the Nazi party or administration so that the language which I have read is consistent with that, because it says, "...or other persons determined by appropriate process to be engaged in activities directed toward the continuation of Nazism or German militarism."

MR. FOWLER: Mr. Clayton, what this all boils down to is this, that in endorsing or going along with the compulsory labor service principle we here in the United States have this particular type--we here in the United States are going along with the principle which has always been repugnant to us. We are going along with it in a particular case because of the facts that have been pointed out. These groups have participated and promoted a crime society, and some amount of restoration of the damage that they have caused through their own efforts is required.

Now, in taking it out of the context of past action and fitting it to future action, we are giving life to a system which God only knows how long it will continue. It is a system of punishment for action or crime that it seems to me we ought to end with this war, and I don't know why as one of the by-products of the war we begin to open for the future a continued induction of additional individuals in this type of conduct. If there are werewolves, let's take them out and shoot them. If there are people who perform acts of violence that are contrary to the interests of the occupation, let's punish them. But why do we

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build up over a substantial period of time for the future a system of this sort which is repugnant to us? I don't believe that we would want to support that for the future. Let's tie it down to the past, to a retroaction.

MR. CLAYTON: I don't quite understand the logic of your argument, Joe, because, if I understand your language correctly, you are for making eligible for requirement of compulsory labor service outside of Germany a man who might steal a loaf of bread or a plow from a German.

MR. FOWLER: I am not--

MR. CLAYTON: I have my serious doubts as to whether you should take that kind of petty criminal and make him eligible or subject to compulsory service outside of Germany. Now, the language, on the other hand, which I have read here is directed toward discouraging in every way possible any person in Germany, certainly for the next few years, the immediate future, from continuing the kind of activities which brought on this war and which if continued might bring on another one; that is the justification for the language such as I suggested.

MR. FOWLER: Mr. Clayton, please make this clear. We are satisfied with the language as is because it deals with the groups that have been guilty of action in the past. We don't want to enlarge this concept to make this a catch-all kind of arrangement into which can be included thousands or hundreds of thousands of individuals who may in the future commit various kinds of acts.

MR. CLAYTON: I am not suggesting any addition; the suggestion came from around the table that we broaden it to include these other categories. Now, if the Allied Military Government wants to deal with this werewolf activity in such a way as to impose the most severe sentences, death, life imprisonment, or any of that type of severe penalty, there is certainly not much opposition to that here. Most of the opposition is for giving birth here to a system of compulsory labor service that is not only going

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to apply to the groups that have been guilty of this kind of action in the past, but also action in the future. It is not a healthy thing, and the sooner that we get back to the normal processes of punishment for crime in Germany, I think the better off we will be.

MR. DUBOIS: Joe, I would like to say this on this whole question of concern about the reaction here. I realize that events may change a few years from now, but I don't think we can overlook the fact that in July, even before the report of atrocities came out, that seventy-one percent of the people, according to the Gallup Poll, favored having three or four million Germans rebuild Russia. That was a specific question asked of them, and I think, myself, that you pretty exaggerated the reaction of the American people on this. Now, we have already narrowed the thing down, really, in a way, I would personally guess, that wasn't contemplated. It meant, as specifically spelled out--I bet the Russians didn't think of it in terms of these limitations. The question is, how far are you going to go?

MR. FOWLER: You are raising the question now of three or four million Germans going to Russia and building things. If you want to talk about a voluntary labor system, a voluntary recruitment whereby the Government pays--

MR. DUBOIS: This was asked in a compulsory way whether three or four million Germans should be required to rebuild cities in Russia. That certainly is not voluntary.

MR. FOWLER: Well, for my own purpose--

MR. BARD: You agreed that everybody in S now, all these people should be under this category?

MR. FOWLER: Right.

MR. BARD: Why not say--and you agree that these activities should be stopped?

MR. FOWLER: Right.

