

CO-ORDINATING OFFICER

The CHAIRMAN reported the receipt from Colonel Hodgson of a letter (dated 30th April) by which, at the request of the United States Secretary of State, the latter informed the Chairman that "the United States Government regrets that it has not been in a position thus far, to make a final decision with regard to the appointment of a United States officer to fill the mentioned position, and that it does not wish to preclude the Commission, if it so desires, from obtaining the services of an officer of another Government." The Chairman regretted the delay.

MEMORANDUM FROM COMMITTEE II ON INTEGRATION OF AGENCIES
CONCERNED WITH WAR CRIMINALS (C.99)

Brigadier FOSTER (S.H.A.E.F.) gave particulars regarding the methods adopted by the armies under General Eisenhower's command for the identification of war criminals and for the investigation of war crimes and collection of evidence in regard to them. He requested that the information which he gave should not be allowed to pass outside the circle of members of the Commission as its publication in any form would defeat the object of some of the measures which were in operation.

Brigadier FOSTER subsequently replied to questions and, after being thanked by the Chairman, left the room.

PROPOSAL BY DR. EGER CONCERNING INVESTIGATION OF CRIMES
COMMITTED IN BUCHENWALD, BELSEN AND DACHAU (C.102)

The Secretary-General read the proposal.

The CHAIRMAN considered that Brigadier Foster's statement did not conflict with any principle or proposal in Dr. Eger's scheme. The scheme might, of course, have to be modified to bring it into harmony with the arrangements which it was possible for S.H.A.E.F. to make, but it seemed probable that countries like Czechoslovakia could secure facilities for making their own investigations in camps where this would be useful. In any case he felt sure that it would be possible to come to a practical arrangement with S.H.A.E.F.

Dr. EGER said he had nothing to add.

Colonel HODGSON considered Dr. Eger to be making an offer of assistance to S.H.A.E.F. He saw no objection to this. Paragraph 4 could be altered if necessary. It was impossible to know if the offer would be accepted.

He suggested the size of the teams should be reduced to four or five persons and the consent of the Governments obtained while S.H.A.E.F. was being approached. Perhaps in the first instance the scheme should be confined to Buchenwald or to that camp and Belsen.

The CHAIRMAN said that once on the spot, it would be easy for the teams to go on to other camps.

Colonel HODGSON regarded the scheme as a stop-gap measure. He felt the armies were doing very well but there might be countries of which account had not been taken or which had not been able to send teams. Even if it was going to be refused by the armies, the offer of help could do no harm.

The CHAIRMAN suggested that Dr. Ečer's proposal be approved in principle and a motion to that effect was moved by Dr. Cyprian and seconded by M. de Baer.

Lord FINLAY pointed out that Brigadier Foster had considered it would be best for the National Offices of the Governments concerned to make the approach to S.H.A.E.F.

The CHAIRMAN replied the Commission could obtain authority to act from the National Offices. It was inconceivable that the matter should be held up by small points of procedure.

Dr. ECER called attention to the difficulty of communicating with his Government which was in Czechoslovakia.

Mr. BELL sympathised with Dr. Ečer and supported action by the Commission.

The motion approving Dr. Ečer's proposal was unanimously adopted.

RECOMMENDATION TO THE GOVERNMENTS CONCERNING PENAL SANCTIONS
FOR THE THREAT OR USE OF FORCE (C.100)

Colonel HODGSON said that this recommendation was submitted by Committee II in respect of the Conference now being held in San Francisco. If the Commission gave approval to it, it should be despatched immediately to the Member Governments for forwarding to their representatives in San Francisco. Postponement of its consideration might mean that it would never reach the Conference.

Dr. ECER circulated a paper showing that, according to a report in the Daily Herald of 1st March, the Inter-American Judicial Committee

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"proposed to regard as war criminals 'Axis leaders and their associates who have caused to be committed', as well as those who actually have committed, 'heinous crimes' in violation of:

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

and that, according to the reporter "The fifth point prevents any guilty person escaping trial on a technicality for a crime against humanity, including, for example, Nazi-legalised murder of Jews." The paper also quoted an answer to a parliamentary question (Mr. Law, on 17th April, 1945) which ran as follows: "We have made it plain to neutral Governments that by war criminals we mean not only those who have actually committed breaches of the laws and customs of war, but also the Nazi and Fascist leaders who are responsible for the policy leading to these crimes". Dr. Ecer thought these pronouncements showed the desirability of Committee II's proposal.

M. de BAER distinguished between the past and the future. So far as the future was concerned, he supported Colonel Hodgson's proposal but insofar as it dealt with the past it was open to the objections that the San Francisco Conference was not concerned with the past and that in fact the authors of the Pact were known to have purposely refrained from putting into the Pact the meaning now suggested. The Commission would weaken the Pact by reading into it a meaning it was not intended to bear. As it stood, the Pact itself which condemned aggression, the London Protocol of 1871 regarding violation of treaties and other treaties provided adequate ground for punishing the authors of the present war. He wished to omit the part of Document C.100 relating to the interpretation of the Pact.

Colonel HODGSON pointed out that the Governments were only invited to adopt the recommendation concerning the Kellogg Pact if they (not the Commission) believed both that it was ambiguous and that it was intended that individual responsibility should attach to those who caused the Pact to be violated.

Mr. DAO agreed with M. de Baer in wishing to omit the second part of Document C.100, but supported the first part which dealt with the future. There was the practical difficulty that the San Francisco Conference was not interested in the past and it was also difficult to incorporate a

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condemnation of the Axis powers in the Security Council's charter. Such a proposal should go in the instrument of surrender or be brought forward after that instrument had been signed.

Colonel HODGSON saw the logic of the Chinese representative's remarks but felt that his objections were matters to be considered by the Governments at San Francisco.

Professor GROS made the following speech which he asked should be inserted in the Minutes:

"In view of the fact that the object of this recommendation is to put forward an interpretation of the original meaning of the Briand-Kellogg Pact, the French Delegate finds it difficult to subscribe to such an interpretation which does not appear to him to have been that of the authors of the pact, or at any rate that of the French Delegation at the time.

"I must state anew that the French interpretation of the Briand-Kellogg Pact is the following: the fact of having prepared for, and launched the present war constitutes a violation of international law as it was laid down in the Paris Pact, but cannot be treated as a war crime in the state of international law in 1939.

"The precedent in 1919 of the committal for trial of the Kaiser has shown in this respect the danger inherent in an indictment which does not rest on a definite positive law. In 1945, it appears equally difficult to establish as wide an interpretation of the Briand-Kellogg Pact, when in fact no part of the deliberations of 1928 appears to justify it.

"Moreover, I must also state that the French Government are of opinion that the same practical result may be attained, with regard to the indictment of those responsible for the present war, by treating as a war crime the preparation by leading Nazis, prior to 1939, of methods of criminal warfare.

"I should therefore feel bound to reserve my position, should the recommendation intend in fact to put forward an interpretation of the 1928 Pact. On the other hand, I would be entirely in agreement, should its object be to complete the 1928 Pact by a declaration on the part of the United Nations henceforward qualifying as a war crime any act of aggressive preparation.

"I have for my part no objections to forwarding this recommendation to the delegations at San Francisco. The French legal adviser there happens to be particularly competent to pronounce on the interpretation of the Briand-Kellogg Pact."

The CHAIRMAN supported the whole report. In his opinion the fact that the 1907 Hague Convention did not prescribe penalties for the breach of its provisions by individuals did not exclude the inference that this was implied. Personally he saw such an implication in all this class of international agreements. He saw no ambiguity in the Briand-Kellogg Pact.

Dr. ECER made three points. The question of war crimes was likely to come before the Conference. Mr. Law's statement justified the recommendation. Finally, the recommendation effected a reconciliation between the conflicting views which had appeared in the Commission on the question if aggressive war was a crime.

Colonel HODGSON said that he personally did not think the Briand-Kellogg Pact created any form of individual criminal liability, but recognising that many distinguished persons in the Commission and outside took the contrary view, he had begun to wonder if there was not an ambiguity and was willing to leave the answer to his Government.

The discussion was adjourned.

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M.59

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Fifty-ninth Meeting

held on

3rd May, 1945

Chairman: Lord WRIGHT - Australia
and subsequently Colonel HODGSON

There were also present:

Lt.-Col. HODGSON - United States of America
accompanied by Capt. WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Lord FINLAY - United Kingdom
Wing-Commander HOPKINS (as observer for
the Dominion of Canada)
Dr. ECER - Czechoslovakia
accompanied by Dr. MAYR-HARTING
M. GROS - France
Mr. DUTT - India
M. STAVROPOULOS - Greece
Dr. CYPRIAN - Poland
Mr. JERVIS - New Zealand
M. MARKOVIC - Yugoslavia

and

Major HICKS (Allied Control Commission)

ABSENCE OF CERTAIN REPRESENTATIVES

Certain representatives had made apologies for absence. Mr. Wunsz King and Mr. Dao were both obliged to attend another meeting. Dr. de Moor was absent through ill-health. In the absence of the Canadian Representative Wing-Commander Hopkins was present as an observer for Canada.

APPOINTMENT OF SECOND LEGAL OFFICER

The CHAIRMAN said that Committee I unanimously desired the appointment of Dr. Litawski, and he asked the Commission to make this appointment. Dr. Litawski's work as head of the Polish National Office was well and favourably known.

The appointment was agreed to unanimously.

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CLOSING OF EIGHTH LIST

It was decided to close the Commission's Eighth List of War Criminals and prepare it for issue.

DESPATCH OF A COMMITTEE TO BUCHENWALD CONCENTRATION CAMP

Dr. EGER reported that discussion among interested members had led to a plan for sending a committee to Buchenwald concentration camp, and possibly other camps, to secure evidence of the crimes committed there. It was suggested that this body should consist of Colonel Hodgson, M. de Baer, M. Markovic, M. Stavropoulos, with one assistant each, Dr. Cyprian with four and Dr. Eger with five assistants. The number of assistants varied according to the number of fellow-nationals in the camp. He proposed Colonel Hodgson as chairman.

Colonel HODGSON said he would accompany the committee, at least at the beginning, to do what he could to facilitate its mission, but preferred not to be chairman or member of the committee. Dr. Eger should be chairman.

This was agreed to.

In the course of further discussion, the Commission accepted the scheme proposed by Dr. Eger, approved a letter on the subject to be addressed to S.H.A.E.F. in Paris, and gave the committee full discretion to extend its mission to other camps.

REPORT OF DELEGATION TO BUCHENWALD CONCENTRATION CAMP (Doc.C.101)

This document was approved with amendments which will appear in the final text.

During the discussion, M. GROS asked to be excused, and left the Commission, being called to an important meeting.

RECOMMENDATION TO THE GOVERNMENTS CONCERNING PENAL SANCTIONS FOR THE THREAT OR USE OF FORCE (Doc.C.100)

M. STAVROPOULOS having proposed to adopt Part I only, Colonel HODGSON said he thought it would be well for the two parts of this document to be examined separately.

Part I was approved in principle and subsequently adopted with amendments which will appear in the final text.

Colonel HODGSON moved the adoption of Part II as a separate recommendation.

Mr. DUTT felt there might be political difficulties and would like the Governments to be first consulted.

M. STAVROPOULOS thought that as Hitler was dead the proposal had no object, but Mr. OLDHAM pointed out that those responsible for the Japanese war were still alive.

Part II was adopted. M. de Baer, M. Stavropoulos and Mr. Dutt abstained from voting.

COLLECTIVE RESPONSIBILITY FOR WAR CRIMES

M. Gros being absent, this subject was adjourned.

COMMUNIQUE TO THE PRESS: PROPOSAL BY DR. CYPRIAN (Doc. C.96)

Referring to a passage in Document C.96, which asked if the Commission's communiqué of March 29th had been widely reproduced in the Press, Mr. OLDHAM and Colonel HODGSON, from observation of the papers, were able to say that this had been the case, both in the United Kingdom and the United States.

Mr. OLDHAM welcomed Dr. Cyprian's proposal, and referred to the value of the statements which the Chairman had made, and suggested that he should be empowered to issue statements in case of emergency.

Colonel HODGSON agreed. He was in favour of weekly statements, with occasional interim statements, a smaller Public Relations Committee and the appointment of a whole-time public-relations officer to build up the Commission's relations with the Press. He had already suggested that members should submit articles to the Public Relations Committee and hoped this would be done. He approved Dr. Cyprian's proposal and desired to give the Chairman discretion to issue statements on behalf of the Commission.

The CHAIRMAN said he might have broken the rules in his speech in the House of Lords, but must run the risk of doing so for he could not tell in advance when he might find it necessary to make a statement there on the Commission's work. The rule of reference to the Public Relations Committee before making statements should, however, be maintained. A committee of

three members should be large enough. He did not think there should necessarily be weekly statements - there might be nothing to publish - but the committee could meet weekly and decide when statements should be made. He asked if it was really necessary to have a public relations officer.

Colonel HODGSON thought it was.

Dr. ECER asked if he could publish a story of ill-treatment told him by a boy at Buchenwald. The secrecy rule should be relaxed now that reprisals were not to be feared. It was absurd to censor the Chairman.

Mr. DUTT pointed out that reprisals by the Japanese were still to be feared.

Dr. CYPRIAN considered that the Chairman spoke for the whole Commission and ought not to be bound by rules or obliged to obtain permission to make statements, but members ought still to observe secrecy about the Commission's proceedings. Facts outside those proceedings, such as the facts related to Dr. Ecer at Buchenwald, were outside the Commission's proceedings.

Lord WRIGHT relinquished the Chair to Colonel Hodgson.

Colonel HODGSON asked Dr. Cyprian to prepare for the next meeting proposals on the whole subject including, if necessary (as Mr. Dutt suggested) - a revision of Article III, Rule 14 of the Commission's Rules.

STATEMENT TO THE PRESS

Mr. OLDHAM submitted a draft statement for the Press, announcing the issue of the Commission's two last Lists. Its issue was approved

Wright

SECRET

M.60

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixtieth Meeting

held on

May 10, 1945

Chairman: Lord WRIGHT (- Australia)

There were also present:

Lt.-Col. HODGSON	- United States of America
accompanied by Captain WOLFF	
Mr. OLDHAM	- Australia
accompanying Lord Wright	
M. de BAER	- Belgium
accompanied by M. GOLSTEIN	
Lord FINLAY	- United Kingdom
Mr. Andrew BELL	- Canada
accompanied by Wing-Commander HOPKINS	
Mr. WUNSZ KING	- China
accompanied by Mr. DAO	
Dr. ECER	- Czechoslovakia
accompanied by Dr. FANDERLIK and Dr. MAYR-HARTING	
Professor GROS	- France
Mr. DUTT	- India
Sir Cecil DAY	- New Zealand
Dr. CYPRIAN	- Poland
Mr. ZIVKOVIC	- Yugoslavia

and

Major HICKS - Allied Control Commission

MINUTES

The minutes of the 57th meeting were signed.

Amendments were made in the minutes of the 58th and 59th meetings which will appear in the final texts.

STATEMENTS BY THE SECRETARY GENERAL

The Secretary General made the following announcements:

Representation on the Commission.

New Zealand would for the time being be represented by Sir Cecil Day.

In Dr. Ecer's absence, Dr. Mayr-Harting would replace him at meetings of the Commission and its Committees.

The Belgian Government had appointed M. Rene Golstein as M. de Baer's deputy at the War Crimes Commission.

Belgian Government's approval of the Recommendation concerning Interrogation of Prisoners of War (Doc. C. 66(2))

A letter had been received from M. de Baer stating that his Government agreed with the above recommendation, but that it was impossible for Belgian officials to carry out the measures suggested by the Commission because any prisoners whom the Belgian army captured were always transferred to the hands of the Allied Command.

REQUEST FROM GENERAL EISENHOWER FOR THE DISPATCH BY CERTAIN GOVERNMENTS OF OFFICERS AND CLERKS TO SERVE AS LIAISON OFFICERS WITH ARMY GROUPS

Communication was made to the Commission of the contents of a telegram from General Eisenhower which asked for the provision by Poland, Greece, Yugoslavia and Czechoslovakia of officers and clerks to serve as liaison officers in regard to war crimes with the Twenty-first and Twelfth Army Groups for the purpose of gathering evidence concerning war crimes committed against their own fellow nationals and assisting in investigation of crimes committed against other persons. The telegram stated that similar teams were being assembled by Belgium, Holland and France, and that Norway had been approached with regard to organising a team.

The Commission was unanimous in welcoming this request and the practical steps necessary to secure the quickest possible response to it were discussed and agreed.

REPORT OF CHAIRMAN OF COMMITTEE I

M. de BAER reported that Committee I had placed on the List of War Criminals a German who was accused on good evidence of having caused a massacre at Riga. Committee proposed to the Commission that particulars of the case should be transmitted to the Soviet Ambassador in case he might wish to bring the case to the attention of the Soviet Extraordinary Commission for the Investigation of War Crimes. This would be an offer of collaboration and a sign of goodwill towards that body. This was agreed to.

Conference with Representatives of National Offices

M. de BAER further said that Committee I proposed to the Commission that a conference with representatives of the National Offices should be held for the purpose of such matters as:-

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- Pooling information;
- Drawing attention to the information in the Commission's possession and available for use by the Offices;
- Considering who should prosecute persons accused by several United Nations; and other matters.

The meeting could most conveniently take place in London. A fortnight's notice might be given to the Offices.

The representatives of China, Canada, India and New Zealand having represented that a fortnight was rather short notice, it was agreed that the conference should be convened for Thursday, 31st May. A letter on the subject would be addressed by the Chairman to all the members of the Commission, but the members could of course immediately warn their respective National Offices of the coming conference.

M. de Baer, Colonel Hodgson, Mr. Zivkovic and Mr. Dutt were asked to draw up an agenda for the conference.

Mr. DUTT asked what powers the representatives of the National Offices were to have. Were they, for example, to have power to agree on behalf of their Governments to some particular method of trying persons accused by several United Nations?

M. de BAER and the CHAIRMAN said that there was no question of coming to decisions which would be binding on the individual Governments; the object was to consider what recommendations should be made to the Governments.

Treatment of Major War Criminals

M. de BAER said that no decision had been reached on this subject, but it appeared to have been dealt with in the statement made by President Truman at the Press Conference of 2nd May (Doc. C. 108). The Commission ought to make recommendations as to who the major criminals were and how they should be disposed of. Committee I hoped to submit proposals at the next meeting.

COLLECTIVE RESPONSIBILITY FOR WAR CRIMES

Professor Gros having been obliged to leave the meeting, this subject was adjourned.

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SECRECY OF THE PROCEEDINGS OF THE COMMISSION: PROPOSAL BY DR. CYPRIAN (Doc.C.L
Doc. C.107)

As requested at the last meeting, Dr. CYPRIAN presented a paper on this subject, leading to certain conclusions. The conclusions of the paper were read by the Secretary General.

The CHAIRMAN said that he thought almost too much liberty of action was being given to him, but he hoped that he and subsequent chairmen would exercise this liberty with moderation. The chairman ought, he considered, to be as careful as the ordinary members in what he said to the Press and, for his part, he always tried to consult one or two of his colleagues.

Mr. OLDHAM, Lord FINLAY and Mr. ZIVKOVIC supported Dr. Cyprian's proposals, Lord FINLAY observing that he agreed with what the Chairman had said.

The conclusions of Dr. Cyprian's paper were approved and are as follows:

- (a) Article III, Rule 14, of the Commission's Rules does not prevent the Chairman of the Commission from making any public statement on behalf of the Commission which he finds appropriate, without previously referring the matter to the Commission or the Public Relations Committee for approval, but the Chairman should inform the Commission afterwards of the content of his statement.
- (b) This liberty of action does not belong to the members of the Commission who must observe the secrecy demanded by Rule 14, as far as concerns the matters still under consideration or already decided by the Commission during its meetings.
- (d) The rule of secrecy does not prevent members from making public statements on facts they have seen or evidence gathered in the capacity of members of the Commission, provided they state only facts and not an appreciation of them or comments upon them made by the Commission during its meetings.

Colonel HODGSON moved and it was agreed that the Secretary General should put before the Commission at each of its weekly meetings a draft of a communique to the Press.

COMMUNIQUE TO THE PRESS

Mr. OLDHAM submitted a draft of a communique to the Press which was approved.

PUBLIC RELATIONS COMMITTEE

It was decided to form a new Public Relations Committee consisting of Dr. Ecer, as Chairman, Colonel Hodgson and Mr. Oldham.

DISTRIBUTION OF LISTS

Colonel HODGSON asked and it was agreed that a complete set of the Commission's lists should be sent to him for transmission to Mr. John G. Erhardt, U.S. Political Advisor, Allied Forces Headquarters, Mediterranean Area, and that future distributions should include his name.

ESTABLISHMENT OF A WAR CRIMES AGENCY IN THE ITALIAN THEATRE OF WAR

Mr. ZIVKOVIC raised this question and promised to submit formal proposals for consideration at the Commission's next meeting.

Dr. ECER supported Mr. Zivkovic in thinking there ought to be a War Crimes Agency representing the Commission in Italy and went on to observe that, while liaison teams sent to Germany were useful, a central body to co-ordinate their activities was still wanting and was needed.

The CHAIRMAN thought this question ought not to be raised at the same time as the organisation of liaison teams to go to Germany; it was a separate matter on which Dr. Ecer could make proposals.

Wright

April 1941

1. The first of the main points of the report is that the British Government has been very successful in its policy of maintaining the peace in Europe.

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SECRET

C.103
4 May, 1945

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UNITED NATIONS WAR CRIMES COMMISSION

RECOMMENDATION TO THE GOVERNMENTS CONCERNING
PENAL SANCTIONS FOR THE THREAT OR USE OF FORCE

Adopted by the Commission on 3 May, 1945

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Committee III of the Commission, composed of the representatives of Belgium, China, Czechoslovakia, Greece, Netherlands, Norway, Poland, United Kingdom and United States, considered the resolution on the subject of the "Scope of the Retributive Action of the United Nations" (Doc. C.20). This resolution contained inter alia the following statement:

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"From this general point of view the United Nations War Crimes Commission considers that the following categories of crimes are within the scope of its work;

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"1. The crimes committed for the purpose of preparing or launching the war, irrespective of the territory where those crimes have been committed."

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On 18th September, 1944, it reached the conclusion and recommended to the Commission that, while acts committed by individuals for the purpose of preparing for and launching aggressive war, and not falling within certain exceptions mentioned by it, were, legis lata, not war crimes, it was desirable that for the future penal sanctions should be provided for such outrages (Doc. C.55).

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Dr. Ečer, representative of Czechoslovakia, disagreed with the Committee's conclusion, viz. that acts committed by individuals for the purpose of preparing for and launching aggressive war were not war crimes, and filed a separate report with the Commission, (Doc. C.56). However, except as this view rendered it unnecessary to consider whether future penal sanctions should be provided, it was not urged that it was undesirable to expressly provide such sanctions.

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After discussion in the Commission, consideration of the principal question was referred to the Governments with the request that the Governments make known to the Commission their views thereon.

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One of the principles proclaimed by Chapter II of the Dumbarton Oaks Proposals is as follows: "All members of the Organization shall refrain in their International relations from the threat or use of force in any manner inconsistent with the purposes of the Organization". Thus, not only war, but "any use of force" or "threat of force" are prohibited by the proposals.

