

REPORT TO BE PREPARED BY PROFESSOR BROGAN

The CHAIRMAN read a letter from Professor Brogan raising the question of the date at which his report on crimes committed by the Axis against the Jews was to be ready.

The Commission reaffirmed the policy laid down in the Progress Report of 19 September, 1944, (C.48(1)), more especially in the following paragraphs:

"The reports which the Commission has in mind would be prepared with a view to publication at the appropriate moment and would show the connection between the individual crimes of each type and the common policy which they expressed, thereby making it easier for the general public to comprehend the justification for and the necessity of the severity which had been shown towards their perpetrators.

"An additional reason for the preparation and eventual publication of such reports under the authority of the Commission is the need for correcting the idea which is all too prevalent that the stories of the horrors perpetrated by the enemy are untrustworthy exaggerations designed for propaganda purposes.

"The reports would therefore be framed so as to demonstrate in a readable form which might be expected to be of interest to the public at large not merely the general policy pursued by the Axis powers, and the particular application of that policy in each of the occupied countries, but also the facts disclosed in the cases of war crimes brought to trial and the punishments inflicted."

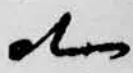
While this policy precluded early publication, it was observed that it would not be necessary to wait until all the war criminals had been tried and that there should be no avoidable delay in starting the work. The CHAIRMAN said he would discuss the matter on this basis with Professor Brogan.

COLONEL WADE'S REPORTS

Reference was made to these reports and it was proposed that they should be circulated to all the members of the Commission. The CHAIRMAN promised that Committee I would consider the matter.

INTERROGATION OF ENEMY PRISONERS-OF-WAR (Doc. C.65)

M. de BAER, on behalf of Committee I, read a proposal (Doc. C.65), setting out certain questions which the United Nations Governments would be asked to have put to enemy prisoners-of-war as part of the regular system of interrogation.



Certain verbal changes having been proposed and time for consideration requested, the subject was adjourned to the next meeting.

DISCUSSION OF THE QUESTION "WHETHER THE PREPARATION AND LAUNCHING OF THE PRESENT WAR CAN BE CONSIDERED AS A WAR CRIME" (Docs. C.55, C.56, C.56(a), C.64)

The CHAIRMAN asked whether the members were ready to resume this discussion.

Lieut. WOLFF, Lord WRIGHT, ~~Mr. DUFF~~ and M. STAVROPOULOS asked for an adjournment on the ground that they had not yet received their Governments' instructions.

Mr. Duff supported this proposal.

M. ZIVKOVIC read the following statement of the views of the Yugoslav Government:-

"1. In contemporary international law, namely, according to the provisions of the Paris (Briand-Kellogg) Pact, war in general and aggressive war in particular represents a clear violation of international obligations and an offence against the principles of the laws of nations and international good faith. As such, it represents the most serious violation of the rules which regulate the relations between civilised nations and modern states. Taking into account that in the present international community, peace is indivisible and that it is a fundamental condition of the very existence of the international community as a whole and of each nation and state individually; having regard to the fact that 'total war' exposes to destruction not only the armed forces of the belligerents but, at the same time, their entire populations on an unprecedented scale, the Yugoslav Government is of the opinion that, in such circumstances, aggressive war cannot be considered as a mere violation of international obligations. It is a crime against the international community as a whole, and against all the nations and states which are the objects of aggression.

"This opinion expresses nothing but the condemnation dictated by the public conscience of all civilised nations, - such condemnation having always represented one of the direct sources of international law and having found its supreme expression in the Paris (Briand-Kellogg) Pact.

"It should, therefore, be admitted that by condemning recourse to war for the solution of international controversies and by excluding war as an instrument of national policy, the provisions of the Paris (Briand-Kellogg) Pact provide a legal basis for the inclusion of aggressive war among international crimes.

"In this connection it is a fact that a similar legal position exists in respect of the violations of the laws and customs of war provided in the Hague Conventions of 1907 and the Geneva Conventions of 1929. The provisions of these international conventions provided a sufficient legal basis for the inclusion of the violations of these provisions among criminal acts and for their qualification as 'war crimes'.

"2. With regard to the particular case of the preparation and launching of the present war, it is a matter of fact that the present war has been forced upon the United Nations with the aim of depriving peace-loving nations of their freedom and independence by armed force and consequently of establishing the exclusive domination of the Axis powers.

"In pursuance of this aim, the Axis powers attacked the United Nations and imposed on them 'total war', purposely applying inhuman means of warfare and systematically carrying out biological extermination of the populations of the attacked and occupied countries, in complete disregard of the elementary laws of civilised society. Yugoslavia is a case in point: her population was massacred or deported by hundreds of thousands; the property of her inhabitants was looted or destroyed; and whole regions were devastated and literally wiped out. By doing so, the leaders of the Axis powers displayed determined criminal motives and intentions in regard to peace-loving and freedom-loving nations.

"3. It is, therefore, the view of the Yugoslav Government that the preparation and launching of aggressive war in general, and of the present war in particular, possess all the characteristics of a criminal act which entails separate responsibility and penal sanctions. This criminal act represents a crime in itself, distinct from the war crimes in stricto sensu, i.e. from the violations of the laws and customs of war, as a criminal act which precedes them, rendering possible their commission."

M. Zivkovic added that in accordance with the above statement he had been instructed to vote for the adoption of the conclusion presented to the Commission under paras. 1, 2, 3 and 4 in the minority report of the Sub-Committee appointed to consider the subject (Doc. C.56). He asked that the statement be inserted in the Minutes.

Dr. EGGER said the views of his Government were those set out in his minority report (Doc. C.56).

Mr. BURDEKIN made the following statement, ^{said} that cabled instructions had been received from his Government reading as follows:

"As stated before the Commission by the New Zealand representative, it is New Zealand's policy that those responsible for launching the war should be punished on that account. We therefore consider that they are to be regarded as war criminals and within the sphere of action of the Commission and would be prepared to accept the minority report. While not denying that there may be a valid basis for judicial proceedings against the responsible political leaders we consider it is open to the Commission to propose if it thinks fit that their punishment should result from political rather than judicial action."

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The CHAIRMAN said the subject would be adjourned until the members were ready to take it up again. He urged the advantages of the procedure suggested in his note (Doc. C.64).

Lord WRIGHT said the question at issue had not been raised unnecessarily. Australia had not wished to raise it, but, as her representative, when faced by a report from which he dissented, he had had to express his opinion.

Dr. LIANG agreed with the Chairman in thinking that it would be unfortunate for a cleavage of opinion in the matter to develop among the members of the Commission. The acts in question must be and would be punished, whether they were or were not described as "war crimes". He suggested that the members of the Commission should send their Governments the Chairman's note, which clearly showed the undesirability of voting on what was at bottom a badly put question.

Mr. COLEMAN observed that he had never received an answer to his enquiry whether any individual could be found whose punishment would result from adopting the minority report.

Lord WRIGHT said such adoption would affect the charges which could be brought.

The CHAIRMAN suggested that a unanimous solution might result if the Commission after rejecting the majority report, as it seemed likely to do, were to refer the subject back to Committee I.

The discussion was adjourned as proposed.

Cecil J B Hudson
Dec 13

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Forty-second Meeting

held on

13th December, 1944

Chairman: Sir Cecil HURST - United Kingdom

There were also present:

Lieut. WOLFF	- United States of America
Lord WRIGHT	- Australia
accompanied by Mr. OLDHAM	
M. de BAER	- Belgium
Dr. WELLINGTON KOO	- China
accompanied by Dr. LIANG	
Dr. ECER	- Czechoslovakia
M. GROS	- France
Sir David MEEK	- India
accompanied by Mr. DUTT	
Dr. de MOOR	- Netherlands
Mr. COLBAN	- Norway
accompanied by Mr. Edward HAMBRO	
Dr. CYPRIAN	- Poland

and

Major HICKS

Lt. Col. BASSETT

MINUTES OF LAST MEETING

At Mr. DUTT'S request the third paragraph on p. 4 was altered to read as follows:

"Lieut. WOLFF, Lord WRIGHT and M. STAVROPOULOS asked for an adjournment on the ground that they had not yet received their 'Governments' instructions. Mr. DUTT supported this proposal."

The SECRETARY GENERAL, on behalf of Mr. Burdakin, asked, and it was agreed, that the line preceding Mr. Burdakin's statement on p.5 should read as follows:

"Mr. BURDEKIN said that cabled instructions had been received from his Government reading as follows:"

With these changes the Minutes were approved and signed.

REQUEST BY DR EGER

Dr. EGER said that he was about to lecture on "The U.S.S.R. and the Problem of War Crimes", and might wish to make a comparison between the U.S.S.R. procedure and that of the Commission. Would the Commission object?

No objection was made, the CHAIRMAN observing that the Commission would rely on Dr. Eger's discretion to avoid matters connected with the Commission's work which ought not to be made public.

APPOINTMENT OF A LEGAL SUB-COMMITTEE

The CHAIRMAN proposed that Lord Wright be asked to preside over a small sub-committee to advise on the question how far criminal responsibility for war crimes extended to subordinate members of the guilty government. *or officials*

This was agreed and M. de Baer, Dr. Eger and Lieut. Wolff were appointed as the other members of the sub-committee.

The CHAIRMAN asked the sub-committee to bear in mind that it might be desirable to publish its report.

SECOND LIST OF WAR CRIMES (ITALIAN)

M. de BAER presented the list.

M. GROS, referring to the fact that only two charges by France appeared on the list, observed that his Government had been in a position to bring very serious charges of war crimes committed in Corsica against high Italian officers who were in the custody of the Allies, but it had refrained from doing so because it was not allowed to obtain the necessary information and understood it could not bring the culprits to trial.

The CHAIRMAN considered this to be a question for the European Advisory Committee rather than the War Crimes Commission.

The list was approved.

CRIMINAL RESPONSIBILITY OF MEMBERS OF THE GESTAPO
AND S.S.: PROPOSAL OF THE FRENCH GOVERNMENT

M. GROS, on behalf of the French Government, said that in a first report, dated January 1944, he had pointed out the conditions under which organised Gestapo and S.S. formations had taken part in terrorist operations in the occupied countries. By an ordinance dated August 1944, the French Government had decided to assimilate systematic terrorism with the "association de malfaiteurs" covered by the French Penal Code. It would evidently be in the general interest for the United Nations to be unanimous in their decision to consider Gestapo and S.S. formations as "associations de malfaiteurs" and not as normal military formations. He would therefore be grateful if the Commission could open a debate on this question at its next meeting, in order to draw up a recommendation to the Governments, Committee III having, as he believed, completed its report on the general aspects of the problem raised by the request of the French Government.

This was agreed to.

INTERROGATION OF ENEMY PRISONERS OF WAR (Doc.C65)

Various observations and proposals having been made regarding this document, M. de BAER was asked to produce a revised version. He was requested to make it clear that information regarding war crimes against nationals of other United Nations should be sought and recorded as well as information of crimes against the United Nation in whose hands the prisoners were.

Dr. WELLINGTON KOO said he understood that the proposal before the Commission had only the war in Europe in view. It would be desirable for the Far Eastern and Pacific Sub-Commission to consider the subject in connection with the Far East and to decide how far the proposal was applicable there.

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In the course of discussion as to the quarter to which the proposed recommendation should be sent, it was pointed out that interrogation of prisoners might be undertaken not only by the military authorities but also, at least to some extent, by other agents of the Governments. It was therefore agreed that, when adopted by the Commission, the recommendation should be sent to the Governments with a view to its being forwarded to the appropriate authorities, if approved.

CLOSING OF OFFICE AT CHRISTMAS

It was decided that the Commission's office would close from the evening of Friday, December 22nd, to the evening of Sunday, December 31st.

COMMUNICATION TO S.H.A.E.F. OF LISTS OF MEMBERS OF THE GESTAPO, S.S., etc.

Lieut. WOLFF read a letter from Lieut.-Colonel Woodall saying that any lists of the above character in the Commission's possession would be useful to S.H.A.E.F. and indicating the address to which they should be transmitted.

The Commission decided that the lists should be sent to the quarter indicated.

ADDITIONAL SUPPLIES OF LISTS OF WAR CRIMINALS

It was agreed that, in addition to the 3 copies which would be sent automatically to all members of the Commission, additional copies should be supplied to members requiring them for the use of their Governments.

*To Sir C. H. Ross
East Africa
20/12/44*

MINUTES OF THE 13th MEETING OF THE COMMISSION

held at
Potsdam, 13th December, 1944

Chairman: Mr. COLMAN (Luxembourg), in the absence of
Sir Cecil Hurst, C.B.E., M.C.

Those who were present:

Mr. COLMAN	- Belgium
Mr. OLDEN	- Australia
Dr. LIANG	- China
Dr. ROSE	- Czechoslovakia
Mr. GROS	- France
Mr. STAVROPOULOS	- Greece
Mr. DUTT	- India
Dr. de MOOR	- Netherlands
Mr. BUCKLIN	- New Zealand
Mr. ZIVKOVIC	- Yugoslavia

accompanied by Mr. MARKOVIC
Mr. Edward WEERO accompanied Mr. Colman

Major WICKS

Mr. Andrew SEIL (Observer on behalf of the Dominion
of Canada)

MINUTES OF LAST MEETING

These were adopted and signed, subject to the insertion in line 17
of page 2 of the words "or officials" after the words "subordinate to authority".

WELCOME TO THE CANADIAN OBSERVER

The Chairman said the whole Commission welcomed the presence of an
observer, Mr. Seil, sent by the Dominion of Canada, and hoped it would
produce very useful results both for the Commission and for Canada.

Mr. OLDEN, in the name of the sister Dominion of Australia, also
welcomed Mr. Seil's presence.

RECEIPT OF THE REPORT OF THE COMMISSION ON THE SYSTEM FOR THE
PROTECTION OF WIRELESS COMMUNICATIONS (Dec. 9, 1944)

It was noted that these reports in the absence of Sir Cecil Hurst
were the result of long and serious consideration of
the Australian proposal and of the report on it which had been
made by the Commission. The objects of the Commission were as follows:

There was first (para. 1) a recognition by the Commission that the National Offices set up by the Governments were the normal means of collecting evidence of war crimes. This, however, was not enough, and provision was therefore made in the proposals to ensure that the whole field was covered.

Paragraph 2, sub-paragraph (a), proposed the appointment of a new official with experience of criminal work for the purpose of assisting Committee I and its Chairman, with whom the official would work in close contact. The official's function would be to give the cases transmitted by the National Offices the preliminary examination which would be more and more necessary as Committee I found itself faced with more and more cases, and to give all possible aid to the National Offices and the Committee in dealing with the cases.

Sub-paragraph (b) of paragraph 2 provided facilities for members of the Commission or their representatives, including the representatives of the National Offices, to work in the Commission's premises and utilise the material there available.

The third paragraph emphasised the importance of close contact between the National Offices and the members of the Commission. It was a recommendation to the Governments to take care that this contact was maintained, if necessary by the appointment of officials for the purpose.

Paragraph 4 provided for the appointment of a "central investigating officer" who would be supplied with the necessary staff and whose function would be to assist the National Offices in the investigation of war crimes, when requested by them to do so; to furnish the National Offices with evidence collected by him; and to co-ordinate evidence. An example of the evidence with which the new official would have to deal was the material produced by the interrogation of enemy prisoners-of-war on the subject of war crimes which the Commission was about to recommend to the Governments. This material would come to the Commission.

In a sense the new official would thus act as national office for the National Offices. The paragraph stating that the new official was directly responsible to the Commission emphasised that the Commission as a whole was responsible for seeing that the work of investigation entrusted to him was properly performed.

Doubt being felt as to the drafting of paragraph 2 sub-paragraph (b) of the proposals, the Commission decided to substitute "members or their representatives" for the word "representatives".

Dr. de MOOR proposed the omission in paragraph 3 of the reference to appointment of "special officials".

The CHAIRMAN said that such appointment was only one of the methods open to the Governments, and to make this clear the words "or in some other appropriate way" were added to the paragraph.

Mr. DUTT moved the omission of the word "special", which was agreed to.

A proposal by Mr. DUTT to call the new official a "co-ordinating" rather than an "investigation" officer was dropped on M. ZIVKOVIC pointing out that the new official would have no power to conduct investigations of his own in the territories of the Governments belonging to the Commission.

Certain other questions, such as the precise relationship of the new official to the Commission, its Chairman, and the Secretary General, were left over for consideration when the moment came to appoint the official, and the decisions and recommendation contained in Document C.66 were adopted as amended (Doc. C.66(1)).

Mr. OLDFAM said that as the new official's work was expected to relate mainly to the Pacific, the appointment should be made with the approval of the Pacific Powers, and it was decided that the Commission itself should approve the person appointed. The member Governments would not be asked to nominate candidates, as this might cause delay, but it was recognised that they were all

entitled to do so and that this was true for all appointments on the staff of the Commission.

CRIMINAL RESPONSIBILITY OF THE GESTAPO, S.S. ETC:
FRENCH PROPOSAL

M. GROS asked for consideration of the proposal he had made at the last meeting. Many members of the Commission favoured recognising the members of certain groups as all criminally responsible for the crimes of particular members. Such groups were the Gestapo and S.S. and certain groups which were externally military formations but really existed for the purpose of "liquidating" persons obnoxious to the Nazis and terrorising the civilian populations. The subject had been dealt with by Committee III.

Mr. HAMERO explained that the conclusion reached by Committee III, which had been conceived as a guide to Committee I, (1) was somewhat different from M. Gros' proposal. It reads as follows:

"Certain war crimes have been committed by units or 'detachments of larger organisations. There, after investigation, the identity of the offenders has not been ascertained, every member participating in such crimes is responsible therefor. Membership in such unit or detachment at the time of the crime should constitute prima facie evidence of participation therein. The Commission consequently is of the opinion that identified or unidentified members of units or detachments charged with war crimes may be put on the lists of Committee I."

Dr. EGER referred to the conclusions which he had drawn from his study of the Gestapo, S.S. and S.A. and which were in harmony with M. Gros' view.

M. GROS said a Gallup poll had shown that only 25% of the persons consulted believed that the stories about atrocities were true. He thought it was indispensable that the Commission should at an early date publish a recommendation that the Governments of the United Nations should issue a declaration on the subject, such as had been made in the last war by France,

(1) It has not been put to Committee I

the United Kingdom and Russia, condemning the mass acres of the Armenians by the Turks as a crime. The Commission should draft such a declaration. The legal aspects of the subject should also be studied.

Lieut. WOLFF suggested reference of the subject to Lord Wright's legal sub-committee.

The SECRETARY GENERAL pointed out that the terms of reference of Lord Wright's sub-committee as recorded in the draft Minutes of the last meeting related only to the responsibility of subordinate members of a Government.

Mr. OLDHAM said that Committee I had intended also to include the officials of the Government and moved an amendment inserting the words "or officials", whose adoption is recorded at the beginning of the present Minutes.

Dr. de MOOR said that even with this amendment reference to the subject under discussion by Lord Wright's committee involved extending the terms of reference. The grounds on which it could be argued that all the members of a Government or of particular categories of officials of a Government were criminally responsible for crimes committed by the Government irrespective of their individual participation therein, were not the same as the grounds on which it could be argued that membership of the Gestapo was a crime in itself.

The CHAIRMAN said that the legal aspects of the question might be referred to Lord Wright's sub-committee, and the drafting of the declaration be left to the Commission. While unable himself to regard Gestapo members as ipse facto criminals, he would welcome a declaration condemning the Gestapo.

After some further discussion it was decided to refer the legal aspects of the subject to Lord Wright's sub-committee together with the following documents: the record of M. Gros' speech at the Commission's meeting of 15th December (M.42); the above-quoted text of Committee III's conclusion; the declaration made by M. Burney in the Commission on 21 March, (M.13); the conclusions of

Dr. Eder's report (C.32)

M. ZIVKOVIC said that Lord Wright's sub-committee should have before it more information as to how members were enlisted in the Gestapo. Such information would show that the Gestapo was an "association de malfaiteurs". He would be able in February to bring back authentic information of this kind from Belgrade.

DATE OF NEXT MEETING

The Commission decided to hold its next meeting on 10 January, 1945, unless convened for an earlier date by its Chairman.

Wright

SECRET

C.56(1)

21st December, 1944.

UNITED NATIONS WAR CRIMES COMMISSION

AUSTRALIAN PROPOSAL FOR A MODIFICATION OF THE SYSTEM
NOW IN USE FOR THE COLLECTION OF EVIDENCE IN RESPECT
OF WAR CRIMES.

Decisions and Recommendation adopted by the
Commission on 20th December, 1944.

1. The Commission recognises that the National Offices established by the Governments are the bodies primarily concerned with collecting evidence regarding war crimes.
 2. As regards the modification of the internal organisation of the Commission :
 - (a). an official with experience of criminal work should be added to the staff of the Commission for the purpose of examining charges before they go before Committee I. His functions would be to draw the attention of the National Offices to any additional information in the possession of the Commission, to assist the Committee by calling attention to points requiring consideration, and generally to help in the work of preparation and consideration of cases and in the drawing up of the Lists.
 - (b). It would be desirable to provide accommodation in the Commission's office for members or their representatives desiring to work there.
 3. It is recommended that in view of the increase in the number of cases which may be expected, and of the further fact that in many instances the work of the National Offices will be carried out from their own countries, and not from London, close contact between the Commission and the National Offices shall be maintained, where necessary, by the appointment by the Governments of officials for the purpose, or in some other appropriate way.
 4. In view of the developments contemplated in the preceding paragraph, the Commission decides that a Central Investigation Officer be appointed at the headquarters of the Commission for the purpose of assisting the National Offices at their request in the investigation of war crimes, of collecting evidence which is available to the Commission in order to transmit it to the National Offices and of coordinating evidence.
- The Central Investigation Officer will be directly responsible to the Commission.

SECRET

M.44.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Forty-fourth Meeting

held on

17th January, 1945

Chairman: Lord WRIGHT - Australia,
accompanied by Mr. OLDHAM

There were also present:

Lt. Col. HODGSON - United States of America
accompanied by Capt. WOLFE
M. de BAER - Belgium
Dr. LIANG - China
Dr. ECER - Czechoslovakia
accompanied by Dr. BENESH
M. STAVROPOULOS - Greece
Mr. DUTT - India
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland
Lord FINLAY - United Kingdom
M. MARKOVITCH - Yugoslavia

ELECTION OF TEMPORARY CHAIRMAN

Sir Cecil Hurst having been obliged by ill-health to resign the position of representative of the United Kingdom on the Commission, and the United States Government having requested that his successor should not be appointed until Mr. Pell was able to be present, Lord Wright was asked to act as Chairman pending such appointment.

WELCOME TO LORD FINLAY

The CHAIRMAN asked the members of the Commission to join with him in welcoming the new representative of the United Kingdom, Lord Finlay, whose co-operation would be of the greatest service to them in the discharge of a task which appeared to become more and more onerous.

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EXPRESSION OF REGRET AT SIR CECIL HURST'S RESIGNATION

The CHAIRMAN expressed the Commission's gratitude to its late Chairman, and its regret that his state of health had necessitated his retirement. No one could have been more dignified, more courteous, more urbane, more sympathetic or more assiduous in his discharge of the duties of the exacting office of Chairman, and he would be greatly missed.

It was agreed that the Chairman should write to Sir Cecil to express the Commission's sentiments.

MINUTES OF LAST MEETING

These Minutes were approved and signed.

STATEMENTS BY SECRETARY-GENERAL

Attendance of an observer from the Office of the High Commissioner for Canada.

The Secretary-General reported that Mr. Bell, who at the last meeting had been present as an observer on behalf of the High Commissioner for Canada, had asked him to express the High Commissioner's thanks for this opportunity of studying the Commission's work, and to explain that it was not intended to send observers to future meetings.

Approval by the Czechoslovak Government of certain recommendations of the Commission and of the Resolution on Financial Administration of 21 March, 1944

The Secretary-General read a letter addressed to him by Dr. Ečer, dated 16 January, 1945, which was in the following terms:

"I have been instructed by my Government, to inform the United Nations War Crimes Commission that the Czechoslovak Government approves the following recommendations of the Commission:-

"1) The resolution of the Commission of March 21, 1944, on Financial Administration, Document C.10.

"2) The recommendation concerning the surrender by the Axis Powers of persons wanted for trial as war criminals, Doc. C.31, with the supplementary note of the Chairman, Doc. C.34. To this recommendation, my Government has a few observations which will be put forward in due course.

"3) The recommendation concerning the establishment in enemy territory of a War Crimes Office, Doc. C.28."

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Application from Who's Who of the Allied Governments"

The Secretary-General reported that the editor of this publication had asked leave to publish certain particulars regarding the Commission in the forthcoming issue. It was agreed that only publication of the names of the Chairman and Secretary-General, the Commission's address and its telephone number, should be authorised.

APPOINTMENT OF LORD FINLAY TO COMMITTEE I

After reporting that the work of Committee I was proceeding normally, M. de BAER proposed, and it was agreed, that Lord Finlay should be elected a member of the Committee.

RECENT PRESS STATEMENTS ABOUT THE COMMISSION

The Commission considered what action should be taken to counteract certain misleading reports in the Press which suggested that its work was in danger. An informal meeting of the members, which only some members had been able to attend, was held on January 15th as the result of which a draft statement to the Press was placed before the Commission.

Colonel HODGSON urged that for the Commission to issue a statement would do more harm than good. It would tend to produce a newspaper controversy which would be unfortunate, for so long as so many Allied nationals were in enemy hands the punishment of war crimes was a very delicate subject. On a previous occasion his Government had made known that it was opposed to publicising the Commission's work in the Press and his instructions would prevent him from taking part in a statement to the Press. It would be better to have a statement issued by the Governments.

Colonel Hodgson's counter proposal was supported by Mr. DUTT and opposed by M. de BAER who considered that a reassuring statement by the Commission could properly be made and would carry more conviction with the public than one by the Governments.

