

far from completion. The further proposition that a report should be prepared could be agreed to and that it should be prepared as soon as possible and submitted to the United Nations, but they could not undertake to have it ready for August as suggested. He did not think that that particular date was regarded as essential at the moment. They would eliminate the question of quislings and traitors, subject to that, they would submit a report concerning human rights in so far as information arising from the trials of war criminals was available to them. They would submit that report to the Commission on Human Rights at the earliest possible date.

DR. SCHWELB said he thought the United Nations Secretariat itself had doubted whether it would be technically possible to complete the report in time so that it could be submitted to the Geneva Conference on 25 August. It was a tremendous task which the Commission was asked to do and he thought there should be a programme of this work drawn up. The Commission might refer the matter to Committee III or to an ad hoc committee which could then prepare a programme for approval by the Commission and submit it to United Nations. He thought it advisable not to prejudice the question concerning quislings and traitors now as it might turn out that the two problems in respect of this task were intermixed. It would be unwise to say a priori that the Commission could not deal with the matter because if the Commission declined to do it then there was no body in the world that could take on this work. If the Commission declined to do the work, it would mean that it would not be done at all.

THE CHAIRMAN said the Commission should undertake to submit to the United Nations at an early date, possibly early next year, the report which they mentioned, and then so far as internal arrangements were concerned, the Commission ought to refer the preparation of that report to Committee III and that Committee should be increased by the admission of H. de Baer if he was willing to accept. Before Dr. Schwelb left for the United Nations, he should, with the help and collaboration of Dr. Litawski, prepare an outline of the programme for the forthcoming report so that the Committee would then have a scheme on which to work. He thought that was all that could be done at present. They would naturally do whatever they could and, as Dr. Schwelb very justifiably pointed out, the Commission was the only body having the necessary experience needed to prepare such a report, limited, as he had said, by the exclusion of quislings and traitors.

DR. SCHWELB said he ventured to submit that the question of quislings and traitors should not be excluded at this stage until Committee III had discussed the whole thing and reported its opinion on whether it was not in fact inadvisable to sever facts which had been disclosed in trials of quislings and traitors entirely from the question of war criminals proper. It may turn out that the result of the trials of quislings might be more relevant to the problem of human rights than the information which could be collected from the trials of war criminals proper. He submitted that if the Commission was not in a position to deal with these questions then hardly any organisation in the world was.

THE CHAIRMAN said that was true but regarding quislings and traitors, they had no special information or material about them and they had not devoted their minds to them.

H. DE BAER said that certainly none of them had been indifferent to the question of the punishment of quislings and traitors, he thought all in the Commission had been extremely interested in the punishment of war criminals and considered this very closely related to the question of the punishment of quislings and traitors. He felt therefore that the Commission could certainly express a view on it.

THE CHAIRMAN suggested that the Commission should approve the proposition up to a point and leave out the question of whether the report should include information arising from trials of quislings and traitors for consideration at a later date when they had more information and better opportunities of seeing how far they could go. It was really almost entirely up to the different governments concerned on that point and while not turning down definitely the question of quislings and traitors they should consider what they could do before they assumed that part of the task.

This was unanimously agreed.

SIR ROBERT CRAIGIE said in replying to Professor Humphrey the Secretary-General should say that they would do their best to undertake the task so far as war criminals were concerned. So far as quislings and traitors were concerned, he should say that they would give further consideration to the matter when they had on hand more information and let the United Nations know at a later date.

THE CHAIRMAN said they did not eliminate the question of quislings and traitors; they simply adjourned it and would of course give all possible help to the United Nations.

SIR ROBERT CRAIGIE said if the United Nations wanted anything about the Tokyo war crimes trials they would have to wait until those trials were concluded and that would not be until December, if then.

The Secretary-General was instructed to send a suitable reply to Professor Humphrey.

REPRESENTATION BY YUGOSLAV MEMBER CONCERNING THE REFUSAL BY OCCUPYING AUTHORITIES TO SURRENDER WAR CRIMINALS TO HIS GOVERNMENT. DOC. C.256.

DR. ZIVKOVIC said it was his duty to communicate this case to the Commission and he had nothing to add to what he had already put in his letter. He did however wish to correct a mis-print, the name appearing as Blank should read Klant.

In putting the case before the Commission he left it entirely to the Commission to see how the situation could be remedied.

COLONEL SPRINGER said that the document C.256 was received by him only the previous afternoon, and he had not had time to study the case or to do much with it. So far as the Commission was concerned, he assumed its chief interest lay in the contention that the Commission's lists were not taken as conclusive evidence by the American occupying authorities. He would try to make his remarks as complete as possible but he did not have all the information that he should have at this meeting.

About a year and a half ago, the Commission circulated a document C.163 (1 January 1946) which included a letter from General Eisenhower's Headquarters, and that letter outlined the way in which war criminals held by the American authorities would be handed over on the request of other governments. He thought that was brought to the attention of each member and some slight discussion resulted. As far as he could discover, it was quite generally approved, and he believed that the question was handled in perhaps the same way in other occupation zones. In that letter the Theatre Judge Advocate was permitted through delegation of authority to make surrenders, transfers and extradition of requested war criminals after consultation with various other agencies in the theatre which necessarily had to be consulted. There was a group at Nuremberg and a group at Wiesbaden (now at Augsburg) which had to be consulted to make sure the requested criminal was not needed for trial in the American zone. That order prescribed that the Theatre Judge Advocate examine the records of the UNWCC, War Crimes Office in the Office of the JAG, CROWCASS, War Crimes Office in Washington, certain evidence and investigation sections, Central War Crimes Library G2, War Crimes Branch in Germany - so there were a number of consultations to take place, and also sometimes to be consulted was the legal division, U.S. Group control council, Germany. His understanding was that the Commission's lists were, as Dr. Zivkovic said, not treated as conclusive and the transfer was not automatic. His Government, like every other Government on the Commission, reserved the right to inquire into the case and make its own decision as to whether a transfer was to be made or not to be made. He did not think that attitude differed from that of any other member government, though if he were wrong he expected to be corrected. The information he had, in the short time he had had to inquire, was that the occupying authorities and officers involved in this were working hard to do the best job they could.

THE CHAIRMAN asked Colonel Springer if he would rather adjourn the discussion of this matter until he had discussed it more fully with his Government.

COLONEL SPRINGER said he thought it might be well to adjourn the question. He had stated all that was available to him at present.

THE CHAIRMAN said there had been very considerable discussion on this question in 1945 when Colonel Hodgson was United States representative and that had resulted in a letter from the Foreign Office which they had always referred to, and in Law No. 10 of the 20th December 1945. So far as he remembered, the member governments had never abandoned their right, or qualified their right, to decide whether they should hand over any particular accused person or not, and therefore never agreed to treat the Commission lists as conclusive. However, he thought it very sensible of Colonel Springer to suggest that it would be better to deal with the matter more fully at the next meeting.

COLONEL SPRINGER said he might not have additional information by then but he thought, with the Chairman's permission, the question might well be adjourned.

THE CHAIRMAN thought the Commission would agree to that whole question being adjourned until the next meeting.

FORMAL APPROVAL OF UNWCC LISTS NOS. 55 and 56.

The Commission's Lists Nos. 55 and 56, previously circulated, were formally approved.

REPORTS OF CHAIRMEN OF COMMITTEES.

M. DE BAER reported that Committee I had had three meetings since the Commission last met, on the 1st, 7th and 14th May. On the 1st May, 26 cases were treated involving 1,435 persons, on the 7th May, 113 cases involving 537 persons and on the 14th May, 37 cases involving 75 persons.

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UNITED NATIONS WAR CRIMES COMMISSIONMINUTES OF MEETING OF COMMISSION HELDWEDNESDAY, JUNE 11th, 1947 AT 3.00 p.m

CHAIRMAN:	Lord Wright	Australia
ALSO PRESENT:	Sir Robert Craigie	United Kingdom
	Colonel Springer	United States of America
	accompanied by	
	Mr. Kintner	Australia
	Mr. Bridgland	Belgium
	M. de Baer	Czechoslovakia
	Dr. Neumann	India
	Mr. Dutt	Norway
	Mr. Aars-Rynning	New Zealand
	Mr. Burdekin	Netherlands
	Commander Mouton	Poland
	Colonel Muszkat	Yugoslavia
	M. Zimonjic	
	accompanied by	
	M. Milenkovic	Judge Advocate General's Office,
	Colonel Halse	United Kingdom.
	Mr. Meigh	Messrs. Howard Howes Ltd.
		(Accountants).

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

M. Maillard	France
Mr. Dao	China
Mr. Leger	Canada
Dr. Schram-Nielsen	Denmark
M. Dimitzas	Greece

MINUTES

Minutes of meeting held on Thursday, 24th April, 1947, M.126 were approved and signed.

Amendments to Minutes of Meeting held on Wednesday, 21st May, 1947, M.127, were received from Colonel Springer and Sir Robert Craigie and will be incorporated in the final text.

DEATH OF LADY HURST.

Before dealing with the business on the Agenda, the Chairman referred to the recent death of Lady Hurst, a fact which they all deplored. Lady Hurst was the wife of their distinguished friend, and the Chairman's predecessor as Chairman, Sir Cecil Hurst. The Chairman thought all members would join with him in expressing their sincere regrets and condolences to Sir Cecil Hurst, their dear and respected friend. With the sanction of the Commission, he would ask the Secretary General to write a letter to Sir Cecil Hurst conveying their deep sympathy.

M. DE BAER said that as one of the original members of the Commission he would like to second the Chairman's proposal.

MR. BURDEKIN thought they would all agree with what the Chairman had said.

SIR ROBERT CRAIGIE said he would like to say a special word because he had been associated with Sir Cecil Hurst not only in connection with

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war crimes work but throughout his whole career; he felt therefore very special sympathy with him in what he knew was a terrible loss.

BUDGET FOR THE FISCAL YEAR ENDING 31st MARCH 1948 (Doc. C.258).

SIR ROBERT CRAIGIE, Chairman of the Finance Committee recalled that a Preliminary Budget dated 21 February 1947 (Doc. C.244) for the fiscal year ending 31 March 1948 was presented at a meeting of the Commission on 5 March 1947 to enable members to acquaint their respective Governments in advance, of the approximate contributions which would be required from them for the forthcoming year.

The Final Budget dated 4 June 1947 (Doc. C.258) had been carefully examined by the Finance Committee at its meeting on 4 June when it was agreed that the total sum of £21,850, as estimated in the Preliminary Budget, should stand but that certain items within the Preliminary Budget should be revised as follows:-

The Transfer of £900 from item (9) to item 10(b)
" " " £1750 " " 10(b) " " (4) to cover

salaries of additional legal staff required mainly in connection with item 8.

So far as contributions from member governments were concerned, a surplus of £7050 from the year 1946/47 was estimated in the Preliminary Budget whereas the actual surplus was £7244, a difference of £194.

This would reduce the amounts shown in the Preliminary Budget as owing by member governments, by amounts varying from £67. 8. 1 in the cases of the United States of America and the United Kingdom, to a few shillings in the cases of countries with smaller numbers of units.

Sir Robert did not think it necessary to go into any further explanations because the paper (C.258) submitted to members, as being their proposed final Budget, was on exactly the same lines as the estimate they had had under consideration since last February.

THE CHAIRMAN said he did not know whether this was the appropriate time to mention a question of importance which would have to be considered by the Commission to-day. The Budget included salaries and as many members knew, they were losing next month, the very valuable services of Dr. Schwelb and it had become necessary to fill up, so far as possible, the gap, by appointing new members to the Secretariat's legal staff. He mentioned the appointment of Dr. Mayr-Harting which had been decided some time ago. The Finance Committee now recommended, subject to the Chairman's approval on a particular point, that Dr. Zivković, in view of his long and intimate association with the work of the Commission and of his legal experience and special qualifications, be invited to join the Secretariat of the Commission to assist in preparing a History of the Commission and in the legal work of the Commission with special reference to the "Collection and Publication of Information concerning Human Rights" for which the Commission has accepted the responsibility of preparing and submitting to the Division of Human Rights of the United Nations at their request. The position as he understood it, with regard to the particular point raised, was simply that Dr. Zivković had been the representative of Yugoslavia on the Commission for a considerable time - they had all benefited by his valuable help and services - but he had now resigned from this position under the Yugoslav Government and so far as any point was referred to him for his opinion, he had not been able to discover or been informed of any objection to Dr. Zivković being given the appointment by the Commission. With regard to the reservation made by the Finance Committee, the reservation dependent on his view as Chairman, his view was entirely in favour of the appointment. Dr. Zivković was a most admirable and

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SIR ROBERT CRAIGIE said, personally, he thought the Commission was very fortunate in being able to obtain the services of Dr. Živković, who had had three years with them, at the very moment when they were facing the loss of Dr. Schwelb. Not only would this appointment ease the burden of work of the remaining legal advisers but they would also have the advantage of collaboration with a man who knew their work and who would not have to start from the beginning. Sir Robert therefore hoped all members would agree that they were exceedingly fortunate in being able to make this appointment.

The appointment was unanimously approved.

M. DE BAER proposed that the Budget be passed as it stood.

THE CHAIRMAN seconded this proposal.

The Budget for the fiscal year ending 31st March 1948 (Doc. C.258) was unanimously approved.

WOLFENBUTTEL TRIAL (Doc. A.44)

THE CHAIRMAN said that the latest position had been clearly stated in a letter of the Legal Division of the Control Commission and Sir Robert Craigie, who had taken a very active part in this matter, would read that letter to members.

SIR ROBERT CRAIGIE said a letter dated 29th May 1947 from the Legal Division, Zonal Executive Offices, Control Commission for Germany (British Element) Herford, had been addressed to the Chief Legal Officer, HQ. MIL. GOV. Land NIEDERSACHSEN which read as follows:-

"The Belgian authorities have now applied for the extradition of a number of the accused in the above case as it is desired to charge them with specific war crimes against Belgian nationals which come within the provisions of Control Council Law No. 10. In view of this any further proceedings before the German Courts will be suspended.

"The Belgian authorities have been requested to supply details of the charges which will be preferred. This procedure is in accordance with the conclusions of the Legal Directorate at their 96th meeting held on 28 April 47 (see D LEG/1(47)19 Serial 164) and the statements made by the US and British members at that meeting.

"As soon as these details are received a final decision will be made on the question of the extradition of the individuals required. If the information supplied is satisfactory, and there is no reason to suppose that it will not be, extradition will be authorised. The Belgian authorities have already given an assurance that the proceedings before the German Court will be taken into account by the Belgian Tribunal".

Sir Robert hoped that these assurances would settle this question and would prove satisfactory to the Belgian Commissioner and his Government.

M. DE BAER said he wished to express his personal gratitude to Sir Robert for having taken this matter in hand and for having obtained what he considered very good results and he, personally, was very satisfied. The accused persons had not yet actually been delivered to the Belgian Government but they had reasons to believe that they would be surrendered. There was no doubt that his Government would appreciate very much what had been done.

COMMANDER MOUTON asked whether the proposed procedure did not involve an infringement of the terms of the Moscow Declaration.

THE CHAIRMAN said that the Moscow declaration had no reference at all, and was never considered to have any reference, to crimes committed against allied subjects by Germans or other enemies in Germany or other enemy countries and he would add that that view, which he had always understood and so far as he knew had always been acted upon, was fully confirmed in the words of the Moscow declaration which had been read to members by Dr. Schwelb.

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SIR ROBERT CRAIGIE said his own personal view/that he hoped this particular case of the Wolfenbüttel trial would be settled satisfactorily in this manner and that these particular individuals would be sent to stand their trial in Belgium. There was in his view a certain danger in cases coming before German courts which also involved crimes committed against other allied nationals, unless the authorities were on the watch. But in view of the letter which he had read he hoped that the authorities would be fully alive to the danger of such a thing happening and thus prevent men condemned for a crime against other Germans to a few months imprisonment by a German court escaping punishment for the crime in which they had killed, or ill-treated atrociously, numbers of other nationals.

COLONEL HALSE said, that before passing to the next point on the Agenda he would like to say that some slight alteration had been made in the British Zone in connection with extradition. He understood that in future, extradition would be done by the Control Commission and not by War Crimes Group (North West Europe); he thought there might be some little delay just at first during which people would not be handed over or extradited quite so expeditiously.

STATEMENT BY MONSIEUR M. DE BAER ON HIS VISIT TO THE UNITED NATIONS, LAKE SUCCESS, MAY 26 - 30.

THE CHAIRMAN said with reference to M. de Baer's trip to Lake Success, a subject on which M. de Baer would give them a full report, he would like to inform members of the reasons why they had not been consulted on the matter. The visit had to be made at very short notice and it was decided at an unexpected interview between such members of the Commission as could be got together and a representative of the United Nations, Professor Humphrey.

M. DE BAER, giving a report on his visit to the United Nations said he had had conversations with a number of members of the Legal Department and had discussed with Dr. Ivan Kerno and Dr. Liang the question of the relations of the United Nations War Crimes Commission with the Committee which is concerned with the codification of International Law, which was in session at the time of his visit to Lake Success. M. de Baer found that it is at present concerned merely with questions of procedure and methods, in which the United Nations War Crimes Commission is not concerned, but that before the Committee finishes its discussions it will propose that certain agencies should be consulted. As a result of M. de Baer's visit it was agreed that the United Nations War Crimes Commission should be put forward, for approval by the Committee, as one of the intergovernmental agencies to be consulted. The report of the Committee will go to the Assembly for approval and if it is passed this Commission will probably be charged with a mission on the same lines as that with which it has been charged by the Human Rights Division. A letter addressed to M. de Baer by Dr. Liang had already been circulated as Document A.48, and he believed that, if the Commission would be willing to undertake this task, it should start forthwith collecting information for the report.

As for individual members of the Commission joining the staff of the United Nations, it would be for the United Nations War Crimes Commission to make individual applications for their appointment when this Commission winds up.

M. DE BAER also arranged with the appropriate authorities that the United Nations War Crimes Commission should automatically receive all United Nations documents relating to human rights and the codification of international law.

Furthermore, M. de Baer had had conversations with Professor Laughier, Assistant Secretary General in charge of the Social Affairs, and with Professors Humphrey and Giraud of the Human Rights Division. For the present these gentlemen, including Professor Laughier seemed anxious to support the view that the United Nations War Crimes Commission should co-operate with the United Nations as an inter-governmental agency. For the future Professor Laughier had expressed the view that, with regard to the small budget of the War Crimes Commission, it might not be impossible for the United Nations to incorporate it in some way in the United Nations Secretariat, but he also said that this could only be done if the United Nations War Crimes Commission could show evidence that it had some useful contribution to make in the sphere of human rights. With this in view he said that the War Crimes Commission should send him, with the least possible delay, a programme of the work which it was intending to carry out.

THE CHAIRMAN said he was sure that all members were very grateful to M. de Baer for making the trip. He thought the position left something to be desired, questions of great importance had been raised and would require considerable thought. At present, he was not putting a concrete proposal before the Commission but at the same time would be very glad for any views which any member of the Commission felt disposed to put forward.

SIR ROBERT CRAIGIE said he also wished to express his deep appreciation of the excellent work which had been undertaken by M. de Baer, who had subjected himself to considerable physical and mental strain. It was of value to the Commission and to the United Nations that some form of liaison should have been established at that level. It was obvious that on these international matters on which they were all working, they wanted to avoid duplication but at the same time the great experience which the Commission had gained in its special field of activities should be something which would assist some of the activities of the United Nations. He would be very sorry to see this Commission ultimately go out of business without having placed on record, in some form which would be helpful to the United Nations, some of the fruits of its experience. The informal discussions which M. de Baer had had at Lake Success would, he believed, have laid the paving stones for future fruitful collaboration and he would therefore like to add his thanks and congratulations to those already expressed.

COMMANDER MOUTON said he could say, personally, that he was very grateful for the contacts which had been made by M. de Baer and looked forward to this collaboration which seemed to be very useful. He did hope that those preliminary discussions would result in some facts eventually.

TRANSLATION OF THE LAW REPORTS.

M. DE BAER said that he would like to mention that they had started the French edition of the Law Reports and in about a months time the first volume would be ready. The Belgian Government had been good enough to supply an experienced Secretary and he thought that this work would be very helpful and useful in the French speaking countries.

Mr. Dutt left the meeting at this point.

RECALL OF MR. BURDEKIN

THE CHAIRMAN said that a letter dated 5th June had been received from the New Zealand Government in which it was stated that Mr. Burdekin would cease to be the New Zealand Representative on the UNWCC after the 15th June and, that owing to the Dominion's limited interest in the work still remaining to be done by the Commission, and the fact that no suitable person with any knowledge of war crimes matters was available in London, no successor

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would be appointed. The Chairman said he was sure that the Commission would take this opportunity of expressing their deep regret at being deprived of Mr. Burdekin's presence and services and to thank him for the help he had given to the Commission during his long service - the Chairman thought he was right in saying that Mr. Burdekin was the only original member of the Commission surviving, unless M. de Baer shared that honour with him - The Chairman said, that with reference to the time he had been Chairman, he would like to say that he had derived the greatest enjoyment from what they had done together and he felt the greatest sense of indebtedness to Mr. Burdekin for his help and consistent attendance at meetings - he could scarcely remember a time when Mr. Burdekin had not attended and expressed his views to the benefit of the Commission. He was sure that the Commission would join with him in a hearty vote of thanks to Mr. Burdekin.

M. DE BAER said they were certainly losing an old friend and they would all be sorry, moreover, they were losing a very valuable collaborator whose wise advice had always proved to be of great weight.

THE CHAIRMAN said he was sure that the vote, moved and seconded, would be passed with acclamation.

MR. BURDEKIN said he was very grateful to the Chairman and M. de Baer for the kind remarks made though he felt that he had not been a particularly useful member, however, he had certainly enjoyed his connection with the Commission and the friendly relations which had always existed between members. He had no very wide experience of International bodies, but among the ones he did know he could not think of one having the spirit of collaboration so marked as it was in the Commission and that was an encouragement that in wider fields also the same spirit of collaboration would prevail. He thanked members for what had been said and said that when he left for New Zealand next week he would carry very happy recollections of his association with the Commission with him. He wished the Commission every success in its work both in connection with war crimes and for its future collaboration with the United Nations.

COLLECTION OF INFORMATION CONCERNING HUMAN RIGHTS (DOC. C.259).

THE CHAIRMAN said that members would remember that at an earlier meeting it had been decided by the Commission to assume the responsibility for a particular work which the United Nations has asked them to undertake, i.e. the work of delivering a report from the Commission in connection with the collection and publication of information concerning human rights arising from trials of war criminals, quislings and traitors and in particular from the Nuremberg and Tokyo trials. The resolution of the Commission was that they would accept responsibility as requested as far as information arising from trials of war criminals was concerned and postpone its decision with regard to quislings and traitors. Since then he had felt, important and desirable as it was to work at some such report, that the Commission could not bind itself to a proposition of that sort unless it had the authority of member governments to that effect. However he did not know that he had any reason to think that member governments would not support that, but there still remained some loose ends to be gathered up - the question of quislings and traitors and their trials and information arising from that. He thought everyone had received the very valuable memorandum prepared by Dr. Schwelb on crimes against human rights but for the moment he thought they would like to hear what the Chairman of Committee III had to say on this topic.

SIR ROBERT CRAIGIE said Committee III had, in accordance with the discussion of the Commission, examined this whole question very carefully on the basis of an excellent paper which was prepared and communicated to it by Dr. Schwelb in collaboration with other members of the legal Secretariat.

On the main question which was put to this Commission, namely whether their inquiries should extend beyond the trials of war criminals proper, whether they should also go into the trials of quislings and traitors, the Committee, after careful consideration of the pros and cons, came to the conclusion that the best solution would be, at all events in the first instance, that the Committee should investigate only those trials of quislings and traitors where a war crime or a crime against humanity had been committed in addition to the crime of treachery. It was clear that if they did not cover all relevant trials where war crimes had been committed then they would not be covering all the ground the United Nations had asked them to cover. Moreover, they felt in Committee III that such trials came quite definitely within the purview of the Commission.

So far as war crimes were concerned they could be expected to make some useful contribution, but when they came to the question of trials of quislings and traitors which did not at the same time contain any elements of war crimes proper the whole question became very much more doubtful and was apt to raise questions of highly political matters and often very delicate questions, and they would perhaps, if not careful, be entering on ground where angels feared to tread. Moreover, they came to the conclusion that probably most of the ground would be covered if they could only get hold of the transcripts of trials where war crimes proper or crimes against humanity had been committed. They would not be covering one hundred per cent of the ground which they were asked to cover by the United Nations because they spoke of war crimes and quislings and traitors, but they would be covering most of it. Committee III felt at all events that it was the first step to take. It might find the ground was so vast that, even within that scope, the Commission would have a very heavy task and indeed would be well advised to limit itself to that in the first instance.

The paper which members had before them, which was based on a draft by Dr. Schwelb and other members of the legal Secretariat and amended as the result of discussions in Committee III was still in tentative form. Dr. Schwelb's paper was of considerable importance and they wanted to make it as clear and concise as possible. At this stage, he was only asking the Commission, as Chairman of Committee III, to consider the paper in its general lines and if they felt so disposed, to give their approval in principle to the scope of the inquiry which was outlined therein and leave it to Committee III and to the Secretariat to make such purely verbal amendments, and amendments in the order of the paper as may seem desirable for purposes of greater clarity. The procedure suggested was that, if approval was given by the Commission, the document would be sent in the first instance to the United Nations Secretariat in order to give the Commission on Human Rights an idea of the scope of the inquiry which is proposed, and to give the Secretariat of the Human Rights Commission an opportunity to offer any observations which might be of value. He did not propose to go into the details of the paper any further at this stage and, with the Chairman's permission would like to ask Dr. Schwelb to develop the matters contained in the paper. He did this because they would not have Dr. Schwelb with them very much longer and he thought the Commission would like to have his considered statement on the subject before he joined the staff of the United Nations.

DR. SCHWELB said that he would not take up the Commission's time in reading out or explaining what was contained in the report by Committee III, Doc. C.259, which was before them. He only wanted to add that some information concerning the Resolution of the Economic and Social Council quoted in section I of C.259, had come to the knowledge of the Secretariat very recently. He referred to an enquiry made by the Secretariat of the United Nations War Crimes Commission of the Distribution Section of the United Nations Secretariat and the reply received and circulated under Doc. III/94. From the extracts from the Minutes of the so-called "Nuclear Commission on Human Rights", it appeared that the idea to collect this material originated from Professor Cassin, who had been French representative on the United Nations War Crimes Commission. Mr. Hsia, member of the Nuclear Commission for China and Chairman of the Far Eastern Sub-Commission of the United Nations War Crimes Commission, had also taken part in the preliminary discussion. The proposal to collect the material from trials other than Nuremberg and Tokyo originated from the Belgian delegate, M. Dehoussé, while M. Bousquet had suggested that the trials of quislings and traitors

On the main question which was put to this Commission, namely whether their inquiries should extend beyond the trials of war criminals proper, whether they should also go into the trials of quislings and traitors, the Committee, after careful consideration of the pros and cons, came to the conclusion that the best solution would be, at all events in the first instance, that the Committee should investigate only those trials of quislings and traitors where a war crime or a crime against humanity had been committed in addition to the crime of treachery. It was clear that if they did not cover all relevant trials where war crimes had been committed then they would not be covering all the ground the United Nations had asked them to cover. Moreover, they felt in Committee III that such trials came quite definitely within the purview of the Commission.

So far as war crimes were concerned they could be expected to make some useful contribution, but when they came to the question of trials of quislings and traitors which did not at the same time contain any elements of war crimes proper, the whole question became very much more doubtful and was apt to raise questions of highly political matters and often very delicate questions, and they would perhaps, if not careful, be entering on ground where angels feared to tread. Moreover, they came to the conclusion that probably most of the ground would be covered if they could only get hold of the transcripts of trials where war crimes proper or crimes against humanity had been committed. They would not be covering one hundred per cent of the ground which they were asked to cover by the United Nations because they spoke of war crimes and quislings and traitors, but they would be covering most of it. Committee III felt at all events that it was the first step to take. It might find the ground was so vast that, even within that scope, the Commission would have a very heavy task and indeed would be well advised to limit itself to that in the first instance.

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should also be studied.

From the proceedings of the Nuclear Commission, summarised in Doc. III/94, it appeared that the general attitude as to the relationship between the concept of "crimes against humanity" and "human rights" which had been held by Committee III of the United Nations War Crimes Commission for a considerable time and expressed in many documents, had also been in the minds of the representatives taking part in the Nuclear Human Rights Commission of the United Nations. Both bodies had taken the view that the trials of war criminals and perpetrators of crimes against humanity were not ends in themselves, but that the legal provisions regarding war crimes and particularly crimes against humanity, had, as its object, the protection of basic human rights through the machinery of criminal law.

In reporting on the material concerning human rights arising from trials of war criminals, etc., the United Nations War Crimes Commission would therefore not undertake work which was alien to its general purpose but, on the contrary, would assist in making the proper use of it for the development of international law and the protection of human rights.

THE CHAIRMAN thanked Dr. Schwelb for the very interesting statement he had made and asked whether he favoured any special recommendation of selection with regard to quislings and traitors because at least in his mind, the number of these trials would be extremely large. He thought it might be a good thing to have Committee III select appropriate cases which sufficiently brought out the point. That was the only way in which it could be made practicable. If they were to limit their operations to selected cases it might well be that that would be desirable work for the Commission to undertake.

DR. SCHWELB replied that the report of Committee III suggested a two-fold selection from the immense mass of material, namely:

- (a) in general, in section IX, the restriction to trials illustrative of certain questions enumerated in paragraphs (a) to (h), and
- (b) in section V, the restriction of the material concerning quislings and traitors to such as concerned war crimes and crimes against humanity.

THE CHAIRMAN said if they had in mind a selection, that would cover the difficulties he had had in mind.

DR. SCHWELB referred to the text of the Report where it was stated very expressly that an indiscriminate collection of material would not meet the purpose.

THE CHAIRMAN said the whole point was that there would be a selection according to the restricted plan which he thought they would all approve of. It was important that the work should be undertaken within the limits practicable from the point of view of the staff of the Committee III. He gathered the feeling of the Commission was that it should undertake the collection of information concerning human rights arising from selected trials of war criminals, quislings and traitors and as a result issue a report and add from the trials of war criminals, quislings and traitors, namely quislings and traitors whose acts were in connection with infringements of human rights and war crimes. In that way it appealed to him much more than the previous proposal. He gathered the feeling of the Commission was to approve item 6 of the present agenda construed in the light of the report of Committee III(C.259).

SIR ROBERT CRAIGIE said he would like to know whether anybody had any observations to make on the paper in its final form and in particular in regard to its conclusions which began on page 9 and if approved, then they would get to work as soon as possible.

THE CHAIRMAN understood that they had agreed on the distribution of work among different members of the staff. The point was: was the scheme to have the approval and support of the Commission.

COLONEL SPRINGER had difficulty in understanding why the request in this matter of Human Rights should have included material connected with the trial of quislings and traitors. He could understand the request very well in connection with the war crimes trials because the Commission's jurisdiction was generally restricted to trials of that nature and did not include other trials. Nevertheless, he felt that the Commission could at least give tentative approval to the Committee's recommendations since the Committee proposed to restrict the field of inquiry and would, he assumed, present its report to the Commission for final approval.

SIR ROBERT CRAIGIE thought, ideally, it would be very valuable if they were able to consider results of all trials of quislings and traitors and their bearing on human rights and at the same time consider trials of war crimes proper but there was considerable difficulty in the way. In the first place, the actual task of dealing with war crimes trials proper and crimes against humanity, even limited as proposed in the paper and with a selective definition, would be very vast and perhaps there would prove to be almost more than the Secretariat of the Commission would be able to deal with. Moreover it might be the part of wisdom to start with the material as defined in that paper and leave the door open to consider other trials later on, if the result of their experience should show that that was really necessary. The trials of quislings and traitors very often dealt purely with questions of treachery and internal matters of the state concerned and were apt to raise very difficult political questions, some governments might not wish to communicate transcripts of such trials to the Commission and some governments might not wish to be asked for transcripts. For those two reasons he felt, and he considered it the feeling of members of Committee III, that it would be better in the first instance to limit the report to such trials of quislings and traitors as also contained the element of war crimes or crimes against humanity.

COLONEL SPRINGER appreciated that an investigation of the mass of material might be too great and that delicate political questions might arise. Why did Committee III not recommend an answer to the inquiring agency of the United Nations that, since only war criminal cases were considered here, the Commission felt itself competent and well informed only to the extent of accepting the report on human rights connected with war criminal cases and just to eliminate the other two types.

SIR ROBERT CRAIGIE said, in this paper, which would constitute their first answer to the United Nations, they did say that they proposed to deal with trials of quislings and traitors only in so far as they contained the element of war crimes. This was definitely within the competence of the Commission. Secondly, they considered, as far as they could see at present, in practice those trials would cover most of the ground. He entirely agreed with Colonel Springer that in sending a copy of it to the United Nations they might well elaborate that point rather further, namely that as Colonel Springer said, they did not close the door to extending the enquiry further at a later date, should it be found necessary.

THE CHAIRMAN said it was quite obvious that these questions would lead to further discussion and he would suggest postponing the discussion until the next meeting.

COLONEL SPRINGER said he fully agreed with the Chairman's suggestion.

SIR ROBERT CRAIGIE believed that as a result of the Commission having agreed to undertake the task as they did at the meeting of 21 May, Professor Humphrey had been further informed that this work would be going forward. It might be a little awkward if, at this stage, there was a delay, particularly as they had been asked whether the Commission could let the United Nations Secretariat have a progress report by next August. He just mentioned these points as possible objections. He thought, so far as the United Kingdom Government was concerned, they would see no objection to the Commission doing the work, provided it was done with the existing resources and did not interfere with their other work. He did not think the United Kingdom Government would wish to see any extension of the life of the Commission merely to deal with the question of human rights but that did not prevent them from making an effort and producing something in the time

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available. If after several months, they should have been able to produce nothing, and the time would be coming to an end, they would have failed, but he thought they would be able to produce something and there was, as Dr. Schwelb had said, no other body in the world able to do this particular work. If they did not undertake it it probably would not be undertaken at all. His view was that the United Nations War Crimes Commission should go ahead as the Commission had already decided. If the question of an extension of the life of the Commission resulting from it came up later, it would have to be faced then.