MR. BARD: Why not say, "...including other persons who may continue the same type of activities as listed above

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carry on the same type of activity which we are seeking already in this?

MR. LUMER: I see Joe's point, but that is immaterial. He wants to stop once and for all the use of compulsory labor, stop it at the point that includes those. Any new crimes of a similar type shall be treated some other way.

MR. FOWLER: It is just this, Mr. Bard, that this poison has started to take effect now, the Germans have started it. They have imported--I don't know what the figures are, but eight, ten, or twelve million people.

MR. COE: We are going along, because there is a lot of damage to be repaired. I object to all the overtones about poison and the rest of it. Is there something improper or wrong which is being done here?

MR. FOWLER: In this draft there is nothing.

MR. COE: There are people who have been pillaged and have had to run like Indians, and now you are talking about getting some language that covers some of them to do some reconstruction, and I would like to say that I think this is very mild. You are worried about crimes here and punishment for crimes. Well, this sort of thing of working somewhere else to rebuild something I consider not unhealthy, but healthy.

MR. BARD: Probably in the Russian zone of occupation they would use this additional opportunity to take all kinds of people.

MR. COE: The French were in the other day seeing us, and they estimate there are seven million man years of work to be done in France just picking up, cleaning up, and clearing up, and what not, and they in other countries are in every day asking what financial facilities we have for restoration, how we are going to get out. Now, I don't think we have a stronger position in trying to narrow the amount of work that some of these countries might--

MR. FOWLER: In the proposal we made yesterday we had a provision which has been omitted here for which it has been

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substituted therefore which provided for a--which contemplated an intensive use of voluntary German labor to be paid by the German Government. The expense of that labor is to be born by the German people, but couched with certain conditions that would clearly differentiate it from the type of compulsory labor service we are here setting up for this special group. I am perfectly willing to open up if a great deal of rebuilding needs to be done in France and German labor is required for it and it is a desirable economic and social thing to be done. Let's get to the business of setting up and providing for a voluntary labor service which will make it attractive and which will make it possible and make it feasible to accomplish the objective you are speaking of that the French desire in such a way that it doesn't violate the principles that Mr. Crowley was stating the other day regarding compulsory labor service.

MR. CLAYTON: I think it is highly desirable. I am sure you will all agree it is highly desirable that we can agree upon a document here which will meet Mr. Crowley's view and on which we can act without any dissent. I believe that the language which we have here now would cover all present or past offenders in Germany and that the language which has been proposed as an addition would merely bring in future offenders. And in all probability the language which we have is sufficiently broad to bring in a very large number of persons, because it says, "...or leading collaborationists or supporters of or participants in the Nazi party or," and so forth. And as we seem to have here, as regards the suggestion that the language be broadened or an addition be made such as we have discussed, any reconcilable difference, I suggest to recommend to the committee that we adopt the language just as we have it. It would then read, "2. This government is strongly of the view that Germans other than those specified in 3 below as deserving no punishment should not be called upon to perform compulsory labor service outside Germany."

"3. Compulsory labor service should be required only from war criminals and individuals definitely determined by appropriate process to be members of the Gestapo, the SS, leaders of the SA, or leading collaborators, supporters of,

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and participants in the Nazi party or administration. That will take in a great many people, and I hope we can agree upon it as drawn in order to arrive at some decision without dissent.

MR. HARR: That is without changing 3.

MR. CLAYTON: Leave 3 as I read it. We have changed 3 a little in the second line. Is that agreeable?

MR. HARR: That is all right.

MR. CLAYTON: We pass that question.

Now, how about 4?

MR. LURIN: I don't like the wording following, "The following conditions should be accepted by all parties." What you are saying is that we should attempt to get all parties to agree to that.

MR. CLAYTON: That is the way it should read.

(Secretary leaves the conference temporarily.)

MR. CLAYTON: This is, so far, it relates to the Commission's request for an attempt to get agreement on certain principles as stated.

MR. LURIN: Agreement should be sought.

