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Mr. BRIDGLAND said he had had no figures for about two months, but as far as he knew, the trials were still going on.

The CHAIRMAN enquired whether New Zealand had military offences which were being tried.

Mr. BURDEKIN said that any war crimes in the Far East, affecting New Zealand, were being dealt with by SEAC courts.

The CHAIRMAN remarked that Greek courts were going on trying cases.

M. STAVROPOULOS stated that the Greek courts had tried two cases this month - one Italian and one Bulgarian.

Dr. MAYR HARTING said that the Czech courts were trying many thousands of cases, both of war criminals and of traitors, and that there were many more to come. He informed the Commission that Kurt Daluge was to come to trial in a few days.

Dr. SCHRAM NIELSEN said that the Danish Government had just instituted a law which provided for war crimes, but the difficulty now was to get the war criminals.

Dr. ZIVKOVIC said that Yugoslavia had started with one trial and he understood that more would come up soon.

The CHAIRMAN said that the Commission should remember the great area of judicial operations that were going on and which were really essential to a complete scheme for the punishment of war crimes.

Mr. DUTT announced that India had left all trials to SEAC and that they were being dealt with by the military authorities.

Dr. AARS RYNNING said that the Norwegian government had started trials of war criminals also.

The CHAIRMAN said that was all that could be said about operations in the way of punishment of war crimes, and that though he would be the last person to claim that they were all that could be desired, it could not be said that they were a fiasco. There had been a really genuine system of trials, in different areas, and under different jurisdictions.

He asked Colonel RATHBONE whether his department kept in communication with allied nations.

Colonel RATHBONE thought that many allied nations had envoys accredited to the Control Commission at Berlin at present and that they had kept contact in that way.

The CHAIRMAN thought there were a certain number of Chinese cases which were being dealt with by SEAC.

Dr. CHENG agreed.

Dr. SZERER thought there was just a possibility that German courts may come across a crime committed by a German against an allied national.

Colonel RATHBONE said that the German Prosecution authorities had been instructed to report any such case to the military government and that the person would be dealt with by them.

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M.de BAER wondered whether Colonel RATHBONE could give the Commission some sort of advice on the following suggestion. It was known how concerned the Commission were about finding people on their lists, from the beginning and right through, and it was thought that if it was possible to institute a Central Agency in Germany, the Commission should try to obtain the active help of Germans, who were really and thoroughly the machinery by which other Germans must be found, to trace Germans who were wanted. If they wanted to find Germans, who were hiding among their own people, it was only by other Germans that they could do it. This was a problem which had concerned them very much for the last two years and M.de BAER wondered whether Colonel Rathbone could make any suggestion as to the way the co-operation of the German authorities in this respect could be obtained.

Colonel RATHBONE enquired whether the Commission's lists were the same as the CROWCASS lists.

M.de BAER said that the Commission's lists were very much shorter. The CROWCASS lists contained 100,000 names of wanted persons, whereas they had not a fifth of that number. Also, of those, many were already in the cages, and it was not necessary to try to find them because they could be located. There were many civilians and soldiers who could not be found.

Colonel RATHBONE thought the best thing would be for the Commission to communicate the names on the lists and he would get the Intelligence people on their track, or the German Police, or the German prosecutors. He thought it would be useful if they could have lists of names of people in the British zone, because the Intelligence people were now releasing a large number of people, who had been locked up for some time for security reasons. There were no security grounds for keeping them locked up further, but the Commission might have some evidence which would necessitate their having to be locked up again.

M. de BAER enquired, in view of this, whether Colonel Rathbone did not receive the Commission's lists.

Colonel RATHBONE said he had not seen any.

Sir Robert CRAIGIE stated that the Commission's official channel of communication with the British zone had always been A.G.3, War Office. He thought it would be very useful if the lists were also communicated to Colonel Rathbone.

Colonel RATHBONE said that these would go through the Rhine Army, but that it would be very useful if the lists were also communicated to his department. When a German soldier was demobilised, he ceased to be of any use or interest to the Rhine Army.

The Secretary-General undertook to ensure that a complete set of the Commission's Lists would be sent to the Legal Division at Herford without delay.

The CHAIRMAN thought that Colonel Mickelwaite and Colonel Straight would probably hold the same views as to the tracking down of listed criminals and asked whether this question could be passed on to his friends at Frankfurt.

Colonel SPRINGER said he would certainly pass it on.

The CHAIRMAN asked what was the relation of the newly projected scheme to the prosecutions or proceedings, which the Germans talked of among themselves as de-Nazification.

Colonel RATHBONE replied that it was all part of the same business. De-Nazification proper meant the removal of Nazis from office, and having removed them from office, one had to decide what was to be done about them. They had to be tried for crimes or interned, or released subject to certain restrictions, or released with a clean bill of health.

The CHAIRMAN thought that when the Commission received the Directive No. 38, they would have a better idea of what the scheme was.

Dr. MAYR HARTING mentioned that he would like to take part in the observations of German courts and to go to Germany to study how they functioned.

The CHAIRMAN then thanked Colonel Rathbone for sparing the time to come to the meeting and expressed his opinion on behalf of the Commission that this talk had been most enlightening and helpful.

Colonel RATHBONE left the meeting at this juncture

REPORTS BY CHAIRMEN OF COMMITTEES.

M. de BAER had two proposals to put before the Commission. The first was regarding persons listed as suspects (Doc. C.231) which had been circulated. It had been found, now that a year or two had elapsed, that liberated countries were not in the same position as to collecting evidence, as immediately after the liberation. Whereas two years ago, evidence had been accepted which was not quite up to the standard that they liked, because otherwise many war criminals would have escaped, they were not now in that position. Now they could ask for more precise evidence, and with a view to tightening up of the lists, he had proposed Doc. C.231. They must not forget that if they wanted their lists to be authoritative, they could not risk a large percentage of the suspects being tied down, if the alleged criminals had a very good alibi, or else proof that they were in no way responsible for the deeds with which they were charged.

The CHAIRMAN said the Commission was very glad of that proposal and suggested that it should be discussed in more detail at the next meeting. Now that they had the statement of what the point was, they would be in a better position to discuss it at the next meeting.

The CHAIRMAN asked the Chairman of Committee III whether he had anything to report.

Dr. MAYR HARTING stated that there was only one point which he would like to make with regard to the publication of war trials reports. In the first volume of these reports, which was in the process of being printed, it had been only possible to include British and American trials. The volume contained reports on six British trials, two held before United States Military Commissions in Europe and one before a United States Military Commission in the Far East. It would be remembered that Committee III was charged only with the preparation of the first volume of these law reports. It was intended to set up a special committee which had to deal with the publication of the following volumes. He was sure it would be possible to discuss the manuscript of the second volume in the near future. It might be found advisable to ask the Commission to set up this special committee. He also referred to Doc. A.21.

The CHAIRMAN said that what one really wished to do that evening was to approve the draft text A.21.

Dr. MAYR HARTING said that in the main points, this matter was set out very clearly in A.21. He could therefore restrict himself to a few words only.



Sometime ago, the Commission had considered and agreed to a draft letter to Messrs. Hodge and Co. concerning the publication of law reports. It was agreed that this draft letter contained in C.216 should be shown to the various authorities, asking them for their observations. This had been done and there were some very important observations of the Treasury Solicitor's department. Mr. Ridley strongly advised the Commission to refrain from sending the letter in the form contemplated.

According to the recommendation of the Treasury Solicitor's office, a new letter had been drafted and he proposed that the new letter contained in A.21 should be approved by the Commission.

Sir Robert CRAIGIE said that, as a matter of fact, he was reading it for the first time and that it seemed to him to be admirable, and that on first perusal, he thought the Commission could approve it being sent. He understood that in view of the long but unavoidable delay in having this text approved by the Treasury Solicitor, the Secretary-General was very anxious to get it off as soon as possible and that Messrs. Hodge were getting very impatient.

The CHAIRMAN then said that the matter might be considered settled and the letter was approved for transmission.

#### DRAFT PEACE TREATIES.

M. STAVROPOLOUS said he had sent the suggestions made by the Commission to the Greek Delegation in Paris, but unfortunately, it had coincided with the new policy adopted by the Peace Conference for speeding up its work. It had, therefore, been too late to submit the resolution to the Peace Conference. He was advised that it would be better for the Commission itself to find a way to send it to the "Big Four", as from the Commission. He did not know whether this could be done.

The CHAIRMAN said this meant getting the bulk of the member nations to agree.

M. STAVROPOLOUS thought there was plenty of time, because the "Big Four" were not to meet before the end of November.

The CHAIRMAN did not consider that very long and thought it ought to be followed out and asked whether it could be put into some definite shape which could be circulated by the Commission among the member nations.

Sir Robert CRAIGIE wished to mention one point. He said that, as stated when the matter was mentioned before, those governments who had already accepted the draft treaty would be in a difficult position in now suggesting that this treaty should be drafted in the manner proposed by the Commission, and that as far as he was concerned, he would find it difficult to vote for submitting the resolution to the "Big Four". It seemed to him that the best plan would be that all those countries, who were in favour of the proposal and who were not represented on the original "Big Four" meetings, should put it forward. There were several countries who were in favour of this resolution and if they all put it forward, he was sure that it would receive due consideration.

The CHAIRMAN said that it was suggested that all member governments approving of the resolution should also approve of it being submitted to the "Big Four".

Sir Robert CRAIGIE said that the governments concerned should submit it to the "Big Four" - each individual government.

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The CHAIRMAN was not aware of any other possibility.

M. STAVROPOLOUS thought that those who had voted for the resolution would like to make some sort of reminder.

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The CHAIRMAN wondered whether it would be possible for the Commission to make some sort of reminder that any government should send it on to the appropriate authority.

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Sir Robert CRAIGIE did not consider that it would be of much use unless one of the members took the matter in hand.

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The CHAIRMAN said that it should be decided by the next meeting what would be the best practical measure to take. The object which the Commission wanted to achieve was quite clear. He did not think it could be done by the Commission, and it was unlikely that they would get a majority.

#### REPORTS

The CHAIRMAN said the Commission should think this over and decide on what was the best course to adopt.

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M.115.

25th October, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF 115TH MEETING

HELD ON WEDNESDAY

23rd October, 1946.

Chairman:	Lord WRIGHT	Australia
Also Present:	Colonel SPRINGER	United States of America
	Dr. SCHRAM-NIELSEN	Denmark
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr. MAYR-HARTING	
	Dr. MARCOVIC	Yugoslavia
	Commander MOUTON	Netherlands
	Mr. AARS-RYNNING	Norway
	M. DIMITSAS	Greece
	Mr. BURDEKIN	New Zealand
	Mr. BRIDGLAND	Australia
	Dr. SZERER	Poland
	Mr. TSIEN	China
	Mlle. CAPIOMONT	France.

Apologies for absence were received from:

Sir Robert CRAIGIE	United Kingdom
M. de BAER	Belgium
Dr. CHENG	China
M. STAVROPOULOS	Greece
Sir Torick AMEER ALI	India
Mr. DUTT	India
Mr. HORNE	Canada
Dr. ZIVKOVIC	Yugoslavia

MINUTES

The Minutes of the 113th Meeting were approved and signed.

No amendments to draft minutes M.114 had so far been received.

PROCEDURE REGARDING PERSONS LISTED AS SUSPECTS(DOC.C.231).

The CHAIRMAN suggested that the Commission might adjourn this question in view of the absence of Sir Robert Craigie and M. de Baer both of whom he knew were very much interested in it. Alternatively, as the members were aware of the point at issue, he thought he could ask members to express their individual views about it.

Dr. SCHRAM-NIELSEN said that he agreed with the document in every way.

Dr. MAYR-HARTING stated that he had had the opportunity of discussing the paper in question in Committee I and that so far as he could remember there was only one question of some doubt that arose and that was in connection with what should be done with the lists of suspects already in existence. One proposal was to ask the military authorities to abstain from surrendering persons listed under "S" and to wait until further information could be obtained from the various National Offices and the

persons transferred from "S" to "A". He thought the Committee was unanimously of the opinion that it would be wiser not to take any sort of retroactive action and so diminish the value of the lists already in existence. The proposal contained in Doc.C.231 contained only the suggestion that the listing on "S" should be restricted in future, and that Committee I would prefer in every case to ask National Offices for further information before listing persons on "S". The whole idea of the paper was to give members of the Commission information and to afford them an opportunity to advise their respective National Offices that they cannot expect persons to be listed on "S", if the material was not complete and that cases of this sort will, in future, be adjourned, so that it would be advisable to send as complete information as possible in the first instance. He did not think General de Baer or Sir Robert Craigie wished any sort of change on the paper, and they certainly approved and would welcome it if the Commission would undertake to communicate with the National Offices. He felt the Commission should take note of it and approve.

The CHAIRMAN said that that being so, he did not think that it was necessary to adjourn the question.

Mr. BRIDGLAND said he supported the recommendation of Committee I and thought that the military authorities were being informed of such large numbers of names of wanted criminals already, that it was pointless to encumber them when there was not a sufficiently strong case.

Dr. SZERER said he agreed entirely with Document C.231.

Commander MOUTON said he agreed with the paper.

Mr. BURDEKIN said he thought there was no need to postpone the matter and that he agreed.

Colonel SPRINGER said he had attended the committee meeting which discussed the matter and that, as he remembered, the paper grew out of remarks that the two lists "A" and "S" were being treated by the military authorities just alike and it was said, in explanation, that perhaps the military authorities did that because they found the two lists slightly confusing and did not require the additional examining because frequently, by just examining the lists, they could not tell what evidence was missing. Then two or three alternatives were suggested, one, that the suspect list be discontinued and abandoned altogether; Colonel Springer thought that alternative was rejected as it was thought that it would be more confusing to military authorities to abandon the lists than to keep them going. Then there was a suggestion to include on the list of suspects evidence which the Committee felt was missing, so that military authorities could look at the list and say: "If you will supply this evidence, we will do whatever is necessary". That likewise was rejected as a bit impractical. Then, in the interests of continuing the lists and making them serve a good purpose, they came to the conclusion that was embodied in this paper, and Colonel Springer was of the opinion that it merited the approval of the Commission.

The CHAIRMAN thought that, generally speaking, Document C.231 was approved by the Commission.

#### APPOINTMENT OF SPECIAL COMMITTEE FOR DEALING WITH LEGAL PUBLICATIONS.

The CHAIRMAN said that the first publication had been discussed by Committee III, of which Dr. Mayr-Harting was the acting Chairman and which consisted of several members. It was felt in some quarters that perhaps there were too many on that Committee, and that it might be better to have an "ad hoc" committee, that is, a special committee to deal with the legal publications. It was understood that the first volume was just on the point of going to press and he, Lord Wright, was now preparing the introduction

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Volume I, which he had undertaken to write.

The CHAIRMAN went on to say that Sir Robert Craigie had expressed his willingness to assist as far as he could, but in particular on questions of a political or diplomatic character. The Chairman thought that Sir Robert's help would be very valuable. Lord Wright said that he also would keep in touch with the work, in a rather grandfatherly manner, much as he had done on Volume I. It was suggested therefore that a temporary ad hoc committee should be appointed to deal with these questions of the reports so long as the Commission go on producing them. It seemed to him that there was considerable future in the reports. The following names of the members for this special committee which had been suggested to him were now submitted to the Commission for approval.

M. de Baer  
Dr. Mayr-Harting  
Lieut. Kintner  
Mr. Burdekin  
with Dr. Schwelb acting as Secretary,

and with Sir Robert Craigie and himself always prepared to assist when required. The CHAIRMAN added that members who were not represented on this special committee would be invited to be present when cases dealing with trials held in the courts of their countries were involved.

Dr. SZERER said he had pleasure in proposing the formation of this Special Committee, to be composed of the members indicated by the Chairman.

Commander MOUTON seconded the proposal.

This was unanimously agreed.

#### DRAFT PEACE TREATIES.

The CHAIRMAN said all members would no doubt remember the discussion at the last meeting and asked whether there were any further proposals, though he said he was rather sceptical about it all.

M. DIMITSAS said that M. Stavropoulos considered that if the Commission did not see its way to bring this matter to the attention of the "Big Four", that the individual governments should do so and express their views; he could not see any other way of getting the thing done.

The CHAIRMAN said it would be remembered that they had left off on the last occasion with the idea that some member or some government represented on the Commission, should bring the matter to the attention of the "Big Four" and the Commission had thought that that was the most practical method of giving an effective send off to the idea. He did not think that any progress had been made, and asked whether any one member government was prepared to take the matter up.

Dr. SZERER said he had a letter of what had happened when the Polish delegation presented amendments concerning war criminals to the Peace Conference. This letter might throw some light as to the attitude of the Conference. Poland was represented only on the Commission of the Peace Conference which had to deal with the Italian Treaty. Three weeks prior to the resolution passed by the United Nations War Crimes Commission, the Polish Delegation presented four amendments to the Draft Treaty with Italy. Only one amendment was accepted, the three others were rejected. The one that was accepted consisted of one word, instead of "Italy shall take the necessary steps"...it was agreed that the provision should read: "Italy shall take all necessary steps". When he sent the UNWCO resolution to his Government's Delegation in Paris, it was too late to present any new amendments, so they presented it only in the form of a recommendation, but this also was rejected. That was what happened in Paris and the atmosphere was not very propitious.