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Dr. ECER, who said he had consulted his Government but was speaking for himself, argued that the cause of Press misrepresentation was the exaggerated secrecy maintained by the Commission about its work, and the only remedy lay in keeping the Press informed. The time had come to review the Commission's relations with the Press and he would ask for a full debate on the subject on another occasion. He was in favour of the draft statement.

The CHAIRMAN, Lord FINLAY and Mr. OLDHAM spoke in favour of asking the Governments to issue a statement.

Dr. LIANG observed that not all the Governments were in the same position. For the Chinese Government at Chungking to issue a denial of rumours which had certainly not reached China would produce the opposite result from what was desired.

Various methods of obtaining a Governmental statement were then proposed, and it was ultimately agreed to adjourn the matter until the Commission's meeting of the following week and to ask Colonel Hodgson and Lord Finlay to endeavour, in the interval, to arrange for a joint statement by the United States and United Kingdom Governments on the following lines:

"Reports have appeared in the Press suggesting that the success and even the continuation of the work of the United Nations War Crimes Commission are in danger. There is no question of the Commission ceasing to discharge the task placed on it by the Governments of the United Nations. On the contrary its operations have been placed on a firmer basis by the liberation of Axis occupied territory and the greatly increased opportunity of obtaining evidence."

RECOMMENDATION REGARDING INTERROGATION OF ENEMY PRISONERS OF WAR (Doc. C.65(1)).

In reply to a question from the Chairman, Colonel HODGSON and Major HICKS expressed the opinion that it would not be contrary to the international conventions regarding prisoners-of-war to question enemy prisoners about war crimes, but the prisoners would be entitled to refuse to answer such questions.

The Recommendation was adopted.

* Doc. C. 65(2)

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The Secretary-General was instructed to address a letter to each member of the Commission asking him to submit the recommendation to his Government and explain to it that the Commission hoped it would be made applicable to all the fields of military operations.

TERMINATION OF FINANCIAL ARRANGEMENT WITH THE FOREIGN OFFICE:
REPORT BY THE FINANCE COMMITTEE (Doc. C.70).

This Report was adopted.*

ATTITUDE OF THE UNITED STATES TOWARDS THE WORK
OF THE COMMISSION

Colonel HODGSON, who had just returned from the United States, said that the United States Government and its competent departments took a great interest in the Commission's work. A United States War Crimes National Office had been set up of whose organisation he hoped later to circulate a description. Cases of war crimes were being prepared for submission to the Commission at an early date.

INVITATION TO ALL MEMBERS OF COMMISSION TO ATTEND
COMMITTEE I's NEXT MEETING

It was decided that the Secretary-General should invite all members of the Commission who chose to do so, to attend Committee I's meeting on Wednesday, January 24, at which the first cases of Japanese war crimes to be submitted to Committee I would be brought forward by Australia.

Wright

24 Jan - 45.

- 4). Have you belonged to the personnel of a camp for prisoners of war, of a concentration camp, of a forced labour camp, and the like (for Germans add the Todt Organisation)?
- 5). Have you any knowledge - either from your own observation or from other persons' accounts - of facts concerning executions or ill-treatment of prisoners of war during the 1939 campaign, or thereafter in the war prisoners' camps?
- 6). Have you an exact knowledge - either from your own observation or from other persons' accounts - of any offences committed against the civil population of occupied countries :
 - (a) deportations, mass-arrests, street round-ups?
 - (b) execution of hostages?
 - (c) torturing in prisons?
 - (d) mass-shooting of inhabitants of villages - setting on fire of houses and settlements?
 - (e) rape of women and coercion to prostitution?
 - (f) attempts to deprave and inducing of children and youth to drunkenness?
 - (g) robbery of private or public property - destruction of buildings, museums, libraries, monuments?
 - (h) reprisals following the non-delivery of contingents of corn and cattle?
- 7). Can you state any names of individuals holding an office in the police, or in the civil or military administration of occupied countries (with particular reference in the case of Germans, to the Gestapo, the S.S. and the S.A.)?

In forwarding the above recommendation the Commission wishes to emphasise that in its view the proposal should be referred to the military authorities with as little delay as possible, should the Governments approve the proposal.

The Commission therefore suggests, that in the event of such approval being given the Governments move the combined chiefs of staff with a view to instructions being issued to each of the Supreme Commanders requesting them to take the necessary steps to effect interrogation of prisoners regarding war crimes, and to forward the information obtained direct to the headquarters of the United Nations War Crimes Commission at the Royal Courts of Justice, Strand, London, W.C. It would also be desirable to forward (if convenient) a copy of the information to the Government of the country concerned through the usual military channels of communication.

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Dr./

SECRET

C.70 (1)
18th January, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

TERMINATION OF FINANCIAL ARRANGEMENT
WITH FOREIGN OFFICE

Report by the Finance Committee adopted by the
Commission on 17th January, 1945.

Article 12, para. 2 of the Commission's Financial and
Administrative Regulations (C.45) provides :

"2. When the Commission, on the advice of the Finance Committee,
decides that its financial position justifies its doing so,
it will assume responsibility for meeting its expenditure
out of the contributions of the member Governments and terminate
the existing arrangements with H.M. Foreign Office."

The Secretary-General has informed the Finance Committee that
the Foreign Office would be glad that this step should now be
taken, and after examining the Commission's financial position,
the Committee sees no objection to this course.

Accordingly, it recommends the Commission to adopt the
following Resolution :

R E S O L U T I O N

The United Nations War Crimes Commission resolves :

1. That it will assume responsibility for meeting its expenditure
out of the contributions of the member Governments and terminate the
existing arrangements with the Foreign Office at an early date to be
fixed by agreement between the Foreign Office and the Secretary-General.

2. That Barclay's Bank who have been appointed the bankers of the
Commission be and they are hereby authorised :

(i) To honour and comply with all cheques, drafts, bills, promissory
notes, acceptances, negotiable instruments and orders expressed
to be drawn accepted made or given on behalf of the said
Commission at any time or times.

(ii) To honour and comply with all instructions to deliver or dispose
of any securities or documents or property held by the Bank
on behalf of the said Commission

Provided any such cheques, drafts, bills, promissory notes,
acceptances, negotiable instruments, orders and instructions are
signed by the Chairman of the Commission, the Chairman of the
Finance Committee or the Secretary-General, and countersigned
by the Secretary-General or the Chief Clerk.

(iii) To treat all bills, promissory notes and acceptances as being
endorsed on behalf of the said Commission provided such
endorsements purport to be signed by any signatory to the account.

SECRET

M.45

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Forty-fifth Meeting

held on

24th January, 1945

Chairman: Lord WRIGHT - Australia
accompanied by Mr. OLDHAM

There were also present:

Major BEHLE - United States of America
accompanied by Capt. WOLFF
M. de BAER - Belgium
Lord FINLAY - United Kingdom
Dr. LIANG - China
Dr. ECER - Czechoslovakia
M. GROS - France
Dr. de MOOR - Netherlands
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland
M. ZIVKOVIC - Yugoslavia
accompanied by M. MARKOVIC

Major HICKS
Lt. Col. BASSETT

MINUTES OF LAST MEETING

The Minutes were approved and signed, subject to insertion in the list of members of a line reading: "M. GROS (France) was prevented by illness from being present".

STATEMENTS BY THE SECRETARY-GENERAL

Report on Axis crimes against Jews

The Secretary-General informed the Commission that Professor Brogan, to his great regret and acting on his doctor's advice, found himself unable to prepare this report.

Approval by the Yugoslav Government of the draft
"Convention for the surrender of war criminals
and other war offenders" (Doc. C.47)

The Secretary-General read a letter dated 22 January 1945 asking him to inform the Commission that "the Yugoslav

Government/

Government approve in principle the draft Convention for the surrender of war criminals and other war offenders."

Request from British Broadcasting Corporation

The Secretary-General stated that the German Section of the B.B.C. had enquired by telephone whether any material could be given it for a broadcast about the punishment of war crimes.

The CHAIRMAN said the members of the Commission should have time to consider the question.

ELECTION OF LORD FINLAY TO THE FINANCE COMMITTEE

On the proposal of the Chairman of the Finance Committee, Lord Finlay was elected to fill the vacancy on the Committee caused by Mr. Colban's retirement from the Commission.

FURTHER CONSIDERATION OF THE COMMISSION'S ATTITUDE
TOWARDS RECENT PRESS STATEMENTS

Referring to the desire expressed at the last meeting for the issue of a joint statement by the Governments of the United States and United Kingdom, Lord FINLAY said he was instructed that the Foreign Office would be pleased to join in such a statement.

Major BEHLE, who represented the United States in the absence of Mr. Pell and Colonel Hodgson, said his instructions were that the United States Government was not prepared to take part in the proposed joint statement, but ~~could join in a statement made by the Commission.~~ *itself. did not object to the proposed statement being issued.*

The Commission decided to abstain from making any statement for the time being as the Press agitation appeared to have died down. M. de BAER had heard from his Government that it did not consider the statement which had been drafted could be effective, and other members expressed themselves as opposed to an immediate statement.

Mr. OLDHAM expressed the hope that the next time misleading reports appeared in the Press, a statement would be promptly issued by the Commission.

As regards the future attitude of the Commission towards the Press, Dr. de MOOR said that if the rule of secrecy was to be maintained, it must be respected by everyone connected with the Commission.

Dr. ECER opposed the policy of secrecy. There should be no attempt to prevent his Government from giving to the Czech armed forces and people information, such as the fact that Hitler had been put on the Commission's list by Czechoslovakia, which was essential to keep them in good heart and prevent them from taking the punishment of war criminals into their own hands under lynch law.

This view was shared by Dr. CYPRIAN who would like publication of the names of war criminals included in the Commission's lists.

On this point M. GROS and Colonel BASSETT recalled the risk of reprisals, and the CHAIRMAN said that nothing would be done without consulting S H A E F. M. ZIVKOVIC and the CHAIRMAN himself were in favour of substantial revision of the secrecy policy, and Lord FINLAY proposed that a discussion on the subject should be held soon.

The CHAIRMAN thought so important a discussion should not take place till a permanent chairman had been elected and asked how long

"M. de Baer moved that the election take place in a fortnight.

The Chairman stated that the State Department had requested that the election be postponed until Mr. Fell's return, and inquired whether Mr. Fell's return could be expected in a fortnight.

Major Bahle stated that there was no objection to holding the election in a fortnight".

CHAIRMAN

Mr. OLDHAM pointed out that the absence of a chairman was holding up progress in regard to appointment of the official who was to assist Committee I and appointment of the Central Investigation Officer.

Dr. ECER said publicity was not the only subject needing consideration. The Commission should review its past work and discuss its future tasks. He would circulate his views in a written memorandum and ask for such a discussion.

The/

The Commission resolved:

1. That it would meet on Wednesday, February 7th, to appoint its Chairman and, if desired, a Deputy Chairman;
2. That it would meet on Friday, February 9th, to discuss the whole question of publicity.

Mr. OLDHAM having referred to Professor Brogan's resignation, an exchange of views took place regarding the contemplated reports on different classes of war crimes, and this subject was put on the agenda of the Commission's meeting of the following week, to be held on Wednesday, 31st January.

*as amended by
Alfred Hodgson*

W. Wright

SECRET

M.46

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Forty-sixth Meeting

held on

31st January, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Colonel HODGSON - United States of America
accompanied by Major BEHLE and Capt. WOLFF
Mr. OLDHAM and Sir William WEBB } Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
Lord FINLAY - United Kingdom
Dr. WELLINGTON KOO - China
accompanied by Dr. LIANG
Dr. ECER - Czechoslovakia
M. GROS - France
accompanied by Colonel CHAVEAU
M. STAVROPOULOS - Greece
Mr. DUTT - India
Dr. de MOOR - Netherlands
Dr. CYPRIAN - Poland
M. ZIVKOVIC - Yugoslavia
accompanied by M. MARKOVIC and M. KNIG

Major HICKS

ELECTION OF CHAIRMAN

Dr. WELLINGTON KOO was requested to take the chair in the absence of Lord Wright.

M. GROS suggested that the Commission should at once elect its permanent chairman. The obstacle to doing so which had existed had, he believed, ceased to exist.

Colonel HODGSON said that his Government would have no objection to the election taking place.

Lord Wright was elected Chairman by acclamation.

Lord WRIGHT took his seat as Chairman. He said that his object, which was shared by all members of the Commission, was to

carry/

carry out their duties so that justice, and not revenge, should be done to war criminals. He would do his best to ensure that the failure to bring the war criminals to justice which followed the 1914-1918 war, would not be repeated this time.

He doubted whether the general public realised just how widespread and how calculated were the atrocities which the Axis forces had committed in this war. He would like to emphasise that, dreadful as were the crimes which our enemies committed last time, they were of small account compared with the organised, calculated, scientific brutality with which the Germans and Japanese, and their associates, had sought to achieve their present objects.

Lord Wright said that he desired to make clear that the United Nations War Crimes Commission was an independent international body and was the chosen instrument of the various Governments represented on it for the investigation of war crimes. It was not a prosecuting body, but it was the organisation which took the first steps in seeing that war crimes did not go unrequited.

The Commission's primary task was to gather together the evidence upon which the military authorities would act in apprehending offenders. Effective liaison must be maintained with the National Offices of the various Governments (which prepared the cases sent to the Commission for placing on the lists of war criminals), and with the military authorities on the various world fronts (who would arrest the war criminals).

In his view close co-operation with the Russian Extraordinary State Commission was eminently desirable. Both Commissions were working with the same end in view, and in his opinion their approaches to the common problem were not radically different.

M. GROS called attention to Article 1, Section 4, of the Commission's Rules, fixing a period of one fortnight for the election of a new Chairman. It was agreed that this provision could not prevent the election which had just taken place from being in order.

CHAIRMAN'S LETTER TO SIR CECIL HURST

The CHAIRMAN read the letter which, at the Commission's request, he had sent to Sir Cecil Hurst to thank him for his services as Chairman, and Sir Cecil's reply.

VOTES OF THANKS TO M. COLBAN AND MR. PELL

The Commission adopted resolutions expressing to M. Colban and Mr. Pell, who had ceased to be members, its thanks for the great services they had rendered as members of the Commission, and its regret that their membership had ceased. The Secretary-General was instructed to convey the terms of this resolution to the two former members.

OBSERVATIONS BY THE CHAIRMAN ON THE TASK OF THE COMMISSION

The CHAIRMAN observed that the Commission had perhaps taken too limited a view of its task. To investigate war crimes one must know both what a war crime was and how effect would be given to the results of the investigations. He had sometimes asked himself if the Commission should not draw up charges of war crimes, and make lists of the perpetrators on the basis of investigations which it had made itself. He suggested that his colleagues might reflect on this possibility.

Lord FINLAY said duplication of functions must be avoided.

Dr. ECER reminded the Commission that in addition to listing war criminals it had advisory functions.

MINUTES OF LAST MEETING

The Minutes were approved and signed subject to the substitution on page 2, line 22, of the words "did not object to the proposed statement being issued by the Commission itself" for the words "could join in a statement made by the Commission itself"; and to the deletion on page 3 of the paragraph reading "Major PEHLE said the State Department would be agreeable to the election's taking place in a fortnight", and the substitution of the following:

"H. DE BAER/

Dr./

"Mr. de BAER moved that the election take place in a fortnight.

"The CHAIRMAN stated that the State Department had requested that the election be postponed until Mr. Pell's return, and inquired whether Mr. Pell's return could be expected in a fortnight.

"Major BEHLE stated that there was no objection to holding the election in a fortnight".

TERMINATION OF THE FINANCIAL ARRANGEMENT
WITH THE FOREIGN OFFICE

The Secretary-General reported that the Commission's decision to terminate this arrangement at the meeting of 17 January, 1945, would take effect from the 31 January, 1945.

QUESTIONS CONCERNING THE FAR EASTERN AND
PACIFIC SUB-COMMISSION (Dec. 8.73)

The questions raised in the above mentioned document and in a letter of 27 January, 1945, from Dr. de Moor to the Secretary-General, were referred to the Committee on the Establishment of a Far Eastern and Pacific Sub-Commission.

ISSUE OF STATEMENT IN REPLY TO MISLEADING
REPORTS IN THE PRESS

The CHAIRMAN read the following draft statement which he suggested should be issued to counteract the renewed agitation in the Press:

Draft Statement

"At its meeting today the United Nations War Crimes Commission unanimously adopted the following resolution:-

"The United Nations War Crimes Commission deprecates that reports should continue to appear in the Press suggesting that the success and even the continuation of its work are in danger. There is no question of the Commission ceasing to discharge the task placed on it by the Governments of the United Nations. On the contrary its operations have been placed on a firmer basis by the liberation of Axis occupied territory and the greatly increased opportunity of obtaining evidence.

'These operations will become more and more effective as further territory comes under the control of its lawful Government.

'The continued assertion that Hitler and other arch-criminals do not appear on the Commission's lists of war criminals is entirely without foundation.' "

M. de BAER was obliged by his Government's instructions to abstain from voting for the draft.

Colonel HODGSON said that the United States Government was opposed to publication of any statements which had not been approved by the highest military and political authorities of the United Nations. In his Government's opinion such statements might prejudice the security of numerous persons in whose safety the United States Government was interested. The war with Japan was not yet over. Past statements and leakages of information had done harm rather than good, and might have done incalculable harm. The draft put forward by the Chairman should be sent to the Governments for approval if the last two paragraphs were to be retained in it. The first paragraph appeared to him to be substantially identical with the text which had been approved at the Commission's meeting of 17 January, 1945, as suitable for a joint United States and United Kingdom declaration.

M. GROS agreed with Colonel HODGSON as to the danger of reprisals, if the last part of the draft was issued.

M. ZIVKOVIC agreed that consideration of security must be respected, but absolute secrecy as to the Commission's work in the face of Press attacks was dangerous.

Dr. de MOOR and Dr. ECER supported the Chairman's draft. Both considered the intention to punish Hitler and other arch-criminals to be notorious. Dr. ECER referred to the good effects in Czechoslovakia of publishing names of criminals accused by his Government. This publicity was regarded by the underground movement as a protection for its members; secrecy could only encourage agitation for withdrawal from the Commission.

Mr. DUTT observed that the question of relations with the Press was due to be discussed in the following week and suggested an adjournment until that time. No Government had asked the Commission to concern itself with arch-criminals and he was afraid the Commission was acting without considering what its position was.

Lord/

Lord FINLAY said he would have to ask for time to consult the Foreign Office about publication of any statement regarding Hitler. He could promise to obtain its views by next Wednesday.

Mr. OLDHAM moved that a statement be issued in the terms to which both the United Kingdom and the United States representatives had agreed at the meeting of 17th January.

M. ZIVKOVIC seconded this motion.

The CHAIRMAN said he felt it would be wrong to insist on the two last paragraphs of his proposed text but the situation might be clearer after next week's discussion. Perhaps the expected meeting of Mr. Roosevelt, Mr. Churchill and Marshal Stalin might throw light upon it.

Mr. DUTT refrained from voting.

The motion was adopted. The approved statement reads as follows:

"At its meeting of this afternoon the United Nations War Crimes Commission adopted the following resolution:

'Reports have appeared in the Press suggesting that the success and even the continuation of the work of the United Nations War Crimes Commission are in danger. There is no question of the Commission ceasing to discharge the task placed on it by the Governments of the United Nations. On the contrary, its operations have been placed on a firmer basis by the liberation of Axis occupied territory and the greatly increased opportunity of obtaining evidence.' "

Major HICKS observed that to tell the Press the facts and indicate which facts should not be reported was often the wisest policy.

REPORTS ON SPECIAL CLASSES OF WAR CRIMES

This subject was adjourned.

MEETINGS OF COMMITTEES

It was agreed that the Committee on the Establishment of a Far Eastern and Pacific Sub-Commission should meet next Monday at the Chinese Embassy, at 3 p.m.; and Lord Wright's Committee at the same hour next Tuesday at the War Cabinet Offices.

Wright

SECRET

M.47

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Forty-Seventh Meeting

held on

7th February, 1945

Chairman: Lord WRIGHT - Australia

There were also present :

Colonel HODGSON - United States of America
accompanied by Major BEHLE and Capt. WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
Lord FINLAY - United Kingdom
Dr. WELLINGTON KOO - China
accompanied by Dr. LIANG
Dr. BENESH - Czechoslovakia
accompanied by Capt. Dr. Velen FANDERLIK
M. GROS - France
accompanied by Colonel CHAUVEAU
M. STAVROPOULOS - Greece
Sir DAVID MEEK - India
accompanied by Mr. DUTT
Dr. de MOOR - Netherlands
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland
M. MARKOVIC - Yugoslavia
accompanied by M. KENIG.
Mr. Andrew BELL - (Observer on behalf of the
Dominion of Canada)
Lt.Col. BASSETT
Major HICKS
Lt.Col. Richard ELWES -(Repr. Director of
P.O.W., War Office)
Lt. Col. E.C. WOODALL } S.H.A.E.F.
Major. G.B. HETT }

MINUTES OF LAST MEETING

These Minutes were approved and signed.

M. de BAER asked whether it could not be arranged for the Commission to receive all documents relating to war crimes which were issued by the various Allied Headquarters.

Colonel WOODALL said SHAEF had recently communicated their plan of procedure to the Commission.

SECRETARY-GENERAL'S STATEMENT

Letters sent to M. Colban and Mr. Pell. The Secretary-General reported that he had written to M. Colban and Mr. Pell to convey to them the resolutions of thanks for their services which had been adopted at the last meeting. He read a reply from M. Colban expressing his thanks to the Commission.

Approval of the Financial Resolution of 21 March, 1944, by the Government of Greece.

The Secretary-General read a letter dated 31 January, 1945, notifying this approval.

Approval of Yugoslavia of the Commission's Recommendation concerning the Interrogation of Enemy Prisoners-of-War (Doc. C.65(2)).

The Secretary-General read a letter dated 26 January, 1945, notifying this approval.

Request for a copy of the Commission's First List of War Criminals.

The Secretary-General reported receipt of a letter from Colonel Hodgson requesting that a copy of the above document might be supplied to the Honourable Robert Murphy, United States Political Adviser for Germany, SHAEF, and Director of the Political Division, U.S. Group, Control Commission.

The CHAIRMAN said it would clearly be right to do this.

REPLY TO QUESTIONS SUBMITTED TO THE COMMISSION BY THE FAR EASTERN AND PACIFIC SUB-COMMISSION.

Dr. WELLINGTON KOO, Chairman of the Far Eastern and Pacific Committee, as the result of that body's examination of these questions, submitted a resolution (Doc. C.74) which was adopted with a minor modification in the following form :

"The United Nations War Crimes Commission has considered the questions which have been presented in the Far Eastern and Pacific Sub-Commission by the representatives of Australia and the Netherlands and referred to it by the Sub-Commission, and, on the advice of its Far Eastern and Pacific Committee, it replies to these questions as follows :

1. It was made clear in the letter addressed by Sir Cecil Hurst on 9th June, 1944 with the approval of the Commission to the Governments represented on the Commission that the establishment of the Far Eastern and Pacific Sub-Commission does not preclude the creation of other branches of the Commission.
2. Subject to its terms of reference, the main Commission does not restrict the scope of its work or its power of initiative, and it feels that the Sub-Commission should act on the same basis.
3. Taking note of the statement made in the Far Eastern and Pacific Committee by the Australian representative on the Commission that the Australian Government would see no objection to the Sub-Commission's dealing with war crimes committed by the Japanese before December 1941, and after considering the question in the light of its own practice, the Commission feels that the Sub-Commission should not limit its investigations to war crimes committed after a particular date, and that each case should be considered on its own merits."

The CHAIRMAN called special attention to the answer to question 2 as laying down a principle for the main Commission as well as for the Sub-Commission.

PROPOSAL BY COMMITTEE I FOR THE PRESENTATION TO THE GOVERNMENTS
OF TWO NEW TYPES OF LISTS (Doc. C.75)

M. de BAER, Chairman of Committee I, asked for an adjournment to enable paragraph 2 to be redrafted. As it stood it dealt with two different matters, suspected war criminals and suspected war crimes, which could not be treated in the same way.

M. GROS called attention to the risk that great numbers of war criminals would be able to sink their identity and escape capture after the capitulation of Germany unless either the movement of prisoners-of-war back to Germany were stopped altogether for three months or more, or immediate measures of investigation were taken.

Supporting M. Gros, Colonel CHAUVEAU observed that the great difficulty was to discover the unit to which a prisoner-of-war belonged. A prisoner was not bound to answer questions on this subject. Moreover, until the cessation of hostilities made German records available, it would not be feasible to detect cases in which a false personality had been assumed. To detain the prisoners in order to catch the war criminals would be less costly in man power than to catch them after they had been released.

Colonel WOODALL said the repatriation of prisoners would have a very low priority and means of transport were so scarce that there would be plenty of time for investigations.

Colonel CHAUVEAU thought the Commission should recommend the making of investigations and appropriate provisions in the armistice terms.

The CHAIRMAN did not consider the Commission could go so far at the moment.

Colonel HODGSON thought the questions raised by M. Gros and Colonel CHAUVEAU were very important and that a recommendation might be drafted.

It was decided that the whole subject should stand over till the following Wednesday and a drafting committee was appointed consisting of M. de BAER, M. GROS and Colonel HODGSON.

APPOINTMENT TO FINANCE COMMITTEE

Mr. OIGHAM was appointed a member of the Finance Committee.

RELATIONS OF THE COMMISSION WITH THE PRESS

The CHAIRMAN said that the Commission had suffered from lack of publicity and contact with the Press, but the risk of reprisals must not be overlooked.