MR. CLAYTON: That is better.

MR. LURIN: Agreement should be sought.

MR. CLAYTON: "...with regard to compulsory labor service."

MR. LURIN: "...along the following lines."

MR. HARR: I would like to suggest leaving out the word "individually" in A.

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MR. CLAYTON: "Except for persons individually tried for specific crimes--" I don't see what "individually" adds to it. Let's strike it out. "Except for persons individually tried for specific crimes, and convicted and sentenced to lifetime punishment, the period of compulsory labor service should be limited to a definite span of years."

"b. The standard of living and conditions of employment should conform to humane standards."

"c. Countries using compulsory labor should report periodically to the Reparations Commission or Agency on the living and working conditions of such workers and the uses made of their services."

Is there any comment?

MR. D.W. BELL: I think the words, "...of such workers" was left out.

MR. CLAYTON: "...of living and working conditions of such workers."

MR. LOWEY: That is the same point Mr. McCloy wanted to raise that we discussed last time, that we are not-- that is really an adequate discharge of any interest or moral obligation we may have, so we would not have to reply on the U. S. representative sending in reports saying, "Everything O.K.," but having International Red Cross check it.

MR. CLAYTON: I think--

MR. LOWEY: I think Mr. McCloy still feels, and I share his views in it, that if we can get an independent audit by the International Red Cross, we would be better off. At least that would be relieving our own responsibility to this country.

MR. CLAYTON: I agree with you. I think we should have it if we can get it. The question, then, is whether we should ask the American representative on the Commission to strive to get that agreement. What is your view on that, Mr. Pauley?

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MR. LUBIN: That was the original clause in the draft?

MR. FOWLER: This has to do with voluntary labor?

MR. LUBIN: No, with regard to reporting.

MR. BARD: Mr. Pauley suggested yesterday his idea would be to have a committee of the Reparations Commission sort of audit it.

MR. PAULEY: Some international committee or the Reparations Commission.

MR. LUBIN: Does the original draft have a statement of some international organization?

MR. FOWLER: But that had to do with the voluntary labor group.

MR. CLAYTON: I think, Mr. Pauley, that you had a very good suggestion there and that you might be able to get agreement that the Reparations Commission, itself, could do this work a good deal easier than if you tried to get agreement that some outside organization do it. It is really a kind of obligation of the Reparations Commission, I would think, because the Reparations Commission, if they should agree to this language, or something of similar importance, would be laying down a certain condition which I would think they would have the right to check up on every now and then to see whether--

MR. LUBIN: "The Reparations Commission should reserve the right to survey living and working conditions of compulsory workers and uses made of their services." Would that be all right?

MR. CLAYTON: I think you better state it affirmatively because if you don't, that--

MR. PAULEY: Make certain observations on specific dates.

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MR. LUBIN: "...to periodically survey the living and working conditions of compulsory workers and uses made of their services."

MR. CLAYTON: I think so. If you don't do that--if you use the other language when you try to get it done, you might not be able to.

MR. DESPRES: Now about adding to this language, "...and there should be inspection by an appropriate Allied agency?"

MR. LOVETT: You are better off going to what you want first than settling on this lesser thing if you have to.

MR. CLAYTON: You mean try to get the Red Cross--

MR. LOVETT: Try to get either the International Red Cross or the agency or Reparations Commission as an audit agency if you can. If you can't, you can always take the lesser course.

MR. CLAYTON: We agreed--

MR. LOVETT: If you follow Mr. Despres line, you take the lesser.

MR. CLAYTON: That is right.

MR. LOVETT: Doctor Lubin had some language there that seemed to cover it.

MR. LUBIN: "The Reparations Commission shall periodically survey--"

MR. COE: "...living and working conditions of compulsory workers, and the uses made of their services."

MR. CLAYTON: That does it.

MR. LOVETT: Survey and report to them.