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SECRET

C.101
5th May, 1945

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UNITED NATIONS WAR CRIMES COMMISSION

VISIT OF DELEGATION TO BUCHENWALD CONCENTRATION CAMP

IN GERMANY

Report adopted by the Commission on 3rd May, 1945

At the invitation of General Eisenhower, a Delegation from the War Crimes Commission on the 26th and 27th April, 1945, made an inspection of Buchenwald Concentration Camp near Weimar, Germany, and subsequently consulted with United States Investigation Officers in the field and Allied Staff Officers at the Supreme Headquarters Allied Expeditionary Force (Forward).

The conditions at Buchenwald Camp had been made the subject of a number of cases filed with the Commission by various Governments over the past year. These cases had disclosed that this camp was a means for exterminating peoples from all of the German-occupied countries of Europe and that torture, malnutrition and other organised brutalities were the rule and not the exception. As a result the Commission had placed upon its lists of war criminals a number of persons believed to have been responsible for this phase of the German reign of terror. Consequently the Commission deeply appreciated the invitation of General Eisenhower and the opportunity to confirm at first hand the findings which it had already made.

The Delegation consisted of the following Representatives:-

Lord Wright (Chairman)	
General M. de Baer	Belgium
Dr. T. Cypryan	Poland
Mr. D.Y. Dao	China
Mr. S.N. Dutt	India
Dr. B. Ecer	Czechoslovakia
Lord Finlay	United Kingdom
Prof. Andre Gros	France
Lt.Col. J.V. Hodgson	U.S.A.
Wing Comdr. E.R. Hopkins	Canada
Dr. J.M. de Moor	Netherlands
Mr. J. Oldham	Australia
Mr. C. Stavropoulos	Greece

Also accompanying the Delegation were Lt. Cmdr. Latta, Lt. Prowse and Lt. Rainey, United States Navy. Major J.B. Ford (Grenadier Guards) was in charge of the Delegation throughout the journey.

The Delegation left England by air at 9.20 a.m. on the 26th April and after passing over Arras made a short stop at Brussels. The plane then flew on, passing over Maastricht, Julich, Cologne and Gotha, to Weimar which was reached in the early afternoon.

On arrival at Weimar the Delegation was met by Colonel Claude B. Mickelwaite, J.A.G.D., Staff Judge Advocate, Twelfth Army Group, and Colonel M. Brannan, J.A.G.D., Staff Judge Advocate, First United States Army, and drove through the town to the Elephant Haus where it was accommodated. The Delegation then proceeded by motor transport to Buchenwald which lies about a quarter of an hour's motor drive from the town. It will be seen that the existence of the camp and the conditions therein must have been well known to the inhabitants of the town.

At Buchenwald, the Delegation, accompanied by Colonel Mickelwaite and Colonel Brannan, was received by the United States Army officers charged with the administration of the camp. Before inspecting the camp, the Delegation assembled in the Administration building, formerly occupied by the S.S. Commandant. Here

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Colonel Mickelwaite explained the history and lay-out of the Camp. He said that it was captured and first occupied by the Third U.S. Army and that on the 11th April it was taken over by the First U.S. Army. He also stated that in addition to the actual inmates found at Buchenwald there were at the time of liberation approximately 33,000 male and 27,000 female prisoners who lived outside of the Camp, and were scattered throughout the surrounding countryside. They were under the administrative control of the S.S. at Buchenwald.

Major McVee then explained in detail the organisation of the camp. It had been founded in July 1937 for the incarceration of German political prisoners and was constructed to accommodate 6,000 inmates. Since the outbreak of war it had been used for the reception of political prisoners from various occupied countries. The number of prisoners gradually increased until it reached a peak of 51,000 in 1941. Shortly before the United States Army freed the camp there were 48,500 prisoners but it had been established that during the eleven previous days from 18,000 to 22,000 had been removed from the camp by the German authorities.

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In discussing the form of investigation adopted by the United States authorities Major McVee said that statements had been taken from 150 selected inmates, the selection being based on nationality and length of incarceration. These statements amount in effect to diaries and tell a complete story of the experiences of each inmate from the time of his apprehension by the Germans to the time of his liberation. As a result a great deal of evidence now exists not only in regard to the concentration camp at Buchenwald but also in regard to Auschwitz, Nordhausen and other concentration camps. Moreover a general picture was thus presented of Nazi methods in dealing with political prisoners. Major McVee said that it was clear that a large number of Russian prisoners of war had been detained at the camp and that they had been treated as political prisoners. (After 1943 many Russian prisoners of war were invited to join the Wehrmacht. If they refused, their category was changed from prisoner of war to that of political prisoner and they were confined at Buchenwald and other concentration camps.)

The official camp records found at Buchenwald indicated that 32,000 prisoners perished at the camp from the time of its inception to the time of Allied occupation. However, reliable estimates from United States Investigation Officers set the figure at not less than 51,000. It is likely that further investigations will reveal that the figure of 51,000 is an underestimate. The deathrate at the time of the occupation was approximately 200 a day, but due to evacuations from the camp and to improved conditions the rate had fallen (by April 26th) to 20 to 30 a day.

Major McVee said that there were four types of premises which were used for the furtherance of the sadistic programmes of the German authorities. These were as follows:-

- (a) The Crematorium. This building contained six ovens, each of which was capable of consuming three or four bodies at a time and often (due to extreme emaciation) five or six. In the basement of the crematorium was a torture chamber fitted with hooks for the torture and strangulation of the prisoners. Elaborate precautions were taken to conceal all evidence of brutality. For example it was well-drained and hosed-out after each incident of brutality and an air ventilator served to remove the stench. In addition an elevator served to carry tortured bodies to the crematorium above. Before cremation the bodies were thrown into a pit to await cremation. At the time of occupation of the camp there were 2,000 bodies in the pit.
- (b) "Riding Stable". This was used principally as an execution chamber for Russian prisoners. The Russians were brought there for the stated purpose of being physically examined. After being stripped and examined they were (ostensibly for measuring their height) stood up alongside a wall from behind which through apertures, they were shot in the head, the bullets penetrating upwards and lodging in the ceiling of the stable. Bullets still remain embedded in the ceiling. Part of the ceiling however had recently been replastered by the Germans evidently in an effort to conceal this evidence.

(c) "Shooting Gallery". This was situated in a building beyond the crematorium in the eastern part of the camp. The official investigators had secured direct evidence that inmates were, from time to time, summarily shot there without trial.

(d) "Barracks No. 38" - ("The Hygienic Institute"). This was a laboratory for experimentation on inmates by doctors placed there for that purpose. It was revealed that inmates of the camp on the whole preferred to be selected for this type of experimentation rather than to remain in the squalor and revolting conditions which existed elsewhere. The subjects of experimentation were given better food, better quarters and were assigned lighter duties than the remainder of the inmates of the camp.

Various members of the Delegation then questioned Major McVee and he explained 1945, that the identity of all the camp Commandants was known. He mentioned in particular the notorious Commandant Koch, whose special form of sadism resulted in the killing of inmates for the purpose of obtaining their tattooed skin. Specimens were handed to the members of the Delegation for examination.

Major McVee next explained that the inmates of the camp were dressed in zebra-like costumes marked with triangular tabs to indicate nationality, etc. For example, a red tab meant a political prisoner, a green tab a non-political German prisoner, a yellow tab (in which the triangle was placed with its apex pointed upwards) a Jew. Near the tabs were attached letters indicating the nationality of the inmate; for example "P" for Polish. Germans and Austrians were not so lettered. For differentiation the Austrians, since liberation, had themselves placed the letters "OO" alongside the triangle.

The Major then described the manner in which prisoners recently evacuated from Auschwitz and other eastern camps were transported to Buchenwald. These evacuees arrived in Buchenwald in appalling condition, a large percentage of each draft being dead on arrival, but in no way segregated from those who were living. He said that the camp at all times had been administered by the S.S., of whom there were 2,200 in April 1945. Most of the guards had fled the camp before the United States occupation, but a small number had been apprehended. The inmates were required to raise their hats when meeting the S.S.; the penalty for not doing so was a beating. The S.S. did not invariably carry clubs but these were always at hand. He said that the identification and apprehension of S.S. guards and other wanted war criminals was being carried out by C.I.C. (Counter-Intelligence Corps of SHAEF).

Major McVee lastly referred to the Central Parade Ground ("Appel" Square). The prisoners were assembled on this square at 6 a.m. each morning and also periodically during the day for roll-call and general instructions. If anybody was missing from a parade the common practice was to keep the whole of the remainder standing in the square until the missing person was recovered; this sometimes occupied hours. Late-comers were beaten.

After hearing Colonel Mickelwaite and Major McVee, the Delegation was divided into groups of from three to five and commenced their inspection of the camp. Each group had with it a former prisoner who could speak English and who acted as a guide. The statements made by the United States Officers were more than substantiated by the sights each party saw. The following observations made by members of the various parties may be of interest:-

- (1) The whole impression created by the inspection of the camp was one of cold-blooded, scientific and premeditated savagery calculated to degrade, dehumanise and exterminate the inmates. (It must be noted that Buchenwald is only one of a system of concentration camps, and from evidence in the files of the War Crimes Commission was by no means the worst. For example, the exterminations at Auschwitz and Maidanek were on a far greater scale.)
- (2) The majority of the surviving inmates showed evidence of systematic starvation. Their bodies were wasted and many appeared to be tubercular. The mental condition of many of the inmates had obviously been seriously impaired. Some were unable to answer questions. Many were unable to stand up.

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(3) The Delegation saw Buchenwald under the best possible weather conditions, the day being a pleasant spring one with a bright sun and a fresh breeze blowing. These favourable conditions did not, however, dispel the pall of death, disease and squalor that hung heavily over the whole filthy camp and its evil surroundings, nor did they dissipate the foul stench that emanated from all quarters. It must be considered too that these conditions existed although the Americans had been at work disposing of the dead bodies, removing the worst cases of malnutrition and disease and generally clearing up the camp for a period of nearly a fortnight.

(4) It was of interest to note that the evacuation of various nationals appeared to be taking place as quickly as conditions permitted. While the Delegation was at the camp small parties of prisoners were being continuously evacuated.

(5) Certain members of the Delegation found among the inmates friends whom they had not seen for many years. The Czechoslovak Representative, Dr. Ecer, who, before his escape from his country in 1939, was the Deputy-Mayor of Brno, discovered that the Mayor and other members of the Town Council at Brno were still alive and at Buchenwald. As it had been reported that Brno had been liberated by the advancing Russian Forces that day, the reunited members of the City Council held a meeting at the camp. Another European Member learned that his cousin, a Colonel, had died one month previously from starvation, the weight at death being forty pounds.

(6) All members of the Delegation interrogated inmates. Many members were able to question the inmates in their native language.

(7) The precision bombing by the Royal Air Force of the factory attached to the camp on the 24th August, 1944, was noted and admiration was expressed at the accuracy displayed.

(8) It was noted that the nationals of each country represented in the camp had, since liberation, banded themselves together, so far as practicable, in separate huts. Outside the various huts there had been erected banners welcoming the Americans as liberators.

(9) A large number of children had been removed from the camp, but many were still to be found there. They were clothed in the zebra suits worn by adults and were stunted and obviously in poor condition.

(10) Every now and then, Members of the Delegation noted a particularly bad case where the inmate's skin looked like parchment. In addition, as the day was a warm one and certain prisoners were stripped to the waist and sunning themselves, the appalling results of malnutrition were very evident.

(11) It was learned from inmates that German prisoners had been placed in positions of authority over other prisoners at the camp, and had exhibited the same arrogance and brutality as that displayed by the S.S. Guards.

(12) Finally, the Delegation obtained an overall impression of the mixture of scientific and primitive methods employed to dehumanise the inmates. For example, in the torture chamber (as at other places where hangings were carried out), the gallows ropes were less than 2 ft. in length between hook and neck; thus slow strangulation was ensured. When the S.S. became impatient at the length of time which a prisoner took to die, as in the case of the more emaciated victims, they clubbed the unfortunate men to death. The club used was produced to the Delegation. At the back of the chamber was a lift used for conveying bodies to the crematorium above; this lift was an up-to-date piece of mechanism, well polished and bearing the makers' name.

After completing the inspection certain members of the Delegation conferred with their fellow nationals who were inmates of the camp and discussed with the latter problems relating to the investigation and recording of war crimes, evacuation to their respective countries, etc.

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At the request of the Yugoslav Member of the War Crimes Commission, Mr. Oldham (Australia), investigated the conditions of the Yugoslav inmates, and ascertained that there were still 600 at the camp. Subsequently he conveyed this information to the Yugoslav authorities in London.

There was one group at the camp, 200 Spanish political prisoners, who asked that their plight be made known to the outside world.

In the late afternoon the Delegation left the camp and returned to the hotel. After dinner there was time for a short walk about the town.

During the evening the Delegation had consultations with Major Baule, J.A.G.D., who had come from the concentration camp at Nordhausen (which lies 50 miles north-west of Buchenwald) in order to report to the Delegation the results of investigations so far carried out in that area. He stated that he had obtained the names of 2,000 S.S. men who had been in control at Nordhausen. The ration allowed to each person was calculated on the basis of the minimum food value necessary for the preservation of human life under normal working conditions. In fact, however, the prisoners were forced to work in the factory for from 12 to 16 hours daily. If, as a result, they failed to maintain the standard of production required of them their food allowance was reduced, and the cumulative effect was of course starvation. Over 100,000 persons had passed through Nordhausen, there being approximately 30,000 at any one period of time. Conditions appeared to be as bad as at Buchenwald. Although the methods of cruelty practised differed in particulars, the general pattern of brutality at both concentration camps was similar, for example, beatings, tortures, starvation, etc. It was established that not less than 25,000 persons have perished at Nordhausen. The records of the S.S. in charge of the camp had been captured intact. The prisoners were largely Poles and Russians. Twenty-five statements had already been taken although the United States Forces had only been in occupation for a little over a week. Colonel Marr who was in charge of the camp at the time of liberation had found 2,000 bodies there.

The institution at Hedamar was then described. It was one of six similar organisations established to carry out "mercy killings". No medical instruments appeared to have been used; such instruments as were found there were rusty. The general method employed to bring about death was to administer six times the amount of morphine normally given to invalids. In certain cases the victims were buried alive. The purpose of these institutions, according to the Germans, was to dispose of incurables. This claim proved to be unfounded in many cases. After the freeing of Hedamar, investigating officers exhumed the bodies of certain victims and pathologists established that these persons had not been suffering from incurable diseases prior to their execution. At least 300 Poles and 150 Russians were identified as having been murdered at this institution.

The Delegation left Weimar at 9.30 a.m. on the 27th April, the plane circling over Buchenwald so that a good view was obtained of the layout of the camp and of the quarries where many prisoners were done to death in the course of real or alleged attempts at escape.

Owing to poor flying weather, Supreme Headquarters Allied Expeditionary Force (Forward) was not reached until 12.30 p.m. The Delegation there consulted with high ranking officials of Supreme Headquarters.

The Delegation wishes to express its gratitude to General Eisenhower for extending an invitation to the Commission to make the inspection; to Brigadier General Ed.C. Betts, U.S.A., Theatre Judge Advocate, European Theatre of Operations, who conveyed General Eisenhower's invitation to the Commission and arranged for its visit to Weimar; and to Colonel Mickelwaite and Colonel Brannan and other United States Army Officers in charge at Buchenwald and Nordhausen for ensuring that the inspection was thorough and for imparting the valuable information concerning conditions at the camps. The Delegation wishes also to thank the United States members of the aircrew for their efficiency and attention on the flight and Major J.B. Ford (Grenadier Guards) for the tactful and efficient manner in which he supervised arrangements.

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7 May, 1945

UNITED NATIONS WAR CRIMES COMMISSION

ARTICLE III, RULE 14 OF THE COMMISSION'S RULES
(SECURITY OF PROCEEDINGS) - Doc. C.2

PROPOSALS BY DR. CYPRIAN

- 1) Having been asked by the Commission during the meeting on 2nd May, 1945, to draft proposals concerning the security of the proceedings of the Commission (Article III, Rule 14), I shall begin by quoting that rule itself, which reads as follows:

"Members of the Commission are requested to refrain from making
"public statements on subjects under discussion or within the
"possible powers of the Commission without the express approval
"of the Commission"

Commenting on this rule I would like to stress that it does not need amendment, even under the present circumstances which seem to call for some relaxation of the security of the proceedings of the Commission, since the war in Europe appears to be in its final stage and may be over by the time this document is distributed.

What Rule 14 needs is to be interpreted and commented by the Commission in a sense which will make it a guide for the Chairman and members in all their public statements on subjects lying within the scope of the Commission.

- 2) To get a clear picture of the matter we must make a sharp distinction between the authority of the Chairman of the Commission and that of the individual member in regard to public statements, and between the kind of topics on which security must be maintained and those which can properly form the subject of public statements.
- 3) The authority of the Chairman of the Commission to make public statements is in no way hampered or limited by Rule 14.

The Chairman speaks not as a member, but for the whole Commission. The object of Rule 14 was to prevent members from expressing their personal views, especially on controversial matters public discussion of which could have a detrimental influence on the Commission's proceedings. The rule aimed at preventing the unavoidable and necessary differences of opinion which arose from leaking out and causing the impression that the Commission was not united in opinion, and could be influenced from outside.

All this does not apply to the Chairman, who speaks for the whole Commission, avoiding raising questions which are still controversial, for the Chairman expresses the opinion of the majority of members i.e. of the Commission.

If we desire publicity, the best way to obtain it is to state clearly that the Chairman is free to make any statements he may find appropriate, especially as there is no possibility for him to submit them to the Commission for approval beforehand.

The necessity of making a statement may confront the Chairman quite suddenly, in the House of Lords or on other occasions, and he either has to make a statement without previously referring the matter to the Commission or is compelled to abstain from making any statement at all.

To avoid the latter event we shall conclude that the Chairman has authority to make public statements without asking for approval from the

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Commission, provided that he does not touch controversial subjects still under discussion and that he informs the Commission at the next meeting of the contents of his statement.

- 4) The power of the members to make public statements has still to be considered in the light of Rule 14.

It would be detrimental for the work of the Commission if every member could freely give in public his and his fellow members' views on controversial subjects or even subjects already decided, as it would inevitably lead to the public discussion of matters which are still not ripe for publication.

Besides, the members can not and are not expected to be impartial and so their statements could easily show the matter from a particular point of view, not shared by other members.

Finally, we have to remember that although the war in Europe is as good as over, there is still war in the East and leakages could easily impair the security of the Allied nationals still under Japanese domination or in Japanese prison camps, causing reprisals against them.

- 5) The rule of secrecy does not apply to facts which the members of the Commission have learned in their capacity of members, e.g. facts ascertained at Buchenwald or other places later visited.

It is highly important for our common cause to make known these facts as widely as possible, as there seem to be still some people inclined to accept them as a kind of "horror propaganda", although the latest facts discovered in Germany did much to convince everybody that the atrocities were worse than their description.

But these facts have to be known publicly and as this publicity has nothing to do with the proceedings in the Commission itself, or with any question of security, every member should be allowed to make public statements if he wants to, provided he does not go beyond stating the facts he or his fellow members saw on the spot or were told about.

- 6) The conclusions to be drawn from the above considerations are:

(a) Article III, Rule 14, of the Commission's Rules does not prevent the Chairman of the Commission from making any public statement on behalf of the Commission which he finds appropriate, without previously referring the matter to the Commission or the Public Relations Committee for approval, but the Chairman should inform the Commission afterwards of the content of his statement.

(b) This liberty of action does not belong to the members of the Commission who must observe the secrecy demanded by Rule 14, as far as concerns the matters still under consideration or already decided by the Commission during its meetings.

(c) The rule of secrecy does not prevent members from making public statements on facts they have seen or evidence gathered in the capacity of members of the Commission, provided they state only facts and not an appreciation of them or comments upon them made by the Commission during its meetings.

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18th May, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-first Meeting

held on
May 16th, 1945.

Chairman: Lord WRIGHT - Australia
There were also present:
Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Lord FINLAY - United Kingdom
Mr. Andrew BELL - Canada
accompanied by Wing Commander HOPKINS
Mr. WUNSZ KING - China
accompanied by Mr. DAO
Dr. ECER - Czechoslovakia
accompanied by Dr. MAYR HARTING
Professor GROS - France
M. STAVROPOULOS - Greece
Mr. DUTT - India
Dr. de MOOR - Netherlands
Dr. CYPRIAN - Poland
Mr. ZIVKOVIC - Yugoslavia

and

Major HETT - S.H.A.E.F.
Major HICKS - Allied Control Commission

MINUTES

The minutes of the 58th and 59th meetings were approved and signed by the Chairman.

The minutes of the 60th meeting were also approved for final circulation.

ABSENCE OF NEW ZEALAND REPRESENTATIVE

Apologies had been received from the New Zealand delegate for his inability to be present.

CONGRATULATIONS TO COLONEL HODGSON

The CHAIRMAN expressed the Commission's congratulations to Lt.-Col. Hodgson, Acting Representative of the United States, on his appointment as full Representative.

APPROVAL OF EIGHTH LIST OF WAR CRIMINALS

The Commission approved its Eighth List of War Criminals.

LIST OF KEY-MEN

It was decided that Committee I should study this list further before submitting it to the Commission.

COMMUNICATION FROM THE DEMOCRATIC GOVERNMENT OF ALBANIA

Lord FINLAY reported that the Secretary General had received a document from the Minister of Justice of the Democratic Government of Albania in Tirana regarding the trial as war criminals of three named persons. The United Kingdom Foreign Office had informed Lord Finlay that the United Kingdom and United States Governments had not recognised the Democratic Government of Albania and from their point of view, any action which might be construed as a recognition of that Government might be highly embarrassing. Lord FINLAY therefore proposed that the names of these three men should be noted for the Commission's records but that the Secretary General should confine himself simply to a formal and courteous acknowledgment of the letter.

Mr. ZIVKOVIC, while understanding the attitude of the United Kingdom and United States Governments, pointed out that the Government of Yugoslavia had recently recognised the Democratic Government of Albania. Although he did not wish to involve the Commission in diplomatic difficulties, he felt that, as an international body, the Commission should take action to deal with these criminals.

Mr. STAVROPOULOS declared that his country was still at war with Albania whereas Albania had never declared war on Italy, although now complaining of war crimes committed by Italians. The situation was a complicated one.

The CHAIRMAN was in favour of adopting Lord Finlay's suggestion and this was agreed to.

ESTABLISHMENT OF CENTRES AT WHICH EVIDENCE OF WAR CRIMES WILL BE BROUGHT TOGETHER AND MADE AVAILABLE TO REPRESENTATIVES OF THE UNITED NATIONS.

The CHAIRMAN gave particulars of a secret circular letter from SHAEF which provided for the creation of two such centres. He said the text would be

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filed in the Secretariat and could be consulted there. According to information he had received the scheme was still in its early stages but apparently it already had at its disposal all the records of two concentration camps.

NATIONAL OFFICES CONFERENCE

The CHAIRMAN thanked Colonel Hodgson for a clear and complete statement on the organisation and methods of the American National Office which he thought should be made available to other members of the Commission.

Mr. OLDHAM proposed that a document should be prepared by the Secretariat incorporating all the information at its disposal regarding the National Offices, which should be circulated to the members of the Commission in preparation for the forthcoming Conference. It was agreed that three copies should be sent to each member and a fourth be available for the representative of each National Office.

A Draft Agenda of the Conference was submitted to the Commission by M. de BAER and the items explained by him and Colonel Hodgson.

