

Mr. Lyman had been placed in retirement of the former functions Mr. Lyman had performed. He had arranged the affairs transferred from the Law Courts to the Commission's efficient and self-sacrificing work. The Commission would be a great asset to America.

The Chairman's resolution was unanimous and proposed that effect. Sir Robert had assisted by Mr. Lyman.

to Mr. Lyman as suggested.

approved and signed by the

with meeting were received at Craigie and Colonel final text for distribution.

M. de Baer and Commander

SSION

ment had agreed to the Kingdom Government with join the Commission.

if of the Government of

COMMITTEES

ed for that of Dr. Welling III. He pointed out that Committee III in his own right

circulated.

ote of a conversation ber 9th:

which directs the ASS building to vacate promptly move in.

le that the tenants

Major Turron has agreed to keep us informed by telephone as to the developments within the next two weeks. He has asked us to convey to the Chairman and to other members of the Commission his gratitude for the manner in which he was received and for the interest shown in the problems of his organisation."

The CHAIRMAN was gratified to hear the news. He wished to express appreciation of the work done by Professor Gros in urging the matter forward and achieving the happy result.

Professor GROS expressed the view that the Chairman himself had made the greatest impression on the French Government on the occasion of his visit to the Ministers of Justice and Foreign Affairs. He was pleased to know that CROWCASS would now be able to continue its work. Professor Gros added that he proposed to prepare a memorandum on the work of CROWCASS in relation to the Commission to clarify the situation.

The CHAIRMAN said the Commission would welcome Professor Gros' observations. The work of apprehending war criminals and bringing them to justice was very important. He was not sure whether present arrangements were the best obtainable, but considered that a great deal of improvement and progress had been made.

In reply to the Chairman, Professor GROS said his report should be ready in a fortnight's time.

#### CRIMES AGAINST PEACE AND CRIMES AGAINST HUMANITY

The CHAIRMAN reported that the Executive Committee had held a meeting at which a preliminary discussion had taken place on a very important subject. It appeared that a report would shortly be submitted by Committee III showing that some difference of opinion existed in connection with the Sepp Dietz case.

He considered that the best way to prepare for a discussion on that subject would be for the Secretariat to circulate a letter which had been addressed to him by Mr. Wold - provided Mr. Wold did not object. (Mr. WOLD said he had no objection) The gist of the letter might be put, briefly, in the following question: What was the Commission's relationship to the Charter of August 8th, 1945, and to crimes against peace and crimes against humanity? How did those questions affect the Commission? It was obvious, of course, that within limitations, the Commission had mainly concerned itself with what might be termed "ordinary war criminals". In theory, however, the Commission had always accepted the view, or part of the view expressed so clearly in Mr. Wold's letter, i.e.

"In my opinion, it is also within the Commission's terms of reference to advise the member Governments regarding the prosecution of those accused of crimes against peace and of crimes against humanity, who are not considered as major war criminals."

In view of the importance of the question, therefore, the CHAIRMAN felt that members should have an opportunity to study and reflect upon Mr. Wold's letter before a full discussion was held in two weeks' time. He also proposed that Committee III's report on the Sepp Dietz case, to which he had referred, should be circulated simultaneously to members.

REPORT OF COMMITTEE III

Dr. MAYR HARTING, acting Chairman, reported that the Committee had concluded its report on the Sepp Dietz case.

He then referred to the law reports submitted by the secretary, Dr. Schwelb, regarding the first two weeks of the Belsen trial. The Committee had discussed generally the question of law reporting and asked Dr. Schwelb to continue the preparation of further studies.

The CHAIRMAN remarked that he had found the reports very valuable.

REPORT OF PUBLIC RELATIONS COMMITTEE

Dr. ZIVKOVIC, Chairman, said that no meeting had been held but progress was being made in regard to the forthcoming War Crimes Exhibition. The French representative, M. Robert, had asked the Commission to decide whether the exhibition, including the cinema performance, should be open to adults only or should also admit children under 14 years of age. He pointed out that the films to be shown had been graded by the British Film Censors as category "A" - for adults only.

The CHAIRMAN asked whether the London County Council had been approached for their views.

Mr. GIBSON thought it was a matter for the Commission to decide. If children were not to be admitted, the fact would have to be advertised.

After some discussion, it was unanimously decided that the exhibition and cinema performance should be open to adults only.

STATEMENT BY PROFESSOR SMITH AT BELSEN TRIAL

At the request of the Chairman, Professor GROS recalled the proposal he had made at the last meeting that the Commission should obtain a copy of Professor Smith's exact statement to the court regarding the guilt of the accused, at the Belsen trial. He felt that, after the legal officers had examined the statement, the Commission might wish to take some action. He thought that if those views were known in some of the ex-occupied countries, they would provoke serious apprehension, and that the Commission should be ready to state that they were only the views of one man, and did not necessarily represent the views held by British lawyers. He suggested that a statement be prepared for use if the need should arise.

The CHAIRMAN then referred to an earlier statement made by defending counsel at the same trial which had caused intense annoyance and which counsel had attempted to explain by saying that he had been acting only as the mouthpiece of the accused. The Chairman maintained that a counsel had no right to make such statements merely to gratify his client; he ought to have a sense of responsibility. He also wondered whether Professor Smith really held the view he was reported to hold or whether he also was merely a mouthpiece. However, the quotation should have appeared in bald print - particularly in a newspaper like "The Times". The logical implication was that the War Crimes Commission had no right to exist, that there was no law which justified the punishment of war criminals, and that the declarations made by the President of the United States, the Prime Minister of Great Britain and Marshal Stalin had no justification in international law. He was vexed that Professor Smith should have committed himself to such unqualified statements.

MAJOR T  
It is an

PROFESS  
the an  
can alw

THE CHA  
quadrup  
is his  
any one  
and pun  
tions o  
essenti  
we have  
part to  
You hav  
and I a  
it ough  
where I  
the Com

PROFESS  
its rep  
recomm

THE CHA

PROFESS

THE CHA

PROFESS  
can do  
proceed  
Berlin  
the fo  
Americ  
Paris

THE CH  
practi  
more?

PROFESS  
always



He was also perturbed at the thought that those words might be quoted in some of the countries which had suffered from barbarities perpetrated by war criminals, and it would be disastrous if it was felt that they represented the feelings and ideas of the British public, or - even worse - the feelings of the responsible members of the Allies. He would be in favour of putting forth a "counter-blast", but would prefer to await the summing up and the decisions of the Court.

He repeated, finally, his extreme annoyance and concern at reading the bald statement of an advocate quoted without qualification and taken out of context, in "The Times".

Colonel HODGSON fully agreed with Professor Gros. He felt that the Commission should take cognisance of the matter by making a statement regarding the question upon which Professor Smith had attempted to comment. He could not say whether the views expressed were those held by the members of the British Bar or by legal scholars, but they certainly did not represent the vast majority of students of international law throughout the world. The point might arise again and be made before other courts and for that reason it would be advisable to have a concise and accurate opinion stated, for submission to the appropriate bodies, which would not only be of great value to them, but also of great value so far as public opinion in the different countries was concerned, in order to re-assure those who wished to see the perpetrators of those terrible crimes brought to justice and punished.

The CHAIRMAN agreed. He suggested that the Commission should find out what had been said by defending counsel and by the Judge Advocate General who, according to English practice, advised the Court on questions of law.

Dr. SCHWELB described the procedure on the first appearance of Professor Smith on the 26th day of the Luneburg trial. It was made quite clear that Professor Smith did not act as an expert nor did he claim the position of an expert; he expressly said that he was simply one of the Bar who would address the Court in exactly the same manner as any other member of the Bar.

The CHAIRMAN felt that the importance of preparing a statement was now even greater.

Colonel HODGSON suggested that Professor Gros might be willing to draft an appropriate statement.

Professor GROS proposed that Dr. Liang (who had now left the meeting) should undertake it. It was advisable to defer making a public legal pronouncement until the verdict of the Court was known, but there was no harm in drafting a statement in the meantime.

Colonel HODGSON considered that the matter should be divorced from the Belsen trial and that a position in law should be taken and a statement made, irrespective of the decisions of that trial, to be furnished to any other court. He agreed that either Professor Gros or Dr. Liang should prepare such a statement.

Mr. WOLD raised a question of procedure. He had no objection to the work being undertaken by Professor Gros or Dr. Liang, but maintained that it should more properly be entrusted to Committee III, which had been set up to discuss legal problems, and of which both gentlemen were members.

The CHAIRMAN was grateful for the suggestion. His idea was that a short statement should be prepared without delay and, when approved by the Commission, sent to "The Times" and other newspapers, as emanating from the Commission. It would not refer specifically to the alleged statements of Professor Smith, nor to the Belsen proceedings nor to the awaited sentences of the Court.

Mr. WOLD fully appreciated that the statement should emanate from the Commission. He wished merely to propose that Committee III - which was part of the structure of the Commission - should prepare the statement.

The CHAIRMAN pointed out that the Commission was dominus of this matter, and with the greatest respect to Mr. Wold, formally proposed that the matter be dealt with in the manner he had indicated: by obtaining a preliminary report either from Professor Gros or Dr. Liang for consideration by the Commission in full session. When approved, the statement would be issued to the press by the Public Relations Officer, as an expression of the views of the Commission.

M. STAVROPOULOS felt that Professor Smith's arguments were the basis for accepting or not accepting the validity of punishment of war criminals. If Committee III were not entrusted with the task of determining that point, it would seem that its competence for dealing with matters relating to war criminals was being questioned.

After further discussion, it was unanimously decided to adopt a proposal made by Sir Robert Craigie to the effect that a statement should be prepared by Professor Gros and Dr. Liang, for submission to the Commission; if the statement raised any point of law or other point which the Commission thought should appropriately be referred to Committee III, it would be done at that stage. The Commission would decide the action to be taken.

#### ADHERENCE TO THE FOUR-POWER AGREEMENT OF AUGUST 8th, 1945.

The CHAIRMAN said he was anxious that all member Governments should notify the Commission of their adherence to the Four-Power Agreement and asked how many replies were still outstanding.

After Mr. BURDEKIN and Mr. DUTT had stated that they had received instructions that their respective Governments had acceded to the Agreement, it was reported that replies were now outstanding from Canada, China and Luxembourg. Major MORDEN said he would approach his Government again, and the Secretary General was asked to ascertain the position of the remaining two Governments.

Colonel HODGSON understood that a number of other nations, not represented on the Commission, had adhered to the Agreement (e.g. Panama, Haiti, Ethiopia and the San Dominican Republic) and suggested that the Commission should obtain information on that point from the United Kingdom Foreign Office. Sir Robert CRAIGIE was asked to approach the Foreign Office and agreed to submit a report at the next meeting.

#### ATTENDANCE AT NUREMBERG TRIALS

The CHAIRMAN reported that according to the last instructions received, members of the Commission who wished to go to Nuremberg should make arrangements through their respective Embassies. He mentioned that in the court-house at Nuremberg, there would be one seat for an observer from each interested country, as had been the case at Belsen.

*W. W. W.*

MAJOR  
It is

PROFES  
the an  
can al

THE CH  
quadru  
is his  
any on  
and pu  
tions  
essent  
we hav  
part t  
You ha  
and I  
it oug  
where  
the Co  
your k  
course

PROFES  
its re  
recomm

THE CH

PROFES

THE CH

PROFES  
can do  
proceed  
Berlin  
the fo  
America  
Paris

THE CH  
practic  
more?

PROFES  
always



SECRET

M. 87

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Eighty-Seventh meeting

held on

November 28th, 1945

In the Chair: Lord WRIGHT - Australia

There were also

present: Colonel HODGSON - United States of America  
accompanied by Captain WOLFF  
F/O BRIDGLAND - Australia  
Major MORDEN - Canada  
Mr. DAO - China  
Dr. MAYR HARTING - Czechoslovakia  
Dr. SCHRAM NIELSEN - Denmark  
Sir Robert CRAIGIE - United Kingdom  
Mr. DUTT - India  
Commander MOUTON - Netherlands  
Mr. BURDEKIN - New Zealand  
Mr. MARKOVIC - Yugoslavia

and

Major THOMSON - A.G.3., V.W., War Office

MINUTES

The minutes of the 85th meeting were approved and signed by the Chairman.

The draft minutes of the 84th and 86th meeting were also approved, subject to the incorporation of Professor Gros' amendments in the former. The final text will be duly circulated to members.

APOLOGIES FOR ABSENCE

Apologies for absence were received from M. de Baer, Professor Gros, Mr. Wold, M. Stavropoulos, Dr. Zivkovic and Sir Torick Ameer Ali.

ADJOURNMENT OF CERTAIN SUBJECTS OF DISCUSSION

Owing to the absence of certain representatives, and at their request, the CHAIRMAN suggested that a number of matters which were to have been raised at the present meeting be adjourned until December 5th. Among them were the following:

- (a) Professor Gros' memorandum on CROWCASS (this document will be circulated to members before the next meeting); and other points concerning CROWCASS:

(b) Mr. Wold's letter of 12th November, 1945, concerning crimes against peace and against humanity, together with Committee III's report on the Sepp Dietz case (document C.156 already circulated);

(c) A letter from Dr. Zivkovic relating to charges against Italian war criminals and to the delay in handing over these criminals to the Yugoslav authorities for trial.

# REPORTS OF ATTENDANCE AT DACHAU AND NUREMBERG TRIALS

At the request of the CHAIRMAN, who had been unable to remain in Germany long enough to attend it himself, Colonel HODGSON gave a brief report of his impressions of the Dachau trial. He had attended one session and had left before the case for the prosecution had been completed, but considered that the trial was being well conducted before an American Military Commission the presiding officer of which was Brigadier General Lenz. Although he had not examined the charges and specifications, he understood that the defendants were charged with having committed murder, torture and other crimes at the camp as well as with conspiracy. The prosecution undertook to prove the criminal character of the camp, that the defendants held positions in connection with the camp, and in addition to present evidence that certain defendants had participated individually in the crimes, for which purpose they summoned fifty to sixty witnesses. The witnesses who testified while he was present were Polish, Lithuanian, Dutch and French.

In reply to questions from the CHAIRMAN and other members, Colonel HODGSON said that he believed the number of recorded deaths in the camp to be 35,000, but that he was not certain of this figure and that he did not know of the number of inmates who had perished since its inception, ten or fifteen years ago. The defending counsel consisted of four American officers appointed by the Court, beside whom sat two lawyers (presumably German). He was unable to say what line the defence would take or how long it would last, but he understood that the defence would open on November 28th. Only English and German were being used in court (most of the witnesses selected spoke one of those two languages) and the interpretation problem was therefore much simpler.

Dr. MAYR HARTING asked whether the trial was restricted to crimes against Allied nationals. Colonel HODGSON believed so, but could not be certain.

After thanking Colonel HODGSON, the CHAIRMAN gave a brief account of his attendance at the opening of the Nuremberg trial, which he said had been a very impressive scene. The great feature of the proceedings had been the fine and historic speech of the U.S. Chief Prosecutor, Mr. Justice Jackson, which had put the trial on the proper plane of elevation. The Chairman said he had been struck by the precise and concentrated way in which the great mass of material had been assembled for the trial - in their part of the case for the prosecution, the United States alone would use 1000 captured and other documents as evidence.

Colonel HODGSON said that it had been a great experience to see the 20 defendants in a court-room of law, facing their judges and the case being presented against them in a formal business-like fashion; it was probably the first time in history that anything like that had occurred.

At the end of the discussion, Colonel HODGSON said that, before leaving Nuremberg, he had requested that copies of the documents introduced as evidence, together with accompanying statements, be sent to the Commission in London. He hoped they would be received shortly. The CHAIRMAN believed that the British War Crimes Executive had undertaken to do the same thing.

REPORT

not y  
adopt  
forma

REQUE  
COPIE  
docum

which  
recei  
perso  
that  
any s  
Comm  
circu  
Comm  
reques

Commis  
stood,  
was un  
separa  
docume  
the co  
contai

ADHERE

stated  
Hondur  
the Co

had no

PARTICI

inform  
the U.S  
Foreign  
also on

RECOMME

C  
the abo



REPORT OF COMMITTEE I

Presentation of 16th List of German War Criminals

Owing to the fact that some of the National Offices concerned had not yet inspected the List, it was decided to wait another week before adopting it formally. Major MORDEN and Mr. MARKOVIC, however, gave their formal approval, subject to two minor amendments.

REQUEST FROM THE LEGAL COMMISSION OF THE FREE GERMAN MOVEMENT TO CIRCULATE COPIES OF THE REPORT ON THE PERSECUTION OF GERMAN ANTI NAZIS (Commission document C. 152)

At the request of the Chairman, DR. SCHWELB recalled the circumstances which led to the compilation of the report. A request had now been received from Dr. Rawitzki for permission to circulate it to interested persons, and asking for 50 copies for that purpose. Dr. Schwelb stated that there was no doubt that the report was good, that it did not disclose any secret information, but that in view of the two exceptions made by Committee I (Cf. minutes M.82, pages 6 & 7), it would be undesirable to circulate it outside the Commission as a document emanating from the Commission. He therefore suggested two ways of meeting Dr. Rawitzki's request:

- (a) Delete the objectionable passages, or
- (b) Delete the heading of the document, so that it does not appear as a U.N.W.C.C. document.

After some discussion, during which several members insisted that the Commission should not associate itself in any way with the report as it stood, it was decided that Dr. Rawitzki be informed that the Commission was unable to comply with his request, but would raise no objection to a separate report being produced, provided it did not appear as a Commission document. Mr. BURDEKIN also emphasised the necessity for ensuring that the covering letter which the Legal Commission might prepare should not contain any reference to the United Nations War Crimes Commission.

ADHERENCE TO THE FOUR POWER AGREEMENT

Following a request made at the last meeting, Sir Robert CRAIGIE stated that he had ascertained from the Foreign Office that Ethiopia, Honduras, Panama and Haiti were the other United Nations (non-members of the Commission) who had adhered to the Agreement.

The SECRETARY-GENERAL reported that the Luxembourg representative had notified the Commission of his Government's adherence to the Agreement.

Major MORDEN said that he had still not heard from his Government.

PARTICIPATION OF THE U.S.S.R. IN THE WORK OF THE COMMISSION

Commander MOUTON stated that his Government had authorised him to inform the Commission that it was anxious to obtain the cooperation of the U.S.S.R. and agreed to the suggestion that the Secretary of State for Foreign Affairs of the United Kingdom be asked to approach the U.S.S.R. also on behalf of the Netherlands Government.

(Note: The French and Luxembourg representatives have sent similar statements to the Commission.)

RECOMMENDATION CONCERNING JAPANESE WAR CRIMES & ATROCITIES, C. 145(1)

Commander MOUTON also announced that his Government had approved the above recommendation.

*Wright*

SECRET

M.88

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Eighty-Eighth Meeting

held on

December 5th, 1945

In the Chair: Lord WRIGHT - Australia

There were also  
present:

Colonel HODGSON	- United States of America
accompanied by Captain WOLFF	
F/O BRIDGLAND	- Australia
M. de BAER	- Belgium
accompanied by M. GOLSTEIN	
Major JOHNSTON	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Mr. SCHRAM NIELSEN	- Denmark
Sir Robert CRAIGIE	- United Kingdom
M. STAVROPOULOS	- Greece
Mr. DUTT	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Dr. SZERER	- Poland
Mr. MARKOVIC	- Yugoslavia

and

Major THOMSON - A.G.3. V.W., War Office

MINUTES

The minutes of the 84th and 86th meetings were approved and signed by the Chairman.