MR. CLAYTON: "...survey and report on the living and working conditions--"

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MR. LUBIN: If you are going to make the survey, the individuals will make the reports to their individual governments. Take that for granted.

MR. DESPRES: "The Commission should periodically make--"

MR. LUBIN: Yes.

MR. CLAYTON: "The Reparations Commission or agency shall periodically survey the living and working conditions of compulsory workers and the usage made of their services," and so forth. Is that agreeable?

MR. DUBOIS: That in substitution for c.

MR. LOVETT: In place of c.

MR. COE: Go back to c. if you can't get this.

MR. DESPRES: Should we put in the other alternative?

MR. COE: I don't think so.

MR. LOVETT: When you say the uses made of their services, does the Reparations Commission contemplate endeavoring to define what appropriate use is to be made of this compulsory labor, in other words, to the restoration and reconstruction?

MR. LUBIN: That question was raised yesterday, and no decision was made on it, but if they were being used in salt mines or to develop resources that we don't feel are very essential to the welfare of the world at the given moment, that fact ought to be made public.

MR. FAULEY: And what about the use of production that might enter into the use of labor, manufactural production that might engage in world trade in competition with ours?

MR. LOVETT: Suppose they put them into labor of building farm machinery, and so forth, and paid them nothing and then sold their goods on that basis to the outside world?

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MR. HARD: Could you limit it to interim construction and things not to be exported from their country?

MR. GLASSER: The thought of the committee was that we would limit it to reparations of the damage.

MR. COE: I wonder whether we don't need up above somewhere near 1 and 2 something which says we believe that this labor should be used for reconstruction and repair of war damage.

MR. LUBIN: That should be in number 2.

MR. PAULLEY: Don't you want to add a specific clause that they shouldn't be allowed to manufacture goods that would compete in the world trade market?

MR. BROWN: I think so.

MR. FLS COE: Mr. Paulley, wouldn't that be covered if you said that compulsory labor should be used only in reconstruction and repairing of war damage and not in operating productive facilities?

MR. LOVETT: Ie, not in production of goods for international sale.

MR. DUBOIS: Suppose you wanted to rebuild.

MR. PAULLEY: I would like to see it specifically in there.

MR. DUBOIS: Suppose there is a factory partly damaged and you want to--

MR. PAULLEY: Rebuild, but not operate.

MR. CLAYTON: All right, to reconstruct and repair, but not to operate. You would say, "...to be used only for reconstructing and repairing war damage, not for operating labor." I would think that would cover it.

MR. GLASSER: You might point out that we have the same problem with recurring reparations, for instance, coal, if the country gets it free, uses it as part of productive process for exports. You really have the same commercial

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policy question in the recurring reparations program.

MR. CLAYTON: Right. Could you get that language, or something like that, Emile, in the first paragraph?

MR. DESPRES: I think it might go in the last one, because I assume that--does it apply just to compulsory, or voluntary also?

MR. LUBIN: I would put it in number 2.

MR. CLAYTON: Both types of service.

MR. LUBIN: The first general principle is, we won't take any reparations in the form of labor; two, we favor the use of reparations labor only in this kind of work.

MR. LOVETT: Why don't you include--

MR. LUBIN: I would put in a new 2.

MR. CLAYTON: Will you put that in, Emile?

Now, we come to 5, "Apart from persons deserving of punishment as defined above, German labor for reparation should be recruited only on a voluntary basis for work outside Germany."