Mr. WUNSE KING welcomed closer connection between the Commission and the National Office of China and believed that such connections would be established chiefly through the Sub-Commission in Chungking.

After discussion, the time of the Conference was definitely fixed for May 31st, and the agenda was adopted with certain amendments which will be incorporated in the final text.

COLLECTIVE RESPONSIBILITY FOR WAR CRIMES: DRAFT RECOMMENDATION TO THE GOVERNMENTS PROPOSED BY PROFESSOR GROS (C.105).

Professor GROS said that this subject had been discussed in the Commission already and given rise to divergent opinions. He now submitted a Draft Recommendation which he hoped would be approved as it did not attempt a legal definition of collective responsibility. It would be for the judges and courts of the States interested to decide in which cases there is collective responsibility.

In reply to Mr. WUNSE KING, Professor GROS said that the expression "collective trial" (which he had found in a copy of an American military journal and which was not a French term) did not exclude the setting up of individual trials.

Lord FINLAY supported Professor GROS' Recommendation.

Dr. ECER also expressed his approval, but said that the Recommendation was addressed to the member Governments whereas he considered that the Commission was in a better position to seek out leading criminals since it received all the

4) information from the member Governments. His document C.88 which had been approved by Lord Wright's Legal Committee had proposed that members of the Nazi Government should be considered war criminals, and it should now be adopted by the Commission. Mr. Eden had said that the British Government regarded Ribbentrop and Goebbels as major war criminals. The American Congressmen had recently made a similar declaration. He urged the acceptance of the conclusions of C.88, as well as those set forth in the report C.106 drawn up by the Legal Officer acting on the instructions of the Commission. He felt that these documents would form a supplement to Professor Gros's recommendation. He would also advocate a continuation of Colonel Wade's investigations for the purpose of seeking out leading criminals.

5) Mr. ZIVKOVIC felt that separate consideration should be given to C.88 and C.106, although he agreed that the approval of the conclusions set forth therein would assist in clearing the minds of the people concerned in the various countries.

The CHAIRMAN suggested that some member of the Commission should embody the conclusions of Dr. Ecer's document C.88 and Dr. Schwelb's report C.106 in a separate recommendation for consideration by the Commission.

Colonel HODGSON was personally prepared to vote for the adoption of C.88 which had been compiled some time ago by Dr. Ecer, but if other members wished to discuss it, he proposed that it should be placed on the agenda of the next meeting, together with C.106.

Lord FINLAY did not wish to depreciate the Legal Officer's report or his conclusions, but felt that it should not be adopted as a finding of the Commission until it had been carefully examined.

M. de BAER agreed with Lord Finlay. He also supported Professor Gros's recommendation.

The Recommendation was ^{unanimously} adopted with some amendments proposed during the discussion which will appear in the final text.

It was decided to place documents C.88 and C.106 on the agenda of the next meeting.

PRESS INTERVIEWS WITH WAR CRIMINALS

Mr. BELL expressed the concern of the High Commissioner for Canada regarding the interviews with high German officials now being reported in the press, which gave opportunities for German propaganda. Although this ^{question} was not within the Commission's purview, he suggested that the matter might be discussed with SHAEF.

The CHAIRMAN drew attention to the statement issued by the Commission the previous night declaring that Goering was on the list of war criminals, but Mr. BELL felt the Commission should go further than that, and asked that Lord Finlay would mention the matter informally to the Foreign Office.

Lord FINLAY agreed to report the Commission's strong disapproval to the British Government.

The CHAIRMAN thought that the Commission should await the reactions of General Eisenhower's statement before discussing this matter further.

Wright

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C.105(1)
17th May, 1945

UNITED NATIONS WAR CRIMES COMMISSION

COLLECTIVE RESPONSIBILITY FOR WAR CRIMES

Recommendation to the Governments

Adopted by the Commission on 16th May, 1945

The United Nations War Crimes Commission, having ascertained that countless crimes have been committed during the war by organised gangs, Gestapo groups, S.S. or military units, sometimes entire formations, in order to secure the punishment of all the guilty, makes the following recommendation to the member Governments:-

- (a) to seek out the leading criminals responsible for the organization of criminal enterprises including systematic terrorism, planned looting and the general policy of atrocities against the peoples of the occupied States, in order to punish all the organizers of such crimes;
- (b) to commit for trial, either jointly or individually all those who, as members of these criminal gangs, have taken part in any way in the carrying out of crimes committed collectively by groups, formations or units.

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M.62
25th May, 1945

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Second Meeting

held on

23rd May, 1945

Chairman: Lord WRIGHT - Australia

There were also
present:

Lt.-Col. HODGSON	- United States of America
accompanied by Captain WOLFF	
Mr. OLDHAM	- Australia
M. de BAER	- Belgium
accompanied by M. GOLSTEIN	
Lord FINLAY	- United Kingdom
Wing Commander HOPKINS	- Canada
Mr. DAO	- China
Dr. MAYR-HARTING	- Czechoslovakia
M. STAVROPOULOS	- Greece
Mr. DUTT	- India
Dr. de MOOR	- Netherlands
Sir Cecil DAY	- New Zealand
Dr. CYPRIAN	- Poland
M. ZIVKOVIC	- Yugoslavia

and

Major SMITH - Allied Control Commission

MINUTES

The minutes of the 60th meeting were approved and signed by the Chairman.

Amendments to the minutes of the 61st meeting were submitted by Professor Gros, Mr. Oldham and Mr. Dao and will be incorporated in the final text.

APOLOGIES FOR ABSENCE

The SECRETARY GENERAL reported that Professor Gros and Mr. Bell apologised for their absence. The Dominion of Canada was represented at the meeting by Wing Commander Hopkins.

Wing Commander HOPKINS took the opportunity of thanking the members of the Commission for their courtesy during his attendance at the Commission's meetings.

Mr. DAO said that Mr. Wunsz King apologised for his absence.

WELCOME TO THE REPRESENTATIVE OF NORWAY

The CHAIRMAN welcomed Major PALMSTRÖM, head of the Norwegian National Office, who was attending the Commission meeting for the first time as an observer.

MEETING WITH THE MEMBERS OF THE CONGRESS OF THE UNITED STATES OF AMERICA

The CHAIRMAN reported receipt of the following letter from Lt.-Col. Hodgson, dated May 17th, 1945:

"At the last two meetings of the Commission I had planned to make a statement concerning the meeting held by the Commission with the Congressional Delegation of the Congress of the United States, but, upon both occasions, I was prevented from doing so by the long agendas. I therefore feel compelled to record my remarks by letter.

On behalf of the Congressional Delegation, as well as myself, I desire to thank the Commission and its Secretariat for arranging and conducting the mentioned meeting. The Delegation was aware that its trip to London to confer with the Commission and the meeting caused members of the Commission some inconvenience, and they were grateful that they were able to meet so many members and to hear their statements concerning war crimes committed within their respective countries. They appreciated these courtesies and efforts, and it was repeatedly stated that the Commission had been very helpful.

They also appreciated the tea which had been so kindly arranged for them, and regretted that they were compelled to leave so early."

On behalf of himself and his colleagues on the Commission, the CHAIRMAN expressed appreciation of the honour and service rendered by the visit of the Congressional members of the United States of America, which he felt marked a great event in the history of the Commission. Colonel HODGSON thanked the Chairman for his observations.

REPORTS FROM COMMITTEE CHAIRMEN

Use of United Nations Relief and Rehabilitation Administration Facilities in War Crimes Investigations: Recommendation by Committee II (C.114).

As Chairman of Committee II, Colonel HODGSON introduced this document which had its inception, he said, in the situation existing in Europe, where the Displaced Persons organisation of U.N.R.R.A. often came into contact with

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Displaced Persons earlier than any other organisation. It was therefore felt that use should be made of the facilities thus afforded for the investigation of war crimes and the perpetuation of evidence.

The recommendation was unanimously adopted.

Membership of Committee I.

The election of Dr. Ecer to this Committee, proposed by the Committee Chairman M. de Baer, was unanimously approved by the Commission.

2nd List of War Criminals holding Key Positions (List 9)

This List was submitted for the approval of the Commission by M. de BAER, in his capacity of chairman of Committee I, but not - he hastened to add - in his own name, since he maintained that the List was not supported by definite evidence compiled from the Commission's dossiers, but was drawn up on the principle that the people mentioned were guilty of complicity in systematic terrorism owing to the positions which they held.

The CHAIRMAN expressed dissent with this opinion, pointing out that the Commission was only concerned with establishing prima facie evidence of war crimes. Colonel HODGSON agreed and added that the names of a number of persons had been removed from the List, pending further data and confirmation as to their identity and the duties of the positions they held. The Commission was familiar with the accumulated evidence which, in his opinion, offered sufficient proof, taken collectively, of the complicity of men occupying positions of authority in Germany. Referring to the preface, he suggested the inclusion of a sentence stating the preface to the 7th List was equally applicable to this 9th List.

Mr. DUTT proposed a repetition in List 9 of the whole preface of List 7. Mr. OLDHAM supported this proposal, but Dr. de MOOR felt it to be unnecessary since List 9 was a continuation of List 7. Mr. DUTT observed that an opportunity of referring to List 7 and its preface might not be open to field workers when consulting List 9.

Lord FINLAY felt this was a minor point. He held the same opinion as M. de Baer regarding the names in List 9. He would, however, not vote against

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its adoption, although he considered Lists 7 and 9 to be in a different category from the Commission's other Lists which were based upon actual prima facie evidence.

Colonel HODGSON suggested that, if the name of Doenitz was to be included in the List, a passage should be inserted in the preface regarding him, to the effect that, in addition to being charged with systematic terrorism, Doenitz was believed to be connected with crimes against the laws and customs of war at sea.

The CHAIRMAN referred to his conversation with the First Lord of the Admiralty - which had in no way affected the decisions of the Committee - during which the First Lord had pointed out, firstly, that a ruthless campaign of submarine warfare had been initiated and conducted while Doenitz was Rear Admiral in charge of submarine warfare, and secondly, that there was a very careful and elaborate account in the Naval "Who's Who" of his constant close associations with the Nazi Party and Hitler. In addition, Doenitz had been the successor of Hitler, and it was he, of all people, who took it upon himself to conduct the negotiations with the Allies for an unconditional surrender. The CHAIRMAN could not see how the Commission could fail to include Doenitz on the list of war criminals.

List 9 was finally adopted, without any dissentient vote, and it was agreed that the preface from List 7 should be inserted, with appropriate alterations, and with a paragraph concerning Doenitz, as suggested by Colonel Hodgson. M. de BAER abstained from voting.

Mr. STAVROPOULOS said that he was expecting charges from the Greek National Office. There were definite well-established accusations against four persons whose names he wished to have included in the List; the CHAIRMAN pointed out that the names came too late but could be incorporated in the next List.

ESTABLISHMENT OF AN AGENCY IN ITALY: PROPOSAL BY DR. ZIVKOVIC (C.110)

Dr. ZIVKOVIC said that some of the Governments were not much interested in Italian war crimes, but this was not the case for the French, Greek and Yugoslav Governments. Since it was not possible for the Commission members themselves to leave London, he would suggest that the agency which he proposed

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should be attached to the Allied Control Commission in Italy and should consist of persons delegated by the National Offices. Apart from the three nations most concerned, he would suggest including representatives from the United States of America and the United Kingdom. Mr. OLDHAM thought that the matter might usefully be considered by Committee II. Mr. ZIVKOVIC was agreeable to any scheme, provided prompt action were taken.

Lord FINLAY, while appreciating Mr. Zivkovic's desire for action, thought it was generally felt that more consideration should be given to this question since the situation in Italy was delicate and quite different from that in Germany.

Mr. STAVROPOULOS said that the Allied Control Commission in Italy was collecting evidence and submitting it to the Greek National Office which was framing charges for submission to the Commission. He was doubtful about the expediency of setting up an agency of the War Crimes Commission.

Mr. ZIVKOVIC complained that the Allies had been in control in Italy since 1943 and had not apprehended any war criminals.

The CHAIRMAN observed that the Commission had no knowledge of what action had been taken by the military authorities regarding the arrest of those whose names appeared on the Commission's Lists.

It was finally agreed that Mr. Zivkovic's proposal should be referred to Committee II for consideration at its next meeting. The Secretary General was asked to add a note to the Agenda requesting particularly the presence of the delegates of France, Greece and Yugoslavia.

CONSIDERATION OF DOCUMENTS C.88 (DR. EGER'S MEMORANDUM ON "THE CRIMINAL AND PERSONAL RESPONSIBILITY OF THE GERMAN NAZI GOVERNMENT") and C.106 ("HISTORY, CONSTITUTION AND OPERATION OF THE GESTAPO, S.S. AND S.A." BY DR. SCHWELB

The discussion of Dr. Eger's memorandum related to the legal conclusions contained in Chapter VI. Colonel HODGSON proposed that the Commission should adopt the rule suggested in paragraph 5 which reads as follows:

"Membership in the German Government, during a period in the course of which war crimes were either committed or prepared by members of the State apparatus, is a sufficient prima facie proof of their guilt and justifies the decision to put them on the list of war criminals."

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A discussion arose in the course of which it was recognised that the principles laid down in Dr. Ecer's Memorandum were being acted upon by Committee I and that the memorandum was a carefully prepared and most important document but a doubt was expressed as to whether the reference to the "German Government" in the above quoted text was sufficiently precise and the CHAIRMAN said he was not himself in favour of the Commission laying down such general principles.

It was ultimately decided to ask Committee III to consider the subject and make a proposal to the Commission.

The Commission then considered Dr. Schwelb's report (C.106). It adopted in principle the conclusions set out in Section 16 and asked Committee III to put them in a form suitable for adoption by the Commission.

It was decided that the Commission would, at its next meeting, determine the exact composition of Committee III.

THE PROBLEM OF MAJOR WAR CRIMINALS: MEMORANDUM BY M. DE BAER (C.III)

M. de BAER said that when this document had been prepared, at the request of the Commission, he had been under the impression that the proposals of President Truman would be accepted, but he had now read in the press that the United Kingdom Foreign Office was in favour of major war criminals being dealt with by a mere political decision. He felt that, as no decision from higher quarters seemed to have been reached and as the matter was most urgent, this Commission should make proposals on this problem.

Dr. de MOOR agreed with M. de Baer that the present situation was rather disturbing. The war was finished in this part of the world, but one of the most important questions, the punishment of major war criminals, was not settled - indeed there was a difference of opinion between the Allies. The proposal for a military tribunal of the Big Four, with a fifth representative from one of the smaller nations, was not satisfactory. What the Commission had proposed was that justice should be done on the broadest basis possible, and all the United Nations be represented. In his opinion, the best solution was an international criminal court, the second best was a political declaration and the third best a military court in which as many as possible of the United Nations would be represented.

The CHAIRMAN said that ^{if} one waited for such a decision the war criminals would have died a natural death.

The discussion was adjourned.

BUCHENWALD REPORT

Mr. OLDHAM asked whether this report was still to be considered secret, as he felt it should now be released for publication. He also asked whether the agenda need continue to be marked "secret".

It was decided that these questions should be referred to the Public Relations Committee, who should report to the Commission before next Tuesday.

NATIONAL OFFICES CONFERENCE

Colonel HODGSON expressed anxiety as to the organisation of the National Offices' Conference. He said that, to secure good results, its procedure should be carefully prepared in advance. Members of the Commission should be made responsible for the various items on the agenda and there ought to be a "Steering Committee" to direct the work of the Conference.

The CHAIRMAN said that he would write a short memorandum on the first item of the agenda and that the remaining items should be allocated to other members for similar action.

Mr. DUTT enquired about the expenses of the representatives attending the Conference. It was pointed out that the Governments were responsible for these expenses, but the Commission would bear the cost of the actual Conference.

It was decided that Committee I, assisted by Mr. Dutt and Mr. Zivkovic, should deal with the organisation of the Conference and appoint a Steering Committee.

Wright

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C.114
24th May, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

USE OF UNRRA FACILITIES IN WAR CRIMES INVESTIGATIONS

Recommendation adopted by the
Commission on 23rd May, 1945.

In many cases the Displaced Persons Organisation of the United Nations Relief and Rehabilitation Administration will be the first point of contact between the United Nations and persons who have been victims or witnesses of Nazi and Fascist atrocities and other war crimes.

In view of the foregoing it seems advisable that the cooperation of the United Nations Relief and Rehabilitation Administration be obtained in the discovery and perpetuation of evidence concerning war crimes.

It is therefore recommended that the Governments and Supreme Headquarters, Allied Expeditionary Forces, obtain the full cooperation of the United Nations Relief and Rehabilitation Administration with the United Nations War Crimes Commission and the Supreme Headquarters, Allied Expeditionary Forces, in the discovery and perpetuation of evidence concerning war crimes.

It is further recommended that the Governments and the appropriate Supreme Commands obtain the full cooperation of the United Nations Relief and Rehabilitation Administration with the United Nations War Crimes Commission and the respective Supreme Commands in other areas in the discovery and perpetuation of evidence concerning war crimes.

The foregoing recommendation will apply mutatis mutandis to the Sub-Commission at Chungking and any other Sub-Commissions which may be established in the future.

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M.63
1st June, 1945

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Third Meeting

held on

May 30th, 1945

Chairman: Lord WRIGHT

- Australia

There were also present: Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. OLDHAM - Australia
accompanied by F/O BRIDGLAND
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Mr. Andrew BELL - Canada
accompanied by Lt.-Col. MACDONALD
Mr. WUNSZ KING - China
accompanied by Mr. DAO
Dr. MAYR HARTING - Czechoslovakia
Professor CASSIN - France
Lord FINLAY - United Kingdom
Mr. DUTT - India
Sir Cecil DAY - New Zealand
Dr. CYPRIAN - Poland
Dr. ZIVKOVIC - Yugoslavia

and

Major SMITH

- Allied Control Commission

Mr. Dwight WHITNEY

- for Mr. Justice Jackson

MINUTES

The minutes of the 61st meeting were approved and signed by the Chairman.

Amendments to the minutes of the 62nd meeting were submitted by Mr. Oldham, M. de Baer and Colonel Hodgson and will be incorporated in the final text.

WELCOME TO REPRESENTATIVE OF FRANCE

The CHAIRMAN expressed a welcome to Professor Cassin, Vice-President of the Council of State of France, who was a colleague of Professor Gros.

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APPOINTMENT OF ADVISER TO HIGH COMMISSIONER FOR INDIA

The CHAIRMAN reported that he had heard from the Secretary of State for India that Sir Torick Ameer Ali, legal adviser to the High Commissioner, would act as the latter's colleague at the meetings of the Commission.

APPOINTMENT OF PUBLIC RELATIONS OFFICER FOR NATIONAL OFFICES CONFERENCE

The temporary assistance of Mr. Fothergill had been obtained for the duration of the Conference. He was a member of the Ministry of Information and would act as Public Relations Officer.

WELCOME TO ASSISTANT OF MR. JUSTICE JACKSON

Colonel HODGSON introduced Mr. W. Dwight Whitney, assistant to Mr. Justice Jackson, who was acting in that capacity on Mr. Jackson's staff. He conveyed the latter's regret that he had been unable to attend the meeting of the Commission, as he had been obliged to return earlier than expected and had left London that afternoon.

The CHAIRMAN expressed the Commission's welcome to the visitor. He said that he had been very glad to hear of the work being done by Mr. Justice Jackson, Major General Donovan, and Mr. Whitney and considered that their visit to Europe was of great moment at this time. He had been both gratified and astonished at the extraordinary success of the Allied forces in apprehending so many notorious people who had been listed as war criminals and was looking forward to their being brought to trial with as little delay as possible. If indeed they had committed the atrocities and were proved to have done so, the whole world would be relieved to hear that justice would be done. He looked to these three gentlemen to assist in achieving that object.

Mr. WHITNEY thanked the Chairman for his words of welcome. He had the advantage of having been in America less than five days ago and thought it might be useful to say that the American people, who had not suffered as had many other nations represented on this Commission, were fully aware of the significance of the work and were in full sympathy with it. It was the intention of those dealing with the matter for the United States to press for full success and if this were not achieved at once, this did not mean that he and his colleagues were indifferent to the time element.

WELCOME TO CANADIAN REPRESENTATIVE

Mr. BELL introduced Lt.-Col. B.J.S. Macdonald, formerly President of the Court of Enquiry in S.H.A.E.F., who would be in charge of the Canadian organisation in London for dealing with war crimes.

The CHAIRMAN welcomed Colonel Macdonald.

COLLECTION OF EVIDENCE BY 21ST ARMY GROUP

Lord FINLAY read a letter, dated 26th May, from Mr. Richard Law, then Secretary of State, which was addressed to him but was intended for the records of the Commission. It read as follows:

"You discussed with Dean on the 30th April the efficiency shown by the Americans in collecting from German concentration camps in their area much valuable evidence of war crimes.

Sir James Grigg, with whom I raised the question of British activity in this field, assures me that 21 Army Group have made very thorough arrangements for the collection of evidence at Belsen. Legal officers entered the camp at the first opportunity and emergency teams of specially qualified officers have been made available to initiate investigations at other camps. Affidavit statements are taken, special internment camps for security suspects and war criminals are being set up, protection is provided for witnesses likely to be in danger and elaborate card indices are maintained of crimes, witnesses and evidence. Allied Missions to Supreme Headquarters Allied Expeditionary Force are informed of cases affecting their nationals.

I think you will agree that 21 Army Group seem to be fully aware of the importance of the subject and are doing everything possible in the circumstances to collect and preserve the necessary evidence.

I have ascertained from the War Office that they have no objection to your placing this information before the Commission.

I am sending a copy of this letter to Lord Wright."

Lord FINLAY observed that the information appeared satisfactory in that a great deal of activity was going on.

STATEMENTS BY SECRETARY GENERAL

U.S. Agreement with the Recommendation concerning Suspects and Witnesses

(Document C.82) The SECRETARY GENERAL reported receipt of a letter from Lt.-Col. Hodgson, dated May 22nd, which read as follows:

"With reference to the recommendations of the United Nations War Crimes Commission concerning persons suspected of war crimes and enemy persons wanted as witnesses (Doc.C.82), I am authorised to inform the Commission that the interested departments of the United States Government agree in principle with the mentioned recommendations. It is believed that the steps which are being taken in Europe are sufficient to obtain the

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objectives desired by the Commission, and that steps which will be taken in the Pacific and Far Eastern area will also accomplish these objectives."

Contribution of new Members to the Working Capital Fund (C.116). The

SECRETARY GENERAL gave notice that this document, which involved an amendment of the Financial Regulations, would be on the Agenda for discussion next Wednesday. It had already been circulated.

PROPOSALS BY DR. CYPRIAN FOR THE SIMPLIFICATION AND SPEEDING UP OF THE WORK OF THE COMMISSION (C.113)

Dr. CYPRIAN gave a brief outline of his proposals.

Mr. DUTT welcomed these suggestions, but felt that the Commission should not be restricted by hard and fast rules.

The CHAIRMAN observed that the practice of the Commission was to avoid long discussions and inconclusive decisions. He was grateful to Dr. Cyprian for his remarks but did not feel that they could be the subject of a Resolution.

M. de BAER agreed.

Dr. CYPRIAN said he was merely anxious to draw attention to the unnecessary delay caused by a large number of people discussing in detail and at great length the drafting of a document which could more usefully be prepared by a small specially appointed committee, and then referred to the Commission for final approval. This would enable the Commission to confine its discussions to matters of policy and topical interest.