The draft minutes of the 87th meeting were approved, subject to the incorporation of amendments received from Colonel Hodgson. The final draft will be circulated in due course.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Professor Gros, Mr. Wold, Dr. Zivkovic and Sir Torick Ameer Ali.

The CHAIRMAN regretted the absence of the above members, who would be unable to contribute to the discussion of two important items on the agenda (i.e. Crowcass, and Committee III's report on the Sepp Dietz case), and said that a full debate on these subjects would have to be held next week.

ADOPTION OF 16th LIST OF GERMAN WAR CRIMINALS

The list, which had been approved or amended by all the National Offices concerned, was unanimously adopted.



WAR CRIMES EXHIBITION

The CHAIRMAN referred to the opening of the Exhibition which had taken place that morning, and which some members had attended. He would be interested to hear what impressions had been received, although he appreciated that it was too early to express any final opinion.

Colonel HODGSON wished first to congratulate Mr. Gibson and his assistants for their excellent work in assisting the French authorities. The CHAIRMAN joined Colonel Hodgson in expressing appreciation.

A discussion arose as to whether the Exhibition as it was now organised showed a sufficient number of "horrors". The CHAIRMAN said that he had talked to the French representatives, who had been faced with the same problem and had felt that too many horrors might arouse the worst elements of sadistic feeling in France. He did not feel, however, that this danger existed in England. On the other hand, were there enough shocking examples to prevent the public regarding the whole show as impossible and a fake? It seemed to him, that in its present form, the Exhibition did not exaggerate the extent and the extremity of horrors committed by the Nazi

Dr. SZERER, who had just returned from Warsaw, felt very strongly that there could be no question of exaggeration.

The CHAIRMAN fully agreed. The only question was whether the sight of the full horrors would alienate sympathy rather than encourage it.

Dr. SZERER appreciated that point of view, but feared that those countries which had suffered from German atrocities would hear about the Exhibition and feel it was not up to their expectations.

Colonel HODGSON supported Dr. Szerer. The real test was whether the Exhibition was an accurate portrayal of war crimes committed in the occupied countries. He felt personally that it was and that if the Exhibition erred, it erred on the side of mildness.

M. de BAER considered that the question should be viewed from the practical angle of the reaction of the British public. In his opinion the whole exhibition, including the cinema films was excellent, and should be shown throughout the British Isles, including Ireland, and nothing should be cut out. Furthermore it was not for the Commission to criticise a French exhibition; if the British press reacted unfavourably, it was for the French themselves to take action.

M. STAVROPOULOS said he had attended the first public cinema performance and noticed the sustained interest of the audience. The people seemed to be impressed, but showed no signs of being shocked.

The CHAIRMAN referred to a suggestion by Sir Robert Craigie that there should be a more extensive "Rogues Gallery". He had been profoundly impressed by the sight of the swaggering figures in some of the film shots taken at the time when the present defendants at the Nuremberg trials were at the height of their power and arrogance, particularly the shot showing Hans Frank arriving in Poland. Such scenes must necessarily be recalled to the public mind in order to emphasise the present decline of The Nazi War Lords.

Dr. SC  
from Norway.  
Offices had  
they had bee  
French autho

Mr. GI  
He wished ho  
invitations  
not the fault  
which had bee  
end, he hoped  
was not too  
Gallery", he  
showing the  
from Nurember  
which he woul

Finally  
into the first  
poned and the

TERMINATION OF

The SEC  
contracts by

Colonel  
resignation of  
members of the  
responsible f  
He hoped pers  
in order that  
experience, b  
expression of

M. de B  
served, support  
her to reconsi  
thanks for her  
latter suggest

The CHAI  
valuable servi  
however, that  
resignation.  
suggestion. H  
send her an ex

Dr. SCHRAM NIELSEN said that he had noticed the absence of exhibits from Norway. It was pointed out by Monsieur de Baer that all National Offices had been asked to contribute material for the Exhibition and if they had been unable to do so until now it was not too late to start. The French authorities would do their utmost to add any material received.

Mr. GIBSON said he would make a full report at the next meeting. He wished however to apologise to those members who had not received invitations for the official opening. This unfortunate oversight was not the fault of any department of the U.N.W.C.C., Referring to a suggestion which had been made by the Chairman to cut the film and the speech at the end, he hoped that this would not be done, as, in his opinion the performance was not too long. As regards Sir Robert Craigie's suggestion for a "Rogues Gallery", he drew attention to the pictures adorning the cinema hall, showing the "master criminals" in all their glory. He hoped to obtain from Nuremberg, a set of the same criminals in a more miserable condition, which he would place alongside.

Finally, he announced that it was hoped to continue the Exhibition into the first week in January, owing to the opening having been postponed and the intervention of Christmas holidays.

#### TERMINATION OF STAFF CONTRACTS

The SECRETARY GENERAL announced the following termination of contracts by three members of the staff:

Miss Pittendrigh, Chief Clerk,	on November 26th
Mrs Rudman, Indexer,	on November 26th
Mr Lyman, Executive Secretary,	on November 30th

Colonel HODGSON said he had heard with great regret of the resignation of Miss Pittendrigh, who had been one of the most valuable members of the secretariat, ever since the early days. She had been responsible for the keeping of very accurate records for Committee I. He hoped personally that she might be asked to reconsider her resignation, in order that the Commission should not lose the benefit of her experience, but if the Commission felt otherwise, he proposed that an expression of gratitude and appreciation be sent to her.

M. de BAER, as chairman of Committee I, whom she had mostly served, supported Colonel Hodgson. If it were not possible to ask her to reconsider her resignation, she should be sent a letter of thanks for her great services. Sir Robert CRAIGIE also supported the latter suggestion.

The CHAIRMAN agreed with what had been said concerning the valuable services rendered by Miss Pittendrigh. He did not consider, however, that it would be satisfactory to ask her to withdraw her resignation. As a matter of principle he could not support that suggestion. He would, however, cordially support the proposal to send her an expression of thanks and would act accordingly.



#### ITALIAN WAR CRIMES

At the request of the Chairman Sir Robert CRAIGIE read a letter from Dr. Zivkovic to Lord Wright, dealing with the question of Italian war crimes. Sir Robert said that he had received a similar letter from Dr. Zivkovic, to which he had sent the following reply - which he then read out. He hoped that the matter - purely one of delay in the administrative machinery - would be settled shortly and, had Dr. Zivkovic been present, he would have asked him not to insist on the Commission's taking further action for the time being.

Colonel HODGSON said that he had not heard of this correspondence before Sir Robert's statement. In view of this, he was surprised to hear that his Government was mentioned in it. He was not in a position to make any statement at this time, and would appreciate receiving copies of the correspondence in order that he might be permitted to consider the matter.

It was decided to circulate all three letters to members of the Commission, with a view to considering them at the next meeting.

The CHAIRMAN expressed the opinion that letters of this kind should be circulated to the Commission, as Commission documents, and said that it would be advisable in future if they were addressed to the Commission officially, instead of to him personally. A clear distinction should be drawn between the Chairman in his official capacity and in his private capacity.

#### RELATIONS WITH CROWCASS

The CHAIRMAN referred to document Misc.I, Professor Gros' observations on CROWCASS. He said that, although the matter could not be fully discussed in the absence of Professor Gros, he would appreciate receiving information in regard to the control of that organisation.

F/O BRIDGLAND felt that the administration of CROWCASS was a matter for the military authorities rather than for this Commission, and believed that the Allied Control Commission were considering the question of its future control. At the present time, it was being administered jointly by U.S.F.E.T. and B.A.O.R. Since the Commission could not dissociate itself from the work of CROWCASS and had discussed its problems on various occasions without achieving any result, he suggested that some members might visit Paris with a view to finding out more about it.

The CHAIRMAN stated that, whereas the Commission had no control or influence over CROWCASS, it had adopted a recommendation to the effect that its work was very important for the Commission. He hoped that at the next meeting, Professor Gros would be able to enlighten members and say whether the Commission could make any suggestions in an advisory capacity.

#### PRESS STATEMENT REGARDING PROFESSOR SMITH AND THE BELSEN TRIAL

Dr. LLING asked the Commission not to think that he was neglecting his duty by not producing the statement asked for in M.86, p.6. He had, however, been in consultation with the Chairman and the Secretary-General on this subject.

He pointed out that, at the time when he and Professor Gros had been asked to prepare such a statement, he had not been present in the meeting. On being contacted by Mr. Lyman, however, he had immediately spoken to

MAJOR  
It is

PROFES  
the a  
can a

THE CH  
quadru  
is his  
any or  
and pu  
tions  
essent  
we hav  
part t  
You ha  
and I  
it oug  
where  
the Co  
your l  
course

the rq  
Americ  
Paris

THE CH  
practi  
more?

PROFES  
always

Dr. Schwelb who had offered to send him the full text of Professor Smith's statement as soon as it was available. He felt personally that it would be undesirable for the Commission to make a statement on the press reports only, since that would provoke a reply from Professor Smith. He added that if the latter's remarks were read in their context, it would be found that they dealt with every point. Had he been present at the time when the Commission discussed the matter, he would have pointed out that, if it was desired to contradict the views of a private individual, the usual procedure was to appoint a spokesman for the Commission, perhaps the Public Relations Officer, who would use the ordinary channels of publicity.

Now that the Belsen trial was over, he felt it would be unwise to issue a statement from the Commission which might not be printed at all. He therefore proposed, after consultation with the Chairman who had agreed with him, that the matter should not be placed on the agenda again, unless any member wished to raise it at a future date.

The CHAIRMAN agreed.

#### CHRISTMAS LEAVE

It was decided that there would be no committee meetings during the week before as well as during Christmas week, but that a meeting of the Commission would be held on December 19th, unless otherwise announced.

Arrangements have been made by the Secretary-General for one senior member of the staff and an assistant to be on duty, during the period December 21st to December 29th inclusive.

*Wrigg*



SECRET.

M. 89.

UNITED NATIONS WAR CRIMES COMMISSION.

Minutes of Eighty-ninth Meeting

held on

December 12th, 1945.

In the chair : Lord WRIGHT - AUSTRALIA

There were also present:

Colonel HODGSON, accompanied by Captain WOLFF	- United States of America.
Mr. Justice MANSFIELD, accompanied by F/O BRIDGAND	- Australia
M. de BAER accompanied by M. GOLSTEIN	- Belgium
Major JOHNSTON	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING accompanied by Major FANDERLIK	- Czechoslovakia
Professor GROS accompanied by M. MALEZIEUX	- France
Sir Robert CRAIGIE	- United Kingdom
Mr. DUTT	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Major PALMSTROM	- Norway
Dr. SZERER	- Poland
Dr. ZIVKOVIC	- Yugoslavia

WELCOME TO MR. JUSTICE MANSFIELD.

The CHAIRMAN introduced Mr. Justice Mansfield of the Supreme Court of Queensland. Judge Mansfield had been closely connected with all questions affecting war criminals in Australia and he would be most helpful to the Commission in its deliberations.

On behalf of other members of the Commission, Colonel HODGSON extended a cordial welcome to Mr. Justice Mansfield.

LETTER FROM M. DE BAER.

The CHAIRMAN referred to a letter just received from M. de Baer, raising a number of questions which he felt ought to be discussed by the Commission.

It was decided to circulate the letter to members of the Commission (document Misc.3) in order that the points raised might be discussed at the next meeting. The CHAIRMAN again urged that correspondence of this nature should be addressed to the Commission so that no time is lost in preparing copies for circulation to members.

MINUTES

The minutes of the 87th meeting were approved and signed by the

Chairman.

Amendments to the draft minutes of the 88th meeting were received from M. de Baer and Colonel Hodgson, and they will be incorporated in the final text for circulation in due course.

APOLOGIES FOR ABSENCE.

Mr. Wold sent apologies for absence and was represented at the meeting by Major Palmström.

Sir Torick Ameer Ali also regretted his inability to attend, owing to indisposition.

REPRESENTATION OF THE USSR ON THE COMMISSION.

The CHAIRMAN reported receipt of the following letter from Sir Robert Craigie, dated 3rd December, 1945:

"With reference to your letter of 19th October addressed to Mr. Beaumont about the participation of the Soviet Government in the work of the United Nations War Crimes Commission, I am informed by the Foreign Office that the views of His Majesty's Government have not changed since the time when the original motion was passed by the Commission on the 22nd. August suggesting that His Majesty's Government in the United Kingdom should approach the Government of the Union of Soviet Socialist Republics with an invitation to join the Commission.

2. His Majesty's Government are still prepared to approach the Soviet Government in this sense on behalf of the other Governments represented on the United Nations War Crimes Commission provided all those Governments are agreeable to this course."

The CHAIRMAN said that it would be desirable to have unanimous agreement on the suggestion to request the British Government to approach the Soviet Government inviting it to join the Commission, before transmitting that request to the British Government. Up to date, replies were outstanding from two Governments: Poland and Yugoslavia.

Dr. ZIVKOVIC stated that he had urged his Government to reply, but so far had not had any response. He would send another telegraphic reminder.

Dr SZERER said that he had not had any reply from his Government but would endeavour to obtain their views as soon as possible.

The CHAIRMAN hoped that the matter could be decided after the Christmas holidays.

RELATIONS WITH CROWCASS.

The CHAIRMAN asked Professor Gros to open the discussion. Professor GROS referred to his memorandum (document Misc.1) which represented his personal views and had, therefore, been circulated to members of the Commission only: it was not intended for outside distribution. He spoke now on behalf of the French National Office and consequently as the representative of the French Government. Recalling the points made in his memorandum, he urged that, before deciding whether CROWCASS could be of much assistance in the work upon which the Commission was engaged, CROWCASS' proposed policy must be clearly understood. The decision taken at the two meetings held in Berlin (that CROWCASS should be under a four-power control) did not seem to have been carried out, since control was being exercised by the Supreme Commanders of the British and American military authorities in Germany. The work of CROWCASS therefore was primarily

devoted to n  
persons (know  
for the bene  
namely, the  
thereby. W  
he did feel  
collaboratin  
cerned. Re  
with the Nat

As an ex  
between the  
as document  
information  
full use of  
Commission in  
ments to supp  
relationship

In concl

(1) The  
rel

(2) The  
wit  
in

In reply  
the intention  
proper, but it  
in completing  
six months.  
did not entail  
igence service  
in its own tas  
nor issue inst  
i.e. U.S.F.E.T  
assumed by a n  
ission, the U.  
it, as from on

M. de BAER  
visit to Colone  
CROWCASS to hel  
had changed and  
the best way to  
ask a represent

Sir Robert  
on the preparat  
If CROWCASS wer  
isation should  
CROWCASS in ord  
emphasis on the

The CHAIRMAN  
were interested  
greatly admired  
names of war cri  
connection, was  
National Offices

Professor G



devoted to making a register of all prisoners of war and of suspected persons (known to be Nazi sympathisers, but not necessarily war criminals) for the benefit of those military authorities. The work of the Commission, namely, the tracing and apprehending of war criminals would not be helped thereby. Without wishing to deprecate the general usefulness of CROWCASS, he did feel that the Commission should realise its limitations in so far as collaborating with the Commission in its particular activities was concerned. Real progress in that direction can only be made by close liaison with the National Offices.

As an example of the present state of confusion in the relationship between the two organisations, he quoted Colonel Elms' letter (circulated as document C. 158). He did not see how the Commission could get the information requested. CROWCASS was a military body and it should make full use of the liaison officers attached to it or to the Allied Control Commission in Berlin. The Commission could not ask its member Governments to supply information to a body with which it had no official relationship - the connection was entirely unofficial.

In conclusion, therefore, two points require to be emphasised:

- (1) The fact that confusion seemed to exist regarding the exact relationship of CROWCASS and the Commission.
- (2) The fact that CROWCASS was not engaged 100% on work connected with war criminals and therefore could not be of much help in tracing war criminals.

In reply to the CHAIRMAN, Professor GROS did not doubt that, primarily, the intention had been to undertake the work connected with war criminals proper, but it had turned out differently and CROWCASS were now interested in completing the mechanical registration of prisoners of war, in another six months. He fully appreciated that this task was much simpler as it did not entail consultation with national offices, G-2 branches and intelligence services, but at the same time it did not assist the Commission in its own task. The Commission could not make suggestions to CROWCASS nor issue instructions; these must come from its controlling authority, i.e. U.S.F.E.T. and B.A.O.C. If, on the other hand, control had been assumed by a non-military organisation such as the Allied Control Commission, the U.N.W.C. Commission would be in a position to communicate with it, as from one international organisation to another.

M. de BAER supported Professor Gros' views. At the time of his visit to Colonel Palfrey, he had been convinced of the sincere desire of CROWCASS to help in matters concerning war criminals. But the position had changed and he was unaware of what it now was. He suggested that the best way to solve all difficulties and misunderstandings would be to ask a representative to attend a meeting of the Commission.

Sir Robert CRAIGIE also felt that a greater emphasis was being laid on the preparation of lists of prisoners of war than of war criminals. If CROWCASS were not going to undertake the latter work, some other organisation should do it. He would favour discussing the question with CROWCASS in order to ascertain whether they were prepared to lay more emphasis on the war criminal side of their activities.

The CHAIRMAN appreciated the fact that the military authorities were interested in obtaining a register of all prisoners of war. He had greatly admired the lists which had been produced, but had noticed that the names of war criminals were missing. The practical question, in this connection, was to ensure greater cooperation between CROWCASS and the National Offices.

Professor GROS said there were also other sources, such as intelligence

services, and G-2 branches, from which information about war crimes should be obtained.

MAJOR  
It is

PROFES  
the a  
can all

THE CH  
quadru  
is his  
any or  
and pu  
tions  
essent  
we hav  
part t  
You ha  
and I  
it oug  
where  
the Co  
your k  
coursd

It was unanimously decided that the Secretary-General should telephone to Colonel Elms of CROWCASS and request him or a representative to attend the next meeting of the Commission, failing that, the meeting of January 9th. M. de Baer and Professor Gros were asked to draw up a schedule of practical and concrete suggestions regarding the organisation of CROWCASS, and cooperation with the Commission as well as with National Offices, military authorities and any other agencies likely to have information about war crimes, such as police bureaux, the Red Cross, philanthropic organisations, etc.

Major PALMSTROM said that he had recently visited CROWCASS and had ascertained from them that if they received a wanted report and had no information on record concerning the whereabouts of the criminal, the report was circulated to all war crimes branches attached to Allied military headquarters, and the name included in the "Wanted List". All requests for surrender should be transmitted to CROWCASS and not to military authorities.

(DR. LLANG JOINED THE MEETING AT THIS STAGE)

The CHAIRMAN referred to a letter he had received from Mr. Wold, suggesting that "it was the duty of the Commission, in a reasoned recommendation to the member Governments, to outline the necessity for such an international organisation which can take over the main work of CROWCASS. The recommendation should give an account of the international work which is necessary for the identification, apprehension, extradition and trial of war criminals. It should stress the necessity for this work to be performed and controlled by the United Nations. It should also contain an estimate of the smallest administrative body necessary for the efficient performance of these tasks, and finally, it should give some suggestions regarding the financing of the administration."

The CHAIRMAN said that would be a very serious undertaking, and he personally would prefer to try and come to a working arrangement with CROWCASS, who had done admirable work and were anxious to assist the Commission.