Colonel ELWES pointed out that the War Office which he represented was responsible for the protection of prisoners-of-war. It felt constant anxiety about reprisals. It was impossible to know what would give rise to them. The Germans were more and more likely to resort to this means of pressure, or to the taking of hostages in proportion as the situation became worse. In one Camp No. IV.C., there were known to be collected a number of prisoners whom the Germans considered to be of special value, and one could only speculate as to the fate for which they were destined. He could not ask the War Crimes Commission to avoid all publicity, but did ask it to keep these considerations in mind.

Colonel Elwes added that publication of specific names was felt by the War Office to be likely to precipitate reprisals.

The CHAIRMAN felt the Commission could be relied on not to publish its lists of war criminals. Was there any objection to stating the number of names on the lists?

Colonel ELWES thought the War Office would be afraid of the consequences of such a course. If the Commission saw some serious purpose in the publication of numbers, the Secretary of State would doubtless hesitate to object, but he would hope to be consulted.

The CHAIRMAN was sure the Commission would not desire to do anything conflicting with the necessities of the situation, and it might set up a small committee to consult with the military authorities.

Colonel HODGSON appreciated that the War Crimes Commission's position had become increasingly difficult during the past six months. He attributed this fact to the deterioration of the Commission's public relations which had been due to unauthorised statements and leakages and

to speculation by journalists which had sometimes been based on leakages.

The CHAIRMAN asked if Colonel Hodgson referred to authorised statements.

Colonel HODGSON said that so far as he was aware there had only been two.

The CHAIRMAN said he had made a statement on assuming office and he hoped it had done no harm.

Continuing, Colonel HODGSON said that the two causes he had mentioned had led to the spread of much misinformation and confusion. A third cause had been the failure of the Commission to establish a regular system of release of appropriate information. There had also been a fourth cause: the Press conference held by Sir Cecil Hurst, which had not been properly organised. The situation required correction and the mystery prevailing in regard to the Commission should be dissipated. There were no differences among members of the Commission except differences as to methods.

Colonel Hodgson then read a statement by Mr. Grew, the Acting Under Secretary of State of the United States, which gave a general account of the Commission's work and in his opinion indicated how misinformation could be dissipated and legitimate information released (see Annex).

He proposed two methods:

The first was the creation of a small committee which, after obtaining the advice of skilled Public Relations' experts, would release information within the limits observed in Mr. Grew's statement. There were subjects on which publicity must be deferred to a future date. Such subjects were, for example, the names of the Commission's lists of war criminals, whose publication might affect their apprehension, and information likely to provoke reprisals.

The second method would be a reaffirmation of the principle of secrecy adopted by the Commission and the release of information only by action of the Commission itself and through regular channels.

Lord FINLAY did not wish to be suspected of being obscurantist but he doubted if much could be done. Leakages must be condemned. He thought that the statement given to the Press by the Chairman had been a model of what was required. To publish names of war criminals or even the numbers on the lists would be dangerous. The system of Press conferences had clearly not been a success. If there was a feeling in favour of more publicity, he supported the creation of a small committee to co-operate with the military authorities and produce a plan for such publicity.

The CHAIRMAN said that the last two speakers agreed that statements should only be published after consultation with the military authorities. He did not think that there would be much food for public curiosity in the daily proceedings of the Commission. The Commission ought, however, to make clear what work had been entrusted to it and what work was outside its province.

Sir David MEEK made a formal proposal to set up a small committee to report to the Commission. The War Crimes Commission was an advisory body; it was adequately protected by the Governments belonging to it and the less publicity it sought the better.

Mr. OLDHAM thought the cause of leakages was the absence of authoritative information. As Colonel Hodgson and Lord Finlay had said, the mystery surrounding the Commission should be dissipated. Since the Chairman's statement to the Press and the dissemination to the Press of the resolution adopted by the Commission denying certain misleading reports which had appeared, there had been a cessation of Press attacks and leakages. The Commission had to lead public opinion in regard to the work entrusted to it, and this could best be done through such a committee as was proposed.

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The CHAIRMAN said that the last two speakers agreed that statements should only be published after consultation with the military authorities. He did not think that there would be much food for public curiosity in the daily proceedings of the Commission. The Commission ought, however, to make clear what work had been entrusted to it and what work was outside its province.

Sir David MEEK made a formal proposal to set up a small committee to report to the Commission. The War Crimes Commission was an advisory body; it was adequately protected by the Governments belonging to it and the less publicity it sought the better.

Mr. OLDHAM thought the cause of leakages was the absence of authoritative information. As Colonel Hodgson and Lord Finlay had said, the mystery surrounding the Commission should be dissipated. Since the Chairman's statement to the Press and the dissemination to the Press of the resolution adopted by the Commission denying certain misleading reports which had appeared, there had been a cessation of Press attacks and leakages. The Commission had to lead public opinion in regard to the work entrusted to it, and this could best be done through such a committee as was proposed.

Mr. BURDEKIN thought that publishing the number of names on the list would not have the effect intended, but would cause the public to think that the Commission's work had not been very effective. He supported the issue of authorised statements to the Press.

Dr. BENESH said he had been asked by Dr. Eöer (who was absent through illness) to point out that in his speech to the Commission after his election, the Chairman had expressly declared the Commission to be an independent international body. As such it was entitled to establish contact with the Press and to issue regular reports drafted by a special committee. The Czechs now under German subjugation were interested in being assured that war criminals would be punished and publication of reports would be extremely helpful to them.

Speaking as a former Publicity and Press Relations Officer, Colonel BASSETT said that Press men were reasonable people and a meeting with them could achieve a great deal of what was desired.

In reply to a member's observation that the Commission's Minutes of July 21, 1944, showed a Press Committee to exist already, M. de BAER said he was the last surviving member and the committee had, in fact, petered out.

The CHAIRMAN said the Commission had before it a proposal to appoint what he would call a "Public Relations' Committee", and Sir David MEEK and Lord FINLAY said that they supported this proposal.

Dr. WELLINGTON KOC was in favour of the committee, but, being a deliberative and advisory body, the Commission ought not to hand out public statements after each meeting. He would like it to be agreed that any member should be entitled to propose Press communiqués on particular subjects after any meeting of the Commission, such communiqués to be put into proper shape by the Public Relations' Committee.

The Commission decided to establish a Public Relations' Committee composed of the representatives of the United States,

United Kingdom, ^{China} Czechoslovakia, India, the Netherlands and
Australia. This Committee was to act in consultation with the
military authorities, and was to submit for approval by the
Commission all statements which it drafted for publication. //

REPORTS ON SPECIAL CLASSES OF WAR CRIMES

This subject was adjourned.

*Chairman's signature
at end of Annex*

A N N E X

STATEMENT OF THE ACTING SECRETARY OF STATE, 1st
FEBRUARY 1945, on WAR CRIMINALS. (1)

"The Department of State welcomes the public discussion of the punishment of war criminals. This discussion has made clear the determination of our people that the guilty shall be punished. The Department of State and the government share that inexorable determination. The final decision as to the procedures in the punishment of those guilty of war crimes will be made in consultation with the United Nations, fifteen of which are now represented on the War Crimes Commission in London.

"Certain broad positions have already been taken, however, by the Allied Governments principally engaged in the fighting of the war. The declaration issued at Moscow on November 1, 1943, stated that German officers and men who had been responsible for, or had taken a consenting part in, the unspeakable crimes and atrocities perpetrated by Nazi Germans in this war will be sent back to the countries in which their abominable deeds were done, in order that they may be judged and punished according to the laws of these liberated countries and of the free governments which will be created therein. It was further stated in this same document that the above declaration was 'without prejudice to the case of the major criminals whose offences have no particular geographical localization and who will be punished' by the joint declaration of the governments of the Allies'.

"The broad position taken by our own government in this matter has been clearly indicated by the President on numerous occasions.

"On July 17th, 1942, the President wrote to Dr. Stephen S. Wise: '..... Citizens, regardless of religious allegiance, will share in the sorrow of our Jewish fellow citizens over the savagery of the Nazis against their helpless victims. The Nazis will not succeed in exterminating their victims any more than they will succeed in enslaving mankind. The American people not only sympathize with all victims of Nazi crimes but will hold the perpetrators of these crimes to strict accountability in a day of reckoning which will surely come.'

"On August 21, 1942, the President declared: 'The United Nations are going to win this war. When victory has been achieved, it is the purpose of the Government of the United States and I know it is the purpose of each of the United Nations, to make appropriate use of the information and evidence in respect to these barbaric crimes of the invaders, in Europe and Asia. It seems only fair that they should have this warning, that the time will come when they shall have to stand in courts of law in the very countries which they are now oppressing and answer for their acts.'

(1) Source: Radio Bulletin, 28, Washington, D.C., 1 February, 1945.

"On October 7, 1942 referring to the statement of August 21, the President said: 'I now declare it to be the intention of this government that the successful close of the war shall include provision for the surrender to the United Nations of war criminals. With a view to establishing responsibility of the guilty individuals, through the collection and assessment of all available evidence, this government is prepared to cooperate with the British and other governments in establishing a United Nations Commission for the investigation of war crimes..... It is not the intention of this government, or of the governments associated with us, to resort to mass reprisals. It is our intention that just and sure punishment shall be meted out to the ringleaders responsible for the organized murder of thousands of innocent persons and the commission of atrocities which have violated every tenet of the Christian faith'.

"On March 24, 1944, the President declared: 'In one of the blackest crimes of all history -- begun by the Nazis in the day of peace and multiplied by them a hundred times in times of war -- the wholesale systematic murder of the Jews of Europe goes on unabated every hour. As a result of the events of the last few days hundreds of thousands of Jews, who, while living under persecution have at least found a haven from death in Hungary and the Balkans, are now threatened with annihilation as Hitler's forces descend more heavily upon these lands. That these innocent people, who have already survived a decade of Hitler's fury, should perish on the very eve of triumph over the barbarism which their persecution symbolizes, would be a major tragedy.'

"It is therefore fitting that we should again proclaim our determination that none who participate in these acts of savagery shall go unpunished. The United Nations have made it clear that they will pursue the guilty and deliver them up in order that justice shall be done. That warning applies not only to the leaders but also to their functionaries and subordinates in Germany and in the satellite countries. All who knowingly take part in the deportation of Jews to their death in Poland or Norwegians and French to their death in Germany are equally guilty with the executioner. All who share the guilt shall share the punishment.

"Over the past months, officers of the Department of State, in consultation with other departments, have worked out proposals for the realization of the objectives stated by the President. Pending the outcome of current discussions with our allies on this subject, these proposals cannot be published. I wish, however, to state categorically that these proposals are as forthright and far reaching as the objectives announced by the President which they are intended to implement. They provide for the punishment of German leaders and their associates for their responsibility for the whole broad criminal enterprise devised and executed with ruthless disregard of the very foundation of law and morality, including offences, wherever committed, against the rules of war and against minority elements, Jewish and other groups, and individuals."

W. H. R.

Feb. 14. 45.

Dr./

SECRET

UNITED NATIONS WAR CRIMES COMMISSION

M.48.

Minutes of Forty-eighth Meeting

held on

14th February, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Major BEHLE and Capt. WOLFF
Mr. OLDHAM - Australia
accompanied by Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLDSTEIN
Lord FINLAY - United Kingdom
Dr. WELLINGTON KOO - China
accompanied by Dr. LIANG
Dr. ECEK - Czechoslovakia
accompanied by Capt. Dr. FANDERLIK
M. GROS - France
accompanied by Colonel CHAUVEAU
Sir David LEEK - India
accompanied by Mr. DUTT
Dr. de MOOR - Netherlands
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland
M. MARKOVIC - Yugoslavia
accompanied by M. KENIG

Mr. Andrew BELL - Observer on behalf of
the Dominion of Canada.

Major HICKS
Major HETT

MINUTES OF LAST MEETING

These Minutes were approved and signed with the following corrections:

Page 2, line 21: After the words "right to do this" add "and the proposal was approved by the Commission."

Page 5, line 6: After the word "two" add "authorised statements".

Same page, line 14: After the words "properly organised", add "an observation which did not imply any criticism of Sir Cecil Hurst".

Page/

Page 6: For the fourth paragraph substitute:

"Sir David MEEK said that the War Crimes Commission was an "advisory body, it was adequately protected by the Governments "represented on it, and the less publicity it sought the better. "He agreed, however, with practically everything which "Lord Finlay had said, and made a formal proposal to set up a "small committee to report on publicity matters to the Commission. "This Committee should make no contact or communication with the "press without the formal approval of the Commission".

Page 8, line 1: After the words "United Kingdom" insert "China."

REPRESENTATION OF YUGOSLAVIA

The CHAIRMAN announced that the Yugoslav member, Dr. Radomir Zivkovic, would be replaced during his absence by Dr. Vladimir Ribarz, Under Secretary of State for Foreign Affairs, and said that the Commission would welcome the latter's attendance at its meetings.

REPRESENTATION OF NORWAY

The CHAIRMAN reported that he had seen the Norwegian Minister of Justice who had informed him that it was the difficulty of reaching England which was delaying the arrival in the Commission of the new Norwegian representative.

MEMORANDUM SENT TO THE COMMISSION BY S.H.A.E.F.

Referring to a secret memorandum entitled "Eclipse No. 18: War Criminals and Security Suspects" which had been sent to the Commission by S.H.A.E.F., the CHAIRMAN declared that any document sent to the Commission must be accessible for perusal to every member, but need not necessarily be circulated to all the members. Being uncertain if in the actual case S.H.A.E.F. appreciated this, he was having enquiries made in the proper quarter.

SECRECY OF THE COMMISSION'S PROCEEDINGS

The CHAIRMAN said he had the disagreeable duty of again raising this matter owing to a newspaper article signed by Dr. Eder to which his attention had been drawn. He was very sorry to criticise anything Dr. Eder did or said, but certain resolutions had been adopted about publicity at the Commission's meeting of 7 February,

and a Public Relations Committee had been set up which would meet next day, and he felt bound to point out that it was highly undesirable for any member to speak or write about the Commission's business. If every member did so, an impossible situation would arise. Such disclosures weakened the Commission from all points of view, and could result in Governments or other bodies withholding confidential information from it owing to fear of leakages.

He must insist that the policy adopted by the Commission should be strictly observed as a matter of loyalty towards the Commission, and he had the firm expectation that this would be the case.

Dr. ECER described the contents of his article. He did not think there was anything in it which had not been published or was contrary to the Commission's Rules, Article III, Rule 14. He would refrain henceforth from referring to the Commission or writing articles in the capacity of a member, but he must, as adviser to his Government on the subject, be able to speak and write about the Czech law applicable to war criminals.

Sir David MEEK strongly supported the Chairman's declaration.

PROPOSAL BY COMMITTEE I SUGGESTING TWO NEW SORTS OF LISTS
(Doc. C.75(1)).

M. de BAER, Chairman of Committee I, said the reason for the proposal, which would add to the Commission's List of War Criminals a List of Suspects and a List of Witnesses, was that liberation of United Nations territory had so far not produced the expected influx of evidence against identifiable war criminals. While the persons included in the List of War Criminals were to be handed over to the competent authority for trial, those included in the new lists were in the first instance wanted for investigation or as witnesses.

After further explanations had been given at the request of members, the Committee's proposal was adopted.

RECOMMENDATIONS/

RECOMMENDATIONS TO THE GOVERNMENTS TO DETAIN PRISONERS-OF-WAR
PENDING WAR CRIME INVESTIGATION (Doc. C.77)

Colonel HODGSON explained these recommendations whose purpose was to ensure that appropriate measures should be taken to identify war criminals among prisoners-of-war, that the prisoners should be held long enough to permit of such identification and other investigation regarding war crime, and that in the capitulation (armistice) power should be taken to hold the prisoners and enforce their answering the necessary questions. He said the recommendations should be applied to the Far East as well as to Europe.

Sir David MEEK asked how far the consideration of the Commission's earlier recommendations regarding detention of the Gestapo and other similar formations had proceeded.

Lord FINLAY said he would enquire into the matter.

The Recommendations were adopted, and it was decided that the Chairman should address a personal letter to each member of the Commission asking him to bring them to the attention of his Government as a matter which the Commission regarded as urgent.

ENQUIRY REGARDING THE STRUCTURE AND WORK OF THE
VARIOUS NATIONAL OFFICES

The CHAIRMAN said some members felt the Commission should now ask for particulars of the structure and work of the various National Offices. He read a draft letter on the subject which might be sent by him to the members of the Commission. The Commission, he said, would only be carrying out its duty of helping the Offices if it in this way informed itself regarding them, and supervised the various methods which they adopted. The Offices would, he thought, be glad to answer, but could not, of course, be compelled to do so.

Sir David MEEK considered that the Offices should not, as was done in the draft, be asked to give the names of their principal officers. In India, which was administered with very few

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Dr.

officials, changes in the holders of particular posts were so frequent that such information with regard to the Indian National Office would always be out of date. He also suggested that the information should be given to the Secretariat, but not to the Commission.

On the first point it was decided to ask for the "name of the principal officer or the secretary".

On the second point it was decided the information should be available to all the members of the Commission.

On the proposal of Dr. WELLINGTON KOO a reference to the Far Eastern and Pacific Sub-Commission was inserted.

In response to suggestions from various members, the CHAIRMAN undertook to insert in the letter a passage making clear the purpose of the request, and that it implied no criticism of the National Offices.

REPORTS ON WAR CRIMES

The CHAIRMAN raised the question of publication of pamphlets, giving information about war crimes in a readable and popular form, but with strict accuracy of detail. Something similar had been done for various aspects of British military and naval operations by the Ministry of Information. The facts would be compiled by Colonel Wade, with whose ability as a researcher the Commission was well acquainted, and the Ministry of Information might be willing to put them in a suitable shape for arousing public interest.

Sir David MEEK considered the latter task should not be given to an English institution but to the United Nations Information Organisation.

In reply to Lord FINLAY, the CHAIRMAN said that names of the perpetrators of particular crimes would not be published.

Dr./

Dr. de MOOR pointed out that the Commission had already decided in favour of the publication of authoritative reports on special classes of war crimes, which were to draw on the evidence furnished in actual trials of war criminals, although possibly this might suddenly meet no objection. The history of this policy had been put before the Commission by the Secretary-General in Document C.72. He did not think that it should be abandoned. If one did not wait for actual trials but nevertheless desired to publish scientifically compiled reports, authors must be carefully chosen and properly paid.

The CHAIRMAN said the immediate question was the issue of short, cheap, attractive pamphlets which would make the public understand the need for the Commission's work. He doubted if a serious history of the war crimes could be compiled until after the evidence of the trials had been carefully examined.

Colonel HEDGECOCK agreed with Dr. de Moor that the reports already decided upon should not be dropped.

After further discussion, the subject was referred to the Public Relations Committee.

MEMORANDUM BY DR. EDER ON THE PRESENT POSITION OF THE
UNITED NATIONS WAR CRIMES COMMISSION, THE WORK ALREADY
DONE AND ITS FUTURE TASK (Doc. C.76)

Dr. Eder said that as this document might be felt to be unduly critical of the Commission, he withdrew it from the agenda and would present his observations orally.

Wright

SECRET

C.75(2)
15th February, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

PROPOSAL BY COMMITTEE I SUGGESTING
TWO NEW FORMS OF LIST.

Adopted by the Commission on
14th February, 1945.

Committee I has reconsidered the proposal which it made on February 7th, 1945, in the Document C.75. It is satisfied that two new lists are required, which may be described as the S and W, Suspects and Witnesses Lists respectively.

It has already been decided that the Lists of War Criminals presented to the Governments shall include, possibly in a special section, the names or descriptions of military, police or other organised units which are considered to have acted as units in the commission of war crimes, in order that the personnel of such units may be arrested and handed over for trial to the competent authority, subject, of course, to the right of each member to establish his innocence. In the case of Oradour two units were so treated (List 1, No. 123). The conditions which must be satisfied before a unit is treated in this manner are under consideration by Lord Wright's Committee.

There are other cases in which the crime is the work of unidentified members of a unit but it is not considered that the unit as a whole is implicated. Here what must be attempted is first to find the members of the unit who took part in the crime and, secondly, to find any members who, though innocent themselves, have witnessed the crime. The proposed Lists are intended for this purpose. The first is a list of suspected persons or of units whose personnel the Commission considers should be taken and maintained in custody until it has been possible to identify the war criminals who are to be handed over for trial by the competent court. The second is a list of persons capable of giving evidence regarding the crimes.

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SECRET

C.77(1)
15th February, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

RECOMMENDATIONS TO THE GOVERNMENTS TO DETAIN
PRISONERS OF WAR PENDING WAR CRIME INVESTIGATIONS

Adopted by the Commission on
14th February, 1945

1. The United Nations War Crimes Commission has recommended that the capitulation (armistice) terms should contain appropriate provisions requiring the arrest and detention of all members and former members of the Gestapo and S.S. (Documents C.31 and C.34) in order that those organizations, as well as their members, may be thoroughly investigated.
2. It is reported that there are prisoners of war in the custody of the Allies who have committed war crimes or who have knowledge of the commission of war crimes by others. In this regard it is believed that many of these prisoners of war have avoided disclosing their true identity or have refused to divulge information in their possession concerning the commission of war crimes by others.
3. The experience of the Commission has established that certain war crimes have been committed by units or detachments acting as a whole, or individually by unknown members of identified military organizations. In these cases the only practical method of specifying the war criminals is by listing those units and organizations whose members must be thereafter identified.
4. It is believed that unless appropriate measures are taken before the repatriation of prisoners of war to identify the mentioned war criminals and to secure the information which each prisoner of war may possess concerning war crimes committed by others, the ultimate apprehension of the war criminals will be rendered extremely and unnecessarily difficult, many war criminals will be released and may never be re-apprehended, and serious war crimes and atrocities may not be punished.
5. It is believed, therefore, that there should be an exhaustive investigation of all prisoners of war in the custody of the Allies, and, at an appropriate time before their repatriation, they should be required to divulge all information concerning their identity, their service and activities during the war, and the war crimes committed by others about which they have information.
6. It is advisable that such investigation should be undertaken as soon as possible.
7. Under existing provisions of international law the extent of information which prisoners of war may be required to give during the existence of hostilities is restricted, which hinders during hostilities thorough investigation of prisoners of war and the securing of information they may possess concerning war crimes.

P.T.O.

8. It is the view of this Commission that under appropriate capitulation (armistice) terms providing for the disclosure of the mentioned information prisoners of war may be lawfully required to disclose all the mentioned information before their repatriation.

9. The United Nations War Crimes Commission therefore recommends to the Governments :

- a). That appropriate measures should be taken to identify war criminals among the prisoners of war.
- b). That the prisoners in the custody of the Allies at the time of capitulation (armistice) should be kept in custody for a period sufficient to allow the necessary identification of war criminals and investigation regarding war crimes.
- c). That appropriate provisions be incorporated in the capitulation (armistice) terms providing :

1. that before his repatriation every prisoner of war may be required to answer truly all questions put to him and in particular all questions concerning his identity and past activities and those of the units or military organizations to which he has belonged, as well as any questions necessary to ensure the investigation of war crimes, upon penalty of retainance in custody or other punishment if he refuses to answer or knowingly gives false information.

2. that the prisoners of war in Allied custody at the time of the capitulation (armistice) may be kept in custody for sufficient time to permit the carrying out of the measures above mentioned.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Forty-ninth Meeting

held on

21st February, 1945

Chairman: Lord WRIGHT - Australia

There were also present

Colonel HODGSON - United States of America

Mr. OLDHAM

Wing Commander JONES } Australia

accompanying Lord WRIGHT

M. de BAER - Belgium

accompanied by M. GOLSTEIN

Lord FINLAY - United Kingdom

Dr. LIANG - China

Dr. FANDERLIK - Czechoslovakia

M. GROS - France

M. STAVROPOULOS - Greece

Sir David MEEK - India

accompanied by Mr. DUTT

Dr. de MOOR - Netherlands

Dr. CYPRIAN - Poland

Dr. RIBARZ - Yugoslavia

accompanied by M. MARKOVIC and M. KENIG

also

Brigadier John FOSTER

Col. BROOKS

Lt-Col. BASSETT

Major HICKS

Major HETT

MINUTES OF LAST MEETING

These were approved and signed subject to the insertion on page

6 after the second paragraph of the following entry:

"Dr. CYPRIAN suggested that among the subjects for the pamphlets
 "should be the extermination of the Polish intelligentsia,
 "culminating in the mass murder of the professors of Cracow
 "University. It was one of the most appalling crimes against
 "culture and would be a most suitable subject."

WELCOME TO DR. RIBARZ

The CHAIRMAN welcomed the acting representative of Yugoslavia,
 Dr. Ribarz, Under Secretary of State of Yugoslavia, who took his seat
 on the Commission for the first time.

RELATIONS WITH THE VAUCHER COMMISSION

The CHAIRMAN reported that Committee I had that morning held a consultation with Mr. Harvey the Secretary of this body. While the Commission was interested in the restoration of works of art to their lawful owners, and not in punishment of persons guilty of looting such objects, its records could furnish grounds for putting a number of persons on the lists of the Commission.

M. de BAER, Chairman of Committee I, said that the number of war criminals disclosed by examination of those records might be small, but there were likely to be many who were wanted as witnesses of crimes in the nature of looting. He moved the following resolution which had been drawn up by Committee I:

"The Commission resolves that the services of an officer of the War Crimes Commission be placed at the disposal of the Vaucher Commission in order to go through the files of the Vaucher Commission with a view to deciding where sufficient evidence is available to found cases to be submitted to the War Crimes Commission for placing on lists for apprehension and, if necessary, further investigation by the proper authorities. This action by the War Crimes Commission (if acceptable to the Vaucher Commission) is to be in co-operation with the National Offices concerned."

Sir David MEEK referred to the fact that the question of relations with the Vaucher Commission had previously been dealt with by Committee II. He thought the Commission's system of committees needed to be reorganised.

The CHAIRMAN thought this question should be taken up by the Commission.

Colonel HODGSON thought that Committee III should be re-established.