Colonel HODGSON appreciated the value of Dr. Cyprian's observations and thought that time would be saved if a great many of the documents were first referred to the three standing Committees of the Commission. There should, however, be no hard and fast rule.

Dr. Cyprian was thanked for his proposals and it was unanimously decided that the principles of document C.113 should be borne in mind by the Commission.

SURRENDER OF A WAR CRIMINAL - REQUEST BY THE REPRESENTATIVE OF YUGOSLAVIA: NOTE BY THE SECRETARY-GENERAL (Document C.118)

Colonel HODGSON reported that, after considering Dr. Zivkovic's request (Document II/43), Committee II had decided to recommend that a certificate should

be furnished by the Commission to the Yugoslav Government stating that the latter had presented evidence against the Italian, Giuseppe Bastianini, which the Commission had found to constitute a prima facie case warranting his trial; that the name of this Italian was placed upon its List and that he was accused by the Yugoslav Government of the crimes mentioned in the case. Committee II also recommended that a copy of this certificate should be sent to each member Government, with a recommendation that those Governments should support the Yugoslav position if they saw fit. This second action was taken in view of the fact that there had been diplomatic correspondence between the Swiss Government and some of the other member Governments, as a result of which the Swiss had given certain assurances in respect of war criminals. It would seem desirable that those Governments should, if possible, call the present matter to the attention of the Swiss Government, and, as a basis for their action, should have a copy of the Commission's certificate. The Secretary General had accordingly prepared a draft certificate which was circulated as Commission document C.118.

The Chairman of Committee I having reported that Committee I had decided that a prima facie case had been established against Bastianini, the Commission declared his name to be on its List of War Criminals.

The Certificate was discussed and amended to read as follows:

"The United Nations War Crimes Commission hereby certifies to all whom it may concern that it has examined the evidence brought by the Yugoslav Government against Giuseppe BASTIANINI, Governor of Dalmatia from June 1941 to February 1943, now believed to be in Switzerland, in support of charges of criminal responsibility during the period above-mentioned for war crimes, namely murders, massacres, systematic terrorism, killing of hostages, torture, starvation of civilians, pillage, killing of wounded and prisoners of war, and has found there to be prima facie case against him in respect of these charges and accordingly has placed him upon its List of persons who ought to be brought to trial as war criminals."

It was unanimously agreed that the Certificate should be forwarded to the Representative of Yugoslavia and copies be furnished to other member Governments together with a covering letter signed by the Chairman, stating that it was recommended by the Commission that each Government take such action in the premises as they might deem proper.

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The Certificate was discussed and amended to read as follows:

"The United Nations War Crimes Commission hereby certifies to all whom it may concern that it has examined the evidence brought by the Yugoslav Government against Giuseppe BASTIANINI, Governor of Dalmatia from June 1941 to February 1943, now believed to be in Switzerland, in support of charges of criminal responsibility during the period above-mentioned for war crimes, namely murders, massacres, systematic terrorism, killing of hostages, torture, starvation of civilians, pillage, killing of wounded and prisoners of war, and has found there to be prima facie case against him in respect of these charges and accordingly has placed him upon its List of persons who ought to be brought to trial as war criminals."

It was unanimously agreed that the Certificate should be forwarded to the Representative of Yugoslavia and copies be furnished to other member Governments together with a covering letter signed by the Chairman, stating that it was recommended by the Commission that each Government take such action in the premises as they might deem proper.

The Chairman observed that a question had been raised as to the Commission's right to discuss the activities of the Government not represented upon it. It had been considered that the procedure proposed in the present case would meet all the practical necessities without the narrower question of principle being debated or decided.

ESTABLISHMENT OF AN OFFICE ATTACHED TO THE ALLIED CONTROL COMMISSION IN ITALY
(Document C.110)

Colonel ROGSON reported that Committee III, before making any proposal to the Commission, wished to secure information about the steps taken or being taken by the Allied Control Commission and the military authorities in Italy to execute Article 29 of the Italian capitulation. Lord Finlay had offered to procure this information through the United Kingdom Foreign Office. Lord FINLAY said he hoped to report next week.

TRANSMISSION OF COMMISSION'S LISTS TO S.A.A.S. AND S.A.I. E.T.C.

The CHAIRMAN reported receipt of a letter from Lord Finlay dated 26th May and a letter from Colonel ROGSON dated 25th May regarding transmission of the Commission's lists (Document C.117). At the request of the members, the letters are reproduced below:

26th May, 1945.

"My dear Wright,

I have received from the United Kingdom Foreign Office a letter dated 24th May, in the following terms:

24th May, 1945.

"My Lord,

I am directed by His Majesty's Principal Secretary of State for Foreign Affairs to inform you that the Combined Chiefs of Staff have asked the Foreign Office to take action, in conjunction with the United States State Department, to arrange that the United Nations War Crimes Commission should deliver the lists of war criminals, prepared by that body, direct to the Supreme Allied Commander, Mediterranean, and to the Supreme Commander, Allied Expeditionary Force.

2. The Foreign Office have been advised that the Combined Chiefs of Staff have further requested the Supreme Commander to receive the lists direct from the Commission, to be responsible for their distribution and to obtain preliminary details of further instructions persons mentioned on the lists without requiring additional evidence of the Commission of War Crimes. The Secretary of State would accordingly be grateful if arrangements could be made for the dispatch of the lists by the Commission as proposed.

-7-

3. The Secretary of State understands that the Combined Chiefs of Staff have addressed a similar communication to the State Department at Washington, and that the United States Embassy at London is making a parallel request.

I am, etc.

(signed) PATRICK DEAN. '

I beg that you will bring this communication to the knowledge of the United Nations War Crimes Commission when its contents concern.

Yours sincerely,
(signed) FINLAY. "

"London, 25th May, 1945.

"Dear Lord Wright,

I have been requested to inform the Commission that it may deliver the lists of war criminals prepared by the Commission direct to the Supreme Allied Commander, Mediterranean and to the Supreme Commander, Allied Expeditionary Forces. I am advised that these two Theater Commanders have been authorized to receive the mentioned lists direct from the Commission.

Sincerely yours,

(signed) JOSEPH V. HODGSON

Lt. Col., JAGD, AUS,

United States Representative,

United Nations War Crimes Commission. "

NATIONAL OFFICES CONFERENCE

At the suggestion of Mr. Oldham and Colonel Hodgson, it was decided to circulate the following Commission documents to the representatives of the National Offices attending the Conference:

- C. 115 Record of Conference held on May 6th, 1945, between Members of the United Nations War Crimes Commission and Members of the United States Senate and House of Representatives;
- C. 48 Progress Report;
- C. 84 2nd Progress Report.

Wright

SECRET

M.64

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Fourth Meeting

held on

June 6th, 1945

Chairman: Lord WRIGHT - Australia
There were also present: Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Mr. WUNSZ KING - China
Dr. MAYR-HARTING - Czechoslovakia
Professor GROS - France
accompanied by M. MALEZIEUX
Lord FINLAY - United Kingdom
Sir Torick AMER ALI - India
accompanied by Mr. DUTT
Commander MOUTON - Netherlands
Mr. BURDEKIN - New Zealand
Dr. CYPRIAN - Poland

and

Major SMITH - Allied Control Commission
Dr. WANG HUA-CHENG - National Office of China
Mr. YANG YUN-CHU - National Office of China

MINUTES

The minutes of the 62nd meeting were signed by the Chairman, after the Secretary-General had announced that a revised page 4 would be circulated containing the correct amendment to Colonel Hodgson's speech recorded on that page.

The draft minutes of the 63rd meeting were approved subject to the insertion of Mr. Dutt's name, which had been omitted, in the list of members present.

APOLOGIES FOR ABSENCE

The SECRETARY GENERAL reported that Mr. Bell had apologised for his inability to attend the meeting.

APPOINTMENT OF SIR DAVID MAXWELL FYFE TO DEAL WITH WAR CRIMES

The CHAIRMAN communicated to the Commission the contents of the following letter, dated June 1st, 1945, which Lord Finlay had received from the United Kingdom Foreign Office, and which called for no comment from the commission:

"My Lord,

I am directed by Mr. Secretary Eden to inform Your Lordship that the Prime Minister has appointed Sir David Maxwell Fyfe, K.C., Attorney-General, as the representative of the United Kingdom to join with Justice Robert Jackson, of the United States of America, and with the Soviet and French representatives when they are appointed, in preparing and prosecuting charges of atrocities and war crimes against such leaders of the European Axis powers and other principal agents and accessories as the Government of the United Kingdom may agree with any of the United Nations to bring to trial before an Inter-Allied Tribunal.

2. I am to request Your Lordship to be so good as to bring this appointment to the notice of the President and members of the United Nations War Crimes Commission.

I am,
My Lord,
Your obedient Servant,
(signed) Patrick Dean. "

LETTER TO CHUNGKING SUB-COMMISSION

The CHAIRMAN reported that the Finance Committee, at its meeting of May 24th, had asked for the authority of the Commission to despatch a letter to the Sub-Commission at Chungking, requesting:

- (a) a report of the Sub-Commission's activities up-to-date, showing specifically the number of cases dealt with, the number of names placed on Lists, and disposal of any other charges;
- (b) details regarding the expenditure incurred between the inauguration of the Sub-Commission and the end of the first fiscal period (March 31st last) and details of its budget estimates of £2,500 for the present fiscal period.

In reply to Mr. Wunsz King, the SECRETARY GENERAL said that if the procedure followed on previous occasions were adopted, the letter would be sent to the Chinese Ambassador to the Court of St. James's for kind transmission through the diplomatic bag. Mr. WUNSZ KING said that, in the absence of the Ambassador, the Chargé d'Affaires would do this.

WAR CRIMES

-3-

After discussion, it was decided that the proposed communication should be confined to point (a), i.e. the Sub-Commission would be requested to make a kind of "progress report" such as the Commission itself had done. The SECRETARY GENERAL observed that the estimates made by the Sub-Commission for the current budgetary period were sufficient for present budgetary purposes. The Sub-Commission would doubtless in due course have its accounts audited.

NATIONAL OFFICES CONFERENCE

The CHAIRMAN referred to the concluding session of the Conference when M. de Baer, as rapporteur, had presented to him, i.e. to the Commission, a statement (Document NOC.9) drawn up by the meeting of representatives of the National War Crimes Offices. When this was done, a number of reservations were made by certain Governments which should be incorporated in a document to be attached to the above statement, and considered a part of it. He pointed out, however, that since the various propositions contained in NOC.9 were merely the views - not of a meeting of the Commission, but of an assembly of National Offices' representatives, the Commission had no other obligation except to receive it. It was a useful document which would no doubt be studied with care and be of some help, but that was all.

In reply to questions, the SECRETARY GENERAL stated that all the reservations, whether written or oral, would be inserted in the document containing the reservations on Document NOC.9.

Colonel HODGSON presumed that no publicity would be given to NOC.9 and the CHAIRMAN replied that the Conference had so decided.

Professor GROS understood that NOC.9 was only binding on the National Offices representatives and therefore wondered if it was necessary for the Commission delegates to make reservations.

The CHAIRMAN repeated that the Commission was not expected to pronounce in any way on the discussions of the Conference. It would be too serious a task for it to discuss all the views of the Conference in detail, and he would deprecate any such attempt to criticise, reject or adopt any of the proposals.

In reply to Mr. Oldham, the SECRETARY GENERAL stated that when all the material had been received from the shorthand writers, the proceedings of the Conference would be circulated as a draft. A reasonable time could be allowed for amendments and the final text could then be circulated.

M. de BAER suggested that the proposals of individual national offices on which Document NOC.9 was based should be circulated, but Mr. OLDHAM felt they did not represent the final views of the representatives and the CHAIRMAN considered them not to concern the Commission.

REPORTS OF COMMITTEE CHAIRMEN

Closing of List No. 10. M. de BAER, chairman, reported that Committee I proposed closing the next List, No. 10, which would contain about 1000 names. This was unanimously agreed.

The CHAIRMAN asked that the List be submitted for approval and adoption by the Commission on June 20th.

Establishment of an Agency attached to the Allied Control Commission in Italy (Proposal by Dr. Zivkovic) Doc. C.110.

Colonel HODGSON, chairman, reported that Committee II had decided to postpone consideration of this document for a further week, pending receipt of information from Italy, promised by the United Kingdom Foreign Office.

Establishment of a War Crimes Agency inside Japanese territory.

Referring to a suggestion for the establishment of an agency in Japanese territory, Colonel HODGSON reported that after discussion, Committee II had agreed to proceed without receiving the views of the Sub-Commission in Chungking - both in Committee II and in the Commission - if the latter approved that course of conduct, and to have a written proposal prepared by Ambassador King and himself for submission to Committee II in the near future. Ambassador King had agreed to this procedure which was in accord with the views of his Government.

Subsequently, at the close of the meeting, Mr. WUNSZ KING stated that the Chinese Government had authorized him to say that they agreed to this **proposed** recommendation, in principle, and would be very pleased to take part in the discussion of detailed arrangements.

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Report of Public Relations Committee

Colonel HODGSON said that a suggestion had been made last Monday week, at a meeting of the Public Relations Committee, that a part time press-man should be secured to take care of press relations between the Commission and the different newspapers. The Committee agreed to employ a part-time press-man. It was agreed at that time that he should be governed by a general policy which would permit the publication of a great part of the proceedings of the Commission and the National Offices Conference, subject to some exceptions which seemed to be imperative. These were:

- 1) Nothing to be released either by the Commission or through the National Offices Conference concerning the war in the Pacific and the Far East and the proceedings in those areas to investigate war crimes, list and apprehend and try war criminals;
- 2) Nothing to be released concerning the recommendations made by the Commission to Governments which have not been finally acted upon by the Governments. It had been taken into consideration that there were diplomatic conversations upon that subject between Governments and that any release might embarrass the Governments;
- 3) Nothing to be released which might embarrass any one Government; and
- 4) Particular attention should still be paid to the manner of apprehension of war criminals which has as yet not been completed in the European theatre and therefore information making that task more difficult should be withheld.

That was the general policy laid down for the guidance of the Press Relations Officer. Consistent with the views of the Commission it was decided that press conferences should be held only with the approval of the Commission.

The CHAIRMAN asked if these resolutions were embodied in some form of document. Colonel HODGSON replied that these were the decisions of the Committee consisting of Mr. Oldham, Lord Wright, Dr. Mayr Harting and himself.

The CHAIRMAN said that there had been a press conference the day before, and the Commission had not been consulted about it. If those decisions had been reached by the Public Relations Committee, he had erred in taking part in the press conference, and could only express his regret. So far as he knew, however, nothing had been done to which exception might be taken.

Colonel HODGSON felt that members of the Commission might wish to offer suggestions, and the CHAIRMAN suggested that they might be embodied in a definite form.

Mr. OLDHAM observed that the gentleman from the Ministry of Information who attended the Conference at Colonel Hodgson's office last Monday week was unable to continue his duties on the Tuesday. As the National Offices Conference opened on Thursday, it was felt that the Conference should be covered by a Public Relations Officer. Mr. Oldham had got into touch with the Director General of the Ministry of Information who personally made available an officer similar in standing to Mr. Hawkins, a Mr. Fothergill, who had covered the Conference itself. He did not think now that the Commission could ask the Ministry to continue releasing Mr. Fothergill and consequently the question of a part-time Public Relations Officer would have to be explored.

M. de BAER asked if the decisions reported by Colonel Hodgson were merely suggestions or had they been endorsed by the Commission.

Colonel HODGSON said they were instructions to the Public Relations Officer given by the Committee and now reported to the Commission.

M. de BAER thought that it was the custom of the Commission for the Chairman to use his discretion in convening a press conference. He knew that this had been done during Sir Cecil Hurst's chairmanship and he was not aware that the Commission had reversed its policy.

The CHAIRMAN held the same opinion. He had of course been careful to avoid anything which might lead to reproach or criticism. If these were rules to be laid down, they must be brought before the Commission and adopted by it in some form of recommendation.

Mr. OLDHAM took the position that the definite authority given to the Chairman by members of the Commission with regard to statements to the press still stood. Colonel HODGSON agreed, so far as the issuing of statements to the press was concerned.

The CHAIRMAN felt that the stage had now been reached when something must be agreed to if the Commission so desired, in which case he would comply with the terms of any such resolution adopted.

Mr. WUN32 KING was interested in any information or news about the treatment of the Japanese war criminals. If he was not mistaken, when the

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war in Europe was still raging, all proceedings of the Commission were kept strictly confidential for fear of reprisals or other reasons. The war in the Far East was still raging and he was sure that all members would agree that so far as the treatment of Japanese war criminals was concerned, the policy of "least said the better" should be adhered to.

CONTRIBUTION OF NEW MEMBERS TO THE WORKING CAPITAL FUND (Report by the Finance Committee) C. 116

Lord FINLAY presented the report which submitted for adoption an amendment of the first sentence of Paragraph 1 of Article 4 of the Financial and Administrative Regulations (Document C. 45) providing that new members of the Commission should contribute to the Working Capital Fund at the same rate as the original members. The report was adopted.

As amended the sentence in question reads as follows:

"Until otherwise decided by the Commission, the amount of the working capital to be accumulated in accordance with Paragraph 2 of the Resolution shall be 26,000 as originally provided by the present paragraph plus a sum of 2400 from each Government joining the Commission after 28th February, 1945, such sum to be payable in addition to the Government's normal share of the Commission's expenses."

DEATH OF DR. DE MOOR

The CHAIRMAN said that the death of Dr. de Moor had been a very serious loss to the Commission. He had mentioned it at the recent Conference when he had stated what he was sure everyone had fully agreed with: that Dr. de Moor was a man whose death was a loss not only to the Commission but to his country and to all the international problems and questions and issues which centred around his country. He had been a very distinguished lawyer, a Master of international law which he had studied in its home and birthplace; and he had given to the Commission the benefit of his knowledge and insight into these problems.

The Chairman was not sure whether he had already mentioned it, but if so, he repeated it now, that when he first became a member of the Commission, one of the first things he was allowed to study was a very important memorandum about the present position and the problems of the Commission with various suggestions for its improvement and future policy, so that it could perform its duties and achieve its object more efficiently and satisfactorily. It was not

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so long since he had occasion to turn up that document and study it again and he derived new satisfaction and assistance from it. The Commission had lost a distinguished friend and colleague. Death had taken him from them, but they would remember the help which he gave to the Commission, the work he had done as their associate, the skill and enthusiasm with which he had pursued its object and promoted its purpose.

He asked members to stand for a moment in memory of this unexpected and premature loss.

Colonel HODGSON said it had been a great privilege to work with Dr. de Moor over a period of almost a year. He had been one of the most outstanding and valuable members of the Commission, and his loss was a severe blow. He had a combination - a happy combination - of being a great international lawyer and at the same time, a person who had a very diligent and practical approach to the many problems with which the Commission had been confronted. The loss would be felt, not only of a valued and esteemed friend, but also of one of the pillars of the Commission.

M. de BAER wished to add his tribute, since Belgium and Holland were very close friends, having lived for many years under the same rule, from 1815 to 1830. He had worked for a very long time with Dr. de Moor. They had arrived together in this country on the same day in 1940 and in the same plane from Lisbon. He did not know then what was his function in life, but a little later had met him at a meeting of jurists. Dr. de Moor was to become his opposite number as President of the Netherlands ^{Maritime} High Court, while he himself was President of the Belgian High Court. After that they had worked consistently at the War Crimes Commission and the London International Assembly, and what a pleasure it had been to work with him. By his death, M. de Baer had lost not only a colleague, an opposite number, but also a friend.

Commander MOUTON thanked the members for their tributes. He had been touched at the last meeting by the appreciation shown to his friend and had written to Madame de Moor, thinking she would like to know what had been said.

The CHAIRMAN said some members had also written and he himself had written as Chairman of the Commission.

The SECRETARY GENERAL said he would send an extract from the minutes to Madame de Moor. He reported that a wreath had been sent to the crematorium, on behalf of the Commission, and the CHAIRMAN suggested that some members beside himself might wish to attend the funeral.

PRESENCE OF VISITORS

Mr. WUNSZ KING thanked the Chairman for the permission granted to Dr. Wang and Mr. Yang to attend the meeting of the Commission, and the CHAIRMAN thanked them for coming.

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SECRET

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C.116
24th May, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Contributions of new members to the
Working Capital Fund

Report by the Finance Committee

The whole amount of the Commission's Working Capital Fund was voted in its first budget and is being provided by the original member Governments. The Finance Committee feels that new member Governments will think it reasonable that they should each provide the same amount of working capital as the original members, i.e. £400. With this object it proposes that the Commission adopt the following Resolution:-

RESOLUTION

The United Nations War Crimes Commission decides to amend the first sentence of paragraph 1 of Article 4 of the Financial and Administrative Regulations to read as follows:

"1. Until otherwise decided by the Commission, the amount of the working capital to be accumulated in accordance with the Resolution shall be £6,000 as originally provided by the present paragraph plus a sum of £400 from each Government joining the Commission after 28th February 1945, such sum to be payable in addition to the Government's normal share of the Commission's expenses."

ANNEX.

Original text of Article 4, paragraph 1.

"1. Until otherwise decided by the Commission, the amount of the working capital to be accumulated in accordance with Paragraph 2 of the Resolution shall be £6000. It shall be administered as a separate fund, known as the "Working Capital Fund", in the manner set out in the following paragraphs."

SECRET

M. 65

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Fifth Meeting

held on

June 13th, 1945

Chairman: Lord WRIGHT - Australia

There were also

present: Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
Mr. Andrew BELL - Canada
Mr. WUNSZ KING - China
accompanied by Mr. DAO
Dr. MAYR HARTING - Czechoslovakia
Professor GROS - France
accompanied by Dr. MALEZIEUX
Lord FINLAY - United Kingdom
Sir Torick AMEER ALI - India
accompanied by Mr. DUTT
Commander MOUTON - Netherlands
Mr. BURDEKIN - New Zealand
Dr. ZIVKOVIC - Yugoslavia

and

Lt.-Col. STEEN - Allied Control Commission
Major HICKS - " " "
Captain STEVENS - " " "

MINUTES

The minutes of the 63rd meeting were approved and signed by the Chairman.

Amendments to the minutes of the 64th meeting were submitted by M. de Baer and Mr. Wunsz King and will be incorporated in the final text.

APOLOGIES FOR ABSENCE

The SECRETARY GENERAL reported that Dr. Cyprian was unable to attend the meeting, owing to his presence being required at another meeting, and sent his apologies.

STATEMENT MADE AT LAST MEETING BY ACTING CHAIRMAN OF PUBLIC RELATIONS COMMITTEE

Mr. OLDHAM, on behalf of his Government and personally, asked to make a statement with regard to the meeting of the Public Relations Committee held on May 28th, as his recollections of the proceedings did not tally with the report made at the last Commission meeting by Colonel Hodgson, acting Chairman of the Committee.

Speaking as a representative of Australia, he had no recollection that any restrictions were placed on the functions of the Chairman of the Committee or the Committee, as set out on page 5 of the draft minutes. Such restrictions would have been contrary to the instructions of his Government on this question, and he regretted that his recollections did not coincide with that of Colonel Hodgson, indeed his recollections of the general trend of the meeting differed substantially. He did not wish to go into details - but of one thing he was certain: that meeting was held for the purpose of appointing Mr. Kings and of briefing him for the meeting with the National Offices which was to take place later that week. A large number of subjects had been given over, but he did not recall anything being said about "Nothing to be released which might embarrass any one Government", (sub-heading (3) on page 5); neither did he remember any "decisions being reached" as reported in the last sentence of the penultimate paragraph on that page.

