

the door arbitrarily on a fixed date; whether that date was 30th September or 1st November. He thought the whole matter should be left over for the present and that nations should be encouraged to continue, as they are doing, to put forward their cases and that Committee I should go on discussing and deciding what they had to decide with regard to those cases and then, at some later date, the matter could be reconsidered. He thought the 1st November would be a suitable date to reconsider the whole question as to whether it was possible or proper to fix a date for the closing down of the Commission. He thought he would ask for a vote on the question of whether this issue should be adjourned for further consideration at some future date and he would suggest 1st November as the date to which such further consideration should be adjourned.

He was not sure that the British Government, if satisfied that there were these considerations to be borne in mind, would really object to a deferment of the consideration of a closing date.

The Chairman's proposal to defer consideration of a closing date for Committee I and the Commission until 1st November was seconded by Mr. Kintner and supported by M. de Baer.

SIR ROBERT CRAIGIE said he would like to make it clear that in raising this question he was not putting forward a definite proposal by the United Kingdom Government on which a vote should be taken at this time but rather a suggestion on which they would be interested to hear the views of members of the Commission. They had heard some very important views expressed and he wondered whether it would be possible to hear the views of some other members.

DR. NEUMANN said that as a member of Committee I he wished to say that he sympathised with the views expressed, had already contacted his Government and they had agreed to 30th September 1947 as a suitable closing date for Committee I.

M. MAILLARD said he did not doubt that the French Government would welcome the proposal just put forward. They were especially interested that the lists should not close too soon because they had a large number of cases ready and he thought the proposal, which had just been made, was very suitable and he did not doubt that the French Government would support it.

MR. BRIDGLAND explained that the Chairman had expressed the Australian view very adequately.

DR. ZIVKOVIC said that although he was uninstructed by his Government, he would express his personal views on the subject. He had approached his Government after receiving the letter from M. de Baer and asked them to let him know as soon as possible what would be the date limit they would find suitable for closing Committee I. As soon as he had this information he would communicate it to the Commission. Personally he was entirely in favour of what the Chairman had said, i.e. to re-examine the question on or about the 1st November.

DR. SCHRAM NIELSEN said he also was without instructions but felt sure that his Government associated themselves with the views expressed by the Chairman because they had not finished submitting their lists to Committee I.

MR. BURDEKIN said his Government was not very directly concerned but he was sure they would support the view that any action taken prematurely as regards the closing down of the Commission would be unfortunate. He thought they would have no objection to the proposal to defer the matter for reconsideration on 1st November.

MR. AARS-RYNING said he was in a similar position to Dr. Schram-Nielsen and had no instructions, but personally he would support the proposal to reconsider the matter on 1st November.

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THE CHAIRMAN said that if the submission of cases fell off suddenly and showed no signs of a resumption, then the Commission would be prepared to reconsider the whole question before the specified date, 1st November.

SIR ROBERT CRAIGIE said it seemed to him that the idea of closing down Committee I on June 30th was singularly lacking in support and he would certainly not like to put himself in a position of spoiling a unanimous vote. But in order to give some satisfaction to the United Kingdom Government, he wondered whether the Chairman's proposition could be supplemented by what he had just said, namely by the proposal that if, in the unlikely event of cases showing a falling-off at some earlier date than 1st November the matter could be brought up again.

M. DE BAER said he would rather not have the rider. When proposing as a tentative re-examining date, the 1st November, he thought National Offices, like himself, were human enough to want to take a holiday in the summer months of July and August and therefore there would be few cases coming forward then. There were however likely to be many more in October and he would therefore not like to be committed on 30th July, to support the closing of Committee I just because there had been very few cases during that month. If the Commission agreed he would prefer to keep to the original proposal, to reconsider the whole matter on 1st November.

This was agreed.

5. ARRANGEMENTS REGARDING THE FUTURE WORK OF THE COMMISSION.

M. DE BAER in examining Item No. 6 on the Agenda said there would necessarily remain even after Committee I closed down, quite a lot of work for the Commission to do. There was the continuation of the publication of the Law Reports which had been commenced and which were going to take quite a long time, there was to be the classification of all the cases which had been examined by Committee I, - and that work could only begin after Committee I had closed down because, in writing a History of the Commission they had to have a complete survey of all that had been done. He had been asked to supervise the writing of the History of the Commission and since he had been charged with that task he had given considerable thought to it, and the more he had thought and spoken about it with his collaborators the more he had been startled by the wealth of material which the Commission had accumulated since it started to work. One was really amazed, and Dr. Mayr-Harting would certainly support him in this, at the vast number of questions treated and he thought it would be a very great pity if they did not allow this work, this accumulation of work, to bear its normal fruit. He had tried to visualise how this could be done. He had drafted a paper which he now wished to with-hold until the next meeting because there were really such a lot of questions involved - there had been as members knew, letters exchanged with the Secretary General of the United Nations and various United Nations branches, and these negotiations were still in progress. The time might come when the Commission's collaboration might be sought, and bearing in mind that the documentation accumulated here was so large and so vast that if the Commission merely passed them over to the United Nations or some other organisation, he thought no one would have the courage to examine, classify and adjust all these documents. To do this, men were required who had taken part in the work of the Commission and he believed that this work of classification was going to be so valuable to students of international law and declarations on human rights that he felt he would have failed his duty if he did not draw attention to the greatness of the work which had to be done. A history of the Commission, if it was short, could be drafted in possibly three weeks to one month but he thought a History of the Commission should be a detailed work and should at least balance the reports which had been issued by