The resolution proposed by Committee I was adopted.

THIRD LIST OF WAR CRIMINALS

The CHAIRMAN said this list would be presented for the Commission's approval next Wednesday, 28th February.

APPOINTMENT OF GENERAL INVESTIGATION OFFICER

The CHAIRMAN read a draft cable to the U.S. State Department, which he said was prepared at his request, asking that Department to assist the Commission in making this appointment.

Sir David MEEK did not remember that it had been decided to look only to the United States in filling the post.

Colonel HODGSON said that so far as he was concerned he was not asking the Commission to appoint an American.

Sir David MEEK said the question had not been discussed.

Mr. OLDHAM thought that the proposed cable was justified by the agreement which, he felt, had prevailed at the meetings of Committee II whose results were reported to the Commission by Mr. Colban on 20 December, 1944 (H.43). The general consensus of opinion at the meetings had been that an American be sought for the proposed post in view of the fact that the United States was best able to supply the officer required.

M. GROS and Lord FINLAY felt they must seek instructions and Sir David MEEK said he needed time to consider the question before voting.

Major HICKS hoped the discussion could be adjourned for a week.

It was agreed to adjourn the discussion to the Commission's next meeting.

ENQUIRY REGARDING THE STRUCTURE AND WORK OF THE NATIONAL OFFICES

The CHAIRMAN read letters from the representatives of Australia, Belgium, Czechoslovakia, the United States of America and Yugoslavia giving particulars of their respective National Offices. He also read letters from the representatives of India, New Zealand, Norway and Poland stating the measures taken to provide such particulars. Lord Finlay made a similar statement orally for the United Kingdom.

INTERROGATION OF RECENT PRISONERS-OF-WAR

The CHAIRMAN read a statement from Dr. CYERLIN that he had been instructed by his Government to inform the Commission, that questionnaires for interrogation of prisoners-of-war have been adopted by the Polish Military Authorities since October 1944 and that those questionnaires are identical with those recommended by the Commission.

REPORT OF THE FINANCE COMMITTEE ON THE BUDGET FOR THE
FIRST FISCAL PERIOD - 26 October, 1943, to 31 March, 1945 (Doc. C.79)

Dr. de MOOR, Chairman of the Finance Committee, presented the report..

The SECRETARY-GENERAL, referring to Item 9(b) of the Estimated Expenses, said that according to information which he had just received through the Foreign Office, the expenses of the Far Eastern and Pacific Sub-Commission should be put at a maximum of C.N. 700,000 and R. 425, and some reduction could be made in the amount of sterling voted to cover these expenses.

Dr. LIANG pointed out that there might be appreciation in Chinese national currency.

It was decided not to alter the amount of sterling.

Colonel HODGSON said he had no instructions from his Government and accordingly could not take part in the discussion or vote on the budget. He would be glad if the subject could be adjourned.

A discussion followed in which Sir David MEEK and other members pointed out that the budget should normally have been produced at the beginning of the period to which it related. Notwithstanding this fact, and subject to insertion of the figures of the actual expenditure incurred down to 31 December, 1944, being inserted by the side of the estimated expenditure for the whole period, the following resolution was proposed by Dr. de MOOR and adopted by the Commission, Colonel Hodgson abstaining:

1. "The United Nations War Crimes Commission approves the "Budget for its First Fiscal Period as amended by the Commission."
2. "The Commission authorises the repayment to H.M. Foreign Office in London of the advance made by that Department."

SUPPLEMENTARY REPORT OF THE FINANCE COMMITTEE ON
MINOR FINANCIAL QUESTIONS (Doc. C.80)

Dr. de MOOR introduced this report. The following resolutions were adopted by the Commission:

1. "The Commission confirms the Financial Committee's approval of
"the items of expenditure mentioned in Document C.80."
2. "The United Nations War Crimes Commission resolves to request
"the Comptroller and Auditor General of the Public Accounts of
"the United Kingdom to undertake the auditing of the Commission's
"accounts, as he has been good enough to agree to do, and it
"instructs the Secretary-General to convey this request to him."

MEMORANDUM SENT TO THE COMMISSION BY SHAEF

Colonel BROOKS, on behalf of SHAEF, said that "Eclipse No.18"
was a secret document, knowledge of whose contents should not go
outside the Commission.

The CHAIRMAN said the document would be open to inspection by
the members.

Wright

SECRET

C.79(1)
22nd February, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

REPORT OF THE FINANCE COMMITTEE ON THE BUDGET FOR
THE FIRST FISCAL PERIOD - 26TH OCTOBER, 1943 TO
31ST MARCH, 1945.

Adopted by the Commission on 21st February, 1945

The basis of the War Crimes Commission's finances is the Resolution on Financial Administration adopted by it on 21st March, 1944 (Doc. C.10) and submitted for approval to the member Governments. This resolution, in the first place, provides that the Commission's expenses for each year shall be divided among the Governments in such a manner that each pays (a) a "basic contribution" of £400 and (b) a proportionate share of the excess of the total estimated expenditure over the total amount due in the form of basic contributions, such shares being calculated on a scale which corresponds to that adopted for the administrative budget of the United Nations Relief and Rehabilitation Administration in 1943, except that the United Kingdom pays the same share as the United States.

In the second place the resolution requires the Commission to make regulations governing its financial and general administration. Such regulations were adopted on the 22nd August, 1944 (Doc. C.45).

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By an arrangement which H.M. Foreign Office in London was good enough to make with the Commission, the latter's expenses were met by advances from that Department until it should decide that it could assume the responsibility of meeting them from the contributions of the member Governments. Such a decision was taken on 17th January of the present year and has been in effect since the end of that month. It was made possible by the fact that under the Financial and Administrative Regulations the "basic contributions" were payable in advance of the adoption of a budget and had nearly all been paid.

The delay in adopting a budget for the Commission's first "fiscal period", i.e. the period from its first meeting down to 31st March, 1945, has been due to the inevitable uncertainty as to the development of its work and the size and cost of the organisation which would be required. It is now clear that the expansion of its organisation and work which the Commission has decided to undertake will fall wholly or almost wholly within the next fiscal period. A draft budget with explanatory notes (p. 3) has accordingly been submitted to the Finance Committee by the Secretary-General and the Committee recommends that it be adopted in the form shown in Annex A.

The contributions for which each member Government will be liable if the full amount of the draft budget is voted are set out in Annex B.

A N N E X A

BUDGET FOR THE PERIOD 26TH
OCTOBER 1943, TO 31ST MARCH, 1945

ESTIMATED REQUIREMENTS

Part I

WORKING CAPITAL FUND⁽¹⁾

	£.	s.	d.
Amount fixed by Financial			
Administrative Regulations			
Dec. C.45, Art. 4, para. 1)	6,000.	0.	0.

Part 2

EXPENSES OF THE COMMISSION

	<u>Approximate</u> <u>Expenditure</u> <u>to 31st Dec. 1944</u>			<u>Estimate for</u> <u>whole period</u>		
	£.	s.	d.	£.	s.	d.
Premises (including furniture, heating, lighting, cleaning, telephones, etc.) supplied free of charge by H.M. Government in London.	0.	0.	0.	0.	0.	0.
Stationery and multigraphing	200.	0.	0.	300.	0.	0.
Postage, telegrams, cables	50.	0.	0.	100.	0.	0.
Salaries and subsistence allowances (including National Health and Unemployment Insurance	2930.	0.	0.	4100.	0.	0.
Provision until 31st March, 1945 for anticipated additional staff ⁽¹⁾	0.	0.	0.	250.	0.	0.
Travelling ⁽¹⁾	0.	0.	0.	10.	0.	0.
Accountants and auditors' charges ⁽¹⁾	0.	0.	0.	50.	0.	0.
Publication of reports ⁽¹⁾	0.	0.	0.	10.	0.	0.
Expenses of the Far Eastern and Pacific Sub-Commission :						
a) Premises (including furniture, heating, lighting, cleaning, telephones etc.) provided free of charge by the Chinese Government	0.	0.	0.	0.	0.	0.
b) Amount of the Sub-Commission expenses, from its inauguration to the end of the first fiscal period, estimated by the Sub-Commission at C.N. 700,000 (as a maximum) and R. 425	0.	0.	0.	850.	0.	0.
Miscellaneous and unforeseen expenditure	10.	0.	0.	100.	0.	0.
	£3,190.	0.	0.	£11,770.	0.	0.

See Explanatory Notes (p. 3)

ESTIMATED RECEIPTS

	£.	s.	d.
Basic contributions	6,000.	0.	0.
Excess of estimated expenditure over amount due as basic contributions	5,770.	0.	0.
TOTAL RECEIPTS	£11,770.	0.	0.

EXPLANATORY NOTES

Estimated requirements, Part I.
Working Capital Fund.

The Working Capital Fund is a Reserve Fund which is provided for in the basic Financial Resolution of 21st March, 1944 and which has for its principal object "to enable the Commission to meet its expenses notwithstanding delay in the receipt of contributions" (Resolution on Financial Administration, para. 2). The Commission by a vote of two thirds of its members may draw upon it temporarily for purposes not provided for in the Budget (Financial and Administrative Regulations, Art. 4, para. 4 (ii)). Amounts drawn from the Fund must be repaid to it as soon as possible (Ibidem, Art. 4, para. 4).

It has been felt prudent to ask the members to supply in the Commission's first budget the whole amount of this Fund as fixed by the Administrative and Financial Regulations.

Estimated requirements, Part II.
Expenses of the Commission.

General Observation: In considering these figures it must be borne in mind that the Commission's expenses were extremely low during the first part of its existence, but have necessarily increased with the development of its work.

Item 5) : The Commission has decided to appoint on the staff (a) a lawyer with criminal experience, and (b) a Central Investigation Officer with appropriate staff, but the dates of appointment and salaries required are still uncertain.

Item 6) : This is a token item to which a transfer from Item 10 will be made if any travelling expenses are incurred.

Item 7) : In order to avoid the engagement of an accountant who could not be fully employed, the Secretary-General has had recourse to the assistance of a firm of accountants.

Item 8) : The remark made on Item 6 applies to this item.

ANNEX

CONTRIBUTIONS DUE FROM MEMBER GOVERNMENTS

	No. of Units	Basic contribu- tions of 2400.	Share of excess of total budget over basic contributions.	Total due.
			£. s. d.	£. s. d.
Australia	30	paid	114. 2. 2	114. 2. 2
Belgium	20	"	76. 1. 5	76. 1. 5
China	100	"	330. 7. 1	330. 7. 1
Czechoslovakia	20	"	76. 1. 5	76. 1. 5
France	80	"	304. 5. 8	304. 5. 8
Greece	10	2400	38. 0. 9	438. 0. 9
India	80	paid	304. 5. 8	304. 5. 8
Luxembourg	1	"	3. 16. 1	3. 16. 1
Netherlands	30	"	114. 2. 2	114. 2. 2
New Zealand	6	"	22. 16. 5	22. 16. 5
Norway	6	"	22. 16. 5	22. 16. 5
Poland	20	"	76. 1. 5	76. 1. 5
United Kingdom	550	2400	2091. 19. 2	2491. 19. 2
U.S.A.	550	paid	2091. 19. 2	2091. 19. 2
Yugoslavia.	14	"	53. 5. 0	53. 5. 0
	1,517		£800. £5770. 0. 0.	£6570. 0. 0.

VALUE OF 1 UNIT = £3. 16. 0.85432

SECRET

C.80
16 February, 1945

UNITED NATIONS WAR CRIMES COMMISSION

Supplementary report by the Finance Committee on minor financial questions, adopted by the Committee on 15th February, 1945

APPROVAL OF SALARIES AND OTHER EXPENDITURE

The Finance Committee asks the Commission to confirm its approval of the following items of expenditure:

- (i) A salary of £3. 10. 0 per week for Miss Critchfield, who replaces a Typist-Clerk, Miss Wheeler, who has resigned.
- (ii) A salary not to exceed £10. 0. 0. per week for a secretary shorthandtypist to replace Miss McCulloch, who is resigning shortly.
- (iii) An increase of Colonel Wade's salary from £520 to £650, without prejudice to the subsistence allowance already granted to him at the rate of £1 per night for five nights per week.
- (iv) Sir Cecil Hurst commissioned a member of the Bar to draw up descriptions of the crimes appearing in the Commission's Lists of War Criminals Nos. 1 and 2. The Finance Committee has approved payment of fees of £60 and £20 to Mr. Borregard for this work.
- (v) Fidelity Guarantee and Workmen's Compensation Insurance. The Financial Regulations provide for a fidelity guarantee insurance in respect of officials handling the Commission's money, i.e., the Secretary-General and the Chief Clerk. It may further be desirable to take out workmen's compensation insurance in respect of certain officials. The Finance Committee has fixed at £1,000 0. 0. the insurance to be taken on each of the first mentioned officials and proposes that the Secretary-General be authorised to spend the necessary amount on these classes of insurance.

AUDITING OF COMMISSION'S ACCOUNTS

In order that the Commission's accounts may be audited by the Comptroller and Auditor General of the Public Accounts of the United Kingdom, as provided in Article 9 of the Financial and Administrative Regulations, it is necessary that the Commission should adopt a resolution inviting him to do so, this being the condition on which he has consented to act. The fee will depend on the amount of work involved.

The Finance Committee asks the Commission to adopt the following Resolution on this subject:

"The United Nations War Crimes Commission resolves to request
"the Comptroller and Auditor General of the Public Accounts of
"the United Kingdom to undertake the auditing of the Commission's
"accounts, as he has been good enough to agree to do, and it
"instructs the Secretary-General to convey this request to him."

SECRET

M.50.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Fifteenth Meeting

held on

28th February, 1945.

Chairman: Lord WRIGHT - Australia

There were also present

Major BEHLE - United States of America
accompanied by Capt. WOLFF.
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. COLSTEIN - Belgium
Lord FINLAY - United Kingdom
Dr. LIANG - China
Dr. BENESH - Czechoslovakia
accompanied by Dr. FANDERLIK
M. GROS - France
Sir David MEEK - India
accompanied by Mr. DUTT
Dr. de MOOR - Netherlands
M. MARKOVIC - Yugoslavia
accompanied by M. KENIG.
Mr. BURDEKIN - New Zealand

also

Lt-Col. BASSETT
Major HICKS
Major HETT

MINUTES OF LAST MEETING

These minutes were approved and signed.

ABSENCE OF MEMBERS

The SECRETARY-GENERAL said Dr. Cyprian sent apologies for being prevented from attending.

Major BEHLE said Colonel Hodgson was prevented by illness from being present.

STATEMENTS BY THE SECRETARY-GENERAL

Approval by Czechoslovakia of certain recommendations of the Commission

The SECRETARY-GENERAL reported the receipt of a letter from Dr. Ečer dated 28th February, 1945, informing the Commission that his Government had approved the following recommendations :

- "1) Convention for the surrender of war criminals and other war offenders, and accompanying explanatory memorandum (Doc. C.47).
- 2) Recommendation for the establishment by Supreme Military Commanders of mixed Tribunals for the trial of war criminals (Doc. C.52(1)).
- 3) Draft convention for the establishment of a United Nations War Crimes Court (Docs. C.50(1), C.57 and C.58)."

Appointment of Secretary Shorthand-Typist

The SECRETARY-GENERAL reported that he had appointed Miss E. Edwards on the staff at a salary within the limits approved by the Commission.

Memorandum received from SHAEF

The SECRETARY-GENERAL said a number of additional copies of the SHAEF memorandum "Eclipse 1" had been received and he understood that SHAEF agreed to his supplying these to the members of the Commission.

Major HETT and Major BELL (who had been in touch with SHAEF) confirmed this; it being, of course, understood that the document must still be treated as secret.

APPOINTMENT OF AN OFFICIAL TO ASSIST IN DEALING WITH CASES OF WAR CRIMES (DOC. C.66(1) PARA. 2(3)).

The Commission approved the draft by the Chairman of a letter drafted by Committee I asking the Commission members if their Governments desired to nominate candidates for this post.

APPOINTMENT OF A CENTRAL INVESTIGATION OFFICE (DOC. C.66(1) PARAS. 3 & 4)

The CHAIRMAN read the above-mentioned decisions of the Commission on which had been taken on 20th December, 1944. An unofficial approach to the United States with a view to filling the post for which

they provided had elicited no response. It had always, he thought, been assumed that the best appointment would be an official from the U.S. Federal Bureau of Investigation. After he had become Chairman, his anxiety at the delay in filling the post had led to the Commission being asked to approve the draft cable to the State Department which was before it at the last meeting and which has aroused opposition from some of the members. He now asked the Commission to approve the following new draft of a cable to the State Department:

"Proposal for Central Investigation Officer. Attention is invited to United Nations War Crimes Commission Document C.66 of 20th December subject above. May I, as chairman, on behalf of the Commission, draw your attention to paragraphs 3 and 4, and ask if you would be good enough to obtain the detail of an officer to fulfil the proposed post.

WRIGHT".

The opposition at the last meeting had been peculiarly apt to cause misunderstanding of the position of the U.S. Government and the Commission itself. Now that it was clear that all that was being done was to address a request to the U.S. Government for which that Government had no responsibility and which it was in no way committed to considering, he asked for an affirmative vote on a proposal which was highly desirable, indeed essential.

Referring to the Commissions' work as a whole, the CHAIRMAN thought it had been restricted owing to certain misconceptions and errors. While its primary task was to investigate war crimes and identify the perpetrators, where possible, it had also to report cases where it might be expected that evidence would be forthcoming and its competence had been in addition enlarged by giving it advisory functions in respect of all questions concerning war crimes in the broad sense. The Commission had its own powers of initiation. After referring to the position of the National Offices, the excellent

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system established in France and the enquiry which the Commission was making into the organisation and operation of the National Offices, he urged that there must be no hard and fast line of separation between the Offices and the Commission. An official was needed to keep the Commission in contact with the National Offices and in contact with the military authorities. The Commission was not a bottle-neck but the symbol of embodiment of Allied desire to execute justice upon war criminals. It had constructive work to do in obtaining information of a general character for the benefit of the National Offices and the military authorities as well as for the benefit of its own work. It must also establish friendly and sympathetic relations with the U.S.S.R. For well-known reasons one did not expect that Government to join the Commission, but the Soviet Commission was friendly and willing to exchange information.

If the Commission were to discharge these tasks, it must have the necessary expert staff, of whom the investigation office was only the beginning.

Major BEHLE said the U.S. ^{representative} ~~Government~~ last December ^{favoured} ~~approved~~ the decisions taken in C.66(1) and still supported these decisions. However, the question of filling the post of investigation officer was a different question. The U.S. representative on the Commission insisted that the action initiated at the last meeting should be abandoned and no further attempt be made to secure a nomination from the U.S. Government only.

The CHAIRMAN remarked that the proposed new cable would be sent "at sender's risk" and nothing would be lost if the request made in it was refused.

Lord FINLAY was in favour of sending the new cable which he preferred to that of last week. At last week's meeting the absence of notice of what was proposed had put him at a disadvantage, as he had not been a member of the Commission when the appointment of the investigation officer was decided and had not been able to inform himself. The reference made in the new cable to the Dec. C.66(1) made it clear that this officer was not,

as he had feared, intended to supercede the National Offices or to attempt to operate in Germany or Austria except by agreement with the military authorities.

Dr. BENEŠ said Dr. Ečer had asked him to state his views which were as follows. The investigation officer would be necessary in connection with the organisation of investigation in Germany. The Commission had not insisted upon its recommendation that a War Crimes Office be established in that country and accordingly that recommendation had failed. Interrogation of prisoners of war would have to be carried out through an officer responsible to the United Nations. It would be advisable to select as investigation officer a United States officer with experience of work in the Federal Bureau of Investigation.

Dr. de MOOR said that there had been agreement that an investigation officer appointed by the Commission would be useful and involve no interference with the National Offices. The selection of a Federal Bureau of Investigation man for the post had been discussed and also the best way of obtaining such a person. He should be sorry if the United States did not help, but he felt that it could not but appreciate the Commission's motives in asking it for help.

Sir David MEEK denied that there had been any criticism of the United States at the last meeting. The question who was to be the investigation officer had never been discussed in the Commission. What he had done at the last meeting was to point this out and suggest that any cable sent should be sent to all the Governments. There were purposes for which an officer with experience of the East would be desirable. He could accept the new cable if it were sent to all the Governments.

Mr. BURDEKIN thought it would not be a practicable course to send the cable to all the Governments. He supported sending it to the United States.

M. GROS said some members of the Commission appeared to suppose that it was the only institution dealing with war crimes and that for any of

its proposals to be rejected would be disastrous. When Committee II discussed the appointment of the investigation officer in September last, measures to establish an organisation for investigating war crimes in Germany had not been taken and this was partly the reason for the discussion. It was now known that there would be Allied occupation of Germany and Allied investigation of war crimes. The wording of last week's cable had been too wide, but he could approve the new cable since it was on the lines followed in Doc. C.66(1). The cable should be sent to the United States. In the event of a refusal, ^{Other Countries} ~~India~~ should be approached.

Dr. BENESH observed that Dr. Eder considered there must be a link between the War Crimes Commission and the war crimes organisation in Germany.

Lord FINLAY considered that currency should not be given to the idea that the investigation officer could operate in Germany and Austria without the consent of the military authorities.

M. MARKOVIC was in favour of sending the cable to the United States rather than to all the Governments which would involve delay. He agreed with the Chairman that friendly relations with the U.S.S.R. State Commission were highly desirable.

The proposal to send the cable to the United States was carried without a dissenting vote, Major Behle as representative of the United States abstaining from voting.

THIRD LIST OF WAR CRIMINALS (GERMANS)

The list was approved by the Commission.

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M.51

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Fifty-first Meeting

held on

7th March, 1945.

Chairman: Lord WRIGHT - Australia

There were also present

Major BEHLE - United States of America
accompanied by Capt. WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Lord FINLAY - United Kingdom
Dr. LIANG - China
Dr. ECER - Czechoslovakia
accompanied by Dr. FANDERLIK
M. GROS - France
Sir David MEEK - India
accompanied by Mr. DUTT
Dr. de MOOR - Netherlands
M. MARKOVIC - Yugoslavia
accompanied by M. KENIG
Dr. CYPRIAN - Poland

also

Lt.-Col. BASSETT
Major HICKS
Major HETT

MINUTES OF LAST MEETING

These were approved and signed with the following amendments :

Page 4, line 18. For "the U.S. Government last December approved"
substitute "the U.S. representative last December favoured".

Page 5, line 20. For "any criticism" substitute "any criticism or
intended criticism".

Page 6, lines 9-10. For "India should be approached" substitute
"other countries should be approached".

APPOINTMENT OF AN OFFICIAL TO ASSIST IN DEALING WITH CASES
OF WAR CRIMES.

The SECRETARY-GENERAL reported that the representatives of India and Poland had presented candidates.

Lord FINLAY said the United Kingdom might possibly present a candidate.

Dr. ECER said Czechoslovakia would also do so.

The Chairman was empowered to take appropriate steps for examining the qualifications of the candidates and submitting a proposal to the Commission.

MINUTES OF THE FAR EASTERN AND PACIFIC SUB-COMMISSION.

Dr. LIANG informed the Commission that the minutes of the first three meetings of the Sub-Commission had been transmitted to the Secretary-General, and the latter said they would be reproduced and circulated to the members.

RECOMMENDATION CONCERNING THE LISTS OF SUSPECTS AND LISTS OF WITNESSES.

M. de BAER Chairman of Committee I, presented the text of a Recommendation to the Governments concerning the treatment of persons and units named in these lists. This text was adopted in the form shown in Document C.82.

FOURTH LIST OF WAR CRIMINALS (JAPANESE)

The Chairman of Committee I presented this list which was approved, subject to adaptation of the introduction to the above-mentioned Recommendation and to the insertion in the List of Witnesses of a statement to the effect that the persons named had been helpful to the prisoners and should have favourable treatment.

M. GROS observed that a statement of this kind must not be made in any List except by express direction of Committee I.

It was decided that a communication showing the incidents about which evidence was wanted from each witness should accompany the List of Witnesses and that in future lists of this kind these particulars might be put in the Miscellaneous Notes column.

CRIMINALS WHOSE CRIMES HAVE NO GEOGRAPHICAL LOCATION

Referring to the fact that the persons described in the Moscow Declaration as "major criminals whose crimes have no particular geographical location" had hitherto only appeared in the Commission's lists as persons in regard to whom it was compiling information for the use of the Allied authorities (First List of War Criminals, introduction, paras. 4 and 5), M. de BAER and the CHAIRMAN reported that Committee I now proposed to draw up a separate list of such persons accompanied by schedules of their crimes. M. de BAER, as Chairman of Committee I, had been asked by Committee I to take responsibility for this work and, pending expansion of the Commission's staff, to call upon those of his colleagues who could help to deal with it under his supervision.

Major BEHLE said this was a step towards formulating charges. It did not in any way affect the question whether the persons were to be put on trial or dealt with in another manner.

INTERVIEW WITH THE "VAUCHER" COMMISSION.

The CHAIRMAN recounted the circumstances in which this interview had been arranged. The purpose was to obtain access to material in the possession of the Vaucher Commission which might furnish evidence for the compilation of the Commission's Lists.