Mr. BURDEKIN felt that, before considering setting up such an organisation, it should be clearly understood what it should do. With regard to CROWCASS, what exactly was being done beside circulating the lists? What was the next step, if any, to be taken by the holding authority? Until a Government knew the whereabouts of a particular criminal, it could not apply for his surrender. Such information should be conveyed as soon as possible to the National Offices concerned, in order to enable them to send disposal instructions.

He also asked whether the register of prisoners of war indicated whether a prisoner was known to be a member of the S.S. or Gestapo.

Professor GROS replied that, in the case of France, CROWCASS had advised the National Office that 120 war criminals were detained in some particular place. That was a beginning, although it was very slow.

Major FANDERLIK recalled that, some time ago, the National Offices had been asked to submit detention reports, regarding prisoners held by the United Nations. The Czechoslovak Ministry of the Interior had circulated all police offices and compiled a register which was being transmitted to CROWCASS. He felt that it was necessary for all National Offices to help in this manner.

Dr. SZERER stated that the only help which could be expected from CROWCASS would be connected with prisoners of war, but the Commission

PROFES  
always



was essentially concerned with the location of war criminals who might not be prisoners of war. That point should also be borne in mind

The CHAIRMAN said it would be kept in mind

(PROFESSOR GROS LEFT THE MEETING)

CRIMES AGAINST PEACE AND AGAINST HUMANITY

Dr. MAYR HARTING, acting chairman of Committee III, reported that the Committee had discussed at its last meeting the Czechoslovak Case No.26 (Sepp Dietz). The result of the discussion was fully set out in C.156. He wished now to mention two or three points of some importance.

Firstly, it was agreed that at least for the purpose of the discussion the acts of Sepp Dietz should not be considered as violations of the laws and customs of war.

It would be remembered that Sepp Dietz, leading a gang of other S.S. men invaded Czech territory at the beginning of March 1939 and provoked clashes with the Czechoslovak police. During these incidents members of the Czechoslovak police as well as civilians were killed. In the Czechoslovak opinion, there existed already at the beginning of March 1939 a state of war between Czechoslovakia and Germany. It is thus obvious that the acts of Sepp Dietz must be qualified as violations of the laws and customs of war. The Czechoslovak representative, however, dropped that argument and Committee III decided unanimously to restrict itself to the question whether Sepp Dietz should be listed, even if his acts were not considered as violations of the laws and customs of war.

The second point on which the Committee agreed was that even in this case he should be listed as a war criminal provided, of course, that Committee I is satisfied as to the facts stated in the Charge.

Some difference of opinion occurred when it came to the question of whether the facts set out in the Charge comprised the elements of a crime against humanity or of a crime against peace. Some members of the Committee held that the acts of Sepp Dietz represented crimes against humanity, others that they represented both crimes against humanity and crimes against peace. One member eventually was of the opinion that they should be considered as crimes against peace and as such crimes only.

In other words the Committee agreed on the substance if not (to some extent at least), on the reasons for recommendation. With one exception the opinion was that the acts of Sepp Dietz set out in the Czechoslovak Charge No.26 represented, possibly amongst others but in any case crimes against humanity. The report therefore only dealt with the question whether crimes against humanity should be considered as war crimes in the same way as violations of the laws and customs of war. To answer the question whether the same holds good for crimes against peace appears superfluous.

Dr MAYR HARTING said he did not know the opinion of the other members of Committee III on this subject. As far as he was concerned, he agreed entirely with Mr. Wold if he thought that it would be necessary to go into the question whether and in which way the Commission should deal with crimes against peace. The importance of the subject requires, however, that it should be dealt with in a general way, not on the basis of an individual case, certainly not on the basis of the case of Sepp Dietz which is not, to say the least, a very clear example of a crime against peace. He added that the Committee was, of course, aware of the fact that in order to come to a conclusion on that case it was not necessary to deal with every conceivable type of crime against humanity. In connection with the particular case, those crimes committed against Allied nationals or Allied territory appear of some interest.

The Committee confined itself, therefore, to the question whether persons charged with crimes against humanity committed against Allied nationals or on Allied territory should be listed by the Commission and surrendered to the Allied government concerned; the question was answered in the affirmative and a recommendation made to list Sepp Dietz as a war criminal.

He proposed that the Commission might consider the Report and adopt it.

The CHAIRMAN thanked Dr. Mayr Harting for his report, and it was decided to adjourn further discussion until Mr. Wold was able to attend.

#### REPORTS OF COMMITTEE CHAIRMEN

##### Committee I

##### Lists of Japanese War Criminals received from Chungking Sub-Commission

On the proposal of M. de Baer, chairman, it was decided to reproduce the seven lists received from Chungking, for distribution as a Commission list, provided no changes were made.

Dr. LIANG offered to arrange for the Japanese spelling of names to be reproduced on the stencils.

(DR LIANG LEFT THE MEETING)

##### Finance Committee

Sir Robert CRAIGIE, chairman, reported that three meetings had been held to discuss various matters. The financial position of the Commission was as follows:

The current account on December 1st, 1945 stood at £17,000. On December 3rd, the Working Capital Fund amounting to £6,226, was transferred from current account to deposit, as provided in Article 4, para 1 of the Financial Regulations of the Commission (Document C.45). This account would amount to £6,800 when all outstanding contributions to the Working Capital Fund had been received. The balance in the Commission's favour, on December 4th, amounted to £10,863, but when all outstanding contributions amounting to £18,836 had been received, it would stand at £29,699. Sir Robert CRAIGIE said he hoped that all contributions would be paid in before the end of January.

He announced that the Controller and Auditor General had begun the audit of the Commission's accounts for the first fiscal period (October 26th, 1943 to March 31st, 1945). Finally, the Committee had approved a number of small increases in staff salaries.

(M. de BAER LEFT THE MEETING)

#### WAR CRIMES EXHIBITION

Mr. GIBSON, Public Relations Officer, stated that the average attendance at the exhibition was 2,400 per day, and that the public continued to show intelligent interest.

He wished to thank all the members for the help they had given and to explain to the Yugoslav and Czechoslovak representatives that some of the material they had sent, which had not been used, would be put up on Monday. There would also be a change in the film programme.

The  
intention  
it had no

An a  
sum of £98

The  
or at leas

REPORT BY

Dr. Z

WAR CRIMES

The  
should dis  
trials. D  
for circul



The Exhibition would remain open until January 17th. The original intention had been to send the Exhibition to Europe after that date, but it had now been decided to show it in six cities in this country.

An account had been opened at Lloyd's bank in Piccadilly and a sum of £98 had so far been collected, for UNRRA.

The CHAIRMAN said it was worth considering sending the exhibition or at least the films to the U.S.A. and Canada.

REPORT BY DR ZIVKOVIC

Dr. ZIVKOVIC gave a brief report of his visit to Nuremberg.

WAR CRIMES TRIAL REPORTING

The CHAIRMAN proposed that at its next meeting the Commission should discuss the question of the preparation of reports of war crimes trials. Dr. Schwelb was asked to prepare a memorandum on this subject, for circulation to members before the meeting.

*Wright*

SECRET

UNITED NATIONS WAR CRIMES COMMISSION

M.90

Minutes of Ninetieth Meeting

held on

December 19th, 1945.

In the chair : Lord WRIGHT

There were also present:

Colonel HODGSON,  
accompanied by Captain WOLFF  
Mr. Justice MANSFIELD  
Mr. GOLSTEIN  
Captain MACDONALD  
Dr. LIANG  
Dr. MAYR-HARTING  
accompanied by Major FANDERLIK  
Dr. SCHERER NIELSEN  
Professor GROS  
Sir Robert CRAIGIE  
M. STAVROPOULOS  
Mr. DUTT  
Commander MOUTON  
Mr. AIKMAN  
Major PALMSTROM  
Dr. SZEKER  
Dr. ZIVKOVIC

- Australia

- United States of  
America  
- Australia  
- Belgium  
- Canada  
- China  
- Czechoslovakia

- Denmark  
- France  
- United Kingdom  
- Greece  
- India  
- Netherlands  
- New Zealand  
- Norway  
- Poland  
- Yugoslavia

and

Major RYAN

Major Thomson

- CROWCASS (by in-  
vitation)  
- A.G.3. V.W. War  
Office.

WELCOME TO CAPTAIN MACDONALD.

The Chairman extended a welcome to Captain J. A. Macdonald,  
who was representing Canada.

MINUTES.

The minutes of the 88th meeting were approved and signed by  
the Chairman.

The draft minutes of the 89th meeting were approved for  
final circulation, subject to the incorporation of amendments  
received from Dr. Mayr-Harting and Professor Gros.

APOLOGIES FOR ABSENCE.

Sir Torick Ameer Ali, M. de Baer and Mr. Burdakin sent apologies  
for absence.



REPRESENTATION OF THE U.S.S.R. ON THE COMMISSION.

The CHAIRMAN reported receipt of a letter from Dr. Szerer in which he stated that the Polish Government viewed "with great favour the contemplation and agreed to the Commission's asking H. M. Government in the United Kingdom to approach the Government of the U.S.S.R. inviting it to join the Commission".

Dr. ZIVKOVIC stated that he had just received a telegram from his Government, authorising him to inform the Commission that the Yugoslav Government agreed to the recommendation regarding the approach to the Soviet Government.

The CHAIRMAN was gratified to know that all members of the Commission had now agreed to this recommendation. The Secretary General was authorised to ask the Foreign Office to approach the Government of the U.S.S.R. inviting them to join the Commission.

DISPOSAL OF DOCUMENTS USED AT THE NUREMBERG TRIAL.

The CHAIRMAN referred to a letter dated 12th November which he had addressed to the Ministers of Foreign Affairs of the United States, United Kingdom and France and to the four Chief Prosecutors of the International Military Tribunal, dealing with the question of the disposal of documents used at the Nuremberg trial.

The CHAIRMAN stated that replies had been received from Mr. Bevin, the Secretary of State for Foreign Affairs of the United Kingdom, from Sir Hartley Shawcross and from Mr. Justice Jackson, and quoted the relevant extracts.

The CHAIRMAN added that the sympathetic and courteous tone of those replies implied that the Commission had been thoroughly justified in taking the course adopted.

CROWCASS

The CHAIRMAN welcomed Major Ryan, who had come over from Paris at the request of the Commission to discuss matters relating to CROWCASS.

He stated that two questionnaires had been compiled to facilitate discussion and proposed that Major Ryan be invited to reply to those questions. Document C.162 represented the views of a number of people and might be called the "Commission's questionnaire", and document C.161 had been drawn up by Professor Gros. Some of the questions, however, appeared to overlap.

Present constitution of CROWCASS : C.161:1 & C.162:10.

Major RYAN stated that, as a result of a meeting held in Berlin at which the United Kingdom, the United States and France were represented, an interim directorate to control CROWCASS was set up on October 20th, 1945, and authority vested in G-1, USFET Main, for the United States, and E.A.O.R. for the United Kingdom (British Army reference : BAOR/3796/39/A(PS)). He confirmed that the arrangement was temporary and that negotiations were now proceeding for that authority to be assumed by the Allied Control Commission, i.e. by all four powers.

Wanted and Detained Reports and Lists C.161:2,3 & C.162,1-5.

Major RYAN maintained that the figures quoted by Professor Gros in his questionnaire were not up-to-date and that a greater number of replies

had been re-established States military at Bad Oeyn

Profess figures, but the number of number of re

Major R Wanted Report just beginning the submission send information sift and com Offices come in prin military aut suit. Belgi recently beg

In reply received from

Major R the Detained of the war cr the national discrepancy appeared on t been received

Professo the List of P prisoners wou

Major RY difficulties in the early the result th difficulty wa efficiently.

Regarding quotas were se Branch (for di attached lists 260 copies wer for distributi except with th Crimes Commiss

Regarding Lists and four Wanted Lists No. 7 had only taining the ne Wanted List No List No. 5 som received was 1

Dr. Szerer in which he  
favour the contemplat  
Government in the Unite  
inviting it to join the

telegram from his  
that the Yugoslav  
approach to the Sevi

bers of the Commission  
ry General was authori  
of the U.S.S.R.

ember which he had  
United States, United  
of the International  
disposal of documents

ed from Mr. Bevin,  
ted Kingdom, from  
and quoted the

teous tone of those  
ly justified in

ver from Paris at the  
to CROWCASS.

led to facilitate  
reply to those  
number of people  
and document C.161  
stions, however,

held in Berlin at  
e were represented,  
on October 20th,  
United States, and  
e : BAOR/3796/39/  
rary and that  
be assumed by the

2,1-5.

Professor Gros in  
er number of replie

had been returned by CROWCASS within the last fortnight. Contact was established with the national liaison officers attached to the United States military headquarters at Wiesbaden and to the British headquarters at Bad Oeynhausen, and information was being exchanged daily.

Professor GROS explained that he was not interested in the exact figures, but wished to know the reason for the wide difference between the number of Wanted Reports sent in by the National Offices and the number of replies received by them from CROWCASS.

Major RYAN attributed this discrepancy to the fact that, while Wanted Reports were being received in great numbers, CROWCASS were only just beginning to receive the co-operation of Governments with regard to the submission of Detention Reports. If national authorities did not send information regarding the prisoners they held, CROWCASS could not sift and compare that information in order to pass it on to the National Offices concerned. Detention Reports were, however, now beginning to come in principally from B.A.O.R. and USFET and it was hoped that the military authorities in the Mediterranean Theatre would shortly follow suit. Belgium, the Netherlands, Czechoslovakia and Yugoslavia had also recently begun to send in their reports.

In reply to Dr. Mayr Harting, Major RYAN said that nothing had been received from the Soviet Government.

Major RYAN then explained how the Wanted Lists were checked against the Detained Lists. If a detention report had been received, the name of the war criminal concerned would not appear on the Wanted List, but the national authority "wanting" him would be informed. Owing to the discrepancy of dates of issue, it might happen sometimes that the name appeared on the Wanted List, although the Detention Report might have been received in the meantime.

Professor GROS asked whether the Wanted List was checked against the list of Prisoners of War; if not, there was a danger that the prisoners would be released and later untraceable.

Major RYAN appreciated this fact, but pointed out the practical difficulties involved. When Germany collapsed, it was quite impossible in the early stages to cope with the enormous number of prisoners with the result that many had to be released without being checked. Another difficulty was lack of accommodation in which CROWCASS could operate efficiently.

Regarding the distribution of the Lists, Major Ryan said that quotas were sent to the United States Judge Advocate General, War Crimes Branch (for distribution to all United States war crimes agencies and attached liaison officers) and to B.A.O.R. for similar distribution; 260 copies were despatched to the United Nations War Crimes Commission for distribution to National Offices. CROWCASS had no other links except with these military headquarters and the United Nations War Crimes Commission.

Regarding the issue of lists, Major Ryan stated that seven Wanted Lists and four Detention Lists had so far been issued. The first three Wanted Lists had been embodied in one volume and printed in two parts. No. 7 had only just been sent off. It was a consolidated volume containing the names of war criminals and witnesses, but no security suspects. Wanted List No. 8 was due to appear before January 1st, and Detention List No. 5 some time early in January. The number of wanted reports received was 15,000, but he could give no figure for detention reports.



Registration of Prisoners of War : C.162, 6 & 7.

Major RYAN reported that in about six months' time there would be a register containing the names of about 7 million prisoners of war. Another three to five million might have been registered, had the USSR authorities been prepared to co-operate.

At the present time, however, CROWCASS was primarily engaged in handling Wanted and Detained reports, as it was found that the prisoner of war forms had not given the yield expected (he estimated that less than 200 war criminals had been traced thereby), although evidence of war crimes might be obtained by screening them. He stressed, however, that CROWCASS was a recording and collecting agency and had no detective functions; it was unable to go forth and seek out the criminals, but had to depend on information supplied by the Governments.

Sources of information

Major RYAN confirmed that the names in the Commission's lists of war criminals were automatically included in the CROWCASS Wanted Lists. The other chief source from which the names of wanted war criminals were obtained was the National Offices.

Security Suspects : C.161, 6.

Major RYAN explained that the names of security suspects had been supplied primarily by the intelligence sections of BAOR and USFET, as persons wanted for interrogation, etc. in connection with the denazification of Germany. Practically every adult person in Germany came into this category. This task had now been completely abandoned, and although forms were still being received, they were not being filed.

Italian war criminals.

Dr. ZIVKOVIC enquired whether the seven million prisoner of war forms included any Italian war criminals. He was concerned about the tracing and surrender of Italian war criminals following the announcement that the Italian Government would assume administration in Italy as from January 1st, 1946.

Major RYAN said that the forms received only concerned Germans. The Allied authorities in the Mediterranean, however, were preparing forms at the present moment.

Professor GROS said that the discussion so far amounted to one thing: that CROWCASS hoped eventually to present to the Allied authorities a complete register of names. But it would then be too late, as the people would have been released, and no amount of checking the names against the Wanted Lists would serve any purpose. Was it possible for the Commission to do anything about that?

Major RYAN replied that the main trouble would appear to be that Governments were sending in Wanted Reports, but few Detention Reports were being received, i.e. everyone knew whom he wanted, but no one could be told where the wanted person was, unless the holding authorities supplied the information.

Professor GROS said he was not concerned about the prisoners already detained and kept in custody, but about those who would be released if they were not checked up now. Every moment was precious and the longer it took to "marry" Wanted and Detained Reports, the more difficult it would be to find the criminals.

MAJOR  
It is

PROFES  
the a  
can al

THE CI  
quadru  
is his  
any or  
and pu  
tions  
essent  
we hav  
part t  
You ha  
and I  
it oug  
where  
the Co  
your k  
course

to  
pr  
Pa  
tre  
  
if

Sir Robert CRAIGIE pointed out that our main purpose was to try the criminals, and it was therefore very important to ensure that Detention Reports, showing where the criminals were, be submitted to CROWCASS. Even if incomplete, our main purpose would be served.

Major RYAN stated that USFET and BAOR were holding up the transfer and release of all prisoners, pending the publication of the present lists, and that as a result, it was hoped that a number of criminals would be discovered.

In reply to Commander Mouton, Major RYAN rejected the idea of attaching Liaison Officers to CROWCASS. Machinery already existed for making contact through the United States and British military authorities, and it would serve no useful purpose for CROWCASS to have separate liaison. In any case, lack of accommodation in Paris would make Commander Mouton's suggestion impracticable.

Rate of enquiries received from National Offices : C.162, 5.

Major RYAN stated that about 200 letters and 20 cablegrams were dealt with daily and sometimes as many as 5,000 Wanted Reports were received in one day. Telephone communication with Bad Oeynhausen and Wiesbaden was constant. Colonel Elms' policy was to answer every enquiry within 48 hours.

Principal difficulties encountered : C.162, 8.

Major RYAN repeated that, under the plan adopted by the interim directorate, no releases of prisoners would be made until the two lists had been completed. The trouble up till now had been due to concentration of activity on lists of security suspects and prisoners of war, but this was no longer the case.

Apart from that, CROWCASS was still suffering from lack of accommodation. That problem had not yet been solved.

Delivery of war criminals : C.162, 9.

This question did not concern CROWCASS, but Colonel HODGSON stated that, as far as the United States authorities were concerned, the USFET directive had been furnished to members of the Commission and that the procedure for obtaining delivery of a wanted war criminal would be found therein. The authority to surrender was vested in the Theatre Judge Advocate in Wiesbaden.

Commander MOUTON asked that similar directives be sent to the Commission from BAOR and the French authorities.