previous Commissions, the Commission of Fifteen,^{and} the Peterson report, which were 1500 to 1600 pages. With a view to what he had just said, it would be impossible to visualise or to say that they would finish on 1st March, June or September of next year - he just could not say. He was not able to give any date for closing the History of the Commission before the autumn and even then it would only be a tentative date. About then, he would probably have other suggestions to present to the Commission and there would then be a more comprehensive survey of the services the Commission had done. His suggestion was, not to contemplate a date for closing down the Commission and if they postponed the discussion until the next meeting he would circulate a paper to members to give them a general idea of what, in his opinion, remained to be done.
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THE CHAIRMAN said that some time ago he had made a tentative suggestion of a possible date for closing the operations of the Commission. The date could only have been a tentative suggestion and was a suggestion directed to contradict the views of certain parties who thought the Commission could be brought to an end some time this June. After having seen what had been happening in the last few months he doubted very much indeed whether he had not been rather sanguine when he thought of the end of the present year as a possible date. What he had not realised was that the actual prosecutions would go on as they were doing now, and what the British and American Military authorities had on their books and were proceeding with. What he was sure of was, without unduly boasting of the Commission, that the British and American J.A.G.'s offices would be very sorry to see the Commission go out of existence while they had cases with which they were proceeding and intended to proceed. There had been quite a compliment from the head of the British J.A.G. Department to the Commission, who had said that the United Nations War Crimes Commission had been a tower of strength to them. Another thing to be remembered was that smaller nations did undoubtedly look to the Commission for help and guidance as did the investigating teams scattered all over Europe. They must look beyond Europe, there was Tokyo still going strong and he was afraid he had been too sanguine about Tokyo. There were some important cases going on in the East and he did not see how the Commission could close down until they were much nearer a conclusion of all these difficult activities.

One of their most important tasks was to produce Law Reports and to produce the History - that was going to be much more difficult than he had anticipated, there were printing and publishing difficulties which had been acute and exaggerated in the recent past and there were other difficulties which he could not help feeling were approaching. They had also got to remember that the United Nations took a certain interest in the work of the Commission. He was pleased to hear what M. de Baer had just said about the great scope of the Commission's activities in the last two years, it was absolutely true and no one who took the trouble to look into it, even on the surface, would fail to agree with what he had said. He felt his prognostication, which was at the time considered exaggerated, was likely to fall very far short of the actual requirements of the Commission, so that he would like at the moment to deprecate any attempt to fix a possible future date as the date for the final conclusion of the affairs of the Commission. He would be only too glad if things went better but just at the moment, he felt that even the end of December would not be a fair date for the closing of its overt activities. There would still be a period of some months for winding up. He had often said that it was the cheapest International Commission known to history, and that was not at all sanguine if one were to consider and limit oneself to digesting the material and writing a history and preparing and publishing law reports and possibly preparing reports for outside bodies whose requests for information they could not ignore. He was not at all sure that during this liquidation period there would be any great reduction in expenditure because there could not be any great reduction in the secretarial and expert staff. The work would have to go on and he would deprecate any attempt at this moment to fix a target date. He would deprecate any immediate attempt to tackle this problem and, as they had deferred item 5 until 1st November, he thought they should also defer item 6 on the Agenda until the same date.

M. DE BAER supported this proposal.

The Chairman's suggestion that the matter be deferred until the 1st November was unanimously approved.

6. REPORTS BY CHAIRMEN OF COMMITTEES.

M. DE BAER said that Committee I had had two meetings since the Commission last met. At one meeting they had had 87 cases and last time they had 50 cases, two of which had been adjourned from the previous meeting.

DR. SCHRAM-NIELSEN acting as temporary Chairman of Committee III reported that at its last meeting the Committee had dealt with its first report on the French case involving the question of exploitation of the Black Market as a war crime. All members agreed that the operations could not be considered pillage in the technical sense of this word (Art. 47 of the Hague Convention). Attention had been drawn, however, to Art. 43 of the Hague Convention which made it a duty of the occupant to respect unless absolutely prevented, the laws of the occupied country and the opinion of Committee III was that the French case showed the particular a systematic and planned violation of French municipal law to such an extent as to cause serious economic and moral danger to France, and therefore the persons in question could be charged accordingly. At first Committee III was inclined to state that Article 49 of the Hague Convention prohibiting the extortion of exorbitant contributions did only cover, if at all, the crimes of one of the accused persons, whereas the French representative felt that this was too narrow a view and it was therefore decided that the appropriate part of the report should be re-drafted to the effect that it be left to Committee I to consider the case of each individual accused, on its merits.

The Committee also discussed the question of effective collaboration with the United Nations. The discussion held had only been of a preliminary character but the general feeling was that some kind of contact between the Commission and the United Nations should be established not only for purposes of present matters but also in view of the proposed winding up of the Commission. It was suggested that a delegation from the Commission's Secretariat should go to New York in order to establish personal contact with the United Nations. The Committee would discuss the matter further at their next meeting when they hoped to have their Chairman, Sir Robert Craigie, present.

THE CHAIRMAN said that if it became at any time necessary for the Commission to adopt the report concerning the French cases that report, which Dr. Schram-Nielsen had referred to, would have to be brought as a substantive matter before the Commission. It raised some debatable points as regards the Hague Conventions. These Conventions would have to be re-considered or revised in the very near future he hoped.

7. FORMAL APPROVAL OF UNWCC LISTS NOS: 53 and 54.

The Commission's Lists Nos: 53 and 54 which had been previously circulated were formally approved.

THE CHAIRMAN thought it unnecessary to arrange for a meeting of the Commission next week and possibly not even for the week after that - he did not want to hold meetings unless there was something of importance to discuss but any member who thought there was a matter which should be discussed would, he hoped, send his request to the Secretary-General.

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UNITED NATIONS WAR CRIMES COMMISSIONMINUTES OF MEETING OF COMMISSION HELDWEDNESDAY, MAY 21, 1947 AT 3.0 p. m.