He regretted having to take this matter up, but now that he had had the chance of reading the transcript of the proceedings, he felt bound to set out to the best of his recollection, the decisions were not reached in those terms, and that he did not personally agree to such decisions.

Dr. MAYR HARTING supported Mr. Oldham. He did not notice at the last meeting of the Public Relations Committee that a suggestion was put forward to restrict the rights of the Chairman in making public statements. He felt satisfied that Dr. Ezer would not have agreed to such a suggestion and it was beyond his (Dr. Mayr Harting's) competence to do so. He did not know whether such a suggestion was made, but in any case he could not agree to it.

The CHAIRMAN said he would have something to say when M. de Baer made his resolution later on, regarding the position of the Chairman and his

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position. For the moment, he only wished to say that he could not accept that he was a party to a decision to the effect of any such resolutions. He had obviously at the moment been staggered by the suggestion and had asked if the resolutions were embodied in some form of document (quoting from the minutes). He thought it was a pity that these general questions were dealt with in such a very unsatisfactory way. Purely from his recollections, he could not recall any such decision having been reached or being a party to it. Differences of recollection were inevitable and likely to occur where there was an absence of records on matters of general policy..

Colonel HODGSON regretted very much that a misunderstanding had arisen and that he must disagree with his colleagues. He had quite definite recollections because he had done the speaking and had spoken from brief notes on the four points mentioned. There had not been much discussion among the members of the Committee, as far as he remembered, but like many of their meetings, there was general assent. He did not recall any dissent with the views expressed at the meeting. He distinctly remembered speaking about "embarrassing any one Government", because he had raised the question of tribunals which, if released to the press, might, in respect of any recommendation that appeared, seem to favour one Government over another. What he had said last week was his recollection of the proceedings. He had taken the assent of the meeting from the complete absence of dissent, rather than from any form of vote - which was a rare form of procedure at such committee meetings. He regretted again that there had been a difference of recollection concerning the proceedings. There seemed to be a misapprehension that this committee was trying in any way to bind the Chairman or the Commission, whereas it was quite clear that the "decisions" related to instructions to the press-man regarding his conduct. He certainly did not say that they were instructions to the Chairman or the Commission or anyone else. In respect to the matter of holding press conferences, it was advanced as an instruction to the press-man bearing on his conduct: the minutes bore this out. The other four points were also instructions to the press-man governing the matters he was to release, and were nothing to do with the powers of the

Chairman who made the releases. The powers of the Chairman were laid down in a general policy adopted less than a month ago, in a paper set forth by D. Cyprian. He did not know, however, that the Commission had laid down any policy for a press-man and inasmuch as the Committee had authorised the appointment of such an officer, it had been important to lay down a general policy for him to follow.

The CHAIRMAN was sorry about the differences of recollection. On the more important practical question, it did seem to emphasise what occurred to him when the matter was discussed on the last occasion. The stage had not been reached when something must be agreed to if the Commission so desired and rules should be drafted and set out in some form of recommendation for adoption by the Commission. Differences were liable to arise when there was no record of what had been said. There had been uncertainty in his mind, and it had apparently also caused a similar reaction from M. de Baer - who was outside the discussion.

However, they must just agree to differ, but he felt that very careful minutes of what was said at each committee meeting should be kept and if any radical alterations of practice or rules were meant, they should be specifically put forward for debate and discussion and adoption. That was the lesson he had learned from this unfortunate difference of opinion or recollection.

It might now be a good idea to vote on the general question of policy.

M. de Baer said he was not a member of the present Public Relations Committee but he had been a member of the first one, together with Sir Cecil and Mr. Fell. At that time, it had been agreed that the Chairman could convene any press conference. He would therefore propose a resolution that there be no change of policy and that the Chairman had the discretion to convene any conference and to speak to the press-men. Colonel HODGSON fully supported M. de Baer's proposal, but did not think it was necessary as the Chairman had always had this power, and the discussion at the last meeting had not affected it. The CHAIRMAN insisted that something of that sort was involved in what was said - it was obvious that it had also occurred to M. de Baer. He did not think that any responsible chairman would agree to hold his office subject to any such limitations.

It was unanimously agreed, therefore, that there had been no change of policy and that the Chairman had discretion to convene a press conference and to speak to the press.

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REPORT FROM COMMITTEE I

Letter from S.H.A.E.F. regarding Dr. Julius Dorpmüller

M. de BAER, chairman reported receipt of the following letter from the Central Registry of War Criminals and Security Suspects (CROWCASS), G.I. Division of S.H.A.E.F., dated June 5th:

"Ref. 198

Subject: Dr. Julius DORPMÜLLER

To: United Nations War Crimes Commission,
Royal Courts of Justice, Strand, London.

- 1) Dr. Julius Dorpmüller, Reichminister of Transport and Director-General of the Reichsbahn, is now in Allied hands. His services are at present being utilised in an advisory capacity in connection with the reconstruction of the German Railways.
- 2) This information is passed to you, as a Dr. Dorpmüller has been placed on the Wanted List of War Criminals by the Czechoslovakian Government on a charge of mass murder. It is not clear whether Dr. Julius Dorpmüller, however, is the man required, as he is aged about 76, and has been connected with the German Railways all his life.

(signed) W.J.H. PALFREY

Lt.Col.

O/C CROWCASS "

M. de BAER said that the Commission had placed Dr. Dorpmüller, German Minister for Transport, on its list of war criminals, on charges submitted by Czechoslovakia, Poland and Belgium, (1) for having concurred in the general criminal policy of the German Reich in respect of the organisation of concentration camps (2) for having shared, as Minister of Transport, responsibility for the abominable conditions suffered by deportees from France. From the above-quoted letter, it appeared that the Allies were employing Dr. Dorpmüller's services in an advisory capacity and he therefore asked what action the Commission wished to take.

Professor GROS said that the fact that the Allies were making use of Dorpmüller at present had no relation to the fact that he was a war criminal and the Commission's policy need not be revised as his status was not altered thereby. The situation had already arisen in the case of Dönitz. Dorpmüller had been placed on the list on prima facie evidence and whether the executive authorities chose to forgive him, or whether they surrendered him afterwards to the Allied countries requesting his surrender was a matter for those authorities to decide.

Dr. ZIVKOVIC fully agreed. Dorpmüller was indeed a major war criminal being a member of Hitler's Government.

Lord FINLAY also agreed. It was the responsibility of the Allied Governments to prosecute him or not to prosecute him if there were high political considerations, but there was no reason why the Commission should take any action beyond saying he was on their list.

The CHAIRMAN said that the letter from CROWCASS did not require any reply, beyond establishing the identity of the man. It was obvious that he was the same person as the one listed by the Commission.

The Secretary General was asked to inform Colonel Palfrey that he was the same man, but to say nothing further.

ORDER OF TRIAL OF WAR CRIMINALS WHOSE DELIVERY IS ASKED FOR BY MORE THAN ONE OF THE UNITED NATIONS: PROPOSAL THAT THE COMMISSION SHOULD ARBITRATE (Proposed by M. de Baer): C. 123

M. de BAER said that he had drafted this proposal as a result of discussions in Paris with S.H.A.E.F. who asked for assistance in determining to whom a war criminal wanted by several United Nations should be delivered first. There were several possibilities: (1) the accused might be delivered to the country where he had committed his worst crimes, (2) or he might be delivered to the country which had first put in its claim, (3) or the trial might be held in the most convenient place. In some cases, it might be that the nations would agree among themselves, but in order to avoid any difficulties, he had drawn up the draft recommendation to the Governments suggesting that the War Crimes Commission be charged with deciding by arbitration to which country such an accused should first be delivered.

It had been ascertained that speed was essential, and that Crowcass must be in a position to make an immediate decision. Three suggestions were proposed, therefore, for the Commission's consideration, should the member Governments agree to the Recommendation. The Commission must first decide whether it wished to adopt the principle.

Dr. ZIVKOVIC approved of the Recommendation, but felt that it should cover other theatres of war besides the European.

Professor GROS was not anxious to widen the issue. S.H.A.E.F. had put a practical question and they were in fact only concerned with solving a provisional difficulty, since S.H.A.E.F. would shortly be succeeded by some other organisation. He added that it should be made clear that the recommendation would only concern Governments of United Nations which were members of the Commission.

The CHAIRMAN said this was understood and had been agreed upon in Paris.

Professor GROS was prepared to accept any of the three courses suggested, but would prefer that the Commission should itself arbitrate, as this would be the quickest method.

Dr. ZIVKOVIC wished to omit the reference to any particular command, or to Paris. Lists were now being sent direct to S.H.A.E.F. and the Mediterranean H.Q., and the latter command should not be excluded from the Recommendation.

Sir Torick AMEER ALI doubted if the Commission which was a sort of "committing magistrate" could assume the function of deciding which court should try the accused.

The CHAIRMAN said the Commission ought to give its advice on a difficulty which had arisen. The question was one of deciding to which government the accused should be delivered.

Lord FINLAY considered too much was being made of the matter. Since major criminals and the criminals of the concentration camps would both be dealt with in a manner which put them outside the scope of the recommendation, it would have a very limited field of application.

The CHAIRMAN said the military authorities considered that there was a difficulty to be solved and M. de BAER added that Committee I's experience was that a large number of war criminals were wanted for trial by several nations.

Mr. OLDHAM had no doubt that both the civilian and the military authorities concerned desired some form of arbitration. He proposed to limit the recommendation to the first paragraph and the first sentence of the second paragraph and it was adopted in the following form:

"In pursuance of the discussions which were held during the Conference with the National Offices for War Crimes and of conversations which delegates of the War Crimes Commission had in Paris with various civil and military authorities, the War Crimes Commission recommends to the United Nations Governments that in respect of persons whose delivery for trial has been requested by several United Nations, all being members of the United Nations War Crimes Commission, the War Crimes Commission should be charged to decide as arbitrator the order in which the accused should be tried by the said countries, or to delegate this task to some other body.

It has appeared that the essential element of such a decision should be speed, and there should be no undue delay on the part of the War Crimes Commission in reaching a decision."

Sir Torick Ameer Ali, Lord Finlay and Mr. Wunsz King asked to be recorded as having abstained from voting.

On the Secretary General's suggestion, the following third paragraph was added:

"The member Governments are requested to inform the Commission whether they do or do not agree to the procedure proposed above."

Mr. BURDENIN asked whether, if Governments delayed in sending their reply, it would affect the application of the proposed arbitration.

The CHAIRMAN said that, as soon as affirmative replies were received from any Governments, arbitration could take place between those Governments who had agreed.

YUGOSLAV REQUEST FOR COMMISSION ACTION IN REGARD TO TWO PERSONS LISTED AS WAR CRIMINALS: C.121

These requests related to Dr. Giuseppe Bastianini and General Fritz Neidhardt. After some discussion, it was decided that, while the Commission was always ready to assist, it believed that such matters should be taken up directly by the Governments concerned with the military authorities.

RECOMMENDATION REGARDING THE ESTABLISHMENT OF AN AGENCY OR AGENCIES INSIDE JAPANESE TERRITORY TO INVESTIGATE WAR CRIMES (Proposed by Committee II): C.122

Colonel GSON reported that this recommendation had come before Committee II who had decided to refer the matter to the Chungking Sub-Committee in order to ascertain its views. After approaching the Sub-Commission,

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Mr. Wunsz King had advised the Committee that his Government agreed in principle with the suggestion and proposed that the Committee and the Commission proceed to formulate the proposed recommendation, but withhold final action upon it until they had received the views of the Sub-Commission. Pursuant to that advice, Mr. Wunsz King had^{drafted} and discussed with him the paper which was now before the Commission, as amended and adopted by Committee II. Colonel Hodgson felt it was a much needed recommendation and thanked Mr. Wunsz King for his assistance.

Mr. WUNSZ KING said that the underlying idea was that the supreme allied commands which would operate inside Japanese territory should be entrusted with the task of setting up military agencies for the investigation of Japanese war crimes. He called the agencies military branches, forming part of the appropriate sections of the commands, and being naturally attached to them. Their functions would be to collect evidence, for example by seizing records, to identify and apprehend the Japanese war criminals and put them into custody, and ultimately to hand them over to the competent courts for trial. Cooperation ought to be secured and ensured between these agencies, on the one hand, and the Commission in London, the Sub-Commission in Chungking and any other sub-commission, as well as the respective national offices, on the other hand: firstly, by having the representatives of the National Offices concerned attached to the agencies and acting as liaison officers, and, secondly, by bringing about a large scale exchange of useful information between the agencies and the other bodies. Pending the production of another scheme, he felt that this proposal would have the best chance of success and would fulfil the practical requirements which the handling of the problems of Japanese war criminals on Japanese soil would call for. It was a crystallisation of the actual practice in the European theatre of war - in other words, an attempt to make on Japanese enemy soil an experiment which was being made on German enemy soil, and he had no doubt it would achieve the same measure of success. If therefore the Commission approved the recommendation, he would be very pleased to telegraph it to Chungking with the request that the Sub-Commission be convened to study it and express its views.

Colonel HODGSON suggested that an urgent reply be requested, in order that any amendments might be incorporated and the final text prepared.

The CHAIRMAN moved that the Recommendation be adopted provisionally, subject to the views of the Sub-Commission. To this the Commission unanimously agreed.

WAR CRIMES EXHIBITION

The CHAIRMAN referred to a visit made to an exhibition about to open in Paris, and a proposal that a substantial part of it be brought to London to be shown here under the auspices of the Commission. Professor Gros would outline the proposal which the Commission could then discuss in principle; the practical details could be worked out by a small committee which he suggested might consist of Professor Gros, General de Baer and Mr. Oldham, all of whom had visited the exhibition in Paris.

Professor GROS said the object of the exhibition (just inaugurated) was to present to the French public a picture of what had been going on in France and in Germany. This had been thought necessary because, even in a country formerly occupied by the Germans, not everyone saw evidence of German crimes, although the German soldiers were seen everywhere; the Gestapo did not torture in the streets. He had talked informally with the French authorities and with his colleagues after seeing the exhibition, and it had been suggested that the War Crimes Commission might sponsor some kind of exhibition in London, which could afterwards be sent to other countries, and might borrow some of the material being used in Paris now. Other Governments could add to the collection. The Paris exhibition was already an inter-allied one. In reply to Lord Finlay, he explained that the greater part of the exhibits consisted of photographic documents relating to crimes committed in France and in the concentration camps and also of documents regarding German Nazi propaganda. The CHAIRMAN added that the latter documents, showing the growth and development of the idea of German world domination were very well set out. There was one section of the exhibition which could not be reproduced here: he had seen it in an incomplete stage but it aimed at tracing the history of a woman who had been sent to a concentration camp.

Sir Terick AMEER ALI thought the question was not only whether the exhibition would be useful, but also whether it was appropriate for the Commission to sponsor such an event, in view of its quasi-judicial functions. His own view was that a "committing magistrate" should not sponsor such types of information.

Lord FINLAY suggested that the discussion be adjourned and that members should consult their Governments.

Professor GROS, in reply to Mr. Burdekin, said that the French Government had sponsored the Paris exhibition. The effectiveness of the exhibition would be increased if it were sponsored by the War Crimes Commission, which was an international body, since it would not then be construed as national propaganda.

Mr. OLDHAM supported Professor Gros very strongly and said that there was an atmosphere of restraint about the Paris exhibition, which was a display of actual facts; he had been struck by the accuracy and by the under-statement, having regard to what was recorded in the dossiers of the Commission. The object of the Commission was to bring the truth about war crimes to the knowledge of the whole of humanity, and he thought that this type of exhibition could usefully be sponsored as a means of achieving that aim.

The discussion was adjourned, after the Chairman had stated that a report of the visit to Paris would be circulated to all the members of the Commission.

Wright

SECRET

C.123(1)
18th June 1945.

UNITED NATIONS WAR CRIMES COMMISSION

Order of trial of War Criminals whose delivery is
asked for by more than one of the United Nations.

Recommendation adopted on 13th June, 1945.

In pursuance of the discussions which were held during the Conference with the National Offices for War Crimes and of conversations which delegates of the War Crimes Commission had in Paris with various civil and military authorities, the War Crimes Commission recommends to the United Nations Governments that in respect of persons whose delivery for trial has been requested by several United Nations, all being members of the United Nations War Crimes Commission, the War Crimes Commission should be charged to decide as arbitrator the order in which the accused should be tried by the said countries, or to delegate this task to some other body.

It has appeared that the essential element of such a decision should be speed, and there should be no undue delay on the part of the War Crimes Commission in reaching a decision.

The member Governments are requested to inform the Commission whether they do or do not agree to the procedure recommended above.

SECRET

C.122.
12th June, 1945.

UNITED NATIONS WAR CRIMES COMMISSION

RECOMMENDATION REGARDING THE ESTABLISHMENT OF AN AGENCY
OR AGENCIES INSIDE JAPANESE TERRITORY TO INVESTIGATE
WAR CRIMES.

Proposed by Committee II

The Commission in its recommendation Document C.30 adopted on the 13th June, 1944, proposed that an agency charged with special duties to investigate war crimes, and to apprehend the accused, should be created in enemy territory as part of the appropriate section of the Supreme Allied Command. Events which have taken place during the occupation of Germany have fully justified the measure proposed by the Commission.

When the Allied forces land in Japanese territory (a term which does not include United Nations territories temporarily occupied by Japan), the conditions obtaining there will no doubt call for the establishment of machinery to deal with the problem of Japanese war criminals. The most practical means would appear to be to entrust the various Supreme Allied Commands operating inside Japanese territory with the task of setting up military agencies for the purpose. It is felt that to ensure co-ordination between such agencies on the one hand, and the Commission or its Sub-Commissions and the National Offices of those United Nations at war with Japan on the other, immediate steps should be taken to devise an agreed scheme along the following lines :

(a) The various Supreme Allied Commands in question should be invited to create special military branches for the purpose of collecting evidence, apprehending Japanese war criminals, putting them into custody, and handing them over to the competent courts for trial, and of exercising such other functions as may specifically be entrusted thereto. Such military branches would form part of the appropriate sections of the Commands.

(b) A representative from each of the National Offices concerned acting as liaison officer should be attached to each of the Supreme Allied Commands. He would be invited to take charge with his own team, and in conjunction with the military agency, of the work of investigation of any war crimes committed against nationals of his country. In general, the liaison officer of a National Office would co-operate with the military agency in all matters affecting the interest of his country in regard to war crimes.

(c) The Commission or its Sub-Commissions would forward direct to the Supreme Allied Commands lists of Japanese war criminals. The military agencies, through the appropriate channels, would keep the Commission or its Sub-Commissions informed of any of those persons wanted who have been identified and apprehended. Where evidence of a war crime committed by persons whose names are not yet on the lists, or that of a crime which points to the existence of a general pattern of criminal acts, is available, the military agencies would likewise pass on the information to the Commission or its Sub-Commissions. It is desirable that the fullest co-ordination of the activities of these bodies should be maintained.

SECRET

M.66

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Sixth Meeting

held on

June 20th, 1945

Chairman: Lord WRIGHT - Australia

There were also
present:

Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. OLDHAM - Australia
and F/O BRIDGLAND accompanying Lord WRIGHT
M. de BAER - Belgium
Mr. Andrew BELL - Canada
Mr. WUNSZ KING - China
Dr. MAYR-HARTING - Czechoslovakia
Professor GROS - France
accompanied by Dr. MALEZIEUX
Lord FINLAY - United Kingdom
M. STAVROPOULOS - Greece
accompanied by M. PESMAZOGLOU
Sir Torick AMEER ALI - India
accompanied by Mr. DUTT
Commander MOUTON - Netherlands
Mr. BURDEKIN - New Zealand
Major PALMSTROM - Norway
Dr. CYPRIAN - Poland
Dr. ZIVKOVIC - Yugoslavia

and

Major HICKS - Allied Control Commission

MINUTES

The minutes of the 64th meeting were approved and signed by the Chairman.

Dr. ZIVKOVIC asked that the record of the discussion on page 8 of the minutes of the 65th meeting, under the heading "Yugoslav Request for Commission action in regard to two persons listed as War Criminals: C.121", should be amended. Following a report from the chairman of Committee II, later in the meeting, the following text was proposed and approved, and will be incorporated in the final text of M. 65:

"These requests related to Dr. Giuseppe Bastianini and General Fritz Heidholdt. After some discussion, it was decided that, while the Commission was always ready to assist, it was believed that such matters should be taken up directly by the Government concerned with the military authorities."

WELCOME TO GREEK UNDER-SECRETARY FOR FINANCE

The CHAIRMAN extended a cordial welcome to Monsieur Michel Pesmazoglou, Under-Secretary for Finance in the Greek Government, who was accompanied by M. Stavropoulos and had organised the Greek National Office for War Crises. M. PESMAZOGLOU expressed his appreciation.

LETTER FROM DR. CYPRIAN REGARDING APPOINTMENT OF A DEPUTY

The CHAIRMAN reported that Dr. Cyprian had notified his intention to appoint Mr. Roman Haiman, a Polish judge and official of the Polish Ministry of Justice, to act as his deputy from time to time. He said the Commission would be very glad to welcome Mr. Haiman.

MINUTES OF NATIONAL OFFICE CONFERENCE

The SECRETARY GENERAL asked if any other members intended to submit corrections to the draft minutes of the Conference; he had already received some from Dr. Zivkovic, Colonel Hodgson and Mr. Kent. Dr. MAYE HARTING stated that he would send his proposed amendments very soon.

It was decided to issue a bound edition of the minutes.

DRAFT BUDGET FOR THE SECOND FISCAL PERIOD 1st APRIL 1945 - 31st MARCH 1946
C. 124

Lord FINLAY, chairman of the Finance Committee, introduced the draft budget which, he said, had been prepared with an eye to the future and the possibility that very substantial additional expenses might be incurred within the present fiscal period, whereas expenditure during the period 1943-1945 had been very low. He added that the present financial position was satisfactory.

With regard to Item 1 (a) (Premises), Lord FINLAY said that the Office of Works had offered accommodation which did not appear to be very suitable but which must of course be considered. The United Kingdom Government were willing, as in the past, to pay the bulk of the expenses connected with accommodation, providing that the Commission remained in London.

A credit of £500 had, however, been inserted to provide for expenses not covered by the Government's undertaking. The sum of £2,000 for branch office premises, etc. (Item 1(b)) was inserted to cover the possibility of such offices being opened in Paris, the Mediterranean area and the Far Eastern and Pacific area; it might and probably would be necessary to open such branch offices. As regards the inadequacy of the credits in this Item and Item 4, the Commission must bear in mind that they were, for practical purposes, only budgeting for 9 months of the fiscal year, which began on April 1st. Increases in Items 2 and 3 were inevitable, owing to the satisfactory development of the work of the Commission. Full notes were supplied (on page 2 of C.124) regarding Item 4 (Salaries, etc.). It had been difficult to estimate the sum required to cover this item, but a careful study of the position of present employees and those to be employed within this year had enabled them to arrive at that estimate. Item 6 (Travelling) was affected by the possible establishment of new branch offices which would necessitate travel between them and the main Commission and the item therefore showed a considerable increase on last year's figure. A small sum was estimated under Item 8 (Publications) for such publications as the Commission might find it necessary or desirable to issue. There was no need for comment on Item 9 (Expenses of the Sub-Commission) since the estimate had been made by Chung-king itself. It had been difficult to estimate the last item (Item 10, Miscellaneous, etc.) as the course of events in the Far East could not be foreseen, neither was it known what part, if any, would be played by the Commission in the collection of evidence in Europe. They had therefore made a generous estimate to cover all emergencies.