After further discussion, Major Ryan was asked to prepare a memorandum for the use of National Offices, describing exactly what help they could give to CROWCASS and what help could be expected from CROWCASS. He stated that a report had been submitted to USFET and BAOR on those lines and was being considered at the present moment. Instructions could be issued only by those authorities. He added that plans were under way to visit a number of countries and give them firsthand information, and it was hoped to arrange for representatives - if not from CROWCASS' staff, then from BAOR or USFET - to travel in the field and explain any difficulties.

Dr. ZIVKOVIC was glad to hear this. In his opinion, it was essential to establish direct contact between the National Offices and CROWCASS. He proposed that CROWCASS should send its lists direct to Yugoslavia from Paris, and thus avoid delay in sending them to this Commission for onward transmission to the National Offices.

Major RYAN said he would be glad to do this, and for any other country if specifically instructed. Should members therefore wish to have lists



transmitted direct, they should write to CROWCASS, stating the exact address; otherwise the lists would be sent to the Commission for distribution, as heretofore.

Dr. ZIVKOVIC proposed that CROWCASS should, as soon as possible, concentrate its attention on Italian war criminals whose names appeared in the Commission's lists.

Major RYAN said that question should be taken up with the interim directorate itself, from whom CROWCASS could alone take instructions. The letter should be sent jointly to USFET and BAOR.

On the suggestion of Colonel Hodgson, Major RYAN agreed to submit written replies to the 18 questions submitted in documents C.161 and C.162.

The CHAIRMAN thanked Major Ryan for attending the meeting.

Major RYAN thanked the members of the Commission for the opportunity they had afforded him for attending this meeting and stated that Colonel Elms wished to co-operate fully with the United Nations War Crimes Commission and expressed regret that Colonel Elms had been unable to come himself.

#### PROPOSED EXHIBITION OF JAPANESE WAR CRIMES.

Mr. Justice MANSFIELD proposed that, in view of the success of the "Nazi Crime Exhibition", an exhibition of Japanese war crimes be held in London to show the British public what had happened in the Far East and Pacific areas. The Australian Government would handle all arrangements and pay expenses and asked the Commission to sponsor the exhibition.

Sir Robert CRAIGIE strongly supported the proposal and the Commission agreed to give its sponsorship.

Dr. LIANG felt that if an exhibition were held under the auspices of the Commission, other member Governments, whose territories had been invaded by the Japanese, should also take part. The Chinese Government would certainly be willing to co-operate.

The CHAIRMAN pointed out that any Government was free to hold an exhibition and ask for the Commission's sponsorship. In this case, the Australian Government had taken the initiative and while they might ask for co-operation from other member Governments, the exhibition would be under the control of the Australians. In the same way, the "Nazi Crime Exhibition" had been staged by the French Government, under the auspices of the War Crimes Commission but other Governments had participated.

#### REPORTS OF COMMITTEE CHAIRMEN.

##### Committee I.

Mr. Justice MANSFIELD reported that he had taken the chair at a meeting of Committee I, in the absence of M. de Baer, and that the Committee had considered and passed 100 cases submitted by the National Offices.

##### Public Relations Committee.

Dr. ZIVKOVIC, the Chairman, reported that the Nazi Crime Exhibition continued with great success and that 33,000 had attended so far. A film had been received from the United States Office.

As he was s  
an indefinite ti  
be elected for t  
elect its own de

#### REPORT OF WAR CR

The CHAIRMAN  
recording of war  
aspect of the Com  
the number of tri  
reports should be  
by the Commission  
the charge, the g  
court and the sen  
was not yet ripe

It was decid  
meeting.

#### DATE OF NEXT MEET

The CHAIRMAN  
the next meeting  
a matter of real  
be arranged and m

MAJOR  
It is

PROFES  
the al  
can al

THE CH  
quadru  
is his  
any or  
and pu  
tions  
essent  
we hav  
part t  
You ha  
and I  
it oug  
where  
the Co  
your h  
course

As he was shortly leaving for Nuremberg and expected to be away for an indefinite time, Dr. ZIVKOVIC proposed that a deputy Chairman should be elected for that period. It was decided that the Committee would elect its own deputy.

REPORT OF WAR CRIMES TRIALS.

The CHAIRMAN referred to the question of the reporting and recording of war crimes trials. In order to deal effectively with this aspect of the Commission's work, it was necessary to have an estimate of the number of trials, the material available, and to discuss how the reports should be drawn up. He felt, personally, that the first report by the Commission should be comparatively short and should merely state the charge, the general nature of the evidence, the decision of the court and the sentence passed. He considered, however, that the time was not yet ripe for making any definite decision.

It was decided to adjourn further discussion until the next meeting.

DATE OF NEXT MEETING OF THE COMMISSION.

The CHAIRMAN intimated that with the approval of the members, the next meeting of the Commission would be held on January 9th unless a matter of real urgency should arise, in which case, a meeting would be arranged and members informed.

*Bring 2*

by

and

mes

—  
be  
as  
gainst  
s against  
ained  
tted by



SECRET

M. 91

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-first meeting  
held on  
January 9th, 1946.

In the Chair: Lord WRIGHT - Australia

There were also

present: Colonel HODGSON	- United States of America
accompanied by Captain WOLFF	
Mr. Justice MANSFIELD	- Australia
M. de BAER	- Belgium
Major MORDEN	- Canada
Dr. LLANG	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Dr. SCHRAM-NIELSEN	- Denmark
Professor GROS	- France
Sir Robert CRAIGIE	- United Kingdom
Sir Torick AMEER ALI	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Mr. WOLD	- Norway
accompanied by Major PALMSTROM	
Dr. CYPRIAN	- Poland

MINUTES

The minutes of the 89th meeting were approved and signed by the Chairman.

The draft minutes of the 90th meeting were also approved and will be circulated in due course.

APOLOGY FOR ABSENCE

The CHAIRMAN reported that Dr. Zivkovic was absent in Nuremberg.

REPORTS OF COMMITTEE CHAIRMEN

Committee I.

Competence of the Committee to consider charges of crimes against peace and crimes against humanity.

M. de BAER, Chairman, proposed that Committee I should be competent to deal with all three categories of war crimes, as defined in the Agreement of August 8th, 1945, i.e. crimes against peace, violations of the laws and customs of war, and crimes against humanity. He pointed out that the committee had already examined cases coming within the third category (e.g. dossiers submitted by

the Association of German Democratic Lawyers and various Jewish organisations, which had been forwarded to the American Attorney General); it had also prepared two lists (Nos. 7 & 9) containing the names of German key-criminals, which were not based on charges brought by National Offices.

His proposal was a result of a list which had been submitted that morning by the Australian Government, containing the names of Japanese holding key positions in the Far East.

The CHAIRMAN himself saw no objection to the proposal, although it might be said that the Commission would be extending its competence according to the mandate given to it in October 1943. On the other hand, he felt that the Commission was an international body which could determine its own terms of reference.

Colonel HODGSON pointed out that fundamental questions, which had not been considered by the Commission before, were involved in M. de Baer's proposal, and urged that, if the Commission saw fit to proceed, the matter should be proposed as a substantive motion, after which the members of the Commission should be given adequate time to secure the views of their Governments. He needed to consult his Governments, and said that ample time should be afforded to those members who represented Governments located some distance from London.

Mr. WOLD referred to his letter to the Chairman, dated 12th November, (which had been circulated to members) on the subject of crimes against peace and humanity. It had been decided that the Commission should consider those views but he wondered now whether Committee I might not be the appropriate organ. It might even be referred to Committee III, since Law No. 10 had been one of the items placed on its last agenda.

The CHAIRMAN supported Colonel Hodgson's suggestion for a substantive motion, to be discussed by the Commission in a plenary session. Afterwards, it could be referred to Committee I, or Committee III for consideration from the legal angle. He did not believe that it would be easy to define crimes against peace and humanity in clear cut terms and would therefore prefer members to consult their Governments first. He proposed that the question should be adjourned for that reason.

Colonel HODGSON did not believe that a fortnight would be sufficient. He suggested three weeks as a minimum.

Mr. Justice MANSFIELD said that matters were reaching a climax in the Far East. The Australian Government were vitally concerned in establishing final lists of major war criminals before the trials started next February in Tokio. The Commission should not adjourn the question for longer than a fortnight, otherwise consideration of the Australian lists would necessarily be delayed for 3 weeks.

The CHAIRMAN proposed that the matter be put on the Commission's agenda on January 23rd and that members should endeavour to obtain the views of their Governments by that time. He appreciated that it might not be possible in the case of every member.

Discussion then arose as to whether it was the competence of the Commission or of Committee I which was at stake. M. de BAER maintained that the Commission's terms of reference were not being questioned. But could the competence of Committee I be considered to include consideration of crimes against peace and humanity, as well as violations of the laws and customs of war?

Mr. Justice MANSFIELD said he was under the same impression.

The CHAIRMAN put its terms of reference.

Sir Robert CRAIG the Commission itself Governments.

Colonel HODGSON

Professor GROS criminals to this Commission effect. In the case prosecutors had four upon them. If a similar presumably be submitted put to application a suggest, in order to prosecution of major simultaneously present own representative of Governments might, in theoretical question

Mr. Justice MANSFIELD to deal with lists of Far East - was the United Nations to be sent to the Far East action.

The CHAIRMAN suggested lists during the next actively by the Commission principle.

Commander HOUTON Agreement of August 8 therefore, since they the members of the Commission themselves.

Mr. BURDEKIN said had not been raised with crimes against peace

The CHAIRMAN quoted the notes of the meeting it was a question of whether that the Commission was added that in adhering Governments had concurred nevertheless, that if

Dr. LLANG wished the question for instruction would carry out its functions a whole. While there the Commission was able expression of that view Agreement to date, but it possible to give it unanimous enunciation



The CHAIRMAN pointed out that the Commission gave Committee I its terms of reference.

Sir Robert CRAIGIE felt it was a question of the competence of the Commission itself and that members would wish to consult their Governments.

Colonel HODGSON also held that opinion.

Professor GROS felt that the presentation of Japanese major war criminals to this Commission would probably have no immediate practical effect. In the case of the lists of German key criminals the team of prosecutors had found them useful for consultation but had not acted upon them. If a similar list were drawn up for the Far East, it would presumably be submitted to the Far Eastern Commission, but would not be put to application automatically by that body. He would therefore suggest, in order to save time, that those Governments interested in the prosecution of major war criminals in the Japanese theatre should simultaneously present their list to the U.N.W.C. Commission and by their own representative on the Far Eastern Commission to that body. Member Governments might, in the meantime, be consulted on the purely theoretical question of this Commission's competence.

Mr. Justice MANSFIELD considered that the appropriate body to deal with lists of major war criminals - whether in Europe or the Far East - was the United Nations War Crimes Commission. A copy could be sent to the Far Eastern Commission for its information, but not for action.

The CHAIRMAN suggested that Committee I study the Australian lists during the next fortnight; they could then be ratified retroactively by the Commission, after it had considered the question of principle.

Commander HOUTON felt that the principles laid down in the Agreement of August 8th applied equally to minor war criminals and therefore, since their Governments had all adhered to the Agreement, the members of the Commission should be able to take a decision themselves.

Mr. BURDEKIN said that the question of the Commission's competence had not been raised when lists had been made of those charged with crimes against peace and humanity. Why should it be raised now?

The CHAIRMAN quoted the mandate of the Commission, as expressed in the notes of the meeting held on October 20th, 1943 and said that it was a question of interpretation of war crimes. He felt, personally, that the Commission was entitled to give its own interpretation and added that in adhering to the Agreement of August 8th, its member Governments had concurred in the views expressed therein. He agreed, nevertheless, that if a discussion was desired, it should be held.

Dr. LLANG wished to support very warmly the proposal to submit the question for instructions. It was quite apparent that Committee I would carry out its functions under the auspices of the Commission as a whole. While there was no doubt as to the nature of war crimes which the Commission was able to put on its list, there should be a unanimous expression of that view. The Chinese Government had not adhered to the Agreement to date, but if the proposal were presented, China might find it possible to give its reply to the Commission, thereby making a unanimous enunciation of opinion possible. In any case, it was their

ro

ion  
r.

d

ff of

ct  
o.

d

l

r

on on

i

nd

ld

ery  
sible

ed

e

They

he

ry-

ld

his

d

at his

on the

,

he

on of

up

cing  
neral

ious Jewish organ-  
Attorney General);  
ing the names of  
s brought by National

en submitted that  
names of Japanese

posal, although it  
its competence  
On the other  
al body which could

stions, which had not  
ved in M. de Baer's  
to proceed, the matter  
ich the members of the  
he views of their  
and said that ample  
nted Governments

dated 12th November,  
t of crimes against  
ommission should  
mittee I might not  
l to Committee III,  
its last agenda.

ion for a substantive  
ry session.  
Committee III for  
leve that it would be  
clear cut terms and  
nments first. He  
at reason.

would be sufficient.

hing a climax in the  
ncerned in establish-  
als started next  
n the question for  
the Australian lists

the Commission's  
our to obtain the  
lated that it might

ompetence of the  
L. de BAER maintained  
ing questioned.  
to include consideratio  
ations of the laws

impression.

view that the operative part of the Agreement was of European application. If the proposal were submitted to the Governments, it would, he felt be possible to get a unanimous resolution which would sustain the Commission's own authority, apart from the Agreement.

Colonel Hodgson said that he did not believe that the Commission had, as yet, decided that crimes against peace or crimes against humanity were within its competence or had listed any persons for such crimes. List 7 listed certain persons for violations of the laws and customs of war. List 9 listed other persons for "systematic terrorism" as defined in the preface to the list. Neither the Commission nor Committee I had acted upon the charges brought by the Association of German Democratic Lawyers and other similar organizations, but had referred them to the Legal Director of the U.S. Group, Control Council, on the ground that the Commission did not have jurisdiction. The questions were, therefore, being raised for the first time, and inasmuch as they were fundamental questions members should be given full opportunity to consult their Governments.

Mr. WOLD agreed that it was a fundamental question, not only insofar as the competence of the Commission was concerned but also from the important point of view of law. Without doubt, the two categories of crimes should be dealt with, but how far should the Commission go? What limitations or definitions ought to be made? He agreed with the opinions expressed by the Australian and Netherlands representatives and also appreciated Colonel Hodgson's point of view.

It was decided to adjourn the discussion until January 23rd, in order that members might consult their Governments. In the meantime, members of Committee I should study the lists submitted by the Australian representative, in order to save time.

#### Committee III.

##### Appointment of Mr. Justice Mansfield.

Mr. WOLD, Chairman, reported that Mr. Justice Mansfield had agreed to serve on the Committee.

##### Reports of the Committee.

Mr. WOLD, said that the Committee at its last meeting had not concluded its study of the Czechoslovak case (Document III /23) and of various questions of law submitted by the French National Office. Reports would however shortly be submitted to the Commission.

He also reported that, at its next meeting, the Committee would discuss Law No.10 issued by the Control Commission for Germany, if the Commission had no objection. There was no objection.

#### Finance Committee.

Sir Robert CRIGIE said that a meeting had been held to discuss various current matters. He added that the only point of interest which he had to report was that a considerable saving in salary expenses had been realised owing to certain re-adjustments within the Secretariat.

#### CONFIRMATION OF COMMANDER MOUTON'S APPOINTMENT.

The CHAIRMAN announced that a letter had been received from the Royal Netherlands Embassy confirming the appointment, as from



October 27th last, of Commander Houton as Netherlands representative on the Commission.

Colonel HODGSON welcomed the news and, on behalf of all members of the Commission, expressed appreciation of the contribution made by Commander Houton since the death of Dr. de Moor last summer.

TRANSFER OF SECRETARIAT.

The CHAIRMAN referred to Mr. Noel-Baker's letter (circulated as Document Misc.6.) and said that everyone would appreciate the force of the reasons given by the Foreign Office in requesting the United Nations War Crimes Commission to vacate its premises in Church House in order to provide further accommodation for the staff of the United Nations Organization. His only complaint was that the notice given had been very short and peremptory, in view of the fact that U.N.O.'s requirements must have been anticipated some time ago.

The alternative accommodation offered to the Commission in Lansdowne House, Berkeley Square was not very suitable and compared most unfavourably with that in Church House. The Secretary-General had succeeded, however, in arranging for a certain amount of repair and cleaning to be done before the offices on the 3rd floor were occupied, and the Secretariat would move to temporary accommodation on the 2nd floor in the meantime. It would not be possible to hold a meeting of the Commission next Wednesday but some committees would arrange meetings in the French or Belgian Embassies, where rooms had kindly been offered by Professor Gros and M. de Baer. Members would be duly informed.

The CHAIRMAN concluded by saying that the Commission was very much indebted to the United Kingdom Foreign Office for making possible its short tenancy in Church House.

Colonel HODGSON said the members were grateful to the United Kingdom Government for having made available space in Church House and would be grateful for arranging premises at Lansdowne House. They appreciated the difficulties in arranging for the conference of the United Nations, and he believed that the Commission should do everything in its power to help. He trusted that the new premises would prove satisfactory.

PROPOSAL FOR REPORT ON THE ACTIVITIES OF THE UNITED NATIONS WAR CRIMES COMMISSION(Misc.5).

At the request of the Chairman, M. de BAER explained that his letter had been prompted by the feeling that the Commission should begin to consider the drafting of its final report. He asked that his proposal, as embodied in document Misc.5, should first be placed on the agenda of the Documents Committee and that he might be allowed to attend its meeting.

Professor GROS, Chairman of the Documents Committee, said he would certainly welcome M. de Baer to the Committee. The question of preparing a final report had already been raised and approved in principle by the Commission (Cf. M.83, Page 4).

Mr. WOLD pointed out that the Documents Committee was set up to consider the question of the disposal of documents from the Nuremberg trial. He had no objection to M. de Baer's proposal being submitted to that Committee but urged that an opportunity for general

discussion be given in the Commission itself.

Professor GROS suggested that the Documents Committee might prepare the way by studying the question of the utilization of Documents. There would still remain the legal part of the Commission's activities.

The CHAIRMAN said the latter work was most important, in view of the early abandonment of the independent Technical Committee and the transfer of its functions to the Commission's Legal Committee. A general survey of the work of the United Nations War Crimes Commission should extend beyond the mere study of documents. Mr. Eden, it would be remembered, had warned the Commission against taking too narrow a view of its functions. It had special duties to perform and those duties were not restricted to those to be performed by the Four-Powers.

He would, therefore, be in favour of appointing an ad hoc committee to study the best way to draw up such a report which, he suggested, should include full and accurate details of the Commission's activities up-to-date, indicate defects in its powers and organisation and give the views of its member Governments on its ultimate purpose and how that should be fulfilled. The ad hoc committee would then report back to the Commission.

Mr. WOLD fully endorsed the Chairman's views, and stressed the point that the United Nations War Crimes Commission was a representative body not of the four great powers alone but of the United Nations. The final report was a very important part of the Commission's whole task.

Professor GROS distinguished between two suggestions. The first was to compile a history of the War Crimes Commission, the other to write a report on the punishment of war criminals from 1939 to, say 1947. In his opinion, the first suggestion, while describing some very interesting achievements of the Commission, would also show where it had failed, where it had not been consulted, where its recommendations had been ignored. On the other hand a history of the punishment of war crimes, which would necessarily cover the work of other institutions as well would be a study of more value.