PRESENT: Lord Wright

Chairman

ALSO

PRESENT: Sir Robert Craigie
Colonel Springer
accompanied by
Mr. Kintner
M. Maillard
H. de Baer
Mr. Jules Leger
Dr. Neumann
Commander Mouton
Mr. Aars-Rynning
Colonel Muszkat
Dr. Zivkovic
accompanied by
M. Milenkovic and
M. Zimonjic

United Kingdom
United States of America

France
Belgium
Canada
Czechoslovakia
Netherlands
Norway
Poland
Yugoslavia

Colonel R. C. Halse

Office of the U.K. Judge
Advocate General.APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

Mr. Dao
Mr. Bridgland
Dr. Schram-Nielsen
Mr. Dinitzas
Mr. Dutt
Mr. Burdekin

China
Australia
Denmark
Greece
India
New Zealand

MINUTES

Minutes of the meeting held on Wednesday, 26th March 1947, M.125 were approved and signed.

Amendments to Minutes of meeting held on Thursday, April 24, 1947, M.126 were received from Sir Robert Craigie and Monsieur de Baer and would be incorporated in the final text.

RECALL OF THE YUGOSLAV REPRESENTATIVE (DR. R. ZIVKOVIC)

THE CHAIRMAN said that before dealing with the Agenda there were one or two points on which he had to say a few words, - Dr. Zivkovic, who had been with them for a long time as the Yugoslav Representative was terminating his functions in the Commission on instructions from his Government, to take up new duties. His successor in the Commission would be Mr. Veljko Milenkovic, Counsellor of the Yugoslav Embassy in London who would be assisted by Mr. Milovoje Zimonjic, a Secretary at the Embassy. The Commission was happy to see these two gentlemen present and hoped to see more of them in the future.

Dr. Zivkovic had said in his letter, that he would never forget the wonderful spirit of friendly collaboration that dominated their meetings and the ever present readiness of all members to overcome differences and difficulties with an open mind and mutual understanding. Dr. Zivkovic wished the Commission every success in its important endeavours and hoped that it would show the world that true international co-operation was not only possible but had actually been carried through in their institution.

The Chairman said they were grateful to Dr. Zivković for his expressions of appreciation and good wishes and in turn they wished him the best of success and prosperity.

SIR ROBERT CRAIGIE said he would like to associate himself very fully with what the Chairman had said about Dr. Zivković's collaboration with them. They would all miss Dr. Zivković very much when he left the Commission and he knew that all members would feel the same.

H. DE BAER wished also to associate himself with what the Chairman had said in wishing Dr. Zivković every success in whatever life might have in store for him.

OFFER OF THE POST OF ASSISTANT DIRECTOR OF THE DIVISION OF HUMAN RIGHTS TO THE LEGAL OFFICER, DR. SCHWELB.

THE CHAIRMAN said the next matter was one which would cause a great loss to the Commission of a valued and useful friend but it was not a matter in which they could raise any objection because they were so glad to see the appreciation which had been shown to the efforts and ability of Dr. Schwelb. The Chairman read to members a letter he had received from the Director of the Division of Human Rights, United Nations, which was as follows:-

New York, 15 May 1947.

"Dear Lord Wright:

I cabled you yesterday to the effect that the United Nations is offering Dr. Egon Schwelb the post as assistant director of the Division of Human Rights. I wanted you to be informed of this fact before any official offer was made to him.

May I say that, while I am of course extremely happy to have Dr. Schwelb as my collaborator, I hope that his forthcoming departure from the United Nations War Crimes Commission will not prove embarrassing to you.

Yours sincerely,

Sgd. John P. Humphrey,
Director, Division of Human Rights.

With regard to the last sentence he could only say that it certainly would prove embarrassing to the Commission but they would have to make the best of it because they could not stand in the way of the advancement of their distinguished legal member to what he could safely say was a larger field of activities. The Chairman thought it a great honour that Dr. Schwelb had been chosen for this very important post in the United Nations - an institution of which they hoped so much - and he was sure that he would contribute very largely to its success. He had insisted that Dr. Schwelb should stay with the Commission until the middle of July so that the parting would be deferred for a little while and they would have the benefit of his valuable help until then. He thought it was a matter of considerable importance that Dr. Schwelb had received such a very distinguished and flattering offer with great possibilities of future distinction. The Commission regretted his departure and wished him all happiness and prosperity.

H. DE BAER wished to associate himself with what the Chairman had said about Dr. Schwelb and added that it had given all members very great pleasure to work with him. He knew that members all felt as he did and would regret Dr. Schwelb's departure.

COLONEL SPRINGER said he would like to concur in the remarks made with respect to Dr. Zivković and Dr. Schwelb. They would all miss them very much and hoped that they would not lose contact completely when they left the Commission.

THE CHAIRMAN said that every member agreed with these tributes which had been paid to Dr. Schwelb and Dr. Zivković and he, as Chairman of the Commission wished to pass on to these two gentlemen the tributes, expressions of regret, and the congratulations.

DR. SCHWELB (Legal Officer) thanked the Chairman for the very kind words he had said. He hoped that he would still have the opportunity of working with the Commission for some time and of taking personal leave of the Chairman, the members and the staff. Nevertheless, he thought it appropriate to say now, how much he appreciated having been so fortunate as to work in this Commission under Lord Wright's directions and help. He considered it among the greatest privileges life had bestowed on him that he had had the unique opportunity of working for more than two years under one of the greatest English lawyers of our time, and of receiving from him, during his term of office, so much encouragement and guidance, and also tokens of personal friendship and interest. He, Dr. Schwelb, would always remain grateful to the Chairman and to all the members of the Commission for the scope of the work which they had permitted him to do, for the understanding they had shown towards the many schemes and projects which he had submitted to **then**, however unripe and difficult to apply some of them might have been, for the exceptional benevolence with which his work had been received, and the very kind recognitions which had often been made. The atmosphere permeating the work of the Commission and of its Secretariat had always been particularly friendly, co-operative and agreeable. He was grateful not only to the Chairman and to the members of the Commission, but also to the Secretary-General and to his colleagues on the staff and to the lady secretaries from whom he had received by no means unimportant help and co-operation.