The CHAIRMAN said that Sir Robert Craigie, who understood diplomatic proceedings, had examined the matter very carefully and had pointed out the



the difficulty of getting his Government, who had already accepted the Draft Treaties, to put forward these new suggestions. He thought however that it might be possible to find one of the member governments which was in favour of the proposals and which had not been already committed to the present form of the peace proposals, who would put it forward. What the Commission was trying to ascertain now was whether they had found such a member government. Sir Robert Craigie had pointed out that there were several governments who were in favour of this resolution and if they could see their way to put forward the proposals, he thought and the Chairman agreed, that it might have some effect. It was a matter for individual members to put, each to his own government, because the Commission could do nothing directly as far as he could see. At present, he felt the matter had got no further forward and he had not had brought to his notice the name of any government which would carry out the practical course which Sir Robert favoured.

Commander MOUTON said that personally he was quite prepared to propose to his Government to take steps on its own account but he did not know whether the Commission could decide that all governments should do the same thing.

The CHAIRMAN said that was what he would like to decide, but he did not suppose there were many in a position to do so.

Dr. SOHRAM-NIELSEN said that in his opinion it was not very likely that many of the governments would like to bring the matter before the "Big Four", because as Sir Robert CRAIGIE had explained there were many who had already accepted the draft treaties in Paris.

The CHAIRMAN said he was very positive about that. His own view in favour of the proposal did not blind him to the views in some quarters that it was too late.

Dr. SOHRAM-NIELSEN said many governments would probably not want to use their credit with the "Big Four" in order to bring forward the proposal. He was speaking without instructions from his Government, but as most governments had so many things to bring forward of vital interest to their countries, they would not like to bring forward this matter.

The CHAIRMAN said he quite understood that, but he could not see what the Commission could do beyond what had already been done.

Dr. MAYR-HARTING said he felt much as the Chairman did and thought that it had been their duty to point out where the Draft Peace Treaties differed from the Commission's proposals, and as this has been done, and he understood the Peace Conference had been informed of their opinion, he did not think it was the Commission's task to press the point further.

The Commission's duty had been done and they should not go further.

Colonel SPRINGER said he thought that if the proposition required a motion and it were put to the vote, he would be compelled, under the former instructions of his government, to vote against it.

The CHAIRMAN said that Colonel Springer was in the same position as Sir Robert and felt that the members understood the position, which had been very well summed up by Dr. Mayr-Harting. He thought that they had discharged their duty, they had expressed their views, and now it should be left to the statesmen deciding on the final text of the treaties, either to promote those views or not. The general problem seemed to be that there was no one however sympathetic, who was willing to take the matter up and he felt that the Commission, as a Commission, must leave it at that and hope for the best.

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REPORTS OF CHAIRMEN OF COMMITTEES.

Dr. MAYR-HARTING said that there had been no meeting of Committee III and consequently he had nothing to report.

FORMAL APPROVAL OF 43RD LIST OF WAR CRIMINALS.

The CHAIRMAN said that these lists, which now included over 18,000 names, represented a vast amount of work and should be of great value to the future historians and probably of great value to the people who were still attempting to trace wanted criminals.

The list was approved.

PROGRESS REPORT OF TRIALS.

The CHAIRMAN said that the Secretary-General wished to refer to a matter which had certainly been discussed and which interested him personally. He did not feel that very much could be done, but thought it ought to be mentioned and brought to the notice of the interested parties.

The SECRETARY-GENERAL said, in connection with the Progress Report of trials and results of trials which the Commission published each month, that it was understood that trials had been held in Greece, Czechoslovakia, Yugoslavia and Poland, and possibly in other countries, but no reports of these trials had been received by the Secretariat, for inclusion in the monthly report. He would be very grateful if members would furnish him with the numbers of these trials and the results, in order that the report might be kept up to date. This matter had been brought to the attention of members on several occasions, but with the exception of the United States, Britain, Australia and France, no reports had been received.

Dr. SZERER said he sympathised with the Secretary-General, but he was in the same position, as he was quite unable to get figures from his National office.

The CHAIRMAN said that there seemed to be extraordinary modesty amongst member governments, who were very proud of having prosecuted so many German criminals, but who were unwilling to put forward their claims to fame. Nevertheless, it was unfortunate, as the Secretariat would like to have complete records of all trials and especially the transcripts of these trials. He thought it was humiliating to be constantly obliged to say that the Greeks, Poles, Belgians and Norwegians were prosecuting to the extent of their powers, but so retiring that they could not bring themselves to blow their own trumpets, for that was what it came to. It was certainly very humiliating for a person like himself, when others said "What about the smaller countries, aren't they doing anything?". He could only say: "Yes, they are, I am sure, but I do not know." If the Secretary-General could persuade the countries who were in that position to overcome their natural modesty and really say what they had been doing, it would be very beneficial to the Commission and enable it to carry out its duties in a proper manner. He felt more than that could not be done.

He asked whether the Australians had ceased to function to any extent.

Mr. BRIDGLAND replied that trials were still going on, but that he had received no reports for the last two months. However, he had telegraphed and the latest figures should be available shortly.

The CHAIRMAN felt that there was no more for the Commission to do that afternoon and pronounced the meeting closed.

ent, who had already accepted these new suggestions. He thought find one of the member governments and which had not been already peace proposals, who would put it to ascertain now was whether ent. Sir Robert Craigie had pointed out who were in favour of this resolution at forward the proposals, he thought at have some effect. It was a matter to his own government, because the as far as he could see. At present, forward and he had not had brought ment which would carry out the practical

onally he was quite prepared to propose its own account but he did not know that all governments should do the

he would like to decide, but he did ition to do so.

his opinion it was not very likely like to bring the matter before the Big had explained there were many treaties in Paris.

positive about that. His own view and him to the views in some quarters

ernments would probably not want to use order to bring forward the proposal. from his Government, but as most gov- forward of vital interest to their ing forward this matter.

rstood that, but he could not see what had already been done.

uch as the Chairman did and thought that where the Draft Peace Treaties differed as this has been done, and he under- informed of their opinion, he did not o press the point further.

done and they should not go further.

ht that if the proposition required, he would be compelled, under the t, to vote against it.

Springer was in the same position ers understood the position, which ay-Harting. He thought that they expressed their views, and now it ding on the final text of the treaties. The general problem seemed to be athetic, who was willing to take the ssion, as a Commission, must leave it

UNITED NATIONS WAR CRIMES COMMISSION

## MINUTES OF MEETING

HELD ON WEDNESDAY,

6th NOVEMBER, 1946.

Chairman:	Lord WRIGHT	Australia
Also present:	Sir Robert CRAIGIE	United Kingdom
	M. de BAER	Belgium
	Sir Torick AMEER ALI	India
	Colonel SPRINGER	United States of America
	Dr. SCHRAM-NIELSEN	Denmark
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr. MAYR-HARTING	
	Dr. ZIVKOVIC	Yugoslavia
	accompanied by	
	Mr. ZIMONJIC	
	Commander MOUTON	Netherlands
	Mr. AARS-RYNNING	Norway
	M. DIMITSAS	Greece
	Mr. BURDEKIN	New Zealand
	Mr. BRIDGLAND	Australia
	Dr. SZERER	Poland
	Mr. TSIEN	China
	M. MAILLARD	France
	accompanied by	
	Mlle. CAPIOMONT	
	Mr. HORNE	Canada
	Lieut. Colonel RYAN	Director, CROWCASS,
		in attendance
	accompanied by	
	Captain GOWING.	

MINUTES.

The Minutes of the 114th Meeting were approved and signed.

Amendments to Draft Minutes M.115 had been received from Colonel Springer and would be incorporated in the final text.

Apologies for absence were received from His Excellency Dr. Cheng and Lieut. Colonel Savill.

PROSECUTION OF KEY MEN LISTED ON LISTS NOS. 7 and 9

The CHAIRMAN announced that with the permission of Lieut. Colonel Ryan, he would take Item No. 4 before No. 3 on the Agenda.

M. de BAER said that when he had written this paper, he was really concerned because of the lack of "follow up" which had been given to the key men lists Nos. 7 and 9. The members would remember that when the two lists were produced the Commission had hoped that the Governments would follow them up by making dossiers against these people. Since the paper had been written, he had had a conversation with Mr. Clark Denny from Nuremberg, who told him that the prosecutions of at least a thousand of these people was envisaged. On the other hand, Dr. Litawski had communicated to him two letters, according to which one could draw the conclusion that also in the other Zones of Germany, prosecutions are being envisaged against leading Nazi functionaries. The number of persons listed in the lists 7 and 9

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was 562. Of these, about 200 have been listed ~~was~~ wanted by various governments, so there remain about 362 against whom no prosecution has been made, at the present time. In view of the information which he had received from Mr. Clark Denny, M. de Baer did not think anything should be done about it now except perhaps to remind the authorities in the occupied zones of Germany that the Commission was really interested in the prosecutions that are going to be made against these people.

Dr. ZIVKOVIC thought it would be useful if the Secretary could send members the names of the people who had been prosecuted on these lists first, and then they could examine them.

Colonel SPRINGER said he thought Monsieur de Baer was arranging to have them listed so that he (Colonel Springer) could check them with the Subsequent Proceedings Committee.

M. de BAER thought it would be quite easy if the Secretariat could check up on which of these key men had been demanded by the Allied governments and which ones had not.

Sir Robert CRAIGIE said that he entirely agreed with what was being proposed, but he thought the Commission should be quite clear as to the procedure. He wished to know whether it was M. de Baer's idea that they should do nothing more than note the fact that large numbers of prosecutions are due to take place, of men in that category, or was it proposed to draw special attention to the various persons on their key lists of the 362 men who have no one specifically interested in their prosecution.

M. de BAER said that it was the proposal that attention should be drawn to the remaining men.

The CHAIRMAN remarked that the Commission could not initiate prosecutions, though they might induce interested parties to take the matter up.

Sir Robert CRAIGIE said that then they would be in the same position because if these men were regarded by some government as war criminals they should be brought to trial and if they were not, they ought not to be kept on the Committee's lists. He asked M. de Baer whether he was proposing to bring cases against these men.

Dr. SCHWELB drew attention to the fact that the Allied Control Council Directive No. 38 had now been made available to the Commission and it covered the question of key men. He quoted the relevant provisions of the Directive, which will be circulated to members as Doc. Misc. No. 53.

Mr. BURDEKIN wondered if it might not, even so, be advisable to draw the attention of the Subsequent Proceedings Committee to the existence of the lists and that 362 men have not been claimed by any nation.

The CHAIRMAN thought that sounded a practicable measure.

M. de BAER also thought it would be a practicable measure. Even if a new law had been promulgated recently, he thought the Commission could usefully remind the Control Commission that they were interested in the scheme.

Mr. BURDEKIN said the Commission could make it link up with the new law.

Dr. ZIVKOVIC wished to say that some National Offices had not yet completed bringing charges before the Commission so that there was a possibility that some of these Germans would be charged subsequently before the Commission. He wished to ask how many German key men were involved.

M. de BAER replied that there were 362.

Sir Robert CRAIGIE said that the Commission wanted to be sure that these men would be proceeded against under this new Directive.

The CHAIRMAN asked that copies of the Directive might be made.

The Secretary General said that copies were now being made and would be circulated this week (Doc. Misc. 53).

The CHAIRMAN thought that in that case, M. de Baer might like to mention the matter again, after the Directive had been circulated. The Commission wanted to see that those names were not overlooked altogether. They might have a separate list made of the 362 and see exactly to what countries they appertained and what the charges were which were suggested against each. Then, he thought, they would know pretty well where they were.

They might be able to bring the matter of particular names before the respective countries which they thought were likely to be or ought to be interested.

Colonel SPRINGER wondered whether attention should not be drawn to the whole 562, because none of them was being prosecuted at present except the doctors.

Dr. SZERER remarked that at least one of them had been hanged (Kaltenbrunner).

The CHAIRMAN asked whether there had been any other prosecutions.

Dr. LITAWSKI thought there had been against very few of the men - about 20 or 30.

The CHAIRMAN said that if they had a sort of reasoned catalogue, they could make a note against those who had been prosecuted.

M. de BAER thought Colonel Springer's proposal a very good one - to send Lists 7 and 9 to the Control Commission. He also supported Sir Robert Craigie's proposal.

Sir Robert CRAIGIE said he would simply add that in sending these lists, the Commission might take it that all these people would be prosecuted under the new directive. If they were, there was nothing more for the Commission to do, but if they could give no definite answer, then the Commission must have cognizance of the subject. He did not know whether these prosecutions took place before national or international courts or before German courts. If the former, it meant the trial would go on for a very long time; if the latter, it was questionable whether the trials would be of the character they liked, but he did think it desirable that the question ought to be asked of the Control Commission when the United Nations War Crimes Commission communicated their lists to them.

The CHAIRMAN said that they would then send in their lists to the Control Commission and annotate against each one, giving any further particulars. They would refer to the new directive, and ask them if they could make any specific recommendation on the whole question. He thought that that was all they could do. Then they could probably, at a later stage, ask that the matter be put before the Commission again, when they would have had the opportunity of considering it more fully, and when some further practical idea might occur to them.



The CHAIRMAN asked M. de Baer, as he understood he might have to leave the meeting, whether he had any report to make as Chairman of Committee I.

M. de BAER replied that he had no report to make. He would like to take the opportunity, in the presence of Lieut. Colonel Ryan, to state that he had received a letter from his Government, saying they were very pleased with the way CROWCASS was running at the moment and had asked him to express their appreciation.

The CHAIRMAN was sure that everybody felt the same and the best thing would be to hear what Lieut. Colonel Ryan had to say.

Lieut. Colonel RYAN said that he had come over particularly to see what help could be given by the United Nations War Crimes Commission to CROWCASS and what assistance the latter could give to the United Nations War Crimes Commission. They had endeavoured to re-open against great difficulties in Germany and had re-established the organisation. They were now working smoothly and getting their lists out in complete order and as rapidly as possible. One thing they would like now was to find out just what the reaction of the United Nations War Crimes Commission was to their present type of lists, and any suggestions which may be of further assistance in carrying out their work would be appreciated. He added that he had a short brief which he would send out concerning their organisation and the work being done.

First, he wished to present Captain GOWING, who was in charge of Correspondence, Major Lewis, his Second in Command was Assistant Director and Chief of Operations, with Captain Gowing in charge of correspondence, under his supervision.

The CHAIRMAN asked Colonel Ryan if he could state what their present organisation was. He understood that in Berlin they had got their arrangements pretty well complete now.

Lieut. Colonel RYAN stated that he had been directed to take over the Directorship of CROWCASS and that he was assisted by Major Lewis, British Army. Captain Dabs, U.S.A., was in charge of Administration. Captain Gowing, British Army, was in charge of Correspondence and was assisted by Captain Seed, British Army. The French Government had sent two representatives - Monsieur Metz and Monsieur Sinding, who at present were being integrated into the organisation pending decision as to where they would be placed. The Soviet Government had not sent any representative. They also had Mlle. Toulaine from the Division de Justice, French Army, Mr. and Mme. Perry, Liaison Officers with the U. S. A. from the J.A.G. War Crimes Branch, Wiesbaden, and also Miss Ring, U. S. Liaison Officer, U. S. Headquarters, Wiesbaden, and with CROWCASS, who operates the teletype machine which is available to all powers. They had seven American soldiers who supervised the actual working of the Germans more or less as guards and administrators and some British personnel to assist in a like manner and to act as male couriers and to perform certain other duties. That comprised the military section.

As from the first of the month, they had 150 German civilians 80 per cent male and 20 per cent female - to assist them, all of which had been carefully screened by British and U. S. Many of these employees were persons who had suffered under the Nazi yoke and were capable of carrying on the work under proper supervision. There was nothing to worry about from a security angle, because they were closely supervised and there was a thorough check up on everything they did. In fact, they seemed most co-operative. They had not had instances yet which made it seem that they needed to tighten up on security.

The organisation had completely done away with all the machinery they were initially burdened with. The work was done manually. The organisation was divided into operational sub-sections. Firstly, in the operational section all correspondence passed through the hands of Major Lewis or Captain Gowing. The organisation was further divided into a section for those on the Wanted Lists and one for those on the Detention Lists. Upon receipt of reports they were put into a file and given a CROWCASS file number, the Wanted Reports passing to the Wanted Section and the Detention Reports to the Detention Section. The wanted reports and the detention reports were further noted in the name index and were then sent on to the various sub-sections and matched - a Wanted Report against a Detention Report, to see whether any person wanted had already been detained and vice versa. Based upon those findings, the various governments were notified and from the reports after they were matched, a Wanted List and a list of Detainees was prepared.

The latest list of detainees - No. 11 was placed in the mail on Monday of this week. Wanted List No. 13 was also placed in the mail this week.

Lieut. Colonel RYAN said CROWCASS maintained close liaison with the Headquarters of the British Army of the Rhine and also with the French in Paris with regard to the various holdings of the three nations. At present, there was much more co-operation than they had had in the past from other nations. Liaison was very good at the present time. They also searched the information that was submitted from various countries with regard to persons released or transferred between zones and between countries, also the sentences. Many documents were not being submitted by the nations. They had not yet received complete reports of persons who were war criminals, or who were suspected as being war criminals, nor had they received official reports from nations who were holding people whom they definitely knew to be wanted by other nations.