The CHAIRMAN, while supporting in principle Professor Gros' point of view, said that the moment was not yet come to tackle that task. If the chapter on the punishment of war crimes had closed before the Nuremberg trials and the other trials which have been taking place in the last few months, he would have been inclined to think that the fiasco of 1919/20 was repeating itself. On the contrary, he still looked forward to many more prosecutions.

One of the points which would have to be raised later would be the question of discussing future methods of procedure, of prosecution, of employment of detective agencies. Many of those functions had been passed to the Judge Advocate Generals and the military authorities.

The CHAIRMAN said he did not envisage at the present moment anything more than a general up-to-date survey of the position of the Commission. Something bigger and more fruitful would come later. The Research and Legal Departments could already now produce some valuable trial reports. But this would only be a beginning.

Dr. LING also spoke in favour of the preparation of a "progress report", similar to the two already produced since the inception of the Commission (Cf. Documents C.48(1) & C.84). When the work of the



United Nations War Crimes Commission was terminated, that would be the time to produce a final report.

It was finally decided to appoint an ad hoc committee consisting of the Chairmen of committees and presided over by the Chairman of the Commission, assisted by the Research Officer and the Legal Officers; its task would be to prepare a progress report and it would have the power to enlist the help of other members of the Commission.

M. DE BIER'S LETTER (Document Misc.3.)

The discussion was adjourned until the next meeting.

WAR CRIMES EXHIBITION.

Mr. GIBSON, Public Relations Officer, reported that 67,314 people had so far attended the exhibition and 13,600 the cinema performances. The sale of catalogues, presented by the French Government, had already realised £260 which would be given to U.N.R.R.A.

A replica of the exhibition had been prepared by the French Government and would start on a tour of the British Isles next week. A misunderstanding had arisen regarding the expenses of this tour, but the French Government had now put up £2,000 and Mr. Justice Mansfield on behalf of the Australian Government had agreed to help. Mr. Gibson asked if any other members would be willing to assist.

Professor GROS reported that five replicas of the exhibition with copies of the films were being prepared and that any Government interested should make a request to the French authorities. Copies of the same exhibition were being shown simultaneously in nine French towns and in North Africa; a German version in Vienna and in Baden Baden. It was also hoped to send a copy to Berlin and to show an Italian version in Rome.

STATEMENT REGARDING GAULEITER WAGNER.

Referring to the discussion with Major Ryan at the last meeting (Cf. M.90, P.2 etc.) during which he had deplored the delay in the handing over of Wagner by the American authorities, Professor GROS stated that he had since been informed by Colonel Hodgson that Wagner had been in French hands since November 10th. He wished to apologise for his ignorance of this fact and added that it was unknown at the time both to the French National Office and to CROWCASS.

ABSENCE OF SECRETARY GENERAL.

The CHAIRMAN informed the Commission that the Secretary-General would be absent for two weeks as he was leaving for the continent on January 14th where he would visit B.I.O.R. Hq., USFET, Nuremberg, the French and Belgian National Offices and CROWCASS. It was very important that contacts should be established by the Secretary-General with those engaged upon the actual work of tracking down and prosecuting of war criminals.

*Wright*

SECRET.

- 1 -

M. 92.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-second meeting  
held on  
January 23rd, 1946.

In the Chair: Lord WRIGHT - Australia

There were also  
present:

Captain WOLFF	- United States of America
accompanied by	
Lt. KINTNER.	
F/O BRIDGLAND	- Australia
Major MORDEN	- Canada
Dr. LLING	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Mr. BEAUMONT	- United Kingdom
M. STAVROPOULOS	- Greece
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Major PALMSTROM	- Norway
Dr. CYPRIAN	- Poland
M. MARKOVIC	- Yugoslavia

MINUTES.

The minutes of the 90th meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 91st meeting were received from the Chairmen, Professor Gros and Colonel Hodgson. They will be incorporated in the final Text which will be circulated in due course.

NEW PREMISES.

The CHAIRMAN welcomed the members to the new Commission Room in which they were meeting for the first time and expressed pleasure at the success achieved in making the new premises of the Secretariat more comfortable.

He then read to the Commission the following letter dated 17th January which he had received from Mr. Noel Baker :-

"I should like to say how deeply grateful I am to you for your co-operation in the recent move from Church House. On behalf of the Secretariat of the United Nations and the Foreign Office, may I thank you and say how much it contributed to the success of the Conference? I realise the great inconvenience you and your staff have put up with in order to help us over this, and regret it very much indeed."

On behalf of the Commission the CHAIRMAN expressed gratitude to the United Kingdom Foreign Office for their generous assistance in making available the premises in Lansdowne House. A vote of thanks should also be made to the officials of the various Ministries



in connection with arrangements for settling in the Secretariat.

RESIGNATION OF MR. JUSTICE MANSFIELD.

The CHAIRMAN reported receipt of the following letter, dated 16th January, addressed to the Secretary-General by Mr. Justice Mansfield:-

"I desire to inform you that I have been called to Australia and shall leave London on the 17th January 1946. I shall therefore not be able to be present at the future meetings of the Commission or the Committees. I have already taken steps to have a successor appointed and hope that action will be taken very shortly.

I desire to express to you and to your staff my appreciation of the assistance and courtesy extended to me during my term as a member of the Commission."

The CHAIRMAN said that the Commission would no doubt agree to his conveying an expression of regret at Judge Mansfield's departure together with a recognition that his services were required for the very important duty of representing Australia on the Prosecuting Counsel at Tokyo. The assistance which Judge Mansfield had given during his short term with the Commission had been very considerable.

In answer to the Chairman, F/O BRIDGLAND announced that Professor Bailey would take over the question of the Australian List of major war criminals.

With regard to replacing Judge Mansfield on Committee I it was decided to adjourn a decision until Professor Bailey had been able to attend a few meetings. Captain Wolff and Sir Robert Craigie were proposed as vice chairmen of the Committee but a final decision was deferred.

F/O BRIDGLAND, on Judge Mansfield's behalf, thanked the Chairman for his kind words and said that Judge Mansfield had expressed regret that his association with the United Nations War Crimes Commission had been so short.

APOLOGIES FOR ABSENCE.

Apologies for absence were reported from Colonel Hodgson, Sir Robert Craigie and Dr. Szerer owing to indisposition.

Dr. Zivkovic, Professor Gros, M. de Baer, and Mr. Wold were unable to attend, owing to other commitments.

LETTER FROM THE GOVERNMENT OF INDIA REGARDING COMMISSION RECOMMENDATIONS.

The CHAIRMAN reported that the following letter had been received, dated 9th January, 1946:-

"With reference to the recommendations of the War Crimes Commission for the interrogation of enemy prisoners of war (Document C.65(2)) I am desirous to inform you that steps have been taken by the Government of India to bring the questionnaire to the notice of the interrogating authorities for use, where necessary, in the interrogation of HIFS and JIFS."

\* These initials stand for Hitler-inspired Fifth Columnists and Japanese-inspired Fifth Columnists.

REPORTS OF CO

had taken the  
the Committee  
the Chungking

Dr.  
had been held  
fixed for the  
it was not po  
meeting was  
Justice Mansf  
asked to retu  
to attend the

Mr.  
would be prop

The  
week and tha  
Commission.

WAR CRIMES EX

Mr.  
conversation  
Exhibition.  
the exhibitio  
would be amon  
had with memb  
to be a unani  
auspices of t  
French Govern  
and that he v  
Major Gates v  
around with i

The  
exhibition co  
welcomed as a

The  
would be most  
his Governmen

CRIMES AGAINST

The  
pages 1 - 4.  
representativ  
view that the  
crimes mentio  
Four-Power Ag  
members wishe

I am also desired to say that the Government of India approve the recommendation concerning persons suspected of war crimes and enemy persons wanted as witnesses adopted by the Commission on 7th March, 1945."

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

Lord WRIGHT reported that in the absence of M. de Baer he had taken the chair at a short meeting held that afternoon, at which the Committee had approved a corrected version of the introduction to the Chungking Sub-Commission's lists of Japanese War Criminals.

Committee III

Dr. MEYER HARTING, acting Chairman, said that no meeting had been held during the last week, but he hoped that one would be fixed for the following week at which there would be a quorum, since it was not possible for the Committee to come to any decision if the meeting was insufficiently attended. Owing to the departure of Mr. Justice Mansfield he ventured to suggest that Sir Robert Craigie be asked to return to Committee III if it were possible for Mr. Beaumont to attend the meetings of Committee I.

Mr. BEAUMONT said he was unable to do so at present, but would be prepared to attend at a later date.

The Chairman hoped that a meeting would be convened next week and that a report from Committee III would be submitted to the Commission.

WAR CRIMES EXHIBITION.

Mr. GIBSON, Public Relations Officer, wished to confirm his conversation with the Chairman in connection with the French War Crimes Exhibition. The French Government was sending on tour a replica of the exhibition shown in London. Leeds, Hull, Manchester and Glasgow would be among the towns to be visited. From conversations he had had with members of the Commission, Mr. Gibson said there would appear to be a unanimous opinion that the exhibition should be held under the auspices of the United Nations War Crimes Commission. He added that the French Government had generously agreed to meet the expenses of the tour and that he was prepared to give his assistance from the London end. Major Gates would probably be employed by the French authorities to go around with it.

The Commission was informed that if a Japanese atrocities exhibition could be staged by the Australian Government, it would be welcomed as an important section of the French touring exhibition.

The CHAIRMAN said that any additional sets of photographs would be most valuable. Commander MOUTON declared that he would ask his Government to send material.

CRIMES AGAINST PEACE AND CRIMES AGAINST HUMANITY.

The CHAIRMAN referred to the discussion reported in M.91, pages 1 - 4. He had received a letter from the Netherlands representative stating that the Netherlands Government accepted the view that the competence of the Commission should be extended to the crimes mentioned in Art. 6(a) and (c) of the Charter annexed to the Four-Power Agreement of August 8th, 1945. He asked whether any other members wished to make a statement.



I am also desired to say that the Government of India approve the recommendation concerning persons suspected of war crimes and enemy persons wanted as witnesses adopted by the Commission on 7th March, 1945."

een

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

Lord WRIGHT reported that in the absence of M. de Baer he had taken the chair at a short meeting held that afternoon, at which the Committee had approved a corrected version of the introduction to the Chungking Sub-Commission's lists of Japanese War Criminals.

Committee III

Dr. ALYR HARTING, acting Chairman, said that no meeting had been held during the last week, but he hoped that one would be fixed for the following week at which there would be a quorum, since it was not possible for the Committee to come to any decision if the meeting was insufficiently attended. Owing to the departure of Mr. Justice Mansfield he ventured to suggest that Sir Robert Craigie be asked to return to Committee III if it were possible for Mr. Beaumont to attend the meetings of Committee I.

n  
and

Mr. BEAUMONT said he was unable to do so at present, but would be prepared to attend at a later date.

The Chairman hoped that a meeting would be convened next week and that a report from Committee III would be submitted to the Commission.

WAR CRIMES EXHIBITION.

Mr. GIBSON, Public Relations Officer, wished to confirm his conversation with the Chairman in connection with the French War Crimes Exhibition. The French Government was sending on tour a replica of the exhibition shown in London. Leeds, Hull, Manchester and Glasgow would be among the towns to be visited. From conversations he had had with members of the Commission, Mr. Gibson said there would appear to be a unanimous opinion that the exhibition should be held under the auspices of the United Nations War Crimes Commission. He added that the French Government had generously agreed to meet the expenses of the tour and that he was prepared to give his assistance from the London end. Major Gates would probably be employed by the French authorities to go around with it.

a  
it's

The Commission was informed that if a Japanese atrocities exhibition could be staged by the Australian Government, it would be welcomed as an important section of the French touring exhibition.

The CHAIRMAN said that any additional sets of photographs would be most valuable. Commander MOUTON declared that he would ask his Government to send material.

CRIMES AGAINST PEACE AND CRIMES AGAINST HUMANITY.

The CHAIRMAN referred to the discussion reported in M. 91, pages 1 - 4. He had received a letter from the Netherlands representative stating that the Netherlands Government accepted the view that the competence of the Commission should be extended to the crimes mentioned in Art. 6(a) and (c) of the Charter annexed to the Four-Power Agreement of August 8th, 1945. He asked whether any other members wished to make a statement.

in the Secretariat.

the following letter,  
y-General by Mr. Justice

I have been called  
on on the 17th January  
ble to be present at  
sion or the Committees.  
e a successor appointed  
a very shortly.

to your staff my  
courtesy extended  
of the Commission."

tion would no doubt agree  
dge Mansfield's depar-  
ices were required for  
lia on the Prosecuting  
Mansfield had given  
been very considerable.

GLAND announced that  
of the Australian List

field on Committee I  
ofessor Bailey had  
Wolff and Sir Robert  
ommittee but a final

behalf, thanked the  
Mansfield had  
United Nations War

from Colonel Hodgson,  
position.

Baer, and Mr. Wold  
s.

COMMISSION RECOMMENDATIONS.

wing letter had been

ns of the  
ion of enemy  
n desired to  
the Government  
ne notice of  
ere necessary,

Columnists and

Dr. MAYR HARTING suggested that the Commission should consider and adopt Committee III's report on the Sepp Dietz case (Document C.156) embodying the majority view of the Committee that crimes against humanity fell within the competence of the Commission. It would then be easier to deal with the second category of crimes against peace. He added that the minority view held by Mr. Wold did not affect the question of competence, but merely the technical aspect of whether the Sepp Dietz crime was one against peace or against humanity.

The CHAIRMAN felt strongly that the authority of the Commission extended to all war crimes in the widest sense, and therefore to all the categories mentioned in the Four-Power Agreement, and that if that were agreed it was not necessary to refer the question to member Governments, as it was merely a question of construction.

Dr. LIANG recalled the discussion at the last meeting, at which it was proposed that an attempt should be made to obtain the views of the Governments in order to get a unanimous expression of opinion on this point. The Chinese delegation had immediately telegraphed to Chungking, but unfortunately no reply had yet been received. In his opinion, this procedure was preferable to that suggested by Dr. Mayr Harting, since before it could be adopted, Committee III's report (C.156) with all its ramifications, would have to be carefully considered. He hoped therefore that, by the next meeting, the representatives of the Commission would have received instructions from their Governments and that a unanimous view could be expressed.

F/O BRIDGLAND thought that, as the Australian Government had adhered to the Four-Power Agreement, it could be taken by inference that they would subscribe to the view that the Commission's competence included crimes against peace and against humanity.

The CHAIRMAN repeated what he had said at the last meeting, to the effect that the Commission was entitled to construe its own terms of reference and that it had, in fact, dealt with such questions as coming within its competence. Adherence to the Agreement implied acceptance of the definitions given to war crimes therein - inferentially at least. Dr. Liang, however, was in a different position, in that his Government had not acceded to the Agreement.

In reply to the Chairman, Mr. BEAUMONT said he was not in a position to state the view of the United Kingdom Government, but he felt that Sir Robert Craigie agreed that adherence to the Agreement implied, ipso facto, acceptance of those definitions of war crimes, although he was unable to say what views Sir Robert held concerning the Commission's competence or the expediency of including those crimes within its scope.

Mr. MARKOVIC said that his Government considered that the Commission was fully competent to deal with crimes against peace and against humanity. They were anxious to have the question resolved as there were many charges awaiting the decision of the Commission.

Dr. MAYR HARTING was also anxious to have a decision on the question of crimes against humanity. The situation was illogical at present in that various German democratic organisations had been invited to submit charges of such crimes committed against German citizens, whereas Committee I refused to accept such charges of crimes committed against Allied nationals. He asked the Commission again to consider adopting Document C.156.

of the said  
transfer of  
general sur  
should exte  
be remember  
view of its  
duties were

He wa  
committee  
suggested,  
activities  
and give t  
how that s  
back to the

Mr. V  
point that  
body not of  
The final  
task.

Profe  
first was  
to write a  
1947. In  
very intere  
it had fail  
had been i  
war crimes  
as well wo

The  
point of v  
task. If  
the Nuremb  
in the las  
fiasco of  
looked for

One  
the questi  
of employ  
passed to

The  
anything n  
Commission  
Research a  
trial repo

Dr  
report",  
Commission



The CHAIRMAN regretted that the question of principle had been raised at all. He himself would have been inclined to accept the competence of Committee I to deal with questions of this nature from the technical point of view and would have asked the Commission to support the view. Since doubt had been expressed, however, the situation might now become embarrassing.

The Commission must, therefore, come to a decision next week and if necessary a vote would be taken, although the Chairman hoped that unanimity would be declared.

Mr. BURDEKIN felt that it was not a question of general principle but a matter of expediency on a particular point. He understood that the discussion at the last meeting had arisen out of the submission of an Australian List of Japanese Major War Criminals; in that case - without intending any disrespect - he felt that the implications of the case should have been presented to the Commission before members were asked to obtain the views of their Governments.

Commander MOUTON considered the problem to be the application of the principles laid down in the Agreement to minor war criminals, and that was why some representatives had wished to consult their Governments.

The CHAIRMAN asked how many representatives had asked for instructions, after noting that the Czechoslovak and Yugoslav representatives had made statements at the present meeting. Major PALMSTROM and Major MORDEN said that they had asked for instructions.

Mr. BEAUMONT felt certain that his Government would be prepared to accept document C.156 and that the point made by Mr. Burdekin was not relevant. The question of whether the Emperor of Japan was a war criminal or not was a matter of expediency rather than of jurisdiction and he was convinced that the United Kingdom Government's views on document C.156 would not be influenced by that particular consideration.

Captain WOLFF read the following statement prepared by Colonel Hodgson:-

"I believe that we are greatly indebted to Committee III and Mr. Wolf for the reports which they have so kindly prepared for the Commission. I have studied both of them with much interest, and have been especially impressed by the clear and thorough manner in which both present the issues in respect of crimes against the peace and crimes against humanity.

Both reports point out very clearly that the crimes in question were committed within Czechoslovakia on Czech soil, and both, I believe, proceed on the basis that it is unnecessary to determine whether the crimes were committed during a period of war. In this regard, it can be presumed, I believe, that the massacres, murders, assaults and other crimes were contrary to then existing Czech criminal laws.

Inasmuch as the crimes were committed on Czech soil, contrary to its criminal laws - presumably during peace - Dietz, upon apprehension, can be surrendered and taken to Czechoslovakia for trial before the Czech Courts for crimes committed contrary to the Czechoslovak criminal laws.

Therefore, my Government believes that the most practicable way of handling the case would be to suggest to the Czechoslovak Government that it request Dietz' surrender for trial in Czechoslovakia where Dietz committed the criminal acts.

Insofar as the reports suggest that crimes against humanity and crimes against peace as defined in Articles 6 a and c of the Charter should be considered as war crimes in the same category as violations of the Laws and Customs of War, it would seem that two questions are involved: First, whether the mentioned crimes are crimes in international law, second, whether the United Nations War Crimes Commission has jurisdiction over those crimes. As regards the first question, the position of my Government is indicated by the London Agreement and by the trial now in progress at Nuremberg. As regards the second question, it is the opinion of my Government that irrespective of the question of jurisdiction, the United Nations War Crimes Commission, pending developments in the next stage of the Nuremberg trials, should continue to restrict itself to listing only persons accused of violations of the Laws and Customs of War, as it has done in the past."