MR. FOWLER: Mr. Clayton, I have no suggested change, just a comment that yesterday in the discussions I think it was generally agreed that there was a good deal of room there for the constructive development of a proposal that would make much more feasible the use of this voluntary recruitment of labor for reparations. Really, what we would attempt to try and achieve there is to make the German people as a whole pay for the cost of rebuilding and repairing and rehabilitating war damage in other countries, and that is, the job of creating a workable and feasible system that would result in a substantial use of the so-called voluntary labor is a responsibility that falls somewhere between the Allied Control Council and the Reparations Commission. That is going to require a good deal of effort

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and constructive study on the part of both. For example, it may be quite possible to require the German Government to pay wages to workers who would volunteer to go and work outside of Germany to create certain inducements there which would result in the work being done and the German people as a whole paying for it, and at the same time, not involve the undesirable consequences of the use of compulsory labor in the dimensions and quantities that sometimes are referred to, and we didn't attempt in this paper to fully develop a program along those lines which I think might be developed, and I just wanted to throw that out to throw some light on the proposition, that I don't think this short paper by any means exhausts the possibilities of labor reparations here on the voluntary type, and that sometime later on, either here or in the Allied Control Council, or in conjunction with the work of the Reparations Commission, a program of that sort could be developed which would have a chance of working and accomplishing the desirable economic objectives that Mr. Coe has referred to.

On our part we would be glad to forward that work in any way we could. We attempted to spell out a little bit of it yesterday, but agreed that in view of the shortage of time we wouldn't include it.

MR. LUBER: There is another point of view. I think we would all agree that in the Allied Control Council, EAC, or United Nations they will want to work out a scheme of voluntary labor to rehabilitate any part of the world. That doesn't concern the Reparations Commission. All we want to be sure of, if you do use such a system, is that the accounts are kept so that the Germans are credited and the receiving country is debited. The Reparations Commission is interested in reparations as such, and if you are going to use compulsory labor as a form of reparations, we want to fix the terms under which it will operate, but if the French Government wanted to make a deal with Eisenhower whereby they will undertake to use a million Germans at two dollars a day and Eisenhower says that is swell and he publishes a notice in the paper, anybody who wants to go to work in France at two dollars a day would be permitted to leave the country.

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Our concern is reparations, that the two dollars a day is credited to the Germans and debited to France.

MR. COE: I agree you shouldn't go too far into that at this time because of the foreign exchange problem, because for the Germans to raise two dollars a day in franc exchange presents a lot of problems.

MR. CLAYTON: I shouldn't think you would have to raise it in franc exchange, but I do think that the Reparations Commission would be interested in this matter.

MR. LUBER: He would like to see it done for a number of reasons.

MR. CLAYTON: It might be a very fruitful sort of reparations, but I don't think we could attempt at all to--

MR. LOVETT: You can't write a program.

MR. FOWLER: That was the conclusion we came to, but I think you have to keep that in mind.

MR. CLAYTON: Now 6--this is a proposal to be included in a new paragraph 2 to cover the point we just previously discussed, "Both compulsory and voluntary labor services, furnished as reparation should be used only for reconstruction and repair for damage, not for current production operations."

Now we go to 6, "Payment for wages and maintenance for both compulsory and voluntary labor utilized for reparation shall be borne by Germany. The value of the services of both types of labor shall be included as reparation."

I thought that when you started labor, either voluntary or compulsory, that the country where they worked maintained them. The payment--the remuneration should, of course, be made by Germany, presumably, to the families of these people in marks--in German currency--but if you require Germany to maintain them, that means a considerable export item on the part of Germany for maintenance.

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MR. LUBIN: You say find your maintenance cost is equal to what you paid them.

MR. CLAYTON: Well, no, payment at home would be in local currency to the families, presumably, or to the credit of the laborer. Maintenance means, of course, his food and housing and clothing. I would think it would be paid for.

MR. LUBIN: Maybe we ought to go back to the original words we used, "The value of such labor and its maintenance shall be borne by Germany." In other words, what you are trying to say is that Germany should pay this bill.

MR. FAHEY: In other words, Germany is going to get money to pay the bill.

MR. BARD: If he is sent out of the country, the families have got to live some way, so like the military allotment system they pay internally with local currency and you have no foreign exchange problem.

MR. LUBIN: The other becomes a problem in Germany in the sense that she is debited. Her reparations account goes up in the amount the Russians have to pay these people in wages.

MR. CLAYTON: That just means the reparations bill gets bigger.