Lord FINLAY added that, for reasons connected with the budgetary systems of various nations, it was extremely desirable that the draft budget should be adopted by the Commission at the present meeting, and he concluded with a plea to this effect.

Colonel HODGSON made the following statement:

"In respect of the budget before the Commission, i.e. Commission Document C.124, my Government has been unable to examine it and to give me instructions since it was drafted on June 14th. However, I am authorised to vote upon the draft budget for 1945-46 set forth in Finance

Committee Document 12 (second draft) which provides an excess contribution for the United States of £4,568/16/1 and to accept such excess contribution for 1945-1946 on behalf of the United States. Therefore, to that extent I vote in favour of the budget now before the Commission and accept an excess contribution on behalf of the United States Government for 1945-1946 to the extent of £4,568/16/1. This is the extent of my authority. The difference between the mentioned £4,568/16/1 and £9,870/0/1, appearing in Commission Document C. 124, I must refer to my Government for approval and acceptance and hence abstain from voting upon or accepting that sum. I desire to explain, however, that this in no way implies that approval of a contribution in excess of £4,568/16/1 will not also be forthcoming.

Sir Torick AMEER ALI, Mr. BELL and Mr. WUNSZ KING (and later other members) declared that they were in a similar position as they had been unable to obtain their Governments' views on the draft budget just submitted, but Lord FINLAY, while sympathising with their difficulties (which he also shared), pointed out that the solution would be to accept the draft budget as it stood, subject to such reservations - temporary, he hoped - as the Governments might make.

The CHAIRMAN quoted paragraph 2 of the Resolution on Financial Administration of 22nd March 1944 (Document C.10) but added that the Commission was a body of representatives of independent states which could not be compelled to make payments against their will.

It was finally agreed to adopt the budget, with the provision that the members could refer to the matter again, should any Government raise objections. Colonel HODGSON, however, maintained his former statement and position.

REPORTS FROM COMMITTEE CHAIRMEN

Adoption of 10th List and Closing of 11th List of War Criminals.

It was unanimously decided to close List No. 11 containing exclusively the names of German war criminals. A new list of Italian war criminals was stated to be in preparation.

The 10th List of War Criminals was submitted for approval, having been verified by the National Offices of the countries concerned. It was unanimously adopted.

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Establishment of an Agency attached to the Allied Control Commission in Italy: C.110 and Communications from Dr. Zivkovic dated 8th and 11th June regarding Dr. Giuseppe Bastianini and General Fritz Neidhardt.

Colonel HODGSON, chairman of Committee II, reported that the above two questions had been considered by Committee II at a meeting held on June 19th.

In respect of the first matter, Commission Document C.110, Lord Finlay had kindly furnished the Committee with certain information which he had obtained. On the basis of this information, it was unanimously decided to postpone the matter until such time as Dr. Zivkovic should desire it placed on the Committee's agenda for further consideration.

In respect of the second matter, Dr. Zivkovic's letters, which were considered by the Commission at its meeting of June 13th, it was decided that appropriate action would be to concur in the amendment of the minutes of the meeting of the Commission held on June 13th, so that they would show that, while the Commission was always ready to assist, it was believed by the Commission that such matters should be taken up directly by the Government concerned with the military authorities.

Dr. ZIVKOVIC supported Committee II's proposal and it was agreed to amend the minutes (M. 65) as stated on page 2 of the present minutes.

WAR CRIMES EXHIBITION

The CHAIRMAN referred to Professor Gros' proposal on this subject and said that he could not agree to the view taken by one speaker (Sir Torick Ameer Ali) that for the Commission to sponsor the exhibition would be ultra vires. He knew of no ground for supposing that the doctrine of ultra vires could apply to an international body of the nature of the Commission. He now understood from Professor Gros that the French Government was willing to manage and to assume all financial responsibility for the exhibition and all it asked from the Commission was that, in the general interests of justice, the promotion of which was the purpose of the United Nations, it should lend its name. That was a generous offer worthy of a great nation and Lord Wright could not believe that the Commission might reject it or treat it lightly: it should accept it in the spirit in which it was made. From personal

experience, he wished to emphasise that the exhibition was a splendid one, organised and arranged in a dignified manner. The photographs of atrocities which it included were chosen with commendable restraint. He urged once more that the generous offer be accepted in the spirit in which it was made.

M. de BAER concurred with the Chairman's views, for he had also visited the exhibition. He had just returned from Belgium and while there had obtained the views of his Government and found that, not only did they welcome the exhibition, but were most grateful to the French Government and wished to cooperate by sending material.

The CHAIRMAN said that the French Government would certainly not refuse any material offered by the Allied Governments.

Sir Torick AMEER ALI was sure that the French representative would not mistake the spirit in which his objection had been made. His first impression nevertheless remained his last, but as he was alone in holding this view, it did not matter. It had been based solely on the principle that, while recommending and investigating were the functions of the Commission, its status might be compromised if it undertook to sponsor such publicity.

The CHAIRMAN could not help thinking that, while Sir Torick was quite entitled to his views, he would find, when he had had more experience in the Commission, that its activities were very wide, as was its mandate, which included the recording as well as the investigating of war crimes. It had always been understood that they would have to compile a history of war crimes. The Commission's powers had been increased in April 1944 and Mr. Eden had warned it not to construe its duties too narrowly, but to consider that it had a serious responsibility and duty to discharge.

Lord FINLAY supported the Chairman but had also much sympathy with the views expressed by Sir Torick, which were not based on ultra vires but on the feeling that a body in a position having some analogy to that of a "committing magistrate" ought not to hold an exhibition which might be conceived to prejudice the ultimate trials. Lord Finlay, however, did not think that such considerations really applied to the case, and would himself support the proposal, though with one qualification. As it was now known, there were prosecuting teams being formed to deal with major criminals which were led by the Attorney General; he would like to mention the proposal to the latter

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since if objection were taken by a prisoner, the Attorney General would have to deal with it. He had not the slightest reason to suppose, however, that there would be any objection. Finally, he wished to express his extreme appreciation of the generosity of the French Government, particularly as he now understood that the expenses would be borne by them.

The CHAIRMAN said he would take the opportunity of mentioning the matter to Mr. Justice Jackson.

Mr. BELL agreed with Lord Finlay, but suggested that to meet the question of principle, the exhibition might be sponsored by some such organisation as the British Ministry of Information.

The CHAIRMAN emphasised that the French Government had asked the Commission to sponsor it and repeated that he considered the Commission should agree to do so.

Colonel HODGSON concurred with the Chairman. He felt that such an exhibition would be of great benefit in the execution of the programme in which all members were greatly interested. Referring to the misgivings of his Indian colleague, he said that when the question of publishing pamphlets had been raised, he had had the same misgivings and therefore Sir Torick had his sympathy. He had, however, come to the conclusion that the Commission had the power and possibly also the duty to issue pamphlets and the principle now involved was the same: he was therefore no longer troubled by any misgivings.

Dr. ZIVKOVIC fully agreed with those supporting the proposal, and added that the Yugoslav Government would be very glad to make a contribution. Several months ago they had been invited by the French Government to send material and had done so, and were prepared now to contribute to an exhibition sponsored by the Commission.

Colonel HODGSON said he would approach Mr. Justice Jackson in order to secure his views, if that were the wish of the Commission. The CHAIRMAN hastened to say that his previous suggestion envisaged a purely informal approach and that he would welcome Colonel Hodgson's approach in an official capacity.

Professor GROS was afraid that the members had been labouring under a misunderstanding. He was not trying to "sell an old horse" to the Commission. The whole idea emanated from the French Minister of Justice who had suggested lending the exhibition to any allied country which was interested, but first of all to the United Nations War Crimes Commission. He pointed out that it was not a French exhibition - his Government were not trying to prove that atrocities had been committed against French citizens only - but an inter-allied exhibition to which more than five allied countries had so far sent documentary material.

Secondly, as regards the question of principle, strong arguments had been urged, by the Chairman and Colonel Hodgson, in favour of the Commission's sponsoring such an exhibition. If members were afraid of "recommending" an exhibition of truthful pictures of atrocities, then they should refrain from publishing anything about atrocities for the next two years, since the trials of criminals would certainly be prejudiced, in the sense of English law. The budget just adopted provided for the possibility of publishing such a report within the next year.

Thirdly, the exhibition was intended for the United Nations and would be shown to them. If nobody else wished to sponsor it, the French Government would do so; they would write to the other nations who might refuse, but his Government would still consider it their duty to lend it to those who wanted it. They had offered it to the U.N.W.C.C. first, but they would certainly not be annoyed if it were refused.

Regarding the financial side, the French Government would send the material free of charge and would merely ask for a contribution from the British Ministry of Information in the form of a hall to be placed at their disposal. "Being under the auspices of the Commission" would only involve the Commission's lending its name for the purpose of publicity and issue of invitations - it might involve a few pounds for postage of the invitations. He was quite willing to wait a week if members wished to consult their Governments and he

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thanked the Chairman for his kind words regarding his Government. He added that the latter would not feel heartbroken if the offer were refused, since it would be understood that the Commission appreciated the usefulness of the exhibition but did not feel able to act as its sponsors.

Mr. OLDHAM recalled his strong support at the last meeting and hoped that further delay would not occur but that the French Government would immediately be told that the Commission ^{were} enthusiastically in favour of accepting without qualification the extraordinarily generous offer made.

Sir Torick AMEER ALI refrained from voting. Affirmative votes were given by Mr. OLDHAM, M. de BAER, Mr. Andrew BELL, Mr. WUNSZ KING, Dr. MAYR HARTING, M. STAVROPOULOS, Commander MOUTON, Mr. BURDEKIN, Major PALMSTROM, Dr. CYPRIAN, Lord FINLAY, Lt.-Col. HODGSON, and Dr. ZIVKOVIC.

INTERROGATION OF PRISONERS OF WAR REGARDING WAR CRIMES

The Commission approved a proposal of Lord FINLAY that Air Commodore Groves should be supplied with the Commission's Lists for the purpose of interrogating the prisoners of war in the camps under his command on the subject of war crimes.

CIRCULATION OF DOCUMENTS

Mr. OLDHAM suggested and it was agreed that the following should be stencilled and circulated as Commission documents:

- (a) Article in the New York Times dated May 13th, 1945, by Lord Wright;
- (b) The report of Mr. Justice Jackson to President Truman.

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M.67

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Seventh Meeting

held on

June 27th, 1945

Chairman: Lord WRIGHT - Australia

There were also
present:

Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. L. OLDHAM - Australia
accompanying Lord WRIGHT
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Mr. Andrew BELL - Canada
Mr. DAO - China
Dr. ECER - Czechoslovakia
accompanied by Dr. MAYR HARTING
Professor GROS - France
accompanied by Dr. MALEZIEUX
Mr. BEAUMONT - United Kingdom
Mr. DUTT - India
Commander MOUTON - Netherlands
Mr. BURDEKIN - New Zealand

and

M. FALCO - Court of Cassation of France
Major HICKS - Control Commission for Germany

MINUTES

The minutes of the 65th meeting were approved and signed by the Chairman.

Amendments were made to the minutes of the 66th meeting by the Chairman, Colonel Hodgson, Professor Gros and Mr. Beaumont (on behalf of Lord Finlay). They will be incorporated in the final text.

APOLOGIES FOR ABSENCE

The SECRETARY GENERAL reported that Dr. Cyprian was unable to attend the meeting as he had been unavoidably detained in Scotland.

Mr. DUTT stated that Sir Torick Inceer Ali had been prevented from attending, owing to indisposition.

The CHAIRMAN said that Lord Finlay was suffering from a temporary indisposition and was replaced at the meeting by Mr. Beaumont of the United Kingdom Foreign Office. The Commission were glad to welcome him and hoped also in the future to benefit by his assistance.

Mr. DAO conveyed the apologies of Mr. Wunsz King for his inability to attend.

WELCOME TO M. FALCO

The CHAIRMAN referred to the honour conferred on the Commission by the attendance of M. Falco, the representative of the French Government on the commission engaged in considering the preparation of cases to be brought before the military courts which had been formed for the trial of the major war criminals. That body had a very serious, onerous and responsible task. On behalf of the Commission, he ventured to express gratification at the presence of so distinguished a lawyer.

M. FALCO thanked the Chairman for his welcome.

DEPARTURE OF YUGOSLAV INVESTIGATING TEAMS FOR GERMANY

The CHAIRMAN reported receipt of a letter from Dr. Zivkovic informing the Commission that two Yugoslav investigating teams had left Belgrade on June 18th for Italy, on their way to Germany, to work with the 12th and 21st Army Groups in the investigation of war crimes.

REPORTS FROM COMMITTEE CHAIRMEN

There was no report from Committee I. Committee II had not met since the last meeting of the Commission.

Finance Committee Report.

In the absence of Lord Finlay, Chairman of the Finance Committee, the Chairman of the Commission presented these reports. At his suggestion, the Draft Staff Regulations (C.125), which he thought required some amendments, were adjourned. The report entitled Confirmation of the Commission

past practice in regard to fixing of salaries (C.130) was adopted.

Appointment of Executive Officer.

The Commission decided to appoint Captain Edward H. Lyman as executive officer. In asking the Commission's approval of the appointment, the CHAIRMAN said that Captain Lyman had agreed to accept a certain salary on the understanding that he would not be subject to United Kingdom income tax; the position would have to be reconsidered if this condition were not fulfilled.

Captain Lyman was a graduate of the College of the City of New York and held the degree of Bachelor of Business and Civic Administration. He was also a graduate of the School of Law at Fordham University, and was admitted to the Bar in 1937. He served on the legal staff of the New York State Banking Department for three years and on admission to the Bar he served with the New York State Labour Relations Board as a Litigant Attorney. As such he reviewed the records of administrative hearings and presented summaries and recommendations orally before the Board. He also drafted the findings and decisions of the Board. He also worked with the Office of Price Administration, and then for nine months headed a group of nine attorneys in the Regional Rationing Office and supervised the work of the legal staffs in eighteen district offices located in the six States. In February 1944, he joined the United States Army Transportation Corps and from May, 1944, he had served continuously in the United Kingdom and France as Assistant Port Captain in Glasgow and in Cherbourg, as Boarding Officer in Le Havre and as Acting Port Captain in Falmouth, where he was at present stationed.

Committee on Premises.

The CHAIRMAN reported that a further meeting would be held the following week when it was hoped that progress could be reported.

TRANSMISSION OF LISTS TO ASSISTANT CHIEF OF STAFF, MILITARY INTELLIGENCE,
G-2 BRANCH

The Commission unanimously agreed to Colonel Hodgson's request that the Commission's lists be transmitted to the Assistant Chief of Staff, Military Intelligence, G-2 Branch, for the use of official interrogators working in Germany. It was noted that five copies would be required, and that they had asked for certain back numbers (one copy each of Lists Nos. 4, 6 and 7).

REPORT OF DR. ECER

The CHAIRMAN extended a welcome to Dr. Ecer, who had just returned from Germany, where he had spent a month interrogating prisoners of war and witnesses, as a member of the United Nations War Crimes Commission, and head of the Czech liaison team attached to the 12th Army Group.

Dr. ECER gave a very full and interesting report, which will be circulated to members in final form in due course. He illustrated various points by quoting from the sworn statements made by Karl Hermann Frank, whom he had interrogated very thoroughly.

He concluded by expressing his great appreciation for the moral and material support given to him by his American hosts and stressed the great respect shown by all the allied teams and authorities dealing with war crimes for the work of this Commission. He begged that not only the Commission's lists, but also all the important recommendations to Governments, be supplied to all army groups, as present distribution did not include all the different headquarter war crimes branches. Material conditions in Germany were not easy and the work entailed long hours and much endurance. The German people were apathetic and indifferent to their guilt, and, in his opinion, they needed a hard hand and compulsion to obey orders. Not until the war crimes trials began, would the full importance of their complicity in the war crimes committed by their leaders be realised.

He would recommend the establishment of a United Nations War Crimes Office, attached to the Allied Control Commission in Berlin, which would centralise the work done by national teams. Such a recommendation had been

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put forward a year ago by the Commission, and it was a pity it had not been accepted in time. There was no knowledge of what was happening in the Russian-occupied zone, nor, in many cases, in adjoining areas under the control of another Army Group, and this created difficulties and setbacks.

He would also recommend that national investigating teams be attached to each Army Group, and supplied with the Commission's Lists of War Criminals, Lists of Key-men, Colonel Wade's reports and copies of charges established by the Commission.

The question of surrender of war criminals should be solved as soon as possible. Many of them were being well cared for, according to the terms of the Geneva Convention, and were not guilty of crimes committed against their custodians - the British and the Americans - but against other United Nations whose tribunals were waiting for them. The burden of the courts would be lessened by 50% if they were surrendered to these national tribunals immediately.

As regards the question of the major criminals, particularly the large number of SS. men (so called minor "major criminals"), he knew they could not be tried by international tribunals, but felt that they should be tried collectively by a certain number of military commissions on which each nation concerned would be represented. Judge Jackson's idea was first to indict the organisation as a whole, after which the individual would be allowed to plead mitigating circumstances. This was also in the interest of the Allied police force in Germany, for he was ^{sure} that, as soon as it was stated that the trials would begin, the underground movement would lose hope.

In general, he felt very satisfied with the results of his work, but there was room for improvement, owing to the situation. He could wish for closer collaboration between SHAEF and the Commission, because he had come to the conclusion that the work done by the Commission in the past - so hotly discussed at times - was work of great constructive value.

Mr. OLDHAM asked what use was being made of the Paris Central Register (CRO-CASS). Dr. ECER said he had not seen it and only knew the register at the headquarters of the 12th Army Group. Mr. OLDHAM suggested that Dr. Ecer should read the report on the Commission's recent visit to Paris and the statements made by the U.S. representatives at the National Offices Conference. Dr. ECER said that Colonel Mickelwaite intended to organize a conference of all judge advocates and war crimes investigating officers from all Army Groups, with a view to documenting them on the work of the U.N. T.C.C.

M. de BAER asked what other national teams were now operating in Germany. Dr. ECER could only speak of the 12th Army Group. The Polish team arrived a week ago and were in the throes of obtaining accommodation. The Yugoslav team arrived four days ago. The French had been there before he arrived and were in constant communication with Paris. He had not visited other Army Groups, but he knew that there was a Czech team investigating crimes committed at Belsen; it was physically impossible to travel between the areas under the control of different Army Groups. He said that he had asked for permission to interrogate Kaltenbrunner, but permission had not been given as the man was in a secret camp in Great Britain. Dr. Ecer quite appreciated the difficulties, but felt that the national charges must be incorporated in the general charge made by the Four-Power commission. Professor GROS said it was only a question of procedure, and he thought he could give Dr. Ecer all the necessary assurances on that point.

Dr. ECER, referring to Daluge and von Neurath, said that when he asked to interrogate them (they were also in a secret camp) the fact that these men were to be found on the Commission's lists was a sufficient reason to permit the interrogation, without further question.

He explained that he carried on his interrogation work in German and often his services were used by the Americans, in a case where his country had no interest in the criminal.

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In reply to Mr. Beaumont, who asked whether the results of his interrogations would be at the disposal of a higher authority than the 12th Army Group to which he was attached, Dr. Ecer said that his practice was to interrogate (in German) while a stenographer took notes. A draft was made in eight copies, and the criminal signed each page separately. He (Dr. Ecer) then made a translation - which was vetted and sworn by the American translator, and forwarded to the 12th Army Group headquarters.

Dr. Ecer was warmly thanked for his report.

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26th June, 1945

UNITED NATIONS WAR CRIMES COMMISSION

CONFIRMATION OF THE COMMISSION'S PAST PRACTICE
IN REGARD TO FIXING SALARIES

Report by the Chairman of the Finance Committee

Under Article 7 of the Financial and Administrative Regulations, salaries are to be "fixed by the Commission or in accordance with rules made by it".

Originally the Finance Committee submitted proposals regarding salaries for approval by the Commission, but for a long time past without formally adopting a rule on the subject, the Commission has contented itself with the information that an appointment has been made at a salary or within salary limits approved by the Finance Committee.

Under the Staff Rules, which the Finance Committee has now proposed to the Commission (Article 1, para. 2), the power to fix salaries is formally conferred on the Finance Committee, and in order to prevent any question arising as to whether the Commission's past practice was regular, it is proposed that the Commission decide to validate it retroactively.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Eighth Meeting

held on

July 4th, 1945

Chairman: Lord WRIGHT - Australia

There were also

present: Lt.-Col. HODGSON - United States of America
accompanied by Captain WOLFF
Mr. OLDHAM - Australia
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Mr. Andrew BELL - Canada
Mr. WUNSZ KING - China
accompanied by Mr. DAO
Dr. EGER - Czechoslovakia
accompanied by Dr. MAYR-HARTING
Professor GROS - France
accompanied by Dr. MALEZIEUX
Sir Torick AMEER ALI - India
accompanied by Mr. DUTT
Commander MOUTON - Netherlands
Dr. CYPRIAN - Poland
M. MARKOVIC - Yugoslavia

and

Major HICKS - Control Commission
for Germany

MINUTES

The minutes of the 66th meeting were approved and signed by the Chairman.

Amendments to the minutes of the 67th meeting were submitted by Mr. Oldham,
Professor Gros and Colonel Hodgson and will be incorporated in the final text.

APOLOGY FOR ABSENCE

The EXECUTIVE OFFICER reported that Mr. Beaumont was unable to be present
and sent his apologies.

DEATH OF VISCOUNT FINLAY

The CHAIRMAN referred, with great sorrow, to the very unexpected and lamented death of the Rt. Hon. Viscount Finlay, United Kingdom representative on the Commission. For over half a century, he had been on familiar terms with Lord Finlay. Their association dated from the time when Lord Finlay was a freshman and he himself an undergraduate at Trinity College, Cambridge, and it was later continued at the Bar and on the Bench. Their homes in the country were close to each other. He (Lord Wright) had known Lord Finlay's father very intimately and shared the admiration that everyone felt for that distinguished man. He confessed that the news of his friend's death came to him as a terrible blow on Sunday morning. On Friday, after he had consulted the well-known specialist Sir Maurice Cassidy, Viscount Finlay wrote regretting that he had been ordered a month's rest in bed, but said he was anxiously looking forward to the time when he would join once more in the deliberations of his colleagues on the Commission. But Fate decreed otherwise. He died as he would have wished to die; in the middle of a conversation, while lying in his bed, he suddenly stopped - and it was found that he had expired.

Lord Wright had attended the funeral on July 3rd, only three years after he had attended Lady Finlay's funeral. If Lord Finlay could look up from the grave, he would be able to say; "I have had a good life; I have done my duty to the best of my powers, I have nothing to be ashamed of; on all sides I have friends and admirers."

Lord Wright asked the members of the Commission to stand for a moment as an expression of their sense of bereavement and in memory of their departed colleague.

He then proposed that a letter should be sent to Lord Finlay's daughter, the Honourable Mrs. Hayes, expressing appreciation of her father's great qualities, his invariable helpfulness, kindness and sympathy displayed in the course of his duties, and expressing the Commission's view that his death was a misfortune for the Commission, his country and the world.