COMMANDER MOUTON suggested that they come to a decision that day because time was short. He thought they should limit the report to material available to the Commission now, i.e. war crimes committed as reported to the Commission and not bother governments about quisling and traitor cases where perhaps war crimes might be hidden somewhere. They had a lot of material and he thought that if they worked on that they should be able to produce a useful report. He suggested, that in answering the United Nations they should say that they were prepared to make a report with the material available now.

THE CHAIRMAN thought, in view of the rather serious questions raised, and with regard to the future activities of the Commission, it would be better to resume this discussion the next week with a formal vote. The vote would be on the questions whether the Commission should undertake the whole extent of the report as defined in Doc. C.259 or whether they should undertake the more limited task as proposed by Commander Mouton. He suggested that next Wednesday at the usual time they hold a meeting of the Commission and vote on the two alternatives proposed.

SIR ROBERT CRAIGIE said he would suggest an addition to what the Chairman had just said, Committee III would like, not merely a vote on the two alternatives but a vote on the whole paper which had been produced with a great deal of care and which did define the limits within which they proposed the report should be made. If they had that, they could go ahead, probably amend the paper slightly and re-circulate it before the next meeting.

THE CHAIRMAN said he was not sure how he could bring Commander Mouton's proposal into a vote of the Commission, or how Committee III could be limited to compiling a report on the lines specified.

COMMANDER MOUTON said his proposal meant that they could work within the scope of the paper produced by Committee III and limit themselves to what was said in Doc. C.259.

SIR ROBERT CRAIGIE said they could easily amend Doc. C.259.

It was agreed that this question be adjourned for reconsideration at the next meeting, which would be held at 3 p.m. on Wednesday June 18, 1947.

FORMAL APPROVAL OF UNWCC LIST NO. 57.

The Commission's 57th List was formally approved.

Wright

UNITED NATIONS WAR CRIMES COMMISSIONMINUTES OF MEETING OF COMMISSION HELDWEDNESDAY, JUNE 18th, 1947 AT 3.00 PM

CHAIRMAN	Lord Wright	Australia
ALSO PRESENT	Sir Robert Craigie	United Kingdom
	Colonel Springer	United States of America
	accompanied by	
	Mr. Kintner	
	M. Maillard	France
	Mr. Y. S. Chen	China
	Mr. Bridgland	Australia
	M. de Baer	Belgium
	Mr. Leger	Canada
	Dr. Neumann	Czechoslovakia
	M. Dimitzas	Greece
	Mr. Dutt	India
	Commander Mouton	Netherlands
	Mr. Aars-Rynning	Norway
	Colonel Muszkat	Poland
	M. Zimonjić	Yugoslavia

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

Dr. Sohrum-Nielsen	Denmark
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MINUTES

Minutes of meeting held on Wednesday, 21st May, 1947 - M.127 were approved and signed.

Amendments to minutes of meeting held on Wednesday, 11th June, 1947 - M.128 - were received from Sir Robert Craigie and Colonel Springer and will be incorporated in the final text.

The Chairman said that with the approval of members he would take item 5 of the Agenda first.

EXPLOITATION OF THE BLACK MARKET AS A WAR CRIME, FRENCH CASE NO: 4695 - REPORT BY COMMITTEE III (DOC. C.260)

THE CHAIRMAN said that the Commission had to consider the report of Committee III, which he had read with some care and although he agreed with its substantial and relevant conclusions, he could not help feeling that questions of precise construction might well be left out. His feeling was, (and he had thought about it with some care and in detail) that it was very undesirable for instance to pin down the word "pillage" in the Hague Convention, and in doing so to disregard the wider and more modern and practical view of the particular offence which would be found in the Charter, in Law No. 10 and in the Nuremberg Judgment. He was in sympathy with the statement which was set out in the French case, which treated the offence as a composite offence with two facets, one of which was the illegal or undue requisition or confiscation, and the other the use of the proceeds of confiscation for the purpose of getting the goods in the black market. It was all only machinery for the purpose of stripping the country of its wealth and paying for it in the money which had been unlawfully requisitioned. He knew it was said that on the black market the man who was concerned was quite free to sell and get full value but he did not think that really met the view of International Law; it might do very well in an ordinary court where matters were regulated by ordinary rules of contract, but the French case concluded that the Veltjens organisation enabled the German war economy completely to drain the internal markets of the occupied countries without prejudicing the German finances. In his view that conclusion shewed, if it was made out an offence under 5 of the Charter and he thought also an offence within the meaning of the Nuremberg

Judgment and within Law No. 10. He thought it was unnecessary that the Commission should commit itself to a precise or definite definition of the word "pillage", which was used without definition in the Hague Convention, it was a very wide term and he was against any narrow or precise definition of the word in the Hague Convention. He agreed that the French case set out a composite charge of war crime. How far the case showed a prima facie charge against any individual was for Committee I to decide on the facts stated. The Chairman asked Monsieur Maillard whether the trial would be before a French Court.

M. MAILLARD said yes.

THE CHAIRMAN said that the Commission could only deal with International Law and he thought an international offence was quite properly stated in the French case mentioned. He could say that he agreed with the general conclusion of the report but he was not ready to accept all its language or definitions. Very few alterations would meet all his difficulties. He thought it a very admirable report, as was everything Dr. Schwelb did. The Chairman wondered whether they should reserve the report for further consideration.

M. MAILLARD thought so and said that what the Chairman had said covered, up to a certain extent, the objections of the French, with regard to queries which might arise with regard to International Law.

THE CHAIRMAN said that International Law always looked at the substance of a transaction.

SIR ROBERT CRAIGIE, speaking as Chairman of Committee III, said he would like to say that the paper (Doc. C.260) was produced by Committee III, and as he understood it the Chairman agreed generally with the conclusions but took exception to the definition given to the words "pillage" or "plunder". He was not clear that it was really essential in the body of the document to define pillage except as a thing which would have undesirable repercussions and he would have thought it quite easy to amend the document so as to omit reference to this aspect of the question, and if that was what the Chairman had in mind he thought they could amend it so as to take account of the Chairman's observations.

THE CHAIRMAN said that was what he was suggesting. The report was admirable but it had to be analysed together with the Hague Convention, Law No. 10, the Charter and with the recent Nuremberg trial indictments. He had done this and come to the conclusion, fully as he agreed with many passages, that it might be better if the Doc. C.260 were slightly amended.

M. DE BAER said that it had been at his request that this question had been sent to Committee III. What interested him, as the Chairman of Committee I, was the conclusion, and he saw with much satisfaction that, according to the views of Committee III, the head man was certainly responsible for a war crime. In his view, heads of all organisations trained to plunder France should be put on List "A". As to the theoretical view, he was very interested in hearing what the Chairman had said and shared his view that it was not necessary for the Commission to commit itself to a narrow interpretation. In later agreements, they did not use "pillage" at all, they used "plunder" which term did not to his mind necessarily imply violence. Moreover, there was one thing they must not forget, "pillage" and the French word "pillage" though the same words, did not necessarily mean the same thing. The international view of pillage might be quite different from the French meaning and he would therefore like to support the Chairman and Sir Robert Craigie and propose that the paper, C.260, be sent back to Committee III, and eventually recirculated, with the definition of pillage omitted or modified in such a way so as not to limit its interpretation.

SIR ROBERT CRAIGIE said it would be necessary to omit it. They could not lay down that if an adequate price was paid for particular articles the action constituted pillage, they would therefore have to leave the reference to pillage out altogether.

THE CHAIRMAN said they should not say that it did constitute pillage, they could say it might. The word could be omitted, and he agreed complete that the best thing would be to omit any reference to it.

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SIR ROBERT CRAIGIE said they could do that, the only thing was that the French case mentioned definite economic pillage.

THE CHAIRMAN said he thought they were right to do so and he would leave that matter to Committee III.

M. DE BAER said he took it that the Commission agreed with the conclusion of C.260 and Committee I could proceed with the listing of the individuals.

THE CHAIRMAN agreed, and thought all other members agreed with the conclusion which was very full and put very clearly in this case.

M. DE BAER said Committee I only considered the conclusion and that conclusion he understood had been decided and agreed upon.

THE CHAIRMAN said no one had objected to the conclusion and he thought they could therefore say that it had been accepted.

COLLECTION OF INFORMATION CONCERNING HUMAN RIGHTS ARISING FROM TRIALS OF WAR CRIMINALS, QUISLINGS AND TRAITORS (DOC. C.259 and A.50).

THE CHAIRMAN recalled that it was the third time this question had come up. Commander Mouton had made a proposal at the last meeting when they had adjourned. What was really in question was the proposal of Committee III set out in para XIV of Doc. C.259.

SIR ROBERT CRAIGIE said at the last meeting, the Commission were asked whether they would agree to the report (C.259) in principle, subject to various drafting amendments which would be necessary. It was finally decided to adjourn the whole question until this meeting and in the meantime he had been asked to make such drafting amendments as might seem necessary in order perhaps to clarify the paper a little more. These amendments were proposed in Doc. A.50.

There were few amendments to the substance of the paper, it was really a question of clarification, of putting different subjects into different sections. In the first section amended, section IV of A.50, members would see they said definitely that in the view of Committee III they should only deal with trials of quislings and traitors in so far as they also contained elements of war crimes, and then section V dealt at some length with the question of jurisdiction, which however, did not arise at this stage, for, clearly, where trials of quislings and traitors included the commission of a war crime they came within the jurisdiction of the Commission. There could only be any doubt if they dealt with trials of quislings and traitors solely on the basis of treachery and they therefore decided to put in section V really for purposes of record. In section VI they gave some of the arguments which were brought forward during a meeting of the Committee in favour of including trials of quislings and traitors, even though not concerned with war crimes. That was a question of record also, so that really the report began with Section VII. In this section, the only change of substance was that he had ventured to omit any reference to the suggestion that Governments should be asked to obtain for the Commission, records of trials of quislings and traitors which had appeared in courts of Allied or ex-enemy countries. There might be some difficulty in obtaining such trials and the Foreign Office, whom he had consulted, felt that on the whole it would be better not to include any reference to that in the report. It would always be possible for the Commission, at a later stage if thought desirable, to obtain a copy of a report of some trial which the Commission thought might be of some special interest for its investigations. That was the only change in substance. One other point of substance - if members turned to page 10 of C.259 - it was suggested to omit the last two paragraphs on page 10, "only if the necessary material etc. ..." It was hardly necessary to say that. It stood to reason that if they did not get all the material, their work could not be absolutely complete. With regard to sub-para 5, he thought it probably would be unwise to put that in.

THE CHAIRMAN said he was very much obliged to Sir Robert for his statement and wondered whether they could now hear Commander Mouton's propositions

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COMMANDER MOUTON said his idea was that the Commission might shorten their enormous work by using only material available here, instead of asking different governments to supply more. For instance, where his own Government was concerned, they had reported all cases of traitors if they had committed war crimes so that these cases inevitably would be in the report of the Committee and available to the Commission. He thought it would be quicker to use material actually in the Commission, it would still be an enormous amount of material, but if they took on their shoulders the matter of asking governments for transcripts, he thought it would cause considerable delay.

SIR ROBERT CRAIGIE said the purpose of Doc. C.259 was to suggest that they should at all events start with material in the Commission, but they did not want to exclude asking for a report on some particular trial, which might assist the Secretariat in its work. They quite agreed that they should limit themselves to the material available.

THE CHAIRMAN said that the effect of this scheme might be to prolong the life of the Commission. The schemes they had for winding up the Commission, a matter which was reserved for consideration on 1st November, did not contemplate any such extension of the Commission's activities or responsibilities. The Commission had come to the conclusion that it ought, to some degree, to satisfy the request of the United Nations; that was the view of the Commission. They were, of course, an independent corporate international body and they had, subject to certain limitations, the right of regulating their proceedings and scope of their activities. He thought Commander Mouton was right in suggesting that they should as their first objective limit themselves to the material illustrative of human rights so far as they had the material already at hand. That, he thought, was Commander Mouton's proposal, and he would ask the Commission to pass a vote on it as a specific matter.

SIR ROBERT CRAIGIE asked whether the Chairman wished to exclude the possibility of going into other reports.

THE CHAIRMAN said he had stated "in the first instance". It was desirable to make that quite clear; unless they knew what they were discussing they were apt to get lost in ancillary proposals and become confused. He thought Commander Mouton might be called upon to formulate his proposal and put it to the Commission as a substantive motion.

COLONEL MUSZKAT said he was entirely in agreement with the Chairman's point of view but thought it was desirable to prepare a questionnaire because it was impossible for the Commission to arrange a new task like this if they received a flow of reports from different countries. So far as Poland was concerned he said they had about 10,000 reports to present to the Commission. If they undertook the task of preparing a report his opinion was that it would be necessary to work out in Committee III a questionnaire so that they would receive only reports of definite interest to the Commission from the different governments.

THE CHAIRMAN thought it would be better to discuss that after Commander Mouton's proposal had been put to the Commission.

COMMANDER MOUTON said his proposal was that in answering the request of the United Nations they should for the time being, limit themselves to the material available here, which material contained many cases of war crimes committed both by war criminals proper and war crimes committed by traitors, so far as he knew, and that they should perform this task within the report of Committee III. The recommendations by Committee III (Doc. C.259 and A.50) should therefore be accepted subject to the proviso that for the time being the work of analysis should be concentrated on the material already in the possession of the Commission.

THE CHAIRMAN said he would second Commander Mouton's proposal.

M. DE BAER said he certainly agreed that they should limit themselves to the material they had available for the time being, but he would not like to exclude expressly information of crimes committed by quislings. He therefore welcomed the words of this second paragraph in No. XIV, but he did believe that the time would come when they would find it desirable to get information on the crimes of some quislings because there were some cases where he could not see a very clear distinction between quislings and war crimes. For instance the

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usurpation of sovereign rights, that was a war crime according to the 1919 list. Commander Mouton said he had reported to Committee I all cases of quislings who had committed war crimes - he wondered whether Commander Mouton had not overlooked the fact that usurpation of sovereignty was a war crime when it was committed by an enemy and treason when committed by a national, because usurpation of sovereignty raised so many questions that it seemed to him that it would be very complicated.

THE CHAIRMAN said the question of disentangling the charges against people accused of war crimes from those against quislings raised difficulties and complications, and these difficulties would be much reduced if the Commission decided to proceed on the lines of Commander Mouton's proposition and only deal with such charges as were available now - after all, they were not undertaking to write a history or detailed analysis of all detailed offences, they would certainly sort out from the mass of information the important principles and he thought they should say, in specific terms, that they would undertake such a scheme as Commander Mouton proposed qualified, perhaps, as time went on by further collections. He saw nothing impossible and much desirable in the limited and circumscribed proposal which they had heard from Commander Mouton.

COLONEL SPRINGER asked, if the amendment was adopted did the Chairman feel that the collection could be made and the report prepared without prolonging the life of the Commission. He had no instructions from his Government but felt satisfied that they would not favour any scheme which would prolong the life of the Commission indefinitely.

THE CHAIRMAN said, to deal with this proposition might tend to prolong the life of the Commission.

COLONEL SPRINGER asked whether this applied to the proposal even as amended.

THE CHAIRMAN answered: yes.

SIR ROBERT CRAIGIE said he agreed with Colonel Springer with regard to the question of prolonging the life of the Commission. His Government was not in favour of the Commission undertaking this task if it meant a substantial prolongation of the life of the Commission. As long as the Commission was in being and able to undertake the task, his Government felt a useful work might be performed. If it was going to cause a considerable prolongation of the life of the Commission his Government would not favour it.

THE CHAIRMAN said he had certain responsibilities in this matter. The report on Human Rights was not the only work they had to do. Colonel Hodgson had pointed out that two of the main purposes which the Commission had to serve was the writing of its History, which properly ought to be a history of war crimes during the war just ended and the publication of Law Reports - that had to be done and they had only a limited number of people to do it. If they were working on other reports they could not be working at their main business, therefore it might postpone the completion of that which they had to complete.

DR. NEUMANN said they were not deciding the life of the Commission that day. He thought they should not limit themselves in the manner proposed. He was not in favour of giving the United Nations just a limited answer and therefore he thought that each member of the Commission should co-operate with the Secretariat in the performance of the full task requested by the United Nations.

THE CHAIRMAN said he was going to put, as a substantive motion, that the Commission either accept or reject the proposal made by Commander Mouton.

MR. DUTT said he was afraid he could not vote either for or against. As the Chairman had explained, he was rather in a quandary as to the extension of the life of the Commission; his limit was the financial year which had just been approved (March 31, 1948) and to anything beyond that he could not agree without referring to his Government.

A vote on Commander Mouton's proposal which had been seconded

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by the Chairman was taken and showed the following result:

In favour: 10 U. S. A., Canada, Australia, Holland,
Norway, Poland, Yugoslavia, China, Belgium,
United Kingdom.

Abstain: 4 France, Greece, Czechoslovakia, India.

Absent: 3 Denmark, Luxembourg, New Zealand.

SIR ROBERT CRAIGIE said his vote in favour of the proposal was on the understanding that the life of the Commission would not be prolonged in consequence of the report. His position was rather similar to Mr. Dutt's; if they must assume that this work would necessarily prolong the life of the Commission beyond the end of the financial year he would have to seek further instructions.

THE CHAIRMAN said that there was a risk it might prolong the life of the Commission, for the reasons already given: they had a limited staff and if they were working at the Human Rights report they could not be doing the work which he thought it was essential to do before the Commission was wound up.

COMMANDER MOUTON said he had no instructions to vote for prolonging the life of the Commission, in fact he thought his Government was particularly keen to finish work on the Commission as soon as possible. His only object was to try to hurry up the making of the report in order to be ready in time.

THE CHAIRMAN said he quite understood Commander Mouton's proposal and his reasons for making it. He had seconded it but he felt he should point out that a possible consequence of undertaking the task might be to prolong the life of the Commission, how much, if the scheme were carried out completely and fully, he did not know. In contemplating the modified scheme he thought it might not involve a very long prolongation, but might involve some.

COLONEL MUSZKAT said he was in full agreement with Sir Robert Craigie. He thought the opinion of his Government would be, that it was not necessary to prolong the life of the Commission but it would be useful to start the report and if the Commission worked on it until the 31st March, 1948, he felt sure that if the work started now they would have produced a very useful report by that time. The work might possibly be continued in other international bodies, or in the United Nations Organisation, when the Commission closed down, he was therefore voting in favour of the proposal.

MR. BRIDGLAND said, surely, if member governments decided the work of the Commission should be terminated at a certain time, say early next year, the scope of the report being prepared for the United Nations would have to be limited accordingly.

M. DE BAER said that the Commission had already decided that it was going to undertake the preparation of a report on Human Rights for the United Nations, yet today, they were wondering whether they would shorten it. It seemed to him all to the good and he could not see there was any need for discussion on the future of the Commission in this matter. They had decided to undertake the work and Commander Mouton's proposal to restrict the scope of their investigations seemed to him very good, and he could not see any objection to it.

THE CHAIRMAN said that if they all agreed to limiting the inquiry in the way Commander Mouton had proposed, that still left over the inquiry which would have to be made in November as to how long the Commission was to last. It might be, that as a result of that inquiry, the Commission might be terminated, and the report would have to be out short. In other words, the decision to go on with the report was subject to the subsequent inquiry which was to be made in November with regard to how long the Commission was to survive. He had thought it necessary to emphasise the question of time so that there would be no misapprehension. He thought the situation was perfectly clear, there were 10 in favour of Commander Mouton's proposal and 4 abstentions.

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The Report, Doc. C.259, as amended by A.50 was accordingly accepted with the proviso suggested by Commander Mouton.

BRUSSELS CONFERENCE OF THE INTERNATIONAL BUREAU FOR THE UNIFICATION OF CRIMINAL LAW (DOC. MISC. 90) AND OF THE COMMISSION FOR THE STUDY OF CRIMES AGAINST INTERNATIONAL LAW (DOC. MISC. 93).

THE SECRETARY GENERAL read for the information of members the relevant extract from the letter which he had written to the Secretary General of the Belgian Ministry of Foreign Affairs and External Commerce in accordance with the conclusions arrived at by the Commission at its meeting held on 21 May, 1947:-

"Though the Commission regrets not being able to send a report on the items of the Agenda of the meeting as requested, it looks forward with great interest to seeing the conclusions of the conference when they are available, particularly as far as the second item on the Agenda is concerned (definition of crimes against humanity).

"The Commission will decide at a later meeting the question whether it will be in a position to avail itself of the kind invitation by sending observers to the meeting."

THE CHAIRMAN said he was not prepared to support, and he would ask members to reject, any decision on the matter which would involve taking away from regular attendance, any members of their staff. If there was to be an observer he thought the observer ought to be one of their representatives. He would have liked to have sent Dr. Litawski because he was sure that his observations would be most valuable but they could not spare him. It had occurred to him that as Colonel Muszkat was going to be in Brussels, he might add to his onerous obligations the obligation of attending these Conferences and reporting to the Commission.

M. DE BAER said he was sure that if Colonel Muszkat were kind enough to undertake this he would render the Commission an extremely valuable service.

COLONEL MUSZKAT said that if there was no other observer available he would consider it a very great honour and pleasure to be the Commission's observer at these conferences.

THE CHAIRMAN said the Commission would accept Colonel Muszkat's offer with pleasure.

REPORTS OF CHAIRMEN OF COMMITTEES.

M. DE BAER, Chairman of Committee I, said that Committee I had considered, at their last meeting, when Sir Robert Craigie had been kind enough to take the Chair, 162 cases involving 405 persons.

COLONEL SPRINGER inquired whether the number of cases received by Committee I was increasing week by week over the number received last year.

M. DE BAER said yes, very much so.

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UNITED NATIONS WAR CRIMES COMMISSION
MINUTES OF MEETING OF COMMISSION HELD ON
WEDNESDAY, SEPTEMBER 24, 1947 AT 3.00 P.M

CHAIRMAN:	Lord Wright	Australia
ALSO PRESENT:	Sir Robert Craigie Colonel Springer accompanied by Mr. Kintner Monsieur de Baer Mr. Y. S. Chen Mr. Dutt Mr. Heydon Mr. Leger Commander Mouton Major General Stevens Dr. Schram-Nielsen Mr. Aars-Rynning Professor Piotrowski M. Zimonjio	United Kingdom United States of America Belgium China India Australia Canada Netherlands New Zealand Denmark Norway Poland Yugoslavia
	with Brigadier Shapcott Colonel Halse Mr. Garner	Office of the Judge Advocate General " " " " United Kingdom Foreign Office
	in attendance.	

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

M. Maillard M. Dimitzas Dr. Zeman	France Greece Czechoslovakia
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MINUTES

Minutes of meeting of Commission held 11th June, 1947 - M.128 - were approved and signed.

Amendments to minutes of meeting of Commission held 18th June, 1947 - M.129 - were received from Lord Wright, Sir Robert Craigie, Monsieur de Baer and Commander Mouton and will be incorporated in the final text.

THE CHAIRMAN said that before dealing with the business on the Agenda he had one or two announcements to make.

Monsieur de Baer who, he thought, was now the senior member of the Commission and, in addition to his general work on the Commission had conducted the proceedings of Committee I, one of their most important Committees, had now, under the pressure of international duty, accepted an appointment with the International Refugee Organisation and become a member of the Preparatory Commission of the International Refugee Organisation with a view to constituting a semi-judicial board to function alongside the International Refugee Organisation and of which he was to become President. Monsieur de Baer would be leaving London shortly for Geneva, although he would be in London from time to time and hoped to continue to attend future meetings of the Commission. The Chairman said how deeply they regretted Monsieur de Baer's departure and how much they would feel his loss. All members would wish him great happiness and success in his new duties.

The Chairman also wished to mention that Commander Mouton, who had been a very valuable member of the Commission, had just been appointed a Judge of the Special Court of Cassation - he thought that appointment might have some effect on Commander Mouton's future attendance - he hoped not but they must be prepared to see less of him in future and again they wished him every success in his new duties.

The Chairman then welcomed Mr. Heydon who, he said, had taken over from Mr. Bridgland as Australian Representative. He was sure that they would find Mr. Heydon a welcome addition to their deliberations and would give him a hearty welcome.

The Chairman mentioned that Colonel Halse was present, and had as members knew, been taking a very active part as Prosecuting Counsel in war crimes trials in Germany and Austria. He had now been posted to Germany as Deputy Judge Advocate General and all would join in wishing him the best of good fortune in his new appointment.

CHAIRMAN OF COMMITTEE I

THE CHAIRMAN said, arising from Monsieur de Baer's impending departure, the matter of appointing a Chairman of Committee I arose. Because of the number of cases still coming in, this was a very onerous post and what had appeared to him, as the best course to adopt, was to appoint two Chairmen so that there would be duality in that office. The suggestion was that Sir Robert Craigie and Mr. Kintner, both of whom were known to members as taking a very active part in the proceedings of Committee I for some time, should be appointed Joint Chairmen. The Chairman proposed to the Commission that Sir Robert Craigie and Mr. Kintner be appointed Joint Chairmen of Committee I and asked the Commission's approval.

MONSIEUR DE BAER and COLONEL SPRINGER seconded the Chairman's proposal and the appointment of Sir Robert Craigie and Mr. Kintner as Joint Chairmen of Committee I was unanimously approved.

THE CHAIRMAN then suggested that Mr. Aars-Rynning, a recent but very valuable member of the Commission, should be appointed a member of Committee I in the vacancy created by Monsieur de Baer's departure.

This appointment was unanimously approved by the Commission.

REQUEST BY THE IMPERIAL ETHIOPIAN GOVERNMENT TO ALLOW IT TO PRESENT, THROUGH ITS REPRESENTATIVE IN PERSON, ITS VIEWS ON THE QUESTION OF JURISDICTION OF THE COMMISSION OVER WAR CRIMES AND CRIMES AGAINST HUMANITY COMMITTED BY ITALIANS IN ETHIOPIA IN 1935-36 (Docs. A.52 dated 1 August 1947, and A.55 dated 20 August 1947).

THE CHAIRMAN said the next business was the renewed request of the Ethiopian Government to be present and express its views on whether the Commission should admit and deal with cases of war crimes committed in Ethiopia by the Italians during the years 1935-36.

As members knew, such a request had already come before the Commission and a vote had been taken upon it. The First meeting on the subject had been held on the 12th March and the second meeting on the 26th March, 1947, when the majority votes decided against the Commission assuming jurisdiction. Since then, a request had been received from the Ethiopian Government to be allowed to present its views before the question was finally disposed of.

THE CHAIRMAN said they had now to decide whether they would hear the Ethiopian Government's representative, Baron Leijonhufvud, Advocate General of the Imperial Ethiopian Government, who was waiting to be called in if the Commission so decided.

Members all knew the position. Under the Peace Treaty which was ratified recently and which had been signed in February 1947 by Allied and Associated Powers, including Ethiopia, the relevant sections dealt with the position of Ethiopia. Under this Treaty Italy had undertaken to hand over persons whom Ethiopia accused of having committed war crimes, crimes against humanity or crimes against peace.

THE CHAIRMAN said his view, for what it was worth, was that the Peace Treaty made sufficient and satisfactory provision for proceedings by Ethiopia in respect of war criminals and that the functions of the Commission, which could only be invoked for the purpose of receiving and dealing with the cases submitted, would not be of any great help or value in this connection. The cases in question were those which went back to 1935-36. Ethiopia had never tried to be admitted as a member of the Commission; the Commission knew nothing about the laws of Ethiopia - they did not know whether it had made any law for the purpose of dealing with war criminals - all that was very insecure and he felt very strongly that the Commission should refuse to entertain the cases.

THE CHAIRMAN asked members to decide whether they would admit Baron Leijonhufvud or not.

M. DE BAER proposed, seconded by MR. DUTT, that the Ethiopian representative should be invited to attend and state the views of his Government.

This was unanimously agreed.

THE CHAIRMAN then introduced Baron Leijonhufvud to the meeting.

BARON LEIJONHUFVUD said the Imperial Ethiopian Government had requested the United Nations War Crimes Commission to allow it to present its views as regards the jurisdiction of the Commission over war crimes and crimes against humanity committed by Italians against Ethiopians.

His Imperial Majesty had sent him to London for that purpose and to follow the matter up in his capacity as Chief Law Officer and Chairman of the Executive Committee of the Ethiopian War Crimes Commission.

In making the request, the Ethiopian Government had in the first instance referred to the Peace Treaty with Italy. To Articles 38 and 45 therein.

Article 38 laid down that the date from which the provisions of the Treaty should become applicable as regarded all measures and acts of any kind whatsoever entailing the responsibility of Italy or of Italian nationals towards Ethiopia would be held to be October 3, 1935.

Article 45 enacted that Italy would take all necessary steps to ensure the apprehension and surrender for trial of war criminals (and of quislings) and gave some supplementary stipulations.

The Ethiopian view that there was a definite continuity in the happenings since the 3rd October 1935 was thus accepted by the Peace Conference.

As the Commission knew, the Emperor never surrendered his sovereignty. The Ethiopian patriots never ceased fighting, they even operated in the neighbourhood of the Capital, Addis Ababa. There were Italian books, official ones, in which could be found descriptions of the movements of the Italian forces and maps showing the tactics they used in the battles against the patriots. The Ethiopian Government had in their hands documentary evidence - mostly telegraphic reports to Rome or telegraphic orders to the provincial governors - of plundering and burning of whole districts, mass murder, gas attacks (there were e.g. frequently talked of "yperited areas"), deportations, concentration camps, torture etc., and this policy of systematic terrorism was continued even after Graziani had been removed.

"The war" meant to the Ethiopians 1935-1945. The country was liberated in 1941.

Ethiopia, an Allied and Associated Power, had adhered to the London Agreement of 1945 and the Charter of the International Military Tribunal.

Ethiopia had always been eager to join international organisations.

His Majesty and the Ethiopian Government would feel it a discrimination against the Ethiopian people if the Commission refused to assume jurisdiction over Italian war crimes in Ethiopia, especially as the Commission had already listed Japanese war criminals in respect of crimes committed prior to 1939.

There was now the Peace Treaty in which the surrendering of war criminals was prescribed.

There was also the United Nations War Crimes Commission, an international body, set up for investigating evidence and listing criminals.

The Ethiopian Government wanted to make use of that machinery. It wanted the question, which criminals should be tried, to be judged, dispassionately, by the United Nations War Crimes Commission.

The Ethiopian claims were very moderate indeed.

The number of criminals to be accused would be limited and would not exceed ten.

Nobody would be accused of crimes against peace.

The Court to be established would be a Quasi-International Court with some foreign (perhaps even neutral) judges in it.

The Ethiopians - although they had had to work with a very small staff - were prepared to accept a time limit for presenting their charges to the Commission. The shortage of staff in this field as well as in the whole Ethiopian administration was due to the Italian policy of exterminating all educated Ethiopians. "Your education is your crime", was how an Italian official put it to an Ethiopian prisoner.

Ethiopia did not get much help in those days and years when she was suffering from the oppression of one of the European nations. He thought - speaking as a European himself - she should get now all support that could be given. Her requests were also very reasonable. Were'n't they?

BARON LEIJONHUFVUD expressed to the Chairman and members of the Commission the gratitude of the Imperial Ethiopian Government for having been allowed to present its views at the meeting.

THE CHAIRMAN congratulated Baron Leijonhufvud on his lucid and brief address and invited him to add anything further which occurred to him.

BARON LEIJONHUFVUD said he had nothing to add to his statement except again to thank the Chairman and the Members of the Commission for the honour they had done him in receiving him and in listening to his statement.

BARON LEIJONHUFVUD then left the meeting.

THE CHAIRMAN then asked members to state their views if they so wished.

COMMANDER MOUTON said he had now heard some motives which he did not know before and therefore he would like to submit this question again to his Government for further instructions for the next voting, which he hoped could be postponed until the next meeting.

THE CHAIRMAN said that there had already been a considerable postponement on this matter and he had hoped that members would have come prepared to vote today.

COMMANDER MOUTON said members might not realise that there had been a continuity in the fighting which made the Ethiopian war and World War II actually one, which in his opinion was quite a strong point. He had instructions to vote against the request but did not know whether his Government was aware of the different points raised by the representative of Ethiopia and he thought, unless it was considered only courtesy to allow him to give his address, they should have the opportunity to ask their Governments again for instructions.

COLONEL SPRINGER said he was originally instructed, when this matter was first put to the vote, to vote against the Commission assuming jurisdiction over these cases primarily because, at the time the Commission was conceived and established he thought it was the general assumption that the Commission's jurisdiction would include the late war rather than the Italo-Ethiopian war and he had heard no reason advanced which would change the vote based on that assumption. He did take the opportunity to submit the case again to his Government before the

meeting and those instructions had again been given to him - that the United States believed that the Commission should not assume jurisdiction and, although the arguments presented had been good and the request moderate, he doubted if it would be of any value for him to again ask his Government for instructions. As the Chairman had said, it might delay the matter to the point when there would be no use in the Ethiopian Government presenting the matter.

THE CHAIRMAN thought the provisions of the Peace Treaty gave perfectly satisfactory procedure for Ethiopia if it wanted to prosecute criminals.

MONSIEUR DE BAER said there were two arguments presented by the Ethiopian Advocates, (1), he understood the dossiers were prepared and could be submitted at the next day's meeting of Committee I if necessary, and (2), they did not really know anything about Abyssinian justice until now, when they heard that there was to be a Quasi-International Court for the purpose of trying criminals. That, perhaps, was an argument in their favour.

SIR ROBERT CRAIGIE said he understood the Ethiopian Representative to say that the court would be Quasi-International with neutral judges sitting on it.

THE CHAIRMAN said he could not understand why they had done nothing about presenting cases before now.

MONSIEUR DE BAER said he was wondering whether the matter could not be postponed. He would like his Government to know that the courts were to consist partly of European Judges. On the other hand, the Peace Treaty with Italy, which had been recently ratified, provided a special machinery to deal with the charges against Italians accused of war crimes. He had instructions to vote against the request at this meeting so if the majority decided to vote against he would abide by the majority, but he would welcome an adjournment which would enable him to consult his Government.