Dr. Schwelb emphasized that he would leave this friendly organisation and office only with very great regret and that he would always remember the happy and agreeable days of his connection with the War Crimes Commission. He had no doubt that the Commission would successfully complete the important tasks which lay ahead of it, including the law reporting, the publication of enactments and the production of the historical records, as well as the new tasks which would accrue to the Commission as a consequence of its connection with the United Nations.

He would always have in mind, when taking up his new duties, the expert knowledge and experience which had been gained, and the valuable material which had been collected, by this Commission and its Secretariat, which ought to be used for the tasks which confronted not only this Commission but the community of nations at large.

THE CHAIRMAN addressing Dr. Schwelb, said that everyone fully appreciated the very kind and gratifying observations he had made and he thought it was true that whatever faults they had had they had been and still were a happy family and though there were frequent changes taking place from time to time, he thought they had always maintained, throughout all these changes, a continuity of friendliness and good fellowship.

SIR ROBERT CRAIGIE said he would like to say something in this connection as probably would some other members, but whatever they had to say would all be the same thing - that they had, one and all, received the most splendid help from Dr. Schwelb throughout his appointment; he had been a tremendous source of help, they all deeply regretted his departure. All members associated themselves with the good wishes put forward.

THE CHAIRMAN said that while all members of the Commission regretted Dr. Schwelb's departure they rejoiced at the greater opportunities he was to have of working of a larger stage.

APPOINTMENT OF EDITORS FOR PUBLICATIONS BY MESSRS. Wm. HODGE & CO. LTD.

THE CHAIRMAN next referred to a letter which had been received from Messrs. Wm. Hodge & Co. Ltd., the publishers, who were proceeding with the editing of certain trials - their scheme was on a different scale from the plan the Commission had adopted and he did not think they would clash in any way in fact it would probably prove to be supplementary. The letter in question concerned the appointment of Editors for the Peleus and Falkenhorst trials, two very interesting and important cases - for the former trial they proposed as editor Sheriff John Cameron, DSC, M., LL.B., KC, and for the latter E.H. Stevens, OBE, LL., LL.B., WS. Both gentlemen, he understood, were distinguished Scottish lawyers and both had considerable experience in military or naval operations respectively. One was a friend of Sir David Maxwell Fyfe and he felt sure the Commission would agree that, so far as they were concerned, they fully approved of the two gentlemen named for the proposed duties. This was unanimously agreed.

VISIT TO GERMANY

THE CHAIRMAN informed the Commission that, accompanied by Lady Wright, Monsieur and Madame de Baer, Colonel and Mrs. Springer and Colonel Ledingham he had recently returned from paying a visit to the U. S. Zone of Germany, at the invitation of Brigadier General Telford Taylor, U. S. Chief of Counsel for War Crimes at Nuremberg. As members know, that distinguished lawyer took a large part in the preparation of the case for the big Nuremberg trial and he had now been established by the United States in the important position of Chief Prosecuting Counsel for a number of very important trials which the United States had been staging with accustomed generosity. General Telford Taylor certainly had a very fine team working for him, which probably ran to about 1,000 persons. During their visit they attended three of the trials at Nuremberg; the "Medical case" which involved 23 defendants including one woman, and was presided over by Judge Walter B. Beals. These 23 defendants who were of considerable standing in Germany, were being tried for committing a number of very serious atrocities. The defence had taken considerably longer than had been anticipated but the evidence should be closed by the end of this month. The next trial they attended was of the Nazi Judges and officials of the Reich Ministry of Justice at which there were 15 defendants, the presiding judge being Judge Marshall. These people were being tried for various breaches of the laws of war committed by them under the cover of judicial duties or judicial offices. It is estimated that it will require at least two more months to finish the evidence. The third trial they attended was the "Flick" trial, involving 6 defendants including Flick. The presiding judge was Judge Charles B. Sears, of the New York Court of Appeal. The defendants were principally business men involved in slave labour connected with the steel and iron trade in Germany. Another case, called the "Industrialists" was connected with I.G. Farben, an Institution with which all members were familiar, and which included a great number of defendants; the indictment would come forward next week. Then there was the Pohl trial which dealt with 18 prominent members of the S.S., heads of the S.S. and which was in recess when they were in Nuremberg. The evidence in this case should close about the end of this month. The first large military indictment had just been filed involving war crimes against Fieldmarshal List and von Weichs, General oberst Rendulic and 9 other Generals who had served under them. The Chairman thought that would be a very important trial and would show, quite conclusively, that military men, however exalted their rank, were not immune from the penalties which International Law attached to infringements and violations of the laws of war. A great many terrible atrocities were associated with these military men of exalted rank. Their party had also visited the Nuremberg prison where they had the melancholy satisfaction of seeing Hess, Doenitz, Raeder, Speer and von Neurath enjoying the pleasure of exercise in the not very extensive area appropriated for their ambulatory expeditions. In the afternoon, they saw Milch who had just been condemned to life imprisonment, by one of General Telford Taylor's Courts at Nuremberg. The ambition of General Telford Taylor was to have six courts working concurrently in the great building at Nuremberg which so many members had visited, and in that way he hoped to try a great number of cases within the comparatively restricted time allocated to him. The Chairman said he was quite sure that they would not finish these cases by the end of the year and they would be very unwilling to abandon these schemes which were so very important, substantial and well thought out.

The party next visited Dachau camp which had now been cleaned up and rearranged. The gas chambers were in admirable preservation so that one could see exactly the methods adopted. At Dachau, there were as many as seven trials taking place at one time, one of these being the "Buchenwald" trial.