MR. DESPRES: It means double entry, that cancels out. That is all it means.

MR. LOVETT: Or if they export more reparations--

MR. LUBIN: The Russians get two dollars worth of labor, and they are debited for that, and the Germans are credited.

MR. LUBIN: Germany is credited with that two dollars, and here is what happens: A man earns three dollars a day; that is what we are charging the Germans, you say. It costs one dollar and a half to feed them. Consequently the Russians are only getting one dollar and a half out of that

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guy, so the net that is credited to Germany is one dollar and a half out of three.

MR. CLAYTON: But why not just let them credit it rather than make a double entry? I mean, it is the same thing.

MR. LUBIN: We want to get a way of showing that the actual burden is going to be borne by the Germans.

MR. DESPRES: Now about omitting paragraph 6 and changing paragraph 7 to, "The net value of services of both types of labor should be included in reparations?"

MR. CLAYTON: That is right.

MR. CLARKE: No, I think it is much better the other way. The important thing is that the Germans are going to be responsible for the maintenance. The rest is bookkeeping.

MR. BARD: Do you think the Germans should take care of the maintenance? I don't think they should.

MR. CLAYTON: I don't, either.

MR. BARD: If they are getting labor for nothing, the least they can do is to house them and take care of them properly.

MR. CLAYTON: That is right. I think the point is this, that if you agree on a value of a man's services under those circumstances and say, as Lubin said, that it is three dollars a day, you wouldn't credit Germany with three dollars a day if the country where the man is working had to spend one dollar and a half of that three to maintain him. That you would credit Germany with would be one dollar and one-half. I think that is pretty clear.

MR. BARD: That is the idea, but make the country where they are working take care of them. Otherwise they are liable to starve to death and say the German's aren't taking care of them. It is our responsibility.

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MR. LOVETT: Isn't what they are actually talking about to put it in bookkeeping form? If Russia has a credit of ten dollars in reparations, she may take five dollars in plants, three dollars in goods, and have a two dollar balance left against which she can use compulsory labor. Isn't that what we are talking about?

MR. BARD: If the Reparations Commission decides that the man's services are worth three dollars a day, then Germany only gets a credit of one dollar and one-half, and Russia gets one dollar and one-half to feed them.

MR. LOVETT: The more labor she uses, the less plant dollar value she can take out. That is what we meant, isn't it?

MR. CLAYTON: Not here, I don't think, Bob. What we are trying to say here--what we did say here is that payment for wages and maintenance for both compulsory and voluntary labor utilized for reparations shall be borne by Germany. That is what we say, but I don't think that is what we mean.

MR. LOVETT: You mean the net value of the labor shall be charged against her in the reparations account.

MR. CLAYTON: Charged to the country receiving the labor, the net.

MR. GLASSER: I just want to point out Mr. Bard's point with reference to wages and maintenance. This provision says, "Payment for wages and maintenance." I don't think that absolves the recipient country from maintaining these workers and giving them food and shelter. This merely says, "Wages and maintenance would be borne by Germany."

MR. LUMIN: "The net value of the services of both types of labor shall be included as reparations and be borne by Germany. Wouldn't that cover it?"

MR. GLASSER: The net value, I suppose, less any amount the French or Russians are being paid. You run into the situation where there may not be a net value. The computation

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of the value of the work would presumably be up to the recipient Government. They would also have to compute the amount of maintenance, and there may be very little net value which would be a disturbing factor.

MR. CLAYTON: They wouldn't get any credit.

MR. BARD: The Reparations Committee would decide on what they should pay these people.

MR. CLAYTON: You see, Harold, it wouldn't be likely that there won't be a net value, because certainly a man's services would be worth something more than just to feed, clothe, and house him under those conditions. Make it worth more. And the net value would have to be paid by the Germans and would be a credit to them on reparations, and a debit to the country receiving services, and it doesn't make very much difference whether you do it that way or credit Germany with three dollars, say for that man's services and charge him with one dollar and a half for his maintenance. It is just a little more bookkeeping.