The CHAIRMAN remarked that CROWCASS was concentrating at present on war crimes.

Lieut. Colonel RYAN said this was so. They had eliminated the Security Suspect angle and were now in a position to locate war criminals or persons suspected as war criminals.

The CHAIRMAN said that if he remembered correctly, the great bulk of documents in Paris were Security Suspects.

Lieut. Colonel RYAN agreed, but said that many Security Suspects who were documented under the so-called POW form represented duplication.

The CHAIRMAN said that CROWCASS had given up the idea of having POW forms and that no one would blame them for it.

Dr. SZERER asked whether CROWCASS considered people who appeared on the Commission's lists of war criminals as ipso facto wanted or whether they must be notified separately.

Lieut. Colonel RYAN said that they did include those persons who were wanted by the UNWCC and they also asked for the wanted report to be filed with them, or through the individual nation. It was <sup>of</sup> much greater assistance, as long as they received a wanted report completely filled in, or as completely as possible.

Captain GOWING said there were one or two points which Lieut. Colonel Ryan had brought up which he would like to enlarge upon. First of all there were Detention Reports. They were sending out hundreds of letters weekly to National Offices, telling them that people they wanted were detained, but unfortunately, up to date, very few of the allied nations were sending them detention reports. CROWCASS was trying to serve everybody, but everybody was not trying to serve CROWCASS. They did know that there were thousands of persons held, who had been detained, but for whom no detention



reports had been received, and they did not think it was quite fair to all nations that they should not be informed of any persons detained as automatic arrestees as well as war criminals. It was important because a detention list giving people a record of automatic arrestees, made it of considerable value to other nations trying to search for people they wanted. A brief on "What is CROWCASS" was being prepared and distributed to all concerned, as a result of which it was hoped that a better understanding of CROWCASS would lead to all Allied nations serving CROWCASS as faithfully as CROWCASS were serving them.

The next point concerned Wanted Reports. CROWCASS, being a registering body was interested in all the reasons why any war criminals or alleged war criminals might be wanted. They were therefore interested in any persons who were not only wanted by the Allied Nations but also held by them. They required a Wanted Report and a Detention Report from all Allied Nations holding a person they wanted in connection with war crimes. They could then set up a co-ordination of all dossiers concerning one person, which would be available for anybody who might want it. At the moment, very few of the allied nations were doing that. In most instances, if a man was wanted by the nation in whose custody he was held, no wanted or detention report was submitted to CROWCASS. He hoped from what he had just said that it would be clear that there was great value in doing that for everybody concerned.

The CHAIRMAN summed up that Captain Gowing wanted each member of the Commission to request his government to help the work of CROWCASS in the way outlined by him. He hoped this would be acted upon, but the first thing would be to communicate the desire exactly as it was stated by Lieut. Colonel Ryan and Captain Gowing, and for that, one had to rely on each respective member. There was no means of committing members to the custody of some court if they did not do what was suggested.

Sir Robert CRAIGIE said that the Commission could not compel, but only stimulate.

The CHAIRMAN remarked that the Commission had done a great deal without any coercive powers at all, by the process of stimulation, but they had to rely to a large extent on the good will and energy of the individual representatives of the individual countries.

Dr. ZIVKOVIC said there were, in many of the U. N. countries and especially on the Continent, POWs still detained. It was nearly a year since he had asked his Government to send CROWCASS reports of POWs detained by the Yugoslav authorities, and he had received a letter two or three months ago saying that they had started sending such reports regarding POWs. As far as he could see, they had no machinery for checking the names on CROWCASS' wanted lists against names of persons detained by them, but he assumed that if CROWCASS received from them as clear a report as possible of Germans, or other ex-enemy nationals detained in Yugoslavia as POWs, he supposed that they could carry out the checking against names of the wanted persons in their files.

The second question was: He understood Captain Gowing to say that CROWCASS would like the nations to advise them, not only of those POWs they had, but also of every war criminal delivered to them as an accused or as a witness, for trial in their countries. But if CROWCASS wanted them to do that, Dr. Zivković said he supposed they could more easily do so if there was co-ordination between the detaining authorities in Germany and themselves, because whenever a criminal was delivered to a country, he supposed the authorities should advise CROWCASS that such and such a man had been delivered. He thought this was a much easier way than for the country to make a list and to send it to CROWCASS. These were the two points he wanted to stress.

Captain GOWING replied that with regard to Dr. Zivković's first question, CROWCASS could compare his screening reports against their records, but that was not the function of CROWCASS. POWs held in custody should be compared with their Wanted list and if found to be identical or possibly identical with wanted persons, Detention Reports should be sent to CROWCASS. They would then become detainees and no longer POWs. To say that CROWCASS would be able to cope with the mass of screening Reports in the way suggested would be rather more than CROWCASS could promise, because, actually, it was not their function. CROWCASS' function was Detention Reports and Wanted Reports and anything happening to a detainee afterwards. CROWCASS deals with interzonal transfers, sentences, acquittals and releases. He could say in answer to Dr. Zivković's question that if it was not possible to send him a Detention Report in the way he had suggested; CROWCASS would rather have a Screening Report than nothing at all.

Dr. ZIVKOVIC said he had been told by his National Office that on CROWCASS' request - the same request as made here - they had sent CROWCASS a list of 119 Germans detained in Yugoslavia, and Dr. Zivković wondered whether it had been received. It must have happened about three or four months ago.

The CHAIRMAN said that if Dr. Zivković had a copy of the 119 names, an extra copy could easily be made and sent on. The Chairman thought it possible that in all the changes that had taken place in the last few months, these documents might have gone astray and he therefore thought it best if Dr. Zivković could send a copy of the names to CROWCASS.

Dr. ZIVKOVIC said he would endeavour to do so.

Colonel SPRINGER asked whether, when CROWCASS received a wanted report, or information that a nation wanted a particular person, they automatically checked their detention file and then replied to that enquiry if they found a man in their detention file, but if the wanted man was a POW, they would not go into those files.

Captain GOWING said that was correct. They had started indexing cases of this kind, and after getting about one-sixteenth of the way they had dropped them. They actually had no lists of this kind.

Colonel SPRINGER asked whether, with regard to the Commission lists received by CROWCASS, any action was taken. He understood CROWCASS listed in their wanted reports all those people who had been listed on the "A" list, the "S" list or the "W" list.

Captain GOWING said they had to be careful, because though they did do it for a certain time, it was later decided that if a country wanted anyone, it should send them Wanted Reports. He was afraid therefore that from the 16th list onwards they had not been endorsed in CROWCASS records.

Dr. ZIVKOVIC said that though the answer did not affect his office because it was sending CROWCASS Wanted Reports, he thought CROWCASS should take the list of the War Crimes Commission automatically as a collective Wanted List, otherwise, he was afraid that the practical effect of the Commission's work would be to a considerable extent lessened. He said the Yugoslav government was sending CROWCASS Wanted Reports but there might be some difference with regard to other National Offices which were not equipped for sending these reports very quickly. Time was marching on and the Commission knew what that meant in respect of war criminals. He suggested therefore that CROWCASS should resume to treat the Commission's lists as Wanted Reports.



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Captain GOWING stated the entries against the United Nations War Crimes Commission lists were not as full as the CROWCASS Wanted Reports. CROWCASS kept a panel for personal description, while the UNWCC lists gave no physical description of the men.

The CHAIRMAN said that was a very important point. In other words the National Offices had to keep check of these lists and it would be a reasonable effort of labour for them if they picked out of the lists the names that interested each National Office. Otherwise they might break the back of CROWCASS. The Chairman thought that CROWCASS ought to be helped, especially as it was so willing and likely to be helpful to the United Nations War Crimes Commission. CROWCASS must get as much help as possible from each national office in respect of the names that interested them accompanied by various particulars which the Commission had never put in its lists.

Sir Robert CRAIGIE agreed. He thought it very important to get descriptions of the men. Sometimes they had the description and sometimes they had not. In such a case, there would be no advantage in waiting for the Wanted Report. He said that he hoped it would be possible to consider the suggestion of Dr. Zivkovic that names which appeared on the Commission lists should be included on the CROWCASS lists, with the idea that if at a later date supplementary information in regard to the characters of the accused should be forthcoming, it could be included in some later list.

Colonel SPRINGER remarked that there was a difference in classification - Commission lists were secret while CROWCASS lists were unclassified.

Captain GOWING said that this was one thing they wanted to discuss - why the United Nations War Crimes Commission lists remained marked "Secret".

Dr. ZIVKOVIC said that his third point of a very practical nature was this: He had looked through the new detention lists but had not found a space for the country wanting the different people. He had seen a space showing where the criminal was detained, but not for the country by which he was wanted; that was also important, as he thought that was the purpose of the war crimes lists.

He thought the CROWCASS lists had the purpose of informing them that those persons who were wanted were detained by such and such an authority, and as the lists contained a great many names it would take a considerable time to go through each name and meant working many days to see if there was just one man they might want. He suggested therefore that a space should be included in the CROWCASS lists, giving the name of the country which wanted the individual in question.

Captain GOWING replied that this was merely a record of war criminals, stating that a man who was an alleged war criminal had been detained at a certain place and it was up to them to pick out the information they wanted. CROWCASS was not told who wanted him.

Sir Robert CRAIGIE enquired whether, when it was known who was wanted, could not that additional information appear on the Detention lists

Lieut. Colonel RYAN said that some investigation force might be out in the field and working with some <sup>other</sup> investigation force, or on its own and receive information that a certain individual committed a crime against an ally whose nationality was unknown to the informant. The man might be handed to the U. S. or the Yugoslavs or to the British. They would take the individual and then say that this man was wanted



as a suspect of a war crime, they did not know whom the war crime was against, but they were going to take the man and detain him. They would then hope that the particular government might search its lists and find out why that man is detained and for what reason he is arrested by that particular nation.

Captain GOWING wished to add to Lieut. Colonel Ryan's remarks that they were receiving Detention Reports of persons who were only possibly identical with persons who were wanted.

Dr. ZIVKOVIC said that on the other hand, they had in their organisation a scheme for bringing the lists together. First they had information on receipt of a man who was wanted and after that they received a Detention Report saying that this man should be held. Then they had simply to compare the two names and see whether the wanted person was on the Detention List.

Captain GOWING said that this was often done, but it could not always be decided. He would give statistics to prove that. Every week they sent out 120 or 130 definite matches and perhaps 300 to 400 possible matches. In other words, about 1 to 3 were matches. Furthermore, he said that about nine-tenths of the Detention Reports were automatic arrestees, whom, as far as they knew, nobody wanted.

Dr. ZIVKOVIC said there were different ways of bridging the gap. For instance, the Commission Secretariat might go through each of the detention lists and compare the names with those on the Commission's lists.

Dr. ZIVKOVIC asked from where the Commission got the information for its Detention Circulars.

Dr. LITAWSKI stated that the information came from CROWCASS.

Dr. ZIVKOVIC suggested that CROWCASS might resume treating the Commission's lists as wanted lists.

Commander MOUTON said he would like to ask, if CROWCASS was quite certain that a person on a Wanted List was identical with the person on a Detained List, to whom they would send that information.

Captain GOWING said that in cases where they had the address of the liaison office they sent it to that office. Where they had no information, they sent it to the United Nations War Crimes Commission only and assumed that it would be passed on to the National Office concerned.

Commander MOUTON enquired whether CROWCASS was in direct contact with the Netherlands liaison officers in the British Zone.

Captain GOWING said they were, and also had contact with the Netherlands Officer in the American Zone at Wiesbaden.

Lieut. Colonel RYAN said that the Netherlands were probably the third most co-operative nation in submitting Wanted Reports and Detention Reports.

Commander MOUTON asked whether CROWCASS proceeding on the suggestion of Dr. Zivković, would examine the Detention Lists, go through their carded register and then send their names to the Liaison Officer in Germany. He thought this was how it should be.

Another question he wanted to ask: whether photographs and fingerprints were required. There would be some difficulty in his country about Detention Lists, if photographs and fingerprints were required.

Lieut. Colonel RYAN replied that CROWCASS had discontinued fingerprints in its entirety. Photographs were not always required, as they were of limited value, however when they were available, CROWCASS would like to have them.

Commander MOUTON enquired as to what sort of detainees were wanted on the CROWCASS lists. Some might be Security Suspects and some might be POWs left in custody by the allied armies. A few of them were alleged war criminals, but persons who were searching these camps did not know for what reasons they were in the camps and he supposed CROWCASS wanted them all.

Captain GOWING said the following categories were the only possible ones into which detainees could be fitted, subject to the government by whom they were detained.

- 1) Alleged war criminals
- 2) Witnesses to war crimes
- 3) Persons wanted for interrogation in connection with war crimes.
- 4) Any persons listed by the UNWCC or CROWCASS, who may be included in any of these three previous categories.
- 5) Automatic arrestees.

He understood from the Control Office that co-ordination and definition of the various categories was due to take place within a week or two and was to be issued to each particular nation in pamphlet form.

Commander MOUTON said he had been extremely happy to hear that all security troubles in the CROWCASS organisation had been solved, because he knew his Government were particularly upset that CROWCASS would be staffed by Germans.

Dr. SCHRAM-NIELSEN said he was not quite sure whether there was any contact between CROWCASS and the Danish Military Mission.

Captain GOWING said he was very pleased that this had been brought up, because the other day, CROWCASS had wished to send a letter to the Danish Military Mission and did not know their address.

Dr. SCHRAM-NIELSEN undertook to see that CROWCASS was notified of the address.

Dr. SZERER asked if the publications of CROWCASS were sent to the Polish Military Mission in Germany.

Lieut. Colonel RYAN replied that contact was maintained with the Polish representative in Wiesbaden.

He said there was one thing that he would like to make clear. From time to time, they were receiving requests from individual nations for statistics of criminals of individual countries. They did not deal with quislings and those individuals must be dealt with by the country concerned.



Commander MOUTON mentioned that the Commission were listing ex-Dutch nationals on the UNWCC lists. If any Dutchman entered the German forces - the SS or the Wehrmacht for instance, there was a legal provision that they should lose their Dutch nationality and they became German or stateless persons.

Dr. ZIVKOVIC thought that if the Dutch Government had no men or machinery at its disposal to search for a man, many of those Dutch nationals would never say they were Dutchmen. If there was no machinery to find such men, then they would escape justice. If CROWCASS thought that the initiative should be taken by the Government concerned, he felt they should tell them so.

Lieut. Colonel RYAN thought the Control Council would be the proper authority. He enquired whether, if a peacetime citizen of the Netherlands joined the German Army, he would cease to be considered as a Dutch citizen.

Commander MOUTON said he would lose his Dutch nationality.

Colonel SPRINGER enquired if there had been a case where a man had been a non-German national at the time of committing the offence but was a German national now, would his case differ a great deal from other war criminals.

Lieut. Colonel RYAN said they would list him as a German.

Commander MOUTON said there was a big case at the moment where Belgians had entered the SD in Antwerp and had committed crimes against the Allied Army; on transfer to Holland, and in listing these persons, they had to mention their Belgian nationality.

The CHAIRMAN thought the true category was that they were working in the German cause.

Lieut. Colonel RYAN said that the proper way would be to take the matter up with the Legal Division, Control Commission in Berlin.

Mr. BURDEKIN thought Colonel Ryan and Captain Gowing had made a remark about the classification of the Commission Lists as "Secret" being a handicap to the work of CROWCASS. If this was so, was there any sound reason why the Commission's lists should be marked as "Secret" documents.

The CHAIRMAN said there had been a time when it had been considered necessary.

Lieut. Colonel RYAN said that many of the British, American and French Forces had lifted all secrecy with regard to the POWs and wanted persons. The lists were now public property and were included in all the newspapers and were available to the public all over the world.

The CHAIRMAN stated that this was a practical question. He did not think the Commission would hesitate to dispense with the classification "Secret" if CROWCASS found in their work that this was a hindrance. He did not know how far the members of the Commission would take the same view.

Sir Robert CRAIGIE said that as far as the U. K. government was concerned, he was sure they would be prepared to omit the word "Secret" or even "Confidential" from the lists.

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Colonel SPRINGER wished to add that at the time when it was suggested that he should get in touch with Colonel Mickelwait and Colonel Straight and find out whether the Commission lists were getting the widest possible circulation, Colonel Straight said that they used only one or two because of the "Secret" classification.

The CHAIRMAN asked all members present if they would consult their governments on the question. He thought the idea of secrecy should be eliminated in the case of these lists and he thought that on the next occasion they met, the members might have come to a conclusion. He personally was in favour of abandoning the word "Secret".

Dr. MAYR-HARTING thought there was no reason for keeping the lists secret.

Dr. SZERER and Dr. SCHRAM NIELSEN were of the same opinion.

Commander MOUTON stated that secrecy was not of an obstruction now and he was prepared to vote for its abandonment.

Dr. ZIVKOVIC agreed.

The CHAIRMAN asked whether a decision on this point should be left over to the next meeting or whether the Commission should vote on it now.

Sir Torick AMEER ALI said he certainly agreed. He felt that the quicker these matters were dealt with the better.

The CHAIRMAN thought it should be put to the Commission there and then: Was the classification "Secret" of the Commission Lists still to be retained?

Mr. TSIEN said that as he was temporarily deputising for H.E. Dr. Cheng, he felt he must abstain from voting.