Lord FINLAY, speaking for himself and Major BEHLE, reported that they had attended the Vaucher Commission's meeting of the previous Friday afternoon, together with Captain Wolff and Wing-Commander Jones, and were most courteously received. They had pointed out that the objects of the two Commissions, though different, might be supplementary. The facts which enabled the Vaucher Commission to effect restitution of cultural material might enable the War Crimes Commission to found charges of looting or analogous war crimes. They had explained how the War Crimes Commission worked in close co-operation with the National Offices and stressed the responsibility which it felt for discovering war crimes and, if possible, bringing the perpetrators to justice. Finally, they had asked whether, on such conditions as the Vaucher Commission might impose,

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the War Crimes Commission could examine the former Commission's files for evidence of war crimes and of the identity of the perpetrators. If the answer was affirmative, Wing-Commander Jones would undertake the task. Professor Vaucher had answered that while the matter must be considered, his Commission's reply would in principle be favourable. Subsequently Lord Finlay had received a letter dated 2nd March from Mr. Harvey, the Vaucher Commission's Secretary, which stated that the Vaucher Commission had accepted the War Crimes Commission's proposals in principle and would put its files at the disposal of Wing-Commander Jones, but proposed in the first place to limit the scope of his enquiries to persons of enemy nationality. Lord Finlay considered this a proper limitation and hoped the Commission would feel that the interview had been entirely successful. He had an appointment to see Mr. Harvey again to discuss more fully the implications of what was to be done.

Major BEHLE observed that only detailed study of the Vaucher files could show if they contained evidence of crimes.

On the proposal of the CHAIRMAN the Commission congratulated Lord Finlay and Major Behle and approved their report and recommendations.

Lord FINLAY promised to see Mr. Harvey and make arrangements for Wing-Commander Jones to begin his work.

CONVOCATION OF COMMITTEES.

The CHAIRMAN announced the following meetings of Committees :

Committee I would meet at 4.30 p.m. on Tuesday, 13th March, in the War Cabinet Offices to consider how far the Commission could play a part in punishing the atrocities committed on the Jews.

The Public Relations Committee would meet at 4.30 p.m. on Monday, 12th March, at Aldford House.

Lord Wright's Legal Committee would meet at 3.p.m. on Tuesday, 13th March, at the War Cabinet Offices.

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APPOINTMENT OF CENTRAL INVESTIGATION OFFICER.

M. 52

The CHAIRMAN said he was authorised by Major Behle to announce that the latter had received a cable saying that the Commission's cable to the State Department was receiving consideration.

REQUEST TO PHOTOGRAPH THE COMMISSION.

The CHAIRMAN reported that such a request for permission to photograph the Commission in session had come from Picture Post. The Secretary-General was authorised to inform the paper that this was not possible.

DR. ECER'S PROPOSAL FOR PARTICIPATION IN THE SAN FRANCISCO CONFERENCE (Doc. C.81)

Dr. ECER asked that his memorandum be adjourned to the next meeting. In reply to a question from M. GROS he said the proposal was made personally by himself and did not come from his Government.

Lord FINLAY thought no action should be taken on the proposal. Its acceptance would put the Commission in a false position.

Sir David MEEK observed that if the Commission's representation at the Conference was desired, it would receive an invitation.

Major BEHLE took the same view.

Dr. de MOOR thought it might be useful to address a memorandum to the Conference whose work seemed to have points of contact with that of the Commission.

Mr. OLDHAM supported this proposal.

M. GROS considered that the Commission could only give advice to the Governments which were represented on it, not to the Conference. A progress report could be drafted which would serve for the information of those Governments' representatives at the Conference.

The CHAIRMAN said that on such information as he possessed about the San Francisco Conference he could not support Dr. Ecer's proposal. Did the Commission desire to adjourn it?

The adjournment of the proposal to the next meeting was adopted by six votes to five.

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C. 82.
12th March 1945.

M. 52

UNITED NATIONS WAR CRIMES COMMISSION

RECOMMENDATION CONCERNING PERSONS SUSPECTED OF
WAR CRIMES AND ENEMY PERSONS WANTED AS WITNESSES

ADOPTED BY THE COMMISSION ON 7TH MARCH 1945.

On February 14th, 1945, the United Nations War Crimes Commission reached the conclusion that to ensure as far as possible the full execution of the policy of punishing war crimes it was necessary that the Commission's Lists of persons actually accused of such crimes (Lists of War Criminals) should be supplemented by two new Lists (See Doc.C.75/2/).

The first new class of Lists are Lists of Suspects, i.e. individuals against whom evidence of participation in a war crime will in all probability be obtainable, and units of which members who have not as yet been identified have been involved in a war crime.

The second are Lists of Witnesses, i.e. enemy persons, not accused or suspected of war crimes, who are considered capable of giving evidence regarding war crimes.

The Commission recommends that the Governments should give all necessary instructions to ensure -

(1) The taking into custody of the individuals and units named in the Lists of Suspects and their maintenance in custody until it has been possible to identify the persons who should be handed over for trial as war criminals;

(2) The maintenance of contact with the persons named in the Lists of Witnesses until their evidence has been taken, and measures to protect them against other enemy nationals;

(3) The maintenance in custody, if they are prisoners of war, of persons named in the Lists of Witnesses until their evidence can be taken and, in proper cases, segregation of such witnesses from other enemy nationals who are in custody.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Fifty-second Meeting

held on

14th March, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Major BEHLE and Capt. WOLFF
Mr. OLDHAM - Australia
M. de BAER - Belgium
Lord FINLAY - United Kingdom
Mr. Andrew BELL - Canada
Dr. LIANG - China
Dr. ECER - Czechoslovakia
accompanied by Dr. BENESH and Dr. FANDERLIK
M. GROS - France
Sir David MEEK - India
accompanied by Mr. DUPT
M. Van Den BERGH - Netherlands
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland
Dr. RIBARZ - Yugoslavia
accompanied by M. MARKOVIC and M. KENIG

also

Lt-Col. BASSETT
Major HICKS
Major HETT

The CHAIRMAN reported that the Dominion of Canada had decided to be represented on the Commission by its High Commissioner in London, and expressed the pleasure which the Commission felt at seeing Mr. Andrew Bell, in the unavoidable absence of the High Commissioner, take his seat as official Canadian representative. He was particularly glad to welcome Mr. Bell in the capacity of representative of a sister Dominion.

Mr. BELL thanked the Chairman and hoped that Canada would render useful service in the Commission.

Colonel HODGSON as representative of the United States was pleased to welcome his country's good neighbour Canada.

Lord FINLAY said the United Kingdom representative had also special reasons to be glad that another Dominion had joined the Commission.

Mr. BURDEKIN expressed the same sentiment.

Sir David MEEK joined in the welcome, adding that he hoped India would soon be one of the Dominions

MINUTES OF LAST MEETING

These were signed, subject to the following amendments:

Page 5, line 17: For the words "Sir David MEEK observed", substitute "Sir David MEEK agreed with Lord Finlay and observed".

For line 23 substitute the following: "Mr. OLDHAM thought the proposal should be adjourned for a week for further consideration".

PRESENTATION OF A FOURTH LIST OF WAR CRIMINALS

The Commission approved the closing of the fourth List of War Criminals in order that it might be prepared for presentation to the Governments.

LISTING OF WAR CRIMINALS ON CHARGES FORMULATED BY THE COMMISSION

The Chairman of Committee I, M. de BAER, presented the following resolution, which Committee I proposed should be adopted by the Commission:

"The War Crimes Commission decides to include
"in its Lists charges formulated by itself and to
"recommend that the Agencies apprehending the persons
"charged shall, if necessary, apply to the Commission
"for instructions as to their disposal."

He said that such listing would be quite exceptional. Its purpose was to deal with the perpetrators of war crimes which did not for the moment fall within the jurisdiction of any National Office. This was considered necessary in order to ensure the punishment of such persons. Committee I had already decided to place four persons on a List of Suspects under the provisions of the proposed Resolution, if it was adopted by the Commission.

M. GROS asked whether the four persons referred to were

criminals whose crimes had no geographical location, or had they committed crimes in particular places?

M. de BAER said the latter was the case.

Dr. CYPRIAN was not opposed to the new departure, but he wished to point out that it represented a considerable change of policy, since it meant that the Commission placed itself by the side of the Governments for the purpose of bringing charges of war crime.

M. de BAER explained that it was expected that, when the time came, there would be a Government to take charge of the war criminal and put him on trial.

Sir David LEEK understood that no change of general policy was involved. The new procedure was simply for certain cases of a particular kind.

The CHAIRMAN said the interests of the member Governments were not being put in any danger. The new procedure was necessary in certain cases to enable the Commission to do its duty.

INTERVIEW OF COMMITTEE I WITH REPRESENTATIVES
OF JEWISH ORGANISATIONS

M. de BAER said that he had at first invited only three organisations but in the end a number of others had had to be admitted. It was a strictly informal and exploratory interview. Some of the organisations had important evidence of war crimes. He had asked them to send it to Committee I, which would examine it on its merits and put it at the disposal of the appropriate National Office so that the latter could found charges on it. If, for example, it was evidence of a crime committed in Germany against a Dutch national, the Netherlands National Office would be approached. Where no National Office was available, the cases would be reported to the Commission, but he did not see what could be done with them.

The CHAIRMAN asked if M. de Baer's statement had the general approval of the Commission.

Colonel HODGSON said he understood there was no question of reversing any previous decision of policy.

The statement was approved.

CHINESE NATIONAL OFFICE

The CHAIRMAN reported the receipt from the Chinese representative of a valuable account of the Chinese National Office.

DR. ECER'S PROPOSAL FOR PARTICIPATION IN THE
SAN FRANCISCO CONFERENCE (Doc. C.81)

Dr. ECER understood from what had been said at the last meeting that his proposal was open to objections of form, and did not insist on the procedure he had suggested. But the Commission was an organ of the United Nations, not merely of the 15 member Governments. The Peace Conference of 1919 had a commission which reported to it on war crimes. Mr. Stettinius on 9 March had welcomed certain agreements about war criminals concluded between American nations as a contribution to the objects of the San Francisco Conference, so he might be expected to welcome an approach by the War Crimes Commission. Dr. Ecer had two points in view. Firstly, there was a close connection between European and world security and the prevention of war criminals from roaming at large. Secondly, the declarations of the Allied leaders needed to be followed by deeds. When it returned to Czechoslovakia his Government would have nothing to say to those who asked what had been done in the way of punishing war crimes. It was also unfortunate that the Allies had no machinery for dealing jointly with the Commission's recommendations. The San Francisco Conference offered the first opportunity of doing so. Having consulted his Government, he was able to make the following statement:

1) The Czechoslovak Government welcomes the statement made by the American Secretary of State, Mr. Stettinius, published in the Press on March 9th, 1945, that the inter-American agreements would "contribute much to the San Francisco Conference", and that

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"under the resolutions adopted here no Axis leader, official, or agent who is guilty of crimes against the law or civilisation in this war will be able to escape punishment by finding refuge in this hemisphere".

2) The Czechoslovak Government realises that there is close connection between the effective punishment of Axis criminals responsible for the present war and for atrocities committed in the course of it on the one hand, and world security and especially the security of the European Nations on the other hand.

3) The Czechoslovak Government appreciates the work done by the inter-American Conference held in Mexico City as far as the war criminals are concerned, and welcomes the idea to submit the result of this work to the San Francisco Conference.

4) The Czechoslovak Government knows that constructive work similar to that of the inter-American Conference was done by the United Nations War Crimes Commission in London, but before this valuable work can be carried into effect, there are certain obstacles which should be removed in time. These obstacles are due to the fact that up to date upon certain points an agreement of all United Nations Governments has not been reached, as for example:

a) punishment for the preparation and launching of the present war;

b) punishment for crimes committed because of race, nationality, religious or political belief, irrespective of the territory where they were committed;

c) the establishment of a United Nations Criminal Court and Mixed Courts, both recommended by the United Nations War Crimes Commission;

d) the question whether the so-called master or major criminals should be punished by a United Nations Court, or by political decision.

Therefore, the Czechoslovak Government approved the object of my suggestion of March 5th, 1945, Doc. C.81. I am authorised to move

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on behalf of my Government:

a) that the United Nations War Crimes Commission should send to the San Francisco Conference a memorandum with documents explaining what the Commission has already done, and what in their opinion is the work that lies ahead;

b) that the United Nations War Crimes Commission should draw the attention of the inviting powers, and the Conference, to the fact that it would be advisable to include in the agenda of the Conference measures to be taken for the punishment of those responsible for the present war and for crimes committed in the course of it;

c) that the United Nations War Crimes Commission should offer to the San Francisco Conference its full help and collaboration in these matters, even to the extent of sending a special delegation if required.

The CHAIRMAN said he understood the proposals read by Dr. Eéer took the place of those he had previously made, and Dr. EÉER said this was so.

M. de BAER seconded Dr. Eéer's proposals.

The CHAIRMAN asked Lord Finlay if he could throw light on the agenda of the San Francisco Conference.

Lord FINLAY said that at the Chairman's suggestion he had consulted the Foreign Office and was authorised to state that the question of War Criminals is not on the agenda of San Francisco and, so far as is known in London, no reference to the subject will be made at San Francisco.

Dr. LIANG was in general sympathy with the revised form of Dr. Eéer's proposals, namely that the Commission should start by preparing a memorandum. The proposals for putting war crimes on the San Francisco agenda and offering collaboration and the dispatch of a delegation were a procedure that called for more consideration. The Conference was only open to Governments; how could a body like the War Crimes Commission be represented on it? The World Trade Union

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Conference was indeed seeking representation and Mr. Eden had said application was under consideration. As a person who had taken part in the Dumbarton Oaks Conference, he might be permitted to say that the San Francisco Conference was solely concerned with machinery for preventing war for the future. So far as had been disclosed, it was not concerned with investigation of past events. The Commission did not know that the question of war crimes was going to be raised and it was not appropriate for it to ask to have the subject on the agenda. The Dumbarton Oaks proposals carefully avoided the idea of sanctions.

M. GROS agreed with Dr. Liang. The fact that the Commission did not know much about the results of its work was not abnormal. No Government was obliged to tell an advisory body what it was doing about that body's recommendations. It was natural for the Commission not to have executive machinery because it was not an executive body. It should look for action to such bodies as the European Advisory Committee and the future organ of control in Germany. It was true he had proposed the drawing up of a memorandum but not for dispatch to San Francisco. Any memorandum should be sent to the member Governments.

Sir David MEEK maintained the opinion he had expressed at the previous meeting.

Dr. RIBARZ supported Dr. Eéer. If there was to be a memorandum it ought not to be sent to the Governments represented on the Commission but to the whole of the forty-five United Nations with a view to getting a discussion on war crimes at San Francisco.

The CHAIRMAN had heard Dr. Eéer with attention and respect, but was not able to support his proposals. These asked the Commission to intervene in the San Francisco Conference. He did not think the Commission was competent to take or to think of taking such a course. It would be disastrous for it to expose itself to a rebuff.

Col. HODGSON said that, while he was without official information as to the San Francisco Conference, he had considered that something might be done, but the statement made by Lord Finlay on the authority of the Foreign Office showed that war crimes, both past and future, were not on the Conference agenda. He therefore concurred in the Chairman's view that it would be improper to approach the Conference. He also concurred with M. Gros in thinking that any memorandum produced should go to the Commission's own principals, i.e. to the member Governments. He did not feel the Commission was competent to address non-member Governments. He could not agree with Dr. Eöer's proposals, but could agree to a Progress Report bringing up to date the Commission's first Progress Report. Action in respect of the Conference ought to be left to the fifteen member Governments.

In reply to the CHAIRMAN, Col. HODGSON said he was not moving an amendment.

Dr. ECER said that the International Labour Organisation was sending a delegation to San Francisco.

Sir David MEEK said this was a mistake; the Organisation was not sending such a delegation.

Dr. ECER said that although he was aware that the agenda of the Conference was fixed, he was also aware that his Government was going to raise the question. So was the World Jewish Congress. He would agree to the Commission's simply deciding to prepare a memorandum for dispatch to the member Governments, leaving those Governments to act.

Lord FINLAY, agreeing with Col. Hodgson, said he had no objection to a memorandum to the fifteen Governments. He must object to any request being made to the Conference.

Sir David MEEK also could not agree to asking to have war crimes put on the Conference's agenda.

Dr. ECER said that he withdrew all his proposals, and suggested the setting up of a drafting committee to prepare a report.

Dr. LIANG thought it rested with the Commission to decide whether any document that was prepared should be sent to the San Francisco

Governments.

Dr. EGGER then moved that the Governments represented on the Commission should be sent, together with the relevant documents, a memorandum explaining the past action and future policy of the Commission.

M. GROS observed that the Governments already had the documents and suggested that what should be sent was a second Progress Report.

After further discussion, the following Resolution was adopted:

"The Commission decides to send a report on
"the Commission's work to the Governments represented
"on the Commission."

This text was then supplemented, M. Gros abstaining from voting, by the following addition:

"...explaining what the Commission has already
"done and the work that lies ahead."

THE PLEA OF SUPERIOR ORDERS

At M. GROS's request, the Commission decided to place this question on the agenda of its next meeting and to have circulated to the members Dr. Liang's report on the subject to Committee III and the text adopted by that Committee.

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C.81
5th March, 1945.

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UNITED NATIONS WAR CRIMES COMMISSION

PROPOSAL BY DR. B. ECER (CZECHOSLOVAKIA) FOR THE
PARTICIPATION OF THE UNITED NATIONS WAR CRIMES
COMMISSION IN THE SAN FRANCISCO CONFERENCE.

1. The Crimea Conference agreed that a Conference of United Nations should be called to meet at San Francisco on April 25th 1945. The purpose of this Conference will be the establishment of a "general International Organisation to maintain peace and security", i.e. "to prevent aggression, and to remove the political, economic, and social causes of war".

2. The punishment of criminals who launched the second world war or who are responsible for war crimes and analogous offences, is one of the essential conditions of future security. These men must be punished and rendered harmless, not only because of the need for justice but because of the need for security as well.

The close connection between international crimes and world security is self-evident.

3. Thus the inter-American Conference in Mexico City, has decided according to the Press, to present the world with a formal international agreement concerning war criminals. The inter-American Judicial Committee sitting at Rio de Janeiro is preparing plans of procedure to extradite wanted criminals, and a definition of war criminals.

According to a report from Mexico City, published in the Daily Herald of March 1st, the Committee proposed to regard as war criminals "Axis leaders and their associates who have caused to be committed", as well as those who actually have committed "heinous crimes" in violation of :

- 1 - The laws of war,
- 2 - Existing treaties,
- 3 - Rules of international law,
- 4 - Penal codes of civilised nations,
- 5 - Concepts of civilised life.

The reporter adds "The fifth point prevents any guilty person escaping trial on a technicality for a crime against humanity, including, for example, Nazi-legalised murder of Jews. It is believed that the adoption here of these resolutions would be the prelude to their inclusion in the agenda for the San Francisco Conference."

4. I think that it is a duty of our Commission to offer the United Nations Conference at San Francisco our collaboration. If the inter-American Judicial Committee takes the initiative - and I fully appreciate it in this respect - then the United Nations War Crimes Commission should with more justification offer their own help, because we are the only official inter-Allied body entrusted with the problem of war criminals.

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SECRET

M.53
Text as amended.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Fifty-third Meeting

held on

21st March, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Major BEHLE and Capt. WOLFF
Mr. OLLHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Lord PINLAU - United Kingdom
Mr. Andrew BAIL - Canada
Dr. LIANG - China
Dr. ECER - Czechoslovakia
accompanied by Dr. BESSM and Dr. FANDERLIK
M. GRIS - France
Mr. DUFT - India
Dr. de MOOR - Netherlands
Dr. GYPHEN - Poland
Dr. RIVARZ - Yugoslavia
accompanied by M. MARUVIC and M. KENIG.

also

Sir Charles GLENNY, K.C.
Lt.-Col. BASSETT
Major HIGGS
Major HERT

MINUTES OF LAST MEETING

These were signed subject to the following corrections:

Page 2, lines 5 and 6: Delete the words "adding that he hoped India
"would soon be one of the Dominions."

Page 4, for first sentence substitute "Colonel HODGSON inquired whether
"the interview or the proposed action would in any way modify or reverse
"any previous actions or decisions of the Commission, and M. de BAER
"replied in the negative."

Page 7, line 9: for 2nd sentence of paragraph substitute "The Dumbarton
"Oaks proposals carefully avoided the use of the wording "sanctions" or
"punitive measures" and only referred to "enforcement action".

Page 8, 3rd and 4th lines from the bottom, substitute "Dr. ECER said

"that he withdrew temporarily proposals B and C, and maintaining in substance proposal A, he modified it by suggesting that the Governments represented on the Commission should be sent, together with the relevant documents, a memorandum explaining what the Commission has already done and what in their opinion is the work that lies ahead."

Page 9, top of page: delete Dr. Ecer's speech.

AUDITING OF ACCOUNTS

The Secretary-General reported that H.M. Comptroller and Auditor General had agreed to audit the Commission's accounts (See M.49, p.5)

RETENTION OF PRISONERS-OF-WAR PENDING INVESTIGATION

The Secretary-General reported that a letter dated 19 March, 1945, had been received from Dr. Ecer, reading as follows:

"I have been instructed to inform the United Nations War Crimes Commission that the Czechoslovak Government has approved the recommendation of February 14th, 1945, called 'Recommendations to the Governments to detain prisoners-of-war pending war crime investigations' - Doc. C.77(1), 15.2.45"

INTERROGATION OF PRISONERS-OF-WAR

The Secretary-General further reported receipt of a letter of 17 March, 1945, from Colonel Hodgson reading as follows:

"In respect of the Commission's recommendation concerning the interrogation of enemy prisoners-of-war (Doc. C.65(2)), I am authorized to inform the Commission that the interested Departments of the United States Government agree with the opinion of the Commission that prisoners-of-war should be interrogated in order to obtain information concerning war crimes; that in some cases prisoners-of-war in United States custody have already been questioned; and that action to determine the most practical means by which information may be obtained from prisoners-of-war is now being taken."

APPROVAL OF LIST NO. 5 CONTAINING THE COMMISSION'S FIFTH LIST OF WAR CRIMINALS, SECOND LIST OF SUSPECTS AND SECOND LIST OF WITNESSES

This document was submitted by the Chairman of Committee I and approved by the Commission.

OTHER BUSINESS OF COMMITTEE I

It was agreed:

- (a) That Committee I would deal next Wednesday with certain adjourned Czech cases as well as new cases;
- (b) That the United States and the United Kingdom representatives

should each be asked to take measures to secure the transmission of copies of the Lists relating to Bulgarian, Rumanian and Italian criminals to the Control Commissions in Sofia, Bucharest and Rome respectively.

EASTER VACATION

It was agreed that after its next meeting the Commission should adjourn till Wednesday, 11th April, unless convened for urgent reasons by the Chairman, but that M. de Baer might convene Committee I for 3 p.m. on Thursday, 5th April, if the state of the work made this desirable.

The Secretary-General was authorised to close the office from Thursday evening, 29th March, to Tuesday morning, April 3rd.

APPOINTMENT OF A "LEGAL OFFICER"

The CHAIRMAN reported that two of the candidates for the post created by the Commission on 28th February, 1945 (M.50, p.2), which he would call that of "legal officer", were persons of very considerable attainments. After consultation with M. de Baer and Lord Finlay he had decided to propose the appointment of Dr. Egon Schwelb. Dr. Schwelb was a Czechoslovak, a Doctor of Law of the Prague University, whose professional activities had been concerned to a considerable extent with questions of administrative and criminal law. From 1934 until a little time before he left Czechoslovakia in 1939 Dr. Schwelb had been an examiner for the Bar Examinations at the Superior Court in Prague, and for seven years he was a member of the Municipal Council of Greater Prague. Among the many public services he rendered his country at that time, he was a member of the Special Investigation Branch of the Czechoslovak Ministry of Finance. After the German occupation of his country he was arrested and imprisoned by the Gestapo, but he managed to escape in August 1939, and he had been living in England ever since. He was one of his country's delegates on the Legal Committee of the London International Assembly and he had been employed by the Czechoslovak Government in various legal capacities throughout the period of his residence in England. In addition he had found time to bring out a very large number of works

of legal importance not only in Czechoslovakia, but also in England, and in the United States.

The Commission decided to appoint Dr. Schwelb.

SECOND PROGRESS REPORT (Doc. C.84) and SECOND PROGRESS REPORT, PART 2 (Doc. C.84a).

Little time for studying these documents having been available, particularly the second, it was decided to limit the discussion to the first document entitled "Second Progress Report", leaving the other document and the final decision to the next meeting.

Certain changes, which will be inserted in the final text, having been made, the Second Progress Report was adopted subject to such modifications as might be necessary as the result of examination of the other document or of the proposal of amendments of importance.

THE PLEA OF SUPERIOR ORDERS (Doc. C.83 and III/8)

Dr. LIANG said that since his report had been resurrected, he wished to say that it expressed his personal views, not necessarily those of his Government, and that he still regarded those views as a practical approach to the problem. He had not tried to lay down concrete rules. Having left for the United States while the subject was still before Committee III he had had no knowledge of the fate of his report.

M. GROS thought Dr. Liang's report very good and considered it was time to discuss it. On page 2 it was said :

"It will be advisable for the War Crimes Commission to recommend that the validity of the plea of superior orders be left to be determined by the national courts of the United Nations according to their own views of the merits and limits of the plea. The Commission could, however, recommend some guiding principle which, without trying to reconcile the divergent national practices and to formulate an absolute rule, would represent the consensus of opinion among the United Nations represented on the War Crimes Commission."

This was a sound proposition and only required to be completed by formulating the principles to be applied,

The CHAIRMAN said this might help military tribunals if such were utilised.

M. GROS agreed. Such tribunals could not all consist of outstanding judges or have experience of trying war crimes.

The CHAIRMAN thought a reporter or committee might frame a formula.

Colonel HODGSON described the course of the discussion of Dr. Liang's report in Committee III. After examining and rejecting the rule of the German Penal Code, the Committee had adopted a rule derived from that contained in Dr. Preuss' Draft Convention for the creation of an International Criminal Court, and thus arrived at the text now before the Commission, to which Dr. Ecer had opposed his dissenting opinion. The Committee's text had been supported on two grounds; firstly, that it could be recommended to the Governments as a rule which was in conformity with International Law and suitable for adoption by them, and secondly, that it could be inserted in the Convention dealing with the Court. But finally Committee III concluded it would be unwise to recommend any rule to the Governments. This purpose was accordingly abandoned. The Committee did send its text to Committee II but it was ultimately thought preferable to abstain from inserting any provision in the convention and leave the court itself to decide in each case what weight should be attached to a plea of superior orders. Colonel Hodgson added that personally he felt to propose a rule could create confusion.