All members of his party were immensely grateful to their friend Colonel Springer who, with Mrs. Springer acting as a graceful hostess, had made all the arrangements for the expedition.

The Chairman said at this point how much they appreciated the presence at this meeting of that distinguished prosecutor from the British team, Colonel Halse, who had just come back from the Kesselring trial at Venice.

WOLFFENBUTTEL - Observations by M. de Baer. Doc. A.44.

M. DE BAER said he did not think that he need take very long over this matter

as he considered the papers (L 44) which he had submitted to members were very clear, although he felt that he should have circulated them much sooner. They were the result of an article in the Belgian Press entitled the "Scandal of Wolfenbüttel" in which an ex-Director of the Belgian section of the B.B.C. had stated that it was a very unfortunate thing that a German Court had been charged with judging war criminals in which some allies might have been victims; there were also questions in the Belgian Parliament. This had happened some time ago, since when, they had had several visits of important officers from the British Zone namely, Brigadier Paton Walsh, Colonel Rathbone and Lieut. Colonel Draper. In the beginning, he had been told that the Wolfenbüttel case was one in which German prison officials had been prosecuted for the ill-treatment of German inmates of the prison and accordingly he was satisfied, as obviously, Germans had the right to try Germans for ill-treatment of Germans in prison. After the visit of Lieut. Colonel Draper, he had heard that the Belgian request for the extradition of 34 members of the Wolfenbüttel prison staff - in which prison an indefinite number of Belgian and Polish personnel had been exterminated - might be rejected by the Control Commission (British Element). An indefinite number of Belgians had disappeared in Wolfenbüttel prison, some Belgians say 700 but it might only be 100, however, 100 Belgians disappearing was too much. Articles appeared in the press, questions were asked in Parliament and a request was made for the 34 accused to be handed over to the Belgian authorities in Germany. He understood that there might be a refusal on the grounds that these people had already been tried by a German court and the rule, that persons could not be tried twice for the same offence, might apply. M. de Baer did not know exactly what the position was at present; it might be that the Belgian request had not been filed with the proper authorities, and he was therefore advising his Government as to the proper procedure and channel of communication to adopt. He would therefore await the outcome of this before saying anything more about it.

SIR ROBERT CRAIGIE said that as the British authorities were concerned, he had taken up this matter with the Foreign Office as soon as it had been brought to his attention and had asked that it might be given most careful consideration. That inquiry and consideration was still in progress and he was not in a position to give any definite answer at this time. He would suggest therefore that until they had some response from the British side there would be some advantage in adjourning the discussion. He did not propose an adjournment in order to put off discussion but to wait until they could discuss it with the full facts at their disposal. One fact was that the Wolfenbüttel case was rather exceptional, it was a case of some importance and raised points of principle. He would suggest to members of the Commission that it was probably better in such cases that representation should be made at once to the British Government, through diplomatic channels, rather than they should spend time discussing the matter with this or that authority of the occupying power. Speaking of course only of cases relating to the British Zone, he believed that where a case was not purely routine, more rapid progress would be made if that suggestion were to be adopted.

THE CHAIRMAN said he was very glad that that proposition had been made and he thought there should be a short adjournment in order that the governments concerned might get complete information. He thought they all felt great sympathy with the desire of the Belgian Government to put right any wrongs which may seem to have been inflicted. In discussing this matter with M. de Baer, he had been impressed by the extreme difficulty of getting precise information but he thought the broad features were now perfectly clear and, speaking for himself, he was quite satisfied that there was no authority under the law prevalent in the British Zone of Germany which would justify the trial by a German Court of those persons who were accused of very serious atrocities against Belgian subjects. He was quite sure and completely satisfied that there was the greatest desire on the part of the British Government and of the occupying authorities to meet, in every possible way, the complaints of the Belgian Government, who had, he considered, at least on the fact of it, some grounds for complaint because there seemed to have been, not a desire to infringe their rights, but a real doubt as to what the true position was in regard to their application and he thought all these things with a little explanation and good will could be put right quite soon. That being so, he welcomed the opportunity which he thought was agreed to both by the Belgian representative and by the United Kingdom representative, of putting these things right as simply and naturally as possible, with as little friction and delay as possible and he hoped that when they next met, they would find that the position had been cleared up and everything put on the correct basis. He would be very gratified if that could be done and he would consider it just another proof of

the reasonableness and good will of all concerned with these questions.

The adjournment of this matter was agreed.

EXTRADITION OF WAR CRIMINALS FROM A NEUTRAL COUNTRY (DOC. A.43).

THE CHAIRMAN said they had considered the resolution prepared by the Drafting Committee (Doc. A.43) at the last meeting when it was agreed that the matter be deferred until the next meeting of the Commission.

Now that time had come, members had to decide whether they would vote on the resolution, of which they had a copy. The Chairman remarked that the amendments which, at the last meeting, had been suggested by M. Maillard had been rejected at that same meeting and therefore what they had to do now was to consider the document as it stood, prepared by the Drafting Committee and circulated as Doc. A.43.

M. DE BAER said he had abstained from voting on the last occasion but he had now obtained definite instructions from his Government to support the resolution. As regards procedure, his Government thought the best method would be for the Commission to transmit its resolution direct to neutral states and to Switzerland in particular.