SIR ROBERT CRAIGIE said that what struck him about the Ethiopian request, was the suggestion that any refusal by the Commission to examine their charges would amount to discrimination against the Ethiopians. While he inclined to the view that the Commission should not assume jurisdiction, he did think that in replying to the Ethiopian Government they must be very careful to show that there was no discrimination - that they were merely acting in accordance with existing rules and procedure. The rule had been to accept cases from National Offices of member states; Ethiopia was not a member state and was therefore asking for special procedure, asking for that when the Commission was nearing its end and when there was very little to be got from submitting a number of cases which might prove to be contentious, also submitting cases when an alternative remedy had been provided by the Peace Treaty which laid down the procedure to be followed in such cases. It would be open to the Italian Government to say "but this is something new, the matter is laid down in the Peace Treaty and it is for Ethiopia to make its request direct to the Italian Government", and take little cognizance of any decision of the Commission; So far as he knew, there existed no body of legislature in Ethiopia dealing with war crimes. His view would be that they should adhere to their previous decision on the matter and explain the matter most carefully and cautiously to the Ethiopians.

THE CHAIRMAN said that this could be done in a possible statement but not now.

SIR ROBERT CRAIGIE agreed.

MR. HEYDON said he had heard nothing that day from the Ethiopian Government's representative which he thought would persuade his Government to change its attitude and he proposed to abstain from voting, should a vote be taken.

M. ZIMONJIC said as a consequence of the attitude of the Yugoslav Government with regard to the question of the acceptance of war crimes evidence from the Ethiopian Government, against Italian war criminals, he was instructed by his Government to submit the following statement:-

1. There was no justified reason why the charges of the Ethiopian Government should not be accepted. Indeed, their acceptance could not be contrary to the purpose of the United Nations War Crimes Commission.

2. The fascist countries began before 1939 the successive enslavement of a number of nations, in order to create conditions for the successful waging of war against the principal democratic forces: the Soviet Union, Great Britain, the U. S. A. and France. On the occasion of the occupation of the smaller and poorly-armed states, the fascist states perpetrated a series of crimes against the people who tried to oppose the occupation. Ethiopia was one of those states against whose people Italian fascism perpetrated a great number of crimes.

3. The War Crimes Commission had been called upon to establish not only crimes committed by the Axis Powers from 1939 onwards but those that occurred even before that date. The War Crimes Commission was within its rights when it took into consideration the charges of the Chinese Government against Japanese war criminals for crimes committed before 1939. If those were justified by the fact that the war in China started before 1939 and was continuous with the war of 1939, it would, in the opinion of the Yugoslav Government, be an injustice to refuse the requests of the Ethiopian Government simply because that small and unarmed people could not withstand the aggression of its powerful enemy. In other words, the Commission could not refuse to accept the Ethiopian charges and thus leave the criminals unpunished solely because the Ethiopian state was occupied before 1939. Moreover, it had been clearly seen that day that the events of the year 1939 were only a continuation of the wars which started earlier by the Axis Powers for the same purpose and with the same means employed by the Axis Powers from 1939 onwards.

4. The Commission could not possibly draw distinctions between Italian war criminals in the Ethiopian war and those who committed war crimes after 1939.

5. The Commission would take upon itself a very great responsibility if it based itself on the point of view that war crimes against a people might well exist but that the perpetrators of those crimes might yet remain unpunished for any reason whatsoever. In maintaining that point of view, the Commission would come into conflict with its own aims.

6. The small number of the Ethiopian charges against the chief war criminals would not affect the question of prolonging the life of the Commission; thus this reason could not be seriously invoked in order to refuse the charges made by the Ethiopian Government.

7. The fact that Ethiopia was not a member of the War Crimes Commission could not be taken as a reason for refusing their charges, as the Commission was invited to establish a crime without regard to the source through which the information was obtained giving evidence of that crime; for the simple reason that the aim of the Commission was to bring to justice all war criminals, for the crimes they committed during the war.

For the reasons submitted and on the instructions of his Government he voted for the acceptance of the charges of the Ethiopian Government against Italian war criminals.

MR. DUTT said that when the matter was discussed last March, the Indian representative was unfortunately unable to be present and therefore India was not in the vote taken on the 26th March. His Government's view was that continuity of war, on which was based another case, existed in the case of Ethiopia and would have been very prominently evident had Ethiopia been strong enough to continue the fight as some of the other countries. The people of India had, in no uncertain terms, shown their abhorrence of Fascism and all that it meant and therefore the people and the Government of India felt that the Commission should not take any steps which might give the impression, perhaps not to the world of to-day but to the world of tomorrow, that a smaller power did not receive the help, advice and guidance of all the big powers. They were anxious that the jurisdiction of the Commission should cover war crimes committed in Ethiopia by Italy. He was in the fullest agreement, personally, with the views expressed by the Yugoslav representative. They saw that there would be only about 10 cases and he was sure that those 10 cases were certainly not going to extend the life of the Commission beyond the point to which the Commission wanted to live. If the cases were taken into consideration by the

Commission it would be a very heartening act on their part in a disturbed world, the sort of act which would encourage the weak that there were always big brothers willing to look after them. He did not think they could give that opportunity the slip. He therefore very strongly urged the Commission to grant the Ethiopian request and to admit and consider their cases. Technical points could always be found for or against a thing, but they were dealing here with cases of crimes against humanity which did not admit of "for or against", women and children who suffered and lost their lives were not going to be satisfied with a legal "for or against". For such women and children the pain of hurt was still there and it was for them they were asking that justice be done. He would request the Commission to think two, even ten times, adjourn the meeting if necessary, to obtain fresh advice from their Governments. He strongly requested the Commission to think very deeply about the request of Ethiopia.

His Government fully supported that the Ethiopian cases be considered by the Commission.

PROFESSOR PIOTROWSKI said he supported the Ethiopian request because to-day, he had heard some arguments which he would like to be considered, he fully supported the arguments of Yugoslavia and India. What was very important in that case was that the Commission, a high International body, could achieve very much by doing very little. Ten cases, as Sir Robert Craigie would confirm, might take one hour of Committee I's time, and in one hour they could win maybe the whole coloured people of Africa. It should be realised that there were only 10 cases and European countries, brought to each session of Committee I, about 100 cases, therefore to accept 10 cases would not be very much to do. India had stressed how strongly they supported the matter of the Commission accepting the cases, therefore he asked, very very strongly that the Commission reconsider its decision in favour of the Ethiopian Government, and he would repeat that they could gain much by doing very little.

MAJOR GENERAL STEVENS said in the beginning, New Zealand abstained from voting largely because the Government, at that time, had not had a full opportunity of considering the matter. Since that time, however, they had considered the matter and agreed that there was one continuous war and had therefore decided to support the Ethiopian request. Major General Stevens said he was present to-day to give his vote in favour of the Ethiopian request.

DR. SCHRAM-NIELSEN said that in view of what Sir Robert Craigie had just said he would like to know the reasons why Ethiopia never became a member state - could they have joined the Commission if they had wanted to or could they not?

DR. LITAWSKI said he did not think there had been any objection from any part to Ethiopia being a member. The Commission was constituted in October 1943 during a Diplomatic Conference held at the Foreign Office when several Governments were present. At that time Ethiopia was either not invited or had not availed themselves of the invitation. Ethiopia was recognised as a free and independent State and an Ally in 1942.

DR. SCHRAM NIELSEN asked whether they were invited to take part in the work of the Commission.

PROFESSOR PIOTROWSKI said they were not invited.

DR. SCHRAM NIELSEN thought there was a certain interest in knowing whether they were invited but declined or were never invited. If invitations were sent to different governments and Ethiopia refused to take part or never answered, they would have no excuse, but it would be a bit more difficult if they were never invited because, if that was the case, they could not have done anything about it.

THE CHAIRMAN remarked that he was not very familiar with the meeting held in 1943.

SIR ROBERT CRAIGIE said that probably when invitations were sent out it was not considered that Ethiopia would have any claims to make because they did not take part in the war which began in 1939.

M. DE BAER said the decision to form the Commission was made on 7th October 1942 and the Diplomatic meeting took place on 20th October 1943. He was present at that meeting and Ethiopia was not represented.

MR. HEYDON asked, if the Commission decided to accept jurisdiction over the Ethiopian cases, would that involve considering, at some subsequent stage, whether they approved or not of the law by which the offenders would be tried in Ethiopia, or did they leave that to member states.

THE CHAIRMAN said it would be very difficult to ascertain what law was applicable in order to determine whether the 10 offenders had committed crimes against that law, it might be international law, but international law had a very definite regard to conditions prevailing at the present. He did not know how Committee I would deal with the matter as it seemed to him so remarkable that now, when the Commission was being closed down and they were seeking to put an end to war crimes prosecutions, this request should be starting an entirely new chapter. 1941 was the date in which he thought, with these grievances in their minds, Ethiopia would have taken some steps to look for reparations and retribution but they had waited until the Commission was on the point of winding up and the British and American Governments at least had determined a period within which cases could be submitted to Committee I.

COLONEL SPRINGER asked whether cases had been accepted and considered from other states which were not members of the Commission.

THE CHAIRMAN said there was no precedent.

COLONEL SPRINGER said he could not see then how the charge of discrimination came in. He was certain his Government intended that there be no discrimination.

THE CHAIRMAN said the idea of discrimination was very remote and he was not impressed by the constant reference to 10 cases. He was sceptical, as a result of his years of experience in litigation. He did not know what the law was that would be invoked, he supposed the Moscow Declaration would be invoked. In cases such as this, criminals sent to Abyssinia would have to be tried as the Abyssinians thought fit, probably tried by Abyssinian law. This was something which was quite outside the contemplation of the Commission; certainly at the beginning, the Commission had not contemplated going beyond the war which was then going on in 1942. He put his objection on those grounds, and in addition, to the fact that they did not know what the law would be. At back of it all however one of the difficulties had been completely met by the fact that provision had been made in the Peace Treaty for the punishment of Italian criminals, quite apart from the Commission.

M. DE BAER asked whether the view of Canada and China could be made known to members.

MR. CHEN said he had not been present at the previous meeting, but in view of the Chairman's remarks on the matter he quite agreed that there were new factors to be considered and he thought it was a matter for further consideration. There was one point he thought important and that was, they were very ignorant of the laws and conditions in Ethiopia.

THE CHAIRMAN thought there was no reason to discuss the matter further, the main points had been criticised and the question was whether they should go back on their decision - the decision of a majority arrived at 6 months ago. He thought that the argument regarding the necessity for closing down the Commission had been strengthened by that fact, that 6 months had elapsed already. The question was, whether members would be happier if they had a further opportunity of consulting their Governments.

COMMANDER MOUTON said he would like to consult his Government again and have instructions for the next meeting. The number of cases was one of his arguments and he would like to be able to give his Government a clear picture of what he had heard that day and let them decide on the question. They might perhaps make the restriction that, in case the Commission accepted the Ethiopian cases, they restrict themselves to 10 concrete cases.

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THE CHAIRMAN asked whether the Commission wished to postpone the matter sine die.

SIR ROBERT CRAIGIE said his preference would be to postpone a decision on the question until members had had a further opportunity of consulting their Governments.

THE CHAIRMAN said they would adjourn the matter with the hope that any member who wished to consult his Government would do so and be better equipped to vote at the next meeting.

DR. SCHRAM NIELSEN said he thought it quite possible that they should not accept the Ethiopian charges, but whether they did or not was a matter for the Commission to decide. He thought, however, in any case, that they must answer the Ethiopian Government. Having that day received their representative they were, in his opinion, more or less bound to answer within a reasonable time. To let the matter sleep, sine die, would mean perhaps not being able to answer the Ethiopian Government before it had been decided that the Commission be wound up and that might be considered discourteous.

THE CHAIRMAN said he thought that the decision as to when the Commission should or should not be wound up would not be affected, they could not keep the Commission alive because some member came in and produced a list of cases which it wanted to put before the Commission and they could not keep it alive purely for the purpose of considering the Ethiopian cases. - why had they not been presented before, - he had given much thought to the matter and presented his decision.

DR. SCHRAM NIELSEN said they could postpone the matter until the next meeting but he thought, that having received the Ethiopian representative and listened to what he had to say, they should give a definite answer within a reasonable period of time.

THE CHAIRMAN said he assumed that what the Ethiopian Government's representative had said would be conveyed to Governments and they would then decide.

SIR ROBERT CRAIGIE proposed that they postpone the further consideration of the question until members had had an opportunity to consult their Governments and in the meantime, send a letter to the Ethiopian Government informing them of that decision.

THE CHAIRMAN agreed that they should send a polite reply but he was not disposed to say that the reply should be other than suspensory - that they very much appreciated the admirable speech of the Ethiopian Government's representative but they did not feel in a position at the moment to give any immediate answer. In particular, they were considering what the Ethiopian representative had so adequately expressed. That was the full extent of what he proposed.

PROFESSOR PIOTROWSKI wished to support what Dr. Schram-Nielsen had said. The Ethiopian Government's first request to the Commission had been made in July 1946, and since then until now they had been given no answer - it was not right - the first request was made before July 1946 - he would like to add to what Commander Mouton had said with regard to the 10 cases - 10 cases were very few but if the Commission was going to allow them to be presented, he thought they should do so right away.

THE CHAIRMAN thought that the general sense of the discussion was, that members wished the matter adjourned until some future date when he hoped members would come, fully equipped and with something in their minds. It was a difficult question and, like everyone else, he felt a great reluctance to close the door, especially as Ethiopia was a small state. He strongly resented, however, any suggestion that there was any discrimination.

EXTRADITION OF WAR CRIMINALS FROM AMERICAN AND BRITISH ZONES: M. DE BAER AND COMMANDER MOUTON (DOC. MISC.108)

M. DE BAER said this matter had been placed on the Agenda at the joint request of Commander Mouton and himself, but in view of the fact that the matter was still under investigation by the British and American authorities he would like to withdraw it from the Agenda and postpone it until it was ready for discussion.

COMMANDER MOUTON said he held the same view as Monsieur de Baer and the matter was accordingly adjourned.

ATTITUDE OF TURKEY WITH REGARD TO WAR CRIMINALS.

M. DE BAER said that he had read in "The Times" on the 3rd September, a short notice saying that Turkey was being pestered by some Governments who wanted the surrender of war criminals - they may have been requests from some very East European country - Turkey answered that they would not consider any surrender of war criminals as a result of requests made by any individual Government, and added that up to now no International body had been set up to examine the charges against war criminals and until such a body was set up such requests would not be considered. It had seemed to him that the Commission might be interested to know that Turkey did not seem to be aware of their existence.

THE FUTURE OF CROWCASS (DOC. C.263)

THE SECRETARY GENERAL stated that the Commission had been asked by CROWCASS to take over their documents and records prior to their winding up. It was felt by Committee I that the Commission were not in a position to do that. CROWCASS had asked for alternative suggestions for the disposal of these documents which would be very much appreciated.

THE CHAIRMAN said they would make some suggestions in the course of time though it was purely an administrative question. Several of them had examined the story of CROWCASS from its unfortunate beginning to its rather helpful end and they would help in any way that appeared necessary - he did not think they could make any detailed proposals or come to any detailed decision.

SIR ROBERT CRAIGIE said there was one small point. Committee I, acting in the name of the Commission, had informed CROWCASS that it was not able to take over the records of CROWCASS and he would like to have that decision approved by the Commission.

THE CHAIRMAN said they could not possibly take over such records.

SIR ROBERT CRAIGIE agreed and said it had been discussed a great deal, whether the Commission could assume the custody of the documents accumulated by CROWCASS and the answer which had been sent was to the effect that the Commission had no machinery for doing so - he did not think the Commission would take any other view.

This was approved.

FORMAL APPROVAL OF UNWCC LISTS NOS. 58, 59, 60, 61 and 62.

UNWCC Lists Nos. 58, 59, 60, 61 and 62 were formally approved.

REPORTS BY CHAIRMEN OF COMMITTEES.

M. DE BAER said he would make his last report as Chairman of Committee I. He had been asked to state that the 3rd Statistical Progress Report had been made, it covered the period up to the end of June, 1947. From that report it followed, that up to the end of June, 6,003 cases had been considered by Committee I and 28,721 persons listed as war criminals. Since then, during July, August and September a further 1,088 new cases had been considered involving 3,832 persons thus bringing the total number of cases to 7,091 and persons listed to 32,553. During the period under review, five new lists had been published bringing the total number of lists to 62. List No. 63 was in the course of preparation and included some 800 persons.

The next point he wished to mention concerned Priority Lists, these were issued in addition to their regular lists, they had issued one Priority List with very few names on it and a little later had issued a second list but since then not one of the criminals listed had been discovered and the Committee had decided to discontinue the publication of Priority Lists.

Another point which might interest the Commission was that contact had been made with the Italian Government. In its meeting of 30th July, 1947, the Committee were informed by Sir Robert Craigie that the U.K. Foreign Office had received

a communication from the Italian Government with regard to future procedure to be followed in obtaining information concerning Italians charged with war crimes whose extradition was requested. Since it was no longer possible to refer to the occupying authorities, the Italian Government had enquired whether it could apply for such information direct to the Commission. An answer had been given that it was desirable that application be made direct to the Commission for such information and as a consequence of this, several requests had been received from the Italian Government regarding Yugoslav, French and Greek demands for extradition.

SIR ROBERT CRAIGIE said he did not think there was much about which he need detain the Commission as regards Committee III - they had disposed of the French case concerning Economic Exploitation and listed the whole of the 36 accused, either on the charge of having been concerned in the illegal extortion of excessive occupation charges or on the charge of having systematically broken French Municipal Law by exploiting the Black Market in France.

Apart from that, Committee III was engaged in the work connected with the Report on the violations of Human Rights, and the Legal advisers had been actively preparing memoranda which would be the basis of the ultimate Report which would be sent to the United Nations. It would be impossible, within the time they had, to produce the full Report on all aspects of the complicated question but the aim was to prepare a document by November 15th which would give the substance of the studies made, up to date. Copies of the memoranda already produced would be circulated to members of Committee III but with the caution that they were by no means in their final stage and merely represented the position at that time on that particular subject. All these memoranda would be merged during the first part of November into a document which would represent all that Committee III and the Legal advisers were able to do up to that date. Members of Committee III would be receiving these memoranda. He did not propose, unless some member of Committee III wished it, to suggest a meeting of Committee III on the subject until they had all the papers on this subject before them and he thought members would agree that they need not meet again until they had been able to merge the various memoranda now being produced, into a single report. As Chairman he would like to say that he would be only too glad to have a meeting at any time any member of the Committee thought it desirable and he should perhaps add that the next meeting of the United Nations Committee considering the subject was fixed for December 1st. That was one reason why they had to produce their document at the latest by the middle of November, also, it had to be borne in mind that they had to get on with the History of the Commission and with the other work connected with the closing of the Commission, so that they had to fix a final time. He thought it might be possible, in the last weeks of the Commission's life, if all other work had been done, to resume the study of Human Rights. He was very impressed by the documents already produced and felt that they would be some permanent contribution, not only on the violations of Human Rights during the war, but on the whole subject of the codification of International Law.

THE CHAIRMAN said he was all in favour of that but it might well be that when they had considered the various contributions and their own document, the report which would be adopted would be of very little importance as it might require further development etc. - that should be the work of a special body or special individuals and in particular of the United Nations. He thought they must take that view because the document would require very elaborate and prolonged investigation, such things could not be done in a month or two - that being so, his suggestion was that the United Nations should, out of its abundance, take up the work from that point where the Commission left off. He could not see a work of this sort being done in a hurry and he could not see the various members of the Commission assuming that duty, it would be in the United Nations that that would have to be done. As to the specific duties of the Commission, they had to produce the History of the Commission and the volumes of the Law Reports which had been begun and were slowly proceeding. He thought that the Commission would, at some future date, be asked to approve the appointment of some literary man who would undertake the production, in complete form, of the History. He also thought Mr. Brand ought to be provided with an Assistant to help him with the preparation of the Law Reports, and he had no doubt, that before the next meeting, some definite proposal would have been made to the Finance Committee in this respect, which he felt sure they would consider favourably.

Wright

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UNITED NATIONS WAR CRIMES COMMISSION

M.131

MINUTES OF MEETING OF COMMISSION

HELD ON

WEDNESDAY, OCTOBER 29, 1947 AT 3 P.M.

CHAIRMAN:	Lord Wright	Australia
ALSO PRESENT:	Sir Robert Craigie	United Kingdom
	Colonel Springer	United States of America
	accompanied by	
	Mr. Kintner	
	Mr. Y. S. Chen	China
	accompanied by	
	Mr. Cheng	
	Mr. Dutt	India
	Mr. Leger	Canada
	Mr. Heydon	Australia
	M. Maillard	France
	Miss Goold-Adams	Belgium
	Commander Mouton	Netherlands
	Mr. Aars-Rynning	Norway
	Dr. Schram-Nielsen	Denmark
	M. Dimitzas	Greece
	Mr. Aikman	New Zealand
	Dr. Zeman	Czechoslovakia
	Colonel Muszkat	Poland
	M. Milenković	Yugoslavia
	accompanied by	
	Mr. Zimonjić	
	Lieut. Colonel Barratt	Office of the Judge Advocate General.

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

M. de Baer	Belgium
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MINUTES

Minutes of meeting held on 18 June, 1947 - M.129 - were approved and signed.

Amendments to minutes of meeting held on 24 September, 1947 - M.130 - were received from Sir Robert Craigie, M. de Baer, Colonel Springer and Mr. Dutt and will be incorporated in the final text.

HISTORY OF THE COMMISSION

THE CHAIRMAN said that at the last meeting of the Commission, he had indicated that the departure of M. de Baer would involve a certain readjustment in what they intended to do with regard to the History of the Commission. He had suggested that they might appoint someone to supervise and co-ordinate the work of the members of the staff who had undertaken to carry out the business of preparing and working at the History and he suggested that Mr. Kintner should be asked to assume this responsibility. It also seemed desirable to bring to Mr. Kintner's assistance, Miss Goold-Adams, who had worked with M. de Baer for some years and who had been a very valuable assistant to him. His proposal, which he hoped the Commission would approve, was that Miss Goold-Adams be appointed to help Mr. Kintner in the preparation and co-ordination of the work on the History. Miss Goold-Adams duties would not be strictly whole-time but knowing how well she worked, he considered that the three-quarters of her time which he understood would be at their disposal, would be adequate and he considered that a very desirable way of dealing with the matter.

The appointment of Miss Goold-Adams to assist Mr. Kintner in the preparation and co-ordination of the work in connection with the History of the Commission was unanimously approved.

LEGAL PUBLICATIONS COMMITTEE.

THE CHAIRMAN said that Mr. Kintner had been appointed Chairman of the Legal Publications Committee in place of M. de Baer. They had, what he considered, an extremely powerful Committee, consisting of two other members, Dr. Schram-Nielsen and Mr. Lars-Rynning. The Committee was not large but large enough and he was sure it would be most efficient.

LAW REPORTS.

THE CHAIRMAN said that in connection with the Law Reports, Mr. Brand was proceeding vigorously with that part of the Commission's work. As would be remembered, at the original meeting of the Commission, two important functions of the Commission were mentioned, one being the recording or reporting of war crimes trials. It was true that that applied to some extent to Committee I but it also included the work of preparing a record in the form of Law Reports for the benefit of future generations. One volume of these Law Reports had already been published and there were three others on the point of publication. He considered that these Law Reports, and other similar material, would establish the law of war crimes on a general basis and would show the future generations exactly what had been done in this important epoch in the history of the world. The Chairman said that he attached the greatest importance to the completion of the two functions mentioned, namely the publication of the History and the publication of the Law Reports, and considered that as far as possible those functions would be actively proceeded with and proceeded with to the benefit of the world and to the enlightenment of future generations.

C.R.O.W.C.A.S.S.

THE CHAIRMAN said that since their last meeting they had received a visit from Mr. Ben Smith of the Legal Branch of the U. S. War Crimes of CROWCASS now operating in Berlin. Mr. Ben Smith had called at the offices of the Commission on 20th October and conferred with Lord Wright, Colonel Ledingham and Dr. Litawski on the future of CROWCASS.

At a recent conference of the Legal Directorate, the suggestion to close down CROWCASS at an early date was voted by the Russian delegate although the Soviet Union had never used CROWCASS in any way and appeared unlikely to use it in the future.

The suggestion that the French authorities should take over and act as Trustees of CROWCASS for a period not exceeding one year from January 1948 would appear to be acceptable to the Legal Directorate of CROWCASS and he had informed Mr. Ben Smith that he felt sure this would also have the approval of the Commission.

At the termination of this period, the suggestion that the CROWCASS records in their present form should be handed over to the United Nations would also appear to be acceptable to the Commission, although it was felt that it might not be necessary to preserve all the records from which CROWCASS lists had been compiled and, accordingly, they might be destroyed. This might also apply to the P.O.W. lists which are at present being held by the French Documentation Centre in Berlin unless the United Nations felt that some good purpose could be served by their preservation.

Mr. Ben Smith intimated that a new CROWCASS consolidated list would be ready for issue at the end of this year.

REQUEST OF THE IMPERIAL ETHIOPIAN GOVERNMENT TO THE COMMISSION TO ASSUME JURISDICTION OVER WAR CRIMES COMMITTED BY ITALIANS IN ETHIOPIA IN 1935-36 - adjourned from last meeting (Docs. A.52, A.55, A.56, M.130).

THE CHAIRMAN said they had now to consider the request of the Ethiopian Government to the Commission to assume jurisdiction over war crimes committed by Italians in Ethiopia in 1935-36. This matter had been very fully discussed at the previous meeting when it was felt and agreed that a proper course was to leave the question to the decision of the member nations and, in order to achieve that result, the view had been formed that the meeting should be adjourned to enable members to get the views of their Governments on what was the proper answer to the question which was propounded. As the

matter had been so fully discussed at the previous meeting he did not think any useful purpose would be served by resuming discussion. That being so it only remained for the Secretary General to obtain from each representative the view which had been formed and expressed by his Government. The Resolution in effect, though not in precise terms which he now put to members was:-

"Should the request of the Imperial Ethiopian Government to the Commission to assume jurisdiction over war crimes committed by Italians in Ethiopia in 1935-36 be granted"

A vote was then taken and resulted as follows:-

Those in favour of the Resolution:	10 - Poland, Yugoslavia Greece, Czechoslovakia Norway, Denmark Canada, India United New Zealand. Kingdom,
Those against the Resolution:	4 - Belgium, Netherlands France, Australia
Those abstaining from voting:	2 - China, United States of America.
Absent:	1 - Luxembourg.

THE CHAIRMAN in confirming the result of the vote as being 10 in favour of the request being granted, 4 against, 2 abstentions and 1 absent, added that he felt he need not refer again to the limitations and conditions which were embodied in the application because these would be observed by Committee I when the matter came before them. The Secretary-General was accordingly instructed to inform the Imperial Ethiopian Government of the Commission's decision.

SUBMISSION OF GOVERNMENT OF ALBANIA TO CONSIDER CASES OF WAR CRIMES COMMITTED IN THAT COUNTRY (Doc. A.57 dated 22 October, 1947).

THE CHAIRMAN said Albania, as members would remember, was on a separate footing. The letter in question (Doc. A.57) dated 25 September, was couched in a quite definite form, in which the People's Republican Government of Albania requested instantly the surrender of the persons named on the attached lists and requested the United Nations War Crimes Commission to act in an energetic and rapid manner in granting to the people of Albania legitimate satisfaction in this connection. They were demanding that a certain number of Albanian, German and Italian war criminals guilty of having committed war crimes in Albania during World War II should be handed over. That request, addressed to the Commission, was completely beside the mark because the Commission had no jurisdiction for handing over any war criminals. He understood that the lists submitted were extremely voluminous. List 3 containing 170 names dealt with nothing but quislings and traitors and as members knew, the Commission had no jurisdiction in regard to such people. In the other two lists, there were 63 names of Germans, and 105 Italians. There were many objections to granting the request quite apart from the fact that the long list of 170 Albanian quislings was entirely out of the Commission's control and cognizance, it was definitely excluded from the ambit of their powers to deal with crimes committed by Albanians against Albanians. With regard to the charges against Italians and Germans, that particular objection would not apply but he considered the whole thing fell to the ground in that they had no powers to hand over or surrender anybody, that was the business of the military authorities. So far as he could see many of the people requested were in Germany or Italy but in any case, any application for surrender should be made to the Military authorities who actually held the bodies, and that being so, he did not see how they could proceed in the matter for any practical purpose. There were certain provisions in the Treaty which related to Albania but they were rather markedly different from those which related to Ethiopia with which members were already familiar. In addition to that, Albania had never for the purposes of war been an Ally and had never been a member of the Commission and there was no precedent for granting the request, quite apart from the other reasons, such as had now been put forward by Albania. The proper course for Albania to take was to try to obtain the

surrender of these alleged criminals from the country in whose possession or control they were at the moment. He would say nothing about the fact that although some years had elapsed since Albania was released from such control as the Italians had exercised over them, it was only now that this long and elaborate list was put forward. That was only one of the reasons which led him to suggest that the whole request was misconceived and should be refused, he therefore proposed a Resolution "that the Albanian request as set out in a letter of the 25th September 1947 (Doc. A.57) should be rejected".

COLONEL SPRINGER seconded the Resolution that the Albanian request should be rejected.

COLONEL MUSZKAT said that in his opinion, the Albanian request was not actually to use the Commission but he thought it might be useful if they gave the Albanian Government the opportunity to present charges against war criminals. The fact that Albania was not a member of the Commission did not really matter because surely the Commission was interested in listing all charges against war criminals even if they were presented by a non-member government. With regard to the fact that there were among the alleged war criminals some Albanian nationals, the Commission took not a subjective point of view but an objective point of view and what was important was whether a person had committed a war crime. Committee I had listed several times even nationals of neutral countries who had committed war crimes and it seemed to him that if the Commission could answer the Albanian Government to the effect that the request must be refused because it was not formal but that if they presented charges, Committee I would consider them and take the necessary steps if there was a prima facie case.

THE CHAIRMAN said he wished to point out that there were no less than 170 names of Albanians which could only, in fact were only charged as quislings, so that he would simply rule straight over that list as the Commission had no jurisdiction to deal with them - as to the others, there were other objections to them which had to be considered - the lateness of the charge, the fact that Albania was not an Ally and the whole history of Albania in the war had to be considered. Albania had fought alongside Italy in attacking Greece. He suggested that this was not a matter in which, at this time of day, the Commission could do any good and he thought they ought not to attempt to put these people on their lists as accused of war crimes.

M. MILENKOVIC said he was in complete agreement with the statement made by the Polish representative and wished only to add that as the Commission had accepted the request of the Ethiopian Government he thought there was a good reason why they should accept the Albanian Government's request since German and Italian war criminals were concerned. He wished to point out that the Albanian Government which had been led by the Italian Government had fled from the country and to-day there was another Government. He thought it was quite in the spirit of the Commission to accept the specified cases and to list them if there proved to be prima facie evidence. He said that he was ready to support the request of the Albanian Government in the matter.

SIR ROBERT CRAIGIE, with reference to what the Yugoslav Representative had said, found a clear demarkation between the Ethiopian request and the Albanian request. First of all Ethiopia had throughout been a United Nation and therefore could justifiably put forward a claim with a better basis. It was true that the Ethiopian request had come to hand at a rather late stage, just as the Albanian request had, but there was a great difference between the two. They must at this stage of their proceedings, when they were likely to end their activities, deal with things from a practical point of view. He had been opposed to the Ethiopian request in the early stages very largely from a practical standpoint but when he had realised that their claim was limited to 10 cases and after they had heard the Ethiopian Government's explanation of the proposed procedure, he had felt that there was a case for accepting the particular proposal. However, Albania was quite a different proposition. From what they had been able to see of them, not only were there a large number of cases but it would require a great deal of time to put them into proper shape and that time was definitely lacking. So that on those grounds - the ground that Albania could not claim it as a right, since the right was confined to member states of the United Nations, and the ground that it would be physically impossible for Committee I to undertake the new obligation - he thought the request would have to be rejected; but in as

courteous a way as possible, explaining the reasons somewhat along the lines he had put to the Commission.

COLONEL MUSZKAT said they had before them a letter from the Albanian Government dated 25th September in which it was stated that they had approached the Commission on the 22 June 1945 and on the 23 February 1945, which meant that the matter was raised at an early stage of the activities of the Commission and therefore the argument that Albania had not approached them in due time might be excused because it might be that no reply had been sent and their lateness was the fault of the Commission. With regard to the argument that Albania was not an Ally, he thought it was important that they wanted to find war criminals and considered the Commission was interested in registering all alleged war criminals. He remarked that the Commission had on occasion listed some war criminals without any requests from any Government, therefore though they write to the Albanian Government that it was not within the jurisdiction of the Commission to deal with surrender and extradition, they could do something with their charges and in so doing, would be acting according to the principles of the Commission and the principles of justice.

THE CHAIRMAN said that Colonel Muszkat had referred to a letter of the 22 June 1945 - a reply had been sent to that, simply acknowledging receipt and giving some information in answer to a question which was asked. The first letter of February was written at a time when some member Governments had not recognised the People's Republican Government of Albania and others were still at war with Albania. So far as he saw the position it would be a huge task to untangle who were war criminals and who were not. It was a matter on which the Commission would have to form a view and exercise its discretion.

DR. ZEMAN said he agreed with the Chairman's statement that the Albanian request was, on formal grounds, out of order but on the other hand they had to consider the fact that war crimes had been committed. It was true that Albania was not a member of the United Nations but it was also a fact that they had been over-run by the Italians and if the Albanian Government could, in a specified time, give the Commission a list of very bad cases where they could prove and establish a prima facie case of war crimes, he did not think the Commission should refuse their request on formal grounds. He would like the fact considered that Albania, not being a member of the United Nations had no other way, not even that open to Ethiopia; they could not ask for extradition of Germans and Italians because they had no diplomatic relations with the necessary countries. On the other hand, as they were concerned with war criminals Committee I could list them and they would therefore not go unpunished.