All members present voted in favour of the proposal to abandon the secrecy of the lists, with the exception of the Chinese representative, who, as stated, preferred to abstain from voting.

The CHAIRMAN declared that from that moment the ban of secrecy would be removed, and this decision would be made known accordingly.

Mr. BURDEKIN enquired whether this decision was retroactive and whether previous lists could be published.

Lieut. Colonel RYAN said that what could be done was that a letter could be sent down-grading all prior lists and all future lists would be unrestricted.

The CHAIRMAN said that the Commission would make it known that as of the 6th November, 1946, the ban of secrecy had been removed from all the lists issued by the Commission.

SIR TORICK AMEER ALI LEFT THE MEETING AT THIS POINT.

Sir Robert CRAIGIE said that he had just two small points to make. Everyone knew that in the course of CROWCASS' move to Berlin, arrears necessarily occurred as a result of the great difficulties which had to be overcome and he wished to take this opportunity of congratulating Lieut. Colonel Ryan on the difficulties overcome. Now, he wished to know whether Lieut. Colonel Ryan could tell them whether they had been able to catch up on those arrears.



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The second point was: The Commission had recently recast its lists to some extent in order to make them a little easier to digest and it would be useful to know whether in the form that they now appeared, they met the requirements of CROWCASS, or whether CROWCASS could suggest any amendments.

Lieut. Colonel RYAN said that in reply to the first question, they had completely finished their backlog of work. In fact, two weeks before, they had begun assembling information for a consolidated Wanted List.

With regard to the second question, from contact he had had with people outside CROWCASS, they felt that if the Commission lists were published in alphabetical order, instead of broken down by countries, they would be far preferable.

Sir Robert CRAIGIE stated that this was an amendment that had been made about two or three months ago.

The CHAIRMAN said he understood this had been settled.

Dr. LITAWSKI affirmed that it had.

The CHAIRMAN thought that all the members would agree with Sir Robert Craigie in congratulating and thanking their friends from CROWCASS for their admirable work and the re-constitution of CROWCASS on the lines of what he believed the Commission had always wanted.

Dr. MAYR-HARTING entirely agreed with the Chairman's expression of gratitude. He would report it to his Government, who would be glad to know that CROWCASS had taken up this work again and would continue in a normal way.

On the proposal of the Chairman, a unanimous vote of thanks was accorded to Lieut. Colonel Ryan and Captain Gowing.

Colonel SPRINGER asked how many people altogether had been listed as wanted.

Captain GOWING replied that, excluding Security Suspects, there had been about 50,000.

Colonel SPRINGER said that now that the Commission's lists were to be unrestricted, and to get a wider circulation, could there not be a description with each charge, as elaborate and complete as those of CROWCASS, before they got out the Wanted Lists, so that the Commission's lists might automatically be put on CROWCASS' reports. He could not see why the Commission should require less information than CROWCASS.

Lieut. Colonel RYAN said that he thought this would help CROWCASS and the people who were working in the field.

Sir Robert CRAIGIE thought they might like to discuss it in Committee I, but that, as far as he could see, there would be nothing but advantage in giving such particulars as they received. More often than not, they did not get any description and it might be possible to ask the National Offices in future always to include the description of the individual when the case was submitted.

It would mean a little more work for the Secretariat and the lists would be more bulky.

He felt it was a practical suggestion which should be discussed in Committee I in the first instance.



UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

WEDNESDAY, 27th NOVEMBER, 1946

AT 4.15 p.m.

Chairman:	Lord WRIGHT	Australia
Also present:	Sir Robert CRAIGIE	United Kingdom
	M.de BAER	Belgium
	Mr.CHEN	China
	M.DIMITSAS	Greece
	Mr.HORNE	Canada
	Mr.AARS-RYNNING	Norway
	M.MEZULIC	Yugoslavia
	Dr.SZERER	Poland
	accompanied by	
	Dr.CYPRIAN	
	Dr.SCHRAM-NIELSEN	Denmark
	MR.DUTT	India
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr.MAYR-HARTING	
	Commander MOUTON	Netherlands
	Colonel SPRINGER	United States of America
	accompanied by	
	Mr.Ben H.BROWN	Office of the
		Legal adviser of
		the U.S.State Department
	Mr.BURDEKIN	New Zealand
	Lieut.Colonel HARRIS	

Apologies for absence were received from:

H.E. Dr.F.T.CHENG  
Mr.BRIDGLAND  
M.MAILLARD

Minutes of the 115th meeting were approved and signed.

Amendments to Draft Minutes M.116 had been received from Sir Robert Craigie, Dr.Szerer, M.de Baer, Dr.Schram-Nielsen and Colonel Springer and would be incorporated in the final text.

NOTIFICATION OF THE SURRENDER OF WAR CRIMINALS.

The CHAIRMAN asked Sir Robert Craigie to introduce the matter.

Sir Robert CRAIGIE said that Commander Mouton was the first to raise this very important point. He had pointed out that as things stood at present, it frequently occurred that investigating teams continued to search for persons who had already been found and detained in some other zone. They had discussed ways and means of improving this situation and Sir Robert had undertaken to discuss the matter, unofficially, with the War Office in an endeavour to find out whether there was any means by which Allied Missions could be notified by the detaining authority at once, in order to prevent this duplication.

The result of the discussion with Lieut.Colonel Savill - War Office - in which he had been assisted by Colonel Ledingham, established the fact that it would be exceedingly difficult for the War Office or BAOR to

carry out his proposals, owing to staff difficulties. Man power was the chief difficulty and there was great shortage of staff. The proposals which he had put forward for consideration were, briefly, as follows:-

"When an investigation team has found a war criminal it should immediately notify the War Crimes Branch of the Military Headquarters in the zone in which it is operating. That War Crimes Branch should immediately notify the Allied Missions in its Zone and the War Crimes Branches of the other Zones, who, in turn, should immediately notify the Allied Missions in their zones. The heads of the Allied Missions would be responsible for notifying their respective National Offices. In this way, all concerned in the tracking down of war criminals, would be informed.

When the time comes for the war criminal to be surrendered by one country to another, CROWCASS should be informed both by the country surrendering the criminal and by the country to whom the criminal has been surrendered. The detention reports issued by CROWCASS would then show by which country the criminal is held."

Sir Robert Craigie said that Lieut.Colonel Savill - War Office - had replied, that while the Commission's proposal was a good one, Headquarters Rhine Army were already so overworked, they regretted that they could not undertake the additional typing and work that this involved. It involved a considerable amount of detail to identify each man and H.Q. B.A.O.R. could not undertake all this. They did, however, put forward the suggestion that CIO (Civil Internment Camps) might make one extra copy of their Detention Reports and forward it to the United Nations War Crimes Commission. CIO were Control Commission Units and therefore not under control of B.A.O.R., but if this idea appealed to the Commission, it could be taken up with Control Commission.

Lieut.Colonel Savill thought that the solution really lay with the Allied Missions at Zone Headquarters. They were in close contact with each other and with the CIOs, from whom they could obtain all the information they required. The only people who might not be informed would be the National Offices if their Missions in Germany failed to keep them informed. Sir Robert Craigie thought there could be two arrangements - the first, there could be greater circulation of the CIO Detention Lists - more prompt circulation of the lists on the spot among investigating teams and secondly that the War Crimes Commission should receive duplicates of the Detention Lists from CIOs and, on receiving them, should circulate them to the National Offices. Sir Robert did not think this would involve duplication of work because at the present time, we did circulate these Detention Lists after they were received from CROWCASS. His suggestion was, instead of waiting for the Lists from CROWCASS, that we should circulate them from time to time when these duplicates from the CIOs were received, that is, so far as the British Zone was concerned. He thought it would be possible to make similar arrangements as regards the other zones.

The CHAIRMAN invited Lieut.Colonel Harris who he said had first hand knowledge of this matter, to give his views.

Lieut.Colonel HARRIS said that he must first of all point out that he was no longer a member of Headquarters Rhine Army. He was now on demobilisation leave and therefore anything he could say was to be regarded as his own personal opinion based on the situation as it was at Headquarters, B.A.O.R. last week and must not be taken as representing the opinion of the Rhine Army.

A search in the British Zone of Germany, for someone wanted by an Allied Government was usually carried out by the Investigating Teams of the interested nation and therefore he did not think it was necessary to notify



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In the case of the Netherlands government, it was simple, Lieut.  
Colonel Derksoma, stationed close to Headquarters Rhine Army, was the chief of  
the Netherlands War Crimes Mission in Germany and could easily notify any of  
the Dutch teams in the other zones in Germany. All Detention Reports were seen  
by Liaison Missions, so that they had a second line of notification of anyone  
who had been detained. Nations should rely upon their local Liaison officers  
who were there to notify them and he thought that with the general shortage of  
manpower in all zones, any additional work should be avoided.

Commander MOUTON wished, in the first place, to thank Sir Robert  
Craigie and the Secretary General for all the trouble they had taken to find  
means to comply with his wish and also to thank Lieut. Colonel Harris for his  
explanation. He had written to Lord Wright because he was not satisfied with  
results. Germany was a very big country and the Netherlands teams were very  
small. For that reason, he had not only asked assistance from British, American  
and French teams, but had suggested, and he had thought the idea had been  
generally adopted in the Commission, that all National Teams should assist each  
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and dealing only with people whom they wanted, it would be all right, but he  
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The Netherlands office had issued alphabetical lists of people whom they had not  
yet found, which were really extracts from the Commission lists, in which  
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ten notorious people on these lists - if they were all looking for these ten  
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immediately and that was what he was asking, namely, if there was any possibility  
of stopping the search for a particular war criminal, for whom several  
nationalities were looking, as soon as that man was found. He quite agreed that  
National Teams should inform their own National Offices, but this was not the  
point - which was, that they should inform everybody who was working for them  
that they had found a certain man. He had no idea how it should be worked out,  
but he thought that some means should be found to stop other teams wasting time.  
Where the detention lists were concerned, there was a considerable lapse of time  
between finding somebody and that name appearing on the lists. It might take six  
weeks before they knew a man was in a certain camp, and, if they relied on the  
CROW/CASS lists, they would be continuing their search for this man in the  
meantime.

Lieut. Colonel HARRIS said that although the various Allied Missions  
in Rhine Army did co-operate to the best of their ability, he could not believe  
that any allied mission had so little to do at present that they could take time  
off to search for wanted men for <sup>other</sup> countries. He could assure Commander Mouton that  
if the Belgians found someone whom they knew the Dutch wanted, it would be  
well-known in the messes that evening. They all messed together and though  
they protested about it themselves, they seldom talked about anything else than  
war crimes, so that the machinery was there all the time.



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between finding somebody and that name appearing on the lists. It might take six  
weeks before they knew a man was in a certain camp, and, if they relied on the  
CROW/CASS lists, they would be continuing their search for this man in the  
meantime.

Lieut. Colonel HARRIS said that although the various Allied Missions  
in Rhine Army did co-operate to the best of their ability, he could not believe  
that any allied mission had so little to do at present that they could take time  
off to search for wanted men for <sup>other</sup> countries. He could assure Commander Mouton that  
if the Belgians found someone whom they knew the Dutch wanted, it would be  
well-known in the messes that evening. They all messed together and though  
they protested about it themselves, they seldom talked about anything else than  
war crimes, so that the machinery was there all the time.



The CHAIRMAN commented that it was not really machinery - it circulated automatically in mess.

Lieut. Colonel HARRIS said that Commander Mouton had talked about the delay in the issue of the Detention Lists. It was not the Lists which the Rhine Army saw but the actual Detention Reports and although in the early days it had taken a long time from the arrival of a name to the sending off of a report, the delay now was very short.

Sir Robert CRAIGIE enquired whether all the Investigating Teams saw the reports.

Lieut. Colonel Harris replied that the Allied Missions did so; the Detention Reports were held at Rhine Army Headquarters.

The CHAIRMAN thought there was no doubt that the best solution to the notification of the finding of a wanted person lay in the continued close co-operation of the Allied Missions and Investigation Teams in the field.

CROWCASS (DOC. MISC. 57)

M. de BAER said that he had been asked by Committee I to put before the Commission one question concerning CROWCASS which had developed into quite a serious question. This question originated in the surprise which members had felt when Lieut. Colonel Ryan had told them that no action was automatically taken on the Commission's lists and no search instituted for the accused persons. Afterwards, they had received a document which was called "What is CROWCASS"; two draft documents - one which Lieut. Colonel Ryan brought with him and another, the second draft, which was sent in later; and thirdly, two days ago; they had received a letter from CROWCASS. He had prepared a paper which, if he put it before the Commission, would take an hour. He thought therefore, in view of the fact that they had present Lieut. Colonel Harris, who had read Doc. Misc. 57, which was drawn up by Dr. Litawski, they should ask Lieut. Colonel Harris what he thought of Document Misc. 57. M. de Baer said he had had a short conversation with Lieut. Colonel Harris before the meeting and in the light of that, he thought some of his views would have to be revised. The first thing would be to ask Lieut. Colonel Harris to comment on Doc. Misc. 57 and, at the next meeting he would bring up the CROWCASS letter for discussion.

Lieut. Colonel HARRIS remarked that this question should really be answered by a member of the CROWCASS staff and not by him. He could only give his personal views on the points raised in this paper Misc. 57. Point 1 was the question of the necessity for registration with CROWCASS before an official claim could be made. This was a claim by CROWCASS which could not be substantiated. Prior to the ruling which was given by the War Office that they would not hand over people before they had been listed by the UNWCC, the British authorities did hand over people whether or not they had been registered with CROWCASS, if they were satisfied that there was a case, so he did not think that the CROWCASS claim, referred to in point one, really held water.

Point 2: He did not entirely agree with this, because, looking at the second-last paragraph on page 2, it would appear that the author of the document felt that it was wrong that a Wanted Report should be filed with CROWCASS until the UNWCC had agreed to register the wanted man as a war criminal. As he saw it, before a case could be submitted to the Commission, a good deal of work had to be done and a case had to be prepared. He was sure that there was no police force in the world which waited until it had prepared its case, before it sent out a hue and cry for somebody it wished to arrest. He considered that the first step which should be taken by any nation on the discovery that a person was suspected as a war criminal, was to get hold of the man whom they suspected of having committed that crime and therefore to submit a Wanted Report to CROWCASS, long before the case arrived at the Commission. He thought there were some nations which had not been making full use of CROWCASS and which had not been sending in their Wanted Reports. He did not know that from the 16th list, CROWCASS had not been including the UNWCC lists in CROWCASS lists. In practice this was unfortunate but in theory all right because a man should appear on a CROWCASS wanted report before he appeared on a UNWCC list.



As regards the third point, which he had not read very thoroughly, he thought that there again the present staff of CROWCASS was being a little categorical in not listing anyone who was an ex-enemy national. He thought it quite certain that they would find on CROWCASS lists people whose nationality was that of their allied nationals and he knew Rhine Army had tried and sentenced a certain number of people who were not of ex-enemy nationality. He was afraid that point was one which could only be argued out with CROWCASS and he thought that in practice, it was not quite so definite as laid down in their statement.

M. de BAER said that he was interested in hearing that some nations had not sent in Wanted Reports, but he thought that this was because no action was automatically taken by CROWCASS when they received a Wanted Report. In other words, CROWCASS felt that detection, searching etc. was work for investigating teams. He asked whether he was right in assuming this.

Lieut. Colonel HARRIS said that this was correct up to a point. Sending a wanted report to CROWCASS was really like sending an advertisement to the daily press saying that they wanted a particular person. In sending it to CROWCASS they were sending it to an organisation which had a very much wider circulation and they therefore got the widest possible publicity.

M. de BAER asked what exactly was being done at CROWCASS in respect of the search for wanted persons. The Commission were getting so many conflicting reports, that he would like to have Colonel Harris' opinion.

Lieut. Colonel HARRIS said he could only say so far as the Rhine Army was concerned. Something like 550 copies of CROWCASS lists were distributed throughout the British zone. When they got the lists they did not look down them and say they would go out and look for the people - it was merely a sort of net into which some of these people may stray and then turn out to be someone on a CROWCASS list who is wanted. Lieut. Colonel Harris went on to say that at Headquarters Rhine Army, they had a large card index in which every man shown on a CROWCASS Wanted List and/or UNWCC List was carded and any name of any German coming into Headquarters Rhine Army with reference to war crimes was checked against that card index. Registration with CROWCASS had therefore two results; one, the maximum possible publicity for a nation's requirements, and, two, an insurance that a detained person would not be handed over to one nation without reference to any other wanting nation. If another nation, say, Belgium, wanted a certain man and the Dutch authorities also wanted him, Headquarters Rhine Army would notify the Belgian and Dutch representatives to the effect that both wanted the same man and ask them to decide between themselves which one was to get him. If a satisfactory conclusion was not reached, the matter was referred to the Allied Control Council for decision.

M. de BAER asked whether they used the German police when searching for a man. For instance, if they wanted a man, say Hans Schmidt from Recklinghausen did they inform the German Police that Hans Schmidt of their village was wanted and ask them to tell them whether they had any information about him, because in M. de Baer's opinion it was the local German police who were the best placed to find such a man.

Lieut. Colonel HARRIS replied that if B.A.O.R. knew a man who was wanted was thought to be in a certain district, they instructed the Mil. Gov. detachment concerned to arrest the man. Mil Gov. detachment passed the information to their Public Safety Branch which controls the German police, and arrests were very often carried out by German police.