DR. NEUMANN said he would like to draw attention once more to the Czechoslovak charge against Wilhelm Brünig, who had committed war crimes in Czechoslovakia and had been listed by the Commission on list "A" as a war criminal, List No. 32/27, Charge No. 2981, on 2nd May 1946. According to information received, the accused was believed to be in Switzerland. The extradition certificate of the United Nations War Crimes Commission was issued on the 26th June 1946. The Czechoslovak Government asked through the usual diplomatic channels, for extradition of Wilhelm Brünig from Switzerland. According to information received from the Czechoslovak Foreign Office in Prague, the Swiss authorities did not feel authorised to give any information with regard to the whereabouts of war criminal Brünig. By refusing to give information about a war criminal listed by the Commission, the Swiss Government, according to his humble opinion, interfered with the whole policy of the United Nations to get hold of and to try war criminals and that was why he took the liberty to ask the Secretary General to put this case on the Commission agenda in order to pass a resolution which should not be considered as a lesson but only as an expression of how the Governments represented on the Commission felt about cases where a neutral country does not endeavour to give any help to a member of the United Nations against whose nationals war crimes had been committed.

The drafting committee had prepared the most outstanding and remarkable draft resolution which should be sent by the Governments represented on the Commission to those neutral countries in which war criminals are believed to be sheltering. The Czechoslovak Government was in favour of the following addition to that resolution:

"The United Nations War Crimes Commission considers it its duty to report all cases where a neutral country fails to give a satisfactory reply to a member state with regard to a listed war criminal, to the Secretary General of the United Nations".

The Czechoslovak Government thought that the United Nations should be informed how neutral countries helped with regard to extradition of listed war criminals. It would be important to have this record when a neutral country would ask for membership in the United Nations. Persons appearing on the Commission's lists were accused of crimes of a revolting and inhuman character and it would be most unfortunate, if to such criminals, the law of asylum were granted. He wished to remind delegates that the Brünig case was not the only one. On the 14th July in Brussels there would be a discussion about extradition procedure and he was sure that a resolution passed by this international body would be a very useful document.

They did not want to give lessons to neutral countries, they only desired the goodwill and help of any country in giving them some information with regard to a listed war criminal wanted by any country represented on the Commission.

The Resolution in general terms had been passed by the Commission by, he was sorry to say, only a small majority; only 5 members voted for the resolution and two voted against it, all others abstained. He hoped that members would now approve the passing of the resolution as drafted with the amendment as proposed.

THE CHAIRMAN said that Dr. Neumann's amendment was that "The United Nations War Crimes Commission considers it its duty to report all cases where a neutral country fails to give a satisfactory reply to a member state with regard to a listed war criminal to the Secretary General of the United Nations" and that he understood Dr. Neumann wished to have that paragraph inserted at the end of the Resolution.

He personally thought such an addition might be taken as an unnecessary interference with the sovereign rights of neutral countries; however, it was a matter on which each member nation ought to have the opportunity of recording its view. The first question on which the Chairman asked members to vote was the amendment put forward by Dr. Neumann and seconded by Dr. Zivković.

A vote on the amendment was then taken, the results being as follows:

For the inclusion of the amendment:

5. Belgium,
France,
Yugoslavia,
Czechoslovakia,
Poland.

Against the inclusion of the amendment:

5. United States of America,
Australia,
Canada,
United Kingdom,
Norway.

The Chairman exercised his casting vote against the amendment.

The Czechoslovak amendment was accordingly rejected.

THE CHAIRMAN said the amendment having been rejected, the next question on which he wished to have a vote was, whether the resolution as drafted, Doc. A.43, was acceptable to the Commission. It was proposed by Dr. Neumann and seconded by Monsieur de Baer that the resolution, as drafted, should be adopted.

The vote taken showed the following result:

Those voting in favour:

8. Australia,
Belgium,
Czechoslovakia,
France,
Netherlands,
Norway,
Poland,
Yugoslavia.

Those voting against:

2. United Kingdom,
United States of America.

Canada abstained from voting.

SIR ROBERT CRAIGIE explained that in voting against the resolution, his Government did not object in any way to steps being taken to induce neutral governments to hand over war criminals within their boundaries. It was more a question of procedure. His Government felt the purpose the Commission had in view was not likely to be served by the passing of the proposed resolution.

COLONEL SPRINGER said, in explanation of his opposition to the resolution, that when the resolution was first proposed it was, as he remembered, directed specifically against Switzerland with regard to specific cases. He felt that

such a resolution might be regarded as a direct affront by that Government and consequently he had opposed its adoption. His opposition was later confirmed by his government. The resolution had now been redrafted as a resolution concerning neutral governments in general. His Government continued to oppose the resolution. As proposed the resolution could be despatched by a member nation to neutral governments with a note and in effect used in the same way as the original resolution. His government felt that the adoption of the resolution might prejudice future discussions on the question with neutral governments on a diplomatic level because such neutral governments would be able to argue justifiably that a resolution of that sort passed without a hearing of specific cases on the part of neutral governments might be considered unfair. Furthermore, to him it seemed hardly appropriate to use the Commission as an agency which might be regarded as a pressure instrument, forcing action which another country might not like to take, or might like to be more deliberate in taking. Finally only 8 out of the 17 members in the Commission had voted in favour of the resolution; that was not a complete representation and the resolution was being passed by less than a majority. In view of this numerical fact Colonel Springer suggested that the resolution, when it was adopted, should carry on its face the names of those member governments supporting the resolution so that it need not be taken, as Dr. Neumann had said it would be taken, as an expression of opinion of all governments represented on the Commission. It did not represent even the majority of the governments represented and it seemed only fair to those receiving it, that they should realise that all governments had not expressed the opinion embodied in the instrument.

THE CHAIRMAN then put forward the proposal that the resolution should be used by being circulated to each member government, and each member government having received it should be entitled, according to its own judgment, to send it or not send it, to neutral governments. To that particular proposal he took it there would be no objection.

This was agreed.

The next proposal, which had to be put to the Commission, was whether the Commission itself should pass the resolution in the form in which it now stood, approved, to neutral governments.

M. de BAER on instructions from his Government proposed that the resolution should be sent direct by the United Nations War Crimes Commission to neutral governments and especially to the Swiss Government.