The CHAIRMAN, said that he appreciated that the case of the Emperor of Japan was one of expediency, but that was not so in the case of Sepp Dietz. Colonel Hodgson's statement raised the question of choice between Czechoslovak municipal criminal law and international criminal law; the practical point however was how to obtain delivery of Sepp Dietz, assuming he was in custody. The apparatus for the surrender of wanted persons could not be taken to apply to offences under municipal law alone.

Dr. MAYR HARTING pointed out further that if Sepp Dietz were not listed as a war criminal, there would be no basis on which to request his surrender by the U.S. military authorities.

The CHAIRMAN agreed. He asked how the Czechoslovak Government could apply to the military authorities for Dietz' delivery, if the law of extradition were not applicable. The entire scope of application and reasons governing surrender of war criminals were entirely different from that law.

M. STAVROPOULOS said the law of extradition would only have been applied if the Czechoslovak Government had asked the German Government. The Directives from USFET provided for the delivery of persons wanted for war crimes and if the Czechoslovak Government accepted the principles laid down in document C.156 those directives would be applicable. Although Colonel Hodgson's statement declared that Dietz' crime was a common crime against Czech municipal law and that the Czechoslovak authorities should apply for his surrender, M. Stavropoulos did not believe that the U.S. authorities would agree to his extradition.

Dr. MAYR HARTING pointed out that Dietz was a German national and repeated that the only way to obtain his delivery was to list him as a war criminal

The CHAIRMAN asked the British representative to look into the question of surrender and the machinery devised therefor. The technical aspect was more important, he felt, than the question of principle regarding the competence of the Commission. It would have been better for the Czechoslovak Government to make an application for surrender to the military authorities than to discuss whether Dietz was



charged with a violation of an article of the Hague Convention, a crime against humanity or against peace - as far as the latter crime was concerned, the Kellogg-Briand Pact established certain principles too. It would be interesting, he added, in this connection to make a comparison between the statement recently made by Mr. Bevin - on the question of criminality and international law in the initiation of aggressive war - and the various utterances made and accepted by the Commission.

The CHAIRMAN concluded by saying that if the crimes were war crimes, the rules as to practice and the rules as to delivery of accused persons should be followed. As far as the Commission or Committee I was concerned, he failed to see how ~~the Commission~~ could fail to exercise such powers as it had in the case of war crimes in the wider sense. As a matter of logic, the Commission was bound to treat any case of this kind as under its own jurisdiction.

The discussion was then adjourned.

*Tonight*

r  
oved.

ram

ig

s  
e

SECRET

M.93

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-third meeting

held on

January 30th, 1946

In the Chair: Lord WRIGHT - Australia

There were also

present: Captain WOLFF	- United States of America
accompanied by Lieutenant KINTNER	
F/O BRIDGLAND	- Australia
M. de BAER	- Belgium
Major MORDEN	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Dr. SCHRAM NIELSEN	- Denmark
Dr. MALEZIEUX	- France
Sir Robert CRAIGIE	- United Kingdom
Sir Torick AMEER ALI	- India
accompanied by Mr. DUTT	
Commander MOUTON	- Netherlands
Mr. AIKMAN	- New Zealand
Major PALMSTROM	- Norway
Dr. SZERER	- Poland
accompanied by Dr. CYPRIAN	
Dr. ZIVKOVIC	- Yugoslavia

MINUTES

An amendment was received from F/O Bridgland to the draft minutes of the 92nd meeting and will be incorporated in the final text for distribution in due course.

APOLOGIES FOR ABSENCE

It was reported that Colonel Hodgson was unable to attend the meeting, owing to illness.

ADOPTION OF 24th LIST OF WAR CRIMINALS (JAPANESE)

On the proposal of Sir Robert Craigie, acting on behalf of the Chairman of Committee I, the Commission's 24th List of War Criminals (Japanese) was unanimously adopted. It was stated that the National Offices concerned had been given an opportunity to inspect it.



#### REPORTS OF COMMITTEE CHAIRMEN

Committee I. Apart from the routine business of Committee I, which was now examining about 100 dossiers each week, M. de BAER said he had nothing to report to the Commission.

Committee III. Dr MAYR HARTING, acting Chairman, said that discussion had been concluded on a French request for the Commission's legal opinion regarding the decisions of German military courts, who had tried French nationals compulsorily enrolled into the German Army. The Secretary had been asked to draft a report which the Committee would consider at its next meeting.

#### COMPOSITION OF COMMITTEES I AND III.

Committee I. Owing to the resignation of Mr. Justice Mansfield - who, in addition to serving on Committee I as the representative of Australia, had also acted as deputy chairman - it was decided to appoint two deputy chairmen to act jointly or singly in the absence of M. de Baer. Sir Robert Craigie and Captain Wolff, having given their consent, were unanimously elected deputy chairmen.

The question of appointing a representative of Australia to the Committee, to replace Mr. Justice Mansfield, was left in abeyance, until such time as a new Australian representative joined the Commission. F/O BRIDGLAND explained that Professor Bailey had come to assist, for the time being, with the presentation of the Australian List of Japanese Major War Criminals, but it was not known how long his association with the Commission would last.

In reply to the Chairman's expressed concern for maintaining a quorum at the meetings of Committee I, Sir Robert CRAIGIE and Captain WOLFF said that beyond the replacement of Mr. Justice Mansfield - they considered it unnecessary to increase the membership of the Committee.

Committee III. Lord WRIGHT, referring to previous suggestions and particularly to a letter which he had received from Mr. Wold, deputy chairman of the Committee, asked Sir Robert Craigie whether he would be prepared to return to Committee III.

Sir Robert CRAIGIE expressed appreciation of the Committee's invitation and said he would be glad to accept. He hoped that he would shortly be replaced on Committee I as he found it difficult to be a member of both Committees. He had approached the Foreign Office who would endeavour to find a substitute as soon as possible.

It was decided that Committee III should elect a second deputy chairman, to serve in the absence of Dr. Ecer and Mr. Wold.

#### CRIMES AGAINST PEACE AND AGAINST HUMANITY.

The CHAIRMAN referred to the discussion which had been adjourned at the last meeting. The Commission should now decide whether the three categories of crimes mentioned in the Charter to the Four Powers Agreement of August 8th, 1945, fell within the definition of war crimes; and whether the Commission regarded those crimes as coming within its competence. In this connection he drew attention to the statement made by Mr. Bevin to the General Assembly of the United Nations on January 17th, and read an extract from "The Times".

Sir Robert CRAIGIE said there could be little doubt, in view of the terms of the Charter, that crimes against peace and against humanity would fall within the normal jurisdiction of the U.N.W.C.C. On the other hand, the British Government felt that it was much easier to establish a crime against peace or humanity in the case of the major war criminals, whose responsibility for the outbreak of the war of aggression was more obvious than the responsibility of the underlings. He deduced that, while this Commission had jurisdiction, it would be naturally desirable that it should exercise that jurisdiction with a great deal of caution. The criteria by which it was possible to judge whether a crime against peace or against humanity had been committed were of course much more obvious to the various Governments possessing all the records in their archives than to the Commission whose records were not complete. His reply to the question whether Committee I should consider any such charges which might be laid before it, was in the affirmative - but he would add that, as far as the United Kingdom delegate was concerned, the cases to be listed by the Committee would be very strictly limited and very carefully considered. He himself would first consult his Government upon each case.

Dr. ZIVKOVIC said he had already expressed his views at the time of the discussion of the Sepp Dietz case in Committee III, and he had also submitted a report on some Yugoslav charges in which he had referred to the theoretical aspect. He now wished to examine the question briefly from the practical point of view: the punishment of those responsible for the perpetration of crimes against peace and humanity.

While at Nuremberg, he had had the opportunity of raising the question of whether the Governments of the Four Powers would be ready to try internationally other major war criminals - apart from those now standing trial at Nuremberg. (Dr. Zivkovic was especially interested in the Italian, Bulgarian and Hungarian war criminals.) He had ascertained from those in authority at Nuremberg that it was unlikely that the Four Powers would organise other international trials. In their opinion, the Governments concerned should bring charges against those other major war criminals and claim their surrender for trial by national courts.

Dr. Zivkovic felt, consequently, that none of the other Governments should be prevented from bringing charges against major war criminals of crimes against peace, and against others responsible for crimes against humanity, before this Commission, because even if international trials were to take place after charges had been brought before the Commission, agreement could be reached between the Governments concerned. Otherwise there was the risk that the Governments interested in bringing such charges would fail to achieve their object of ensuring the punishment of such criminals.

He saw no danger in the Commission's listing such individuals - as it had in the case of Germans - and he saw no difficulty in listing them for having committed crimes against peace and against humanity. He agreed with Sir Robert Craigie that the net should not be spread too wide and that careful consideration should be given to each case submitted. At the same time, the Commission should proceed with the work of listing, irrespective of any eventual decision regarding trial before an international or national court. The trials would not be prejudiced thereby.

In conclusion, he urged that the Commission reach a decision upon the whole question, as his Government wished to present a number of charges to Committee I.

Committee I, which  
said he had

said that dis-  
mission's legal  
who had tried French  
Secretary had  
sider at its next

e Mansfield - who,  
of Australia,  
nt two deputy  
er. Sir Robert  
unanimously

ia to the Committee,  
such time as a new  
LAND explained that  
h the presentation  
it was not known how

aining a quorum  
n WOLFF said that -  
red it unnecessary

gestions and  
deputy chairman  
e prepared to

tee's invitation  
shortly be  
or of both  
endeavour to find a

deputy chair-

journed at  
e three  
s Agreement of  
whether the  
e. In this  
to the General  
ract from "The

ad

aer  
proved.

chram  
t

ing

s  
his  
rse  
he  
na-  
d



M. de BAER, after reference had been made to Colonel Hodgson's statement at the last meeting (Cf. M.92, pages 5 and 6), said that from the point of view of international law, there could be no doubt on the first point (last paragraph of statement): whether the mentioned crimes were crimes in international law. On the second point - the competence of the Commission - he considered that since war crimes had been defined for the first time in the Agreement of August 8th, 1945, the jurisdiction of the Commission automatically covered all the war crimes so defined. As to whether it was expedient or opportune for the Commission to take a decision, he supported the view expressed by Sir Robert Craigie to leave it to Committee I to consider concrete cases and examine them thoroughly. He added that it was very important to ensure that, if the Commission listed an individual for a crime against peace or against humanity, there should be almost 99% certainty that he would be found guilty by the competent Court.

The CHAIRMAN proposed that a vote be taken on the question whether the jurisdiction of the Commission extended to crimes against peace and against humanity, since the practical application to individual cases would be raised by Committee I in specific instances.

Sir Torick AMEER ALI said that his instructions were to refrain from voting or to consent on the lines given by Sir Robert Craigie. He would, however, on his own responsibility, be prepared to vote on the mere question of competence. It was easier to decide the theoretical question of the Commission's jurisdiction over crimes against peace, but it was a different matter when the problem of practical application was involved, namely, what was and what was not preparation for aggressive war. He pointed out that "aggressive" was an imponderable word.

The CHAIRMAN sympathised with Sir Torick's views. The practical working of an idea was built up by dealing with separate instances.

Dr. LIANG regretted that he had not yet received a reply from his Government regarding their views on the question of principle; he would therefore abstain from voting. On his own responsibility, however, he wished to express agreement with the view that crimes against peace and against humanity should be put on the same footing as war crimes in the limited sense, and that the Commission's jurisdiction included them. The second question raised by Colonel Hodgson's statement was one which would follow logically from the question of principle, but it could also be considered independently from the point of view of policy and expediency at this stage. He would like to hear Colonel Hodgson's views before the implications of the second question were discussed and voted upon.

After further discussion, a substantive motion was put by the Chairman, to the effect that CRIMES AGAINST PEACE AND AGAINST HUMANITY, AS REFERRED TO IN THE FOUR POWER AGREEMENT OF AUGUST 8th, 1945, ARE WAR CRIMES WITHIN THE JURISDICTION OF THE COMMISSION.

The motion was approved by nine votes, with six abstentions and was accordingly carried.

Voted for: M. de Baer, F/O Bridgland, Dr. Mayr Harting,  
Sir Robert Craigie, Commander Mouton, Dr. Szerer,  
Dr. Zivkovic, Sir Torick Ameers Ali, Dr. Schram-Nielsen.

Abstained: Captain Wolff, Major Morden, Dr. Liang,  
Mr. Aikman, Major Palmstrom, Dr. Malézieux.

*Bridgland*

SECRET

M. 94

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-fourth meeting

held on

February 6th, 1946

In the Chair: Lord WRIGHT

- Australia

There were also  
present:

Lieut. KINTNER

- United States of  
America

F/O BRIDGLAND

- Australia

M. de BAER

- Belgium

Major MORDEN

- Canada

Dr. LIANG

- China

Dr. MAYR HARTING

- Czechoslovakia

Professor GROS

- France

Sir Robert CRAIGIE

- United Kingdom

Commander MOUTON

- Netherlands

Mr. BURDEKIN

- New Zealand

Major PALMSTROM

- Norway

Dr. SZERER

- Poland

accompanied by Dr. CYPRIAN

MINUTES

The minutes of the 91st and 92nd meetings were approved and signed by the Chairman.

Subject to the incorporation of amendments received from M. de Baer and Sir Robert Craigie, the draft minutes of the 93rd meeting were approved.

APOLOGIES FOR ABSENCE

Apologies for absence, owing to illness, were reported from Dr. Schram Nielsen, Colonel Hodgson and Captain Volff. Lieut KINTNER stated that Colonel Hodgson hoped to attend the next meeting.

REPORTS OF COMMITTEE CHAIRMEN

Committee I

Sir Robert CRAIGIE, deputy chairman, stated that a special meeting had been convened the day before for the purpose of considering the Australian proposals for listing some of the 64 Japanese key criminals as war criminals. Professor Bailey, representing Australia, had put his case in general terms, after which a discussion took place in the course of which it was pointed out that there were certain difficulties in the way of the Commission endeavouring to deal with the list on the information at present available. The Committee finally decided to recommend that the whole question should be referred to the Commission in order



that representatives from all the member Governments particularly interested in the Far East be given an opportunity to express their views.

It was decided to place the matter on the agenda for the next Commission meeting.

#### Committee III

Dr. MAYR HARTING, deputy Chairman, reported that the Committee's report on the two questions of law submitted by the French National Office had not been submitted in time, but it was hoped to distribute it after the Committee's next meeting.

Mr. Justice Mansfield's proposal concerning the Commission's competence with regard to Japanese major war criminals had been removed from the Committee's agenda, as it was considered covered by the resolution adopted by the Commission on January 30th.

#### Public Relations Committee

Mr. GIBSON, Public Relations Officer, stated that he had sent £300 to Professor Gros for transmission to UNRRA, being the proceeds of the sale of programmes at the War Crimes Exhibition.

#### PROCEDURE FOR SURRENDER OF WAR CRIMINALS

In connection with a letter which he had received from his Government, Commander MOUTON raised the question of whether it would be more expedient to submit charges direct to the military authorities in Germany, instead of sending them to the United Nations War Crimes Commission.

Defending the procedure so far followed, Commander MOUTON stated, inter alia, that it was the result of a decision taken by the Governments of the Allied countries, to which the military authorities of those countries should submit and with which they should cooperate. It was clear that this procedure, in view of the experience which the Commission had gathered in handling innumerable cases with the many legal aspects involved, was more expedient than having the particulars of the cases scrutinised by military commanders.

Furthermore, by submitting cases to the U.N.W.C.C., uniformity in decision was guaranteed whereas different military commanders might use different criteria.

Finally, he remarked that if any criticism of the U.N.W.C.C. was implied, it could only be criticism of the delay in handling cases and producing lists of war criminals. In that case, Commander Mouton ventured to suggest that the procedure be speeded up by means of simplifying the charges and issuing lists more frequently. His suggestion was prompted only by the desire to "take the wind out of the sails" of potential critics, and he did not wish to criticise the work of Committee I which he had always admired.

Dr. MAYR HARTING said he had only just heard of this matter and had no instructions from his Government, but he was prepared to move a resolution, the general principles of which his Government would approve. He accordingly moved the following:

that representatives from all the member Governments particularly interested in the Far East be given an opportunity to express their views.

It was decided to place the matter on the agenda for the next Commission meeting.

#### Committee III

Dr. MAYR HARTING, Deputy Chairman, reported that the Committee's report on the two questions of law submitted by the French National Office had not been submitted in time, but it was hoped to distribute it after the Committee's next meeting.

Mr. Justice Mansfield's proposal concerning the Commission's competence with regard to Japanese major war criminals had been removed from the Committee's agenda, as it was considered covered by the resolution adopted by the Commission on January 30th.

#### Public Relations Committee

Mr. GIBSON, Public Relations Officer, stated that he had sent £300 to Professor Gros for transmission to UNRRA, being the proceeds of the sale of programmes at the War Crimes Exhibition.

#### PROCEDURE FOR SURRENDER OF WAR CRIMINALS

In connection with a letter which he had received from his Government, Commander MOUTON raised the question of whether it would be more expedient to submit charges direct to the military authorities in Germany, instead of sending them to the United Nations War Crimes Commission.

Defending the procedure so far followed, Commander MOUTON stated, inter alia, that it was the result of a decision taken by the Governments of the Allied countries, to which the military authorities of those countries should submit and with which they should cooperate. It was clear that this procedure, in view of the experience which the Commission had gathered in handling innumerable cases with the many legal aspects involved, was more expedient than having the particulars of the cases scrutinised by military commanders.

Furthermore, by submitting cases to the U.N.W.C.C., uniformity in decision was guaranteed whereas different military commanders might use different criteria.

Finally, he remarked that if any criticism of the U.N.W.C.C. was implied, it could only be criticism of the delay in handling cases and producing lists of war criminals. In that case, Commander Mouton ventured to suggest that the procedure be speeded up by means of simplifying the charges and issuing lists more frequently. His suggestion was prompted only by the desire to "take the wind out of the sails" of potential critics, and he did not wish to criticise the work of Committee I which he had always admired.

Dr. MAYR HARTING said he had only just heard of this matter and had no instructions from his Government, but he was prepared to move a resolution, the general principles of which his Government would approve. He accordingly moved the following:



"THAT the United Nations War Crimes Commission protests against the view that it is unnecessary that a case be sent to it before searching for the war criminal concerned and asking for his extradition.

.95.

The Commission maintains that the procedure proposed by the Netherlands War Crimes Mission in Germany is not in accordance with the International Resolution defining the duties of the Commission and is not in accordance with the directives of the American and British Military Authorities."

There were two possibilities, he added, in connection with the decision to list a war criminal and the decision governing his surrender. The first was to take a decision by common agreement between the interested countries, thus affording the opportunity to all to express opinions - the democratic way; the second way was to ask the military authorities, in whose custody the criminal was held, for his surrender - in which case the decision was unilateral. He knew that his Government was in favour of the first method and for that reason he supported Commander Mouton.

ica

There were many practical circumstances showing clearly that a Liaison Officer, attached to a military body, did not have the authority to follow up a proposal, after submitting a Wanted Report to asking for surrender. Only the Commission as an international body, could insist on the Wanted Reports being acted upon, and it could only do that if the persons had been listed by the Commission.

Professor GROS said that he had not had time to study the document, but it did not seem to him that the problem had such wide consequences, nor was it entirely new. Member Governments could deal with war crimes in two ways: first by submitting charges to this Commission, second by forwarding requests for surrender of war criminals direct to the occupying forces. The Commission had no monopoly of war crimes questions and its terms of reference contained nothing to imply that the delivery of war criminals could only be effected through the Commission. The principle, however, was to submit the greatest number of cases to the Commission for listing and to deal directly with the military authorities only as an exception. The only aspect of the problem which was new was the Netherlands proposal to cut out the Commission completely and deal solely with the Allied military authorities.