THE CHAIRMAN said he thought they could not deal with the application for the two reasons which he had already given, it was completely misconceived. He had already ventured to turn down completely the 170 Albanian quislings charged and while that particular objection did not apply to the other two lists he thought he had said enough to prove that it was not an application which could be granted by the Commission.

M. MILENKOVIC said it seemed to him that their first argument was the technical reason for rejecting the application of the Albanian Government, namely that Committee I could not devote sufficient time to examine the cases, there were 188 cases and he thought, from his experience of the Commission, that to examine 188 cases it was sufficient to have only two meetings and that it would not be difficult for Committee I to peruse them.

SIR ROBERT CRAIGIE said he thought there was also the question of the form in which these applications were presented. He was afraid from what he could see of them, that they would require a good many more than two meetings and almost certainly it would be necessary to refer almost all the cases back to be put into the specified form and supported by evidence which was required before Committee I could accept them for listing, so that he did think it would involve a very considerable delay which they could not afford to risk at this time. Further, they should bear in mind that so far they had never gone outside the United Nations and if at this late date in their proceedings they opened the door to applications by Albania, one might wonder where they would stop; there would be no limit to any country in the world presenting charges. He did not know whether any such applications would in fact be received but a dangerous precedent would be set and he thought at this stage, nearly the end of 1947, they would certainly be unwise to set such a precedent.

THE CHAIRMAN said they would take a vote on his proposal that the Albanian request be rejected.

A vote was then taken and resulted as follows:-

Those in favour of the Resolution:	9 - France, Greece Norway, Netherlands Denmark, Australia Canada, United States of America United Kingdom,
Those against the Resolution:	3 - Poland, Yugoslavia Czechoslovakia
Those abstaining from voting:	4 - Belgium, China India, New Zealand.
Absent:	1 - Luxembourg.

The Albanian request was accordingly rejected and the Secretary-General was instructed to write to the Albanian authorities and inform them of the decision of the Commission.

REPORTS OF CHAIRMEN OF COMMITTEES.

SIR ROBERT CRAIGIE said, speaking as one of the Joint Chairmen of Committee I, he had only to report that the work had been proceeding actively. During the summer vacation the number of applications for listing had fallen off to some extent but were increasing again. There had been some slight delay owing to the fact that the Committee 's rules with regard to evidence had been modified about three months ago and some countries had taken a little time to adjust themselves to the new requirements. However, cases were now coming in very satisfactorily on the new basis. At each of the last two meetings they had considered some 30 odd cases and there were 80 cases to be considered at the meeting to be held the next day.

Sir Robert Craigie said there would be a meeting of Committee III to deal with Human Rights on Thursday of that week so perhaps it would be more appropriate if he reported at the next meeting on their position.

DURATION OF THE COMMISSION.

THE CHAIRMAN said members would remember that the question of the duration of the Commission had been discussed last April when it was suggested and approved that the matter be deferred until the 1st November. In opening the discussion, he wished to point out that they were almost at the end of 1947, that the surrender of Germany had been in May 1945 and a considerable time had elapsed since then during which accused men could be identified and rounded up. It no doubt took a certain amount of time to do that but on the other hand there was a strong feeling among nations that these matters should not be allowed to drag on indefinitely and that there ought to be a period of limitation. There was no doubt about it, the longer these things proceeded the more they went against the grain of the public sense and the original feelings that the guilty should be punished swung round rather to the opposite. They did not want to go on as a Commission when the feeling of the world at large was cold and even hostile to the system of prosecutions, there were further reasons for making it desirable to set a period of limitation and to wind up the series of prosecutions. It did not follow however that because the Commission decided they should end their proceedings that member nations, individually as nations in their own countries, should not proceed to round up and punish those men against whom they had charges of war crimes. He noticed for instance that Holland, somewhat late in the day, but completely justified, was going to try under its own law a number of alleged war criminals. He thought the same was true of Denmark and Norway; they were certainly proceeding very energetically. He did not know about the other nations, France and China were quite active although China rather leaned to the Far East as did Australia, and the Commission had felt it ought not to interfere with proceedings in the Far East, since they were quite capable of conducting their own operations and whether the Commission was operating in London or not was not a matter of much importance to them. Australia would go

on he was sure and as he had said Holland, Denmark and Norway were all proceeding with their cases. The fact was that owing very largely to the efforts and endeavours of the Commission, the law of war crimes had been standardised. It was very different in 1945 when the whole thing was suddenly thrown open. He thought the Commission had achieved a very useful purpose. America had some views as to how long the Commission should go on and they would to-day ascertain the views of the members present. He was going to propose that a definite date be fixed for winding up the Commission and the appropriate date would emerge in the course of discussion. Some said the end of the year some said the 31 March 1948 - some had said there should be a period of limitation at the end of which no further cases would be received by Committee I - no doubt that period might be fixed for January or February next and then a few weeks allowed between then and the closing of the Commission.

There was a strong feeling that there should be a time limit for receiving cases and once the National Offices had been informed of the date he had no doubt that they would rush their cases in before the particular period when the Commission would cease to function and then Committee I, that great and important Committee, would refuse to receive any more cases. He thought he should say at once that it would never be thought that every war criminal could be dealt with by Committee I or the Commission, they had put approximately 32,000 names on their lists and when it was considered that war crimes ran into hundreds of thousands, it was almost impossible to punish every war criminal, sad as that might seem. That was inevitable owing to the difficulty and weakness of human affairs, even if they brought in the idea adopted by the Nuremberg Tribunal, that certain great numbers could be dealt with under an "organisation" system - so that really they must be satisfied with what they had done. He thought it was unique in the course of prosecutions, the desire for justice on the part of the nations and the skill, effort, imagination and ingenuity which had been applied to giving effect to that purpose. However, he thought they should now try to determine a period of limitation and he would be able to find out a little later a definite date which was considered suitable on which the limitation was to operate. They could not expect the Commission to go on for ever.

MR. CHEN said that China was prepared to support the Chairman's proposal for the winding up of the Commission at an early date but at the same time would like to call attention to the situation in the Far East, which was rather complicated. China presumed that the winding up of the Commission would not effect the future of war crimes trials in the Far East. China would like it to go on record that the winding up of the Commission should not prejudice the right for further prosecution and trial of cases in the Far East.

THE CHAIRMAN said there were some very active operations by the American prosecution in the Far East, they had always gone on independently and though it was felt that the Commission had been important at this end it had not been of first rate importance in the Far East. The Commission had come to the conclusion that affairs in the Far East had better be left to the Far East unless some particular connection arose. He thought he had made it clear, - and he considered it ought to be made clear - that the winding up of the Commission would not affect the process of prosecution by any member nation - some of them would go on, the Far Eastern members would go on exactly as they were now and countries like Holland, Belgium and Norway and the others would also go on with the prosecutions which they had initiated. He had been strongly impressed with that idea, when talking with some members who supported the idea that the Commission should be wound up yet still contemplated proceeding with their own prosecutions - as he had said before, the law and procedure had become more or less standardised.

MR. HEYDON said the Chairman had expressed the Australian attitude quite clearly and he only wished to add that they were anxious that arrangements should be put in hand immediately so that the Commission might be wound up at the end of March, 1948, and they considered it would be necessary to take decisions now to enable the winding up to take place then.

COLONEL SPRINGER said he thought the United States Government appreciated the accomplishments and valuable contribution of the Commission to the whole war crimes programme but felt that its continued existence after March 31, 1948

would be unnecessary. He thought that if an earlier date was proposed for the winding up, the U. S. Government would be quite pleased to accept it, but that March 31, 1948, was the latest date to which his Government would be willing to agree.

THE CHAIRMAN remarked that Colonel Springer had suggested 31 March next as the final date for the winding up of the Commission and wondered whether the United States had any views about when the proceedings of Committee I should be closed down.

COLONEL SPRINGER said he had no instructions on this point so could not say just what his Government's views would be - of course Committee I would have to terminate its work prior to the termination of the Commission and before that event took place he considered that adequate notice should be given to Governments who had not filed all their cases and still had cases in preparation.

SIR ROBERT CRAIGIE said the United Kingdom Government shared the view expressed by the Australian and United States Governments and felt that the Commission should be wound up not later than the end of next March. They considered that by that time very considerable accomplishments would have been achieved. So far as Committee I was concerned, there would have to be an interval between the closing of the Commission and the date on which Committee I ceased to examine cases. As cases for Committee I's consideration were coming in in considerable numbers and were likely to go on for another few months, he would like to suggest that, assuming the Commission accepted March 31, 1948, for closing the Commission as a whole, they should fix February 28th as the closing date of Committee I - that would leave an interval of one month which should be sufficient for the Secretariat to finish and clear up all the matters connected with Committee I, he would suggest that they go on with Committee I as long as possible in view of the continued number of cases being received.

THE CHAIRMAN remarked that 31st March was still 5 months off and that was a fairly long time and if due notice was given that a certain date was to be treated as the last date for filing applications with Committee I there would not be any great hardship because any Government that felt the desire and intention to prosecute that case would be perfectly free to do so even though Committee I had not spoken in the matter. Assuming that the present system of occupation on the Continent continued there would be no difficulty, though the Commission had ceased to exist, in securing from those authorities a particular prisoner, so there would be no difficulty of that sort. It was more or less felt that the Commission was becoming a "five wheeled coach", valuable as it had been, and he would be the last person to deprecate its value, nevertheless, he was firmly convinced that the time came for everything to end and the time he thought had come when a definite agreement should be arrived at on the point of winding up the Commission.

THE CHAIRMAN said on the subject of the Law Reports and the History of the Commission, Mr. Kintner had, out of his abundant energy taken over the general conduct of these important aspects of the Commission's work and he would like to hear what he had to say.

MR. KINTNER said that with regard to the History of the Commission, it appeared quite likely, from conferences with the staff, in which the Chairman and Colonel Ledingham had taken part, that the History could be substantially completed by the 31 March 1948 and that by that date all of the work on the History could be at least prepared in draft form and a great part of it in the hands of the printers. As to the Law Reports, the Legal Publications Committee had held a meeting last week in which approval was given to enough cases to fill approximately two Volumes. One Volume, as members knew, had already been published, a second volume was in the hands of the printers and almost ready for publication and a substantial portion of the work had been done on the 3rd, 4th and 5th volumes. That work could be carried on during the intervening months between now and the 31st March and carried on to such extent, with the present staff, that a great many more volumes of Law Reports could be published which would substantially complete that portion of the Commission's work.

THE CHAIRMAN said the Legal Publications Committee would have to consider the Tokyo trial, they would, in the Law Reports have included a particular report

on the Nuremberg Trial, that was finished and done with so he did not see any difficulty in preparing that. In the case of Tokyo the trial would, as far as he knew be completed on 31st March but might still be proceeding and he would not like to prognosticate that it would finish by the 31st March. There was another question to which he attached particular importance and that was a report on the subsequent operations now proceeding at Nuremberg under General Telford Taylor, there was the "Medicals" trial and the Milch case but apart from those there were about 6 or 8 others which would certainly be very important to include in the Law Reports. He thought they might decide a little later on what was the best way of dealing with these difficulties, if they really existed, when they approached their end on 31st March 1948.

DR. SCHRAM NIELSEN agreed.

THE CHAIRMAN said that the general upshot was that 31st March 1948 should be the date at which the Commission should be wound up and liquidated.

COLONEL SPRINGER said he would like to support the remarks Sir Robert Craigie had made but he wanted to make clear the attitude of his Government, that they would be quite willing to terminate the Commission, if others agreed, at an earlier date, but not later than 31st March.

MR. HEYDON said he wondered whether the 28th February, the date suggested by Sir Robert Craigie for closing down Committee I, would be rather late if "not later than" really meant just that - would it not be better to say the 31st January rather than the 28th February?

SIR ROBERT CRAIGIE said they dealt with all lists from week to week in Committee I, and there was very little "hang-over".

THE CHAIRMAN said that Committee I was the most expeditious Committee he had ever known in the history of Committees! He thought, in setting a definite date on which the axe would come down on Committee I there must be a little elasticity within the limits but there need not be any elasticity with regard to the date 31st March.

COMMANDER MOUTON said in the first place he would like to report that his Government had instructed him to express its opinion that the Commission and Committee I should both go on until 31st March 1948, apart from that he would like to ask two questions. As members knew, owing to certain circumstances, they were only just starting trials in Holland and he thought his Government would appreciate some of their trials being reported in the Law Reports and therefore he did not know whether they would have those reports ready in time for the Legal Publications Committee to have them published before 31st March.

THE CHAIRMAN said the Law Reports and the "hang-over" of the Law Reports was the most difficult topic in that connection and he would like to leave that for final discussion early next February or March.

COMMANDER MOUTON said he had at the moment about 120 sentences from the Dutch East Indies but he had had no time to submit them to the Commission and perhaps a few of them would be worth while recording. Also, was it envisaged that the Legal Staff of the Commission would go on after 31st March if there was money available to pay for it, or would that be discussed later.

THE CHAIRMAN said he found it impossible to state in precise terms in this particular respect but generally speaking, they should take 31st March as the date for closing down the Commission and these other matters would have to be considered before then. Some legal staff might be required to stay on but as to the numbers it was impossible to say at this stage.

SIR ROBERT CRAIGIE said he was most impressed with the great importance of continuing with the Trial Reports and he thought it would be most unfortunate if they came to an end on 31st March. He did not think that the closing of the Commission need necessarily prevent a small committee from continuing to issue these reports but that was a matter which, as Lord Wright had suggested, could be decided later on. He only wanted, at this stage to state his personal opinion, that arrangements should be made to enable these law reports to be issued.

THE CHAIRMAN said he quite agreed with Sir Robert Craigie and felt very strongly on this matter himself, the only complication was which members of the staff would stay and which ones would want to go - but he thought all those matters could be disposed of in time.

MR. KINTNER said he would like to say on behalf of the Legal Publications Committee that they were disposed to get a greater variety of cases into the Reports than those already submitted, this disposition was, he understood shared by Lord Wright, and so expressed by him at the Legal Publications Committee meeting held last week. The Norwegians had presented them with several cases and those had been sent to the printers for inclusion in an early volume. A report of a French case had also been drafted for inclusion in an early volume. It was hoped to include a Polish case at an early date and other cases as they became available.

COLONEL MUSZKAT said the Polish delegation had already submitted to the Commission several reports of the trials of war criminals which had taken place before Polish courts, and most of these would be well worth inclusion in the Law Reports, for instance the report of the Greiser trial, which contained some decisions later reached in the Nuremberg trial. He understood that the Polish trial reports had not been included in the Law Reports already published because of translation difficulties, but in future issues the reports of trials in Poland should be included as well as those of trials held in other places. If this was not done, the Commission's law reports would not give, in the future, a true picture of the administration of justice against the war criminals of World War II.

With regard to the duration of the Commission, the Polish point of view was similar to that expressed by Commander Mouton on behalf of his Government. The Polish authorities were interested in the duration of the Commission for as long as its work would help in the extradition of war criminals and the administration of justice against war criminals, the trials of whom were going on in Poland. However, if in Germany new rulings were to be introduced in extradition procedure, the work of the Commission would become ineffective, making the continuation of the life of the Commission unnecessary, and he was ready to support the Chairman's proposal for its winding up on 31 March 1948 at the latest.

M. MAILLARD said with regard to the question raised by Sir Robert Craigie, he would like to know what status the smaller body which would continue after the closing of the Commission would have.

THE CHAIRMAN said that was a very interesting constitutional question.

SIR ROBERT CRAIGIE said that he had not himself formed any definite views as to how the Law Reports work should go on he only knew that it should go on in some form. He thought the Commission might perhaps consider the matter and appoint a committee which would continue the work, and also provide staff and premises. That might be quite practicable but at the moment he had nothing definite to suggest.

THE CHAIRMAN remarked that there was of course the very obvious question which presented itself - whether any expenditure would be necessary, and asked Sir Robert if they had a "shot in the locker"?

SIR ROBERT CRAIGIE said that if an emergency occurred he thought there would be a "shot in the locker" to enable the Law Reports to be completed - in theory, the reports should pay for themselves.

THE CHAIRMAN said that sometimes they did not pay for years.

SIR ROBERT CRAIGIE said that as Chairman of the Finance Committee he could say that they had appropriation up to 31 March but one or two countries had not yet paid their contributions and as they would now definitely be closing down on that date it would be very helpful if members who had not already paid could arrange to do so before the end of the present year.

MR. AIKMAN said that his Government was anxious that the Commission should close down at an early date and suggested 31 March; à propos of the financial question, they were not prepared to make any contribution after that date. However, he

felt that if the question of the Law Reports was considered of sufficient importance his Government might be disposed to reconsider its decision.

THE CHAIRMAN said he had come to the conclusion that they could reach no definite purpose or plan until a little nearer the winding up date.

MISS GOOLD-ADAMS asked how far the system of law reports working under Sir David Maxwell Fyfe cut across the work the Commission was doing.

THE CHAIRMAN said he did not think it cut across at all. He had been in touch with Messrs. Hodge all the time and they were working on a different plan, quite different from the Commission's Reports, the Hodge Reports contained more detail and were written in a more picturesque style than the Commission aspired to.

COLONEL SPRINGER said that a question had been asked regarding appropriation for the continuance of a small group to work on the Reports after March 31st. This question had not been submitted to his Government but he was authorised to state that the U. S. Government proposed to withdraw on March 31st and the question of funds would therefore have to be put to them separately.

THE CHAIRMAN said he anticipated before 31st March they would have decided in the Commission, among themselves as to see nations, what they would keep in hand out of the reserve.

THE CHAIRMAN said he would move a simple motion "that the life of the Commission be terminated not later than 31st March 1948".

M. DIMITSAS seconded the Chairman's proposal.

THE CHAIRMAN said that his motion "that the life of the Commission be terminated not later than 31st March 1948", had been seconded by M. Dimitzas and carried unanimously.

APPROVAL OF UNWCC LIST NO: 63.

The Commission's 63rd List of War Criminals, already circulated, was formally approved.

Wright

UNITED NATIONS WAR CRIMES COMMISSION

M.132

MINUTES OF MEETING OF COMMISSION

HELD ON

WEDNESDAY, JANUARY 7, 1948 AT 3.0 P.M

CHAIRMAN

Lord Wright

Australia

ALSO PRESENT

Colonel Springer
accompanied by
Mr. Kintner
Mr. Heydon
Mr. Leger
Dr. Schram-Nielsen
Mr. Aars-Rynning
M. Dimitzas
Mr. Aikman
Miss Goold-Adams
Dr. Cheng
Dr. Zeman
Colonel Muszkat
M. Zimonjić
accompanied by
M. Milenković

United States of America

Australia
Canada
Denmark
Norway
Greece
New Zealand
Belgium
China
Czechoslovakia
Poland
Yugoslavia

Mr. O'Grady
Brigadier Shapcott

United Kingdom Foreign Office.
Judge Advocate General's Office.

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

Sir Robert Craigie
M. Maillard
Mr. Dutt
Commander Mouton
M. de Baer

United Kingdom
France
India
Netherlands
Belgium

MINUTES

Minutes of meeting of Commission held on September 24, 1947, - M.130 - were approved and signed.

Amendments to minutes of meeting of Commission held on October 29, 1947 - M.131 - were received from Sir Robert Craigie, Colonel Springer, Dr. Cheng and Colonel Muszkat and will be incorporated in the final text.

APPREHENSION AND SURRENDER OF WAR CRIMINALS. (Doc. A.61).

THE CHAIRMAN said the first matter they had to deal with was item 3 of the Agenda, which dealt with "extradition", a matter about which there had been a considerable amount of debate backwards and forwards, most of it quite inconclusive but in which he thought the fundamental principles had emerged quite clearly. He had read all the relevant documents through with very great care and thought that the essential point to be considered was the effect of Law No. 10, because, as to all matters which arose in Germany, and most of these questions did arise within Germany, Control Council Law No. 10 was the governing law and was an obligatory and definite law - he would accordingly refer to the terms which appeared perfectly clear. The question which had to be considered at the base of all the discussions was, who was the authority under Law 10 to decide in questions of extradition and what was the scope and description of the power vested in that authority. He thought Law No. 10 was absolutely clear. That was the first question of principle and it was not much use discussing it round and round. The real question was, what was the legal position, who was the deciding authority and what were his powers, that was one thing; the other was whether the question of extradition was not entirely a question between governments, a question between the detaining government and the demanding government. Those were the two actors and it was between them that any question that arose had to be considered, and as for that, it could

again be ascertained by looking at Law No. 10. The matter therefore lay within a small compass, and the numerous discussions did not always deal with practical issues. These discussions could not effect the meaning and force of Law No. 10 and in so far as they paraphrased Law No. 10 they might not be looking at Law No. 10 and seeing what it said. It was a little tiresome perhaps to go through all these deliberations between different departments or people, in some of which the Commission had intervened out of the desire of its heart to help everybody as far as possible, but he sometimes wondered if the Commission might not find itself in the same position as a man who tried to intervene between a husband and wife and who ended up by being generally torn to pieces. In truth, the Commission was not really a party to these issues.

One main question was what effect the fact that an accused person had been put on the Commission's list of war criminals had as regards extradition. What effect it should have was entirely a matter for the principal actors, i.e. the governments concerned, but in general it was the desire of everybody to be as helpful and reasonable as possible. It had been attempted to suggest certain paraphrases which would indicate the position and if he referred to one of these paraphrases it was not to substitute the paraphrase for the terms of Law No. 10, which was again discussed as it happened quite recently in Committee I at their meeting of the 3rd December last, because it had been suggested that there had been a change of procedure between authorities in Germany in regard to the effect to be given to listing by the Commission. It was pointed out in that meeting of Committee I that there had been no change and reference was made to a useful document by Sir Robert Craigie (A.60) which, though it was not a piece of legislation or a document sanctioned by the Commission, it was a very useful document. In the course of the discussion in Committee I (meeting held December 3, 1947, Minutes No: 121) a question was raised about the proper procedure and Colonel Muszkat had said: "that perhaps any further recommendations would have little effect, but it was necessary on the other hand for the Investigating Missions to have some ruling as to whether or not the listing of alleged war criminals by the Commission was to be considered binding so far as extradition was concerned, except of course when new material was brought to light justifying the reconsideration of a case", and Mr. Kintner the Joint-Chairman of the Committee had said: "he was not aware that any decisions that the Commission had ever taken were binding on any of the member Governments, or that the Commission had any control over the various authorities in the field. It was for the individual Governments themselves to determine what action they should take. His Government (the U. S. Government) held the view that the Commission, apart from its practical work of studying cases and listing accused persons was purely a policy-forming body, able to make recommendations but not able to enforce them. It was for precisely that purpose that the Commission had been set up by the various member Governments. His office had recently had a visit from Mr. Ben Smith, who was now concerned with extradition in the U. S. Zone, who had informed them that the decisions of Committee I and the listing by the Commission had always carried great weight, and still did so, but that they were not conclusive and therefore not binding upon the authorities responsible for extradition. That had always been the view held by the United States Government and as far as he was aware the position had not changed in any way. He believed that was also the view held by the British Government." Sir Robert Craigie had affirmed Mr. Kintner's statement and Mr. Aars-Rynning had entirely agreed with the views expressed by Mr. Kintner.

Before going back to cases, the Chairman said he wanted simply to explain exactly what he regarded as the meaning and effect of Law No. 10 in connection with this question of extradition. First of all he wished to say that listing by the Commission was one thing, extradition was something quite different and infinitely more difficult and important. According to the view of Anglo-American law, and most European laws a man was not to be extradited from the country in which he was; in general he was not to be sent away, unless he had had an opportunity of stating his case and opposing, if he wanted to oppose, being extradited. Even if a P.O.W. or a person accused as a war criminal, he was not a mere chattel to be sent from one country to another and he should have the right, under extradition law, to state his case before any order for extradition was made against him. It was a very serious matter. The Chairman said he was treating the matter quite generally because in the circumstances of to-day, and present circumstances of Europe, there might be very strong reasons why a man, even a German and an accused person, should not

Law No: 10, Article IV, because it was under that Law that every case of extradition in Germany had to be considered. Article IV read as follows:-

"1. When any person in a Zone in Germany is alleged to have committed a crime, as defined in Article II, in a country other than Germany or in another Zone, the government of that nation or the Commander of the latter Zone, as the case may be, may request the Commander of the Zone in which the person is located for his arrest and delivery for trial to the country or Zone in which the crime was committed. Such request for delivery shall be granted by the Commander receiving it unless he believes such person is wanted for trial or as a witness by an International Military Tribunal, or in Germany, or in a nation other than the one making the request, or the Commander is not satisfied that delivery should be made, in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority. A similar procedure shall apply to witnesses, material exhibits and other forms of evidence."

The Chairman said that there they had the demander and the person to whom the demand was made, and members would notice that in that transaction the Commission was not mentioned at all; it was a question between those two named individuals, the nation or Commander on the one hand and the nation or Commander on the other hand, and the delivery which was demanded was delivery for trial in the country or Zone in which the crime had been committed. When the Article said "such request for delivery shall be granted by the Commander receiving it unless he believes etc. ..." it introduced a series of qualifications, each one of which might be decisive.

The Chairman then read again the words "... or the Commander is not satisfied that delivery should be made ..." and said in his opinion that was perfectly simple and unqualified and not subject to any limitation or exception; it put absolute discretion in the Commander. The Article went on "... in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority." The Commander, as could be seen from that was not bound to pass such request on to the Legal Directorate but had the right to do so. There were various provisions as to what the Legal Directorate might do when requests were referred to them in that way, but the Chairman said he would not deal with them. The real thing was that Article IV(1) vested complete discretion in the Military Commander and he did not see who else could decide these matters. The Commander was the man who, in his capacity as Commander had the wanted man in his custody and was in a position to inform his mind on all matters which he considered necessary or proper for him to know; he could consult any one or adopt any method of proceeding but it was his final decision. The Chairman thought it very important that that point should not be forgotten, it went to the root of the matter. It was a matter between the Commanding officer, the represented governments, one on each side, and it was not a matter in which the Commission or any of its Committees had any direct concern. There were various qualifications and the Commander might have to consider all sorts of things, such as whether it was desirable from a practical point of view to extradite a man; in choosing the place for trial the Commander might say that a certain case could only be tried in Germany where the witnesses and machinery were; that would be sufficient grounds for refusing to extradite. He might not be satisfied that a man would be tried, or fairly tried if sent to another country; he might not be satisfied that the man should be handed to one country for trial in preference to another when there was contest between two countries. The whole question of trial was vital but there were various other questions which he might have to contemplate, all these and similar questions would have to be considered by the Commander and if in the end he was left in the position that he was not satisfied that delivery should be made then he would not grant the extradition: that really was at the bottom of the whole issue, and Law No. 10, which he had read to members was completely decisive on the point.

As to the effect on extradition of the listing by the Commission, that of course was a question in which the Commission was not directly concerned except that in its advisory capacity it naturally took and stated its views as to its own position in these matters and the view taken from the beginning, when the question first arose had been that the listing was not conclusive from the point of view of extradition, not binding. It could not be. All Committee I had to do was to say whether a prima facie case existed, on the evidence

submitted, which justified putting a name down on the list of accused persons and the question of whether a man should be extradited was entirely different. It was a question for an entirely different authority and involved much greater responsibility on the agency which had to decide it and thus in many cases a higher standard of evidence was required.

The Chairman said he would not, at this stage, go into all the discussions which had taken place in the Commission on this subject. He remembered so well in 1945 when they had to consider the position with regard to extradition and listing and members would know the view that was taken throughout, though differently expressed. The Commander-in-Chief and Legal Directorate, had always said that they regarded listing by the Commission as having great weight, but not conclusive and not binding on the authorities responsible for extradition because they had to look at a great many other circumstances which he need not detail; before extradition could be ordered the extraditing authority had to make up its mind, whether there were sufficient circumstances, quite apart from sufficiently tangible evidence of guilt, before it could make its order. The basis of the complaints which were again put forward by Colonel Muszkat must rest upon these two fundamental ideas and if they were both eliminated the whole ground of the complaint went. He did not try to anticipate many other things which might be said but he would now refer to the letter which the Polish representative, Colonel Muszkat, wrote to him, (Doc. A.61), as Chairman of the Commission on the 9th December which led him, exercising his responsibility as Chairman, to call the meeting. It had seemed to him that the whole matter ought to be carefully considered so that they might know in future where they were. Members had all read that very able letter - signed by Colonel Muszkat - a valued member of the Commission and successor to two previous members for whom he had the greatest regard, Dr. Cyprian and Dr. Szerer. The Chairman then interposed that he thought it very unfortunate to the Commission that when he looked round he could not see a single member of the Commission who had been a member in 1944 or 1945; everyone had changed and there was perhaps not unnaturally, a consequent want of continuity. He might record then that when discussions took place on the present question in 1945, a letter had been received from the Foreign Office and there was a Resolution of the Commission about that time and also a very valuable letter from Colonel Hodgson, then U. S. Representative. He could not see that there could be any suggestion other than that the practice of the Commission had always been to say exactly what he had just read out, that the listing by the Commission was not binding for purposes of extradition; at one time they had wanted the Commission brought in as a consultant or perhaps a body to which reference could be made for decision but these efforts had been quite futile and very properly so because the Commission had neither the means nor the opportunities for investigating the position which the Commander would have to investigate before granting extradition.

The letter from Colonel Muszkat (A.61), which he had read more than once with great care, did not, to his mind, state very clearly the particular motion which he wanted brought before the Commission and that had rather made him hesitate; there was an appeal however "to re-establish the value of the Commission's lists in extradition procedure"... for reasons which he had pointed out the Lists could have very limited use: the letter then went on to ask the Commission "to avoid any limitation of date for the acceptance of further extradition requests"... that was an entirely separate point which had nothing to do with the particular practice or procedure in regard to extradition generally; then the letter asked the Commission to request the Governments "to take urgent action for the apprehension and surrender of war criminals residing or hiding in different Zones"... that had already been done a great many times and showed quite conclusively that the responsibility in the mind of the writer rested not with the Commission but with the various authorities concerned.

This was the third request which the Polish and Yugoslav Governments, who were both very closely associated in the matter, had made. The matter had been raised before the United Nations as long ago as 1946, and then there had been a very full discussion in the United Nations in October 1947, of which he had the bulletin. This discussion was first heard before the 6th Legal Committee and that Committee after very full discussion adopted a resolution recording that member states should "continue with unabated energy to carry out their responsibilities for the surrender and trial of war criminals." - of course where it said "their responsibilities" it meant the legal responsibilities

of various member states, - no reference to the Commission was made, nor was the Commission mentioned in the vote passed on October 18 by 35 to 7 with 5 abstentions. The Chairman said he would only notice one or two things, he would notice that Sir Hartley Shawcross (United Kingdom) said "that there was no clear definition of "traitor" and "quisling" in international law." Agreeing with the principles of the Assembly's London resolution, Sir Hartley described the role played by his country in bringing war criminals to justice. Extradition, he said, should be granted only when a prima facie case was established. His Government stood ready to surrender those against whom tangible evidence had been produced; but it was not prepared to hand over persons, whose only crime was that they had become political dissidents, possibly to certain death, after a mere travesty of a judicial process." Some of the members objected to the reiteration of injurious complaints against different Allied nations. It was also worth noting that the President of that Committee, very naturally and properly, ruled that discussion of specific cases was outside the Committee's competence. That was because they could not decide whether the Commander exercised his discretion properly or not, that decision of the Committee came before the 23rd Plenary Meeting of the General Assembly. The Assembly adopted the report of the 6th Committee on the "return of war criminals, quislings and traitors to the country where their crimes were committed". He thought he had said all that was required to justify bringing the matter before the Commission so that the whole thing might be cleared up. He wished to refer to one or two things in Colonel Muszkat's letter which seemed to him to go beyond the specific question which the Commission could decide. One was the general complaint of the Polish Liaison Department that they were asked by the competent authority to produce more evidence than they had given before Committee I. However, as he had already said, the question before Committee I was different in essence from the whole question which the Commander-in-Chief had to decide; - there was a reference to Muehlmann in the letter which he did not quite understand but he did not think they could enter into it; there was a complaint that one of the bodies who had refused to accept evidence of people on racial grounds, which of course was very wrong and could not be applauded, and then there were some complaints which the Commission could not deal with that the American and he thought also the British authorities had fixed a time limit in the course of last summer for the presentation of extradition requests. That had now been withdrawn; what was quite clear was, whatever was done had been done by Governments, and done within the scope of International Law and that was a matter in which the Poles would have to seek the aid of diplomatic proceedings.

There were two pages of the letter which the Chairman said he must confess had caused him some discontent, they were the paragraphs on pages 5 and 6 (A.61) which related to issues of a document called the Rogues Gallery, and the innuendo seemed to be that the American authorities were seeking to apprehend persons not as war criminals but because they thought they might be useful in industrial matters: an English lawyer would say that that sort of comment (quite without justification) was scandalous and irrelevant and he would pass that over.

There was then a list of 13 cases in which it was said the British authorities had refused to carry out extradition, likewise even when the location of the accused was indicated - the British authorities might reasonably say when asked to deliver a particular offender that they did not know where he was and could not do anything more until his location was discovered. The Chairman said he had a note regarding the 13 cases from the Legal Division of BAOR in which they claimed that there was no foundation for any of the complaints: he did not feel disposed to read the long statement in which they justified that decision, that was a matter which ought to be taken up between the two Governments, if the Polish Government was not satisfied. The Chairman said he did not wish to go through Colonel Muszkat's long letter in detail, he was not reflecting on the zeal or ability of Colonel Muszkat but the question was whether he had any justification for having a third shot, having twice tried his luck with the United Nations to bring it to the Commission. The questions were even more outside the powers of the Commission than the United Nations and he could not see any justification at all for addressing the complaint to the Commission, and suggesting that the Commission might do something when it was already doing its best in every possible way to help everybody. It could not be required to fly in the teeth of the express

powers of Law No. 10, which was the governing law and he joined in hoping that the consideration that day would put an end to the habit or practice or the desire to make injurious suggestions and raise unfounded innuendos against the Commission. The Commission had no power to sit in judgment on the decisions of the member governments - if these thought they had grievances against each other then they should invoke diplomatic procedure.