Mr. BURDEKIN asked if it was known where the man came from, would they be notified of that as a probable place for him to return to.

Lieut. Colonel HARRIS said that if they had any sort of a clue as to his whereabouts they would try to get on to him through Mil. Gov.

Colonel SPRINGER asked whether Lieut. Colonel Harris would say what procedure would be initiated by the filing of a wanted report.

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Lieut. Colonel HARRIS said that if Colonel King of the American department came to him and said that they wanted a certain man living in Cologne, they would ask the Cologne Mil. Gov. detachment to find that man.

Dr. MAYR HARTING said that he understood that the military authorities, before releasing any POW made sure that his name did not appear on a CROWCASS Wanted List and wondered whether the same thing was done with regard to Commission lists.

Lieut. Colonel HARRIS said no, and felt he ought to say that to check any man against a War Crimes list was a monumental task. He said that the Commission had issued 43 volumes each containing anything up to 10 lists, and the task of checking a name against 430 lists was something which no unit would undertake.

Dr. MAYR HARTING said it was then quite possible that a man who was only on a UNWCC list and <sup>not</sup> on a CROWCASS wanted list would be released.

Lieut. Colonel HARRIS said that so far as Headquarters Rhine Army was concerned this was not very likely because they had a card index and all applications for release from Civil Internment Camps came to Rhine Army and were checked against this Card Index before release took place. Sometimes it happened that a man did get through, but not very often.

Dr. MAYR HARTING enquired whether, if his government asked for the surrender of one of its own nationals, showing that he was responsible for violations of the laws and customs of war, did they refuse to surrender him because he was a quisling and the request would require to go through diplomatic channels.

Lieut. Colonel HARRIS said he could not remember off hand what had happened with regard to Czechoslovak nationals but they would almost certainly contact the Political Division as to what action should be taken.

Dr. MAYR HARTING asked whether some difference was made between allied nationals and ex enemy nationals.

Lieut. Colonel HARRIS said yes, a difference was made.

Commander MOUTON said with regard to point 3 of Misc. 57, he thought the Commission might be interested to know that he had already taken steps to approach the Control Council in Berlin to ask them to have the ruling on quislings changed.

According to Dutch national law, men lost their Dutch nationality and were more or less stateless persons from the time they volunteered for foreign service.

Lieut. Colonel HARRIS thought that at the moment, Dutch people, wanted as members of the SD, who were in the British Zone, were dealt with by the Dutch security people and not by the War Crimes Commission.

Commander MOUTON said he supposed that depended on whether they were on the lists or not.

Lieut. Colonel HARRIS thought it best to get the names of such people on the lists as security suspects.

Commander MOUTON said that Committee I had been listing people when there was a prima facie case against them, without regard to the classification of nationality.

M. de BAER informed Commander Mouton that the question of nationality had never been considered - they had always left it aside. They had had a case of a man who was technically a Pole - originally a German - but had become a Pole through the Versailles treaty and had committed atrocities. They had decided that the question of nationality would not be recorded in this Commission - it was too difficult. The rules were completely different in each country and in his opinion - the opinion of Sir Cecil Hurst - it was impossible to talk about nationality.

Commander MOUTON said the fact was that the person listed did not become a German, but lost his Dutch nationality.

Dr. CYPRIAN said that Lieut. Colonel Harris had stressed the importance of early submission of wanted reports to CROWCASS to speed up the proceedings, but he had found in Doc. 57, last page, para 4, that "in future... all the names of war criminals and only those contained in the Commission's Lists should be included automatically and promptly in CROWCASS Wanted Lists, irrespective of whether Wanted Reports have, or have not, been sent in by the National Offices". Was this submission to be accepted or were Wanted Reports to be sent in to CROWCASS? They had to wait until a man was listed by the Commission, then CROWCASS got this list from the Commission, and therefore he did not see the point of National Offices sending Wanted Reports to CROWCASS.

M. de BAER said that before the meeting, his ideas had concurred with those of Dr. Cyprian, but that since talking to Lieut. Colonel Harris he found himself in agreement with him. The important thing was to get the men.

Sir Robert CRAIGIE said he understood that on the whole the practice of CROWCASS was to include names on Wanted Lists when they received them, but he pointed out to Dr. Cyprian that, in fact, as had been discovered at a recent meeting, they did not put on CROWCASS lists names appearing on UNWCC lists.

Sir Robert CRAIGIE thought there was very great advantage in CROWCASS listing people on their wanted list as soon as the wanted reports were received and very great advantage in the forms being sent in to CROWCASS as soon as the name of a wanted man was known.

Dr. CYPRIAN remarked that if the people were listed at once, it meant that CROWCASS did not wait until the Commission lists arrived.

Dr. SCHRAM NIELSEN said that as far as he remembered, at a previous meeting of the Commission, we had cancelled the secrecy of the lists, just in order that CROWCASS might take names from lists 17 and onwards and put them into the first new volume of CROWCASS Wanted Lists.

Sir Robert CRAIGIE replied that that was the idea. Whether in fact it was going to be carried out by CROWCASS he did not know. He thought it very desirable that they should continue to press the point. He thought Lieut. Colonel Ryan was impressed by the need that something should be done on this point. He asked whether he might, on this point, put one small question to their guest that day. With regard to the use which was made of the Commission's lists, he would like to know whether, owing to the form in which the lists were sent out, Lieut. Colonel Harris considered it was not practicable for orders to be given on receipt of the list of names, for certain individuals to be searched for. So far as prisoners of war were concerned the point was less important because B.A.O.R. always put these names into a card index, so that anyone appearing on this index would not be released without reference to the Commission's lists. Was that as much attention as it was possible in present circumstances to pay to the Commission's lists?

Lieut. Colonel HARRIS stated that at the moment in Rhine Army they got two copies of the Commission's lists. They had been asked if they required more, but they felt it was quite useless to send them on, because it was so difficult to check against them.

The CHAIRMAN said that there was no one who could undertake the reconstruction of the list. CROWCASS could not do it and the Commission could not do it. They ought to have the names put into alphabetical order. Then if a name was wanted, one simply turned to the appropriate alphabetical section but he felt that this could not be done now.

Lieut. Colonel HARRIS said that in theory anyway, if the Commission were to produce such a consolidated list they would be really duplicating CROWCASS' work. They might arrange with CROWCASS that any man against whom the Commission had found a true bill would be marked with an asterisk in CROWCASS lists.



Sir Robert CRAIGIE thought that this had been discussed with Lieut. Colonel Ryan who said he would consider it. He thought in fact that CROWCASS did compare the Commission's lists with their own CROWCASS wanted lists.

Commander MOUTON asked whether it would not be better if all National Offices took the same course. He understood that some national offices were sending in their Wanted Reports immediately, while others were waiting until the men had been listed by the Commission. He would like to propose that all National Offices send in their Wanted Reports without delay and without waiting for the wanted persons to be listed by the Commission.

Sir Robert CRAIGIE said that he would be glad to support any recommendation made to that effect.

Mr. BURDEKIN said that a recommendation should be put to the National Offices that this procedure be carried out.

#### STATEMENT ON THE PROGRESS OF TRIALS OF WAR CRIMINALS IN POLAND.

The CHAIRMAN said he understood that Dr. Cyprian would like to make a statement on Trials in Poland.

Dr. CYPRIAN said that he would not like to take up too much of the Commission's time and as his statement covered four typed pages, he suggested it would be better to circulate it.

He hoped that at the meeting the following week there would be an opportunity to examine it.

#### REPORTS OF CHAIRMEN OF COMMITTEES.

The CHAIRMAN asked M. de Baer and Dr. Mayr-Harting whether they had any reports to make.

Dr. Mayr-Harting and M. de Baer said they had nothing of importance to report.

Colonel SPRINGER wished, before going on to another subject, to ask a question of Lieut. Colonel Harris. He understood that Lieut. Colonel Harris' department had taken the UNWCC Reports and card indexed them, so that they could look through those cards to assure themselves that a person was not listed, before he was released. He asked whether CROWCASS had a similar card system.

Lieut. Colonel HARRIS said that until he had seen paper 57 he had thought CROWCASS was still including every name on the UNWCC lists on their lists, but having read the paper he was not so sure what they were doing. His own card index included every one on UNWCC lists and CROWCASS lists and also had a space at the top for UNWCC reference, CROWCASS reference and his own file number.

Colonel SPRINGER said that the Commission were told at a previous meeting that CROWCASS had done practically nothing since the 16th list and he was going to suggest <sup>that</sup> M. de Baer might include in his paper the possibility of a card index being made from the Commission's lists, so that before releasing people their names may be checked against the Commission lists. He knew that there was quite a bit of work involved in making such an index but there was a whole lot more work involved in checking against 44 different lists. Lieut. Colonel Harris had stated a case where the Belgians had asked for one of their internees in a C.I.C. - what was the procedure for surrendering him?

Lieut. Colonel HARRIS thought he had referred to the case where the Belgians wanted someone who was wanted by someone else.

The proforma would come in from the Belgian War Crimes Mission, applying for "Hans Schmidt" to be handed over. That would go first to his library to be card indexed and any information they had would be pinned on to the application before it was turned over to any officer for action. If no other nation wanted him, they would automatically ask CROWCASS to confirm that no other nation wanted him. If they subsequently found that someone else wanted

the man they would write to both the nations concerned and ask them to decide between themselves who was to get him.

Colonel SPRINGER asked that it be assumed that they wanted him for trial. Would he be transferred for trial, if he did not appear on the UNWCC lists?

Lieut. Colonel HARRIS said that this would be so; if CROWCASS confirmed that there was no objection to such a request, he would be handed over.

M. de BAER said he thought Colonel Springer's question was "if he did not appear on the lists".

Lieut. Colonel HARRIS said that all they could do then was to get him registered with the UNWCC or would get him on loan.

Commander MOUTON asked if a country was asking for a Security Suspect would there be any priority between a Security Suspect and a War Criminal. He knew that Wanted Lists showed a certain number of Security Suspects and war criminals.

Lieut. Colonel HARRIS replied that they were quite disconnected. Security Suspects were dealt with by the Intelligence section and War Criminals by Headquarters, Rhine Army. They were two entirely different organisations, but both part of the British set up.

Colonel SPRINGER asked whether a distinction was made in surrendering those on "A" lists and those on Security Suspects lists. He supposed they would make a distinction with regard to witnesses. He asked whether they would surrender a man as a witness who was not registered by the UNWCC.

Lieut. Colonel HARRIS said they would only surrender a witness on loan and would expect to get him back.

Colonel SPRINGER asked whether a distinction was made between those on the "A" lists and those on the "S" lists.

Lieut. Colonel HARRIS wanted to know the difference between an "A" list and an "S" list.

Sir Robert CRAIGIE explained that the "A" lists contained the names of persons against whom there was a prima facie case of war crimes having been committed, the "S" list contained the names of those against whom there was suspicion but not prima facie evidence. Colonel Springer had asked whether in practice any distinction was made between them.

Lieut. Colonel HARRIS said that as far as he knew, that question had not arisen. He thought they would be justified in handing over the man to the nation with an "A" registration. In practice, for the sake of friendly relations, they would in such circumstances, refer it to both nations and say that in their view the nation holding the "A" registration should get the body.

The CHAIRMAN said that as Lieut. Colonel Harris would be available here next Wednesday, the Commission must not weary him any further.

#### CRIMES AGAINST HUMANITY, STATEMENT BY COMMITTEE III ( DOCS. C236 and 237)

The CHAIRMAN said that the Commission had read Dr. Mayr-Harting's valuable report on crimes against humanity with much interest.

Dr. MAYR HARTING remarked that paper C.236 was as much the work of Dr. Schwelb as himself and he thought it would be useful to discuss these papers in connection with some Yugoslav cases that had been up before Committee III for discussion.



The CHAIRMAN asked whether Dr. Mayr-Harting wanted a special discussion in connection with the Yugoslav papers, when they had come up in Committee III. Then if they had the Committee III report on the matter in advance, they could devote a whole meeting to it.

Dr. MAYR HARTING thought this would be very useful.

The CHAIRMAN said this would be done. The Commission would take over the whole of the discussion after the report, including the statement about the Yugoslav cases, had been laid before them, probably the week after next. Then they would be able to get the view of the Commission on the whole of the question of prima facie cases of crimes.

FORMAL APPROVAL OF FORTY FOURTH LIST OF WAR CRIMINALS.

The CHAIRMAN said that the Commission had all seen this list and would have noted that the word "Secret" had been struck out. He asked how many names appeared on this list.

Dr. LITAWSKI replied that there were 600.

The CHAIRMAN asked what was the total number of persons so listed?

Dr. SCHWELB said there were 18,700 altogether.

The List was formally approved.

Mr. BURDEKIN assumed that the letter from CROWCASS (A.26) would be discussed next week.

The CHAIRMAN said they would resume the discussion on CROWCASS next week and that it would be very useful to have Lieut. Colonel Harris' observations if he would kindly make himself available to attend.

*Wright*

UNITED NATIONS WAR CRIMES COMMISSION

## MINUTES OF MEETING

HELD ON

WEDNESDAY, 4TH DECEMBER, 1946 AT

4.15 pm

Chairman: Lord WRIGHT Australia

Also present: Sir Robert CRAIGIE United Kingdom  
 M. de BAER Belgium  
 Mr. DAO China  
 M. DIMITSAS Greece  
 Mr. HORNE Canada  
 Mr. AARS-RYNNING Norway  
 M. MEZULIC Yugoslavia  
 Dr. SZERER Poland  
 accompanied by  
 Dr. CYPRIAN  
 Dr. SCHRAM NIELSEN Denmark  
 Commander MOUTON Netherlands  
 Major FANDERLIK Czechoslovakia  
 Mr. BRIDGLAND Australia  
 Colonel SPRINGER United States of America  
 accompanied by  
 Mr. Ben H. BROWN Office of the Legal Adviser,  
 United States State Department.  
 Mr. BURDEKIN New Zealand  
 Lieut. Colonel BARRATT Office of the J. A. G.  
 Lieut. Colonel HARRIS.

Apologies for absence were received from:

Mr. DUTT  
 M. MAILLARD  
 H. E. DR. F. T. CHENG.

The minutes of the 116th meeting were approved and signed.

Amendments to draft Minutes M.117, received from Lieut. Colonel Harris, and Sir Robert Craigie will be incorporated in the final text.

CROWCASS (Docs. Misc. 57 and 58 and A.26)

The CHAIRMAN said that M. de Baer had some observations to make.

M. de BAER said that he had expressed his views in Misc. 58, which the Commission had before it, but it had only just been rolled off. He thought, therefore, the only practicable way of discussing this paper was to take each suggestion, one after another, and see whether or not it met with the Commission's approval, and perhaps they might also ask Lieut. Colonel Harris what he thought of it. M. de Baer said he had tried to examine each suggestion objectively, to put himself in the place of CROWCASS, consider the difficulties of personnel and the practical difficulties with which they were faced. The Commission would note that Suggestion I was that CROWCASS should act automatically on the UNWCC lists as was shown on M.113. This part of the paper (Misc. 58) which had been drafted the day before, was in the light of what Colonel Springer had just told him, already out of date: Colonel Ryan had informed the Commission at a previous meeting that in respect of UNWCC lists 1 to 16, CROWCASS had checked the Commission's lists 1 - 16 with their wanted lists, and put on the Wanted Lists all persons listed by the Commission, but this practice had been discontinued. Colonel Springer had had a telephone conversation with CROWCASS that day, during which he had been informed that this practice of checking CROWCASS Wanted Lists against the Commission's lists was being



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resumed. So, though he had intended to suggest that they should not burden CROWCASS with this task - as it was really the business of National Offices - CROWCASS had been kind enough to do it and he therefore thought the Commission should thank them.

The CHAIRMAN asked whether M. de Baer was quite sure that CROWCASS were actually going to do it.

Colonel SPRINGER said that CROWCASS had informed him that morning that they were in the midst of the process of listing the persons appearing on UNWCC lists on their Wanted Lists, and added that his suggestion about the possibility of having a card index was consequently no longer in order.

Dr. SCHRAM NIELSEN said he felt sure that many governments would deeply appreciate the attitude of CROWCASS and thought that, as to this point, perhaps Colonel Springer would have an opportunity of conveying their thanks to CROWCASS.

The CHAIRMAN agreed and asked Colonel Springer if he would convey the thanks of the Commission on this point, to CROWCASS.

Colonel SPRINGER undertook to do so.

M. de BAER said that Suggestion II was, before accepting a Wanted Report, CROWCASS should wait until the accused has been placed on one of the Commission's lists, and act accordingly. After the last meeting, he had thought that this would not need discussion. He thought members would all agree that it was essential to catch the accused as soon as possible, even without waiting for the case to be sent to the UNWCC. A Wanted Report was essential and should be sent to CROWCASS as soon as possible. The suggestion should therefore be rejected.

After some discussion, the suggestion II was rejected.

With regard to Suggestion III M. de Baer said this was an alternative if suggestion II was rejected. The question was, should CROWCASS not delete from Wanted Lists persons whom the UNWCC had refused to place on its lists?