The CHAIRMAN thought that the practice might have been growing up.

Professor GROS pointed out that Governments had always had the right to request surrender from the military authorities, and now, under Law No. 10 issued by the Control Council for Germany, it had been fully recognised that they could apply direct to the four occupying authorities.

d  
be

Sir Robert CRAICIE felt sure that the Netherlands proposal was the direct result of Law No. 10. The CHAIRMAN pointed out that the procedure proposed was not set out as a potentiality for occasional procedure, but as a regular practice.

Professor GROS agreed. The formulation of a resolution was therefore somewhat difficult. The Commission might invoke its rights - but not in such a way as to imply that it did not recognise the rights of others. The Commission could only take note of Commander Mouton's

er  
1

remarks and pass a general resolution reminding authorities that, according to its information, the Commission's Lists were regarded as necessary.

The CHAIRMAN felt that it was a question of whether the Commission agreed with the principle (or practice). The proposed resolution expressed dissent with that principle, irrespective of who had stated it or where it had been stated. He therefore proposed that the question be discussed as a matter of general principle, without infringing the rights of the member nations.

Lieut. KINTNER wished to support very strongly the views of Commander MOUTON. The position of the American authorities was abundantly set forth in Colonel Hodgson's letter dated September 3rd, 1945 (circulated as document C.146) and there was every reason to believe that the same situation prevailed today.

M. de BAER was extremely glad that the subject had been raised by Commander MOUTON. It was of vital interest to the purpose of the Commission and to the work of Committee I. Two months ago, his Government had raised a similar question, stating that it was quicker to obtain the surrender of war criminals by applying direct to liaison officers. M. de Baer had thereupon called attention to the instructions given to the American military authorities in Germany, where it was stipulated that the authorities charged with surrender of war criminals must consult the documents of the U.N.W.C.C.

When Law No.10 had been issued, he had been very perturbed and had written privately to Lord Wright, saying that if, as it seemed to appear from Law No.10, surrender could be obtained with equal ease from the occupying authorities, without having to submit the cases to the U.N.W.C.C. then Committee I served no purpose and the listing of war criminals should be discontinued. After consultations with Lord Wright however, he had reached the conclusion that the omission of any mention of the U.N.W.C.C. in Law No.10 was due to the fact that the U.S.S.R. is not a member of the U.N.W.C.C. and therefore Law No.10, which applies to the whole of the occupied territory, could include no reference to the Commission. Moreover, it appeared that the instructions to the military commanders of the zones had not been altered. M. de Baer had then submitted a memorandum to his own Government, pointing out that, in his opinion, Law 10 did not change anything in the instructions of the British and American authorities to their J.A.G. in Germany, that the surrender of an accused by these authorities was still conditioned by the Commission's lists and only in cases of doubt, did the J.A.G. refer to the Control Council.

Regarding the question of delay - to which Commander Mouton had referred, M. de Baer admitted that he had also experienced some concern, and had proposed a month ago that Committee I should issue weekly lists. If the Governments could say that the Commission's process was slow, they had a right to make applications for surrender through their liaison officers. The delay, however, was not the fault of Committee I, whose decision was taken a week after the charges were submitted; it was rather a question of the internal machinery responsible for the actual typing of the lists. He <sup>was</sup> prepared to support a recommendation for the production of weekly lists, although it would involve considerable secretarial expansion and would have the disadvantage of increasing the number of short and numerous lists, to which reference by the authorities concerned would be rendered more complicated.

He suggested that the question required further study and that it should be adjourned until next week.

The CHAIRMAN agreed and suggested that an opportunity be given then to discuss the effect of Article 4 of Law No. 10.

Commander MOUTON agreed to the adjournment.

that represent  
ested in the

It was  
Commission m

Dr. MAY  
report on the  
Office had n  
it after the

Mr. Jus  
competence w  
from the Com  
tion adopted

Mr. GIB  
to Professor  
sale of prog

#### PROCEDURE FO

In comm  
ment, Commar  
expedient to  
instead of s

Defendi  
inter alia,  
of the Allie  
countries sh  
clear that  
mission had  
aspects inv  
cases scruti

Further  
decision was  
use differen

Finally  
implied, it  
producing l  
to suggest  
charges and  
only by the  
critics, and  
he had alwa

Dr. MA  
no instructi  
tion, the g  
accordingly

S  
Nation  
Mouton  
not fu  
an exc  
United  
and its  
that wh  
should  
War Cri

Mr  
furnish  
questio  
applied

Th  
in docum  
that it

Lt  
had rais  
persons,

194  
the surr  
of war o  
that the  
terna as

Com  
British  
(See M.9  
American

The  
letter fr  
document

It w  
Mouton on  
of Law No

M. DE BAER

M. d  
solved th  
and fifth  
properly  
been info  
to CROWCA  
in that f  
there was  
that the  
informati

The  
that his



the views of Commander  
is abundantly set forth  
5 (circulated as  
e that the same

y perturbed and had  
it seemed to appear  
ease from the  
cases to the U.N.W.C.C.  
war criminals should  
ht however, he had  
ion of the U.N.W.C.C.  
s not a member of the  
the whole of the  
e Commission. More-  
ary commanders of the  
mitted a memorandum to  
n, Law 10 did not  
nd American authorities  
accused by these  
s lists and only in  
Council.

study and that it

Sir Robert CHAMBERLAIN did not believe that any criticism of the United Nations War Crimes Commission was intended in the letter which Commander Houston had received. He felt rather that the Netherlands authorities did not fully appreciate that, in adopting as a regular procedure and not as an exception, the measures set out in Law No.10, the strength which the United Nations War Crimes Commission could put behind its recommendations and its lists would be undermined. It seemed to him desirable therefore that when drafting any resolution regarding this question, the Commission should explain the advantages of referring cases to the United Nations War Crimes Commission.

Mr. BURDEKIN asked the representative of the United Kingdom to furnish the Commission with information regarding the effect of this whole question in the Far East. He was not clear as to what procedure was applied there. Sir Robert CRAIGIE undertook to make enquiries.

The CHAIRMAN mentioned the Commission's recommendations embodied in document C.145(1) to which few Governments had reacted. He added that it was undesirable to enlarge the scope of this question.

Lt. KINTNER noted this, but in view of the fact that Dr. Mayr Harting had raised the question of the general problem of securing accused persons, asked to make the following statement:

"We are instructed by our Government that on the 8th December 1945, the Combined Chiefs of Staff issued a directive authorizing the surrender of Italians and nationals of satellite countries accused of war crimes. Colonel Hodgson is authorized to inform the Commission that the surrender of these individuals has been authorized on the same terms as the surrender of Germans accused of war crimes"

Commander MOUTON referred to a previous request he had made for the British and French directives governing the surrender of war criminals. (See M.90 page 5 para 8.) The Commission had received copies of the American directives.

The CHAIRMAN pointed out that the British views were contained in the letter from the Foreign Office, dated August 20th, and circulated as document C.143.

It was finally decided to place the matter raised by Commander Mouton on next week's agenda, and at the same time to consider the effect of Law No.10 issued by the Allied Control Council.

M. DE BAER'S LETTER (document Misc.3)

M. de BIER stated that some of the points raised in his letter had solved themselves since the letter had been written. Regarding the fourth and fifth point, he still believed that no scheme of punishment could be properly carried out without the cooperation of the U.S.S.R.; he had just been informed that the Soviet Government had agreed to appoint a director to CROWCASS, and welcomed the news as the first step towards collaboration in that field. The first point had been settled at the last meeting and there was no answer yet to the third point. On the sixth point he said that the search for war criminals in p.o.w. camps was continuing and information would reach the Commission in due course.

There remained, therefore, only the second point. He explained that his Government were concerned about trials. It would appear that

M.95.

erica

ie  
4.

ted  
ll be

der  
on

the prosecuting authorities were not taking into account all the charges submitted, and were not trying all the responsible officials. In the trials of concentration camp officials, for example, the persons charged were not all included in the indictment. He attributed this to lack of cooperation between the United Nations War Crimes Commission and the prosecuting authorities in Germany. He therefore wished to propose that when it was intended to hold a trial where there might be victims belonging to several allied countries the prosecuting authorities should apply to the United Nations War Crimes Commission for the information in their possession regarding that case, and take into account the persons charged by all member governments.

In connection with this matter, and in order that the Commission should be kept up to date with the knowledge of the general position of punishment, Monsieur de Baer also proposed that diagrams be prepared, and hung on the walls of the Commission room, showing (a) the numbers of charges submitted by each country, (b) the number of persons arrested at the request of member Governments, (c) the number of persons surrendered to each Government, and (d) the number of persons actually tried, thus showing the exact position from day to day. He fully appreciated that the number of arrests would be very small compared with the number of "wanted" persons, and the number of persons tried would be infinitesimal by comparison. The point was, however, to give members a graphic idea in order that they should know what results had been achieved.

The CHAIRMAN referred to document C. 168, which had been circulated at the meeting, reporting a number of trials to be held in the British zone. He said that this information was valuable and it was hoped to be able to circulate further information, as and when it was received with the least delay possible.

On the question of reports of trials held, he said that Dr. Schwelb had circulated a list of the reports received by the Commission (Annex to document Misc.4) and that a further list would be prepared and distributed very shortly. He suggested that it be a regular feature to circulate such lists for the information of members.

Sir Robert CRAIGIE wished to support Monsieur de Baer's proposal for comparative charts, although it would no doubt involve a great deal of work for the Secretariat. The chart would show great discrepancies however, between the number of persons listed and the number arrested; he added that this was not intended as adverse criticism, as he fully appreciated the value of what had been done, and the difficulties encountered in obtaining better results.

M. de BAER suggested as a practical measure that information similar to that contained in document C. 168 should be circulated without delay and that the members of the Commission should undertake to bring to the notice of the prosecuting authorities any charges they might have which related to the proposed trials.

The CHAIRMAN pointed out that the prosecuting authorities must decide which defendants and how many should be put on trial.

The Commission took note of the suggestions made.

REPORT OF THE SECRETARY GENERAL ON HIS VISIT TO THE BRITISH, AMERICAN AND FRENCH ZONES, NATIONAL OFFICES OF BELGIUM AND FRANCE, AND CROWCASS

At the request of the Chairman, the SECRETARY GENERAL gave a brief report on his visit to the continent.



In conclusion, the SECRETARY GENERAL said that throughout the three zones, British, American and French - as well as the National Offices, he had been extremely gratified to receive so many appreciations of the excellent work which the Commission had done and continued to do.

M.95.

He had been profoundly impressed by the high esteem in which the Commission was held in general and by the great regard and respect for the Chairmen in particular, by all those with whom he came in contact. He could not speak too highly of the kindness, consideration and courtesy with which he had been received by the many representatives in all the zones and countries he visited, and he was confident that the warmth of his welcome was due entirely to the reputation which the Commission had established for itself in the world at large.

On the suggestion of M. de Baer, who thanked the Secretary General for his excellent and interesting report it was decided to circulate the report as a memorandum, (See document C.171).

*Wm. H.*

rica

l.

ed  
l be

ler  
on

SECRET

N.95.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Ninety-fifth meeting

held on

13th February, 1946.

In the Chair: Lord WRIGHT

- Australia

There were also present:

Colonel HODGSON,  
accompanied by Captain WOLFF  
and Lieutenant KINTNER.

- United States of America

Professor BAILEY,  
accompanied by F/O BRIDGLAND

- Australia.

M. de BAER

- Belgium

Major MORDEN

- Canada

Dr. LIANG

- China

Dr. MAYR HARTING

- Czechoslovakia

Professor GROS

- France

Sir Robert CRAIGIE

- United Kingdom

Sir Torick AMER ALI

- India

Commander MOUTON

- Netherlands.

Mr. BURDEKIN

- New Zealand

Major P. LAMSTROM

- Norway

Dr. CYPRIAN

- Poland

and

Brigadier SHAPCOTT

- Military Deputy of the  
Judge Advocate General.

MINUTES.

The minutes of the 93rd meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 94th meeting were submitted by Monsieur de Baer, Sir Robert Craigie and Professor Gros. They will be incorporated in the final text for circulation in due course.

APOLOGIES FOR ABSENCE.

Dr. Zivkovic and Dr. Szerer sent apologies for absence.

PROCEDURE FOR THE SURRENDER OF WAR CRIMINALS

The Commission resumed discussion of the matter raised by Commander MOUTON at the last meeting (see N.94 Pgs. 2-5) and the following motion was moved from the Chair:



"The United Nations War Crimes Commission is unable to accept the view, which is said to be that of the Netherlands War Crimes Mission in Germany, that it is unnecessary for a case to be referred to the Commission before a search is made for a war criminal and a request is made to the Military Authorities for his surrender. Such procedure would not be in accordance with the International Resolution defining the duties of the Commission nor does it comply with the directives issued by the American authorities as explained by Colonel Hodgson in his letter of September 3rd, 1945 or by the British authorities as stated in the letter from the Foreign Office dated 20th August, 1945. These directives contemplate that the normal and established practice is for the Commission, after due investigation, to put the accused on their List, and it follows from these directives that the normal procedure is departed from if an accused person is handed over without being listed by the Commission. The directives contemplate that that may be done only as an exceptional procedure to be adopted in urgent cases, and only after a careful examination of each case on its merits by the Commanding Officer of the forces by whom the accused is held."

Commander MOUTON, after explaining briefly the circumstances which had caused him to raise the question, proposed that the name of the Netherlands War Crimes Mission be omitted from the motion, maintaining that the matter was one of principle and did not involve his Government alone.

Before proceeding any further, Professor GROS, referring to the discussion at the last meeting, asked that the Commission consider Law No. 10 which had a bearing on the motion and which might modify the Commission's views on it. He reminded the Commission of the procedure adopted in compiling lists. If a request for surrender could only be made on the basis of the lists (which the motion seemed to imply) it would mean that no appeal would be possible by a national Government against a refusal by Committee I to include a name in the List. From the documents and minutes of the Commission he had been unable to find any mention of the Commission having powers of jurisdiction; it was also quite contrary to what had recently been stated by the Solicitor General when he said that under the Moscow Declaration the trials of minor war criminals were the responsibility of the Government of the country in which the crimes had been committed. The right of national Governments to request surrender must be admitted. The function of the War Crimes Commission was to assist the United Nations when they made requests, and it was for that purpose, Professor Gros added, that the Commission had been established two years ago. The Commission should not and could not deny to national Governments their own rights to request surrender.

In support of his argument and as a practical example, Professor GROS submitted that if his Government were not satisfied with a decision taken by Committee I they would have the right to ask for the surrender of a certain war criminal from the military authorities holding him. He repeated that it was not true to say that the Commission had powers of jurisdiction.

Regarding the phrase "the normal and established practice" Professor GROS denied that the practice was normal. If the four occupying Powers in Germany had to await the Commission's decision they would lose valuable time. The French National Office submitted cases both to the Commission and to the Legal Directorate. If the above motion were adopted it would mean that they would be unable to submit directly to the latter.

He therefore proposed that the Commission should recommend the National Offices to keep the Commission informed on matters raised with the four occupying powers, with a view to enabling it to list the greatest number of war criminals.

M. de BARR understood Professor GROS' objection to the motion to be

the infringement of the essential rights of a sovereign Government, by implying that Committee I would have the right to decide who should be prosecuted as a war criminal. Professor Gros' argument would be decisive if one Government or the Big Four had superimposed this Commission over each national Government on questions of war crimes, but the United Nations War Crimes Commission had been established by common agreement between the United Nations who had charged it with making lists of war criminals, and he did not feel that the sovereign rights of Governments were infringed thereby.

As Chairman of Committee I, M. de BAER said that Committee I had never refused a case although sometimes it had been adjourned pending receipt of further information, and he therefore disagreed with Professor Gros' statement as a matter of practice.

What was the use of this Commission and of listing, which was one of its main functions, if it were "by-passed" and application were made direct to the Military Authorities in Germany? The logical consequence would be that member Governments would apply to their liaison officers in individual cases, without referring to the Commission and the public would have no guarantee as to the listing of war criminals. Professor Gros spoke of loss of time; if the listing of criminals was useless then the Commission was wasting its time.

M. de BAER added that Committee I did its utmost to avoid any reproach of delay. Dossiers submitted to it were examined and a decision was reached within a week. Only in cases where evidence was insufficient, were cases adjourned, and then the re-examination took place within a week of the arrival of the complementary evidence.

In conclusion M. de BAER recalled his statement at the last meeting (See M. 94, page 4) concerning difficulties with his own Government similar to those encountered by Commander Mouton, and referred to his consultations with Lord Wright regarding the interpretation of Law No: 10.

Sir Robert Craigie supported the statement made by M. de Baer regarding Committee I's practice in not refusing cases out of hand. Were that to occur and were the Government concerned to disagree with the decision, he felt it would be possible, under the terms of the proposed motion to apply direct for the surrender of the accused person. To make this quite clear he suggested that the phrase "to be adopted in urgent cases" be omitted in order to emphasise that it was the special circumstances and not the urgency of the case which should be the deciding factor.

It was very important to have a list of all Germans and Italians against whom charges had been brought and passed by the Commission, in order that uniformity of presentation and procedure be ensured. This would also have more weight in the public eye than if the charge were passed to local military authorities who did not have the opportunity for applying uniform procedure and the same degree of investigation. He pointed out that it would not be possible to try every war criminal and it was therefore all the more desirable to show the extent and scope of German and Italian war crimes in a uniform list which had been prepared by a responsible international body.

The CHAIRMAN pointed out that in the cases contemplated it was the military authorities who were masters of the situation. If a certain country requested from them the surrender of a war criminal for trial it was for those authorities to use their judgment and discretion as to whether the individual should be delivered or not; it might be that he was required as a witness or for some other reason. They would have to establish, however, that prima facie evidence of guilt existed. That might be ascertained by an independent investigation or the authorities might act upon the Commission's list without further enquiry, basing that action upon the fact that the list had been drawn up by an international body of experienced jurists, after full examination of the facts of the case. He did not see how the question of national sovereignty was affected

ice

man,  
e  
SON  
henever  
Allied  
.95

r

er.



"The Un the view, wh Mission in G to the Commi request is n procedure we defining the directives Hodgson in authorities 20th August and establish tion, to pu directives person is h directives procedure t examination the forces

Commander caused him to War Crimes Mis was one of pri

Before pr discussion at No.10 which ha views on it. compiling list of the lists ( would be possi to include a r Commission he powers of jur been stated by Declaration t the Governmen ritgt of nati function of t when they mad that the Comm should not ar request surre

In suppe submitted the by Committee certain war repeated tha jurisdiction

Regardi GROS denied in Germany h time. The F and to the I mean that th

He ther Offices to occupying po of war crim

M. de P

Normal procedure was as stated in the draft motion and Law No.10 did not have a bearing on it, except, perhaps, insofar as the U.S.S.R. authorities were concerned. The other three occupying powers were relieved of an onerous responsibility by consulting the Commission's lists, which had three advantages: (a) putting the matter on an international level, the nations agreeing that the accused person should be brought to trial, (b) ensuring uniformity of procedure and (c) - the Chairman stressed this point - providing a valuable and permanent record of the war crimes which had been put forward as fit for prosecution.