Dr. ZIVKOVIC seconded M. de Baer's proposal.

THE CHAIRMAN said the proposal was "that the resolution should be sent direct by the Commission to any or all neutral governments and especially to Switzerland."

SIR ROBERT CRAIGIE said that in voting against the resolution as a whole he would also vote against the Commission taking the responsibility of sending the resolution direct to the Swiss Government, and he would venture to add, in his personal capacity, that with regard to the object the Commission and the Czechoslovak representative had in mind, he thought they could not do anything worse than send the document A.43 to any neutral government as it would probably only confirm them in their attitude not to surrender war criminals.

COMMANDER MOUTON said he quite agreed with Sir Robert though he had voted for the resolution as such, but he felt that as International Law stood, the Commission did not have the standing to communicate with sovereign states, and he thought it should be left to their own governments to decide whether or not they ought to approach these neutral governments. He was inclined to favour the communication of the resolution to neutral states by way of their governments,

THE CHAIRMAN said the Commission had no power to tell member governments what to do with the resolution when they got it. It was now a question of whether the Commission should take the responsibility of communicating the resolution itself to neutral governments.

SIR ROBERT CRAIGIE said it had never been the case for the Commission to communicate with a non-member government and such a proposal raised a new point of procedure.

THE CHAIRMAN agreed that the Commission had never before taken that unusual course and wondered whether the British Foreign Office would be prepared to act as the channel for transmission.

SIR ROBERT CRAIGIE said that, in the circumstances, the Foreign Office was not prepared to become the channel of communication.

THE CHAIRMAN then put the proposal to the vote as a result of which four members voted for the proposal that the Commission itself should communicate the resolution to neutral states and seven voted against. The members in favour of the proposal were: Belgium, Czechoslovakia, Poland and Yugoslavia; the members against were: United States of America, Australia, Canada, France, United Kingdom, Netherlands, Norway.

The proposal was therefore rejected.

COLONEL SPRINGER moved that the resolution adopted should carry, as a final paragraph, a statement to the effect that there were eight members voting in favour of the resolution, two against, one abstaining and six absent. Otherwise, as Dr. Neumann said, if a member government transmitted the resolution to a neutral government it would be accepted as the expression of the opinion of the Commission though only 8 out of 17 members represented on the Commission voted for the proposal; it was not a unanimous expression and might not even be a majority expression, depending on how absent members would have voted.

THE CHAIRMAN did not see any objection to adding that statement of fact to the resolution.

SIR ROBERT CRAIGIE said he would be prepared to support Colonel Springer's proposal.

M. DE BAER asked whether it was to be the practice for all future documents to carry a note of the voting; if this was the case, he thought a very dangerous precedent would be set.

THE CHAIRMAN said it would be dangerous if there was a precedent, but it was not a precedent and he did not see any objection to such an addition in this special case. Colonel Springer had proposed that it should be done in this particular case only, his proposal had been seconded by Sir Robert Craigie and the Chairman said he also would support it.

MR. LEGER asked whether the names of the countries voting for and against and abstaining from voting would appear on the document or only the numbers.

THE CHAIRMAN confirmed that only the numbers would appear.

M. DE BAER said he would vote against such a proposal.

DR. ZIVKOVIC felt that though the paper had been passed by an inadequate majority if it were to be communicated to neutral governments with a statement of the kind proposed by Colonel Springer attached, such a statement would deprive the document of any effect.

THE CHAIRMAN thought they had discussed the matter sufficiently and called for a vote on Colonel Springer's proposal.

The vote taken showed that there were four (4) members in favour of the proposal put forward by Colonel Springer and six (6) against.

Colonel Springer's proposal was therefore rejected and the Resolution, as drafted (Doc. A.43), without any amendments or additions, was accepted for member governments to forward to neutral states should they consider such a course desirable.

INVITATION BY BELGIAN GOVERNMENT TO SEND DELEGATES FROM THE COMMISSION TO THE CONFERENCE OF THE INTERNATIONAL BUREAU FOR THE UNIFICATION OF CRIMINAL LAW TO BE HELD IN BRUSSELS ON 10-12 JULY - (DOC. MISC. 90) - AND TO THE PERMANENT INTERNATIONAL COMMISSION FOR THE STUDY OF CRIMES AGAINST INTERNATIONAL LAW AND OF ACTS COMMITTED IN THE INTEREST OF THE ENEMY, TO BE HELD 14, 15 JULY, 1947. (DOC. MISC. 93).

M. DE BAER said that he had received from his Government an invitation to the United Nations War Crimes Commission to send one or two delegates to the Conference of the International Bureau for the Unification of Criminal Law to be held in Brussels from 10-12 July, 1947. Two conferences were to take place in Brussels in the middle of July, one on the 10th-12th and the other, in connection with the Permanent International Commission for the Study of Crimes against International Law and of Acts committed in the interests of the enemy on the 14th-15th July. M. de Baer did not think that he could express an opinion on the matter and he very much wondered whether a body like the Commission, which was really an international body, should send a report to be discussed by other bodies, possibly privately instituted and sponsored. The outcome of this would be, suppose the Commission sent a report to the Conference, if it was an excellent report they would take the credit for it and embody it in their own general report or, if it was a bad report, then the Commission would be in an extremely difficult position because of its international standing. He felt, therefore, that they should not send a report to the Conference as a report from the United Nations War Crimes Commission. Another question was sending observers to the conference. If these observers wished to submit a report in their own name it would not cause offence if such a report were criticised. Accordingly he would favour the first idea being rejected; incidentally, he would like to say that any observers going to Brussels would have to pay their own expenses or else have their expenses paid by the body sending them.

THE CHAIRMAN suggested that they reply saying that they could not spare any of their staff.

SIR ROBERT CRAIGIE suggested they could say, at this stage that it was not a matter on which the Commission was prepared to send a report but they would naturally be very interested to see the conclusions of the conference when they were available.