Dr. ECER confirmed Colonel Hodgson's account. He agreed that many Governments had altered their laws. Dr. Liang's report was now more kind to the Nazis than the Czech law in its recently developed form, which was based on the formula adopted by the London International Assembly and set out in his dissenting opinion. If a rule was formulated it could only apply to mixed tribunals and would have to be one in conformity with the majority of the existing national rules.

Lord FINLAY congratulated Dr. Liang on his report but considered no action in the matter to be necessary. The Commission itself would never attach any weight to a plea of superior orders. It would leave that to the trial court. The cases of the United States and United Kingdom showed recommendation of a rule to the Governments to be inexpedient.

Dr. LIANG said he did not differ from Dr. Ecer, having always been against recommending a rule.

The CHAIRMAN considered the fundamental rule to be that obedience to superior orders was not in itself a defence. This fundamental rule was subject to limitations and exceptions to which the accused person could appeal, but they always depended on the circumstances of the particular case. He doubted the possibility of a rule to guide the courts in their appreciation of the effect of the plea in all the manifold cases which might arise. He would prefer to leave the subject alone. The Commission might report to the Governments that it found it impossible to propound any rule covering all the various circumstances in which the fact of having acted in obedience to the orders of a superior would exculpate an accused or mitigate his offence.

The discussion was adjourned.

Wright

SECRET

M.54
4th April, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of the Fifty-fourth Meeting

held on

28th March, 1945.

Chairman: Lord WRIGHT - Australia

There were also present:

Lt. Col. HODGSON - United States of America
accompanied by Major BEHLE and Capt. WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Lord FINLAY - United Kingdom
Dr. LIANG - China
M. GROS - France
Sir David MEEK - India
accompanied by Mr. DUTT
M. STAVROPOULOS - Greece
Dr. de MOOR - Netherlands
Dr. CYPRIAN - Poland
M. MARKOVIC - Yugoslavia

also

Lt.-Col. BASSETT
Major HICKS & Major SMITH
Major HETT.

MINUTES OF THE LAST MEETING

These were signed subject to the following amendments:

Page 1, line 9 - The amendment in the minutes of the previous meeting should read: "The Dumbarton Oaks proposals carefully avoided the use of the wording 'sanctions' or 'punitive measures' and only referred to 'enforcement action'".

Page 3 - On the proposal of Mr. Oldham who pointed out that Dr. Schwelb's appointment marked the beginning of the process of giving the staff an international character, the Secretary-General was requested to include in the new issue of the last meeting's minutes (see below) a brief account of Dr. Schwelb's qualifications and career.

Page 3, last line - For "not those of his" read "not necessarily those of his".

Page 4 - Delete from the words "since some of them" to the end of the sentence on the next page.

METHOD OF CIRCULATING THE MINUTES.

It was decided that the minutes of the last meeting should be circulated in a new edition containing the amendments and that henceforth

a) a copy of a first draft of the minutes should be circulated to each delegation for revision;

b) a full issue of the final text containing any amendments that had been made should be effected after the minutes had been approved.

SECRETARY-GENERAL'S STATEMENT

Absence of Canadian representative.

The SECRETARY-GENERAL conveyed to the Commission Mr. Bell's apologies for his absence which was due to his being obliged to go to another meeting at which his attendance was necessary.

Far Eastern and Pacific Sub-Commission

The SECRETARY-GENERAL said that the minutes of the 4th meeting of the Sub-Commission had been received and would be circulated as soon as possible.

Polish Government's approval of the Recommendations contained in Document C.77(1)

The SECRETARY-GENERAL read a statement from Dr. Cyprian to the effect that the Polish Government had "adopted the recommendations concerning the identifying of the war criminal among the prisoners of war and all other recommendations, contained in the Doc. C.77(1)".

THE PLEA OF SUPERIOR ORDERS.

Dr. LIANG presented a draft Report to the Governments on this subject which was adopted with two verbal amendments in the form shown in Document C.86.

SECOND PROGRESS REPORT

No further changes were made in the first three pages of the draft of this Report which had been circulated at the last meeting.

Mr. OLDHAM presented a text of the remaining pages in which certain amendments and insertions had been made in order to take account of the suggestions contained in Dr. Böer's draft "Part 2" (Doc. C.84(a)).

This text was adopted with certain verbal changes.

The whole Report in its amended form was then adopted.

COMMUNICATION TO THE PRESS

The CHAIRMAN laid before the Commission the text of a Communication to the Press. He understood from members familiar with the situation that it was desirable to forestall further criticism of the Commission by issuing such a statement.

Colonel HODGSON said the first draft of the communication had been prepared by himself at the request of the Public Relations Committee, and with the assistance of Lord Finlay and Mr. Oldham. The draft had then been submitted to public relations experts at the Ministry of Information, and the text before the Commission was entirely the work of the Ministry with the exception of the first paragraph.

After some discussion the Communication, with some amendments to secure greater accuracy, was approved for issue to the Press subject to the consent of Colonel Elwes of the War Office Prisoners of War Department and of Brigadier Foster on behalf of S.H.A.E.F. *

LETTER FROM SIR DAVID MEEK ENCLOSED A PLAN FOR A REPORT ON THE COMMISSION'S WORK.

In reply to the CHAIRMAN, Sir David MEEK said that as the result of adoption of the Second Progress Report the proposals submitted in the letter were withdrawn.

COMMUNICATION OF THE FOURTH LIST OF WAR CRIMINALS (JAPANESE) TO THE U.S. MILITARY COMANDERS AND JUDGE ADVOCATES IN THE FAR EAST.

Mr. OLDHAM asked for the Commission's authority for the United States member (Colonel Hodgson) to be approached with a view to the

* These consents were obtained and the Communication issued on 29th March, 1945.

transmission of the Fourth List of War Criminals (Japanese) to the United States military commanders and their Judge Advocates in the Far Eastern and Pacific Areas. The Australian Government would greatly appreciate this action by the United States military authorities.

The Commission unanimously agreed to the approach being made, and Colonel HODGSON indicated that he would request his Government to transmit copies of the Fourth List to the said authorities.

REVISION OF INSTRUCTIONS TO NATIONAL OFFICES.

Major BEHLE said Committee I had approved a revised text of Document C.7(1) which would be circulated for discussion by the Commission at a later date.

EVIDENCE OF "DISPLACED PERSONS" ON THE SUBJECT OF WAR CRIMES

Colonel BAIBETT informed the Commission that recommendations were being made with a view to securing interrogation and detention of 'displaced persons' able to give information about war crimes.

Colonel HODGSON said he was glad to have this information.

Wright
18 Apr. 45.

SECRET

C. 86
29th March, 1945

UNITED NATIONS WAR CRIMES COMMISSION

REPORT TO THE GOVERNMENTS ON THE PLEA OF SUPERIOR ORDERS.

Submitted by Dr Liang and adopted by the Commission on 28th March, 1945.

When drafting the Convention for the Establishment of a United Nations War Crimes Court, the Commission carefully considered the question whether any provision should be inserted on the subject of the plea of superior orders. The conclusion which it reached was set out in the explanatory memorandum distributed with the draft convention (Doc. C.58) and was as follows :

"The Commission has considered the question of 'superior orders'. It finally decided to leave out any provision on the subject for the same reason as that for which it left out the detailed list of war crimes. The Commission considers that it is better to leave it to the Court itself in each case to decide what weight should be attached to a plea of superior orders. But the Commission wants to make it perfectly clear that its members unanimously agree that in principle this plea of itself does not exonerate the offender."

The Commission has now considered the further question whether it should attempt to lay down any principle or rule for the guidance of national courts trying cases of war crimes in which the plea of superior orders is raised. Having regard to the fact that many, if not most, of the member States have legal rules on the subject, some of which have been adopted very recently, and that in most cases these rules differ from one another, and to the further consideration that the question how far obedience to the orders of a superior exonerates an offender or mitigates the punishment must depend on the circumstances of the particular case, the Commission does not consider that it can usefully propound any principle or rule.

The Commission unanimously maintains the view which it expressed in connection with the United Nations War Crimes Court that the mere fact of having acted in obedience to the orders of a superior does not of itself relieve a person who has committed a war crime from responsibility.

*Wright
18 Apr. 45.*

SECRET

C.84
29th March 1945

UNITED NATIONS WAR CRIMES COMMISSION

SECOND PROGRESS REPORT

Adopted by the Commission on 28th March, 1945

The present report is a continuation of the First Progress Report Doc. C.48(1)) which was adopted by the Commission on 19th September, 1944, for presentation to the member Governments. It deals with the progress and development of the Commission's work since that date.

ISTORY

On 4th January, 1945, Sir Cecil Hurst was obliged by ill-health to resign his position of United Kingdom representative and thus ceased to be Chairman. The Right Hon. Lord Wright, representative of Australia, was elected as his successor in the Chair on 31st January, 1945.

A welcome increase in the membership of the Commission has occurred through the decision of the Government of the Dominion of Canada to be represented upon it. The first meeting at which the Dominion was officially represented was that of 14th March, 1945. For some weeks previously the Commission's proceedings had been followed by a Canadian observer.

Liaison has been established with the G.I. and G.5 Branches of the Supreme Headquarters of the Allied Expeditionary Force, the Control Commission for Germany (British Element) and the U.S. Group C.C., and steps are being taken to extend these contacts to all agencies concerned.

The Governments represented on the Commission and their representatives are at present as follows:

Australia	The Rt. Hon. the Lord Wright (Chairman)
Belgium	M. de Baer
Canada	The Rt. Hon. Vincent Massey
China	H.E. Dr. V.K. Wellington Koo
Czechoslovakia	Dr. B. Ečer.
France	Professor André Gros
Greece	M. C. Stavropoulos
India	Diwan Bahadur Sir Samuel Runganadhan
Luxembourg	M. A. Clasen
Netherlands	Dr. J.M. de Moor
New Zealand	Mr. C.B. Burdekin
Norway	(No representative at present)
Poland	Dr. T. Cyprian
United Kingdom	The Rt. Hon. the Viscount Finlay
U.S. of America	Lieut.-Colonel J.V. Hodgson, J.A.G.D.
Yugoslavia	M. Zivković

INVESTIGATION OF WAR CRIMES

The Commission is an international body representing sixteen United Nations Governments. In the investigation of war crimes it embodies the impartial decision of these Governments that there is a case justifying apprehension of the accused by the arresting authorities who are thus not called upon to act upon ex parte statements of a single Government. The Commission in this particular proceeds in a manner somewhat similar to that of a committing magistrate; its acts are the expression of the joint will of the Governments that justice shall be done.

In performing its function of investigating and recording the evidence of war crimes, the Commission's method continues to be primarily that described in the First Progress Report. The National Offices set up at its request by the member Governments submit evidence which is examined by the Commission with the assistance of a representative of the Office. This process is inevitably hampered by the difficulty of obtaining precise information from Allied territories which are still in enemy occupation, and last autumn discussions took place in the Commission as to whether its responsibilities made it desirable to adopt additional methods in carrying out its work.

As soon as possible after the enemy was expelled, the French Government took the lead in establishing an admirable system for the investigation of war crimes throughout the country, and the other Governments in the same position are following the same course. Moreover, the Australian Government presented cases against Japanese War Criminals which arose in the Pacific area. There has thus been a great change in the situation and a considerable increase in the inflow of information to the Commission.

This change, however, does not exonerate the Commission from the responsibility of making every effort to improve its machinery for the investigation of war crimes. With this object it decided on 20th December, 1944, that it would add to its staff a Central Investigation Officer who would in due course be provided with the necessary assistants and whose functions are defined as follows:

"It is recommended that in view of the increase in the number of cases which may be expected, and of the further fact that in many instances the work of the National Offices will be carried out from their own countries, and not from London, close contact between the Commission and the National Offices should be maintained where necessary, by the appointment by the Governments of officials for the purpose, or in some other appropriate way.

"In view of the developments contemplated in the preceding paragraph, the Commission decides that a Central Investigation Officer be appointed at the headquarters of the Commission for the purpose of assisting the National Offices at their request in the investigation of war crimes, of collecting evidence which is available to the Commission in order to transmit it to the National Offices and of co-ordinating evidence.

"The Central Investigation Officer will be directly responsible to the Commission."

(Docs. M.43. pp.1-4, and C.66(1)).

The Commission, for its own purposes, has prepared reports concerning the systematic and deliberate criminal character of the German actions in the occupied countries. These have been made available on request to the National Offices of the member Governments.

The staff of the Commission has been enlarged to provide assistance in the screening of charges before they are examined by the Commission and in the discharge of the Commission's function to investigate war crimes.

Not only is the Commission charged with the investigation and recording of evidence of war crimes, but it has the duty of reporting to the Governments concerned cases in which it appears that evidence might be expected to be forthcoming sufficient to justify, in its opinion, the apprehension and trial of those responsible.

The following Lists have been presented for appropriate action:

In December 1944: First List of War Criminals (Germans) - Charges by Belgium, Czechoslovakia, France, Greece, Luxembourg, Netherlands, Norway, Poland, United Kingdom, Yugoslavia.

Second List of War Criminals (Italians) - Charges by France, United Kingdom, Yugoslavia.

In March 1945: Third List of War Criminals (Germans) - Charges by France, Netherlands, Norway, Poland, United Kingdom, Yugoslavia.

Fourth List of War Criminals (Japanese), together with List of Suspects and List of Witnesses - Charges by Australia.

Fifth List of War Criminals (Albanians, Bulgarians, Hungarians, Italians and Rumanians) - Charges by France, United Kingdom, and Yugoslavia - with which are included the Second List of Suspects listed on charges formulated by the Commission itself and the Second List of Witnesses.

The Lists of War Criminals consist primarily of the names or descriptions of individuals believed to have committed or to be responsible for a war crime as to whom the Commission is satisfied that there is, or will be at the time of trial, sufficient evidence to justify a prosecution. The persons appearing on them are to be apprehended and surrendered to the appropriate authority. The Commission has, however, also applied the principle that wherever a crime has been committed by a unit or detachment of a larger organisation, acting in concert, and, after investigation, the identity of the offenders has not been ascertained, membership in such unit or detachment at the time of the crime constitutes *prima facie* evidence of participation therein, and that all members of such unit or detachment may be charged with responsibility, and will be listed as accused war criminals.

The List of Suspects and List of Witnesses which accompany the third of the above lists mark a new and necessary departure in the Commission's procedure. They are the object of a Recommendation to the Governments adopted by the Commission on 7th March, 1945 (Doc. C.82), which asks that all necessary instructions may be given to ensure:

(1) The taking into custody of the individuals and units named in the Lists of Suspects and their maintenance in custody until it has been possible to identify the persons who should be handed over for trial as war criminals;

(2) The maintenance of contact with the persons named in the Lists of Witnesses until their evidence has been taken, and the taking of measures to protect them against other enemy nationals;

(3) The maintenance in custody, if they are prisoners of war, of persons named in the Lists of Witnesses until their evidence can be taken and, in proper cases, segregation of such witnesses from other enemy nationals who are in custody.

Finally, the Commission on 14th March, 1945, resolved "to include in its Lists charges formulated by itself and to recommend that the Agencies apprehending the persons charged shall, if necessary, apply to the Commission for instructions as to their disposal." (Doc. M.52, p. 2). This procedure is intended to apply to cases in which for some reason evidence of a war crime is obtained by the Commission without being brought before it by the National Office of a Government, but it is nevertheless probable that when the time comes there will be a Government able and ready to prosecute the

accused. An example is furnished by German crimes against Italians.

In respect of major criminals whose crimes have no geographical location who are referred to in the Moscow Declaration of 1st November, 1943, the Commission on the 26th September, 1944, unanimously decided that they should be included in its lists of war criminals without waiting for the initiative of any one Government on the matter. It was felt that their activities were sufficiently well-known to warrant the inclusion of their names on the Commission's lists (Doc. M.33, p. 5). Accordingly, their names have appeared in the Commission's List as persons about whom it is collecting evidence (List No. 1, Introduction, paragraphs 4 and 5). In many cases, the same persons are wanted for trial by particular United Nations. On 7th March, 1945, the Commission decided to issue a separate List or Lists of these criminals, accompanied by schedules of the crimes of which they can be accused (Doc. M.51, p. 3).

ACTION ON RECOMMENDATIONS MENTIONED IN THE FIRST PROGRESS REPORT (pp. 2 -

Some member Governments (Belgium, Czechoslovakia, Netherlands, Norway) have been able to give effect to the Recommendation that they should supply the Commission with Lists of enemy military and civil persons in authority in their occupied districts (Doc. C.21). This information has been transmitted to the Supreme Headquarters Allied Expeditionary Forces.

The recommendation regarding the insertion in the various armistices (terms of capitulations) granted to the various Axis Powers of clauses to ensure the surrender of persons wanted for trial as war criminals (Docs. C.31 and C.34) has been submitted for consideration to the European Advisory Commission (See Doc. C.68 - Letter from Mr. Eden to Sir Cecil Hurst, p. 2).

PUNISHMENT OF CRIMES COMMITTED IN ENEMY TERRITORY.

With regard to the punishment of crimes committed in enemy territory on racial, political or religious grounds, Sir Cecil Hurst, on behalf of the Commission, stated in a letter to Mr. Eden on the 31st May, 1944 (C.23(1)):- "The Governments of the United Nations may already have in view some plan for bringing the authors of these crimes to justice, but if that is not the case, it is right that you should know that the Commission is prepared to take up this work if, by so doing, it can assist the Governments of the United Nations."

Replying in letters dated 23rd August, 1944, and 9th November, 1944, respectively, the Lord Chancellor and Mr. Eden expressed the view that the Commission should not take up the extra work although they wished to make it clear that it was not desired to preclude "the Commission from collecting any evidence which they feel would be of value in relation to the general extermination policy which has undoubtedly been carried out in occupied territory in circumstances which constitute war crimes".

On the 31st January, 1945, Mr. Law stated in the House of Commons that the United Kingdom Government would do their utmost to ensure that the crimes would not go unpunished and that the authorities in post-war Germany should mete out to the perpetrators the punishment which they deserved.

Amplifying Mr. Law's statement, Lord Simon declared in the House of Lords on the 20th March, 1945, that the United Kingdom Government did not contemplate that the tribunals would be composed of Germans "but that upon the defeat of Germany the Allies will set up the organisation and the tribunals under which such process might take place."

TRANSFERS OF WAR CRIMINALS.

The member Governments are understood to have under consideration the Convention for the Surrender of War Criminals and other War Offenders which with an explanatory memorandum was adopted by the Commission on August 29th, 1944 (Doc. C.47). The following Governments have already indicated their approval, namely, Czechoslovakia and Yugoslavia.

TRIBUNALS FOR THE TRIAL OF WAR CRIMINALS.

The Commission's proposals on this subject are discussed on pages 3-4 of the First Progress Report, but at the date of the Report the texts embodying them had not been finally adopted by the Commission.

On September 26th, 1944, the Commission adopted the text of a draft Convention for the Establishment of a United Nations War Crimes Court (Doc.C.50(1)), and on October 6th it adopted an explanatory memorandum which was to accompany the draft (Doc. C.58).

On October 3rd, the Commission adopted a Recommendation for the Establishment by Supreme Military Commanders of Mixed Military Tribunals for the trial of War Criminals (Doc.C.52(1)), together with Suggestions to accompany the Recommendation for the Establishment of Mixed Military Tribunals (Doc. C.59).

The institutions above mentioned are, of course, intended only to deal with war criminals who in virtue of a decision of the United Nations or for reasons of convenience or other grounds are not tried before National Courts.

The Commission directed that the above draft Convention and draft Recommendation should be transmitted to the Secretary of State for Foreign Affairs in the United Kingdom by a letter from the Chairman. The last paragraph of this letter expresses the Commission's unanimous hope that the Secretary of State "would be so good as to take the necessary steps to convene in the near future a diplomatic conference to consider and, if thought fit, to conclude a Convention for the Establishment of a United Nations War Crimes Court." In reply to this invitation, Mr. Eden's letter to Sir Cecil Hurst on 4th January, 1945, reproduced in Document C.68, after referring to certain difficulties felt by the United Kingdom said:

"It should be plain, however, that this is not a matter in which His Majesty's Government would desire, even if it were possible, to adopt a definite position without previous consultation with the Government of the United States, particularly as the military operations in Western Europe are on a joint basis and the Supreme Command is now in the hands of an American general. Moreover, until the two Governments had reached, at any rate in principle, some conclusion as to the desirability of establishing an inter-Allied Court by treaty it was obviously impossible to pursue the suggestion made in your letter for the convocation of a conference to negotiate such a treaty. The matter has accordingly been the subject of full consultation with the Government of the United States, and as soon as the views of the two Governments have been definitely formed it is the desire of His Majesty's Government that the other Allied Governments concerned should be approached with a view to consultation as to the measures to be adopted."

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INTERROGATION AND DETENTION OF PRISONERS OF WAR.

On 18th January, 1945, the Commission recommended that Prisoners of War be interrogated regarding war crimes (Doc. C.65(2)). A companion Recommendation of 14th February, 1945, recommended the detention of Prisoners of War after cessation of hostilities pending investigations of war crimes (Doc. C.77(1)).

PUBLICATIONS ON THE SUBJECT OF WAR CRIMES.

Without prejudice to the policy mentioned in the first Progress Report (p. 4) of eventually publishing reports on special classes of war crimes authenticated by evidence obtained in actual trials of war criminals, the Commission has under consideration the preparation for publication of popular accounts of certain types of war crime for the purpose of impressing upon the public the widespread and calculated nature of the atrocities committed by the Axis forces in this war and the necessity for the punishment of war criminals.

FAR EASTERN AND PACIFIC SUB-COMMISSION.

The Sub-Commission held its inaugural meeting on 29th November, 1944. The Governments represented on the Sub-Commission are those of Australia, Belgium, China, Czechoslovakia, France, India, Luxembourg, Netherlands, Poland, United Kingdom, and United States. Dr. Wang Chung-hui, the Chinese representative, was elected Chairman. The Sub-Commission has now commenced the examination of Chinese charges against Japanese war criminals.

In response to a request for its opinion, the main Commission on 7th February, 1945, decided to inform the Sub-Commission that in its view the establishment of that institution does not preclude the creation of other branches of the Commission, that, subject to their terms of reference, neither the Commission nor the Sub-Commission are restricted in the scope of their work or their power of initiative and that the Sub-Commission should not limit its investigation to war crimes committed after a particular date but that it should consider each case on its own merits. (For the text of this opinion, see Doc. M.47, p. 2 (a)).

FUTURE ACTIVITIES.

In respect of the future work of the Commission, it is believed that the primary task will be the investigation of war crimes, including the forwarding of the names of war criminals to the appropriate authorities for apprehension. The task will indeed be a colossal one. As the various overrun countries are liberated and as Germany and the other Axis countries are occupied, the flow of information to the Commission is bound to increase. The Commission has this matter very much in mind and it is taking steps to supplement its own machinery so that it may efficiently cope with the work that lies ahead. It must never be forgotten that with the cessation of hostilities in Europe the responsibility of the majority of the members of the Commission with regard to the Pacific War continues.

While, no doubt, there remains much to be done as to advising the Governments in regard to matters of policy, it is felt that the major part of the Commission's activities in this sphere have now been completed. Reference is made in the earlier portions of this Report to the recommendations which have been made. It is understood that discussions are at present proceeding between certain of the Governments with regard to a number of these recommendations. Moreover, as was pointed out by Lord Simon in a statement in the House of Lords on the 20th March, the subject of the major war criminals is to be dealt with by the American, British and Soviet Foreign Ministers at their next meeting.

The Chairman of the Commission, when he assumed office on the 31st January, made known in the course of a public statement his view that close co-operation with the Russian Extraordinary State Commission was very desirable. Both Commissions were working with the same end in view, and in his view their approaches to the common problem were not radically different. In addition, Lord Wright stated in the course of the House of Lords Debate on the 20th March: "In particular, however, I should very much desire to get into contact with the Russian organisation for dealing with war criminals. There is no possibility now, as I gather, of their becoming members of the Commission or members of an enlarged Commission. There are diplomatic reasons, I understand, which would make that impossible, but I see no reason at all why there should not be an intercommunication of counsel, advice and information, and I am doing what I can to bring that about." Supporting Lord Wright's view, Lord Simon stated:- "On this subject I noticed the very important observations of Lord Wright, that he would like to feel he was in closer touch with the Soviet tribunals. I agree with him."

CONCLUSION.

In reporting the progress and development of the Commission an effort has been made to point out only the more important items which are included in the work of the Commission and its Committees as set forth in detail in several several pages of documents.

Such a report can do no more than suggest the credit which the present members of the Commission feel is due to many who, often unofficially, have assisted in making possible the work accomplished. Suffice it to say that the continued co-operation of all concerned in those many problems involving war crimes is essential, and the help of those who must join in the task as the hour of retribution nears both necessary and welcome.

Nor does the Commission feel that details as to its future programme should burden an already lengthy document. With full realisation that time is running out, a survey is now being made to determine the extent of the investigation of war crimes effected to date. The Commission plans to continue to take whatever steps are within its competence to assure full, complete and impartial investigation of all war crimes. It will continue to advise the Governments of cases which appear to justify apprehension and trial of accused war criminals.

Finally, in matters where direct action is not the responsibility of the Commission, additional Recommendations will be made to the Governments to the extent deemed necessary or advisable, or upon request of proper authorities. In this connection it is ventured that the information and experience of the Commission, resulting from more than a year's study of reports of hundreds of offences and the various problems involved, may be of assistance when steps are taken affecting international law in this field.