The object of this suggestion was the following: A Wanted Report was sent in for "Hans Schmidt" to CROWCASS, and the man arrested. Then the Commission examined the charges brought by the National Office and found that on its merits, it did not make a good case against "Hans Schmidt" and therefore decided to reject or adjourn it. Was "Hans Schmidt" to stay indefinitely in custody? The difficulty there, was that if the Commission were to send in to CROWCASS each week a list of all the cases which had been adjourned, he felt it would create a hopeless muddle. Something, however, should be done in this respect. It was unfair that a man against whom there was not a good case should remain in custody for months and months without knowing his fate.

Another suggestion had been made that morning by Sir Robert Craigie and that was, that without informing CROWCASS of all the cases which were being adjourned and which might, at some later date, be taken up again, the Commission should inform the occupying authorities in Germany that when a case is brought to their attention - of a man detained months and months ago - and regarding whom no government had taken any action, either to send in a Wanted Report or to ask for his surrender, they should notify such cases to the Commission in order that they might be revised. M. de Baer thought that to be an extremely wise suggestion. The Commission could not make a comprehensive list of all adjourned cases, but he thought that they could inform the occupying authorities of the proposal, and wondered what Colonel Harris thought of this proposal.

Lieut. Colonel HARRIS asked whether the occupying authorities were to let the Commission know of all the people they had been holding for a long period, for whom no government had asked.

M. de BAER said, to ask them to supply a list of all those in custody for whom no Wanted Report had been received was a terrific task and the screening of all these people would be a huge job, and wondered whether



this work could not be reduced by merely informing the Commission whenever a case like that was brought to their attention, without screening all prisoners.

Lieut. Colonel HARRIS said that from time to time, Rhine Army rather bullied the Allied Missions, by saying, in effect, that if no application for transfer was received within a reasonable period after a man had been arrested on behalf of an Allied Government, Rhine Army would release him, unless a request was received justifying further detention. So, actually, they were doing what had been suggested, only they were doing so locally. When they got no results from that method, they tried through higher authorities.

Sir Robert CRAIGIE thought the suggestions should only apply to persons who had been arrested on the basis of the Commission's lists.

Lieut. Colonel HARRIS thought it a very good idea.

Sir Robert CRAIGIE remarked that it would then be up to Committee I when they got such cases, to look into the whole thing. In cases where there was insufficient evidence and it was decided not to prosecute, it should be referred back to the National Office; if a minor case, they should recommend release.

M. deBAER said they should send the case back to the National Office asking for more information, otherwise, the Commission would recommend release.

Sir Robert CRAIGIE agreed. The point had been raised, whether such an individual should be taken off the Commission lists. The feeling of Committee I was against this because Commission lists should contain the names of all persons against whom there was a prima facie case. If nobody was going to prosecute, it was against our sense of justice that he should be left languishing in jail indefinitely. The fact of the name remaining on the list might prove useful for future reference, but it should not militate against the man's release.

The CHAIRMAN asked what sort of period would elapse before the Commission would be in a position to do anything.

M. de BAER said they had thought about it in Committee I that morning and had agreed that for all cases of persons who had been listed up to now, National Offices should be informed that if they had not done anything about them by the 1st of March of April or next year, the Commission would not press that they should remain in custody; for other cases, a period of three months was envisaged. For new cases, National Offices should merely send in Wanted Reports at the same time as they sent cases to the Commission, after a man has been listed, they gave them another three months. He considered this quite generous.

Mr. BURDEKIN said he understood from Sir Robert CRAIGIE's remark that this would only apply to persons arrested who had been listed by the Commission, i.e. in a small number of cases, and in all other cases, the occupying authorities would apply direct to the National Offices. He would like to make sure that this was correct.

Sir Robert CRAIGIE thought that was their idea in the course of the discussion that day. They were primarily responsible for people arrested on the basis of the Commission lists. As to the others - a very much larger number - he was inclined to think that it was primarily a matter between occupying authorities and National Offices concerned, as he hardly thought it to be within the competence of the Commission to intervene in cases where it had no part in the arrest.

Mr. BURDEKIN said that his idea was not to suggest that more cases should be sent to the Commission but on the contrary that this should be an exceptional procedure only to be used in cases where national offices had not submitted Wanted Reports to Crowcass and the arrest had been made solely on the strength of the name appearing on one of the Commission's lists.



Lieut. Colonel HARRIS stated that it was very difficult to keep an eye on cases numbering something like 4,000 individuals, without a very large staff, so that any information, from any source, pointing out that a certain man had been in internment for a considerable time and about whom nothing was being done would be of assistance to Rhine Army. He did not know what percentage of cases which had come before the Commission had been adjourned or rejected, but he thought it would help Rhine Army if lists were published after each meeting, indicating those which had been either adjourned or rejected. These would be checked and if it was found that a certain case brought by "Patagonia" had been adjourned, Rhine Army would take it up again with the local "Patagonian" representative and say to him: "Now what about this man, is your government going to produce further evidence? If not, we are going to let him out".

Sir Robert CRAIGIE thought this was very sound.

The CHAIRMAN said they could put this in as a recommendation in the general conduct of affairs, but not make any hard and fast rule about it.

M. de BAER, referring to Suggestion IV - namely that CROWCASS should discontinue its practice of refusing to accept Wanted Reports concerning persons of Allied nationality (Quislings or traitors) said, the Commission had the CROWCASS Letter (Doc. A.26) from which it appeared that the method CROWCASS used for deciding whether anyone should be put on a wanted list was not the same as that which was being used in the UNWCC. Nationality was the 'yardstick' adopted by CROWCASS: If a man was a German he was put on the Wanted List right away, but if he was English, French or Dutch, he was not put on the Wanted list. As he had stated at the last meeting, the Commission had found nationality a 'yardstick' that was too uncertain to be applied. He had tried to explain that in this paper.

He had stated last time that on the very first time they had had the case of a man, who was a German and had become a Pole after the treaty of Versailles. He had been charged with committing atrocities against Poles during the last war and Committee I had decided to put this man on the list, because he had committed a war crime. In other words, it was decided not to consider the question of nationality but to investigate the case in an objective way, if the act was a war crime, irrespective of the apparent nationality. He said 'apparent' because although a person might be described as a Belgian or a Dutchman, it was not quite certain that during the war such a person had retained that original nationality. There were many acts which might have implicated him - such as the act of enlisting in the German army or acts coming from outside, such as the Fuehrer deciding that such people were not only German from 1940 but retroactively reinstated in their German nationality since 1918. This was to such an extent that some of the people in Europe did not themselves know what was their nationality. As he had said - and Sir Cecil Hurst had also agreed in this - they had always considered nationality as not a good 'yardstick' and that had never been challenged. He would therefore be in favour of recommending Suggestion IV and asking CROWCASS to consider whether they should not discontinue their practice of listing or not listing, according to the question of nationality. It might be that CROWCASS had not the power to do this and that a revision of policy from the Commission of Control should be obtained. If this was so, M. de Baer suggested they should approach the Commission of Control in this respect.

Sir Robert CRAIGIE said that he would support M. de Baer's suggestion all the more in that he thought it was virtually impossible for CROWCASS to make a distinction really on the point of nationality. All they could do, when they knew for certain that a man was of allied nationality, was to refuse to put him on their list. Obviously there were many of allied nationality, who, unknown to CROWCASS, were on their lists, so that, in any case, it could not be a very clear distinction. The result of this was that these criminals, who were traitors as well, were liable to get off scot-free - at all events were unlikely to be surrendered. This appeared to be a reductio ad absurdum and he hoped that this particular point would be pressed with some vigour.

M. de BAER thought he might put it a little more clearly. He did not think Quislings should be allowed to go scot-free, although the Commission were



not interested in Quislings as such and therefore it was outside their jurisdiction. He absolutely agreed with what Sir Robert Craigie had just said.

Lieut. Colonel HARRIS said he would suggest a rider to this: that CROWCASS should list all Allied Nationals for whom wanted reports alleging specific war crimes were received.

M. de BAER agreed.

The CHAIRMAN said they should specify the charge.

Colonel SPRINGER added "regardless of nationality".

M. de BAER said this would be so even when he was known to be an ally.

Lieut. Colonel HARRIS said that as he had understood it, the written recommendation was to list all those people **without** enquiring as to their nationality or as to the substance of the **crime**.

M. de BAER thought that CROWCASS should not use nationality as a 'yardstick' and that when an allied national was charged with a war crime, he should be placed on the list and not refused on the grounds that he was an ally.

Sir Robert CRAIGIE said that Lieut. Colonel Harris had made an additional suggestion that persons charged as war criminals for specific crimes should be put on the list, **whatever** their nationality.

Colonel SPRINGER said that CROWCASS should not enquire into nationality along these rules with which the Commission are made acquainted, in cases where the Commission has already passed on a case and also in cases where a wanted report is filed before being submitted for the Commission's consideration.

M. de BAER said that fundamentally this was what he had said.

He could not see how CROWCASS could establish a person's nationality during a war. All these people were either traitors, or war criminals, or would have been on the Wanted List for committing some acts in connection with the enemy, any of which may have had an influence on his nationality. In all cases therefore, the nationality of the accused would be in doubt. He suggested therefore that CROWCASS should not go into the question of nationality in respect of the persons listed by this Commission - and that persons charged with having committed war crimes, should not be omitted from a Wanted List on the grounds that they were Allied Nationals.

Commander MOUTON asked whether the Commission would now write a letter to CROWCASS or to the Control Commission putting forward M. de Baer's suggestion.

Sir Robert CRAIGIE thought he was right in saying that Lieut. Colonel Ryan had said that he was not in a position to modify his ruling on that, because he had instructions from the Control Council - therefore he felt that they would not get much further in taking it up only with CROWCASS and suggested that they take it up with the Control Council. So far as he was concerned, he was prepared to ask the U.K. Government to take it up with the Control Council because he considered the matter urgent. The Americans and the French would probably do the same if the Commission were in agreement.

Commander MOUTON said that the Dutch government had already taken the matter up but would be happy to have support.

Colonel SPRINGER said the United States would be quite prepared to do this.

M. de BAER proceeding with Suggestion V, said the National Offices should be asked to send their Wanted Reports to CROWCASS at the same time, or not later than they send the relevant case to the UNWCC. He thought this would meet with the support of CROWCASS. The concrete outcome of this would be that each representative would be asked to write a letter to his government, asking that they should send the reports direct, as soon as possible.

Sir Robert CRAIGIE asked whether they could not go a little further. There was some advantage in the reports being sent in even before applications were made to the UNWCC. As phrased here, the recommendation was limited to "at the same time or not later than". He suggested that this should read "at the earliest opportunity and in any case not later than".

The Commission agreed to this amendment and passed to CROWCASS Suggestion VI, which stated that it should be necessary to send a Wanted Report to CROWCASS, before any claim could be made. He did not think CROWCASS was trying to tie up National Offices to that extent and he did not really see the purpose of it. Lieut. Colonel Harris had stated at the last meeting, he was of the same opinion.

M. de BAER proposed Suggestion VI should be rejected. This was agreed.

Suggestion VII: That each name on a UNWCC list should be marked with an asterisk on the CROWCASS lists. M. de Baer thought it was Sir Robert Craigie who had put this forward. They would differentiate from Security Suspects.

Commander MOUTON asked if there were not any Security Suspects on the lists.

Lieut. Colonel HARRIS thought they would find that the CROWCASS lists now referred only to war criminals, whereas they at one time included security suspects as well.

Sir Robert CRAIGIE asked whether suggestion VII was not mixed up with Suggestion I, the two covering rather much the same ground.

M. de BAER thought from what they had heard from Colonel Springer with regard to suggestion I, that this proposal was no longer relevant and he did not think it necessary that CROWCASS should mark the names with an asterisk.

Colonel SPRINGER said that they could probably observe that suggestion because in future, when the UNWCC lists came out, it would be too late to put an asterisk on the wanted reports.

Major FANDERLIK said this would be useful if it did not create too much difficulty and superfluous work. In this way they would be able to see how many people listed by the Commission were wanted.

Sir Robert CRAIGIE said that when CROWCASS found a man on the Commission lists who was already on their Wanted Report they could have some system of marking the list - such as the asterisk.

Colonel SPRINGER suggested that it might be just as valuable to have some indication as regards names where no wanted reports had been filed, but where men had been placed on the wanted lists only by virtue of the fact that they were on the Commission lists. It was these people whose cases the Commission might want to review.



M. de BAER said these people would have to be marked in a different way.

Sir Robert CRAIGIE asked whether they could not combine that suggestion with the other and leave it to CROWCASS to do it if they can. It might be heavy work but if CROWCASS was prepared to do it, it would be useful from the Commission's point of view. This was agreed.

M. de BAER said that the last point was the question of a pamphlet entitled "What is CROWCASS?". As the Commission had read, before the last meeting, in a paper which Dr. Litawski had circulated (Misc. 57), CROWCASS was intending to issue a memorandum on the way in which CROWCASS worked. He had been surprised to see the way in which the first draft pamphlet had been worded. It began with the words "With the exception of the UNWCC, which fulfill a similar function to CROWCASS in a slightly different way, and with whom CROWCASS maintains close liaison, there should be no necessity for any other authority to issue a wanted list". CROWCASS was a Central Registry of War Criminals and the UNWCC was a completely different body that examined cases on their merits and the lists it made were not key lists for the arrest of persons, but key lists for the surrender of accused persons which was completely different. He had tried to make this clear in his paper and he considered there much be some misapprehension. He wondered if the attention of CROWCASS could be called to this point. In the second version of this pamphlet, the wording was a little different. He thought the reference made there was to War Crimes Commission lists 1 to 16, which were checked by CROWCASS with their lists. He felt sure that CROWCASS did not mean by that that it hoped the work of the War Crimes Commission was going to be eliminated. So that there would be no misunderstanding, it would be a good thing for CROWCASS, to show in a few lines just what was the difference between the work of CROWCASS and that of the UNWCC.

Sir Robert CRAIGIE entirely agreed and asked when the brief was to be published.

M. de BAER said he did not think the brief had been published yet, as the Commission had been asked to make suggestions.

Sir Robert CRAIGIE wondered what CROWCASS could have had in mind when they said it "should not be necessary for any authority other than CROWCASS to publish Wanted Lists". What other authority could or did publish Wanted Lists?

Lieut. Colonel HARRIS said that the Rhine Army published a small list about once a fortnight of "red hot clues", for internal use only and they sent copies to CROWCASS and to liaison officers in Baden and Wiesbaden.

Sir Robert CRAIGIE asked whether Lieut. Colonel Harris knew of any other lists which came within that category.

Lieut. Colonel HARRIS did not know of any others.

The CHAIRMAN said that all they could do was to ensure that a proper account of the Commission's activities was put into the CROWCASS publication and to make a suggestion for altering what they had written.

Colonel LEDINGHAM was sure the suggestion would be gladly received. CROWCASS wanted to publish the brief as soon as possible and were holding it up for the Commission's comments and suggestions.

M. de BAER said that a few words on the lines of the first paragraph of his paper (Misc. 58) would help to clarify the position.

Dr. SCHRAM NIELSEN left the meeting at this juncture.

The CHAIRMAN said it was a very good paragraph and asked whether M. de Baer could add some statement of the Commission's fundamental and original duties. He did not think it was touched upon expressly here. Dr. Litawski, he thought, had mentioned it in his document (Misc. 57).

M. de BAER drew attention to a paragraph at the head of page 4, which might cover the points.

The CHAIRMAN thought the first paragraph on page 1 and that on top of page 4 would be satisfactory.

Dr. SCHWELB remarked that it was, perhaps, not quite precise to say that the main purpose of listing a person by CROWCASS was to obtain his arrest, and the main purpose of listing by the Commission to obtain his surrender. If the listing by the Commission had only the purpose of making the surrender possible, why should then e.g. the British and U. S. authorities list people who were already in their custody?

M. de BAER replied that he did not say that the Commission's lists were only for the surrender of persons, just as CROWCASS' lists were not only for arresting persons.

The CHAIRMAN said that an additional sentence would make that clear.

Sir Robert CRAIGIE wished to express appreciation to M. de BAER for having produced this very valuable and useful paper, which had helped to clear up a number of points, and he would like to thank him very much for the work he had put into it.

The CHAIRMAN said the Commission agreed with that expression of thanks and remarked that they owed so much to M. de Baer he was sure that they would all agree with Sir Robert Craigie's words.

#### TRIALS OF WAR CRIMINALS IN POLAND.

Dr. CYPRIAN said he would like to emphasise some points in his memorandum which had been circulated to members (Doc. A.27 dated 28th November, 1946).

The first war criminals were apprehended in March of this year and trials commenced in June. In his country war criminals were divided into two sections - major war criminals and minor war criminals. Major war criminals were dealt with by a special Tribunal called the Supreme National Tribunal, consisting of three Judges of the Supreme Court and four members of Parliament. Ordinary courts dealt with the rest of the war criminals. There were until now only two cases which had been tried by the National Tribunal - that of the Governor of Poznan, Greiser, who was sentenced to death and hanged, and that of Anton Goeth, commandant of the concentration camp at Plaszow, near Cracow, also sentenced to death and hanged. The next war criminal to be tried by the National Tribunal will be Dr. Fischer, Governor of Warsaw. Then there would be the biggest trial in Poland - when the commandant of the Oswiecim/Auschwitz/ camp will be tried. About 150 guards of this camp will be sent to ordinary courts for a mass trial. There would also be the trial of the Governor of Danzig, Foerster, and then the trial of Bühler - the so-called head of the General Government. The Policy Government hoped to invite members of the Commission to come and see these trials, especially that of the Oswiecim camp, which will be held sometime after the General Election, probably by the end of January or beginning of February. The only thing that prevented them from inviting many people was the lack of accommodation in Warsaw. The trials themselves are held in make-shift places.