In conclusion he wished to say that he had the greatest admiration for the Polish nation; he had always admired their brave and chivalrous people. They had suffered a great deal and anything that could be done to help them should clearly be done; it was that feeling which justified him in giving them the fullest opportunity of being heard to-day but it did not justify the Commission in attempting to do something which it could not do and if it could do it, could not rightly do. The Commission did not have power to override the discretion of the Commander-in-Chief in questions of extradition.

He would now ask Colonel Muszkat to put forward his motion.

COLONEL MUSZKAT said he wished to thank the Chairman for half of his introduction but wished to say that he failed to understand the reference to Law No. 10. In his opinion, it was the practice of the Commission that the listing of wanted persons was relevant under the procedure outlined in Law No. 10, the Commander-in-Chief could satisfy himself that if a person was on the list that meant that a prima facie case had been made out against him and the Commander-in-Chief should not disregard the Commission's decisions, that could not be justified.

In principle, he had nothing to add to his letter to the Chairman dated December 9th (A.61). That letter was circulated on December 16th as Document A.61 and, because the meeting called for 23rd December was postponed, all the members of the Commission had had an opportunity to acquaint themselves with his request. Therefore, it was unnecessary to repeat his arguments.

However, he wished to emphasise once more that for the Polish Government the problem of the prosecution of war criminals was not only a question of administering justice - they considered it as an important step in the re-establishment of peace in the world, since any sort of amnesty granted to those responsible for the commission of war crimes in the past favours their present tendencies to revenge their defeat, renders impossible the democratization of Germany, the re-establishment of future peaceful relations between a democratic Germany and her neighbours - first of all with Poland - and, in consequence, endangered the stabilization of collective security.

The Polish authorities did not consider the present rulings regarding extradition as completely unalterable - they were liable to change with changing conditions. But, until some other way was adopted by a competent international body in the province of the punishment of war criminals, they were not prepared to resign from their efforts to bring to justice before their own courts at least those against whom a prima facie case had been established regarding grave crimes, by listing them with the Commission, inasmuch as their claims were based on the clearly laid down international commitments, quoted in his letter (A.61), and which were still in force.

"The trial before the Polish Supreme National Court in Cracow of the Oswiecim staff is not an act of revenge but an impartial and objective administration of justice, which can be described as fair." That was stated recently by Colonel Harbough, the U. S. European Command Judge Advocate, and his opinion was shared by the many neutral observers who had attended war crimes trials in Poland. The Germans, too, held the same view - even the accused themselves, who were surprised by the way in which they were treated, for they had expected an attitude similar to that which they had adopted towards Poles under their rule.

As a result of the criminal activities of the occupying power, nearly six million Polish citizens were lost, 40% of their industry, about 67% of cattle, 83% of other farm animals, 55% of their stud horses, 20% of the farmsteads, almost every building in their capital, priceless cultural treasures, irreplaceable charitable, religious and artistic institutions

and works of art. The loss caused by the laying waste of the land, the destruction of transport and communications systems and in every branch of the national economy reached a colossal sum - tens of billions of zlotys.

But, in spite of all that, it should be borne in mind that, in their administration of justice against war criminals, they were pursuing only peaceful aims, devoid of any feelings of revenge. The work was undertaken in the common interest of all peace-loving peoples, first of all in the interests of rebuilding a democratic Germany, with which they hoped to live in really neighbourly relations.

As a further proof of the impartiality and very high legal level of the Polish Courts, he wished to quote the fact that of 145 war criminals tried up to the 15th November, 1947, 30 cases were waived or resulted in acquittal, i.e. more than 20%.

The total number of war criminals surrendered by the Allied nations to Poland as at the 15th November, 1947, did not exceed 1,602 - nearly the same number as were tried up to the same time by the British or American courts. And it should not be forgotten that the war crimes committed against Poland and Polish citizens could not possibly be compared with those committed against United Kingdom or United States citizens, or against any other allied nation, even if all were taken together.

It was obvious that the number of war criminals extradited to Poland bore no resemblance to the actual picture of the war criminality carried on in Poland under the occupation, or committed against Polish nationals outside their frontiers.

Nevertheless, they were not interested in entering into any numerical competition with their allies who first of all punished those who committed crimes against their nationals. They were interested only in ensuring the punishment of at least those who had committed the worst crimes - whose guilt had been proved beyond doubt as a result of investigations and established in accordance with the procedure of the United Nations War Crimes Commission.

Those were the people who, if not punished, were likely to prove most dangerous at present and in the future.

In his letter to Lord Wright, he quoted many instances where decisions of the Commission were disregarded; he had been informed of some new facts which showed that their task was being rendered impossible, and the work of the Commission in the past and still in progress was being nullified. In letter No: 0005 (Ext. 98-231), dated the 9th December 1947, the Chief of the Extradition Section of the War Crimes Group in the U. S. Zone of Germany informed the Commanding Officer of the Polish War Crimes Mission attached to that Group that U. S. agencies would require, for an indeterminate period of time, the presence of those alleged war criminals requested by the Polish Government, because of their responsibility for the crime of destroying the Polish capital. This decision of the U. S. authorities was equivalent to rendering impossible the trial of those who committed one of the worst crimes known to human history - the crime of the deliberate destruction of Warsaw, all her monuments, collections, public and private property, her buildings and most of her civilian population.

A great many other Polish extradition requests concerning exclusively persons charged with very grave crimes - all of them listed by the Commission - had not been accepted as they could not show their exact location at the time of submitting the request.

It should be emphasized that the completion of such of their investigations as were still pending would be made most difficult, if not absolutely impossible, by the U. S. request to discontinue the work of their War Crimes Mission by the 25th January at latest, as stated in the letter of the American War Crimes Group, dated 20th December, 1947. That letter, although clearly acknowledging that the assignment of their Mission "has been of substantial aid in connection with the war crimes operation", and expressing gratitude "for the assistance rendered" and appreciation of "the exemplary co-operation on the part of the Polish Government in connection with all war crimes matters" nevertheless gave no indication as to how they were to complete such investigations as were still in progress or only provisionally closed for lack

of some data.

It was needless to say that the discontinuance of the Allied War Crimes Missions could be considered in any other light than as an obstacle in the path of achieving the aims pursued by the Commission. However, the worst thing in this connection was the new American regulation concerning the procedure of extradition to be adopted subsequent to 1st November, 1947, described in the circular letter AGO05(LD) dated 17 November 1947.

Although the subject heading of that letter was "Extradition of Alleged War Criminals in Germany", it would be far more fitting if it were "How Future Extraditions may be rendered impossible."

It authorized the Director, Legal Division CINGUS, to make exceptions and to entertain requests for extradition in certain individual cases "where it is shown that reason exists for the request not having been filed prior to 1st November, 1947". In that way, the principle of the surrender of war criminals, based on international agreements, ceased to be a binding obligation and became a favour to be granted to the requesting authorities according to the goodwill of the Director of the Legal Division. It was true that the letter mentioned that the requests should be "cleared" with the United Nations War Crimes Commission, but for the granting of extradition in such exceptional cases, it was required that evidence affording reasonable support to the charge and evidence of personal complicity should accompany the request. That, in practice, meant a duplication of the whole procedure already once gone through before the Fact Finding Committee (No: I) of the Commission.

The circular letter gave its support to the Commission with one hand, and with the other it brought to naught all the Commission's authority and the practical value of its lists prepared over a period of years.

Moreover, the "exceptional requests" which were to be granted must contain, as a minimum, all the information outlined in the enclosure to the letter. According to that enclosure, the requesting authorities must supply, besides the name of the alleged war criminal, also the nature of the crime and the place of its commission, the date and place of the wanted person's birth, his weight, the colour of his eyes and hair, his present nationality and place of residence and a statement from the nearest Public Security Officer that the individual does in fact reside at the address shown in the request.

It was needless to say that, in practice, it would be generally impossible for the requesting authority to give all that personal information regarding the alleged war criminal - especially if the requesting authority had not the right to maintain a large detective staff, constantly watching over suspects to see that they did not dye their hair, change the colour of their eyes, nor embark on special diets in order to change their weights!

The demand to present an official statement concerning the location of the wanted person, in the same way, may be considered as an excellent means of facilitating his flight and escape from punishment.

He was perfectly aware that the practical aspects of the extradition of war criminals were outside the jurisdiction of the Commission; however, they could not remain indifferent to practices cancelling out all the work done so thoroughly during the past few years, entailing the careful examination of charges brought by Allied governments and their consideration by an international body constituted according to rules of international law and based on international agreements.

It was obvious that the Commission had no executive power; but one could not deny that recommendations made in the province of its essential field of activities should carry at least moral weight with those governments whose representatives took part in the work of the Commission.

If they were sincerely interested in contributing to the realization of justice and world security by means of the re-establishment of the practical value of the Commission's very important work for peace and the preservation of its authority in that province - if they had any concern for the judgment of the future on them - they should not agree to a policy which could be likened to an ostrich hiding its head in the sand.

The members of the Commission were now faced with a choice - either they must decide to continue their work caring little for its practical value - or they must do all in their power to bring that work to its only logical conclusion.

Colonel Muszkat said he believed that, in the interests of justice and world peace, they should try to influence all member governments to accept and implement a unanimously voted resolution on the following lines:-

"1. The United Nations War Crimes Commission appeals to the member states to take urgent action for the surrender, without delay, of war criminals already apprehended as well as for the apprehension and surrender of those who are still living in freedom, openly or in hiding, either in their territories or in former enemy countries occupied by them, to the countries where their crimes were committed.

"2. The United Nations War Crimes Commission reaffirms that no reservations are to be made as regards the extradition of war criminals listed by the Commission in cases where no further material becomes available after listing, since the Commission examines all charges and accepts for listing only those alleged war criminals against whom a prima facie case of the commission of war crimes has been established.

"3. The United Nations War Crimes Commission states that any limitation of date, either as regards release of war criminals or for non-acceptance of further extradition requests in respect of alleged war criminals against whom a prima facie case has been established but in regard to whom no further material is available, shall be considered as disregarding the spirit and provisions of the relevant declarations and agreements still in force in the province of the prosecution of war criminals, nullifying the work of the Commission set up upon diplomatic agreements of seventeen allied nations and contrary to the interests of collective security, for which the punishment of those who have committed crimes against peace, conventional war crimes and crimes against humanity should be considered as of the utmost importance."

THE CHAIRMAN on being handed a copy of Colonel Muszkat's Resolution remarked that it was rather long and read to members the three points of the Resolution.

M. MILENKOVIC said he wished to express agreement of the Yugoslav Government with the point of view taken by the Government of Poland, as stated in the document A.61.

The Yugoslav war crimes investigation Missions in Germany and Austria were experiencing the same difficulties, being constantly requested by the British and American authorities to submit the full evidence against all war criminals whose names had already been listed by the Commission.

In order to corroborate the cases mentioned by the Polish delegate, he wished to offer as one example among many, the case of General Fisher. Charges of war crimes committed by General Fisher had been examined and very carefully considered by Committee I and, prima facie evidence being presented his name was placed on the list of war criminals, with usual difficulties. Yet, he was asked by the Judge Advocate General's Department to submit additional information concerning the guilt of General Fisher before his extradition could be arranged.

In asking for additional evidence, the British and American authorities in Germany and Austria did not hesitate to ask, for every case under review, that the request for the surrender of the individuals concerned must "be accompanied by a clear statement of the law violated, the acts charged as violation, and evidence affording reasonable support to the charge."

In the face of such a situation, the Yugoslav Missions did their best to satisfy the British and American authorities in giving them detailed particulars. In fact, they repeated the same procedure as he followed when presenting a case to Committee I. Practically, it meant that for the handing over of the same war criminal, he had to fight the case in London and the Yugoslav Missions had also to fight the case in Germany, Austria or elsewhere.

M. Milenković said he understood quite well that the British and American occupying authorities were anxious to have a clear conscience in every case of extradition, but at the same time he wished to point out that, in asking for full evidence in every case, they did not completely follow the principle of handing over all persons whose names had been placed on the Commission's list of war criminals, provided they had no reason to doubt the bona fide of the Allied request. As it was, it seemed to him that they put in doubt very often not only the bona fide of the Allied request but the bona fide of the Commission also, considering that the same cases had already been passed through the Commission's Committee I, where the British and American representatives played a prominent part.

In this connection, he wished to point out, once again, that the Yugoslav Government fully recognised the authority of the Commission and had always been ready to hand over any war criminal who might be found on Yugoslav territory, provided he had been accused and listed as a war criminal. In other words, his Government did not reserve the right to enquire into cases and made its own decision. He stressed that point as a principle to be followed as closely as possible by the occupying authorities in Germany and Austria for it would be quite contrary to the objects of the Commission if the countries represented on the Commission did not accept its decisions as final or almost final.

M. Milenković said on this occasion, he would like to refer to the statement made by Sir Robert Craigie, that the Commander-in-Chief in the British Zone had no intention of minimising the value of listing by the Commission and that his practice in general had been to accept such listing as constituting evidence of a prima facie case. A similar statement by the American representative would be very helpful. Although the Commander-in-Chief reserved to himself the right to make any further investigation in any particular case, M. Milenković thought there was there sufficient ground for improvement in the present practice. Sir Robert had said that that practice would not normally result in duplication of work by the United Nations War Crimes Commission and the Legal Division of the Control Commission, but he was afraid, practically, it did.

More important than the duplication of work, was the question: could the decisions of the Commission be disregarded, or put in doubt, or altered in a unilateral manner?

The authority of the Commission, as an international body, was based on international agreements and, therefore, its decisions were binding upon all its members.

M. Milenković went on to say that the Chairman had stressed the exclusive competence of Law No. 10, he agreed with Law No. 10 and many parts of the Chairman's explanation but it did not follow that the Commission as a body could not state their point of view regarding the value of the decision to list a name. The Yugoslav Mission in Germany was attempting to submit many cases on the basis of Law No. 10 but they were told when there were certain cases which had not been passed by the Commission to address them first to the Commission and then go before the Allied Control Commission. They had put many cases on the basis of Law No. 10 but were told because some cases were not registered with the Commission that they should first address them to the Commission for registration and then request extradition.

THE CHAIRMAN said that in matters of extradition it was not the Commission but the Legal Directorate of the Control Commission who helped the Commander-in-Chief exercise his discretion and control.

M. MILENKOVIC said that when they were told to register cases with the Commission and then go before the Control Commission with their request for extradition it was duplication because they were then asked to provide additional evidence.

THE CHAIRMAN said that if the findings and listings by Committee I were not sufficient to satisfy the Commander-in-Chief that an extradition should be ordered and that something further would have to be produced by the demanding country, it was not really duplication.

M. MILENKOVIC said it was difficult for every National Office to submit additional evidence to what had been submitted to Committee I, and how could he be asked to submit additional evidence to the Commander-in-Chief when he had given all he had to Committee I?

THE CHAIRMAN said it was for the Commander-in-Chief and those advising him to judge and the Commission could not tell him how to exercise his judgment.

M. MILENKOVIC said they were asking for some kind of binding power for the decisions of the Commission and not just that they be respected. It was a very difficult situation for every country.

THE CHAIRMAN said that maybe, whatever they did, they could not produce enough evidence to satisfy the Commander-in-Chief.

M. MILENKOVIC said it was difficult to supply more evidence than was produced to and sufficient for Committee I. He said there was an obvious difference between the statement by Sir Robert Craigie (A. 60) and the statement made by Mr. Kintner in Committee I.

THE CHAIRMAN said it was not obvious because Sir Robert had said that he completely agreed with Mr. Kintner's remarks.

M. MILENKOVIC pointed out that Sir Robert had said that the decisions of Committee I normally constituted a prima facie case whereas Mr. Kintner had said that such decisions were not conclusive and therefore not binding at all upon the authorities responsible for extradition.

THE CHAIRMAN said that had been said ever since the question arose in 1945. He had read all the documents and had been present when the history developed. He thought Mr. Kintner's statement was quite correct and he agreed in affirming it with Sir Robert Craigie and agreed with Sir Robert that it was perfectly correct. The fact that Committee I found sufficient evidence to put a name on the list did not involve that there was sufficient evidence to justify the Commander-in-Chief in extraditing. In addition to that, there might be extraneous circumstances which would prevent extradition, quite apart from the mere question of evidence. He saw Mr. Milenkovic's point, which he had stated very clearly; he felt no one would accuse him of lack of sympathy. However, if some governments were not satisfied surely it was a matter in which they should make diplomatic representations.

M. MILENKOVIC asked whether the Commission could not, as a body, state their view regarding decisions taken because they must have some value, some binding power, or shadow of binding power and should not be rejected by the Military or occupying authorities.

THE CHAIRMAN said the Commission had no power to order extradition.

M. MILENKOVIC said they had no power but a moral duty to say what they considered just.

THE CHAIRMAN said that if Mr. Milenkovic was right, extradition would be determined and ordered by Committee I, because if Committee I put a name on its lists it did so because it was satisfied for its purposes that a prima facie case existed and that that would justify extradition.

M. MILENKOVIC said he would like to know what was the purpose of registration by the Commission, was it a determining factor for the administering authorities in Germany or was it just a matter for consideration.

THE CHAIRMAN said everyone knew the purpose of Commission listing. The only question was whether it was conclusive or binding and clearly it was not. That scarcely admitted of argument.

COLONEL SPRINGER said he had listened intently to Colonel Muszkat's speech but unfortunately did not hear everything said by Colonel Muszkat and would not therefore be able to comment on all his remarks. However, he would like to say by way of preliminary remark that what he had to say was not intended to cast any doubt or reflection or criticism on the fairness of the trials held in Poland and his remarks would be chiefly with regard to Colonel Muszkat's

letter because what the Yugoslav member had brought out was somewhat new to him. He might say also in a preliminary way that the Yugoslav representative had mentioned Austria as presenting the same difficulties as Germany. He thought it would be found (he understood that the Polish and Yugoslav problems were similar) that the American occupation authorities had never announced a final or "cut-off" date for extradition requests, such as November 1st and December 31st which had been announced for the American Zone in Germany, so that Austria continued just as it was without any November 1st or December 31st dead line.

THE CHAIRMAN said he understood that the November 1st date had been withdrawn.

COLONEL SPRINGER said so far as he knew it had not been withdrawn but he believed the practice of accepting extradition requests for exceptional and individual cases had continued right along and he had heard no complaints until this one under discussion had come forward. Colonel Muszkat's complaint was the first he had heard of; if there had been others they had not come to his attention. He had not intended to dwell on individual cases but some of the ones mentioned in the letter were represented so inaccurately that he thought he had better take one or two concerning which he had made inquiries.

In this connection he wished to read a transcript of a telephone conversation he had had with Berlin in the case of Fischer, who Colonel Muszkat complained was not being extradited. He did not consider this an exceptional case, in fact he thought it was more or less typical:

"The material originally submitted on Wilhelm Fischer by the Polish Liaison Detachment on duty with 7708 War Crimes Group was indeed meagre, the accused submitted hundreds of statements attesting to the fact that he was not guilty. The Polish Liaison Detachment at Munich, months later, submitted sufficient evidence to warrant extradition but the Detachment did not submit a note of the law violated, that statement had not yet been received by War Crimes Branch, Legal Division. On the 8th December Fischer committed suicide and the Polish authorities were notified, both at Munich and Dachau, immediately."

That seemed to him to terminate the case but Colonel Muszkat was still citing the case. The Poles wanted the procedure to work and so did the American authorities but to do it they would have to submit the name and such particulars so that the right person could be apprehended; they would have to submit evidence under the procedure which the American authorities had been following. A United Nations resolution was mentioned. That resolution recommended that evidence be submitted with the extradition request, if the Poles were going to follow it, and they had to follow it, he did not see why time should be wasted in fighting against it. The letter which Colonel Muszkat addressed to Lord Wright on December 9th, 1947 (A.61) had first come to his knowledge about the 14th or 15th of December. He had previously heard that some disappointment had been expressed concerning the fact that in the American Zone of Germany they were attempting to complete the war crimes trials by the middle of the year (1948), and that last July General Clay announced that extradition of war criminals would generally be suspended after November 1st. He should confess, however, that he was surprised, just as the American authorities in Germany would be surprised, to find the Poles were objecting to their action on extradition cases.

As Lord Wright had indicated, practically all these same questions and charges were recently made and debated in the Sixth Committee of the United Nations and in the General Assembly itself. Although the Committee and the General Assembly overwhelmingly rejected the idea that certain governments had failed to carry out the recommendations of the Assembly concerning the surrender of war criminals. This was evident from the action of the Committee in rejecting the resolution as originally proposed, which expressed regret that certain governments had not carried out their responsibilities with respect to extradition of war criminals. In view of the fact that this same subject and similar charges had recently undergone such extended discussion, consideration and decision, in a body appropriate for their consideration and competent to resolve them, he strongly believed that it was not for the Commission to depart from its limited jurisdiction and enter the field so completely covered by another international body.

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He knew that when General Clay originally announced November 1st as the last day for submitting requests and December 31st as the last day for submitting evidence, many governments thought that the time was too short to permit completion of their programmes. He thought, however, that most of them had now discovered that applications could still be transmitted and that surrender and extradition continued to be effected in individual cases which were carefully presented and properly supported. At the time General Clay made his initial announcement it would be remembered that he said that regardless of these dates he was authorised to make exceptions in individual cases if the facts so warranted. Individual cases continued to be received and to be acted upon favourably. He believed that it would be found that the present procedure, although more cautious perhaps than was formerly in effect, was nevertheless adequate for their purposes. He thought it was not surprising that the American and also the British authorities had recently taken a course which was probably more cautious in the matter than formerly. The Commission's own Committee I had recently altered its procedure by requiring the presentation of convincing evidence whereas formerly it frequently accepted very meagre amount of material to support the charge. He thought they must admit that. He strongly suggested that before complaint was made they should wait and see how requests were acted upon by the authorities in Berlin.

He noted that the Polish delegate stated in his letter that the Commanding officer of the Headquarters of the American War Crimes Group, 7708 at Munich, had stopped accepting any further requests for extradition and surrender of alleged war criminals in the United States Zone of occupation (page 4 of Colonel Muszkat's letter, Doc. A.61). He wanted to correct a mis-impression that statement might give. It was true that the war crimes group referred to had definitely and completely stopped accepting applications for extradition. It was also true that they stopped on November 1st, but that amounted to no more than a change of address. Application after November 1st should be addressed to the authorities in Berlin. On November 17th a letter was circulated to all Missions stating that requests for surrender and extradition should be addressed to the Legal Division of the office of the Military Government, Berlin, with a statement in English including the name of the person wanted, the law violated, the acts charged in violation and evidence affording reasonable support to the charge, also evidence of personal complicity, submitted in English (and he would be happy to provide members with copies of this letter if they did not have them). So, although the acceptance of requests at Munich had now definitely stopped that amounted to only a transfer of responsibility to the Legal Division at Berlin. The Polish delegate by the language used in his letter (P.4, Doc. A.61), did not, surely, mean to say that a change of address constituted a unilateral decision contrary to international agreement, for there was no agreement involved, and particularly no agreement that Munich should be the place for the acceptance of extradition requests?

Certainly members were all aware that his Government immediately and energetically took the initiative in prosecuting the criminals of the last war. One of their leading justices was loaned by his Government to set the wheels of Nuremberg in motion, and since then Nuremberg had continued to be the scene of the trials of those high officials who brought ruin and destruction in varying degrees to various countries. At Dachau, at Weisbaden and at other places the U. S. prosecuted with all the vitality and energy and means at their disposal. They had about finished that programme and were now working with equal energy, vitality material and finances to help in the restoration of European and world economy. He thought members would agree with him that it was inconceivable that his Government should purposely place obstacles in the way of any bona fide war criminal extradition or prosecution. As he had said in the beginning, Col. Muszkat's letter (A.61) had come to his attention rather late to investigate individual cases cited, but he had, by telephone, inquired into those which were represented as most unreasonable. Colonel Springer here referred to page 3 of document A.61 where it was alleged in the fourth paragraph that the United States Forces in Austria had not regarded looting and plunder as war crimes. He was informed that that was almost entirely wrong. Originally when the facts were submitted they were so incomplete that the Headquarters did consider that no war crime was described, but further evidence was invited. The Poles submitted further evidence and were informed that of course looting and plunder were considered war crimes, and had now been adequately described in the charge although evidence in substantiation was lacking and further evidence was requested. The perpetrator was immediately sought and might, so far as he knew, have been apprehended in the meantime unless the

unfortunate publicity of the letter had given him warning and an opportunity to escape. With reference to Terlecki and Worobkiewicz, Colonel Springer said that he would use this as a typical case - Terlecki was apparently requested for extradition by the American authorities in Berlin, they examined the Polish evidence and a great deal of other evidence and refused extradition. The Poles then brought the case before Committee I and he did think that Committee I should be informed if a case brought before them had already been refused extradition - did that not seem fair? - Colonel Springer reiterated that on investigation a great deal of defence evidence was forthcoming from the same group of people who made the initial charge, and after careful consideration it was decided that extradition would not be granted. The racial origin of the persons who gave testimony had nothing to do with the decision.

THE CHAIRMAN said that really illustrated that there was a different procedure between listing by the Committee I and granting an order for extradition, the two things were completely different. He did not think that the Commission could go into matters of that sort and he ruled against the discussion of individual cases.

COLONEL SPRINGER said he did want to state that after examining all the evidence the requests were refused but not on the basis that the witnesses were of Jewish, or any particular racial origin.

THE CHAIRMAN said that merely showed the futility of the proceeding, Colonel Muszkat stated that the evidence was rejected because the witnesses were of Jewish origin and now Colonel Springer said that was a complete misapprehension. He found it very difficult to think that any such statement would have been made. Colonel Muszkat said one thing and Colonel Springer said another and the net result seemed to be that it was not a matter for the Commission to decide and not a matter which concerned the Commission. The Commission had no right to sit in judgment on the United States or United Kingdom or the Polish proceedings and he considered that they should settle their differences by the ordinary course of international diplomacy.

COLONEL SPRINGER said he had finished discussing individual cases, however he would like to say, in conclusion that Poland had been one of the most favoured of countries in the matter of extradition. She had received roughly 1,200 persons from the U. S. Zone by way of extradition - more he believed than any other of the United Nations except France. Comparatively speaking, only an insignificant number of her requests had been refused. As Lord Wright had said, the matter of extradition was beyond the scope and jurisdiction of the Commission. He therefore urged members to vote against the motion which might be construed as criticism of governments which had taken a leading part in the apprehension and extradition of war criminals.

DR. ZEMAN said he was in the fullest sympathy with the motion put forward by the Polish delegate, with certain qualifications, he thought they had submitted several concrete cases at the request of Sir Robert Craigie. It was Sir Robert who had asked Colonel Muszkat to bring forward concrete cases to substantiate charges. He wished to say that even if it were recognised that the decisions of Committee I were not binding on the Legal Directorate, they did certainly all recognise that the decisions of the Commission carried weight. That had been said in the letter submitted by Sir Robert Craigie (A.60). The Yugoslav delegate had said it would be very helpful if, in order to clarify matters, a similar statement could come from the U. S. authorities.

THE CHAIRMAN said that the Czechoslovak representative would have to take that up with the U. S. Authorities. The only body which could speak to bind the Commission was the Commission. The Commission was the mouthpiece of its own views; it was not bound by what any other authority said.

DR. ZEMAN said it would be helpful if the Commission could persuade certain of its members to act likewise. The British Government had found it possible to give the Commission a statement and he thought perhaps it might be possible for the U. S. Government to make a similar statement.

THE CHAIRMAN said that might be so but the Commission was not bound by statements made by other Governments.

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THE CHAIRMAN said that might be so but the Commission was not bound by statements made by other Governments.

DR. ZEMAN said he thought that in order to bring the discussion to a practical conclusion, the motion, qualified to a certain extent, but re-asserting the basic principles, could be carried and accepted because what Colonel Muszkat asked in point one, "that the United Nations War Crimes Commission appeals to the member states etc...." was something which had been followed in practice; point two was not, he considered, in contradiction of the sovereign powers of the Commander-in-Chief. He would like to see a statement incorporating what the British Commander-in-Chief had said: "that it was certainly not the intention etc...."

THE CHAIRMAN said that was quite true and alright as far as it went but it might not go far enough; there were cases in which the Commander-in-Chief in exercising all his powers might order extradition simply on the basis of what he found in the report of Committee I. He thought that there were probably quite a number of such cases; those cases were usually very simple and listing by Committee I might be sufficient, but there might be reasons why the Commander-in-Chief thought that a man should not be extradited. The Commander-in-Chief had to deal with the problem and might consider that the matter could be dealt with best by trial in Germany.

DR. ZEMAN said he thought the whole procedure would, with the work the Commission was doing, be much easier and they would overcome many difficulties if their decision could be communicated direct to the Allied Commander - that the Commission respected his rights but would like him to use them only in exceptional cases - that as the Commission respected those rights so the Commander-in-Chief should respect the decisions of the Commission as friendly and wise.

THE CHAIRMAN remarked that there might be cases where doubt would be left in the minds of governments as to whether they had received a fair deal, but the proper course to adopt was for them to go to the British and American authorities. Those authorities only wanted to do what was fair for everybody and surely governments would help them best by putting the matter before the appropriate person, namely the Commander-in-Chief, or those who advised and helped him - surely that was the way to deal with the matter.

DR. ZEMAN remarked that it was not always the Commander-in-Chief who dealt with the problems and he considered a resolution of a body such as the Commission would carry great weight and such an expression of opinion would be of great help to individual nations.

THE CHAIRMAN said the Commission had no need to re-assert its own authority. Its authority was not questioned or attacked; the course was to proceed by reasonable persuasion. He was not disposed to put before the Commission, or ask the Commission to accept, a resolution which simply attempted to dictate how the Commander-in-Chief should exercise his very serious discretion.

MR. AARS RYNNING said he was of the opinion that there was no reason to overestimate the value of listing by Committee I - according to his experience the chief aim of the Commission had been to give the occupying authorities a basis in their lists for an early arrest of alleged war criminals, suspects and witnesses. During his duties in Committee I he had got some experience in these matters and he would frankly state that if he were in a responsible position in occupied territory he would not take any serious step, such as extradition, without having asked for more evidence than that submitted to Committee I. In the majority of cases Committee I received one or two witnesses reports - sometimes it was not clear whether they were hearsay or whether they could substantiate their statements. Secondly, the question of extradition had been finally settled by Law No. 10 and he thought it would be very unreasonable if the Commission should in any way try to interfere with the occupying authorities in the performance of their duties. He suggested that the Polish resolution be either withdrawn or rejected by the Commission.

THE CHAIRMAN asked Colonel Muszkat whether he wished to withdraw his motion?

COLONEL MUSZKAT said he wished his motion put to a vote.

THE CHAIRMAN said they had had a very interesting discussion and had heard various points of view. The essential matter was a question of principle, could the Commission interfere or even suggest an interference with the discretion

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of the Commander-in-Chief in the important function of extradition and if that was answered in the negative then the whole thing fell down. This matter had already been dealt with twice and to-day's discussion was the third time. He would ask the Commission to reject Colonel Muszkat's motion. He did not see any special reason for analysing the three points of the motion since they all hinged on the same question, except point 3 regarding limitation of date. As to that, it was a matter for particular governments and he considered it would be very wrong for the Commission to pretend to dictate to any particular government what should be done with regard to setting a particular date. He would ask for a vote on the simple question whether the motion brought forward by Colonel Muszkat and seconded by M. Milenković should be accepted or rejected.

M. MILENKOVIC said he would like to say something in reply to the Norwegian delegate, M. Aars-Rynning who had said that they were trying to interfere with Law No. 10 or with the occupying authorities. The scope of the resolution proposed was not to interfere with anyone but merely to underline the value of the decisions of the Commission. They were not interfering, as the Norwegian representative had said, with Law No. 10 or the occupying authorities.

THE CHAIRMAN said he appreciated what M. Milenković had said but he thought that every member would have made up his mind how he would vote on the resolution and he would therefore take the vote.

The vote then taken was as follows:-

Those against:

7 United Kingdom, United States of America,
Canada, Australia,
Denmark, Norway,
Greece.

Those in favour:

3 Poland, Yugoslavia,
Czechoslovakia.

Those abstaining:

2 China, New Zealand.

Absent:

5 France, India,
Belgium, Netherlands,
Luxembourg.

The Resolution put forward by Colonel Muszkat and seconded by M. Milenković was accordingly rejected.

Wright

M. 133

UNITED NATIONS WAR CRIMES COMMISSION

Meeting held on Wednesday, 21st January, 1948
at 3.0 P.M.

CHAIRMAN Lord Wright

Australia

ALSO PRESENT: Sir Robert Craigie
Colonel Springer
accompanied by
Mr. Kintner
M. Maillard
Miss Goold-Adams
Dr. Cheng
Mr. Heydon
Mr. Aars-Rynning
Dr. Schran-Nielsen
M. Dimitzas
Mr. Aikman

United Kingdom
United States of America

France
Belgium
China
Australia
Norway
Denmark
Greece
New Zealand

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

Mr. Leger
Colonel Muszkat
Mr. Dutt
Dr. Zeman
M. de Baer
Commander Mouton
M. Milenković
Lieut. Colonel Barratt

Canada
Poland
India
Czechoslovakia
Belgium
Netherlands
Yugoslavia
Office of the Judge
Advocate General.

MINUTES

Minutes of meeting of Commission held 29 October 1947 - M.131 - were approved and signed.

Amendments to Minutes of meeting of Commission held 7 January 1948 - M.131 - received from Mr. Aars-Rynning will be incorporated in the final text.

APPROVAL OF THE COMMISSION TO CONTINUE THE REPORTING AND PUBLISHING OF LAW REPORTS OF TRIALS OF WAR CRIMINALS AFTER THE COMMISSION HAS TERMINATED ON 31 MARCH 1948.