THE CHAIRMAN said the Secretary General might send a polite letter, thanking them for the honour of the invitation, that they deeply regretted that at the present moment owing to circumstances beyond their control, the Commission was unable to send any member of its staff at that period and that they would look forward, in due course, to the instruction and edification which they might derive from the record of their proceedings when they were completed.

SIR ROBERT CRAIGIE said they could first say that they were very honoured by the invitation and though they were not able to send a report, they would look forward with a great deal of interest to seeing the conclusions of the conference when they were available. They should say nothing about observers at this time, though they might perhaps say that they would examine the question of sending observers at some later date.

THE CHAIRMAN felt there was no necessity for a particular vote, the decision was, that the Commission should not send a report to the conference and that the question of observers be deferred.

LETTER FROM THE DIRECTOR OF THE DIVISION ON HUMAN RIGHTS, UNITED NATIONS CONCERNING THE COLLECTION OF INFORMATION ON HUMAN RIGHTS ARISING FROM TRIALS OF WAR CRIMINALS.

THE CHAIRMAN said members would see from Doc. A.45 the copy of a letter from Professor Humphrey, Director of the Division on Human Rights, United Nations, dated 6th May, concerned the question of the possible co-operation between the Division on Human Rights of the United Nations and the United Nations War Crimes Commission in the matter of collection and publication of material concerning human rights arising from trials of war criminals particularly from the Nuremberg and Tokyo trials. He thought members would all agree that as the question of quislings and traitors was outside the scope of general jurisdiction of the Commission, it would be better to agree to leave that out in issuing their document. They could not deal with the Tokyo trial because it was not only not completed but was very

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

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

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

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

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

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

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

This was unanimously agreed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FORMAL APPROVAL OF UNWCC LISTS NOS. 55 and 56.

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

REPORTS OF CHAIRMEN OF COMMITTEES.

M. DE BAER reported that Committee I had had three meetings since the Commission last met, on the 1st, 7th and 14th May. On the 1st May, 26 cases were treated involving 1,435 persons, on the 7th May, 115 cases involving 537 persons and on the 14th May, 37 cases involving 75 persons.

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

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

127

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

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

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MINUTES

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

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

DEATH OF LADY HURST.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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valued servant to any body which was fortunate enough to secure and retain his services.

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

The appointment was unanimously approved.

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

THE CHAIRMAN seconded this proposal.

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

WOLFENBUTTEL TRIAL (Doc. A.44)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRANSLATION OF THE LAW REPORTS.

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

Mr. Dutt left the meeting at this point.

RECALL OF MR. BURDEKIN

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

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

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

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

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

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

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

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

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

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

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

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

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should also be studied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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From the process it appeared that the concept of "crimes" as defined by Committee III of considerable time and effort of the representatives of the United Nations war criminals and participants themselves, but that particularly crimes against basic human rights

In reporting trials of war criminals would therefore not be, on the contrary, the development of

THE CHAIRMAN he had made and a selection with regard to the number of the trials to be a good thing. It might be made practical if it might well be. DR. SCHWEI fold selection of

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THE CHAIRMAN according to it was impracticable. He gathered the collection of trials of war criminals and participants, namely quisling and traitor cases, infringements of human rights, and much more. The Commission light of the

SIR ROBERT CRAIGIE observation in regard to the work they would

THE CHAIRMAN work among the people to have

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

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

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

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

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

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

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

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

FORMAL APPROVAL OF UNWCC LIST NO. 57.

The Commission's 57th List was formally approved.

Wright

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

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

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

Dr. Schram-Nielsen	Denmark
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MINUTES

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

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

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

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

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

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

M. MAILLARD said yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE CHAIRMAN answered: yes.

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

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

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

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

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

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

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by the Chairman was taken and showed the following result:

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

Abstain: 4 France, Greece, Czechoslovakia, India.

Absent: 3 Denmark, Luxembourg, New Zealand.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPORTS OF CHAIRMEN OF COMMITTEES.

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

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

M. DE BAER said yes, very much so.

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

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

APOLOGIES FOR ABSENCE WERE RECEIVED FROM:

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

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

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

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

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

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

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

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

CHAIRMAN OF COMMITTEE I

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

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

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

This appointment was unanimously approved by the Commission.

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

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

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

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

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

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

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

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

This was unanimously agreed.

THE CHAIRMAN then introduced Baron Leijonhufvud to the meeting.

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

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

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

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

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

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

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

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

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

Ethiopia had always been eager to join international organisations.

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

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

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

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

The Ethiopian claims were very moderate indeed.

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

Nobody would be accused of crimes against peace.

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

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

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

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

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

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

BARON LEIJONHUFVUD then left the meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

SIR ROBERT CRAIGIE agreed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PROFESSOR PIOTROWSKI said they were not invited.

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

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

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

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

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

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

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

THE CHAIRMAN said there was no precedent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTITUDE OF TURKEY WITH REGARD TO WAR CRIMINALS.

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

THE FUTURE OF CROWCASS (DOC. C.263)

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

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

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

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

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

This was approved.

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

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

REPORTS BY CHAIRMEN OF COMMITTEES.

M. DE BAER said he would make his last report as Chairman of Committee I. He had been asked to state that the 3rd Statistical Progress Report had been made, it covered the period up to the end of June, 1947. From that report it followed, that up to the end of June, 6,003 cases had been considered by Committee I and 26,721 persons listed as war criminals. Since then, during July, August and September a further 1,088 new cases had been considered involving 3,832 persons thus bringing the total number of cases to 7,091 and persons listed to 32,553. During the period under review, five new lists had been published bringing the total number of lists to 62. List No. 63 was in the course of preparation and included some 800 persons.

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

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

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

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

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

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

Wright

M 11-15