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Sir Torick AMER ALI seconded this proposal and added his own personal sympathy.

M. de BAER wished to associate himself with the Chairman's words, in his capacity of Chairman of Committee I, of which Lord Finlay had been one of the most zealous members. He had, previous to his association with him in the Commission, known him in the Middle Temple where he had derived great pleasure from his friendship.

Colonel HODGSON also wished to join in seconding the Chairman's proposal. The passing of Lord Finlay was a great shock to the members of the Commission, including himself, as well as to Lord Finlay's many friends in the United States. It was unnecessary to comment on the outstanding abilities and the high character of that distinguished jurist and public official, as shown by the eminent position he held in his own country. All who had worked with him had felt his kindly and genial influence. He had a happy facility for finding solutions to questions where a difference of opinion existed, and his strivings were an example to his colleagues.

Professor GROS had been asked officially by his Government to express their deep regret at the death of Lord Finlay, not only as a member of the Commission, extremely well known in the French juridical circles, but also for the help which he gave to the Allied cause at the beginning of the war when he was chairman of the Contraband Committee. Professor Gros himself had been a member of the French Contraband Committee and wished to add his own personal regret at the sad loss sustained.

Mr. WUNSZ KING joined in the sentiments expressed by members, both on behalf of his Government and his colleague Dr. Wellington Koo, as well as himself personally. The passing of Lord Finlay was indeed a lamentable loss to the Commission which would be deprived of the services of that eminent jurist and experienced judge.

Mr. BELL wished to associate himself with the general expression of sympathy, on behalf of his Government and himself. He also offered his personal sympathy to the Chairman.

Dr. BOER expressed his regret, as well as that of his Government. Lord Finlay had been one of the members of the Legal Committee and it was there that he (Dr. Boer) had had the opportunity to appreciate his value.

M. OLSEN wished to express the very profound regret of two other British Dominions - Australia and New Zealand - at the passing of the representative of the United Kingdom Government. Viscount Finlay was the worthy holder of a famous name, a kindly man whose loss would be deeply felt by the representatives of the British Commonwealth of Nations.

Commander MONTON, as representative of the Netherlands Government expressed his sympathy. Although he had only recently joined the meetings of the Commission, he had already noticed the great help which Lord Finlay had given and had felt the personal contact. He also added his personal sympathies to the Chairman.

Dr. CYPRINE joined in the general tribute, in the name of himself and his Government and offered his personal sympathy to the Chairman.

M. MARKOVIC also expressed his deepest regret on behalf of his Government, Dr. Zivkovic and himself for the terrible loss which had occurred to the Commission in the United Kingdom.

The CHAIRMAN said that the Secretary would write to the Honourable Mrs. Hayes and give effect to the feelings expressed by the members of the Commission. He added that he had taken the liberty of placing, in the name of the Commission, a wreath on the grave after the service held the day before.

11.1.41. DEBATE
Dr. BOER asked to make a statement, as he was shortly returning to Germany. He had sent to the Chairman the full English translation of Karl Hermann Frank's statement (about 80 pages) and also the English translation of the first authentic report of the destruction of Lidice. The documents would be retained in the Commission's files and were available to all members of the Commission. Copies of Frank's statement had also been sent to the representatives of the United Kingdom, the United States, the U.S.S.R. and France, now meeting in London to discuss the prosecution of Axis war

criminals. Dr. Ecer added that he hoped to submit in a day or two a report of his experiences in Germany, as promised at the last meeting.

He then referred to the progress he had made with regard to the request for the surrender of Frank, which he maintained was of interest as the first important case of its kind. The Czechoslovak Government had instructed their Ambassadors in Washington and London to contact the American and British Governments. They had been referred to the members of the Four-Power commission in London and he himself had been delegated for that mission. The negotiations were concluded on Saturday afternoon and the British and American experts had agreed to recommend to their respective Governments the surrender of Frank under the following conditions:

- (a) That a death sentence will not be executed until Frank has been heard by an international military tribunal to be set up;
- (b) That Frank will be protected against extra-legal violence;
- (c) That observers will be admitted to the interrogations and the trial;
- (d) That Frank will be surrendered for interrogation if necessary to the international military tribunal at any time.

Both the Russian and the French experts in London were in favour of granting Czechoslovakia's request for the surrender of Frank.

Dr. Ecer had advised his Government to accept the conditions and the decision now rested upon the State Department in Washington and the Foreign Office in London.

Commenting on the four conditions, Dr. Ecer stated that he appreciated the position of the British and the Americans since, although Frank was first of all a war criminal wanted by Czechoslovakia - he was moreover a Czechoslovak citizen and member of the Czechoslovak Parliament, and therefore a Quisling as well as a war criminal - he was also wanted by the United Nations because he was a member of the German Government, who by virtue of the positions they held, were responsible for what happened in Europe. He would be tried first by Czechoslovakia for crimes committed in that country, but later the international tribunal would decide

whether to try him for other crimes. He added that the tribunal might refrain from sentencing him if the Czech national court had already passed sentence on him.

With regard to the second condition, he could understand their apprehension but pointed out that his Government had an interest in Frank's life and hoped to set up a fair trial as an example for history.

Regarding the question of permitting observers to attend the interrogations, Dr. Ecer said it was against the national law of Czechoslovakia to admit observers from any Allied Governments to the preliminary interrogation, but an exception might be made in the case of the British and Americans because they had had Frank in their custody. As regards the trial, the position of course was different. Their trials were held in Open Court and plans for this trial would encourage as much publicity as possible.

The fourth condition was the consequence of the first and he fully appreciated the need for making it.

Dr. Ecer stated he was returning to Wiesbaden and would arrange for Frank's transport as soon as he received the news of the decision of the British and American Governments. He estimated that the interrogation would last two or three months, since the Czechoslovak Government had a mass of material to be investigated. They conceived the trial first as a trial of the Czechoslovak nation against the German nation who were responsible for Frank; second, as a trial of the Czechoslovak republic against the German Reich; and third, as a trial of Democracy against National Socialism: Frank was a symbol of a system for them.

Dr. Ecer took the opportunity of expressing his gratitude for the Allied surrender of the so-called president of the Slovak State, Tiso, with some 12 or 13 members of the Slovak Quisling Government, who were already in Prague.

Finally, he said that he had had time to study some of the new documents of the Commission which had greatly impressed him, particularly the

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Colonel "recommendations" Jackson. He would not object were not. He "recommend" a he was by nature

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report of the Commission's visit to Paris, Mr. Justice Jackson's report to President Truman, and the reports of Dr. Schwelb and Colonel Wade. He would be returning to Germany encouraged by this manifestation of progress and would be able to reassure his American colleagues there that they were not working in vain but were backed by the United Nations War Crimes Commission.

He hoped to return to London in three weeks in time to deliver a lecture at the Czech Institute under the chairmanship of Lord Wright. Although his talk was entitled "Mentality and punishment of war crimes in Germany", it would not directly concern the work of the Commission, but he nevertheless asked for the latter's sanction.

The CHAIRMAN was sure that the Commission would be happy to give that. Since Dr. Ecer was anxious to leave, he informed him that he had been elected chairman of the Legal Committee which would mean vacating the chairmanship of the Public Relations Committee, for which office Mr. Oldham had been nominated, subject to Dr. Ecer's acceptance of the chairmanship of the Legal Committee.

Dr. EGER accepted the honour and added that he hoped to be able to arrange a fortnightly visit of a few days to enable him to carry out his duties.

Colonel HODGSON wished to correct Dr. Ecer's statement regarding a "recommendation" sent to the United States Government by Mr. Justice Jackson. He believed that the latter had explained to Dr. Ecer that he would not object to the surrender of Frank providing certain conditions were met. He did not believe that Justice Jackson stated that he would "recommend" a surrender. Dr. EGER accepted this correction, adding that he was by nature optimistic, and was merely expressing a premature hope.

REPORTS FROM COMMITTEE CHAIRMEN

Adoption of 11th List of War Criminals: On the proposal of H. de Baer, chairman of Committee I, the 11th List of War Criminals (Germans) was adopted unanimously, having been verified by the National Offices concerned.

Closing of 12th List of War Criminals: A further proposal made by M. de Baer, on behalf of Committee, to close the 12th List of War Criminals (Italians, Bulgarians and Hungarians) was unanimously approved. It was pointed out that it would be a short list, but its early publication would ensure necessary action being taken by the military authorities.

Statement by M. de Baer: M. de BAER reported that he had written to certain members concerning the Convention for the Surrender of War Criminals adopted by the Commission (Doc. C.47). The Belgian Government had felt it wise to try to enter into such a convention with those countries situated close to Belgium, and also with the United States, since - unlike the British Government who enjoyed great freedom in this respect - other Governments were restricted by national legislation. He mentioned the matter, as he wished to explain why he had not approached all the members of the Commission.

SURRENDER OF LOOT BY GERMAN HOLDERS (Memorandum by M. de Baer): C.133

M. de BAER referred to a law issued by the Military Government in Germany (No. 52) providing for the seizure of property "which had been the subject of wrongful acts of confiscation", which he considered inadequate since it omitted to establish the holders of the looted property. He would therefore propose that it be made compulsory for any German having looted property in his possession to declare it.

Commander MOUTON doubted the exactitude of the second sentence of M. de Baer's statement since he knew, for instance, that the Dutch Government had taken measures involving registration of loot sent to neutral countries, and its return to the rightful owners. On the question of principle, he did not believe that the Commission was the appropriate body to make such a recommendation, since its function was to punish war criminals, not restore stolen property. He also doubted the practicability of carrying out M. de Baer's recommendation.

Closing of 12th List of War Criminals: A further proposal made by M. de Baer, on behalf of Committee, to close the 12th List of War Criminals (Italians, Bulgarians and Hungarians) was unanimously approved. It was pointed out that it would be a short list, but its early publication would ensure necessary action being taken by the military authorities.

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Professor GROS appreciated the intention behind the memorandum and believed that Germany must be "de-looted". He submitted further that the Commission was not the appropriate body to make such a recommendation and the Governments were aware that there were two international bodies to which questions affecting Germany should be submitted, the European Advisory Commission and the Allied Control Commission, who had already considered similar questions.

Colonel HODGSON fully concurred with the views of Commander Mouton and Professor Gros. He felt that close scrutiny would be devoted to such a Recommendation by the Governments, in view of the severity of the penalty recommended, and it was very probable that the military authorities would not wish to take any steps unless they were prepared to use force against a person who failed to disclose the desired information. This fact should be borne in mind in addition to the other points raised, namely whether such a drastic recommendation should go forward.

Mr. BELL suggested that Monsieur de Baer should ascertain what measures had been taken already. He did not know what had been done, probably Shaeff and the A.C.C. had taken certain action.

M. de BAER maintained that the whole question of surrender of loot was incidental to punishment and, as a means of investigation, was within the scope of the Commission. If, on the other hand, there was another competent organisation he would suggest that the Commission forward the recommendation to that body. He feared a repetition of what happened after the last war when not one of those holding loot was made to surrender it.

Dr. CYPRIAN felt the terms used were not specific enough and raised the question of the difficulty of identifying loot such as factory machinery which had been dismembered and was no longer recognisable.

After further discussion, M. de Baer was asked to re-draft his recommendation in a more complete form, despite the fact that some members were unwilling to accept his idea in principle.

REPORT OF COMMITTEE ON PREMISES

Mr. OLIPHANT reported that a meeting had been held to view the plans of the proposed new premises in Church House offered by the U.K. Office of Works, after which the members had themselves inspected them. It was their unanimous view that the Commission should accept the offer, as the premises were highly suitable and spacious for the present requirements of the Commission, with due allowance for future expansion. The only drawback was that a number of the windows were partially bricked in, but since 10 rooms, including a very fine Commission room, were not affected, it was felt that present requirements would be met. The Committee was strongly of the opinion that the Commission should not lose the opportunity of obtaining these premises.

The CHAIRMAN fully supported the Committee's view.

Colonel HODGSON found the premises excellent for the purposes of the Commission and a great improvement on present accommodation.

Captain LEBLAN reported that, subject to confirmation at the present meeting, he would arrange a meeting with the members of the Office of Works with a view to making arrangements for the provision of furniture and installation of telephones. The suggestion was that a move be made on July 16th.

Colonel FOWLER moved that the very fine offer of the United Kingdom Government be accepted with gratitude and with thanks for making the space available, and that the Commission move as soon as the premises were ready.

The CHAIRMAN supported the motion, and it was unanimously approved that an expression of the Commission's appreciation and gratitude of the very handsome generosity of His Majesty's Government be made to the appropriate authorities.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Sixty-Ninth Meeting

held on

July 11th, 1945

Chairman: Lord WRIGHT;

- Australia

There were also

present:

Lt.-Col. HODGSON

- United States of
America

accompanied by Captain WOLFF

Mr. OLDHAM

- Australia

accompanied by F/O BRIDGLAND

M. de BAER

- Belgium

accompanied by M. GOLSTEIN

Mr. Andrew BELL

- Canada

accompanied by Colonel WALKER

Mr. DAO

- China

Dr. MAYR HARTING

- Czechoslovakia

Professor GROS

- France

accompanied by Dr. MALEZIEUX

Mr. BEAUMONT

- United Kingdom

M. STAVROPOULOS

- Greece

Sir Torick AMEER ALI

- India

accompanied by Mr. DUTT

Commander MOUTON

- Netherlands

Dr. ZIVKOVIC

- Yugoslavia

and

M. FALCO

- Court of Cassation
of France

Capt. ALLETSON

- Control Commission
for Germany

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MINUTES

The minutes of the 67th meeting were approved and signed by the
Chairman.

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Amendments were submitted to the minutes of the 68th meeting by the
Chairman, Mr. Oldham, Commander Mouton, Professor Gros, and Colonel Hodgson.
They will be incorporated in the final text.

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STATEMENT BY EXECUTIVE OFFICER

The EXECUTIVE OFFICER reported that copies of the minutes of the 5th
and 6th meetings of the Far Eastern & Pacific Sub-Commission had been
received and circulated to members.

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Mr. OLDHAM deplored the delay which had occurred in the circulation of the minutes of the 5th meeting held on March 16th. Mr. DAO assured him that the minutes had been forwarded immediately on receipt, and the EXECUTIVE OFFICER said they had been received by the Secretariat only a few days previously. Mr. OLDHAM suggested that the attention of the Sub-Commission should be drawn to the advisability of ensuring a more prompt transmission of the minutes to the London Commission.

APOLOGIES FOR ABSENCE

The EXECUTIVE OFFICER reported receipt of a letter from Mr. Burdekin dated 6th July, 1945, regretting his inability to attend the last meeting of the Commission and notifying the Chairman that he would also be absent from the two following meetings.

Mr. DAO conveyed the apologies of Mr. Wunsz King for his inability to attend the present meeting, as he was in Belgium.

MEMORIAL SERVICE FOR LORD FINLAY

The CHAIRMAN announced that a memorial service for Lord Finlay would be held on July 12th, at 4.30 p.m. in St. Dunstan's, Fleet Street.

DEATH OF MR. CURTIN, PRIME MINISTER OF AUSTRALIA

In his capacity as Chairman of the Commission and Representative of Australia, the CHAIRMAN had sent a cablegram to the Australian Government conveying the regret of the Commission at the death of Mr. Curtin. An acknowledgment had been received from Mr. Forde, Acting Prime Minister of Australia.

INTRODUCTION OF COLONEL WALKER OF CANADA

The CHAIRMAN introduced Lt.-Col. J.W. Walker, a member of the Canadian organisation in London dealing with war crimes. The Representative of Canada, The Hon. Vincent Massey, had been represented at the Commission's meetings by Mr. Andrew Bell who would no longer be able to attend owing to pressure of other work. His place would in future be taken by Colonel Walker. The Chairman said that the Commission would be sorry to lose Mr. Bell but would welcome the assistance of Colonel Walker.

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Mr. BELL thanked the Chairman for his kind words and regretted that he would no longer be attending the meetings. He felt sure that Colonel Walker would prove a useful member of the Commission and would receive the same welcome which had been extended to himself. Colonel WALKER expressed his thanks to the Chairman!

INTRODUCTION OF CAPTAIN ALLETSON, CONTROL COMMISSION FOR GERMANY

The CHAIRMAN reported that Major Hicks of the Control Commission, who had left for Germany, had been replaced by Captain Alletson, also a member of that Commission. He extended a welcome to Captain Alletson.

APPLICATION FOR MEMBERSHIP FROM DENMARK

The CHAIRMAN reported receipt of a letter from the Danish Minister, stating that Denmark was desirous of joining the Commission. That was welcome news and the Chairman hoped to be able to make an early pronouncement on the subject, possibly at the next meeting. Meanwhile the matter had been placed on the agenda for the present meeting in order that members might have the opportunity, if they deemed it necessary, of conferring with their Governments and receiving instructions.

REPORTS FROM COMMITTEE CHAIRMEN

Committee I: M. de BAER, Chairman, presented the 12th List of War Criminals (Italians and a Hungarian), stating that the National Offices of the countries concerned had had an opportunity of inspecting it. The List was unanimously adopted.

Public Relations Committee: Mr. OLDHAM, Chairman, reported that the Committee had decided at its meeting the day before to insert an advertisement in the London "Times" for the purpose of appointing a full-time Public Relations officer. The advisability of such an appointment had already been recognised and the matter was becoming increasingly urgent. If any member could recommend a candidate with the appropriate qualifications and experience, Mr. OLDHAM would appreciate hearing from him.

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PREMISES

The CHAIRMAN said that arrangements were proceeding satisfactorily. An attempt was made to arrange for the removal of the bricks from the partly bricked-in windows, but in view of the delay which would result, it was decided to move in without waiting for that to be done.

PROSECUTION OF WAR CRIMINALS

The CHAIRMAN referred to the two letters dated July 5th and 6th which he had received from Mr. Justice Jackson, United States Chief of Counsel for the Prosecution of Axis Criminality, copies of which had been circulated to the members of the Commission. The letters conveyed an invitation to the Commission to give the benefit of their help in the plans for the prosecution of the major Nazi criminals.

The Chairman first expressed his appreciation of the flattering terms used by Mr. Justice Jackson in referring to the work of the Commission in the past, and his desire to obtain the benefit of the experience and knowledge acquired by the Commission as well as the cooperation of the National Offices of the countries represented on the Commission. He recalled that under the Moscow Declaration, a distinction had been drawn between the two types of war criminals: the major war criminals and the "ordinary" (his own term) war criminals. The latter category included those who had committed their atrocities in a particular locality, who were to be apprehended when the Commission had listed them on prima facie evidence and who were afterwards to be sent back to those countries which had charged them, for trial according to respective national laws. That had always been regarded in broad terms as a completely binding declaration. There might be, for example, questions of crimes on the high seas and in Germany, but he had always assumed that these might be particular cases where the military authorities would have to exercise a special discretion. The Commission was primarily concerned with prima facie evidence submitted by the National Offices.

The question of major war criminals had always been considered to be on a different footing because they would be dealt with according to the Moscow Declaration. Until quite recently, it was uncertain whether this would be worked out by executive action on the part of the Allied Authorities or whether military tribunals would be established, if their trial was decided upon. It had now been decided that there would be a trial and the basic features of the American plan of prosecution were embodied in Mr. Justice Jackson's report to President Truman. This masterly report was known to members: it has been circulated as Commission Document C.127. The CHAIRMEN^{had} deemed it advisable to obtain a statement from Mr. Justice Jackson with regard to what exactly was required in the way of assistance from members, and the result was the two letters which had been circulated. He added that these should be regarded as Commission documents and treated as confidential.

The CHAIRMAN quoted the words in Mr. Justice Jackson's letter of 5th July, in which an outline was given of the type of report which was required.

Referring to the penultimate paragraph of the letter, regarding a search for "evidence supporting a direct tracing of responsibility to higher and perhaps to the highest authorities", the CHAIRMAN pointed out that the Commission had always borne in mind that, wherever possible, the atrocities should be traced to a plan or system or pattern emanating from higher levels. From time to time, documents had come into the possession of various Governments in support of that theory.

For the purpose of proving that common pattern, Mr. Justice Jackson had suggested certain types of evidence which might be obtained by the members of the Commission from their experience, particularly those European members whose countries had suffered at the hands of the German aggressor. Reading out the four points made by Mr. Justice Jackson on page 3, the CHAIRMAN added that the Commission's records were largely composed of instances of such "terrorisation", mass murder, etc. The

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idea therefore was to obtain a picture of the total pattern of war crimes perpetrated throughout the whole length and breadth of Europe, from the firsthand experiences of member Governments, their representatives and the National Offices. In that way, the CHAIRMAN said, the Commission would also serve to promote what they all had at heart: the bringing to justice of the malefactors and arch criminals, and aid Mr. Justice Jackson in his work.

As a model of what Mr. Justice Jackson had in mind, a copy of a pamphlet issued by the U.S. Congressional Delegation upon atrocities and other conditions in concentration camps in Germany was circulated to members at the meeting. Reports drawn up on such a model would help the United States Chief of Counsel because they could readily be used for the large trials which would cover an enormous field in which the ordinary common law of evidence would not be employed (as stated in the second letter dated 6th July).

The CHAIRMAN concluded by saying that this was a very important task and begged that all members would approach it seriously with a view to fulfilling its requirements. It was his intention to lay this matter before the Commission at the present meeting in order that consideration might be given to the question before a discussion was held the following week.

Before closing the meeting, he wished to take the opportunity of referring to another matter. He had been wondering when the nations would be ready to start trying the various cases which had been laboriously accumulated in the Commission's records and embodied in the published lists. The collection of names was not an end in itself, but was a means of attaining the final aim, i.e. the prosecution, trial and punishment of offenders. The trials of such war criminals would be held in the place where the crimes had been committed and would be the work of the countries themselves. He had been hoping that these trials would commence. He quite appreciated the need for careful preparation and investigation before

proceedings were launched, and realised that undue haste would be dangerous; nevertheless he felt that the time had come when the results of the work of the Commission ought to be visible. He therefore suggested that CROWCASS might be asked to submit a list of those names which appeared in the Commission's lists, showing which of them had been apprehended by the military authorities and were being held in custody - this would help in deciding how and where to start. He, together with one or two other members of the Commission, might go to Paris to find out whether it would be possible to identify the people mentioned in the lists.

He mentioned this matter, which had nothing to do with Mr. Justice Jackson's particular request, for the particular function of the Commission did not extend specifically to the major war criminals; although their help could and would be given, their responsibility lay with the "localised" war criminals. He referred to visits which he had paid to two prominent members of the French Government and of the former Underground movement who had been impressed with the importance of speeding up the trials.

In conclusion, the CHAIRMAN hoped that members would be prepared to do something definite in regard to both matters he had raised, which he felt deserved their immediate and careful attention. The Commission must show that there was some purpose in drawing up lists and must also give the benefit of their experience to Mr. Justice Jackson and his collaborators.

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COLLECTIVE RESPONSIBILITY FOR WAR CRIMES (C.105 (1))

The EXECUTIVE OFFICER reported receipt of a letter dated 2nd July from the United States Commissioner, addressed to the Chairman, reading as follows:

"In regard to the recommendation contained in Commission Document C-105(1), entitled 'Collective Responsibility for War Crimes', I am authorized to inform the Commission, in the light of Justice Jackson's report of June 7, 1945, to President Truman, that the United States Government has adopted a policy substantially in accord with the Commission's recommendation."