The CHAIRMAN then asked Brigadier Shapcott to give his opinion.

Brigadier SHAPCOTT stated that he had always proceeded on the understanding that Law No.10 had nothing to do with the trial of minor war criminals and that it did not affect the trials coming within the jurisdiction of the United Kingdom Judge Advocate General. He had therefore not altered his methods of procedure after the Law had been passed, as he understood it to have been brought into being in connection with the trial of those persons enumerated in Article II(1) (d) of Law No.10, (criminal groups or organisations etc.) which it was expected that the Nuremberg tribunal would declare to be illegal. In practice, the Control Commission had never interfered as far as the British were concerned. The trials envisaged for the persons in the above category would be before Military or Military Government Courts

Colonel HODGSON referred to Lt. Kintner's statement at the last meeting. He felt that an expression of the Commission's views would be in order, and that, with some amendments, the motion could be drafted in a manner which would accord with Professor Gros' views. He then made several suggestions, in particular with regard to the phrase "before a search is made for a war criminal", pointing out that apprehension by the military authorities should not be delayed by reference to this Commission first.

It was decided to refer the draft motion to a drafting committee consisting of General de Baer, Sir Robert Craigie and Colonel Hodgson and to submit this draft to members for their consideration at the next meeting of the Commission.

#### FIRST LIST OF JAPANESE MAJOR WAR CRIMINALS SUBMITTED BY AUSTRALIA

Owing to the question of principle involved, the list had been referred to the Commission by Committee I and Professor Bailey was asked to open the discussion.

Professor BAILEY stated that the Australian Government asked the Commission to agree in principle to the preparation of a list of Japanese major war criminals, for which the first Australian list should serve as a basis, and to instruct its legal officers to undertake investigations necessary for the preparation of such a list.

The Australian Government based its request upon the Commission's previous action with regard to German major war criminals, particularly the unanimous decision taken on September 26th, 1944 (see M.33, Page 5) regarding the listing of the members of the Hitlerite Government, resulting in the compilation of Lists 7 and 9. Professor Bailey quoted from the preamble to those lists, in further support of his Government's proposal. The names in the First Australian List, now under discussion, would all fall within the categories mentioned in Article 6 of the Four-Power Agreement of August 8th.

The Aus recommendati was referrin and VI) had War Crimes P (Central War the Australi ations IV, V Crimes Commi ponsibility that view, P Recommendati prepare list of a central the Commissi

Toput satisfied to negotiations Tokyo. They of the servi created: to be listed. and impressi also be give Governments experience o

Profess the meeting juridical ex ment to be o

Summing their request done in rega contained in war criminal

Colonel governments i doing everyth bring them to although he l German cases which Profess and Lists 7 a as those exis to a close ar criminals and would not be had been over criminals wer adopted, no c to exist for time it was k of Japanese, again, when I a mass of evi criminals - e material whic responsible f

The Australian Government took its stand also upon the Commission's recommendations regarding Japanese War Crimes. Professor Bailey said he was referring to document C. 145(1), two recommendations of which (No. V and VI) had been carried out when an International Military Tribunal and a War Crimes Prosecuting Office had been established. Recommendation IV (Central War Crimes Agency) had not been carried out. In the opinion of the Australian Government, however, even the full execution of Recommendations IV, V and VI did not create substitutes for the United Nations War Crimes Commission itself, and did not relieve that Commission of its responsibility with regard to Japanese major war criminals. In support of that view, Professor Bailey quoted paragraphs (c) (d) (f) and (i) of Recommendation IV, which implied that the Commission would continue to prepare lists. The case for the Commission was strengthened in the absence of a central war crimes agency - but even if an agency were established, the Commission's task would not be impaired.

To put it crudely, Professor Bailey stated, his Government was not satisfied to leave the preparation of lists exclusively to direct political negotiations between Governments or to the central prosecuting office in Tokyo. They were anxious that the United Nations should avail themselves of the services for which the United Nations War Crimes Commission was created: to advise the Governments as to persons whom it considered should be listed. The Australian Government therefore urged that the extensive and impressive advice given in respect of German major war criminals should also be given in respect of Japanese. They also felt that all member Governments should have the advantage of the representative character and experience of the Commission.

Professor BAILEY then referred to the Chairman's statement earlier in the meeting regarding the advantage of obtaining uniformity from a body of juridical experts. That advantage was considered by the Australian Government to be of prime importance in the case of Japanese major war criminals.

Summing up, Professor BAILEY stated that his Government submitted their request to the Commission, taking their stand from what had been done in regard to the German major war criminals, and from the implications contained in the Commission's own recommendations concerning Japanese major war criminals.

Colonel HODGSON stated that his Government as well as the other nine governments interested in the prosecution of Japanese War criminals was doing everything in its power to apprehend major war criminals and to bring them to trial. He was interested in Professor Bailey's proposal although he begged to disagree with it. There was no parallel between the German cases and the Japanese cases. The decision of September, 1944, to which Professor Bailey had referred, related only to German war criminals and Lists 7 and 9 listed Germans under conditions which were not the same as those existing at present. At that time the war in Europe was drawing to a close and the Commission had only listed a handful of German major war criminals and felt apprehensive that unless something was done, these persons would not be apprehended and brought to trial. The Japanese war, however, had been over for six months and it was known that Japanese major war criminals were being apprehended. At the time when Lists 7 and 9 had been adopted, no courts had been set up and no plan was known by the Commission to exist for the prosecution of German major war criminals. At the present time it was known that a court had been set up in Japan for the prosecution of Japanese, and a staff of prosecutors, to whom evidence was available. Again, when Lists 7 and 9 had been adopted, the Commission had before it a mass of evidence submitted in connection with charges against minor war criminals - evidence which consisted of decrees, directives and other material which would implicate the higher German authorities responsible for planning and directing the system of war crimes.

ice

man\*,  
e  
SON  
henever  
Allied  
.95

r

er.



committed in Europe. Lists 7 and 9 had therefore been adopted on the basis of available material.

When it was suggested that a list of Italian major war criminals should be prepared, the Commission refrained from doing so on the grounds that it did not possess the necessary evidence. The situation in respect of the Japanese was exactly the same. The evidence was in Tokyo, where it was available to the Tokyo Commission and the staff of prosecutors charged with preparing cases against the major Japanese war criminals.

Colonel HODGSON therefore felt that the appropriate procedure would be to refer the Australian List to another body which also had jurisdiction and had the necessary evidence. If that body did not desire to proceed, then the United Nations War Crimes Commission could proceed and would obtain the necessary material. A further argument in favour of this proposal was that at the time when the German list was compiled the Commission possessed a study of the German Government which showed conclusively that anyone occupying a position in the German Government would be a key criminal. No such study had been made in the case of the Japanese Government and it did not necessarily follow, therefore, that if a Japanese held a key position he would be a war criminal.

Referring to the Commission's Far Eastern recommendations (document C.145(1), a prosecuting staff, on which were represented all the governments interested in the Pacific, had been organised to deal with Japanese major war criminals. In his view and in the view of his Government, the list should be referred to the Allied Council for Japan in Tokyo and to the prosecutors there, with an appropriate note stating that while the United Nations War Crimes Commission had jurisdiction, the Far Eastern bodies also possessed that jurisdiction and, in addition, possessed the necessary evidence.

Commander MOUTON said that, while he was unable to give an opinion on the information submitted by the Australian Government, he knew that his Government had not sent any information to London concerning the Japanese major war criminals, and he therefore agreed that the evidence before the Commission was insufficient for the preparation of a list of such criminals. He supported Colonel Hodgson's proposal to refer the Australian List to the Allied Council for Japan.

Dr. LIANG declared that the Chinese Government was very interested in seeing the Australian lists. He had listened with interest to the remarks of Professor Bailey and Colonel Hodgson and felt that the matter under discussion illustrated the disadvantage of having a multiplicity of organisations apparently authorised to discharge the same task. In his opinion, the United Nations War Crimes Commission was fully competent to deal with this matter but it could not exclude the possibility of the Tokyo Commission also dealing with it, likewise the Chungking Sub-Commission had jurisdiction over the matter. The question of policy was not being argued since everyone wished to see the Japanese major war criminals brought before a competent tribunal, and punished. The difference of opinion existed only with regard to the machinery for punishment, i.e. which of the three bodies mentioned would act most efficiently. After perusing the Australian list with its annotations, it appeared that most of the charges were crimes against peace and humanity. The Commission had recently discussed and adopted a resolution that as a matter of International law it considered those crimes to be on the same footing as crimes against the laws and customs of war. In the same way that the document relevant to the Nuremberg Trial was acknowledged to be the Four Power Agreement, the Nine Power Charter must be the relevant document for the Far Eastern war crimes. These two documents governed the prosecution of all three categories of crimes. Regarding the difficulties pertaining to the issue of a list of Japanese major war criminals, Dr. LIANG stated that, as far as actual trial and punishment were concerned, the matter was already in the hands of the Commission in Tokyo. As far as jurisdiction over crimes against peace and humanity was concerned

however, the Commission, by virtue of its wide authority, was entitled to give an opinion.

In view of the fact that the appropriate experts to study the Australian list were not present in London, Dr. LIANG suggested that the study of this list be referred to the Sub-Commission in Chungking, whose policy in regard to Far Eastern war criminals must resemble that of the United Nations War Crimes Commission in London. He was, therefore, inclined to support the view that, since the Commission in Tokyo was competent to deal with such a list and since no facilities and no expert advisers were available in London, the Australian list should be referred to the Tokyo Commission. If the United Nations War Crimes Commission had to take a decision it might be desirable for the Chungking Sub-Commission to study the list.

Professor GROS also supported Colonel Hodgson's proposal to submit the list to the Tokyo Commission, with a note explaining that the competence of the United Nations War Crimes Commission was not denied, but that it lacked expert advice for the examination of such a list. He pointed out that this treatment would resemble that given to the 7th and 9th lists of German key criminals, when they were sent to the Nuremberg Chief Prosecutors who, incidentally, had chosen only 24 names out of about 500.

Sir Robert CRAIGIE said that the United Kingdom Government greatly appreciated the action of the Australian Government in placing the list before the Commission and in its display of confidence in the Commission's ability. He felt, however, that - despite his own personal knowledge of Japanese war crimes - to deal satisfactorily with the list would be an extremely onerous task for the Commission. The material existed in Tokyo and was not available to the United Nations War Commission. He agreed with Dr. Liang that there was no disagreement regarding the Commission's competence in the matter, but that it was a question of practice to be adopted. The time element was very important, as it was hoped to start the trials in Tokyo in early spring.

He therefore wondered if the Australian Government's request would be met if their list were referred to the Commission in Tokyo, as suggested, with a note adding that this Commission would, of course, be prepared to assist in any particular way if the Tokyo Commission so desired.

Professor BAILEY stated that he had listened to the discussion with interest. He hoped Colonel Hodgson would forgive him if he disagreed on the question of whether or not a parallel could be drawn between the German and Japanese major war criminals. In submitting that a parallel could be drawn he appreciated that no list of major Japanese could be issued until a full examination of evidence had been made as in the case of the German lists.

He felt bound to state that the solution proposed would not be satisfactory from the Australian point of view. Australia was represented on both bodies mentioned (Mr. Justice Mansfield, who had prepared the Australian list, was himself a member of the prosecuting team in Tokyo, and Sir William Webb was on the tribunal; the Australian representative on the Far Eastern Commission had not yet been named.) The proposal amounted in effect to the Commission taking no action, since the two bodies in Tokyo already possessed the Australian list and would take whatever steps they thought fit. Presumably they had prepared lists themselves.

In reply to the Chairman's remark that it was not suggested that the Commission should abandon jurisdiction over the list, Professor BAILEY pointed out that the question remained a practical one: what action could the Commission take through its own staff? His Government attached real import-



ance to such action.

He was interested in Dr. Liang's suggestion to approach the Chungking Commission, but if no other decision were taken, the London Commission might consider referring the list to a sub-committee of its own.

The CHAIRMAN remarked that the matter was urgent and thought examination meant taking time to collect evidence and find experts.

Professor BAILEY said that, in that case, he felt that his Government would appreciate at least a commentary on the list by some members of the Commission, to be undertaken concurrently with the action proposed by Colonel Hodgson, which would not appear to preclude it.

After further discussion, during which it was pointed out that, owing to lack of material and expert advice, such a review would be difficult to produce, the CHAIRMAN proposed to adjourn discussion of Professor Bailey's last suggestion. Sir Robert CRAIGIE, however, expressed his willingness to consider making a review, from the material available in the archives of the Foreign Office and from his own knowledge, in order to assist any Committee which might be appointed by the Commission, provided that such a procedure would meet the views of the Australian Government.

Finally, on the proposal of Colonel Hodgson, it was unanimously decided to refer the Australian list to the Allied Council for Japan and International Staff of Prosecutors in Tokyo, with an accompanying letter reaffirming the jurisdiction of the United Nations War Crimes Commission, but stating that, in view of the fact that evidence relating to the charges brought against the persons named in the list was available in Tokyo and not in London, the United Nations War Crimes Commission considered the best practical method to be to refer the matter to that body, which had special jurisdiction. The letter should also state that if the Allied Council for Japan did not see fit to proceed, it should refer the list back to the United Nations War Crimes Commission, who would take what action it could.

*Wright*

SECRET

M.96

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-sixth meeting

held on

February 20th, 1946

In the Chair: Lord WRIGHT - AUSTRALIA

There were also  
present

Colonel HODGSON	- United States of America
accompanied by Captain WOLFF and Lieut. POLSTER	
F/O BRIDGLAND	- Australia
M. GOLSTEIN	- Belgium
Major MORDEN	- Canada
Mr. DAO	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Dr. SCHRAM NIELSEN	- Denmark
Professor GROS	- France
Sir Robert CRAIGIE	- United Kingdom
M. STAVROPOULOS	- Greece
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Mr. WOLD	- Norway
accompanied by Major PALMSTROM	
Dr. CYPRIAN	- Poland
Dr. ZIVKOVIC	- Yugoslavia

and

Mr. WOLTMAN - Netherlands National Office

MINUTES

The minutes of the 94th meeting were approved and signed by the Chairman.

In view of a statement which Dr. Schwelb had handed to the Chairman<sup>\*</sup>, pointing out that two allied bodies had been established in Tokio, the Far Eastern Commission and the Allied Council for Japan, Colonel HODGSON said that he had been referring to the latter at the last meeting. Whenever he had spoken of "Far Eastern Commission", therefore, he asked that "Allied Council for Japan" be substituted. The last paragraph on page 8 of M.95 was amended accordingly.

Other amendments were received from Sir Robert Craigie, Professor Bailey, Professor Gros, Dr. Liang and Colonel Hodgson.

APOLOGIES FOR ABSENCE

Apologies for absence were received from M. de Baer and Dr. Szerer.

---

\* Circulated as Document C.176.



PROCEDURE FOR THE SURRENDER OF WAR CRIMINALS, IN CONJUNCTION WITH  
LAW NO. 10 (continuation of discussion)

The drafting committee, appointed at the last meeting, presented the following draft motion to the meeting:

"The United Nations War Crimes Commission is unable to accept the view which has been suggested by the authorities of one of its member States that it is unnecessary for a case to be referred to the Commission before a request is made to the Military authorities for the surrender of a war criminal for trial. Such a view would not be in accordance either with the International Resolution defining the duties of the Commission or with the practice of the American authorities as explained by Colonel Hodgson in his letter of September 3rd, 1945, or with the practice of the British authorities, as stated in a letter from the Foreign Office dated 20th August, 1945. The normal procedure is for the Commission after due investigation to put the accused on their List and it follows that it is departed from after an accused person is handed over without being listed by the Commission. Such a departure is only justified as an exceptional measure and after careful examination of each case on its merits by the Commanding Officer of the forces by whom the accused is held. It is the hope of the Commission that in any such cases the government concerned will at the same time forward a copy of the dossier to the United Nations War Crimes Commission."

After some discussion and slight alteration, the motion was unanimously adopted and will be circulated as document C.177.

Professor GROS was anxious that this motion should not risk coming into conflict with any ruling which might be given by the Nuremberg prosecutors regarding the criminality of certain organisations. If the Nuremberg prosecution declared that certain groups were criminal organisations per se, the members of those groups would be surrendered without further formality, and it would be unfortunate if this Commission, by adopting the motion presented today, should appear to contradict such an international declaration.

The Chairman felt that this matter raised a number of exceptional and complicated questions. There ought to be some caveat entered in order to leave it open. The Commission would have to discuss this whole matter when the decision of the chief prosecutors of the Nuremberg Tribunal became known, but he did not feel that it was very urgent owing to the fact that the Nuremberg trial would not be over for some months.

In reply to Dr. Cyprian the CHAIRMAN stated that the motion would be sent to all member governments who would take what course they thought proper with regard to informing the military authorities concerned.

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

In the absence of M. de Baer, Sir Robert CRAIGIE deputy Chairman, reported that six charges had been submitted by the Legal Commission of the Free German Movement in Great Britain, and that in accordance with the Commission's decision they had been forwarded

to the Allied Council in Berlin without comment.

Owing to the recent removals of the Commission's offices the 25th List of War Criminals (German) had been sent to the Stationery Office for printing without the prior approval of the Commission. Sir Robert Craigie suggested that this departure from normal procedure be approved adding that the List had been inspected and approved by all the National Offices concerned. It was decided that the List should be shown to members of the Commission after it had been printed but before it was distributed.

Committee I had decided to close two new lists, the 26th List which would include the names of 126 Italians, Hungarians, Bulgarians and Roumainians, and the 27th List to include the names of about 1,000 Germans.

America

Documents Committee.

Professor GROS Chairman, reported that the Committee had been convened to consider the question of all the documentation in the hands of Allied authorities and of how to centralise it. The Committee decided to recommend to the Commission that all documents which had been collected for use in trials of war criminals in the European theatre - excepting those which were in possession of Governments desiring to retain them - should be deposited, after the trials, at a research centre, established under some international authority. The Committee's view was further strengthened by the increase in the number of documentation centres which had been set up all over Europe (as reported in Research Summary of Information No 49).

Professor GROS added that a formal resolution had not been presented by the Committee, as no reply had yet been received from Mr. Byrnes to the Chairman's letter on the subject of documentation.

The CHAIRMAN then read a letter which he had just received from Mr. Byrnes. This will be circulated as document C. 178.

The CHAIRMAN said he quite appreciated that the United States required the documents which they had collected for their own prosecutions, but he wondered whether an interim resolution should not be drafted nevertheless.

Mr. WOLD said that, apart from the historical interest, documents relating to war crimes would be of interest for the future maintenance of justice and international law. He asked the Chairman to forward to the Documents Committee a letter which he (Mr. Wold) had sent to him some time ago.

will

In this connection Mr. WOLD wondered if it would be possible for the United Nations to establish some sort of specialised agency within the framework of the United Nations Organisation. Such a documentation centre would be useful also for security and police purposes in the future. He would welcome the opportunity of having a discussion on this question at an early occasion.

g

was  
he  
he  
ive

The CHAIRMAN remarked that the staff of the Secretariat were at the present moment engaged in the preparation of a history of the United Nations War Crimes Commission. The question of assembling all the material which, for example, Committee I was receiving, would in due course have to be considered. It might be that a special body, adequately staffed and financed, should undertake to produce an elaborate history of war crimes during the Second World War, as well as a history of the Nuremberg trial.

rule

ssion,  
Wold