The CHAIRMAN said it was very encouraging to see how energetically they were working and their determination to carry out the trials. He gathered that in Poland they had only started on war crimes in the strict sense of the word as recently as last March and wondered whether they had almost completed the business of trying quislings.

Dr. CYPRIAN said that they had almost completed the trials of quislings.

The CHAIRMAN said that he was sure the Commission was very much indebted to Dr. Cyprian for this paper and they would expect much fuller accounts when he came back.



REPORTS BY CHAIRMEN OF COMMITTEES.

M. de BAER said he had just one short communication to make. That morning, in Committee I, they had had a letter on behalf of an Italian who had been put on the War Crimes Lists at the end of 1944 and, if he remembered rightly, at the request of the Yugoslav Government. They had received this letter from his solicitors, requesting the Commission to re-examine his case or else to set him free. This document was transferred to the Yugoslav Government to enable them to examine it and, in the meantime, the solicitors had been informed that the Commission was giving the matter attention.

The CHAIRMAN raised the question of writing a "History of the Commission" and he hoped that by the beginning of the New Year some definite proposal might be formulated.

He hoped that a small committee might be formed with M. de BAER as Chairman and that Lieut. Colonel Wade, Dr. Schwelb and Dr. Litawski would help him in writing the history.

COMMITTEE III

Dr. SCHWELB reported that Committee III, in its meeting held last week, had adopted a report on the Yugoslav-Italian cases involving crimes against humanity, which were mentioned in the last meeting of the Commission (M.117 pp9/10). The reports would be circulated before the next meeting of the Commission (Doc. C.239).

The CHAIRMAN said this should be discussed by the Commission together with the Documents C.236 and C.237.

It was decided to postpone the discussion of the whole problem of crimes against humanity (Docs. C.236, 237 and 239) until the next meeting.

It was decided to hold the next meeting of the Commission at 4.15 p.m. on Wednesday, 11th December.

The CHAIRMAN said they were very much indebted to Lieut. Colonel Harris for coming; he had given the Commission very great help and he asked M. de Baer to express their thanks to Lieut. Colonel Harris.

M. de BAER said that he would be delighted to do so - he had found his conversations with Lieut. Colonel Harris not only interesting because he was so much au fait with all these questions of CROWCASS and what was happening in Germany, but might he say personally he had had great pleasure in these talks and he was sure that he was expressing the feelings of the Commission in saying that they were extremely grateful for the help he had given, and that they had considered his presence at the last two meetings highly useful. He knew that many of his own ideas had changed on several subjects as a result of his talks with Lieut. Colonel Harris.

Major FANDERLIK wished to add a few words to this vote of thanks and to thank Lieut. Colonel Harris on behalf of their investigation teams in Germany. He took this opportunity to thank Lieut. Colonel Harris for all he had done in the British Zone and for the help he had given to their investigation teams, for, without him, it would not have so smooth as it was.

The CHAIRMAN said that there was a time when they were rather sceptical of the help CROWCASS could give them, but now that view had been completely altered and it was quite obvious that CROWCASS was a very helpful organisation.

*W. H.*

UNITED NATIONS WAR CRIMES COMMISSION.

M. 119

MINUTES OF MEETING HELD ON

WEDNESDAY, 11TH DECEMBER, 1946,

AT 4.15 p.m.

Chairman:	Lord WRIGHT	Australia
Also present:	Sir Robert CRAIGIE	United Kingdom
	Mr. Ben BROWN	United States of America
	M. MAILLARD	France
	M. ZIMBEAUX	France, Directeur du Cabinet du Ministre de la Justice.
	M. TOUFFAIT	France, Chef du Service de Recherche de Crimes de Guerre (Director of the French National Office)
	M. BRIDGLAND	Australia
	M. de BAER	Belgium
	Mr. HORNE	Canada
	Major FANDERLIK	Czechoslovakia
	M. DIMITSAS	Greece
	Mr. DUTT	India
	Commander MOUTON	Netherlands
	Mr. AARS-RYNNING	Norway
	M. MEZULIC	Yugoslavia
	Dr. SZERER	Poland

Apologies were received from:

Mr. BURDEKIN	New Zealand
Lieut. Colonel BARRATT	Judge Advocate General's Office
Colonel SPRINGER	United States of America
Dr. SCHRAM-NIELSEN	Denmark.

MINUTES OF 117TH AND 118TH MEETINGS

Minutes of the 117th Meeting were approved and signed.

Amendments to Draft Minutes M. 118 received from Sir Robert Craigie and Mr. Burdekin would be incorporated in the final text.

ARRANGEMENTS FOR NEXT MEETINGS.

The CHAIRMAN announced that the intention was to have a meeting of the Commission at 4.15 the following Wednesday, 18th December, 1946, and unless something very urgent occurred, this would be the last meeting until the 15th January, 1947.

WELCOME TO FRENCH VISITORS

The CHAIRMAN stated that the Commission had rather important business today because they had the advantage of the presence of two distinguished French lawyers - M. Zimbeaux and M. Touffait. M. Zimbeaux had a high position in the Ministry of Justice in France and M. Touffait was the Director of the French National Office.

These two gentlemen had formulated very interesting and important views, projects and proposals for the trial of concentration camp personnel and, broadly speaking, they desired to have a more uniform and concentrated system for the trial of these offences and for the trial of the members of groups and organisations declared criminal by the Judgment of the International Military Tribunal which were very well embodied in the memorandum A.30.



FRENCH PROPOSALS (DOC. A. 30)

M. ZIMBEAUX expressed his gratitude and that of the French Delegation to the Commission for arranging the meeting that day which, they hoped, would be of some help. He and M. Touffait would give short statements on the main problems arising out of the judgment of the International Military Tribunal regarding the punishment of persons belonging to criminal groups and organisations and thereby, perhaps, suggest amendments to the Control Council Law No. 10 and also to the Charter of the International Military Tribunal drawn up in London in August, 1945.

Another question which they all thought very important was the trial of the guards of the concentration camps.

M. Zimbeaux, in dealing with point 2 of Doc. A. 30 referred to Article 10 of the Charter of the International Military Tribunal which said that in cases where a group or organisation is declared to be criminal by the Tribunal the competent national authority of each Power shall have the right to bring individuals to trial for membership therein, before National, military or occupation courts. In such cases the criminal nature of the group or organisation is considered proved and shall not be questioned. He further made reference to the Control Council Law No. 10 - punishment of persons guilty of war crimes - crimes against peace and crimes against humanity - which was enacted in order to establish a uniform legal basis in Germany for the prosecution of offenders other than those dealt with by the International Military Tribunal. He quoted further, Article II(1)(d) of the same Law which refers to membership in categories of a criminal group or organisation declared criminal by the International Military Tribunal. M. Zimbeaux read Subsection (3) of Article II which provides:

"Any person found guilty of any of the above-mentioned crimes may upon conviction be punished as shall be determined by the Tribunal to be just. Such punishment may consist of one or more of the following:

- (a) Death.
- (b) Imprisonment for life or for a term of years, with or without hard labour.
- (c) Fine, and imprisonment, with or without hard labour, in lieu thereof.
- (d) Forfeiture of property.
- (e) Restitution of property wrongfully acquired.
- (f) Deprivation of some or all civil rights."

This was the provision which, M. Zimbeaux suggested, should be amended. It had been thought that these provisions were somewhat vague in so far as they were providing penalties from death to mere deprivation of property, without any definition as to the manner in which punishment should be assessed. This impression, which was that of the French representative in Berlin, had been endorsed in the Judgment of Nuremberg, where the Tribunal had made to the Control Council the following recommendations:

"Since declarations of criminality which the Tribunal makes will be used by other courts in the trial of persons on account of their membership in the organisations found to be criminal, the Tribunal feels it appropriate to make the following recommendations:

1. That so far as possible throughout the four zones of occupation in Germany the classifications, sanctions and penalties be standardised. Uniformity of treatment so far as practical should be a basic principle. This does not, of course, mean that discretion in sentencing should not be vested in the court; but the discretion should be within fixed limits appropriate to the nature of the crime.
2. Law No. 10, to which reference has already been made, leaves punishment entirely in the discretion of the trial court even to the extent of inflicting the death penalty.

The De-Nazification Law of 5th March, 1946, however, passed for Bavaria, Greater-Hesse and Wuerttemberg-Baden, provides definite sentences for punishment in each type of offence. The Tribunal recommends that in no case should punishment imposed under Law No.10 upon any members of an organisation or group declared by the Tribunal to be criminal exceed the punishment fixed by the De-Nazification Law. No person should be punished under both laws.

3. The Tribunal recommends to the Control Council that Law No.10 be amended to prescribe limitations on the punishment which may be imposed for membership in a criminal group or organisation so that such punishment shall not exceed the punishment proscribed by the De-Nazification Law."

Accordingly, the French representative in Berlin had applied to the Control Council in Berlin for an amendment of Law No.10. The French authorities had also informed all other interested governments of their intention.

Moreover, they had thought that after the Judgment of Nuremberg, some difficulty of interpretation might arise and accordingly, they had made a further suggestion to the Council of Control.

According to Article 10 of the Charter it seemed that each member of a criminal group or organisation should be tried by a military tribunal or a court of the occupation zone. Such prosecution should then seem to be before the Tribunal of each occupying country.

The charter made in London said that such persons could be prosecuted before the national tribunals. The International Military Tribunal had, however, said the following:-

"A criminal organisation is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group bound together and organised for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organisations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organisation and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organisation. Membership alone is not enough to come within the scope of these declarations."

Following some conversations they had in Paris, with representatives of other countries, the French authorities were led to think that a presumption of criminality would be imposed on each member of a group or organisation declared criminal, though it was clear from the Judgment of Nuremberg that persons who had no knowledge of the criminal purposes of such a group or organisation could not be prosecuted, and neither could those who were forced to join such organisations.

Therefore, the suggestion of the French Representative amending Article 2, section 1 of the Law No.10, would be this:-

"Voluntary membership after 31st August 1939, in groups or organisations hereinafter described, which have been declared criminal by the International Military Tribunal, with knowledge of the criminal purposes and acts of the groups or organisations. Then followed a list of all the groups and organisations which have been declared criminal by the Tribunal at Nuremberg and the proposed provision went on stating that a member of one of the above groups or organisations is presumed to have had knowledge that it was being used for the commission of criminal acts and has the burden of satisfying the Tribunal that he did not have such knowledge".

The French delegation asked the Commission to consider this position and see whether a recommendation of an amendment could not be arrived at on these lines.

New provisions were necessary also, because Law 10 had been enacted for German territory only. For the time being therefore, this law could only be applied to persons living now on German territory.



As most of the members of these groups declared criminal had been in the armed forces of Germany the result was that only, say 6,000 criminals were now in the French zone of Germany, whereas 30,000 were now in French prison camps.

They assumed that this applied to the other occupying countries as well, and that in the prison camps of all countries they would find far more members of criminal groups or organisations than there were in fact in Germany. As it was highly desirable that all these members of criminal groups should be tried and punished, in the same way and under uniform legislation, some agreement should be arrived at, so that they would all be tried similarly in all countries. This was the purpose of a further proposed amendment to Law No.10.

In conclusion, M.Zimbeaux expressed his hope that all members of the Commission present, would consider this question and that perhaps a statement would be made, so that each representative could draw his respective government's attention to the necessity of the question.

The CHAIRMAN said that they would like to know how, practically, M.Zimbeaux visualised that Control Council Law No.10 could receive an application elsewhere than in Germany.

M.TOUFFAIT said there was no suggestion of application of Law No.10 elsewhere than in Germany. An International Agreement would be put forward to the respective governments.

Sir Robert CRAIGIE said he understood his Government had been approached on this question. He would have to discuss the matter with his Government before he could make any definite statement, and would do so without delay.

Sir Robert CRAIGIE left the meeting at this juncture.

M.de BAER announced that the intention of the French delegation was to obtain an International agreement, whereby provisions similar to those of Control Council Law No.10 should apply in each one of the allied countries. This was of course quite exceptional and quite a new idea and applied only, of course, to the Germans that were interned in those countries. It would be a special law applicable to one category of persons present in those countries.

M.ZIMBEAUX said that unless an arrangement were arrived at, the members of criminal groups who were at present outside German jurisdiction would evade the application of Law No.10 and be treated differently in each country.

M.TOUFFAIT said that this question was also connected with that of the liberation of Prisoners of War. The question also arose as to whether Prisoners of War should be tried now or after they had been freed. Take one instance: suppose a person was interned in France. If he were sent to trial in France, the law applicable in France would be used. If he was released he would go back to Germany and if he were in the British zone, he would be tried and punished according to English methods. It would be awkward to think that one prisoner would be tried differently to another, depending on whether he was freed before the trial or not. That was why International agreement should be arrived at on a uniform law. The suggestion was that this Commission would consider the possibility of arriving at some international agreement to have uniform methods of judgment, trial and punishment.

M.de BAER said that the suggestion of the French delegation was that the Commission should study the terms of a possible agreement and recommend it to their member governments. He thought they could do so, without being ad hoc officially charged, because this was part of their general mandate and terms of reference.

The CHAIRMAN said there would be no difficulty about the Commission's jurisdiction. They had no executive powers - their powers were advisory; on several occasions in the past, they had drawn up proposals, and then written out a recommendation, which each member had undertaken to pass on to his respective government for consideration, but the motive power came from the consent or agreement of various governments. He felt that the Commission would do their best to carry out their part in this matter.

M.ZIMBEAUX said that the French government had already made some efforts to contact all other foreign governments through diplomatic channels, but thought it would be a good thing if the Commission would support their initial recommendations.

The CHAIRMAN understood there had been an approach to other governments but so far, there had been no reply except from the United States of America. He wondered whether their French friends would draw up the proposals which they desired to submit, probably copies of the proposals they had already put forward. The Commission could then discuss them and possibly one of the French delegates could come over for further discussion, probably early next year when the Commission had studied the proposals.

M. TOUFFAIT and M. ZIMBEAUX agreed and expressed their appreciation that the Commission showed such interest in the question.

The CHAIRMAN said that the Commission was anxious to get down to practical details and therefore would like to have the proposals in writing which the French delegates had preferred, quite soon.

When they had received and discussed these proposals - which they would do at an early date, - they could possibly have further discussions with the help of M. Zimbeaux and M. Touffait. They could then draw up a set of proposals which the Commission would be prepared to make, and each member could transmit the agreed proposals to his respective government.

M. de BAER wished to say one word to emphasise the importance of this question. He would give two examples: suppose that from the Control Commission for Germany a law was issued saying that any member of a criminal organisation was deemed to know the criminal intent of the organisation. Then the burden of proof that he did not know it would be on him. In France, on the other hand, he did not think the French would be prepared to admit a law like that as it was contrary to French principles. If in France then the contrary applied, that the member of a criminal organisation is deemed not to know the criminal purposes of the organisation until the public prosecutor proves that he did know them, there would be complete discrepancy between trials in occupied Germany against SS men and in France against SS men.

The CHAIRMAN said that it was the view at Nuremberg that the onus of proving the guilty knowledge of the accused should be on the prosecutors.

M. de BAER agreed.

The CHAIRMAN said that this was a point the Commission could discuss very fully when they had got the French proposals, considered them and had an opportunity of discussing them with the French representatives. The Commission could then formulate a memorandum for transmission to the member governments. That, he thought, was as far as they could go at the moment.

Mr. BROWN said that, as had been stated, his Government had been the only one to answer the French request and therefore he hesitated to express an opinion on the subject. He did question, however, the propriety of the Commission taking action on a matter like this until each government represented on the Commission had informed its representative what it intended to do regarding it.

The CHAIRMAN said the Commission could not take any executive action - their function was purely advisory - was it Mr. Brown's suggestion that the Commission should defer study of the question and the formulation of a purely advisory opinion?

Mr. BROWN said that his suggestion was not that they should defer study, but rather that they should defer commitment. He would not like to see the Commission commit itself that day to the formulation of a plan for submission to their governments until they knew more of what their governments were going to do with regard to the diplomatic note.

The CHAIRMAN said the discussion was purely exploratory and at the present stage all that was suggested was that the Commission should proceed first to hear definite proposals from the French Government - and secondly to discuss them and if they were able to formulate an opinion then to circulate them as a Commission document among the different governments.



The CHAIRMAN asked Mr. Brown whether he would have any objection to that, because they quite understood that the matter was now in the hands of the governments.

Mr. BROWN said that had been the only point he had wanted to make.

Mr. DUTT agreed to what had been suggested - that they should study the proposal put forward by the French Government and then take whatever action the Commission considered necessary.

Mr. AARS-KYNNING agreed with Mr. Dutt.

Major FANDERLIK said that in Czechoslovakia they had already passed a law against members of criminal organisations and there had been some trials in progress dealing with these crimes. He had studied this problem carefully and thought it would be difficult at this stage to change the Czechoslovak law or to pass a new law to achieve the uniformity proposed by the French delegation. There was, however, hardly a considerable number of members of criminal organisations in the hands of the Czechoslovak authorities.