MR. BARD: One thing I am worried about is where the poor fellow is going to get the spending money for cigarettes, and so forth. He has got to have something in his own pocket.

MR. PAULEY: They give the German prisoners here--what is it, fifteen cents a day?

MR. LUMIN: Eighty cents.

(Secretary re-enters the conference.)

MR. DESPAILL: The whole offer has to be attractive enough to make him sign up.

MR. BARD: Would Germany have to send pocket money to Russia or advance them twenty-five cents a day? That will all come out.

MR. CLAYTON: I think we will have to leave that.

MR. LUMIN: Does that mean we omit six?

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MR. CLAYTON: Omit 6. Then 7 reads, "The net value of services of both types of labor shall be included as reparations."

MR. LOVETT: And borne by Germany.

MR. DuBOIS: I don't think you need that.

MR. LURIN: When you say for reparations, it means that.

MR. CLAYTON: It means Germany, of course.

We have completed it, Mr. Secretary; we are finished.

Now, I would suggest that it be rewritten and they we would take another look at it, but I think it is important-- that these documents are so important that we should have them both redrafted and then we could sit down here and go over them one more time.

MR. DuBOIS: Can't you just stick it into the other document?

MR. CLAYTON: If we are all in agreement on it, why--

MR. FOWLER: I think it would be better.

MR. CLAYTON: If there is no objection, we will do that.

MR. DuBOIS: I suggest you make it paragraph 4. It would make it much easier. It is an important paragraph and should follow paragraph 3 of our main document.

MR. DESPRES: All right.

MR. CLAYTON: Shall we take up the Joint Chief of Staff communication?

MR. LOVETT: Before you leave that, Will, with the appointment of Justice Jackson perhaps we ought to have some way of tying in with him on these war crimes and what not, to make sure that we are not taking a wholly different track from what the country is giving Mr. Fauley's Commission instructions on --

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MR. CLAYTON: That is an excellent suggestion. How about inviting the Justice to meet with us next time? Do you wish to do so?

MR. JR: Let him read it in advance.

MR. CLAYTON: And let him read it in advance. Would that be your idea, Bob?

MR. LOVETT: We ought to protect our Commission going over under one set of instructions, whereas the War Crimes Committee have a wholly different approach. I don't know whether they have even considered it or not.

MR. CLAYTON: Is it agreeable to the Committee that a copy of this redrafted document be submitted to Justice Jackson with the explanation that before finally adopting it we thought in view of his recent appointment he should have a look at it.

MR. LURIN: His interest would be in the labor clause only, wouldn't it?

MR. LURIN: That is all we would have to read him.

MR. JR: Send it to him and ask if he has any comment, and then he can read it back.

MR. JR: Somebody could take it to him and explain it. It might save trouble.

MR. JR: I wonder if Mr. Fauley would be willing.

MR. FAULEY: I would be very glad to present it to him, sir.

MR. CLAYTON: That would be fine if you would do it, Mr. Fauley, and it has been suggested that we only submit to him the part relating to the labor. Do you agree on that?

MR. FAULEY: Yes, I think that is all he is concerned with, though I don't think there is any objection to showing him the entire document if he wants to see it.

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MR. CLAYTON: I wouldn't have any. Then when the Secretary has redrafted the document they will furnish you a copy of it; and if you will call on Justice Jackson and discuss it with him, that would be fine.

H.M.JR: Couldn't we clean this up tomorrow morning?

MR. CLAYTON: Well --

MR. FOWLER: Wouldn't it be possible to iron out informally this point about the Joint Chiefs clause so that at our next meeting we can clean up all of the current business?

MR. CLAYTON: Yes, that is right, Joe. I think that is right. We will get to that in just a minute. I would think possibly we better do it Saturday morning, Mr. Secretary.

H.M.JR: I won't be here.