To punish war criminals and to render them harmless is not only in the interest of justice, but in the interest of world security in general. It would be impossible to ensure lasting peace and world security without due punishment of men whose ambition was and still is to plunge the world into wars and to commit atrocities against peaceful nations. From this point of view the work of the Commission is more than simply to assist justice; by fulfilling its task the Commission is assisting world security.

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April, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of the Fifty-fifth Meeting

held on

11th April, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Lt.-Col. BEHLE
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de RAER - Belgium
Lord FINLAY - United Kingdom
Mr. Andrew BELL - Canada
accompanied by Wing Commander HOPKINS
Mr. WUNSZ KING - China
accompanied by Mr. DAO
Dr. EOER - Czechoslovakia
accompanied by Dr. FANDERLIK and Dr. MAYR-HARTING
M. GROS - France
Mr. LUTT - India
Dr. de MOOR - Netherlands
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland
M. MARKOVIC - Yugoslavia

also

Brig.-General WEIR (United States War Crimes Office)
Lt.-Cmdr. LATTA " "
Lieut. RAINY " "
Lt.-Col. BASSETT (Control Commission)
Major MARVE " "
Major SMITH " "

MINUTES

The Minutes of the 53rd meeting as amended were signed by the Chairman. As no amendments were submitted to the draft Minutes of the 54th meeting, these were approved and copies will be circulated to all members of the Commission in due course.

SECRETARY-GENERAL'S STATEMENT

Approval of Docs. C.65(2) and C.77(1) by the United Kingdom and of the latter document by the United States and India.

The Secretary-General reported the receipt of a letter dated

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28th March, addressed to Lord Finlay by the United Kingdom Foreign Office and relating to the Commission's Recommendation regarding the Interrogation of Enemy Prisoners-of-War (Doc. C.55(2)). This letter stated that:

"The Departments of His Majesty's Government concerned have considered the Recommendation and have arrived at the following conclusions:

"It is not considered practicable to instruct interrogating officers to adopt the proposed questionnaire in every particular or in every individual examination. His Majesty's Government consider, however, that the proposed questionnaire could with advantage be used as a basis in the interrogation of prisoners-of-war and interrogating officers are accordingly being instructed to bear in mind the points enumerated in it."

He also reported receipt of a second letter of 28th March from the United Kingdom Foreign Office to Lord Finlay relating to the Commission's Doc. C.77(1) - Recommendations to the Governments to detain prisoners-of-war pending war crimes investigations. This letter stated that:

"This paper has now been considered by the Foreign Office and other Departments concerned and the following conclusions have been reached:-

- (i) H.M.G. agree with recommendation (a) and steps have already been taken to put it into effect;
- (ii) H.M.G. agree in principle with recommendation (b) and will, wherever practicable, put it into effect;
- (iii) As regards recommendation (c), H.M.G. do not think it necessary that the suggested clause should be inserted in the Terms of Surrender. The military authorities will have power to detain any prisoner of war as long as they wish."

The Secretary-General further reported receipt of a letter from Colonel Hodgson, dated April 4th, the terms of which were as follows:

"Reference is made to Commission Document C.77(1), containing recommendations to detain prisoners of war pending war crimes investigations, and your covering letter of February 15, 1945, in which the hope is expressed that if the recommendations are approved appropriate instructions for their application will be issued as soon as conveniently possible.

"The Commission is informed that the interested departments of the United States Government agree in principle with the Commission's recommendations contained in the mentioned Document C.77(1), and that steps which have been taken and those in contemplation are believed sufficient to obtain the objectives desired by the Commission."

Finally, he reported receipt of a letter of 9th April from Sir David Meek, stating:

"I am directed to refer to your letter of 15th February and to say that the Government of India approve the recommendations contained in Document C.77(1), and have issued instructions contained in sub-paragraphs (a) and (c)(1) of paragraph 9 of the document."

ORGANISATION OF LUXEMBOURG NATIONAL OFFICE

The SECRETARY-GENERAL reported the receipt of a letter from Mr. Clasen advising the Commission of the establishment of the Luxembourg National Office under the name of "National Office for the Investigation of German Atrocities in Luxembourg". He said that Mr. Clasen's letter showed that the office was still in process of being organised.

ATTENDANCE

Mr. DUTT conveyed the regret of Sir David Meek at being unable to attend the meeting owing to indisposition.

REPORT OF COMMITTEE I

M. de BAER announced that the Committee would next week complete its discussion of the cases to be dealt with in the next List of War Criminals and the list would then be prepared by the Secretariat.

ARTICLE IN THE "EVENING NEWS"

The CHAIRMAN called Dr. Ecer's attention to an article in the "Evening News" of 9th April, 1945. It purported to be based on a statement in the semi-official Czech journal "Czechoslovak" which bore Dr. Ecer's signature and it alleged that in that statement he had made serious charges against unnamed members of the United Nations War Crimes Commission and against persons closely connected with it. An attempt to have the statement translated by Dr. Schwelb had been made but only parts of it were available. It would be a serious matter if the statement really did charge members of the Commission with the intention or design of obstructing the Commission's work. He was obliged to ask Dr. Ecer if in the statement he had made such charges.

Dr. ECER said he had not done so. He was sorry about the incident

but for the moment all he could say was that he was not the person who submitted the statement to the editor of "Czechoslovak". As the journal was a semi-official publication under the control of a department of his Government, he must consult the Government before making a further statement. He was not evading the issue. He promised to make a statement at the next meeting of the Commission. Meanwhile - and this was only a private suggestion - he thought it would be useful for the members of the Commission to read the full text of the statement published in the "Czechoslovak" because it had been grossly distorted by certain Press agencies.

The CHAIRMAN said the Commission had done what it could to ascertain the contents of the statement in the "Czechoslovak". Dr. Schwelb had picked out all the parts which appeared to be material. Dr. Eeer had categorically denied that he had made charges against members of the Commission and declared that the "Evening News" article was inaccurate, and Dr. Schwelb had not found any charges against Commission members in the statement in the "Czechoslovak". The Commission desired that Dr. Eeer should issue a statement to the Press to the effect that he had never made any charges against any member named or unnamed and that the "Evening News" allegation that he had done so was false.

Dr. EECER said that if the members of the Commission could read the full text of the statement they would find it expressed great appreciation of the Commission's work. He was not responsible for what had appeared in the Press but he was ready to publish a statement that it was inaccurate.

The CHAIRMAN, after suggesting that Dr. Eeer should show the statement he proposed to make to some of the Commission's members, said that a second point arose. Article 3, Rule 14, of the Commission's Rules provided that "Members of the Commission are requested to refrain from making public statements on subjects under discussion or within the possible powers of the Commission without the express

"approval of the Commission". The statement in the "Czechoslovak" in the parts which he had read in translation infringed that provision, and he felt the Commission would wish the attention of the Czechoslovak Government to be drawn to the matter, as the Commission must insist that the provision should not be infringed.

Dr. ECER said he left it to the Chairman to take any steps he wished. He pointed out that another Government had on January 4th, 1945 published a statement dealing with many matters which had been discussed by the Commission. The Czech Government could not, simply because it was the Government of one of the smaller nations, be put on a different footing.

The CHAIRMAN supposed Dr. Ecer would agree that if the statement in question contained matter which he had communicated to the Czech Press, it would violate Rule 14.

Dr. ECER said that would have been so, if he had published the statement himself. He could not admit that it could be an infringement of the Commission's Rules for his Government to publish its opinions about the Commission.

The CHAIRMAN said he understood the statement was published under Dr. Ecer's name without his sanction.

Dr. ECER said he must refrain from any further statement until the Commission's next meeting.

The CHAIRMAN said he understood Dr. Ecer not to object to his informing the Czech Government of what had occurred; it could decide whether to take any action against the Press, or otherwise.

On Lord FINLAY'S proposal, it was decided that a translation of the statement in the "Czechoslovak" should be circulated to the Commission.

WELCOME TO REPRESENTATIVES OF THE UNITED STATES AND CANADA

Colonel HOLGSON introduced Brigadier General John M. Weir, Director of the United States War Crimes Office, Lieutenant Commander Harold K. Latta and Lieutenant Robert M. Rainey, Jr.

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The two last-named were from the United States Navy, and also attached to the War Crimes Office. These gentlemen had kindly offered to act with him for the purpose of examining naval crimes and matters in respect of the Navy, and would be in close contact with the members of the Commission. The CHAIRMAN welcomed them all on behalf of the Commission and added that he had heard of General Weir ever since he had been connected with the War Crimes Commission.

The Chairman also said that he was happy to see Wing Commander Hopkins at the meeting. The Wing Commander was at the meeting as an observer from Canada, who would in due course carry back with him a report as to how the Canadian Government could most effectively co-operate in the work of the Commission.

AMENDMENT OF DOCUMENT C.87.

It was decided to adjourn this discussion pending circulation to the members of the amendment proposed by the United States representative.

COMMUNICATION OF COMMISSION'S DOCUMENTS TO MILITARY AUTHORITIES OTHER THAN S.H.A.E.F.

Mr. OLDHAM referred to previous authorisations by the Commission whereby the U.S. representative had distributed copies of the official Lists to U.S. Theatre Commanders and Theatre Judge Advocates in all U.S. theatres of occupation, as well as to U.S. representatives on Allied Control Commissions and other U.S. offices. He now asked for the Commission's authority for Colonel Hodgson to send copies of the Lists to the European and Mediterranean Provost Marshals and Assistant Chiefs of Staff, G.2, and U.S.A.F.

It was also agreed that Lord Finlay should take all possible steps to communicate the Commission's Lists to British military headquarters other than S.H.A.E.F.

COLLECTIVE RESPONSIBILITY FOR WAR CRIMES
(Professor Gros' Memorandum, C.85)

M. GROS reminded the Commission that when he had last raised in the Commission the question with which his memorandum dealt, it had been referred to Lord Wright's Legal Committee. The latter after

some discussion had referred it back to the Commission. It was for this reason that he had circulated the memorandum which argued that the Commission, faced with a unique phenomenon of crime in the mass, a phenomenon new in law and new in history, could not evade the problem of finding some new method of fixing guilt upon and punishing the whole mass of perpetrators of such crime. Since it could not have been foreseen, existing penal laws were necessarily inadequate to solve this problem. If the Commission accepted the memorandum, it should unanimously adopt a recommendation to the effect that the United Nations had the right to follow the suggestions which the memorandum contained.

The CHAIRMAN asked if M. Gros wished to have membership of the Gestapo declared to be a war crime.

M. GROS replied in the negative. In cases where Gestapo or S.S. formations were involved in crimes, the fact of membership should be treated as raising a presumption of guilt.

M. de BAER, while agreeing with the principles of the memorandum did not believe any results could follow from the Commission's recommending special legislation to create the presumption desired by M. Gros. Such a presumption was too contrary to sound principles of justice. The presumption was not necessary in practice. In the case of Cradour mentioned by M. Gros the known facts were sufficient in themselves to raise a presumption of guilt for all the members of the units concerned, and Committee I had acted on this principle. He was circulating a paper on the subject to the Commission. As regards the conception of associations of criminals, it existed in the law of Belgium as well as of France, but it would be dangerous for the War Crimes Commission to declare the whole of the Gestapo and certain S.S. formations to be organisations of criminals until it was perfectly certain that the bodies which it so described really had that character. He suggested that Dr. Schwelb should as a matter of urgency, prepare a fully documented report as a basis for such a declaration.

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Colonel HODGSON was grateful to M. Gros for his very fine memorandum. The subject had been under consideration for six to eight months. Dr. Ecer's report and the work of Committee I provided a great deal of evidence of the criminal character of the Gestapo and analogous organisations and he felt that the time had come when, on this basis, the Commission could make a finding of fact that the Gestapo and other organisations were associations of criminals and not mere police or military formations. He could venture no opinion on the position under French law. It would be helpful if other Governments would also circulate their relevant penal legislations in translation. He did not agree with M. de Baer's view, except as regards the need for taking care in dealing with the S.S.

General WEIR said that the study which the U.S.A. authorities had given to the question had convinced them that the Gestapo was a criminal organisation but that this was not true of all the S.S. formations.

Dr. ECER strongly supported M. Gros. He had put forward the same ideas a year ago. He was in favour of recommending that the countries whose law did not include the conception of associations of criminals should legislate to that effect and also treat membership of the Gestapo as raising a presumption of guilt as regards crimes with which the individual in question might be suspected of being connected. Dr. Schwelb should be asked to make a report. Furthermore, the Commission ought to be ready to accept as valid a charge of being a member of the Gestapo, where this was a crime under the national law of the accusing country. The final decision in every case rested with the national courts.

The CHAIRMAN asked if Dr. Ecer meant that mere membership of the Gestapo was a crime justifying the listing of the accused and Dr. ECER replied that this was so, if the accusing Government's legislation treated such membership as a crime.

Dr. de MOOR had read M. Gros' memorandum with interest but did not agree that the case was one of collective responsibility. Collective responsibility meant that all the members of a group were responsible for crimes of which some only of them were guilty. This was not the result which the Commission wanted. What it needed was a means of facilitating the establishment of the guilt of persons who were actually guilty. He thought that Dr. Schwelb should make a report covering all the ground.

Some further discussion followed, in the course of which Dr. CYPRIAN asked that Dr. Schwelb should carry his report back into the history of the Gestapo and S.S. This history showed that these organisations were criminal organisations before they became organs of the German state.

It was decided to adjourn the debate and Dr. Schwelb, with the assistance of such members as might be able to help him, was instructed to report on the history, constitution and operation of the Gestapo, the S.S. and the S.A.

The members of the Commission were requested to furnish to Dr. Schwelb translations of their relevant national legislation.

LETTER FROM DR. EGER TO THE "EVENING NEWS"

The CHAIRMAN said he had seen the letter which Dr. Eger was sending to the "Evening News". It was, as was to be expected from Dr. Eger, a very fair letter.

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THE HISTORY OF THE UNITED STATES

CHAPTER I

THE FIRST SETTLEMENTS

THE DISCOVERY OF AMERICA

THE FIRST VOYAGE OF COLUMBUS

THE FIRST SETTLEMENTS IN AMERICA

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1492
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JAMESTOWN
1607
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1607

had never given in or surrendered his strength of spirit or his activity of mind. He had indeed been a very great figure and an example to all, and when history came to be written, he would be described as one of the men who sought to maintain peace, and when peace became impossible and war was forced upon him, as it had been forced upon others, he proved to be one of the greatest organisers of victory. If he passed away just when the ship was entering port, he did know that the ship was passing through the headlands and coming into the quieter waters of victory.

President Roosevelt's death affected everyone, but the Chairman wished especially to put on record that he was a great friend and a great supporter of the War Crimes Commission. In July 1942, quite soon after the U.S.A. came into the war, he declared: "The Nazis will not succeed in exterminating their victims any more than they will succeed in enslaving mankind. The American people not only sympathise with all victims of Nazi crime but will hold the perpetrators of these crimes to strict accountability in a day of reckoning which will surely come" - after three years, he might have said: which is actually coming. It was worth remembering too, that his successor, President Truman, said two or three days ago: "We do not wish to see unnecessary or unjustified suffering. But the laws of God and of man have been violated and the guilty must not go unpunished. Nothing shall shake our determination to punish the war criminals even though we must pursue them to the ends of the earth". The words of these two leaders of mankind must encourage the Commission to go on with its task and forget difficulties and the minor troubles that affected it.

The CHAIRMAN then called upon Colonel Hodgson, saying, that after he had spoken, a brief message from the Commission to the American State Department would be proposed.

Colonel HODGSON said he was very grateful for the tribute paid by Lord Wright as Chairman of the Commission and also for the many expressions of respect and sympathy received from different members of

the Commission. President Roosevelt had made many contributions to the welfare of Colonel Hodgson's country and to his countrymen. He commenced his office in the days of the very serious economic depression and would be particularly remembered by the American people for the quality of moral and spiritual leadership which he showed during those days, which had few parallels in American history. He was successful in his endeavours and particularly in the championing of the rights of the "common man". Later he perceived the perils which were approaching owing to the growth of the Fascist regime in Europe. Early in 1936 or 1937, he was denouncing the course which was being taken by the Nazi Government, and his vision was extraordinary in this regard. One of his principal contributions was the moral leadership which he exercised in leading the American people in peace and war - a war which was not entered on material grounds but in vindication of the moral principles which were challenged by the tyranny and reign of terror which the Nazi, Fascist and Japanese Governments had brought to Europe, Asia and the Pacific.

The President's denunciation of war crimes occurred before the United States had become a belligerent - as early, Colonel Hodgson believed, as September 1941 - when he pointed out to the American people the crimes which were being committed by the Nazi leaders and State. He declared that these crimes should be punished. The expression of his point of view was subsequently re-affirmed in October 1942 in the declaration made by him at the same time as a statement was made in the House of Lords by Lord Simon. This was, Colonel Hodgson thought, the origin of the War Crimes Commission. Following both statements, active steps were taken to bring about the creation of the Commission in which most of the United Nations affected by war crimes, except Russia, had joined, with the determination to do whatever might be found possible to secure the punishment of war criminals throughout the world, not only war criminals in Europe but also the equally vicious brand which had been running wild throughout the Pacific area.

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should be taken at a time when it would seem that his efforts, together with those of the leaders of other nations, were about to be crowned with success.

Colonel Hodgson thanked Lord Wright and would be very happy to convey to the State Department any views which the Commission might see fit to express.

Professor GROES moved that the Commission send a message to the American State Department.

The CHAIRMAN said that this motion required no seconder and read a message which was submitted to Colonel Hodgson and whose final form was as follows :

"The United Nations War Crimes Commission assembled in London desires to record its sorrow at the passing of President Roosevelt. His moral and practical support of the objectives for which the Commission is striving has proved a great inspiration and a great encouragement to all its members. His death is a blow to the whole world."

Mr. BEIL, as a Canadian, wished to add a few words on behalf of his own country, a close neighbour of the U.S.A. He scarcely need say that he endorsed with deep feeling the message which was being sent. To all the Canadians, President Roosevelt was not only a great political leader but also a spiritual leader and, to all thoughtful Canadians, his death was a great personal loss.

MINUTES

The minutes of the 54th meeting were signed.

The following amendments were made in the draft minutes of the 55th meeting :

Page 1 - List of members present: omit Captain Wolff.

Page 6, line 21 - delete from the words "to several" to the end of the sentence, and substitute: "to U.S. theatre-Commanders and theatre Judge Advocates in all U.S. theatres of operation, as well as to U.S. representatives on the Allied Control Commissions and other U.S. Offices."

Page 9 - After line 17, insert the following paragraph: "The members of the Commission were requested to furnish Dr. Schwab with translations of their relevant legislation."

APOLOGIES FOR ABSENCE

The SECRETARY-GENERAL reported that Sir David Meek had asked him to apologise for his absence which was due to ill-health, and that Mr. Burdick also was unable to be present.

ARTICLE IN THE "EVENING NEWS"

The CHAIRMAN observed that he had now studied the complete text of the article in the "Czechoslovak" and that Dr. Eeer, who was unable to attend the present meeting, had transmitted to him a letter from the editor of that paper stating that the article had not been submitted for publication by Dr. Eeer and that he had himself added Dr. Eeer's signature to the article without the latter's sanction or knowledge. The letter which Dr. Eeer had published in the "Evening News" had been admirable and the Chairman felt that the incident should be considered as closed, and not unsatisfactorily closed.

Colonel HODGSON said he entirely concurred with what the Chairman had said.

REPORT BY THE CHAIRMAN OF COMMITTEE I

M. de LAER, Chairman of Committee I, proposed to close and prepare a sixth List of War Criminals, and it was so decided. He also called attention to a draft "List of German War Criminals considered by the Commission to have held key positions in the organisation of war crimes", which had been prepared by Committee I and circulated to the members at the beginning of the meeting. Consideration of this document was adjourned to the next meeting.

REPORT BY THE CHAIRMAN OF THE FINANCE COMMITTEE.

Dr. de MOOR, Chairman of the Finance Committee, reported orally certain decisions taken by the Finance Committee on 12th April, namely :

Nomination of financial experts.

The Committee had nominated a financial expert, Mr. E. Williams of the Establishment and Finance Department of the United Kingdom Foreign Office, to sit as a member of the Committee under Article 4, paragraph 1, of the Financial and Administrative Regulations, and it had

asked Colonel Holgson to ascertain if an American expert could be made available for nomination as a second financial expert.

Budget for the second fiscal period, April 1st, 1945 to 31st March, 1946.

The Committee had examined a draft budget submitted by the Secretary-General, but found it necessary to adjourn its presentation to the Commission for a month as there were certain items, such as the amount of money which might be required for premises and for the work of the Investigation Officer, which could not be fixed with sufficient precision at present.

Payment of basic contributions for the second fiscal period

The Finance Committee asked the Commission to decide to request the member Governments to pay at once to the Secretary-General the basic contributions which were due from them for the second fiscal period, 1945/46.

Contribution of Canada

The Finance Committee had to report that, under the financial system adopted by the Commission (Doc. C.10) the number of units attributed to Canada was 60.

Contributions from new member Governments to the Working Capital Fund.

The Finance Committee felt that Governments joining the Commission should contribute to the Working Capital Fund on the same basis as members who had participated in the work of the Commission from the outset. This would require amendment of the Financial and Administrative Regulations. The Committee would make a proposal on the subject at a later date.

Appointment of a new clerk

The Committee had approved the appointment by the Secretary-General of a new secretary typist, Miss McAtee, and agreed to the proposed salary.

Dr. De MOOR's report was approved by the Commission.

CONFERRMENT OF DIPLOMATIC STATUS ON THE COMMISSION UNDER THE
DIPLOMATIC PRIVILEGES (EXTENSION) ACT, 1944.

Lord FINLAY said he had discussed this question with the Foreign Office and though he could not, of course, make any promise, he had found that favourable consideration was likely to be given to the conferment of diplomatic status on the Commission, if the Commission were unanimously in favour of this being done.

The Commission was unanimous in asking Lord Finlay to seek to obtain such a status for it, including, if possible, diplomatic privileges for deputy members.

SHOOTING OF PRISONERS IN CONCENTRATION CAMP OF PRISONERS BY THE S.S.

Professor GROS referred to an article in the News Chronicle of that morning, in which the following lines appeared: "S.S. men shot some prisoners while the British were here. They claimed that they had to keep order. They were immediately placed under arrest". Pointing out that this appeared to have been done after the Allies had taken over control of the area, he expressed his concern at the possibility that such crimes were being committed after Allied occupation. Presumably the prisoners in question were not British and British Court Martials were therefore not competent to inflict immediate punishment on the guilty. He felt strongly that the Commission should ask S.M.A.E.F. to send immediate reports of such incidents to the Commission which would then include these crimes in its General Report; it was not enough to submit them to the National Offices. Professor GROS added that it appeared difficult to get further information from an area, once the military authorities had assumed control of that area.

Sympathy with Professor Gros' attitude was expressed by the members of the Commission and it was felt that the Commission must in some form take official action in regard to the incident. At the same time it was pointed out that the source of Professor Gros' information was only a newspaper report and that in any case account must be taken of the enormous practical difficulties confronting the Army when taking over control of new territory. Colonel HODGSON was convinced that such conduct as was described could be severely dealt with by both the British and the American authorities and that the chances of a miscarriage of justice would be very slight. The question whether a

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communication from the Commission should at once be sent to SHAN or to the Governments or an informal approach to SHAN be made in the first instance was discussed, and regret was expressed that no liaison officer from SHAN was present. It was finally decided that a short carefully worded communication to SHAN should be drafted by Professor Gros, with the assistance of Colonel Holson, Mr. Oldham and Lord Finlay, and be submitted to the Chairman for approval and immediate despatch. In addition, the Chairman would arrange to have an interview of a purely informal and exploratory character with Brigadier Foster, (S.H.A.E.F.) with a view to opening up some more effective form of communication with SHAN. The results of the interview would be communicated to the Commission for such action as it might decide.

PREPARATION AND PRESENTATION OF CASES OF WAR CRIMES (Doc. C.87)

Colonel BEHLE submitted this memorandum, which was a revised version of the original instructions issued to the National Offices ^{c.7(b)} (Doc. C(1)). It summarised the practice of Committee I as developed down to date. A new feature was the request to the National Offices to "prepare and present cases in every instance where the Government concerned is satisfied that a war crime of reasonable importance has been committed" (para. 3a.). This did not (para. 3b) mean that "information too vague and uncertain to indicate either names and position of the offenders, the date and place, or the source of information" was desired by the Commission. Colonel BEHLE said that in compiling the memorandum account had been taken of the fact that the Sub-Commission at Chungking used a somewhat different form for the presentation of cases.

The memorandum was approved by the Commission with certain amendments submitted by the United States and Chinese delegations, which will appear in the final text as circulated (Doc. C.87(1)).

A document containing notes by Dr. Eder on Section 4, paragraph k, of the memorandum was also before the Commission and will also be circulated.

Wright

SECRET

C.87(1)
19th April, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

PREPARATION AND PRESENTATION OF CASES OF WAR CRIMES

Memorandum adopted by the Commission
on 18th April, 1945 (1)

Shortly after the United Nations War Crimes Commission was created, it recommended to the Governments that National War Crimes Offices be established to investigate in the first instance reports concerning war crimes, and to submit to the Commission in the form requested, information concerning the offences investigated. Attached as Annex I is a list of the national offices through which in most instances the Commission is enabled to perform its responsibility for investigating and recording evidence of war crimes.

The Commission is further charged with reporting to the member Governments cases in which it appears that evidence might be expected to be forthcoming sufficient to justify the apprehension and trial of individuals accused of war crimes. In this respect the Commission as an international agency functions in a manner resembling that of a committing magistrate, reporting to the Governments the names of the individuals accused. In this connection the Commission has recommended to the Governments that a war crimes agency be established in occupied enemy territory to investigate war crimes and to apprehend and detain alleged war criminals.