M. MEZULIC thought that the point was not only to try to improve the working of Law No. 10 but to find the means of improving the system of trials of war criminals in general, and if so, it would be good not to forget that, not only in Germany, but also in another country there were many criminals who were outside any law - in Italy for example - and he thought when they discussed the proposal of the French delegates, they should keep an eye on the problem which arose out of these unpunished war criminals and in this sense he was ready to get the complete cooperation of his authorities.

He was not at all averse to a discussion on the subject.

Commander MOUTON thought the proposal brought forward by the French delegates was extremely important. He felt that, and M. Touffait had explained to him personally that morning, it would be very dangerous if say in six years the Germans came to life again and could criticise the way war criminals were punished by the Allies, if they found that in one country, in an exactly similar case, one man had been acquitted and in another country he had been punished. Therefore he clearly saw the necessity of getting uniformity in this matter. If the onus of the proof was not on the shoulders of the member of the criminal organisation, to prove that he did not know that the association was a criminal one, but on the prosecutor, the prosecutor would have a very heavy task.

The CHAIRMAN said that he did not share the view that the presumption was necessary and that, otherwise the task of the prosecution would be too heavy. In some cases they might have a very heavy task, but generally it would be possible to show the accused man had either done a thing or associated with people who had done things mixed up with the criminal action of the association. He thought it would be possible to produce a case of that sort and ask the court to infer that from the facts before it the accused had known of the criminal purposes of the organisation. Speaking for himself, he did not like the idea of putting the burden of proof on a man who was not guilty. The practical difficulty may not be so serious since the courts were entitled to infer knowledge from the things that the man did.

M. DEMITSAS said that he would like to support the view expressed by the Yugoslav representative (M. Mezulic) and combine the problem of Italy in the discussion.

Mr. FRIDGLAND thought it would be a good plan to obtain and examine the actual text of the French proposal, because some of the member Governments who had been approached through diplomatic channels might ask their representatives on the Commission or the Commission itself for advice on the matter. Even if they did not, members might think it desirable that the Commission, acting in its advisory capacity, should give some recommendation.

Dr. SZERER agreed to a discussion on the matter and asked whether members might be told the American answer, or was it a secret.

Mr. BROWN said that unfortunately he did not think he could disclose the substance of it.

Commander MOUTON wished to ask if all the countries represented on the Commission had been approached by the French Government.

M. TOUFFAIT replied that all governments of the United Nations had been approached.

M. de BAER wished to make a practical proposal in view of the objection made by Mr. BROWN. Could he suggest that as a proposal had been made to all the governments and no answer had been received, except from the United States of America that the members of the Commission should ascertain from their respective Governments whether and in what sense, they had replied to the French Government's request of October 19th, relative to the above matter.

This was agreed to.

M. MEZULIC enquired on what date their governments had been informed of the proposal.

M. TOUFFAIT replied that the French proposal had been made on October 19th, 1946.

The CHAIRMAN then introduced the discussion of the second question: the procedure which in the French view should be adopted for the trial of concentration camp personnel.

The CHAIRMAN gathered that what the French were aiming at was to organise and centralise uniform methods of procedure and jurisdiction. He asked M. Touffait to state the case in his own way.

M. TOUFFAIT said that the French authorities were worried by this question of prosecution of criminals belonging to the personnel of concentration camps, because they had found that a number of these persons were actually tried and punished before different Tribunals of different countries. Something should be done to have them tried under one and the same jurisdiction for crimes committed in the same camp.

The prosecution by the French authorities was difficult because they could find no witnesses and no documents to support a charge. In addition, the camp personnel could not be tried by French courts unless they had committed crimes in France or against French nationals. They could not be tried or punished in France for crimes committed against foreign victims. However, Law No.10 allowed prosecution against any of these persons when they had committed a crime against persons of any nationality. Accordingly, they had all been transferred from France to Germany, and they were there prosecuted for crimes committed against individuals of different nationalities. Accordingly, they had asked interested countries of the United Nations to join them, not only for the judgment of such criminals, but also for the prosecution - in other words, to appoint a prosecutor as well as a judge for the French Tribunal. In cases when trials took place in French tribunals in Germany, they would also invite interested countries to appoint a judge and a prosecutor and, on those lines, they had started a trial of 150 persons in Württemberg, and had asked representatives from Holland, Luxembourg, Belgium and Poland to appoint a judge and prosecutor to join the French tribunal.

The advantage of these methods could be summed up as follows:-

- (1) In these cases information was received and enquiries were then fully made and they gathered information and documents from all countries.
- (2) Moreover, the whole of the criminal activities of such an individual was examined and not only one part of his crimes, as in most cases these men had taken part in several crimes in the same camp and in different camps. Each country could thus make heard the voice of her own victims. It also avoided diversity in judgment and punishment. What they were trying to avoid was the delivery of all persons presumed criminal to different countries, one after the other.



Further, the cooperation of all nations in the judgment of such criminals would lead to further important steps on the lines of International justice and criminal law and further steps towards achieving uniformity of International jurisprudence could be made.

If the above methods would be adopted and recommended by the Commission, the French representatives would like to know if, also, similar methods would be applied in the British, Russian and American zones.

The CHAIRMAN said that he saw at Württemberg the French authorities had started working on one of the biggest trials of 150.

M. TOUFFAIT said that 150 accused would be tried in three trials - 50 at a time.

The CHAIRMAN asked how many judges they had.

M. TOUFFAIT replied that there were three French judges - one Polish, one Belgian, one Dutch and one Luxembourg judge.

The CHAIRMAN asked whether these were the only countries represented who had victims.

M. TOUFFAIT replied that they were the only countries who had victims involved.

The CHAIRMAN thought this was on a large scale but did not think it would be unmanageable. He enquired about the language difficulty.

M. TOUFFAIT said that the language difficulty did not arise because they could all speak French. The nations had been invited to detail judges and prosecutors who had a command of the French language.

Commander MOUTON asked what law was applied and what procedure.

M. TOUFFAIT replied that the Control Council Law No. 10 and SHAEF procedure were applied.

The CHAIRMAN said that they were only at the stage of discussing proposals. The Württemberg trial started, he gathered, the day before yesterday, and it would go on, he took it, pretty well till next April or June. He would be very interested to see how it worked. In the meantime the question of producing a uniform system of trial and a greater representation in the prosecution among the judges were questions which the Commission would desire to discuss very carefully.

M. TOUFFAIT said that they had already approached the British, American and Soviet Governments in order to suggest that in each case where concentration camp trials are involved they should send representatives who would be interested in the trial - so far they had no definite reply and the French delegation would suggest that the Commission, at the same time as they discussed the first point, should also make a recommendation on this particular question.

The CHAIRMAN said that that sounded reasonable and asked then that the Commission might have the French delegates' views and recommendations and experience in writing.

M. TOUFFAIT said that this could be done.

The CHAIRMAN summed up that it would be satisfactory to everybody if the French proposal on the point of Concentration Camp trials would also be made in writing, circulated to the members and then discussed by the Commission. Possibly M. Touffait and M. Zimbeaux would attend to help the Commission in the task at some stage and then the Commission could give their advisory opinion to the member governments. This was agreed to.

Mr. BROWN asked the representatives of France whether their proposal re Concentration Camp personnel applied primarily or entirely to trials in Germany?

M. TOUFFAIT recalled that he had said that the French authorities sent all

their prisoners to Germany, so that all the trials were taking place in Germany.

Mr. BROWN further enquired whether the matter had been discussed or presented by the French representative to the Control Council.

M. TOUFFAIT said that some unofficial conversations had taken place.

The CHAIRMAN said that the Commission were very obliged to the French representatives for coming and they looked forward to having another meeting later on, when all the material had been received. When the Commission had got their communications and had considered them, they would see if they could persuade the French delegates to come over again.

They could not deal with items 5 and 6 (Crimes against humanity) of the agenda, because the responsible members were not there. He understood there were no reports of Chairmen of Committees. They would meet again at 4.15 on Wednesday, 18th December, 1946.

That would conclude the business of the meeting.

*Wright*



M.121

UNITED NATIONS WAR CRIMES COMMISSION

February 7, 1947.

America

America

Owing to the fact that further amendments have been received to Minutes of Commission M.121 it would be appreciated if you would substitute the enclosed <sup>final text</sup> for the Minutes M.121 circulated a few days ago.

A.G.

December, 1946,

Amendments to Minutes of meeting of Commission held on 18th December, 1946, M.120 had been received from Colonel Springer and Sir Robert Craigie and would be incorporated in the final text.

PARTICIPATION OF THE SOVIET UNION IN THE WORK OF THE COMMISSION

The CHAIRMAN requested Sir Robert Craigie to speak on this matter.

Sir Robert CRAIGIE said that the Commission would recollect that on July 19th, 1946, it had adopted a resolution containing a reply from the UNWCC to the Government of the Union of Soviet Socialist Republics, with regard to the question of Soviet participation in the work of this Commission. At that meeting, he had undertaken to transmit the resolution to the Foreign Office and to confer with the Foreign Office as to the correct method of transmitting the resolution to the Soviet Government. The actual channel through which the reply was sent was through the U.K. Ambassador in Moscow and the Secretary General had now received this letter from the Foreign Office:-

FOREIGN OFFICE,  
S.W.1.  
31st December, 1946

(U 8239/1546/73 )

Dear Ledingham,

As Sir Robert Craigie is away at present I am sending you herewith a copy of a letter which was sent to our Ambassador in Moscow by Monsieur

UNITED NATIONS WAR CRIMES COMMISSION

M.121

Meeting of the Commission

Held on

Wednesday 22nd January, 1947.

at 3 p.m.

Chairman: Lord WRIGHT Australia

Also present: Sir Robert CRAIGIE United Kingdom  
Colonel SPRINGER United States of America  
accompanied by  
Lieut.Colonel HAUGEN United States of America  
M.MAILLARD France  
Mr.DAO China  
Mr.GLASHEEN Australia  
M.de BAER Belgium  
Major FANDERLIK Czechoslovakia  
accompanied by  
Dr.NEUMANN  
Dr.SCHRAM-NIELSEN Denmark  
Commander MOUTON Netherlands  
Mr.BURDEKIN New Zealand  
Mr.AARS-RYNNING Norway  
Dr.ZIVKOVIC Yugoslavia

Apologies were received from:

Lieut.Colonel BARRATT United Kingdom, J.A.G.  
Mr.BRIDGLAND Australia  
Mr.DUTT India

MINUTES

Minutes of the 119th Meeting of the Commission held 11th December, 1946, were approved and signed.

Amendments to Minutes of meeting of Commission held on 18th December, 1946, M.120 had been received from Colonel Springer and Sir Robert Craigie and would be incorporated in the final text.

PARTICIPATION OF THE SOVIET UNION IN THE WORK OF THE COMMISSION

The CHAIRMAN requested Sir Robert Craigie to speak on this matter.

Sir Robert CRAIGIE said that the Commission would recollect that on July 29th, 1946, it had adopted a resolution containing a reply from the UNWCC to the Government of the Union of Soviet Socialist Republics, with regard to the question of Soviet participation in the work of this Commission. At that meeting, he had undertaken to transmit the resolution to the Foreign Office and to confer with the Foreign Office as to the correct method of transmitting the resolution to the Soviet Government. The actual channel through which the reply was sent was through the U.K. Ambassador in Moscow and the Secretary General had now received this letter from the Foreign Office:-

FOREIGN OFFICE,  
S.W.1.  
31st December, 1946

(U 8239/1546/73 )

Dear Ledingham,

As Sir Robert Craigie is away at present I am sending you herewith a copy of a letter which was sent to our Ambassador in Moscow by Monsieur



Dekanozov regarding the participation of the Soviet Union in the work of the United Nations War Crimes Commission.

Yours sincerely,

Sgd: (F.F.GARNER)

Enclosure:-

FOREIGN AFFAIRS OF U.S.S.R.

Moscow, 6th December, 1946.

Dear Mr. Ambassador,

In connection with Mr. Roberts' letter of the 2nd September 1946, I have the honour to inform you that the view of the Government of the U.S.S.R. about the terms on which the Soviet Union could participate in the work of the United Nations Commission for investigating war crimes has already been presented in the memorandum of the 29th March, 1946.

The resolution of the Commission notified by you declines the participation of the Moldavian, Lithuanian, Latvian, Estonian and Karelo-Finnish Soviet Socialist Republics in the work of the Commission for investigating war crimes.

Under such conditions the Government of the U.S.S.R. does not consider it possible to participate in the said Commission.

Please accept, Mr. Ambassador, the assurance of my highest esteem.

Sgd: (V.DEKANOZOV)

To: Sir Maurice Peterson,  
British Ambassador Plenipotentiary,  
Moscow.

Sir Robert CRAIGIE added that he was sure the Commission very much regretted the nature of the reply. They could only take note of it in their record.

FORMAL APPROVAL OF LISTS 46-49 (REPRODUCTION OF SUB-COMMISSION'S LISTS). 45 AND 50 (COMMISSION'S LISTS) - (ALREADY CIRCULATED)

The CHAIRMAN recalled that these lists had all been circulated and he would ask the Commission to give their formal approval. They had all been dealt with in Committee I and as there was no point raised, he recorded the formal approval of the Commission on these lists.

REPORTS BY CHAIRMEN OF COMMITTEES

M.de BAER said that Committee I had nothing to report. It would meet the next day (January 23rd).

Sir Robert CRAIGIE, Acting Chairman of Committee III said that Committee III had presented to the Commission statements on crimes against humanity (Docs. C. 236, 237, 239) and on giving information as a war crime (C. 240) which formed separate items of the agenda.

VISIT BY THE CHAIRMAN AND THE SECRETARY-GENERAL TO GERMANY

The CHAIRMAN gave a brief description of the visit which he and Colonel Ledingham had made to Germany during the recess.

They had had quite an extensive tour in order to observe what was being done in the prosecution and investigation of war crimes. They went first to the American zone and visited Nuremberg which was extremely interesting. Their American friends in charge of Brigadier General Telford Taylor were very active, enterprising and enthusiastic. In Nuremberg, there were two trials under way: one which he might call the 'big' trial against the Nazi medical authorities and the other dealing with Field Marshall Milch, in a similar but very commodious and comfortable courtroom, which was fitted up in the same building.

The CHAIRMAN said there were 23 doctors in the big trial, including one woman and that trial was likely to go on for perhaps six weeks.

The CHAIRMAN said that the Judges represented, as far as he could judge, every corner of the United States. The President who came from the State of Washington, of which he was Chief Justice, struck him as a very able and judicial man and the other four were very capable and enthusiastic people, anxious to do what was right. The atrocities were committed on unwilling victims, under the guise of medical experiments, and, according to what he had heard when he was there, some of the atrocities which were committed on these unfortunate people when they were under anasthetics were very atrocious indeed. From Nuremberg, they went to Berlin and there they had a most interesting examination of CROWCASS. He was bound to say that he was extremely pleased to find what a very efficient set-up CROWCASS now had. The arrangements to deal with the various reports and the attempts to bring together the detained lists and the wanted lists were all really most efficient. They had often discussed what CROWCASS ought to do and as far as he could judge, they were actually doing it now. The arrangement of the documents, tabulation, reference facilities all seemed to him to be first rate. He was very much gratified to see what was being done under the very efficient management of Lieut. Colonel Ryan and Major Lewis. From Berlin, they went to Hamburg and apart from the paralysing effect of the cold they found much to look at. The British were holding a very big and important trial - the Ravensbrück trial and they seemed to be proceeding very efficiently and satisfactorily. The Chairman said that he was glad that he was not engaged in the trial under the present climatic conditions and he was quite content to spend only a few days there. From there they went to Bad Oeynhausen, where they had long and very interesting discussions with the Army Commander, Lieut-General McCreery, with Lord Russell and Group Captain Somerhaugh of the J.A.G.'s Branch.

From Bad Oeynhausen, where the Commander in Chief had placed his private Dakota at their disposal, an attempt was made to fly back to England, but owing to the fact that all the roads were so frozen that no car could venture out and the runways were sheets of solid ice, no plane could leave the ground. It was therefore necessary to come home on the Rhine Army Special which took about 24 hours.

On the whole, he considered it had been a very useful expedition and he was very gratified to know that everybody they came across were busy working and very gratified at the interest the people outside showed in what they were doing. He thought it very important that members of the Commission should go over from time to time. Perhaps Colonel Ledingham could add something to what he had said.

Colonel LEDINGHAM thought the Chairman had described the visit very aptly and added that they had been received in Berlin by Lieut. General Clay - the Deputy of the Military Government of the American Zone, and his legal adviser Mr. Rockwell.

With regard to CROWCASS, Colonel Ledingham would like to add his appreciation to what the Chairman had already said and how impressed they both were with the keenness and efficiency of those engaged in this very intricate and important work. Members would no doubt remember that certain criticisms were made over the move of CROWCASS from Paris to Berlin, which at that time may have been justified, especially in view of the change-over from French to German personnel which had to be accepted. So far as the new accommodation in Berlin was concerned this could not be improved upon and was satisfactory in every way, and so far as the German staff was concerned, Major Lewis spoke most enthusiastically regarding them. From the security angle each member of the staff was thoroughly screened by Intelligence, and, so far, he had no reason to suspect that they were other than whole-heartedly sincere and dependable in their work.

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