The CHAIRMAN said it was very gratifying to know this, and added that the United Kingdom Foreign Office had also acknowledged receipt of the Recommendation and said that it was being studied.

See Chairman's
Signature on page 7

SECRETUNITED NATIONS WAR CRIMES COMMISSION

Minutes of Seventieth Meeting

held on

July 18th, 1945

Chairman: Lord WRIGHT - Australia

There were also present:

Lt.-Col. HODGSON	- United States of America
accompanied by Capt. WOLFF	
Mr. OLDHAM	- Australia
M. de BAER	- Belgium
accompanied by M. GOLSTEIN	
Lt.-Col. WALKER	- Canada
Dr. LIANG	- China
accompanied by Dr. DAO	
Dr. MAYR-FLITING	- Czechoslovakia
Professor GROS	- France
accompanied by Dr. MALEZIEUX	
Mr. BEAUMONT	- United Kingdom
M. STAVROPOULOS	- Greece
Sir Torick AMEER ALI	- India
accompanied by Mr. DUTT	
Commander MOUTON	- Netherlands
Major PALMSTROM	- Norway
Dr. ZIVKOVIC	- Yugoslavia

and

Mr. Justice JACKSON	- U.S. Chief of Counsel
Sir David Maxwell FYFE	- Attorney General of the United Kingdom
Colonel BERNAYS	- accompanying Mr. Jackson
Commander DONOVAN	- " "
Captain ALLETSON	- Control Commission for Germany

The ordinary business of the meeting was postponed until the next day, in view of the visit of Mr. Justice Jackson and his collaborators, and Sir David Maxwell Fyfe.

The CHAIRMAN introduced the four distinguished visitors, stating that the Commission felt very greatly honoured by their presence. The gentlemen were engaged in preparing the trial of the major war criminals, which, although in a sense outside the purview of the operations of the Commission, was a matter which concerned it very closely. Its members were only too

willing to cooperate in any possible way. They welcomed the visitors not only as distinguished men whom they were proud to receive but also as collaborators engaged in the same great purpose of bringing the German and other offenders to justice. The Chairman referred to the letters which he had received from Mr. Justice Jackson and to the discussion of the last session: it was now important - as a practical measure - that some understanding should be reached as to how each of the countries represented on the Commission could best help along the lines indicated in those letters. He hoped that members had given consideration to that problem and he proposed that a discussion should be opened. First, however, he would ask Mr. Justice Jackson and Sir David Maxwell Fyfe to say a few words.

Mr. Justice JACKSON said that he had already met with most of the members of the Commission who were familiar with his attitude towards the work. He regretted that he had been prevented from attending the Commission's meeting on a previous occasion, owing to a sudden recall to Washington.

He wished first to make it quite clear that the United States did not want to usurp anybody's functions or interfere in anybody's work in connection with the punishment of war criminals. The U.N.W.C.C. had been at work on this subject long before he had, and had worked very closely to the people who had suffered from war crimes. The Commission was interested principally in the atrocities committed against civilians of those countries represented on it; he and his collaborators were principally concerned in fixing the responsibility of these atrocities and the persons by their organization and conduct of the German State made these things happen. In one way, the work was not too new, yet in a certain aspect it was, because the individual atrocities which occurred in the various lands were the outcome of the general plan.

Mr. Justice JACKSON ventured to say that work was being diligently and successfully carried on in respect of the plan for an international tribunal for the trials of the Germans. It was agreed that the Commission should be kept informed of the progress of the work, and if it was found that it was not being carried out in a satisfactory manner, the Commission would be in a position to take such steps as it might think fit.

enough charges against those men and he could assure the meeting that there would be very active pursuits made - insofar, at least, as crimes against American prisoners of war were concerned.

One of the first things discussed between the four Allied prosecutors was the problem of utilising the great mass of experience and information accumulated by the Commission. Without going into details, he believed that the discussions with the Chairman and members of the U.N.W.C.C. had served to show the way in which both bodies could be of assistance to each other. He certainly did not wish to interfere, however, and whatever offer was made did not imply an obligation to accept nor would there be any ill-feeling if it were rejected. Within the limits of what they could do, they wanted to be as helpful as possible in developing the case of each of the occupied countries against the Nazi plan to dominate, subjugate, exploit and destroy. In order to be of use to the four prosecutors, a different emphasis would have to be laid upon the preparation of the cases. They were looking at the design and trying to get at the designers, while the Commission was looking into the individual features as they appeared in the different countries. Complete agreement existed between the United States, the United Kingdom, France and the U.S.S.R. with regard to the importance of the time element. They were endeavouring to find a way to overcome difficulties of procedure which varied in the different countries, and they hoped to find one which would be an improvement on all suggestions.

Mr. Justice Jackson hoped that members would feel entirely free with the delegation of the United States to voice any wishes, or make any criticisms of their work which was, after all, very important to the peoples represented on the Commission, and he and his collaborators would not be discharging their mission fully if they did not meet such demands with justice.

It was an enormous task and a start could be made only with relatively few cases in single trials, and the obstacles had to be overcome individually. As the details were developed, he hoped that the Commission would feel towards the four prosecutors as towards those who were trying to accomplish

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very similar ends with different technical means: to convince the people of the world that law and decency were on their side, and that justice would be meted out to those who violated that law.

The CHAIRMAN thanked Mr. Justice Jackson and said that he could not imagine there being any feeling of jealousy; the Commission was only too proud to cooperate in promoting that general purpose which affected most intimately so many nations represented on it. He then asked Sir David Maxwell Fyfe to speak.

Sir David Maxwell FYFE said he wished first to take the opportunity of thanking the members for the work they were doing and had done, and the assistance given to him. As they knew, the principle had been that the National Office of the United Kingdom submitted cases to him, and after examination by the Commission, they were returned to him. From what he had seen, he was very conscious of the work done, and was very grateful for it.

As far as the work of dealing with war crimes committed against United Kingdom nationals was concerned, the procedure had been outlined in the published Royal Warrant and it was hoped that next month the results of the Commission's and the United Kingdom National Office's work would be shown in trials. To give a concrete example, he recalled the case of General Bellomo and said that his trial would shortly begin, after which would come the cases arising out of Belsen. The Commission would have the satisfaction of seeing their work being brought before the military courts and he hoped the results would be what they desired.

The other point was a matter of immediate interest. He had just been fighting an election and had therefore had a chance of seeing what the public thought about this particular issue. There was no doubt that public opinion was very different from what he could remember of it after the 1914-18 war. At that time, there was a slightly hysterical urge to punish the Kaiser, but it had quickly evaporated. Now there was a general acceptance and understanding on the part of the ordinary man and woman in the street that punishment would overtake the wrongdoer and that Europe would be rebuilt

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on a basis of severe and unswerving justice. That had been accepted very deeply and very completely. There were always some people who could not understand why the war criminals could not be put up against a wall and shot. That was a very natural attitude of mind and most people could understand it, but he had found that it was appreciated that not only the present generation but future generations had to be considered, and therefore it was necessary to establish the fact of wrongdoing, punishment for which should be administered on a basis which posterity would think not unworthy of the cause for which all had striven.

Sir David Maxwell Fyfe felt that it might interest members to get an immediate appreciation of British public opinion, which was not confined to his own party but all parties since during an English General Election campaign, the adherents of opposite political parties were usually more numerous at meetings, and he considered that what he had just said represented the general feeling among the people. But one thing must be remembered. In a democracy, even a well-founded and hard-held view was liable to cool, and people were liable to feel frustrated, unless - as Judge Jackson had said, the trials and sentences could be carried into effect within a short time, there would be a feeling that the four Powers were just playing with the subject. He was sure that anyone who approached the problem must be staggered by the amount of brutal atrocities, and must desire that as much of that as possible should be made clear at the trials for posterity to judge. If the cases were overloaded or postponed through a desire not to omit anything which was of such a burning nature to their friends and themselves, they might defeat their own object. He and his collaborators had this point in mind, as the Commission must have too, as well as those responsible for the national trials, because speed and urgency were the essence of the task if public opinion was to be with them to the end.

Referring to the preliminary request which was being made to the Commission, Sir David Maxwell Fyfe asked members to consider what they could do to help by giving a brief but general picture of the German plan

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as it had operated in their respective countries; he also asked them whether it would be possible at some stage to submit a précis which could be used in the most suitable manner as the trials developed. The other point concerned information on special matters typifying the execution of the plan in the various countries. He regretted that he was not a diplomat; it might be that on some points the correct method of approach was through diplomatic channels, in which case they would have to bow to Foreign Office pre-requisite.

In conclusion, he said that he felt they had been given a great opportunity. The heads of the Governments would have to decide many difficult matters regarding the future of Europe and the world, and these might or might not be within their purview to effect, but this was a problem where, in ten years certainly and maybe sooner, humanity would judge whether justice was worth while when it was placed against aggression. He believed that they could bring national law from rarely read textbooks into the lives of ordinary men and women.

(Mr. Justice Jackson left the meeting, after making his excuses.)

The CHAIRMAN opened the discussion by asking Dr. Zivkovic to speak.

Dr. ZIVKOVIC said that in sending an elaborate report to his Government and the Yugoslav National Office, accompanied by copies of Mr. Justice Jackson's letters and the report to President Truman, he had suggested that a report should be submitted based on the four points mentioned in the letter of July 5th. He hoped shortly to confirm that this report would be available within a brief period.

He then expressed his interest in the agreement reached between the four great Powers with regard to the proposal that major criminals should be charged not only with the crimes they had perpetrated all over the world, but also with the actual preparation and launching of the present war. He had been amazed at the great similarity between some of the ideas of Mr. Justice Jackson and some of his own expressed at a meeting of the Commission held on October 17th, 1944. He therefore believed that all the cooperation

that was expected would be given to the four-power body.

Colonel BERNAYS asked Dr. Zivkovic whether he thought his Government would be agreeable to add to their report any documentation from charges available, the general aspects of which were the points of primary interest: the foundation of the design, the planning of aggression, economic infiltration, the type of policy and manner in which the policies were carried out after aggression.

Dr. ZIVKOVIC said that those very items would be included. He was confident that documents in support of the facts would also be included.

He added that, at the suggestion of Colonel Bernays, he had conveyed to his Government the proposal of Mr. Justice Jackson's office to have a small mission sent to Belgrade to help the Yugoslav National Office to draw up the desired report (which he had asked to be submitted by the end of August).

Colonel BERNAYS wished to take the opportunity of expressing his gratitude to Dr. Zivkovic and his Government for the generous attitude in which the suggestion had been accepted.

M. de BAER said that his Government, to whom he had written immediately, was most anxious to cooperate. He had not mentioned any time limit, but would do so, and would insist that the report be submitted by the end of August. He believed that a great deal of the material desired by Mr. Justice Jackson's office in regard to crimes committed against individuals would be available from Belgium, but not as much in regard to the preparation and the launching of the war. The attention of the Belgian National Office had been drawn to crimes committed in Belgium but he (M. de Baer) had insisted that the top criminals also should be indicted in their charges.

He was deeply grateful to the United States for the initiative taken and particularly to Mr. Justice Jackson. He had been very relieved to hear

from Sir David Maxwell Fyfe that the Italians would shortly be tried, and also to know of public opinion in Great Britain. He agreed with him about the overloading of cases. As Chairman of Committee I, he had always maintained that it was far better to present cases even if incomplete, since further details could always be added. Belgium was ready to start the trial immediately. Belgium had asked for the delivery of the "wanted" criminals and hoped that her request would soon be granted, although it was understood that that question was subordinate to the question of major criminals. He would like to insist that the Commission be kept informed of arrests made and of the names of those placed in custody.

The CHAIRMAN believed that the question of the handing over of wanted persons to the countries making requests was being considered and a speedy method devised to carry it out.

Colonel BERNAYS said he was out of touch with the appropriate authorities but was having the question checked up. There were however certain normal and necessary reservations to be made. He had no doubt that it should be the policy (and it would be) that as far as persons listed by the Commission were concerned, they would be handed over, since they were wanted for proper reasons and had been listed by the Commission after examination of prima facie evidence: that was in his view sufficient proof of the fact that they should be delivered to the appropriate countries. But where a person was wanted by a certain country, and was also required as a witness or defendant in the international case, the latter distinction ought to take priority and the man would be detained until he was no longer needed. Secondly there was the problem of a criminal wanted by more than one country. Some arrangements had to be made and they would try to have the answer to that in the next few days.

The CHAIRMAN said that that question had caused trouble and anxiety to the various Governments, but he felt sure that they would not be unreasonable and would be satisfied that everything possible was being done to meet their wishes. The other question of having a list of named persons

who had been detained was a matter for CROWCASS.

Mr. OLDHAM said that CROWCASS were having trouble as they were not receiving information from the various armies regarding wanted persons who were being taken into custody.

Colonel BERNAYS said it was difficult to rely on the armies who were moving about, and suggested that the correct line of approach was nevertheless CROWCASS who were responsible for checking with the Armies.

Sir David Maxwell FYFE, addressing M. de BAER, said that it would serve the purpose if an authenticated document, the result of an enquiry as to the general policy of deportation, were submitted. With regard to torture and murder, what they wanted was a really bad example of one case.

The CHAIRMAN then called on Professor Gros, who was both a member of the U.N.W.C.C. and a member of the Allied prosecuting body.

Professor GROS hoped that his position was a good example of cooperation. It was known that France would give its full share to the preparation of cases. Their policy would be to choose good example of different types of atrocities, e.g. Struthof camp would typify the concentration camp atrocities, Oradour-sur-Glane the crime of the wiping out of a village, and so on. It would be difficult to make a précis of atrocities in France, because they covered such an extensive area, but work was progressing in Paris.

The CHAIRMAN said that they were looking forward to the war crimes exhibition which would shortly be coming from France.

Colonel BERNAYS said that, before Sir David Maxwell Fyfe left the meeting, he wished to recommend what he was sure the Attorney General would not deem inconsistent, that in dealing with the atrocities, it was perfectly possible to take large numbers of existing instances, and without going into details, but by using them as illustrations, trace the matter down to a basic policy and systematic activity, so that it would be perfectly clear that the horror was not only in the suffering of the human flesh but in the malign and purposeful planning of it, the distribution and exercise

of it for the purpose of intimidation and the abuse of human rights. Then
Mr. Justice Jackson referred to the report of the British Parliamentary
issued via the U.S. Congressional delegation to the steps, he had in mind
a comprehensive illustration that ended up with a picture to the effect that
there was a planned purpose which had been made as systematic as Nazi
devilish ingenuity could devise.

(Sir David Maxwell Fyfe left the meeting, after making
his excuses).

Colonel HEDGECOCK spoke next. He felt that Colonel Bernays and the
others working with him were fully documented on atrocities committed
against United States nationals and, as had been pointed out, suffering
from German and Italian atrocities far less in his country than in
those countries occupied by the Axis in Europe. He was very appreciative
of the response given to the request of the four prosecutors for cooperation.
He knew, for example, that General Eisenhower had already taken steps to bring
that request to the attention of his Government, and he had also spoken with
other leaders like General Eisenhower.

(Sir David Maxwell Fyfe left the meeting, having made his excuses).

Colonel COTTON continued Colonel Hedgcock's statement and added that
the four prosecutors had expressed their particular interest in Holland
to concern the inundation scheme and the destruction of Rotterdam harbour.
He regretted that he was unable to promise that the report would be avail-
able within the period mentioned, in view of the material difficulties of
transport, telephone communication, etc. which his country was experiencing.

Colonel COTTON expressed his sincere affection for a country whose
material needs were so tragically urgent and he still found time for the
abstract matter of attending to the needs of justice. Dr. Zivkovic had
generously referred to a mission; Colonel Bernays did not wish to be
presumptuous but if it could help to send a small team, consisting of
personal assistants, to help in the investigation with the agencies
of the respective governments, it would be considered a privilege and only
a small step towards the attention which has been given to the
report.

With regard to the time-limit, it was merely a target date which had been set subject to conditions of "wind, weather and the seas".

Commander MOUTON thanked Colonel Bernays for his kind words. He would certainly convey the offer of a team to his Government, if necessary.

Colonel BERNAYS said that with the kind cooperation of the Norwegian authorities, they had been permitted to send to Oslo a specially picked officer who would interest himself while there in the proceedings against Quisling and would also try to cooperate in the preparation of a report along the lines discussed already - provided the Norwegian Government gave its consent. He added that there was scarcely a place in Europe where what happened was more strikingly illustrative than in Norway. The arrangements for this representative to visit Norway had been made before Colonel Bernays had come to London, through diplomatic channels, but if there were anything that the representative of Norway on the Commission could do to forward the project, he would be profoundly grateful.

Major PALMISTON said that he had just spent three weeks in Norway, in an effort to speed up the work of war crimes, and was very glad to hear what Colonel Bernays had said. The first case against a quisling had been heard last week, and sentence of death was passed - the first time since about 1872. Two German witnesses had said that until 1941, there had been no torture of civilian prisoners, but at that date, Rediess and Fehlis had asked the German Government to be allowed to use torture during interrogation of prisoners. Regarding the concentration camps, the Norwegian National Office would shortly forward their reports to the Commission. They were not sending a team to Germany, but would examine Norwegian nationals who had been in the camps.

Colonel BERNAYS said that the information about permission to use torture would be of great value and that the transcript notes of such trials would be admissible and self-proving in the case of the trial of major criminals. It would be a judicially authenticated instance that

direct responsibility could be traced back to higher quarters in Berlin. It hoped that the matter could be clarified and that further examination of the evidence would reveal other instances.

The CHAIRMAN then referred to Australia, where he presumed not to be directly interested by the present proceedings, because they were more concerned in operations in the Far East. This might also apply to China and India.

Sir Torrie Acheson said that on the question of design, they would not be able to give information, as they had not been involved since the 14th century.

The CHAIRMAN pointed out that any assistance which those countries could contribute should be gratefully accepted.

Colonel Sir Acheson said there was a possibility of showing a broader connection than the inter-European one. In the screening of evidence, the ultimate piece of evidence would be the link between East and West, although for the moment they were only concentrating in the West.

Sir Torrie Acheson said that Italian prisoners of war in England, which he had talked informally - there had been no official interrogation. Their main complaints were directed against Italians and mostly concerned direct ill-treatment and the lack of any form of sanitation. But the opportunity for further investigation was now gone as these men had returned to Italy.

Colonel Sir Acheson said his experience with United States prisoners of war was similar. Personal reports of ill-treatment were attributed to Italian command and control.

Dr. Wainwright said that he had read the paragraphs 2, 3 and 4 of Mr. Justice Jackson's letter of July 14th, and would be in London and that if the report could be submitted shortly, he would be able to offer to provide the necessary information. Dr. Wainwright said that he had spoken to the United States War Department and that they were prepared to provide the necessary information. Dr. Wainwright said that he would be in London and that if the report could be submitted shortly, he would be able to offer to provide the necessary information.

would be glad to collect such orders as well as those which were only available to his Government, if they could be of assistance.

Colonel BERNAYS said he would be very interested to receive them, since ordinances and orders were not similar in the different countries. A translation would be appreciated but was not essential.

M. STAVROPOULOS reported that he had transmitted the report to his Government and hoped that the time-limit would be observed. He asked about whether information/Bulgarian atrocities would be appreciated.

Colonel BERNAYS: Yes.

The CHAIRMAN observed that the Greek Minister had spoken very feelingly of what the Italians had done.

Major PALMSTROM asked whether it would be the responsibility of the international tribunal to try the criminals of the concentration camp atrocities, or whether member Governments should make a request for surrender to national courts.

Colonel BERNAYS said that question required explanation. Some of the military courts had already been set up in Germany; the "Beast of Belsen" would shortly be tried before a British military court, and the Americans were also ready to start. He could not say how far down the line that would go. The primary duty of the four prosecutors lay with major war criminals. His Government hoped that in the trials before the international tribunal there would be findings of criminality against certain of the notorious organisations which had been major instrumentalities in the carrying out of the design; it was common knowledge that most of the concentration camp officials had been members of the Gestapo or SS. If the prosecution followed the line which was hoped for, the result of a conviction in a trial before the international tribunal would be a prima facie showing of guilt by reason of membership in those organisations. Whether the next step would be taken by the military courts of the Allied Governments in Germany or whether they would look to the nations whose nationals had suffered in the camps - he was not

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in a position to say, but thought that the criminals would be tried in one type of court or another. His own personal view was that if there were any particular persons whom a nation wished to ensure being brought to justice, it should consider the possibility of requesting surrender.

Lt.-Col. WALKER said his Government was anxious to cooperate in full. But from Mr. Justice Jackson's letters, he did not think that Canada could contribute usefully to the four points made in those letters, since Canada's principal interest naturally centred on offences against Canadian servicemen.

Colonel BERNAYS agreed that neither Canadians nor Americans had been in the concentration camps, but if their interest were limited to cases of specific ill-treatment by the Germans, the field of prosecution would be a fairly limited one, because cases of that kind could be tried in a short time, and there the matter would finish. Their countries must take a common interest in the general design. In the U.S.A., for example, there must be an investigation of the efforts of infiltration into the political and economic systems. They were therefore trying to prove that such efforts had deliberately been made, although the plan had not been consummated by invasion. Any minutes or meeting, for example, at which such plans were mentioned, would be of value. It did not follow that there would be nothing for Canada to contribute in building up that type of case.

Lt.-Col. WALKER asked whether reports from prisoners of war regarding personal ill-treatment were also desired.

Colonel BERNAYS thought they would be of use only to the extent that the facts indicated a policy in higher echelons. When American prisoners had been mistreated it was apparently in most instances not because there was an order that American nationals should be mistreated but because some guard had fired his rifle. It was a different matter for nationals of certain countries whose nationals had been systematically ill-treated, and if an instance, fully documented, could be given that an order had emanated from a higher authority, it would serve in establishing the general pattern.

There was definite information, for example, with regard to the destruction of parachutists, whether in uniform or not, whether engaged in lawful military operations or not. Some War Office might be able to provide information which would help to prove this.

The CHAIRMAN referred to the question of economic infiltration which he said had certainly taken place in the United States.. What about India?

Sir Torick AMER LI said that question would arise between Japan and India, and would be very strong. Presumably the same was true of China.

Mr. GEDMAN, ventured to suggest that the Dominions of Canada, Australia and New Zealand, might consider it a good idea to forward the following questions to their respective National Offices :

- a) Whether they had in their possession any orders establishing a plan against prisoners of war, or troops;
- b) Whether there was any evidence of cartels or bunds or other economic infiltration of that type.

Colonel BERNAYS approved and added that when considering the subject, other points would certainly come to mind. He stated that the following types of proof would be of particular interest from any country :

- a) Enemy films - a type of testimony of particular value, since it had dramatic as well as historical value;
- b) Cartels - a subject to be considered in a special way in this respect. He didn't conceive of the international tribunal deciding whether cartels were legal or illegal methods, but the use of cartels, the theory of German racialism, the establishment of commercial enterprises to shatter the economic resistance of any country, might serve as proof of a major plan. If it could be proved, for example, that some of the tourist agencies were really nests of spies and propagandists, that would be useful, especially if it could be traced back to Government circles.

The important thing was that the people engaged on the work should be successfully briefed on what was wanted.

The CHAIRMAN said that the discussion had been most interesting and profitable and might be followed some time by another. Colonel BERNAYS said he was glad to have had the opportunity of an exchange of views, and promised that he would not return to the U.S.A. without warning the Chairman first.

Wright