Set forth herein are suggestions in respect of the preparation and presentation of cases by the national offices. In most instances these suggestions have been heretofore submitted to the Governments, but are here assembled together for convenience.

1. War Crimes.

a. The competence of the United Nations War Crimes Commission extends to war criminals only, and does not include Quislings or traitors or those individuals who have committed atrocities against nationals of their own country.

b. As a working list for the convenience of both the Commission and the national offices, the list of acts which the Responsibilities Commission of the Paris Peace Conference agreed in 1919 should be treated as war crimes has been adopted, and is attached hereto as Annex II. This list is intended to serve as a general guide in dealing with individual war crimes without unduly restricting the Governments. For example, to the 1919 list has been added Item XXXIII: Indiscriminate mass arrests.

c. It is desirable that in preparing a case the national office should, in addition to specifying the heading in the tentative list of war crimes under which the case falls, indicate what provisions of the national criminal laws (whether civil or military) have been infringed by the accused.

(1) This memorandum is a revised version of Document C.7(1) and replaces that document.

2. Investigation and Recording of Testimony.

a. The Commission has recommended to the Governments that all Prisoners of War be interrogated in respect of war crimes, and that members and former members of the S.S., Gestapo and similar organizations be kept under control until investigation can be completed in respect to their possible complicity in war crimes. In many instances complete investigation will not be possible until termination of hostilities.

b. In view of the possible death or disappearance of witnesses or their geographical dispersal, the lapse of time between offence and trial, and the deliberate destruction of evidence by the Axis, the Commission believes that it is necessary to record or perpetuate evidence, while it is still available, in an authentic form with a view not only to compilation of an historical record, but to eventual prosecution of accused war criminals for such crimes in the possible absence of the witnesses at the trial.

c. To facilitate apprehension and interrogation of persons suspected of complicity in war crimes, the names of such suspected war criminals may be presented to the Commission for transmittal to the Governments. The Commission has recommended to the Governments that such suspects be taken into custody for the purpose of obtaining information including evidence relating to the possible complicity of such persons in war crimes.

d. The names of persons not accused or suspected of perpetration of war crimes themselves but considered capable of giving evidence regarding particular offences may also be submitted to the Commission for inclusion in Lists of Witnesses transmitted to the Governments. The Commission has recommended to the Governments that persons included on the Witness Lists be kept available until their testimony can be recorded, and that necessary security measures be afforded in proper cases.

3. Submission of Cases

a. Since the Commission is charged with the investigation of all war crimes even though no prosecution of those responsible is possible, it requests the national offices to prepare and present cases in every instance where the Governments concerned is satisfied that a war crime of reasonable importance has been committed. As a general rule cases should not be filed until the investigation and recording of evidence is reasonably complete, and no further material evidence with respect to the offence will be available in the immediate future.

b. Information too vague and uncertain to indicate either names or position of the offenders, the date and place, or the source of the information is not desired by the Commission at this time, although such reports can often serve a useful purpose to the national office concerned in connection with the work of investigation.

In many cases where there is no present indication of the identity of the perpetrators it is suggested that it may be possible at some future time to establish a pattern or series of incidents of the same nature which may be the result of the execution of a general plan or order for which the responsible person could be identified and apprehended.

c. Cases filed with the Commission may be supplemented and reconsidered in the event further material information is obtained.

d. As a rule, national offices will submit cases which have been committed on their territory and where the victims are its own nationals; they will transmit to the national office of the country of any other nationals involved information which will assist in preparation of its own or a joint case. Where nationals of a United Nation other than that submitting the case are concerned, notice will be given by the Secretary to that other Government in order that it may have an opportunity of considering what action, if any, it desires to take. The consideration of the case will be adjourned a reasonable length of time to afford such opportunity.

4. Form of Submission.

a. A printed Form for the presentation of cases has been adopted by the Commission, copies of which are supplied by the Secretariat to the National Offices. (Annex III).

b. It is important that cases should be marked in the place provided in the form with the national serial number indicating the way in which the cases (and charges against individuals in each case) are designated by the national offices. The object is to provide a fool-proof method by which the cases and individuals charged can be identified in any correspondence relating to them between the Commission and the national offices. Unless this is done cases may be confused with one another, particularly where the name of the accused is not known. In addition to the national office numbers, a number is assigned each case by the Commission consisting of four items: The series number (Atlantic or Pacific) of each case; a letter denoting the national office submitting the case; a letter denoting the Government of the accused; and the number in the sub-series of cases filed by each national office against each accused Government.

c. It is requested that at least five copies of each case be transmitted to the Commission in addition to the signed original. Legible carbon copies on thin paper or mimeographed copies will suffice. All such information is considered "Secret" and the original and all copies submitted are considered the property of the Commission to be retained by it in its files.

d. It is understood that in some instances it is impossible for reasons of security to identify a witness or witnesses by name in cases or supporting documents transmitted to the Commission. In such cases the witness may be designated by letter or number stating at least in general terms the nature of the evidence or information on which the case is based, and the agent of the national office presenting the case should be in a position to communicate orally to the Commission the particulars of any information requested.

e. Titles, military or civil, and the names of military, naval, or air formations, units, government departments or organisations, etc. should be left in their original language (with or without a translation) in order that they may be correctly stated in the Commission's Lists.

f. Reference to Prisoner of War Camps would show:

- (1) Whether the camp is for officers or for other ranks.
- (2) The official number of description.
- (3) The country in which the camp is situated and its exact location at the time involved.

g. It is desirable to give full particulars by way of description, official position, etc. in respect of any individual to be included in any of the Commission's Lists in order to assist apprehending authorities and to aid identification. It is not necessary that the full particulars asked for in the suggested form for the submission of cases should be completely supplied. The Commission has listed many accused persons who were identifiable only as having held a post or discharged a particular function at the date of the crime, when it has considered that this clue should in the circumstances of the case probably result in ultimate identification of the person wanted for trial.

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h. Where a crime has been committed by individual members of an identified unit or detachment, the commander of that unit or detachment in addition to any identified individuals, may be charged with responsibility where the evidence indicates culpability by reason of his failure to take preventive measures.

i. Identification by name is not necessary, but information sufficient to permit identification for the purpose of apprehension is required before an individual will be included as an Accused War Criminal. For example, it is enough to describe the accused by stating that he was the Commandant of a specified Prisoner of War Camp at a given date and locality, for this information makes it reasonably certain that the name of the accused will be obtained in due course and the identification is therefore sufficient.

j. All individuals responsible for each offence should be charged even though already listed by the Commission in connection with another offence.

Where possible it is well to frame charges not only against the immediate perpetrators of the crime who are often but the subordinates, but also to include charges against those individuals who have issued the orders or have made the policies carried out in detail by others. In this respect the Summaries of Information prepared by the Commission may be of assistance to the National Offices.

k. In addition to individuals accused of war crimes, in certain cases it will appear that war crimes have been committed by units or detachments of larger organisations, acting in concert. Where, after investigation, the identity of the offenders has not been ascertained, membership in such a unit or detachment at the time of the crime is regarded by the Commission as constituting prima facie evidence of participation therein, and all members of such unit or detachment may be charged with responsibility and will be listed as accused war criminals. In preparing such a case, charges should be made not only against identified individuals, if any are known, but against "All Members" of the unit or detachment at the time of the commission of the crime.

l. The exact nationality of an accused individual is often in doubt. The important thing is his possible perpetration of a war crime, and the purpose of including the names on the lists of accused war criminals is to facilitate apprehension. It is therefore useful for a Government to send to the Commission not only charges against enemy citizens, but also charges framed against its own nationals accused of committing war crimes who in many cases may have fled to enemy countries.

m. The Commission prefers documentation of cases, even though it consists only of quoting extracts from affidavits, statements or other materials. It is not essential that the evidence should be complete if it is reasonably clear that further evidence can and will be obtained in due course. What is required is that the case should show that there is reason to believe that a war crime of reasonable importance has been committed and that there is or will be at the time of trial sufficient evidence to justify a prosecution.

5. Presentation of Cases.

n. Cases filed with the Commission will normally be considered by Committee I, Committee on Facts and Evidence, in the course of the week following the reception of the case, and the presence of representatives of the Government submitting the charges is invited and desired.

b. Action by the Committee will include:

- (1) Determination whether it is probable that a war crime of reasonable importance has been committed.
- (2) Determination whether there is or will be at the time of trial sufficient evidence to justify a prosecution.
- (3) Determination of which individuals or units, if any, should be included on the Commission's Lists of Accused War Criminals, Suspects, or Witnesses.

c. Notice of the recommendations of Committee I to the Commission in respect of each submitted case will be given in writing by the Secretary in duplicate to the Government concerned, the original to be sent to the National Office and the duplicate to the representative of that Government on the Commission.

6. Commission Charges

a. As noted above, the United Nations War Crimes Commission depends upon the national offices and the military and occupation forces to perform the major part of the work of investigating and recording evidence of war crimes, and identifying where possible those individuals responsible. A small investigating and liaison staff is nevertheless maintained by the Commission to co-ordinate the work of the co-operating agencies, and to investigate, prepare and file charges involving offences and individuals not covered by the National Office plan.

b. In addition the Commission maintains a research staff for the purpose of ultimately recording for historical purposes the record of war crimes committed by the enemies of the United Nations.

c. Close direct contact by the National Offices and other agencies concerned with the Commission is invited. The Commission maintains office facilities and an executive staff to provide accommodation in the Commission's office for members or their representatives desiring to work there, and for assisting in the interchange of information and the preparation of cases.

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LIST OF NATIONAL OFFICES.

AUSTRALIA: Department of External Affairs, Canberra, A.C.T.
War Crimes Commissioner: The Hon. Sir William Webb.

BELGIUM: 1 rue de Turin, Brussels.
President: M. Antoine Delbecq.

CANADA: Canadian War Crimes Advisory Committee.
Secretary: Wing Commander E.R. Hopkins,
c/o The Department of External Affairs,
New Post Office Building, Ottawa.

CHINA: 4 Chuen Sen Road, Chungking.
Principal Officer: Dr. C.T. Wang.

CZECHOSLOVAKIA: Czechoslovak Ministry of Interior (Section IV),
62, Princes Gate, London, S.W.7.
Principal Officer: Colonel J. Bartik.

FRANCE: Service de Recherche des Crimes de Guerre Francais,
22, Place Vendome, Paris.
Principal Officer: Colonel Chauveau.

GREECE: M. Stavropoulos, 4 Aldford House, Park Street, W.1.

INDIA: Defence Department, Government of India, New Delhi.
Chief Officer; Secretary to the Government of India.

LUXEMBOURG: c/o Ministry of Justice, Ternes Rouges Building, Luxembourg.
President: M. Charles Leon Herve.

NETHERLANDS: Mexborough House, 33 Dover Street, London, W.1.
Principal Officer: Dr. J. van der Bergh.

NEW ZEALAND: Department of External Affairs, Wellington, New Zealand.
Principal Officer: Mr. Ross Shanahan.

NORWAY: Norwegian Police Investigation Office, 24 Connaught
Square, London, W.2.
Principal Officer: Major Finn H. Instraen.

POLAND: Polish War Crimes Office, 16 Thorney Court, Palace Gate,
London, W.8.
Principal Officer: Dr. J. Litawski.

UNITED KINGDOM: Treasury Solicitor's Department, Storey's Gate, London, S.W.1. and
Principal Officer: The Treasury Solicitor.

UNITED STATES
OF AMERICA: Office of the Judge Advocate General of the Army, War Crimes
Office, Munitions Building, Washington 25, D.C. 1e
Principal Officer: Brigadier-General John M. Weir. 1d

YUGOSLAVIA: Yugoslav State Commission for the Investigation of War Crimes,
Belgrade.
Chairman: Prof. Dr. Dusan Radaljovic.

ANNEX II

LIST OF WAR CRIMES

drawn up by

The Responsibilities Commission of the Paris Peace Conference in 1919

- (i) Murder and massacres - systematic terrorism.
- (ii) Putting hostages to death.
- (iii) Torture of civilians.
- (iv) Deliberate starvation of civilians.
- (v) Rape.
- (vi) Abduction of girls and women for the purpose of enforced prostitution.
- (vii) Deportation of civilians.
- (viii) Internment of civilians under inhuman conditions.
- (ix) Forced labour of civilians in connection with the military operations of the enemy.
- (x) Usurpation of sovereignty during military occupation.
- (xi) Compulsory enlistment of soldiers among the inhabitants of occupied territory.
- (xii) Attempts to denationalise the inhabitants of occupied territory.
- (xiii) Pillage.
- (xiv) Confiscation of property.
- (xv) Exaction of illegitimate or of exorbitant contributions and requisitions.
- (xvi) Debasing of the currency and issue of spurious currency.
- (xvii) Imposition of collective penalties.
- (xviii) Wanton devastation and destruction of property.
- (xix) Deliberate bombardment of undefended places.
- (xx) Wanton destruction of religious, charitable, educational and historic buildings and monuments.
- (xxi) Destruction of merchant ships and passenger vessels without warning and without provision for the safety of passengers and crew.
- (xxii) Destruction of fishing boats and of relief ships.
- (xxiii) Deliberate bombardment of hospitals.
- (xxiv) Attack and destruction of hospital ships.
- (xxv) Breach of other rules relating to the Red Cross.
- (xxvi) Use of deleterious and asphyxiating gases.
- (xxvii) Use of explosive or expanding bullets and other inhuman appliances.
- (xxviii) Directions to give no quarter.
- (xxix) Ill-treatment of wounded and prisoners of war.
- (xxx) Employment of prisoners of war on unauthorised works.
- (xxxi) Misuse of flags of truce.
- (xxxii) Poisoning of wells.

ITEMS ADDED BY THE WAR CRIMES COMMISSION

- (xxxiii) Indiscriminate mass arrests.

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Registered Number. Date of receipt in Secretariat.

UNITED NATIONS WAR CRIMES COMMISSION

CHARGES AGAINST WAR CRIMINALS

CHARGE No. *

of accused, his
and unit, or
position.
(to be translated.)

and place of
commission of
crime.

number and descrip-
tion of crime in war
crimes list.

References to rele-
vant provisions of
international law.

SHORT STATEMENT OF FACTS.

TRANSMITTED BY

Insert serial number under which the case is registered in the files of the National Office of the accusing State.

6352) Wt.P.1505/1120 500 1/44 A.& E.W.Lt1. Cp.685
6924) Wt.P.1817/P.1139 5,000 3/44

PARTICULARS OF ALLEGED CRIME

PARTICULARS OF EVIDENCE IN SUPPORT

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NOTES ON THE CASE

(Under this heading should be included the view taken as to (a) the degree of responsibility of the accused in view of his official position, e.g., was offence committed on the offender's own initiative, or in obedience to orders, or in carrying out a system approved by authority or a legal provision ; (b) the probable defence ; (c) whether the case appears to be reasonably complete.)

SECRET

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Fifty-seventh Meeting

held on

April 24th, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Lt.-Col. BEHLE
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
Mr. Andrew Bell - Canada
accompanied by Wing-Commander HOPKINS
Mr. PAO - China
Dr. ECER - Czechoslovakia
accompanied by Dr. FANDERLIK
and Dr. MAYR HARTING
Professor GROS - France
Lord FINLAY - United Kingdom
M. STAVROPOULOS - Greece
Mr. DUTT - India
Dr. CYPRIAN - Poland
M. RIBARZ - Yugoslavia
accompanied by M. MARKOVIC

and

Major HETT (S.H.A.E.F.)
Major Hicks (Allied Control Commission)

COMMUNICATION TO THE PRESS

The CHAIRMAN reported that, during the weekend, he had felt it necessary to send a statement on the powers and means of action of the Commission to the Ministry of Information for publication in the Press. He had had the assistance of Lord Finlay and Mr. Oldham, but regretted having been unable to consult the other members.

He had also prepared an article for publication in the New York Times Magazine on Monday week. This magazine had a wide circulation in America and throughout the world and was known to be very friendly to the Allies.

Colonel HODGSON said he had already expressed his approval of the article and now added that he felt it was a good opportunity to bring before the world

the entire subject of war crimes and criminals and in particular the purpose of the Commission's work.

PRESS REPORTS ON WAR CRIMES COMMITTED IN GERMANY

The CHAIRMAN reported that, following the decision taken at the last meeting, he had written to Colonel Brooks, of S.H.A.E.F., in the following terms:

19th April, 1945.

"The United Nations War Crimes Commission has taken note during the last few days of a number of press reports on war crimes committed in Germany. Some of these reports reveal evidence of offences prior to the occupation of German territory by Allied Forces; others disclose events subsequent to this occupation.

The War Crimes Commission is anxious to obtain the greatest possible amount of information on atrocities which may have, or will, come to the knowledge of the Allied military authorities.

The Commission undertakes to pass on to the competent departments of the Allied Governments concerned the information which will enable them to frame the charges to be brought against war criminals. In addition to this, the Commission has been charged by the Governments of the United Nations with the duty of inquiring into, and reporting on, all war crimes committed against Allied nations.

On both these grounds, it is important that the Commission should learn authoritatively and without delay, what has been done, or what is being done, in occupied Germany by the Allied Forces in regard to all alleged offences. The Commission would be glad to receive all relevant information.

The Commission is confident that it will have the full co-operation of the military authorities to the end that those responsible for war crimes will be brought to justice."

MINUTES

The minutes of the 55th meeting of the Commission were read by the Chairman.

ABSENCE OF DR. DE MOOR

Dr. de Moor had informed the Secretary General that, being obliged to take a rest on doctor's orders, he could not attend the Commission's meetings until after May 11th.

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and will appear

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move to new premises.

He had prepared a draft basis for discussion and suggested that a sub-committee should be formed to consider the question. Colonel HODGSON referred to Dr. de Moor's memorandum regarding the re-organisation of the Commission and felt that the sub-committee appointed should also undertake this investigation.

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The Commission is confident that it will have the full co-operation of the military authorities to the end that those responsible for war crimes will be brought to justice."

MINUTES

The minutes of the 55th meeting were signed by the Chairman.

In the minutes of the 56th meeting, on pages 3 and 7, amendments were made which were handed to the Secretary General in writing and will appear in the text as revised for circulation.

ACCOMMODATION

The SECRETARY-GENERAL reported that the Foreign Office had enquired what accommodation would be needed if the Secretariat were to move to new premises. He had prepared a draft Basis for Discussion and suggested that a sub-committee should be formed to consider the question. Colonel HODGSON referred to Dr. Ecker's memorandum regarding the re-organisation of the Commission and felt that the sub-committee appointed should also undertake this investigation.

The CHAIRMAN pointed out that the question of premises was more urgent at present.

It was decided that a sub-committee consisting of M. de Baer, Colonel Hodgson, Lord Finlay, Mr. Oldham and Dr. Ecer should consider both matters but should first deal with the problem of accommodation.

REPORT OF COMMITTEE I

Examination of Vaucher Committee files. M. de BAER said that after hearing an oral report from Wing Commander Jones on his examination of these files, Committee I had asked to have a few charges based on the files prepared for its consideration.

Sixth List of War Criminals. The list was submitted by M. de BAER and adopted by the Commission.

APOLOGIES FOR ABSENCE

Mr. DAO apologised for the absence of Mr. Wunsz King.

LIST OF GERMAN WAR CRIMINALS CONSIDERED BY THE COMMISSION TO HAVE HELD KEY POSITIONS IN THE ORGANISATION OF WAR CRIMES (Seventh List) AND MEMORANDUM BY LORD FINLAY (Document C.94)

Colonel HODGSON explained how the List had been compiled. As Chairman of Committee I, M. de Baer had listed the names of major war criminals, mostly members of the Nazi Government, together with charges based upon the records of the Commission. He said that the Commission had not listed a number of Nazis holding key positions in the German Government, yet it was common knowledge to the world that they were responsible for or, at least, accessories to the reign of terror which the Germans had inflicted upon Europe. It was common knowledge that there had been such a reign of terror, consisting of a complexity of war crimes, such as mass murder, deportations, starvation, etc. The records of the Commission fully proved this fact. On the other hand, the Commission knew that certain Germans had occupied key positions in their Governments. The character of the positions clearly indicated that they must have participated in the crimes, either as principals or accessories. Upon this basis it appeared justifiable to take cognizance of the mentioned reign of terror

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PRESS REPORTS

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and the duties of the key positions, and, accordingly, the complicity of the people holding the key positions. He drew a distinction between these persons, and those in other categories. The latter required the production of evidence. It might be objected that the List involved a departure from the principle followed in previous Lists which consisted of persons of whose guilt evidence amounting to a prima facie case had been produced. But those persons were nearly all comparatively obscure individuals whose activities were not known to the Commission. Colonel Hodgson felt that what the Commission knew about the persons on the List now under consideration amounted to a prima facie case. The List would ensure their arrest and custody until their disposal was settled by applications from Governments or instructions from the Commission. Referring to the help which he had received from Dr. Ecer's admirable study of the criminal responsibility of the members of the German Government, he said that, if the Commission agreed with the basic theory of the List, still it should closely scrutinise each person listed and the position he occupied, and should determine that the person held a position which prima facie connected him with war crimes. The prepared List was merely suggestive, and deletions or additions could be freely made.

M. de BAER said he had himself compiled a list intended to facilitate the preparation of charges by the National Offices, in which leading German war criminals were grouped according to the classes of crimes in which they were implicated. Professor GROS thought the list presented in its present form would not help the National Offices to formulate charges. If this was what was wanted, the "major" criminals should be taken out of the list. He was in favour of making a recommendation to the Governments as to who should be considered "major criminals"; the Commission knew more about that than the committee of Ministers for foreign affairs. The CHAIRMAN saw difficulties in this course but said that the Commission could state the principles on which it had proceeded.

Lord FINLAY said he was willing to accept the List if M. de BAER and Colonel Hodgson said they were satisfied that the persons listed were war

criminals. Colonel HODGSON said that he refused to accept such a responsibility and that it was up to Lord Finlay and every other member to decide whether a prima facie case existed against each person on the List and to vote accordingly.

Dr. ECER noted that the List was incomplete and that additions, not deletions, were in order.

After further discussion, the List was approved by the unanimous vote of the Commission, subject to revision of the introduction by a committee consisting of Colonel Hodgson, M. de Baer, Professor Gros, Dr. Ecer and Dr. Cyprian, and to its being distributed in the same manner as previous Lists.

COLLECTIVE RESPONSIBILITY FOR WAR CRIMES: MEMORANDA BY PROFESSOR GROS AND M. DE BAER (Documents C. 85 and C.89)

Professor GROS said the matter in connection with which Dr. Schwelb had been asked to write a report was not the one which he had raised. He did not want a legal definition of collective responsibility, but a finding of fact by the Commission that there were war crimes which had been committed collectively by groups, units or formations. The experience of Committee I sufficed to establish this fact. Legal definition of collective responsibility rested with the national legislators. Since it had been denied that a legal definition was possible, he had drafted the following one himself:

"Subject to counter-proof, when one of the crimes referred to in the present ordinance has been perpetrated by the collective action of a unit or formation, all those who at the time of the crime were members of the said unit or formation will be assumed to have taken part in its accomplishment as either perpetrators or accomplices.

Even in the absence of any such collective action, if systematic criminal acts or a series of such acts can be brought home to members of a unit or formation in such a way as to suggest the probable participation, in one or other of the criminal acts, as either perpetrators or accomplices, of various members of the said unit or formation, it will be equally possible to establish the responsibility of all those who belonged to this unit or formation at the time of the crimes, even if the part taken by each individual in their accomplishment cannot be established."

But what he wished the Commission to do was to declare to the Governments that it had had experience of many crimes resulting from collective

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action of a group. The CHAIRMAN asked Professor Gros to make a specific proposal. Professor GROS said the work of Committee I had proved many crimes to be systematically prepared and perpetrated by groups acting collectively, such as units or formations of the Gestapo, S.S., or S.A. To say this was not to prejudice the position of the whole Gestapo, S.A. or S.S. Dr. ECER said he himself had asked the Commission some time ago to consider the whole Gestapo and S.S. as associations of criminals and had supposed Professor Gros to mean the same thing.

M. de BAER had no objection to the declaration desired by Professor Gros but considered it would have little weight unless supported by facts.

After further discussion, Professor GROS and M. de BAER were requested to submit a proposal to the Commission and Dr. Schwelb was asked to continue work on his report.

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UNITED NATIONS WAR CRIMES COMMISSION

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Minutes of Fifty-eighth Meeting

held on

May 2nd, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Lt.-Col. BEHLE and Captain WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Lord FINLAY - Great Britain
Mr. Andrew BELL - Canada
accompanied by Wing Commander HOPKINS
Mr. DAO - China
Dr. ECER - Czechoslovakia
accompanied by Dr. FANDERLIK and Dr. MAYR-HARTING
Professor GROS - France
M. STAVROPOULOS - Greece
Mr. DUTT - India
Mr. JERVIS - New Zealand
Dr. CYPRIAN - Poland
Mr. RIEARZ - Yugoslavia
accompanied by Mr. MARKOVIC

and

Brigadier General FOSTER (S.H.A.E.F. G5)
accompanied by F/Lt. E. KOHN-SPEYER
Major HETT (S.H.A.E.F.)
Colonel BOWN (Allied Control Commission)
Major HICKS (Allied Control Commission)

MINUTES

The Minutes of the 56th meeting were signed.

Those of the 57th meeting were approved for circulation subject to amendments by Colonel Hodgson which were handed to the Secretary General.

WELCOME TO TEMPORARY REPRESENTATIVE OF NEW ZEALAND

The CHAIRMAN expressed the Commission's welcome to Mr. D.M. Jervis, who was temporarily replacing Mr. Burdekin as representative of New Zealand.

ABSENCE OF DR. DE MOOR.

Dr. de Moor was absent through ill-health.