MR. CLAYTON: Could we do it tomorrow afternoon?

H.M.JR: Tomorrow will be Cabinet, supposedly.

MR. LOVETT: I can't do it tomorrow afternoon.

H.M.JR: Could you do it tomorrow morning?

MR. LOVETT: I think I am all right tomorrow morning, but I don't know whether we could get the Joint Chiefs of Staff by then.

H.M.JR: Well, General Hilldring and I had a little conference in the corner, and he said he thought that if this working committee met with the representatives of the Joint Chiefs of Staff, they could work it out this afternoon.

GEN. HILLDRING: I thought we could get this working committee and somebody from JCS and they could produce one. That would have to be sent to this committee and JCS at the same time but if they will agree--and I think they can get an agreement--that is the end of it.

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MR. CLAYTON: You said at the same time you would want to send it to JCS.

GEN. HILLDRING: That is something I won't say. We will try to do that if we can get the working committee agreement.

MR. CLAYTON: That would be the desirable thing to do.

MR. LOVETT: You have one difficulty there in the sense that Friday is the Combined Chiefs of Staff meeting, and our Joint Chiefs of Staff.

GEN. HILLDRING: They work on secret papers informally, and I think if we had an agreement in the working committee and everybody was agreed across the board, we could clear it informally.

MR. CLAYTON: Perhaps this afternoon.

GEN. HILLDRING: I would try.

MR. CLAYTON: Suppose we meet in the morning? What time, nine o'clock? Is that agreeable? We will meet tomorrow morning at nine o'clock.

In the meantime, the working committee will get in touch with you, General Hilldring, on this matter here of this communication to the Joint Chiefs of Staff. They will try to agree upon the language and try to submit it to them this afternoon or tonight and come in tomorrow morning with a proposal.

GEN. HILLDRING: That is awfully fast action for my five-star generals and admirals, but I will do my damndest.

MR. LOVETT: What remains to be done for tomorrow? Are we going to go back over the whole thing, or only deal with this?

MR. CLAYTON: Let's cover this now, how we are going to do it. I don't suppose we want the whole working group to meet this afternoon on the communication of the Joint

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Chiefs of Staff. What was your idea on that, General?

GEN. HILLDRING: If we could get the working part of this committee and the working part of the JCS, I think we can settle it.

MR. DESPRES: I believe that so far as this committee is concerned we all know what the civilian agencies would agree to.

MR. ADLER: I wonder if a whole committee is needed this afternoon, or if it wouldn't be adequate to have one representative.

MR. FOWLER: I would suggest that as far as we are concerned, Mr. Despres, or any other party designated would be satisfactory as far as we are concerned.

MR. CLAYTON: We have all agreed, haven't we, on it so far as the civilian agencies are concerned on this committee as to what the language should be?

MR. FOWLER: We haven't discussed the specific language but I think we all agree as to the point that is to be changed in the existing draft.

W.M.JR: I would like to have a Treasury representative present.

MR. CLAYTON: I think we ought to have one representative from each agency, just have the full working group meet with General Hilldring this afternoon as soon as possible after lunch.

Now, Bob, you asked the question as to whether at our meeting tomorrow we were going to consider merely this suggested change in the document that we approved last Friday or if we would go over the reparations question again.

MR. LOVETT: Yes, I was wondering whether we had disposed of the reparations paper or whether there was something else that remained to be done on it.

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MR. CLAYTON: I don't know of anything else that remains to be done on it. My only point is that numerous changes are going to be made in it. It is going to be re-drafted, and I think that it is very important that all of us sit here tomorrow morning and read it over again right from the beginning to the end and say whether we agree or not. Do you agree with that?

MR. LOVETT: Sure.

W.M.JR: I think you wouldn't have had this trouble with the Joint Chiefs of Staff if we had had a chance to re-read it. I think it is very important to talk about the future of Germany.

MR. CLAYTON: We will meet tomorrow morning at nine o'clock.

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