THE CHAIRMAN said that the matter of the continuation of the Law Reports was certainly very important and the Commission was asked to approve of the continuance of reporting and publishing law reports of trials of war criminals after the Commission had terminated on 31 March 1948. The Commission's life would be terminated on 31 March and provision had to be made for the continuance, after that date, of the production of Law Reports. Members would remember it had been decided, at an earlier meeting, that there should be a History of the Commission; it was hoped this would be completed and ready to go to the publisher by 31 March. The question of law reporting however was different, for the simple reason that so many trials were not completed and therefore could not be reported and transcripts of a certain number of those cases which had been completed had not yet been received. The officers working on the reports could not proceed with their work until they received the documents and the result was, that if the scheme was to be carried out, there would have to be an extension to enable the Law Reports to be produced. March 31st was the date on which the Commission's life, as a body, would be brought to an end and the plan which had been suggested was, that as from that date, the Commission should appoint a small body of experts to work on the Law Reports. The exact constitution of that informal body would have to be left over for the present and he anticipated no difficulty in nominating the people who would take charge of that, not as members of the Commission but as workers for the

particular purpose of producing Law Reports. With regard to funds, it was proposed to deal with that in the following way.

It would be desirable to appoint a small body of trustees for the general administration of such funds as remained to the credit of the Commission when it closed down officially on 31 March 1948, and to assist the Legal Publications Committee in the general supervision and administration of the work of continuing the Law Reports. The Chairman suggested that some member of the Finance Department of the United Kingdom Foreign Office might be asked to act as one of the trustees but that could be decided at a later date when the Commission would be asked to appoint the trustees.

The trustees would also supervise the repayment to member states of the balance left over after the Legal Publications Committee had finished its task. That he thought, would meet all requirements and would enable that very important function of the Commission to be carried out. The Chairman said he had already explained more than once how strongly he felt about the importance of the Law Reports being produced. He thought that the work of the Commission had been a very great step in the development of International Law - International Law so far as it related to war and peace, the conduct of military operations and everything of that nature, what were called the Laws of War, also the Laws against Aggressive War - that body of law was of vital importance and would be largely lost unless it was concentrated and brought to hand.

He assumed that a history was being prepared on the Nuremberg trial and also at some later date that a history would be prepared on the Tokyo trial, when it finished. In addition, there were a great number of trials which were of the utmost importance towards creating jurisprudence in that very great and momentous aspect of International Law. This was a limited aspect, perhaps, in that it only operated in relation to wars and if there were no more wars then it would be unable to operate. He thought however that no one would contend there would be no more wars in future and, in that case, the lessons of the last war would be of supreme importance to humanity and to that body of jurisprudence to be derived not only from the Nuremberg and Tokyo trials but from all the trials which were going on in countries all over the world.

As members knew the work on the Law Reports was going on, two Volumes had been published, the third was on the point of publication and a fourth had been approved by the Legal Publications Committee. A certain number of trials, ten to be precise, had been circulated in draft and approved by the Legal Publications Committee for subsequent Volumes. That accounted for a total of 34 trials to date. It was hoped to produce 15 further volumes so that there would be a series of 122 trials making a total of 20 volumes. The Secretary General had estimated that the general scheme would occupy the contemplated workers up to the end of February 1949, i.e. 11 months, from the conclusion of the Commission's activities. He had rather thought the end of this year, but he could quite see that February might be necessary if the scheme was to be carried out.

As to the cost of production, that of course would fall, not upon additional subscriptions from the Commission because there would be no Commission, but upon the funds which, if the scheme was approved, would be set aside for that purpose. He wished to impress upon member nations and everyone else interested in this work that their duty was to buy copies of the reports when published. Volume I had undoubtedly shown a deficit and it must therefore be borne in mind that other volumes might also show a deficit, though he did not see why they should, but the resulting figure would not, he thought, be of terrifying dimensions. However, the budget for this work would include a certain amount to cover a possible loss on each volume. The Chairman thought the position would be very much clearer by the end of February and indeed still more so by the middle of March. The important thing was that the Commission should, without any uncertainty, express its general approval that the work of law reporting, which was a matter of primary importance and in which some sacrifice of the funds now accumulated would be completely justifiable, should be continued. He thought it would be a disgrace if the Commission, charged as it was with the duty of reporting War Crimes Trials, went out of existence without having provided for that important series of reports. Mr. Kintner was the Chairman of the Legal Publications Committee and one of his functions as Chairman would be to assume the obligation as Editor of the series of Volumes and to direct operations.

under the Commission when in existence and, when it ceased to exist, under such arrangements as might be provided by the Commission before it went out of existence, provided, of course, that his Government continued to provide Mr. Kintner's services. He would of course be working as United States representative on the Committee. In addition to Mr. Brand other members of the staff would deal with preparing the publications. It was contemplated that Dr. Zivković might be one of those members and tentative arrangements had been made with two British lawyers - Mr. Elwyn Jones and Mr. Wallace Jones - Mr. Elwyn Jones had been much occupied with the Nuremberg trial, acting for and with the prosecution team in that connection. Their services would be extremely valuable and any arrangement which it was thought desirable to make with them would, he was sure, meet with the approval of members. It would also be necessary to ask the Foreign Office (if they approved in principle of the scheme) to arrange accommodation for the rapporteurs and a small staff and no doubt Sir Robert Craigie would act as intermediary in this connection. That, he thought, was the whole of the scheme and when members had heard the Secretary General and made any comments they might wish to make he hoped they would then approve in general terms the scheme which he had adumbrated.

His motion was "to approve the continuance of reporting and publishing the Law Reports of Trials of War Criminals after the Commission has terminated on 31 March 1948".

THE CHAIRMAN then asked the Secretary General to explain the financial obligations of the Member Nations in respect to his proposal.

THE SECRETARY GENERAL said the Chairman had explained the scheme very fully but to assist members to come to a decision with regard to the continuation of the Law Reports, it would perhaps be well to acquaint them with the cost involved and the balance which he estimated should be to the credit of the Commission on the 31 March 1948.

So far as the Law Reports were concerned, the sales of Volume I had not been as high as one would have wished; 2,510 copies of that volume had been printed and up to the end of last year only 1,000 copies had been sold, resulting in a net loss to date of £150. In view of this, he thought it would be advisable to budget for a certain amount to cover a possible loss on the remaining volumes. As the Chairman had said, it would have helped considerably to reduce that loss if Member Governments had ordered more copies of Volume I than they actually had done. Volume II had just been published and it was hoped that the cost of production of that Volume would be somewhat less than Volume I - the price had also been raised from 2/6 to 3/-.

After 31 March, the cost of the services of 4 rapporteurs with their assistants and the accommodation, which it was hoped would be made available by the Foreign Office, was estimated at £400 per month. In order to complete the work envisaged by the Legal Publications Committee (completing 20 Volumes comprising 122 cases) it would, in his opinion, occupy the services of the 4 rapporteurs 11 months at a total cost of £4,400 to which, unless the sales of subsequent volumes could be guaranteed by members to show an increase over Volume I, should be added a sum of £2,200 to cover a possible loss in publication and sales, bringing the total estimate to £6,600. It would, perhaps, be helpful for members to know the amount of the divisible assets available for distribution at the end of March 1948. After consultation with the Commission Auditors, it was estimated that on the 31 March of this year, there would be available a balance of approximately £12,000, after providing for the expenses of winding up the Commission. In accordance with Article 13 of the Financial and Administrative Regulations; "on the dissolution of the Commission its assets shall be divided among the Governments which are or have been members of the Commission, as nearly as possible in the proportion in which they have contributed to create them." If it is decided to continue with the publication of Law Reports, the cost, estimated at £6,600, would be borne by member governments in the same proportion in which they would expect to receive their share of the divisible assets.

The proportion in which Member Governments have contributed to create the funds of the Commission, the amount of each Government's share of the estimated divisible assets as at 31 March 1948 (in the event of a decision not to proceed with the Law Reports) and the amount which each Government would be expected to pay towards the cost of the continuation of the Law Reports was given as follows:-

	<u>Contribution per cent</u>	<u>Share of Divisible Assets at 31 March 1948, estimated at £12,000</u>	<u>Share of Estimated cost of continuing Law Reports after 31 March, 1948.</u>
Australia	3.65	£ 438	£ 240
Belgium	3.29	£ 395	£ 217
Canada	4.36	£ 523	£ 288
China	6.16	£ 740	£ 406
Czechoslovakia	3.29	£ 395	£ 217
Denmark	2.56	£ 307	£ 169
France	5.44	£ 653	£ 360
Greece	2.93	£ 351	£ 193
India	5.44	£ 653	£ 360
Luxembourg	2.61	£ 314	£ 172
Netherlands	3.65	£ 438	£ 240
New Zealand	2.79	£ 335	£ 184
Norway	2.79	£ 335	£ 184
Poland	3.29	£ 395	£ 217
United Kingdom	22.28	£2674	£1470
United States	22.28	£2674	£1470
Yugoslavia	3.08	£ 370	£ 203

THE CHAIRMAN said that members, having heard the Secretary General's statement might be disposed to express views about the scheme before he put his motion to the vote.

SIR ROBERT CRAIGIE said he would like first of all to thank the Chairman and the Secretary General for their admirable expositions of the problem before them which he thought made it quite clear. What was the importance of the work of law reporting and what would be the cost involved? The cost to most members would be infinitesimal. He did not think he need add anything to what the Chairman had said regarding the importance of the work and he fully shared the view which he had expressed and wished to support it in every way. So far as the United Kingdom Government was concerned he was informed that they were fully conscious of the importance of the Commission leaving behind an adequate record of the more important war crimes trials and therefore he was authorised to say that the United Kingdom Government approved in principle of the scheme but the matter of finance would have to be considered by the appropriate authorities so that he was not in a position to-day to give final approval of his Government.

COLONEL SPRINGER said his attitude was substantially the same as that expressed by Sir Robert Craigie. He thought that his Government favoured the plan in principle and he expected to have fuller instructions before the next meeting. The Law Reports, he knew, were well regarded and regarded as quite interesting and useful at the moment in Germany and would continue to be so regarded as long as they were reviewing cases, which should be all reviewed by August. He was happy to see that the History of the Commission would be in the hands of the printers by March 31st because that History would also be important to the American Authorities in Germany. After August, the Reports would have decreasing value to them and he hoped that the same principle, as had been applied by Lord Wright to the History, to get it completed as early as possible, would also be applied to the Reports. The Reports were important but unless distributed and read they would lose their importance. His office had bought as many as they could pass along; unfortunately sales had been low and he thought they ought to try and help sales and get the Reports into the hands of people where they would be of value and importance. It did seem to him that the total sum was rather large, the expenses in connection with the volumes were rather larger than they should be, but he had not studied them in detail. He wished to summarise by saying that, like Sir Robert, he was

at liberty to vote for the scheme in principle and he thought that the more volumes that got into print at an early date the more value and effect they would have, consequently, the idea of the project stretching out to February 1949, did not look too good to him.

THE CHAIRMAN said that they would of course have to look at the long term view. He hoped that the rumours of war would have died out by next February but they had to look to the future, it was for the purpose of the future that they hoped the volumes would be coned over by International lawyers and they would have, for the first time, some solid work to go on, instead of criticising the views of their contemporaries, and really have some serious pronouncements on war. It would give them quite a lot of occupation for many many years, and one had to look at the long term as well as the short term point of view.

MR. AARS RYNNING said he had on previous occasions, both in the Legal Committee and the Legal Publications Committee, voiced the opinion that that side of the Commission's work should be regarded as a task of primary importance. As regards the future, the fate of the individual war criminal was of minor interest compared with putting on record the rules of substantive international and national law applied, and particularly the development of international law during the last World War as far as war crimes were concerned. The Law and Trial Reports should in his view pursue two aims. First, they should, for historical reasons, give a picture of the various types of war crimes committed by the "Axis Powers" in the occupied countries and in the various theatres of war. Secondly, they should help to clarify the international and municipal law applied by the Courts and Tribunals. Particular attention should be given to cases which dealt with legal problems which had not previously been settled, and sentences which were apt to form a material precedent for the future.

It might be expected that all the countries concerned would have finished the majority of their most important cases within the next 9 or 10 months. By that time the material collected by the Commission, or the proposed new body, should present a fairly complete picture of the position - in any case to such an extent that the aim of the publication of the reports should be fulfilled, after which the final winding up should meet with no difficulties.

He thought it would be of the greatest help to the Commission if the respective National Offices would be willing to submit to the Commission reports in English of a series of those trials which they considered to be of special interest for the purpose of publication. Such action would greatly assist the Secretariat.

He had received instructions from his Government authorizing him to vote in favour of any such arrangement which the majority of the member states of the Commission were willing to recommend for the completion of the Trial and Law Reports according to the plan outlined.

THE CHAIRMAN said that with regard to Mr. Aars-Rynning's suggestion that reports should be submitted in English, he had been trying to achieve that and invitations had been extended to various Governments to send in such cases, in English, as they thought should be reported, but if they would not do that then the Commission, and the subsequent body, became rather powerless.

MR. AARS RYNNING wished to ask whether the scheme which Lord Wright had just outlined was based on the supposition that the Legal Publications Committee would go on after March 31st.

THE CHAIRMAN said he hoped that it would but it was a matter which the Commission, before its dissolution, would carefully consider.

DR. SCHRAM NIELSEN said he knew that the Danish Government attached great importance to the publication of the Trial Reports and he felt authorised to vote in favour of the proposal in principle. However, since the United Kingdom and United States Governments had not felt able to vote for the financial aspect he thought that he also should reserve his vote on

that aspect as he felt he should not vote on the financial aspect of the scheme without knowing the decision of the greater contributing powers.

He felt he had now got all the information he needed on the problem and would immediately submit that information to his Government so that he would be in a position to vote both in principle and regarding the financial aspect, at the next meeting.

MR. HEYDON said that the Australian Government supported the proposal generally and although financially their position was not unlike that of Denmark, he would be prepared to vote on both aspects if necessary. The Australian Government considered it important that the work of reporting should be continued though, as was known, they were anxious that the Commission as a body should terminate its activities on 31 March of this year.

M. MAILLARD said he was prepared to vote for the scheme in principle though he was also obliged to make a reservation with regard to the financial aspect, but he was sure his Government would agree to the scheme in principle.

M. DIMITSAS said he agreed with what the Chairman had said and he could also say that the Greek Government would have no objection to devoting their remaining subscription to that end.

MR. AIKMAN said that his Government agreed to the scheme in principle but he would have to associate himself with those who had made reservations with regard to the financial aspect. He had two questions he would like to ask. The first was; on what basis had it been decided that there should be 122 cases in 20 Volumes - he was just a little concerned whether the Legal Publications Committee would have enough material to justify that number of cases.

THE CHAIRMAN said the problem would be that they would have too much material. However, the Legal Publications Committee would certainly satisfy themselves that every case reported had been carefully selected and if some cases had to be left out so much the worse. There were plenty of cases to review but the important thing was to select the right ones.

M. MAILLARD asked whether it was the intention to continue publication of the Law Reports in two languages, French and English?

THE CHAIRMAN said that had not been decided and it needed rather careful consideration. Volume I had been translated into French and certainly it was very desirable that this should be done but he felt that in the meantime they should leave that particular point over, although it was well worth noting.

DR. CHENG said he was willing to agree to the scheme in principle and he wondered whether it was necessary for members to ask their Governments for instructions on the financial aspect. However, if it was considered necessary by the other members to seek instructions on that aspect of the scheme, he also would like to have a chance to get instructions. Otherwise he would follow the majority.

THE CHAIRMAN said that there would not be another meeting for possibly two or three weeks and by that time any doubts might have been cleared up.

DR. CHENG asked whether the total amount of £6,600 would be equally shared by the seventeen nations?

THE CHAIRMAN said that it would be shared proportionately by the member nations according to their contributions.

THE SECRETARY GENERAL said the amount of China's contribution toward the cost of the Law Reports would be £406.

MR. AIKMAN said the second question he would like to ask was whether it was proposed to distribute to Governments at the end of March 1948, the balance of the £12,00 after the £6,600 had been laid aside, or to put the whole amount in trust until the plan had been completed?

SIR ROBERT CRAIGIE said he thought it would be much better plan to put the whole amount of £12,000 in trust, otherwise it involved two distributions and it would be necessary to keep a certain reserve.

THE CHAIRMAN said that he fully agreed with Sir Robert Craigie, there might well be expenses to meet with regard to the winding up. He had not contemplated a distribution on the 31st March but there would be a distribution when the plan was completed.

THE SECRETARY GENERAL in reply to Mr. Aikman, said the New Zealand Government's contribution to the Law Reports would be £184.

MR. AIKMAN said that if that was the plan, he would have to get authority for the whole amount to be kept in trust and not just the £184.

SIR ROBERT CRAIGIE suggested that the whole amount should remain in trust for the time being subject to final distribution when the scheme was completed.

THE CHAIRMAN said that as Sir Robert had pointed out, there was no point in having an interim distribution and then a final distribution, having regard to the smallness of the amount.

SIR ROBERT CRAIGIE said he thought there had been two points of interest raised in the debate. Colonel Springer had said quite rightly that the sooner they could publish the reports the greater the public interest and the larger the sales were likely to be. At the same time, it should be remembered that some of the most important trials were still going on, so that even if the Committee and the legal staff which were to be left to complete these Reports were to be increased in size to do the work more quickly, there was still a danger that the transcripts of some of those important trials, such as those going on at Nuremberg, would not be ready for the Committee's consideration until some months from now; so, even though it was thought desirable it might not be possible to complete the work before the end of February 1949. He thought that a French translation would be very valuable but, unfortunately, it would delay the work and add to the expense and it occurred to him that since the French and Belgian Governments attached importance to that work, they might be prepared to give assistance in the translation - it would have to be done by technically competent persons and it seemed to him that, if those two Governments were prepared to undertake that work, it would be all to the good to see some Volumes appear in the French language. He thought that was also the view of his Government.

THE CHAIRMAN said that he understood Volume I had already been translated.

THE SECRETARY GENERAL said Monsieur de Baer had received assistance from the Belgian Government who had very kindly undertaken the responsibility of sending a translator to London specially for that purpose.

MISS GOULD ADAMS said she would like to stress the difficulties of translation. M. de Baer had found the translating extremely difficult because so much, though obvious to the English lawyer, was not obvious to the Continental lawyer; many parts had had to be interpreted and re-written. The Belgian Government, at the special request of M. de Baer, had agreed to send a Secretary over but though the first rough translation was completed, M. de Baer had never had time to make the final corrections.

THE CHAIRMAN said that Volume I, in French, had therefore not been published. Obviously, translation was a very serious undertaking, and he thought it better to leave that open for the present. When Miss Gould-Adams spoke of the difficulties involved in dealing with English ideas in the French language, it made him realise the difficulties which must be involved in dealing with English ideas in the Japanese language!

He wished to add that there were still very many cases being tried and it was proposed, he understood, to initiate a very important trial against certain high ranking German Generals. He had asked the Judge Advocate General's Department about that trial and had been told that it would take about five months to prepare, which meant that the trial would not be finished this year. That would apply also in a great many ways to General Telford Taylor's cases which had not been in progress very long. He did not think he contemplated finishing before the end of the year and that was why any elasticity in the

matter should be left to the discretion of the Legal Publications Committee and those in charge of the post-Commission activities. Solvitur Ambulando was the appropriate maxim he thought. He believed he would be expressing the view of the Commission, when he said that the proposal to continue the reporting and publishing of the Law Reports had been accepted in principle by all Member Governments represented to-day and their views on the financial aspect would be discussed at the next meeting of the Commission.

The Chairman again appealed to members to impress on their Governments the importance of and the necessity for ordering substantial numbers of the Law Reports for distribution throughout their respective countries.

DISPOSAL AND CUSTODY OF THE COMMISSION RECORDS AND DOCUMENTS - (Misc. 118)

THE CHAIRMAN said that with regard to the disposal and custody of the Commission Records and Documents, a letter had been received from the Secretary General of the United Nations dated 15 December 1947 and circulated to members as Doc. Misc. 118. In that letter Mr. Trygve Lie informed the Commission that the United Nations was prepared to assume custody of the archives of the Commission at the time of its closing.

The Chairman said he was sure that this offer would meet with general approval, except that some qualifications would have to be added with regard to the transfer of certain documents at the time the Commission closed down. It was quite clear that when the Commission was winding up it would be necessary to keep certain documents for the use of the anomalous body responsible for the law reporting. They would need a certain amount of documents for their use in that work but he thought that was a matter which could be discussed in detail and in a practical manner between competent officials of the two Organisations. He would ask the Commission, therefore, to approve in principle, the proposal for the transfer of Commission records and documents to the United Nations in the manner which, in time, would appear to be practical and beneficial.

COLONEL SPRINGER said the United States Government regarded the United Nations as a very appropriate depository.

The proposal, to accept the offer embodied in Mr. Trygve Lie's letter to the Secretary General dated 15 December 1947 and circulated to members as Document Misc. 118, was unanimously approved.

REPORTS OF CHAIRMEN OF COMMITTEES.

COMMITTEE I.

SIR ROBERT CRAIGIE said Committee I continued to receive cases in considerable numbers and at its meeting on Tuesday had considered 79 cases involving 222 persons and at the meeting to be held the next day they would consider another 45 cases involving 275 persons. In previous weeks even larger numbers of cases had been received so that it appeared likely that the flow of cases would keep up.

There was a question in regard to Committee I which required a decision. At a meeting of the Commission held on the 29 October 1947, he had suggested that Committee I should close down at least a month before the end of the Commission in order to give time to the Secretariat to deal with the outstanding correspondence, the completion of Lists and the sorting and packing of the files. It would therefore be useful to Committee I if they could have a decision that the Committee should finish its consideration of cases on the 27 February so that cases would have to be received a week previously for the Committee to consider them on the 27th.

THE CHAIRMAN said he was extremely unwilling to fix any date but he realised there would have to be some closing date. If they went on indefinitely there might be someone submitting cases 20 years hence and that was impossible. It really came to this, if the date for last cases to be considered was to be the 27th February then the latest date for submitting cases must be at least one week before that.

SIR ROBERT CRAIGIE thought that it might be as well to notify National Offices of the Commission's intention and this was agreed.

THE CHAIRMAN pointed out that in spite of the Commission closing their lists that would not involve any closing down of actual prosecutions of trials. The British and United States Governments, and he thought many other countries, had worked out programmes for prosecutions which would go on beyond 31 March and they would therefore keep their prosecution staffs for such cases as they required. It was forgotten sometimes that the whole idea of prosecutions of war criminals by the claimant nations was that they should decide who they wanted to prosecute. The Commission had had no part in it, practically no part, except certain advisory functions in the great mass of prosecutions which had gone on in the Far East - they had gone on being conducted by the interested nations and he thought it would be found that the prosecutions in the Far East exceeded in number the prosecutions in Europe although the Commission had been more closely in touch with the cases in Europe. The Commission decided, almost at the outset, that it would not ask Far Eastern Nations to submit cases to Committee I. Australia had submitted some cases of terrible atrocities. Apart from that he did not remember any cases being submitted by Far Eastern nations. He mentioned this, not in any way to minimise the work done by Committee I or the importance of their lists which now contained more than 30,000 names, and which would be very valuable for future generations, but only to point out that the decision of the Commission to end its activities on 31 March did not involve a stopping of prosecutions of war criminals, which would go on being conducted by the various nations according to the original idea of the Moscow Declaration.

LEGAL PUBLICATIONS COMMITTEE.

MR. KINTNER thought the Chairman had made a sufficient report on the activities of the Legal Publications Committee. It might be added, however, that Volume 3 was in proof form and Lord Wright's Foreword to that Volume had just been prepared and it was hoped that the volume would soon be distributed. Volume IV was substantially set up in type and contained two British cases, a Canadian case and the American Yamashita case. For Volume V, they already had 10 British cases approved by the Committee and other cases were in the process of being prepared for that Volume and subsequent Volumes.

THE CHAIRMAN said that before closing the meeting he wished to say, for record purposes, that Mr. Kintner had found it impossible with his other duties and obligations, to continue as Joint-Chairman of Committee I. He thought members were grateful for the work Mr. Kintner had done on this Committee as a colleague of Sir Robert Craigie who would wish to join with him in expressing regret at Mr. Kintner's resignation.

SIR ROBERT CRAIGIE said he wished, as Joint-Chairman of Committee I, to add his own expressions of regret at Mr. Kintner's resignation, but he was pleased to know that Mr. Kintner would continue as a member of the Committee and be there by his side to help him in the work. He would like to express his grateful thanks to Mr. Kintner for the help he had given as Co-Chairman and especially during the past two weeks when he (Sir Robert) had been away ill.

MR. LARS RYNNING said he wished to associate himself with the remarks made by the Chairman and Sir Robert Craigie.

FORMAL APPROVAL OF UNWCC LISTS

The Commission's lists Nos. 64, 65 and 66 were formally approved.

Wright

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of meeting of the Commission held on Wednesday,
February 25, 1948 at 3. P. M.

<u>CHAIRMAN</u>	Lord Wright	Australia
<u>ALSO PRESENT</u>	Sir Robert Craigie	United Kingdom
	Colonel Springer	United States of America
	accompanied by	
	Mr. Kintner	
	M. Maillard	France
	accompanied by	
	Mlle. Capimont	
	Dr. Cheng	China
	Mr. Aikman	New Zealand
	Miss Goold-Adams	Belgium
	Mr. Aars-Rynning	Norway
	Dr. Schram-Nielsen	Denmark
	M. Dimitas	Greece
	Colonel Muszkat	Poland
	M. Milenković	Yugoslavia
	Lieut. Colonel Barratt	Judge Advocate General's Department.

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

Mr. Heydon	Australia
M. de Baer	Belgium
Mr. Dutt	India
Dr. Zeman	Czechoslovakia
Commander Mouton	Netherlands

MINUTES

Minutes of meeting of Commission held on 7th January 1948 - M.132 - were approved and signed.

Amendments to minutes of meeting of Commission held on 21st January, 1948 - M.133 - were received from Sir Robert Craigie and Mr. Aars-Rynning and will be incorporated in the final text.

THE CHAIRMAN said that he had something to say concerning the minutes of the meeting of the Commission held on 7th January, (M.132). As members would recall, that meeting dealt largely with an elaborate and able letter from Colonel Muszkat (A.61) dealing with a complaint which the Commission did not entertain. The letter suggested that cases of extradition had not been favourably received by the Commission. That was the main issue. However, he was not concerned with that now and did not want to say anything about it. Quite incidentally, the letter from Colonel Muszkat had contained some passages which he was bound to say, when he had first read them, struck him as being a little unfair because they seemed to indicate a complaint against the American Government which he thought was not justified and not warranted by any of the circumstances. However, on re-reading the letter, he was inclined to the view that that was not intended though it seemed not impossible that some such innuendo was being suggested rather vaguely. He had said that he felt some discontent about certain passages which related to issues of a document called the Rogues Galleries, and the innuendo had seemed to be that the American authorities were seeking to apprehend persons not as war criminals but because they thought they might be useful in industrial matters; that however only appeared in the letter as an innuendo and he had gone on to say what he now wished to have corrected, - "an English lawyer would say that that sort of comment (quite without justification) was scandalous and irrelevant..." The words "scandalous" and "irrelevant" as he had used them, and as Anglo-American lawyers would use them, were comparatively harmless and did not

suggest dishonourable conduct. That being so, he had not thought that a Continental lawyer would regard them as computing very serious or dishonourable conduct. Having been informed that that was how those words would be construed by a Continental lawyer, he now wished to withdraw them altogether. He had not intended to express anything as definite or as strong as that and he now wished to take the two words "scandalous" and "irrelevant" out of the minutes as reported, in fact he wished to strike out the last sentence of para. 2, page 5, from "an English lawyer" to the end of the paragraph, and simply say, "There was no justification for making any such suggestion against the American authorities and in addition, it would be wrong to read Colonel Muskat's letter as making any such suggestion." The essential thing was that "scandalous" and "irrelevant" should be eliminated.

The Chairman felt sure members would agree that that was a proper course to adopt and he regretted that he had fallen into an error by using those words as an English lawyer would understand them and not realising that they would have a different meaning to a Continental lawyer. He would therefore have them struck out of his speech and he was sure that no one would object to that being done.

LAW REPORTS OF TRIALS OF WAR CRIMINALS - consider (a) cost of continuing the reporting and publishing of the Law Reports, (b) French Translations (Misc.122).

THE CHAIRMAN said that the next item on the Agenda was a matter of considerable importance. Members would remember that at an earlier meeting, the Commission had unanimously decided that the question of preparing law reports should be dealt with and it was agreed in principle that it was a matter of first importance to the Commission to continue the reporting and publishing of these Reports. That was agreed in the Commission's meeting held on 21st January (M.133) and he was sure that members had fully in mind all that had been said on that occasion, and that being so he would not repeat it. The matter had been left rather inconclusively but with a strong view on the part of the Commission that the preparation of Law Reports should proceed, but as some of the members had desired to consult their Governments before coming to any definite or final conclusion on the matter the discussion had been adjourned for that reason. The various members, having had a little more than a month in which to consult their Governments, it was essential that that particular matter should now be dealt with finally and definitely. They were now at the end of February and the Commission would be wound up on 31st March so whatever they decided or wanted to do would have to be decided now.

The Chairman said he would put a straight question to the Commission and he wanted each member to say "yes" or "no".

The Chairman's Resolution was as follows:-

"That the Commission resolves that it is of first importance that the preparation of the Law Reports should be carried to the projected completion, which is expected to be finished by the end of 1948, with a month or two beyond for winding up the whole operation, and for the printing of the final volume."

The Chairman explained that the fixed time for the project to be completed was the end of 1948 and a month or two beyond was only desirable for winding up the whole operation and printing the last volume. He wished to ask for a definite vote on his resolution because members had now had an opportunity of obtaining the definite and practical views of their Governments. Apart from his proposal, on which he wished to take a vote, there was a second matter which did not really affect the main issue, and that was the desire of the French Government to have a French edition of the Reports which were prepared. That was subsequent to the matter of the Reports but he wished to say that the Commission naturally desired to have a French edition and he thought such an edition would be very useful.

M. MAILLARD said that the desire of the French Government to have a French edition of the Law Reports was not an entirely separate matter, it was more or less connected and he was not sure that his Government would wish to participate in the plan if a French edition was not produced. If a vote was taken separately it would not be convenient for him to vote and the decisions of some other members might depend on whether there was to be a French edition or not.

THE CHAIRMAN said he understood the French representative to say that members might not want to commit themselves until they knew what was going to be done about a French edition. He remarked that there could be no French edition unless an English edition was produced first. If the French abstained from voting it might be that there would still be a sufficient majority to carry his resolution.

The Chairman said there was one other thing which he thought had been fully discussed, namely the question of cost of the preparation and publication of the French version. They had gone over that very fully on the last occasion when the Secretary General had explained exactly the question of expense and he did not think anything more could be said about it.

SIR ROBERT CRAIGIE said the question of cost, which had not been settled at the last meeting (M.133), had been submitted to the various Governments - the rough estimate was £6,600 to cover a period up to the end of February 1949. That expenditure had been approved by the United Kingdom Government but he thought that his Government would wish some limitation of expenditure to be inserted in the resolution because, as it stood, it was rather like a blank cheque. He would like to add the words: "This work is authorised on the understanding that the expenditure involved would not exceed £6,600 for a period up to the end of February 1949", and he would like the general scheme authorised without reference to the question of the French edition which raised a good many difficulties. He thought it would be unfortunate if the French sought to make the scheme conditional upon a French edition being produced. It was very desirable that a French edition should be produced. He had not worked out the figures but there should be no difficulty if the French authorities would undertake the task, and they were the only people who could, of turning the reports into French, but, as Lord Wright had said, there could be no French edition unless there was an English edition first.

M. MAILLARD said if the resolution was to be put in the form Sir Robert had suggested would it mean that the supplementary cost involved in the production of a French edition would have to be borne by the French Government alone? If the total amount was limited it seemed to imply that no French edition would be made.

THE CHAIRMAN said that if members voted for the French scheme they might apportion a certain sum of money for the scheme which the French would have to undertake. He did not say that the French edition would only benefit the French nation because it was quite possible that some other countries would prefer to have a French version. The production of such an edition would have to be done, not only by a French speaking gentleman but by a gentleman capable of understanding English legal terminology and translating them into French.

COLONEL SPRINGER said Monsieur Maillard believed that if Lord Wright's resolution was passed it would cut off the possibility of a French edition. However, if the Commission approved that a French translation should be made it would cut down the number of Volumes in English as there would not be as much to spend on producing the English edition.

COLONEL MUSZKAT said according to the instructions he had received from his Government he was instructed to vote in favour of the resolution on the condition that three of four Polish trial reports were included in the programme.

THE CHAIRMAN said he was fully in accord with the idea that three or four Polish trials, in English, would be included in the series of Law Reports, as they would be very valuable. He did not however think it necessary to include Colonel Muszkat's request in the resolution as a condition.

thought that serious or dishonouring words would be construed altogether. He had not said that and he now wished to amend the minutes as to the substance of para. 2, page 1, and simply say, in substance, that the American Colonel Muszkat's letter was "scandalous".

a proper course to take by using those words and saying that they would not therefore have the same object to that belief.

of continuing the
Translations (Misc.)

matter of consideration. Meeting, the Commission saw reports should be made of first importance of these Reports, January (M.133) and had been said on that matter had been part of the Commission as some of the members to any definite or final decision for that reason, in which to particular matter should be at the end of February whatever they decided.

Commission and he

of first importance should be carried to be finished by the end of winding up of the final volume.

to be completed desirable for winding up. He wished to ask for an opportunity to speak to the Governments. Apart from that was a second matter which was the desire to have Reports which were of first importance but he wished to have an edition and he

COLONEL MUSZKAT said he thought it necessary to have the officers in charge of the Reports advised of Lord Wright's views, and to include Polish trials in the programme of work. He thought that, necessary as it was to have trials in the English language, American or British, included, it was also necessary for the Commission to have other trials included.

THE CHAIRMAN said there had been one French case reported in English. He had been trying very hard to obtain from the Czechoslovak representative a report of a very important case tried in Czechoslovakia but he had not succeeded in getting the necessary material. It was very far from his intention that the Reports should be limited to English and American cases and he would regard that as a great defect. So far as the three Polish cases were concerned, that was merely a matter of arrangement and he had already made inquiries as to how the difficulty could be met. No doubt, with the help of Dr. Litawski, the matter could be satisfactorily arranged, and so far as he was concerned, he would do everything in his power to secure that result.

The Chairman told Colonel Muszkat that he could be assured of his support and if he was satisfied with that, he did not want to overload the resolution with too many undertakings.

COLONEL MUSZKAT agreed.

SIR ROBERT CRAIGIE said that regarding the French edition, he had no doubt that all would agree as to the great desirability, in principle, of having a French as well as an English edition. They wanted the Reports to be available to as many people as possible and to increase sales; only in such a way could the work being done be available to students in the future, but they were up against two technical difficulties. The first, quite frankly, was a question of expenditure. He could, of course, only speak for the United Kingdom Government and when he had put the proposal put forward by the Commission before them, they had examined rather carefully the question of expenditure based on an English edition only. A version in English only was all that was contemplated at that time. Up to date they had, unfortunately, not succeeded in bringing out a French volume, Monsieur de Baer had been good enough to do his best to produce one but he was very impressed with the great difficulties encountered in trying to produce a good volume, and if that problem had taxed his great abilities, it would be difficult for them to find someone in England able to produce something of which a French lawyer could be proud. They had based their estimates purely on the basis of a production in English and it was only with some difficulty that he had persuaded the United Kingdom Government to accept that sum as being justified. That being the case, he felt that if he were to go back again and say that it was now desired to produce a French volume, at increased cost, he would run the risk of upsetting the whole scheme and his difficulty might be similar to some other Governments.

The other technical difficulty was the actual production of a report in French, finding the suitable people to do it and control it. He hoped that the French Government might be prepared to undertake as a sort of experiment, the production of a first volume. He felt that could only be done in Paris and that it was up to the French, if they wished, to make an experimental first volume in order to ascertain whether it justified their proposal. He suggested that they should consider that very carefully because, while he was not personally on the Committee dealing with the questions, he did feel there would be great difficulties encountered in producing an adequate French version with which they could all be satisfied. He put that suggestion with great diffidence to Monsieur Maillard but he did feel it would be a great help if the French Government were prepared to undertake the production of an experimental first volume themselves.

M. MAILLARD said he was most grateful for the suggestion however, as he had said in his letter (Doc. Misc. 112), the French Government maintained that the French and English languages had always been the languages of the Commission and that had been put down in the rules when the Commission was created. They had, more or less, given up the habit of speaking French because all documents issued were only addressed to Governments and it was rather easier to speak in English than in French, but he did not think that ruling should be disregarded when the Commission undertook the task of Law Reporting. The French could see no reason why a rule adopted should be given up and he thought the Commission should, as a whole, decide upon the decision to be taken regarding the desirability of undertaking the task as a whole. If the French Government did not want to participate they would say so, so it was up to the Commission to decide.

THE CHAIRMAN said he sympathised very deeply with what Monsieur Maillard had said but he felt that it should not be attempted to make everything conditional upon a French version being produced, if that was done the whole scheme might be wrecked.

They had a scheme for an English version, a scheme which he thought ought to go like clock-work; there could not be a French version until the English version came into being. It might turn out that the estimate of cost was not correct to within a farthing and if there was any inadequacy they would have to cut their coat according to their cloth; he had always considered that as possible. However, he felt that the scheme they had worked out would be satisfactory and if necessary, they might have to report on only 100 instead of 122 trials.

The production of a French edition was not merely a side issue; it was something which the French authorities felt was vital, and the French representative would vote against the whole scheme unless his requirements were fulfilled. The Chairman sympathised with Monsieur Maillard but said that the whole scheme might be wrecked if a French edition was to be made a condition and therefore surely it was better to have the Reports in English rather than to have no reports at all?

DR. SCHRAM NIELSEN said he would like to say a few words about the French proposal. He quite agreed that it was highly desirable to have a French edition, on the other hand he knew that in Denmark, the lawyers were usually able to read English and if they could get an edition in English they would not need the French translation. That was why he felt unable to vote for a scheme involving expenditure additional to that estimated by the Secretary General. On the other hand, it might be possible to go a bit further than Sir Robert Craigie's suggestion - that one legal officer should assist in the first volume as an experiment. If the French Government could undertake to make such an experiment and issue one volume to see how it would be received, the War Crimes Commission would assist. They could not translate it for, as far as he knew, they had no expert available to do that work but the French might need assistance regarding the technical terms and it might be possible for the Legal Officers to assist the French in their work.

THE CHAIRMAN agreed that it was very desirable to have a French edition but it was essential that the English edition should be produced first. The estimate had been very carefully worked out and there was no free ground to play on. The Commission would cease to exist in little more than one month's time, and what would happen then? There could only be a French edition if the Commission, before it went out of existence, created what he might call a replica or reduplication of the scheme which it had prepared for bringing out the English edition. The member Governments, he understood, were prepared to agree that a total of £6,600 be deducted from the £12,000 for the purpose of producing the English reports, and that would be done when the Commission was wound up. He could not see how the French scheme could be brought into effect now, at this stage.

M. MAILLARD said Colonel Springer had drawn attention to the fact that a French version would diminish to a certain extent the funds available for the production of an English edition.

THE SECRETARY GENERAL said the question of the cost of financing the production of a French edition was closely related to the demand for and

sale of copies of the translations. In the first place, the printing of a French edition in England would cost between 30% and 40% more than printing an English edition. Printing 1,000 copies of one volume in French would cost about £280 and if 1,000 were sold at 5/- each, a total of £250, it would mean a net loss of £30 per volume. In addition to that, there was the cost of translation which the Secretary General had not yet obtained from the French authorities and he was therefore not in a position to give a complete estimate. As a guide to sales, approximately 1,000 copies of Volume I of the English version had been sold since its publication in January 1947 and approximately 500 copies of Volume II had been distributed to booksellers for sale but no note of the actual sales had as yet been received.

THE CHAIRMAN said that having heard this explanation it seemed to him that the whole cost of translating the English into French might be borne by the French Government and that it was merely a question of printing the French edition when completed. However that left out the cost of translation, which was very important and might well turn out to be very considerable.

SIR ROBERT CRAIGIE wondered whether the French would be prepared to pay for the cost of translation. He would like to support Dr. Schram-Nielsen about the desire of the Commission to help with a French edition, providing sufficient sales could be guaranteed. He did not think it was altogether a matter of principle in which they were all agreed that it was desirable to have a French edition. He did think however that the French edition might reduce sales of the English edition still more and if they undertook the scheme they might find themselves faced with a serious deficit.

THE CHAIRMAN thought all were agreed that it would be very desirable to satisfy the French and to produce a scheme which would include both a French and English edition, but they had to consider everything and weigh carefully the pros and cons. They had come to the conclusion that the publication of an English edition was desirable and possible and he had been driven to the conclusion that it was essential that they should proceed with the scheme along the lines indicated. He was not conscious that the preparation of a French edition was a sine qua non. If they made up their minds to make the whole scheme conditional upon a French edition being brought out soon after the English edition the whole plan would collapse. Governments knew what they were going to subscribe and he could see no practical possibility of satisfying the French requirements at this stage and any attempt to do so would merely mean that the whole project would break down. It was for that reason that he wished to put his resolution to the vote - that did not shut out the possibility, in the future, of there being some French translations. They could go on with the English edition and it might well be, that when they got to October or thereabouts and had published a certain number of English editions, they might then find it possible to arrange for a French edition of a selected number of cases to be produced. That was a possibility which ought not to be overlooked but how it would fit in with the financial arrangements and the time limit on which they were proceeding, might be a matter of considerable difficulty. None of these could be fitted in with the general scheme of a French edition. On the other hand, it did not exclude a French version consisting of a few selected cases being produced at a later date. What he would suggest was that the French Government, who were the only people who could do it, should at once, if they were so minded, turn Volume I into French. It would then be a question of what could be done to publish that in the first place, then further numbers might follow but first see what could be done with Volume I.

COLONEL SPRINGER said that the publication of the French edition might really make the whole project cheaper was not what he had intended to say. The point he was making, and which had a direct bearing on which question to vote on first was, if the motion which Lord Wright had presented was voted on first and carried and the French proposal followed and was also carried, it would mean one of two things. Either the amount of money would have to be increased or the number of English volumes would have to be cut down. For that reason he thought that the French motion should be voted upon first and furthermore in matters of amendment an amendment was usually voted on first. He had listened to the difficulties regarding

producing a French edition and they did not seem very great to him. A matter he would like to hear discussed was whether or not the Commission, when it was initially set up, committed itself to publish in two languages. If it did, he thought they should stay with their commitments.

M. MAILLARD said that if the resolution was proposed in the form which Lord Wright suggested, he would have to vote against it according to instructions received.

COLONEL SPRINGER said there was a rule adopted on 18th January 1944 which read: "Any member may request a translation...." but that referred specifically to motions made in meetings.

THE SECRETARY GENERAL stated that the rules to which Colonel Springer referred were the Rules of Procedure adopted by the Commission on the 18th January 1944. Rule 3 stated "Motions may be made in French or in English. Any member may request a translation." Rule 13 stated "Delegates may speak in English or in French. Any members present may ask for a translation."

SIR ROBERT CRAIGIE said he could find nothing about the Commission being bi-lingual. He had read Rule 3 which applied to motions and Rule 13 which referred to choice of language for delegates to speak.

DR. SCHRAM NIELSEN said he understood the normal course in International Organisations to be that every word said and presented appeared in at least two languages, and he wished to ask the Secretary General if they had ever published any papers, documents etc. in French.

THE SECRETARY GENERAL said the Commission had never been required or requested to translate or publish documents in French.

COLONEL SPRINGER remarked that cases were presented to Committee I in French.

DR. SCHRAM NIELSEN agreed but pointed out that they were not printed by the Commission, just presented to it.

SIR ROBERT CRAIGIE proposed that the following words should be added to the Resolution if they would enable the French representative to vote for it: "The question of publishing a French edition of the Reports is regarded as highly desirable, but in view of the expense involved and the technical difficulties of translation, the Commission propose that this question of a French translation should be the subject of further discussions with the French Government." However, if that would not help he thought they should pass the resolution proposed by Lord Wright and limiting the expenditure but without committing themselves to a French edition. Having done that they could then see whether they could work it out that the expenses involved in producing a volume, in French, of the more interesting cases, could be allocated. He would not be prepared to vote for anything which might have the effect of wrecking the English publications.

THE CHAIRMAN asked whether the Commission was prepared to vote on the main resolution. Regarding Sir Robert Craigie's proposal about "the French edition being the subject of further discussions with the French Government", he thought, if that were added to the main resolution, it might be thought that the main resolution was to be the subject of further discussions.

SIR ROBERT CRAIGIE said that was not what he intended, what he meant was that the question of publishing a French edition should be the subject of further discussions with the French Government.

M. MAILLARD asked whether the discussions suggested would take place inside the Commission, before it was wound up.

THE CHAIRMAN said yes. He also wished to say that personally he supported the idea of a French translation and would do everything in his power to satisfy the desires of the French Government, his difficulty was purely practical and he was not disposed to wreck the whole scheme even in an attempt to satisfy the French Government, and in so doing jeopardise not

only the English scheme but render impossible a French scheme. There could be no French edition without an English edition. The English edition was therefore of primary importance. He wished to ask for a vote on the main resolution with a rider, as suggested by Sir Robert Craigie, to limit the expenditure.

COLONEL SPRINGER said that he thought that the amendment should be voted on first.

THE CHAIRMAN said it was not an amendment. It was for the discretion of the Chairman to decide how he put his motion. In order to satisfy some Governments it was necessary to mention the figure of £6,600, so that that limit of expenditure was being added as a rider to the primary motion.

COLONEL SPRINGER said he thought a rider was an amendment.

SIR ROBERT CRAIGIE said that there was no amendment in adding the £6,600. Supplementary expenditure for a French version would have to be authorised at a later date and the addition of the rider did not commit anybody.

M. MAILLARD said that if the limit of expenditure was included in the resolution he would have to vote against it, if no limit was included he would abstain from voting. He felt that if such a limit of expenditure was inserted in the text of the resolution nothing could be done regarding the French volumes.

M. Maillard, having stated that he would not be prepared to vote for the resolution with the addition proposed by Sir Robert Craigie he (Sir Robert) withdrew his proposal.

THE CHAIRMAN said it had been decided, when the Commission was constituted, that upon its winding up, the remaining funds would be divisible pro rata. After the Commission wound up there would be nothing kept in hand for the Law Reports except the £6,600.

M. MAILLARD remarked that, after the £6,600 had been used for the production of an English edition there would remain £5,400.

THE CHAIRMAN said that the French authorities could, at a later stage, in the course of the next month, when they had settled the question of the English edition - and he pressed very hard to get that settled - bring the matter of a French edition up again and the Commission might decide to appropriate, separately, the remaining £5,400 to the purpose of a French translation.

The Chairman said he wished now to present his original motion and rider and to take a vote on this motion which he thought members understood and which he considered expressed the general view of the Commission. He thought the production of a French edition was rather in the nature of a pious hope and expectation.

The Chairman then submitted his resolution as follows:-

"That the Commission resolves that it is of first importance that the preparation of the Law Reports should be carried to the projected completion, which is expected to be finished by the end of 1948, with a month or two beyond for winding up the whole operation, and for the printing of the final volume. This work is authorised on the understanding that the expenditure involved up to the end of February 1949 will not exceed £6,600."

The vote taken on that resolution was as follows:-

Those in favour: 11 Belgium, China, Poland, Yugoslavia, Greece, New Zealand, Norway, Denmark, Australia, United Kingdom, United States.

Those against: 1 France,

Absent: 5 Czechoslovakia, Canada,
India, Netherlands,
Luxembourg.

The Chairman's resolution was accordingly approved.

THE CHAIRMAN said he was sure that Monsieur Maillard would explain the matter to the French Government.

M. MILENKOVIC said, like the Polish Representative, he had voted in favour of the Chairman's resolution on the understanding that some Yugoslav cases would be reported.

THE CHAIRMAN said that the Legal Publications Committee would welcome a report of Yugoslav cases. If the Yugoslav representative would confer with the Legal Publications Committee and submit a report in accordance with their provisions, he felt sure that the Yugoslav's desire to have some cases reported could be fulfilled, but that was a matter for discussion between the Yugoslav representative and the Legal Publications Committee. Personally he was all in favour of a Yugoslav case being reported.

MR. AARS RYNNING said he had always understood it to be the intention of the Legal Publications Committee that the trial reports should include reports from every country represented on the Commission and it was entirely up to Governments represented to send in translated reports of trials which they considered important.

THE CHAIRMAN asked whether Denmark had produced a case.

DR. SCHRAM NIELSEN said that they had not done so because the most interesting cases had not yet been brought to an end. He undertook to supply the English translation of a few cases later on.

M. MAILLARD said he was afraid that the French Government, according to instructions received, would not be prepared to take its share in the publication costs of an English edition.

SUBMISSION BY THE GOVERNMENT OF ALBANIA TO CONSIDER CASES OF WAR CRIMES COMMITTED IN THAT COUNTRY (M.131, A.57 and A.64).

THE CHAIRMAN said he thought the next item on the Agenda had already been completely decided. He referred to what had been said at the meeting of the Commission held on October 29th, 1947 (M.131) and read to members various points which had been raised. He had referred to the Italian Treaty which, though it contained references to Albania, said nothing which gave them any status. Sir Robert Craigie had accurately pointed out that the Albanians had never been allies and had never been members of the Commission and there was no practical reason for granting the request. There was a clear demarkation between the Ethiopian request and the Albanian request - Ethiopia had throughout been a United Nation and therefore could justifiably put forward a claim with a better basis. For those reasons, he suggested that the application rendered was out of court. What Albania had done was to make an extensive claim for extradition and their claim also applied to Commission Listing. There was now a further difficulty of time, that difficulty had been emphasised at the last meeting and if that difficulty was acute in October 1947 it was even more acute now, at the end of February 1948, when, within a few weeks the Commission and Committee I were to be wound up. The Commission's Lists of War Criminals were closed on the 19th of February and it was too late to venture to suggest that on the broader principle Albania had locus standi. He would ask for a vote repeating that the request be rejected.

M. MILENKOVIC proposed that the Albanian request, as set out in the letter of the Albanian Ministry for Foreign Affairs, be accepted, except for the cases against Albanian citizens, as those cases were outside the Commission's competence.

He thought it was quite in the spirit of the Commission to accept the specified cases, to examine them and to list them if there proved to be prima facie evidence.

Like any other people under the German and Italian occupation, the Albanian people had been subjected to innumerable atrocities and were therefore entitled to receive justice for the sufferings they underwent.

There was a war, there was a territory occupied by the German and Italian armed forces, and there were crimes committed against a peaceful population.

These were the facts, which, from an objective point of view, constituted the necessary conditions for the Commission to interest itself in the matter.

Albania might not have been an Allied nation and, though not so far a member of the United Nations, those considerations, in his opinion, did not really matter, considering that they were there to examine and list the crimes committed against humanity. Nobody would deny that the Albanian people represented a portion, small as it was, of humanity, notwithstanding the assertion that their former governments led and oriented the Albanian State in this or that direction.

He quite realised that at this stage of the Commission's life there were many technical difficulties, but, in his opinion, the Commission could not refuse to examine the Albanian cases because of technical difficulties or on some other formal ground, and thus allow a lot of war criminals charged with killing, burning, looting and deporting all over the Albanian territory, to go unpunished.

It was true that Albania was not a formal ally, but it was also true that the Albanian Liberation Movement helped the efforts of the United Nations as much as it could to achieve a common victory. He wished to testify before the Commission that the Yugoslav Liberation Movement was gallantly and effectively helped by two or three Albanian battalions. That was one of the reasons why the German and Italian occupation forces intensified their criminal activities against the Albanian people.

In making the proposal for the acceptance of the Albanian charges, he did so in the name of justice, and he thought that the Commission would not overstep its duty in branding all war criminals on objective grounds. In the Albanian case, such objective grounds existed. Thus, it would act according to the principles that justified the Commission's very existence.

THE CHAIRMAN said that if no other members desired to speak on the subject he would ask for a vote on the matter and ask members to say that the Commission had been right in answering the application, "as the request falls outside the jurisdiction of the Commission it is regarded as impossible to accede to the request." There was a difference between extradition and listing. The fundamental difficulty was that Albania had never been an Allied nation or a member of the United Nations or a party to the Italian Peace Treaty though it was mentioned in that Treaty. He ventured to suggest that the application should be refused.

SIR ROBERT CRAIGIE said that in their reply they might add that the Commission's arrangements for listing had now come to an end.

THE CHAIRMAN thought that the reply should be on the broader basis that Albania had no locus standi and add that the Commission's lists were closed on 19th February.

A vote was then taken on the request of the Albanian Government "for the Commission to examine lists submitted of German, Italian and Albanian war criminals" and resulted as follows:-

Those in favour of the request:	2	Poland, Yugoslavia
Those against the request:	7	France, Greece, Norway, Denmark, Australia, United States, United Kingdom.
Those abstaining:	3	Belgium, China, New Zealand.
Absent:	5	Czechoslovakia, Canada, India, Netherlands, Luxembourg.

The Albanian request was accordingly rejected and the Secretary General was instructed to write to the Albanian authorities and inform them of the decision of the Commission.

REPORTS OF CHAIRMEN OF COMMITTEES.

COMMITTEE I

SIR ROBERT CRAIGIE said Committee I had been very active. They had closed their Lists on February 19th and at the meetings to be held this week they had to consider about 170 cases and probably the same number the following week. With regard to the submission of charges in the future, after the Commission had closed down, Committee I had thought the obvious answer was that all further applications for extradition would be made direct to the holding authorities. He did not think that the Commission would question that point, but he reported it just in case any member of the Commission wanted to comment on it. One other point was the question of archives. At the last meeting of the Commission it had been decided that the archives should be transferred to the custody of the United Nations but the question arose at a meeting of the Committee whether some points might not come up in the course of the year and he thought it might be useful if the records of Committee I remained in London as long as the Legal Publications Committee remained in being. When the Legal Publications Committee closed down, the records could then be transferred to the right quarter. Committee I had agreed to that and was of the opinion that the archives of Committee I should be held by the Commission until the Reports of Trials of War Criminals were completed, after which time they should be handed over to the United Nations. It was decided to submit to the Commission for its approval, the proposals regarding future charges and the archives of the Commission during the interim period the Legal Publications Committee remained in being.

THE CHAIRMAN said that with regard to extradition, direct application to the holding Government, had always been the practice in the Far East, and indeed it could not be done in any other way, that was what Law No. 10 in Germany expressly provided for.

SIR ROBERT CRAIGIE said that Committee I would accordingly inform National Offices to make direct application in future to the holding authorities.

THE CHAIRMAN thought it advisable that the Secretariat send a separate notice to each National Office. With regard to the archives, they were assuming, of course, that the British Government with the generosity which it had always shown towards the Commission, would give them sufficient accommodation in which to store the documents pending their dispatch to the United Nations.

COMMITTEE III - nothing to report.

LEGAL PUBLICATIONS COMMITTEE

MR. KINTNER said that the Legal Publications Committee had held a meeting last week and approved cases for inclusion in Volume IV of the Law Reports. Those cases were the American Yamashita case - a rather lengthy report drawn by Mr. Brand and which the Committee felt was most commendably done, one British case and an Annex of Canadian Law to appear with a Canadian case. Therefore up to date, Volumes III and IV containing 10 and 4 trials respectively, were in the hands of the Stationery Office and in the process of being printed. Volume III should be out within a fortnight and Volume IV, slightly later. Work on Volume V was progressing satisfactorily and the material would be ready for examination by the Committee in four weeks and sent to the printers. Volume V contained various reports of trials of crimes committed in the execution of judicial and other similar functions. In addition, the Legal Publications Committee had approved a further eight reports for inclusion in appropriate places in Volume VI and following volumes. These eight reports would amount to approximately half a volume. Thus so far the volumes contained reports on 43 trials which had been circulated and approved for publication by 31st March 1948.

It might be pointed out that to date they had had British, Canadian, Norwegian and French trials, which had given them a greater variety than they previously had. It would be necessary to have cases from all other member governments and he had no doubt that those cases would be forthcoming.

Arrangements had been made to begin reports of three Polish trials almost immediately. They hoped to have, from all other nations in due time, those cases which they regarded as being of sufficient importance for publication.

In regard to the production of the History of the Commission, which he had been editing with the assistance of Miss Goold-Adams, this work was progressing satisfactorily. All members of the legal staff, including Miss Goold-Adams and Colonel Wade, had been busily engaged in drafting their allotted portions of the History and a very considerable portion, approximately three-quarters, had already been drafted.

Lord Wright had written an excellent introductory chapter which would run to 30-40 printed pages. So far, they had approximately one-sixth of the volume already in the hands of the printers and it was hoped that at least three-quarters would be in the hands of the printers in a week. It was very essential that they get the History in the hands of the printers so that they could submit the manuscript to Member Governments before the Commission terminated on 31st March. The only practical method for getting the History printed and also submitted to members of the Commission for approval or criticism was to have the manuscript printed and circulate to each member of the Commission a printer's proof of the relevant portions of the manuscript. Such as could not be printed would have to be circulated in duplicated form, but that was a time consuming matter and he hoped and expected that all portions submitted to members prior to 31st March would be returned as soon as possible. The History would run to approximately 600 pages and was not only a History of the Commission but also attempted to set out the development in war crimes matters since 1919 to date, and therefore became a History of the whole development in the great field of war crimes since 1919. As they were all aware, that development was considerable and the preparation of the History involved a large amount of both time and work. There would be extensive appendices one, contributed by Colonel Wade, contained the names and records of the more important and notable war criminals tried since the end of the war. That report would cover 30-40 printed pages. Many other useful appendices were planned and altogether it was hoped that the History would be a document of importance and significance for the future.

THE CHAIRMAN said he wished to add that when the first prints were circulated for the approval of the various governments or members, he hoped they would apply their minds to the question of approving because, if they did not approve or disapprove with a certain amount of expedition, the

printing would have to go forward just the same. However they had the consolation that the Legal Publications Committee was extremely hot on the scent of anything undesirable and if the Legal Publications Committee passed what had been done they need not bother themselves too much.

FORMAL APPROVAL OF UNWCC LIST NO. 67.

UNWCC List No. 67 (already circulated) was formally approved.

THE CHAIRMAN said that the only other business for the day was a suggestion which had been put forward that the Commission should hold a farewell dinner before finally closing down on 31st March.

If members approved of this suggestion in principle the Secretary General would make all the necessary arrangements.

With regard to the cost of the dinner, there were two alternatives, either the Commission would pay the cost out of its funds or members would be asked to pay their share individually.

After a short discussion it was decided that the Commission should, out of its expense fund, give a dinner on the 10th March, to which each Member Government would be invited to send two representatives. Certain official guests would be invited to attend at the discretion of the Chairman.

Wright

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Last Meeting of Commission held on Wednesday, March 31, 1948
at 3.p.m.

CHAIRMAN	Lord Wright	Australia
ALSO PRESENT:	Sir Robert Craigie	United Kingdom
	Colonel Springer	United States of America
	accompanied by	
	Mr. Kintner	
	Mr. Heydon	Australia
	H.E., Dr. Cheng	China
	Mr. Aars-Rynning	Norway
	Dr. Schram-Nielsen	Denmark
	Commander Mouton	Netherlands
	Professor Gros	France
	accompanied by	
	H. Fontaine and	
	Mlle. Capionmont	
	Mr. Leger	Canada
	Mr. Aikman	New Zealand
	M. Heisbourg	Luxembourg
	Mr. Dutt	India
	Miss Gould-Adams	Belgium
	Dr. Zeman	Czechoslovakia
	M. Milenković	Yugoslavia
	Colonel Muskat	Poland
	Mr. Meigh	Messrs. Howard Howes & Co. (Accountants)

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

M. de Baer	Belgium
M. Dimitas	Greece

MINUTES.

Minutes of meetings held on 21 January 1948 (M.133) and 25 February 1948 (M.134) were approved and signed.

APPOINTMENT OF TRUSTEES AND TRANSFER OF ASSETS.

THE CHAIRMAN said, that concerning the matter of the appointment of trustees and transfer of assets, there was one resolution dealing with two Trust Deeds which members were required to approve. As members knew, the life of the Commission ended to-day and trustees had to be appointed to wind up and to carry out the scheme of law reporting which they had all agreed, more than once, was one of the most important functions the Commission could perform.

The resolution, copies of which members had been supplied with, was in the following terms:-

"That the assets of the Commission at 31 March 1948 including cash at Bankers on deposit and current accounts and cash in the hands of the Secretary General, be handed over to The Right Honourable Lord Wright of Duxley, the Ambassador of the United States of America or his Deputy and the Finance Officer of the United Kingdom Foreign Office London as Trustees for the United Nations War Crimes Commission in liquidation, to pay the expenditure authorised by the Commission including the cost of winding up, to realise the remaining assets and to distribute

the surplus among Member Governments in the proportions to which they are entitled under Article 13 of the Financial and Administrative Regulations of the Commission as follows:-

	Contribution per cent
Australia	3.65606
Belgium	3.29775
Canada	4.36281
China	6.16418
Czechoslovakia	3.29775
Denmark	2.56538
France	5.44757
Greece	2.93947
India	5.44757
Luxembourg	2.61698
Netherlands	3.65606
New Zealand	2.79612
Norway	2.79612
Poland	3.29775
United Kingdom	22.28783
United States	22.28783
Yugoslavia	3.08277

It was to implement the above resolution that the two deeds of appointment had been prepared - they were ready for examination and could be explained more fully if necessary. The one deed transferred from the Secretary to the trustees the sum of £26,600 and the Secretary General declared that the said sum should vest in the said trustees that they should use the same for the purpose of financing the Law Reports of the United Nations War Crimes Commission from and including Volume VI onwards and all other expenses connected therewith. The trustees would be The Right Honourable Lord Wright of Darley, the Ambassador of the United States of America and his Deputy and the Finance Officer of the United Kingdom Foreign Office. That was a perfectly straightforward motion.

The other deed dealt with the appointment of trustees to deal with the winding up of the Commission. It provided that the sum of money, which would be the balance of the assets of the Commission, should be vested in the same three trustees to hold the said sum upon trust and that they should use it for winding up.

There were therefore two trusts, one dealing with the sum of money appropriated for the law reporting and the other dealing with the winding up of the business of the Commission. In effect, the trustees were charged with spending that money in either of those two ways until the duties were exhausted or the sum expended. When the sum was expended, no more could be done and if the purpose had not been achieved it would stop at that stage, but if there was any surplus when the purpose was achieved then the amount remaining would be distributed to Member Governments in the proportion in which they had contributed to the expenses of the Commission.

The Chairman then called upon Sir Robert Craigie, as Chairman of the Finance Committee, to move the resolution.

SIR ROBERT CRAIGIE, in moving the adoption of the resolution, said he would like to add to what Lord Wright had said that the drafts of the Deeds of Appointment had been prepared by the Legal Advisor of the Foreign Office in collaboration with the Secretary General. These two documents and the draft of the resolution had been carefully considered by the Finance Committee at its meeting on March 30th, when they were approved for submission to the Commission. As Lord Wright had said, the one deed dealt with all funds which were being handed over all assets as at 31 March, other than the £26,600 which would be reserved for the production of the law reports. The other deed dealt with the handing over of the £26,600. He thought, and hoped, that they had covered every eventuality. The important words were those at the end of the draft resolution where the trustees were charged: "to pay the expenditure authorised by the Commission including the cost of winding up, to realise the remaining assets and to distribute the surplus

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under Article 13 of the Financial and Administrative Regulations of the
Commission."

The resolution as it stood did not cover the disposal of any money coming
in from the sale of Law Reports after the final distribution of the remaining
money had been made to Member Governments. The Finance Committee had
come to the conclusion, on the advice of Mr. Leigh, that under that
phraseology the trustees would undoubtedly be empowered to deal as they
thought fit with any such monies coming in. If the sum was considerable
and worth distributing the trustees might decide to make a further
distribution; if a small amount was involved no doubt the trustees would
decide to donate the money to some legal charity. In any case the matter
must really be left to the trustees because it was impossible to decide
what the position would be in say a year or eighteen months from now when
the final distribution was made and therefore it was very difficult to
provide for it. They could not provide for that contingency more definitely
than was done in the resolution.

PROFESSOR GROS said he could not support the resolution for reasons which
must be apparent to members. He thought items 3 and 4 on the Agenda had a
direct relation one to the other and he would like, in a few words, to
give the reasons why his Government was not in a position to support the
resolution. It had already been said by his colleague Monsieur Maillard,
that the French authorities attached great importance to the publication
of Law Reports in French. Monsieur Maillard had said in one meeting that
it would be extremely difficult for the French Government to support
the publications in English only and if the same publications were not
produced in French they would not be prepared to back the scheme.

They did accept to speak English only on the understanding that it would
not pre-judge, in any sense, the use of the French language in the
work of the Commission. That was a great sacrifice, because such a
concession might be used against them as a precedent in other International
Organisations, but they had done it in the spirit of collaboration in
wartime. The first time the question of the use of French and English
was raised at the Commission was in the rules of procedure which he had
helped to draft. The American delegate had been his colleague on the
Drafting Committee and it was agreed that French was an official language
of the Commission. Most people living in Europe and interested in war
crimes matters would in fact understand French more than English. On
this question of principle, he was not in a position to agree to the
resolution presented by Sir Robert Craigie, but which would no doubt be
supported by many of the members. He was sorry to have to present that
view of the French Government. But he must state categorically the
position on behalf of the French speaking nations regarding a French
translation, so he would ask the Commission to consider again the position
which they had taken.

If it was thought that a French translation was impossible he would, with
great regret, have to reject the draft resolution and ask that the French
contribution be settled as from the date the life of the Commission ended.

THE CHAIRMAN asked Professor Gros what was to happen if the people who
were charged with the obligation of preparing the Law Reports found it
impossible to produce a French translation - did he gather Professor Gros
to say that the French Government would have to recognise that fact but
would ask that the French Government should not contribute to any part of
the cost.

PROFESSOR GROS said he was afraid that was the exact position.

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THE CHAIRMAN said Professor Gros had put his case very fairly. He had, he regretted to say, had a great deal to do with the question of law reporting - it had been a very thorny and troublesome question and a little later he would have to explain to the Commission the peculiar difficulties which had been thrown in his way.

The matter of the French translations had been discussed very fully at the last meeting. Professor Gros was a great supporter of the Commission and he knew that the Commission had come to a definite conclusion on the point. He wished to propose something which, though it might not satisfy Professor Gros, might serve as a sort of "olive branch". He would suggest that the French should themselves prepare a few of their cases in French without any translation and then hand them over to the Commission who would then print and publish them in a separate volume. He hoped that suggestion would show how anxious they were to meet the wishes of the French. It was possible that if they accepted that proposition they could deal with the matter finally by producing a French volume of reports by, say next October. It was up to the Commission to decide any request of the French Government and if it was conceivably possible he would ask the Commission to support and grant the request which Professor Gros had so clearly and frankly put before them. However, it was quite impossible for the Commission at this stage, when everything was being wound up and when no Member Governments would pay any further contributions, to undertake that work as they would be undertaking something which they could not possibly complete and he, personally, would not be a party to the adoption of any such plan. He was bound to tell Professor Gros that so far as his (the Chairman's) knowledge and understanding went, his (Professor Gros') request was not within the range of practical possibility but he would like him to adopt the middle course and to accept a token performance showing the Commission's anxiety to meet his wishes and their intention to show that anxiety by what he had called a token performance. Under those circumstances the Commission would have to decide what it was prepared to do. He was bound to say that he did not think the Commission had really any power to collect or expend monies for that purpose but that did not really arise because at this stage it would be impossible. He hoped, therefore, that members would be prepared to support Sir Robert Craigie's notion as it stood.

MR. LEGER said he could not support the French motion as it stood but the Canadian Government, in a letter which had been sent to the Secretary General, and which he understood might not have been circulated, took the point of view that a French translation would be a very good thing indeed. So far as his instructions went the Canadian Government would be willing to use whatever part of the monies which were left between the amount necessary for the English version and what might come back to the Canadian Government as their quota, for a French translation.

THE CHAIRMAN said he thought that to be a very generous offer. However, it still left the problem of the necessary machinery, staff and equipment to translate trials into French. As they all knew that was an extremely difficult thing to do, requiring highly trained lawyers not only familiar with English law but with French law. In the Privy Council they received a number of judgments and reports in French and though some of them spoke French, they were none of them trained French lawyers and they always had help of trained Canadian or French speaking lawyers, so that there was no particular difficulty. It was extremely difficult to translate trials in French into English and that equally illustrated the difficulty of translating the English reports into French. He felt bound to say that he did not think the Commission could possibly at this stage, undertake any such task.

COMMISSIONER MOUNTAIN said he personally regretted very much that the report could not be published in French because in all international conferences French had been the official language. On the other hand he saw the Chairman's practical point of view that it would be impossible to add trained French lawyers to the small staff which was going to be charged with the work.

As he had not attended the previous meetings he wondered what amount of money would be involved in carrying out Professor Gros' scheme.

PROFESSOR GROS said it was not exactly a question of trained lawyers to be found by the Commission because they could find French speaking lawyers in London or Paris and give them a commission to do the job, he could give the Commission five names tomorrow if they wanted them, of people who worked with the War Crimes Office in Paris. It was only a problem of money and as a practical solution, if the intention was to produce 20 volumes in English they might produce less than 20 in English and the remainder in French. It was a choice of producing some in French and some in English. He did not think the question of finding men need interfere with their discussion.

MISS GOULD-ADAMS said she would like to present the view of the Belgian Government, in that Belgium apart from speaking Flemish was a French speaking country. Though they would like to see a French version of the law reports, they would agree to that only if such a production did not incur any extra cost. They would rather have Law Reports in English than no Law Reports at all.

PROFESSOR GROS asked the Belgian Representative if he could take note that English was now an official language in Belgium!

THE CHAIRMAN wondered why the Chinese Government should not insist on reports being published in Chinese by the Commission.

SIR ROBERT CRAIGIE said he was all the more sorry to oppose Professor Gros because he did so entirely sympathise with his desire to see French translations published with the English version. If they lived in an ideal world and conditions were ideal and there was sufficient money for the dual purpose no doubt French translations would be prepared. But they were not, unfortunately, in that situation and at this stage he could not see how it would be possible to go back entirely on the resolution of the Commission at its last meeting, which was only taken after all governments had been asked for their views and been given something like six weeks in which to express them. Although it was on the financial aspect he wished to speak, he did want to refer en passant to the question of principle: He did not believe that by what was proposed, i.e. the publication of law reports in English only, they would in any way be prejudicing the generally accepted principle that French and English remain equal at International Conferences. The actual position in the Commission regarding languages was laid down in the Rules of Procedure adopted by the Commission on 18th January 1944. Rule 3 stated: "Motions may be made in French or in English. Any member may request a translation." Rule 13 stated: "Delegates may speak in English or in French. Any members present may ask for a translation," and that was the position today. Professor Gros could, if he wished, ask to have every document translated and on a question of principle they would have to produce translators. But surely the issuing of law reports was something rather different from the equality of language at proceedings of International Conferences; it had been a purely practical decision that priority had been given to the English language. They had tried to prepare a French volume. Monsieur de Baer, who very kindly undertook the task, had obtained a Belgian translator to assist him but they had found the work extremely difficult, mainly owing to the difference in legal procedure of French and English expressions in regard to matters of law. So much so that he had found it impossible to complete the translation of the first volume. It would be extremely difficult to do justice to a really good French version with the resources available to the Committee.

On the financial side, the sum of £6,600 which, in his opinion, might not actually prove to be sufficient for 20 volumes - money never went quite as far as one hoped it would - had been allocated by the Commission for that purpose and to modify that they would have to go back to all the 17 Governments represented. He had understood Monsieur Maillard to suggest that a possible French translation might be paid for out of the surplus sum of £5,400 which it was hoped would remain to be distributed to Governments when the final distribution was made. On that point, it had appeared quite clearly from the proceedings of the Finance Committee yesterday that the actual costs of financing and publishing the History of the Commission

and of the final liquidation would be greater than it had been possible to estimate some two months ago when this matter was first gone into, so he would be very surprised if anything like £5,400 remained for distribution after the final liquidation of the Commission. He felt that it would be unwise to leave too narrow a margin; there must be a reserve and the estimated reserve of £5,000 might well prove to be more like £3,000. So, from the practical point of view of producing adequate translations and from the point of view of finance, the problem, now that the Commission was coming to end, really presented insuperable difficulties. He hoped Professor Gros would see his way to accepting the suggestion of the Chairman which would go a good way to getting a French version of the more important French cases published under the aegis of the Commission. With regard to the refund of their contribution if the French translations were not to be undertaken by the Commission he was not at all sure that, legally, the French Government would be entitled to ask for that. The Commission decided that the reporting was to be continued and he did not think that it was possible for one member in the minority to say that his contribution must come out.

PROFESSOR GROS agreed that it would be a difficult point to raise, during the functions of the Commission but Monsieur Maillard had given an indication to that effect so he did not think the Commission should be surprised. At the meeting held on February 25th (M.134, P.9) Monsieur Maillard had said "he was afraid that the French Government, according to instructions received, would be prepared to take its share in the publication costs of an English edition. It is now a problem of liquidation of the Commission and one member State is entitled to present its propositions on the ways of doing it, that is what the French Government is doing."

THE CHAIRMAN said he was very sorry to have to consider this matter on a legal ground because they wanted to do all they could to meet the desire of the French Government. They had always tried to do that and possibly the trouble and expense undertaken in connection with the War Crimes Exhibition in London had not been forgotten, but he assumed that it was understood that they were anxious to meet the French desires in this connection. However, he was quite satisfied that it would be physically impossible to do more than he had suggested he hoped that would be done and they would give every support and help they could to the French and he did not know whether any further resolution was necessary to that made by Sir Robert Craigie. If that was passed it disposed of the whole matter. On the last occasion they had gone through the matter very fully but he was not prepared to say that the Commission could hand back any part of the contributions to any Government until it had been estimated what surplus there was and that surplus divided pro rata. He was rather pessimistic about the amount of money left even for the purpose they had in mind, they could never get any more contributions from Member Governments, that was absolutely certain.

DR. ZEMAN said he would like to support the resolution put forward by Sir Robert CRAIGIE. He did not see any violation of the principles of equal language. He thought it a very reasonable proposal. They had to economise and for the purpose of historical record, if the reports were to be useful they had better have one set in the English language rather than half a set in English and the other half in French. Any foreign language to a European was difficult and if they found an expert understanding one language, say English for instance, he would read and study the first 10 volumes, then have to go out and find an expert understanding sufficient French, to study the other half in French.

His Government would be interested to have re-funded whatever was left after all the necessary expenditure had been made and the work of the Commission had been completed. He did not think that the French were justified in asking for their contribution to be refunded, if they did and received it, other nations might do the same and consequently endanger the whole scheme of law reporting.

Professor GROS asked whether he could have a vote on his motion because it would give him the opportunity of voting on Sir Robert Craigie's motion. His motion had been distributed and from what he had heard, it would be rejected, but he would like to have it voted on.

The CHAIRMAN said he would like to have the opportunity to say a few words when

he had heard what Professor GROS had said because his impression on the part of the "Bible" of one F had published a time to time, and were not asking The CHAIRMAN said reports.

M. HEISBOURG said that if the Law Reports on 2.61698, and when the distribution for 3.29775. twenty-nine times why the Luxembourg publication of the actions after the for the cost of of principle, he French was the accustomed to he were able to understand the Luxembourg I whether the report regret that they resolution as the before he voted.

MR. LEGER said that Gros, that was rather not commended The CHAIRMAN said motion put to the

H.E. Dr. CHENG said language of the languages to the one or the other Gros' motion, but

COLONEL MUSZKAT said Gros and he thought the edition but as it well as in English Professor Gros' motion, but

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Professor GROS said he had some difficulty in accepting Lord Wright's suggestion
because his instructions were very clear; it was however a very kind gesture
on the part of the Commission. If it was a question to produce a "little
bible" of one French volume, they might just as well do it themselves. They
had published already a number of cases and they continued to publish them from
time to time, so that was a work which was going on normally and in which they
were not asking the Commission to assist.

The CHAIRMAN said he was glad to hear that the French were producing their own
reports.

M. HEISBOURG said he would like to say a few words about the position of Luxem-
bourg. If members looked at the table of distribution of the costs for the
Law Reports on page 4 of H.133 they would find that Luxembourg was put down for
2,61698, and while they were not questioning the accuracy or the foundation of
the distribution, a look at the Belgian amount would show that they were put down
for 3,29775. He just wanted to remind members that Belgium had a population
twenty-nine times that of Luxembourg and that would at once give them a reason
why the Luxembourg Government was rather reluctant to see the cost of the pub-
lication of the Law Reports increased. He had unfortunately received his instru-
ctions after the meeting of February 25th, to ascertain if it was at all possible
for the cost of the publication of the Law Reports to be reduced. As a matter
of principle, he would definitely prefer to have the Law Reports in French -
French was the official language in Luxembourg and most of their lawyers were
accustomed to holding their trials in French. They had a few specialists who
were able to understand English, for instance Monsieur Humes who represented
the Luxembourg National Office in London, so it did not matter in this case
whether the reports were in French or in English. However, they noticed with
regret that there was to be no French edition of the Law Reports but on the other
hand it was entirely for financial reasons that he could not support the French
resolution as they now had it before them and he wanted to say these few words
before he voted against it.

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one or the other. He would in the circumstances have to vote against Professor
Gros' motion, but the kindest way, he thought, would be to abstain.

MR. LEGER said his position was that he could not go quite as far as Professor
Gros, that was why he felt unable to second the motion as it stood and he would
rather not commit himself.

The CHAIRMAN said that he understood that Professor Gros would like to have his
motion put to the vote first.

I.E. Dr. CHENG said, as Lord Wright had stated, Chinese was also an official
Language of the United Nations, while English and French were both foreign
languages to the Chinese, so that he really had no preference for either the
one or the other. He would in the circumstances have to vote against Professor
Gros' motion, but the kindest way, he thought, would be to abstain.

COLONEL RUSZKAT said he was most sympathetic towards the position of Professor
Gros and he thought it was a matter of some importance to have a French
edition but as it would be impossible to have the publications in French as
well as in English he would have to vote against Professor Gros' proposal.

Professor Gros' resolution:

"Whereas rule 3 of the Commission's rules of procedure puts French and
English on equal footing,
Whereas the French language is, like the English language, both an
official and a working language of the United Nations,
Whereas the publication of Law Reports is of capital importance and it is
necessary to give them the largest possible publicity,
Whereas in many countries this publicity could not be adequately ensured
without the publication of these documents both in French and in English,
Decides to publish the Law Reports both in French and in English".

as accordingly put to a vote and resulted as follows:-

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PROFESSOR GROS replied that the Commission's Budget had always been adopted unanimously but if such a problem had been put before the Commission during its life and if one member state said of something in the Budget "no this should not be done" then he thought that that State could not be obliged to pay his share of a Budget which he disapproves.

DR. SCHRAM NIELSEN said that the mere fact that countries had paid money to the Commission would more or less legally, in any case morally, commit them to accepting the majority vote of the Commission. They would get into a very embarrassing position in every International Committee or Conference or Commission, if one country could object to one particular item of a budget and the money paid to the Commission could be claimed for repayment because one country did not acquiesce to pay, for instance, the salary of one legal officer.

PROFESSOR GROS said that when they had tried to wind up the League of Nations they had created a committee and had unanimity of vote on the disposal of all assets.

DR. SCHRAM NIELSEN said that he thought they should not claim anything until the winding up was finished.

H. E. DR. CHENG said that the rule adopted by the Board of Liquidation of the League of Nations was the majority rule.

COLONEL MUSZKAT said he could not agree with Professor Gros, the work of publication was one of liquidation, it was not a new decision, if it had been a new decision they would be in an absolutely different position. He thought that the question to be considered, quite apart from the continuation of the publications, was only a technical matter of fact.

MEMBER MONTON said that from the legal point of view he agreed with what had just been said by Colonel Muszkat but he would like to approach it from another point of view and invoke the kindness of Professor Gros and the French Government to cooperate in the matter. It was obviously essential that as many volumes as could be produced in a language understandable to most lawyers in the world should be done, instead of having two different sets. Working with the same amount of \$6,600 they could have 10 volumes in English and 10 in French but he thought that for the history and the future of the world, it would be useful to publish many trials as possible in one language and have them all in English. Possibly Professor Gros had noticed the reluctance with which he had voted against his resolution on financial grounds. It would be preferable to have the whole published in two languages if possible but as that was impossible he hoped Professor Gros would understand why they could not meet his desires.

PROFESSOR GROS said he was terribly touched by their kindness but as members knew he was not sitting there on his own behalf and he could not go far away from his instructions. He wished to point out that he had been out-voted 10 to 1, one vote being his own and he did not see why there should be any obligation. He could not the 10 in favour, with their contributions, produce law reports in English and give back the moderate sum of £360 to the French Government which would then try to produce some 4 or 5 volumes in French. He wished to take this opportunity of thanking those members who had spoken in favour of the publication also in French. They could have both versions and avoid difficulties if they would decide, before applying all the funds to the publication of the English law reports, to give back to the French Government their share.

CHAIRMAN read to members Article 13 of the Finance and Administrative Regulations as follows:- "On the dissolution of the Commission its assets shall be divided among the Governments which are or have been members of the Commission, in the proportion in which they have contributed to the Commission. Now, what were its assets. They were an undifferentiated sum which had to be divided among Governments who were or had been members of the Commission. He did not know how that could be settled except by a vote of the Commission.

DR. CHENG said that in the Board of Liquidation of the League of Nations, it

was the majority rule that prevailed, otherwise it would be impossible to these lines to liquidate. The publication of the law reports, in his opinion, was indeed two resolu- to the work of the Commission and was not in any sense a new budget. which he had i

PROFESSOR GROS said he wished to ask the Secretary General to put in the Sir Robert Cra his doubts as to the legality of a vote taken on such a point incurring a financial obligation on the dissenting state.

SIR ROBERT CRAIGIE said he might be wrong, but, personally, he did not reg the Commission as being in dissolution at the moment, it was being wound up its present form but some part would go on until the work of Law Reporting finally completed, and he thought that the Commission would not be definitely liquidated until that work was completed. He thought that that was a pos legal interpretation and he hoped that on that basis the Commission might that the assets could only really be distributed at the end when the trust considered that moment had arrived.

COLONEL SPRINGER said that Professor Gros had referred to his American the and to the understanding he had had with the original American representative HE CHAIRMAN s He was sorry that he had no knowledge of that understanding and for that votes for an reason he had abstained from voting.

PROFESSOR GROS said he was discussing the use of French in everything rel to the Commission, according to the Rules of procedure of the Commission. R. LEGER said drafted by a working party where the first American representative and hote on that. were sitting.

COLONEL SPRINGER said that his Government would be happy to see French pub tions but in view of the great difficulties which would be involved in get out French publications, he could not vote for it.

SIR ROBERT CRAIGIE said that speaking as Chairman of the Finance Committee could say that they were very sympathetic, in principle, with Professor's desire to see French translations. But the position in this case was, a would move a resolution to that effect, "that the Commission did not con that under Rule 13 of the Financial and Administrative Regulations, the could be distributed to Member Governments until the final distribution of assets, as proposed in the first resolution, was made and that would be a final dissolution".

SIR ROBERT CRAIGIE's motion was seconded by MR. JARS RYNNING.

THE CHAIRMAN said they must dispose of the resolution proposed by Sir R and seconded by Mr. Jars Rynning. If a further resolution was put for after that then they would hear of it.

PROFESSOR GROS wondered whether the resolution which the member for Luxembourg wished to make might not be contrary to the one which Sir Robert Craigie had made and if it was contrary it would be important to know it.

THE CHAIRMAN asked Monsieur Heisbourg to put his motion to the Commission.

M. HEISBOURG said that if the amount for which the French were put down participation in the law reports which the Commission had decided should published in English, should be put at the disposal of the French Government they could publish at least part of the English reports in French. It had been decided that the \$6, 600 should be spent on the publication of reports in English and his Government would not be prepared to increase that amount. The French had said they were not prepared to participate in that scheme. He thought it would go a long way towards the wishes of all members of the Commission, and in order not to vote on all matters entirely against the if they could find a way to make it at least possible for the French contribution towards the English law reports to be returned to the French so that they could produce their own reports in French. He thought that the involved was so small that it would not be a sacrifice by members but that they would benefit by it. He would like to put a formal resolution on

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otherwise it would be impossible to follow these lines to the vote of the meeting, once the Chairman had decided which of the two resolutions, the one put forward by Sir Robert Craigie or the one which he had in mind, should be voted upon first.

The Secretary General to put Sir Robert Craigie's resolution was then voted on and resulted as follows:-

For	Against	Abstain
Belgium	France	Canada
Australia	Luxembourg	India
China		New Zealand
Denmark		United States
Czechoslovakia		Yugoslavia
Netherlands		
Norway		
Poland		
United Kingdom		

Gros had referred to his American representative. The CHAIRMAN said that Sir Robert Craigie's resolution was therefore carried by 10 votes for and 2 against.

PROFESSOR GROS asked whether they should now consider the Luxembourg proposal. R. LEGER said that according to his interpretation it was not possible to use of French in everything. Rules of procedure of the Committee on that.

THE CHAIRMAN agreed with Mr. Leger.

ment would be happy to see French culture which would be involved in vote for it. PROFESSOR GROS said that the Luxembourg proposal was put before the Commission and he thought the Commission should consider what the Luxembourg representative had said.

as Chairman of the Finance Committee, in principle, with Professor But the position in this case was that the Commission did not want to see the Luxembourg resolution until the final distribution, was made and that would be a vote upon it.

PROFESSOR GROS said he did not want to seem disrespectful but he thought that the Luxembourg resolution should have been voted on first and then the other resolution voted upon, he did not see any harm in that.

led by MR. LARS RYNNING. R. LEGER thought that it might be added as a proviso to Sir Robert Craigie's motion that if it were agreed by the Commission that the French quota should be returned, that would not be contrary to the previous motion voted on.

of the resolution proposed by Sir R. LEGER thought that it might be added as a proviso to Sir Robert Craigie's motion that if it were agreed by the Commission that the French quota should be returned, that would not be contrary to the previous motion voted on. The CHAIRMAN remarked that a contribution, once it was paid in, did not remain an individual contribution but became part of the assets of the Commission. At some time or other those assets which had not been expended would be distributed. The assets had to be dealt with according to the rules. Some members thought there should be a vote on whether the sum of £360 should be returned to the French or not, he, personally, did not think a vote was necessary, however, they would take a vote on "whether the sum of £360 should be returned to the French Government to help in the production by them of Law Reports in French".

for which the French were put down. The vote then taken resulted as follows: -

For	Against	Abstain
France	Australia	Canada
Luxembourg	Belgium	India
	China	Netherlands
	Denmark	New Zealand
	Czechoslovakia	United States of America
	Norway	Yugoslavia
	Poland	
	United Kingdom	

The proposal to return the sum of £360 to the French Government was accepted by 8 votes against and 2 in favour.

SIR ROBERT CRAIGIE said he would then move the acceptance of the deeds regarding the transfer of funds in the two drafts A and B, although he did not think they needed any specific resolution.

The drafts of the two deeds of appointment were unanimously approved.

COLONEL SPRINGER said that with respect to Draft B he would like to remark that he did not see where it provided for the disposal of assets from sale. Page 2 stated "that the publication of the law reports should be completed by the end of February 1949 and should in no case involve an expenditure exceeding £6,600". However, in time, they might have some one or two thousand pounds in hand from the sale of books and he would suggest that they add "including receipts" to make it clear that £6,600 and also the amount received from the sale of books might be spent on the publications project.

THE SECRETARY GENERAL said the intention was that it should in no case involve expenditure in excess of receipts exceeding £6,600 and that wording had been inserted in the final draft which members had before them.

MR. MEIGH said on that on that particular point that Draft B transferred £6,600 and the remaining assets, including equipment were conveyed by Draft A so there could not be any receipts possible other than from the sale of law reports.

PROFESSOR GROS said he would like to have inserted in the minutes his remarks and observations regarding the dubious legality of the trust deeds as it was not decided by the unanimity of the Member States. A decision of winding up of the Commission must be taken by unanimous vote and any decision taken by a majority, in fact very small (8 on 16 voting countries) had no legal effect for the States which were not in agreement.

SIR ROBERT CRAIGIE wondered what Professor Gros meant by the dubious legality of the Trust Deeds.

PROFESSOR GROS said he considered the Commission was not entitled to decide by a majority vote, there should be unanimity.

THE CHAIRMAN said that Professor Gros' reservations would be put in the Minutes if he would furnish the Secretary General with the exact terms of the text which he desired. He also wished to point out, a propos of Professor Gros' remark, that the matter would then be taken up through diplomatic channels, that there was no tribunal in the world which could settle the dispute except the Commission itself.

PROFESSOR GROS said that if the Commission were wound up then his point was good, or he might call a meeting through the Chairman.

THE CHAIRMAN said that the Commission was in liquidation and, though it did still have a sort of life, there could not be another meeting, as there was no material issue before the Commission at the moment.

Referring back to the question of the Law Reports the Chairman said that members would remember that they had decided that the preparation of the law reports should be proceeded with and also the publication of the History. It had been pointed out then that it was very important for that purpose that the services of Mr. Kintner, who was the Chairman of the Legal Publications Committee should be available, that is provided his Government continued to provide Mr. Kintner's services. Following that up, he had apprehended that it was his duty to write to the State Department and explain the position to them. This he had done in a letter dated 5th January in which he requested that Mr. Kintner's services should be continued for a time. He had explained that Mr. Kintner had, throughout, taken a most prominent part in the work of the Commission and was Chairman of the Legal Publications Committee and a

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on was that it should in no case exceed £6,600 and that wording had been used before them.

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ve inserted in the minutes his remarks on the legality of the trust deeds as it was a decision of winding up. A unanimous vote and any decision taken by 16 voting countries) had no legal

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in liquidation and, though it did not seem to be another meeting, as there was no meeting at the moment.

Reports the Chairman said that he had led that the preparation of the publication of the History of the Commission was important for that purpose that the man of the Legal Publications Committee had provided his Government continued to support that up, he had apprehended that the Government and explain the position to the Commission on 5th January in which he requested the Commission to be continued for a time. He had explained the most prominent part in the work of the Legal Publications Committee and

most active member of Committee I and Committee III. Lord Wright especially emphasised that Mr. Kintner was particularly occupied in completing the history of the Commission and had been acting for sometime as Editor of that work as well as of the series of War Crimes Trials Law Reports which the Commission was preparing to issue. He pointed out the importance of Mr. Kintner's services for the scheme because, in addition to his great ability and energy and his experience as a practicing member of the Bar in the United States, he had been working on the Commission for three years and was fully acquainted with the project and its importance for the future development of International Law.

On the 18th March he was informed that the State Department was unable to continue Mr. Kintner's services owing to the budgetary situation. It was, of course, entirely a matter for the decision of the State Department, and he could only accept it with regret because he had lost the services of a most valued lieutenant and he had to make the best of it. The United Kingdom Foreign Office had generously agreed to provide office accommodation until the final winding up was completed and the History and series of Law Reports was duly published. Lord Wright added that he could not leave the subject without expressing his gratitude to Mr. Kintner for the way in which he had zealously placed at the disposal of the Commission all his energy, ability and legal experience. He, personally, would have a heavy extra burden placed upon him by the loss of Mr. Kintner's services.

REPORTS BY CHAIRMEN OF COMMITTEES.

COMMITTEE I.

MIR ROBERT CRUGIE said that as far as Committee I was concerned he did not think there was very much he could say. They had been very busy up to the last and had functioned rather like the prima donna who gave many "positively last appearances".

Committee I had listed, during four and a half years about 40,000 names, and a very considerable volume of work had been done by successive members of the Committee. He wished to pay tribute to those who, in the past, had been doing that work with so much energy and devotion and also pay tribute to his colleagues and to the very friendly feeling which had prevailed throughout. In spite of the fact that they had had to disagree on occasion, they had always disagreed as friends.

COMMITTEE III. - nothing to report.

LEGAL PUBLICATIONS COMMITTEE.

MR. KINTNER said that if he might preface his remarks with matters not strictly concerned with the Legal Publications Committee, he would like to say that he was informed that his services at the Commission would terminate. However, just how long he would be permitted to remain and do certain work which was then in process was not yet determined and he had received no instructions from the State Department as to when he should return to Washington but until such time as he was instructed to return he would be very happy to engage in the work which remained. He had greatly appreciated the trust which Lord Wright and other members of the Commission had placed in him in allocating to him the responsibility in connection with the publication of the History and Law Reports, and on other Committees.

Members would no doubt wish to have a report on the state of the Law Reports and in that connection he was afraid that there was not much to offer. As was stated at the last meeting of the Commission, they had had some difficulty in getting from the Stationery Office the bound volumes, but it would be understood that the Stationery Office had much more work to do quite apart from the Commission's little job. However Volume III should be distributed at any time now. The proofs of Volume IV had been returned to the Stationery Office and that volume also should be published at any time. Volume V was still in a state of preparation.

With regard to the History of the Commission, Mr. Kintner said that that too

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was going forward. He had hoped to have the entire manuscript finished by this date but as members would no doubt appreciate, there were many difficulties in securing manuscripts on all the problems which would be discussed in the History. Many technical questions were to be reviewed and the writing was therefore slow. All members of the Commission's Secretariat were engaged in preparing the History and approximately half by volume, had been sent to the printers and a great part of it returned and circulated to members. Of the remaining half by volume of material for the History, part of it, though produced in draft form would need editing and a portion of it was yet to be written. He had just received a few days previously, the material for the very important chapter of the History which dealt with the work of Committee I, which he had undertaken to prepare and if he remained in London long enough he would do it; unfortunately, other members of the staff were engaged on other parts of the History, otherwise he would allocate that portion of the work. All the manuscripts for the History should be in the hands of the printers before the end of April. After that date some amount of editing and coordinating and drafting of the index, would have to be done. However, they hoped that that would be the only task which would remain to be done after the end of April.

There were some portions of the History which it had been decided to circulate at once to all members, in which it was felt they would have particular interest with regard to names and those serving on Committees and any other matters on which there might be questions arising. He hoped members would be prompt in returning such drafts with their corrections. It had been particularly necessary to circulate the draft concerning the courts of the various countries and they had already received back copies of corrections. All matters on which it was felt members would have substantial corrections and it was hoped that they would be returned as quickly as possible in order that those engaged in preparing the History could go on with the work. If they were not returned promptly it would be totally impossible to complete the publication of the History by the desired date.

FINANCE COMMITTEE.

SIR ROBERT CRAIGIE said he had just distributed a copy of the provisional accounts for the fiscal year ended as at to-day's date. That was of course unofficial as normally they did not distribute a balance sheet until it was in its final form, but it would take another few weeks before the final balance sheet could be distributed. There was only one point to which he wished to draw members attention, i.e. the final column, £15,388. 13. 3 representing the expenditure up to date which they could compare with the £21,850 in the Budget; the expenditure was therefore well within the estimate. They had several accounts still outstanding which would increase that figure considerably; however, they would be within the £21,850 estimated which was the important point.

THE CHAIRMAN said that before the meeting ended he wanted to say a few words about some of their absent friends, people who were no longer with them for various reasons, who had retired either from this world or from the Commission. He felt he should mention Sir Cecil Hurst who was an original member and was a most able and learned Chairman during the first which was so important in the life of the Commission. Sir Cecil Hurst unfortunately retired after his valuable services, owing to ill-health. The Commission was by that time beginning to gather together a staff - there was the hardy Colonel Wade who first served in the field in 1898 who fought with the Gunners in the Sudan campaign. In 1945 he joined the Commission. Sir Cecil Hurst's place as British representative was taken by his (Lord Wright's) old friend at Cambridge, Lord Finlay, whom he had known since he was young. Lord Finlay worked most valiantly and was a most valuable member of the Commission. He had been one of their party when they went to Buchenwald and it had always been on his conscience that that had been more than his constitution could stand and he died, not very long afterwards, in 1945. He had been a member of Committee I and Chairman of

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to have the entire manuscript finished. I doubt appreciate, there were no on all the problems which would be raised. All members of the Commission were to be reviewed. The History and approximately half by volume of material produced in draft form would be to be written. He had just for the very important chapters of Committee I, which he had undertaken long enough he would do it. Staff were engaged on other parts of that portion of the work. All in the hands of the printers for some amount of editing and correction to be done. However, they would remain to be done after

by which it had been decided which it was felt they would have and those serving on Committee might be questions arising. In turning such drafts with their circulation the draft concerning they had already received back. It was felt members would have that they would be returned as in preparing the History could be returned promptly it would be publication of the History by the

distributed a copy of the provision at to-day's date. That was to distribute a balance sheet until it another few weeks before the final. There was only one point to which the final column, £15,388.13, which they could compare with was therefore well within the still outstanding which would they would be within the £21,000.

ended he wanted to say a few words, people who were no longer with us either from this world or from the nation Sir Cecil Hurst who was an old friend and Chairman during the first of the Commission. Sir Cecil Hurst's services, owing to ill-health, were to gather together a staff. He first served in the field in 1898 campaign. In 1945 he joined the Commission as British representative was the Lord Finlay, whom he had worked most valiantly and was a member of Committee I and Chairman.

the Finance Committee during the period of his service. His death caused a great loss to the Commission but his place was taken over by his distinguished friend Sir Robert Craigie, to whom they were all most indebted. However, Sir Robert was a man of very modest temperament so he would not say anything more about him. They should not forget two very important members of the Commission: the American representative when Lord Wright joined the Commission was Mr. Pell, he was a very able man of wide experience and at one time had been Ambassador and also a member of the House of Representatives. He was a very devoted worker but went away at Christmas 1944 and did not come back. He was succeeded as U.S. representative by Colonel Hodgson, a most able and devoted and indefatigable member, who had rendered most valuable services.

The Chairman then mentioned Monsieur de Baer who, he thought, had done more work for the Commission than anybody else. He had throughout been Chairman of Committee I and was indefatigable in his attendance, and in his assiduity and interest he worked like a Trojan. However, he had to leave them as he had been appointed Chairman of the Preparatory Committee of the International Refugee Organisation at Geneva. The real trouble was that all the members and their staff were so able that other people wanted to get them away. They had lost to Lake Success the redoubtable and learned Dr. Schwelb and they were always threatened with the loss of Mr. Brand but he hoped he would see them through to the end. They had also lost Mr. Oldham who was the Australian representative and a most active and popular member of the Commission. He had been Australian representative and so far as he was concerned, if it had not been for Mr. Oldham he would never have become either a member or the Chairman of the Commission.

His Excellency Dr. Wellington Koo had been a very distinguished member of the Commission before His Excellency Dr. Cheng arrived. Then there was Dr. Eder who had been a very active, useful and able member and had recently sent them some very useful information for the History. Then there was Professor Gros. In the earlier days he had been an active and valuable member as the French representative. But his other duties rendered impossible his regular attendance and now he was occupying one of the highest positions in the French Government Service as Legal Adviser to the French Foreign Office. Then there was Dr. de Moor who had been a very useful and valuable member and it was a great blow to the Commission when he died in 1945. Another member, when he first came to the Commission was His Excellency Mr. Colban, who had been the Norwegian Ambassador, a very distinguished man of great learning and a great statesman and they had benefited very much from him until he left. There was also their most able and zealous Secretary General, Colonel Ledingham, but he was such a bashful man he would not say anything more about him or of his unfailing energy efficiency and ability.

COLONEL SPRINGER said he appreciated the tribute which had been paid to the first United States Commissioner and to Colonel Hodgson. He and his office appreciated the splendid service which the Commission's staff had always given them and he would like to make a few remarks about other people behind the scenes but who had, nevertheless, been very helpful to the Commission. There was Colonel Edward Young of the War Department, Miss Katherine Fite of the State Department, Professor Charles Fairman of Stanford University who had reviewed the portion of the law reports dealing with American war crimes law. Their friends in Germany were better known to the Commission and he wished to express his particular appreciation, in which he thought the Commission and Lord Wright would join, to Brigadier General Telford Taylor, for the help he had so willingly furnished, also Colonel Harbaugh, at Frankfurt, Colonel Clio Straight at Munich and Mr. Ben Smith at Berlin.

THE CHAIRMAN said he wished to express his great indebtedness during the last four years to the British Foreign Office who had given him constant help and support in every way and he and the Commission were deeply indebted to them.

E. DR. CHENG said that before dispersing he would like to have the honour of proposing a vote of thanks to Lord Wright who had been so generous in

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paying tribute to all members of the Commission and it was only right and just that he should have his fair share of the thanks. He thought all members would agree with him when he said that they had been very fortunate in having Lord Wright as their Chairman, his learning and experience had added great weight to all the decisions of the Commission and his wisdom and personal charm had afforded great guidance and facilities to all who had cooperated with him - thanks to his guidance and all his qualifications, the Commission had accomplished its very difficult work with heartening and good results. All those associated with the work of the Commission could feel that they had done their duty and calmly face the verdict of history. In bidding Lord Wright a cordial au revoir they wished him continuing good health and a long life.

PROFESSOR GROS in seconding Dr. Cheng's vote of thanks expressed his own personal thanks to the Chairman and said how deeply grateful they all were for his guidance and, even though he and Lord Wright had not agreed in the previous discussion, it was, he felt, a disagreement among friends.

THE CHAIRMAN said he was very much obliged to His Excellency Dr. Cheng and to Professor Gros. He remembered their first meeting in the cellars at the Law Courts when the "doodle bombs" were falling and while it had seemed to him a rather discouraging operation, they had survived. They had had a lot of difficult problems to settle but they had all worked together as a team and had done good work.

FORMAL APPROVAL OF UNWCC LIST NO: 78.

The Commission's list No. 78, already circulated, was formally approved.