

Committee III

Dr. MAYR-HARTING stated that at the last meeting of Committee III consideration had been given to the re-drafting of the report on Alsation deserters. The CHAIRMAN said that he hoped that Committee III would find it possible to produce an agreed report on the question of deserters, rather than that the matter should be referred to the Ad Hoc Committee, thus avoiding the appearance of lack of unanimity.

Dr. MAYR-HARTING also stated that Committee III were preparing a report on the question of crimes against humanity which would be submitted to the Commission at a later date.

Finance Committee

Sir Robert CRAIGIE said he was glad to be able to report that practically all contributions for the financial year ending 31st March had now been received. The committee hoped to be able to submit its budget proposals to the Commission at an early date. He mentioned that the Secretary-General had been fortunate in securing the services of Miss Nash to replace Miss McAfee, and he hoped that she would be successful and happy at her work.

REPORT BY COLONEL HODGSON ON HIS VISIT TO PRAGUE, NUREMBERG AND DACHAU

The CHAIRMAN requested Colonel Hodgson to amplify and supplement the report given by M. de Baer at the last meeting, on the recent visit they had paid to Prague and Nuremberg.

Colonel HODGSON said that he particularly wanted to put on record his appreciation of the extremely generous and warm-hearted hospitality that had been extended to them by both the Czech Government and their Czech colleague Dr. Ečer. The highlight of the trip had been their visit to President Bénéš and they regarded it as a high honour that he should have received them. Wherever they went in Czechoslovakia they encountered the utmost cordiality, and it was a pleasure to see so many smiling happy Czech faces. Colonel Hodgson said that at the interview with President Bénéš, the latter had expressed his Government's determination that war criminals should be fairly tried in Czechoslovakia for crimes committed against Czechs or on Czech soil. He then went on to report in considerable detail on his attendance at the Frank trial. He said he was particularly impressed with the calm and dignified atmosphere of the Court. The translation arrangements were comparable to those at Nuremberg; there was no sensationalism; the press was well represented. The court consisted of five Judges, the presiding Judge being a professional Judge. The indictment of Frank was of a similar character to the one at Nuremberg for conspiracy and other crimes committed in Czechoslovakia. The presiding Judge had shown scrupulous fairness in allowing Frank opportunities to speak.

At Nuremberg he had attended part of the trials of Hess and Ribbentrop, and had then gone on to Paris to visit Chief Justice Jackson. Colonel HODGSON described the visits he had paid to the prisons in Prague and Nuremberg.

The CHAIRMAN thanked Colonel Hodgson for his report and said that he felt that these journeys, although onerous for those who undertook them were of great value to the Commission.

LT.-COLONEL WADE'S REPORT ON HIS VISIT TO DACHAU

Lt.-Col. WADE said that his visit to Dachau had in effect been covered by M. de Baer's statement at the last meeting, but he had prepared a more detailed report which he would be glad to circulate to members. Meanwhile,

he wished to express his sincere thanks to the authorities of the 3rd U.S. Army, and especially to the War Crimes Branch, for the hospitable way in which he had been entertained during his visit.

It was agreed that Col. Wade's report be circulated.

SEPP DIETZ CASE

Very careful consideration was again given to this matter and there was a long and detailed discussion of the various aspects of the case.

(During this discussion M. de Baer left the meeting.)

Dr. MAYR-HARTING again expressed the view that the Sepp Dietz case could not be dealt with on an ad hoc basis. In his opinion it was essential that the Commission should reach a decision as to the category within which it fell. If it was considered that Sepp Dietz's actions constituted a crime against humanity, it would then be necessary for the Commission to formulate its views on this particular type of crime. He suggested that the whole matter might be most simply dealt with by the Commission discussing it on the basis of the report of the case (C.156).

Colonel HODGSON said that he did not feel in a position to add to or detract anything from the views of his Government, which were fully set out in the statement he made at the meeting of January 23rd, 1946 (M.92). He did however, undertake to enquire whether there was any likelihood that his Government would modify their opinion that no decision should be taken by the Commission on the matter of crimes against humanity prior to the findings of the Nuremberg Court.

Sir TORICK AMEER ALI said that he could perhaps understand the reluctance of those persons who felt unable to tackle the question of deciding just what might constitute a crime against humanity.

Professor HURWITZ suggested that Sepp Dietz be included in the war criminals list (reference Art 6 of the Charter) without specifying whether he had committed a crime against peace or against humanity.

Dr. MAYR-HARTING agreed, and suggested that Sepp Dietz case might be considered simply as a common crime.

Mr. BRIDGLAND then proposed that a decision on the various points of principle might be postponed for the time being on the understanding that the American, British and French Military Authorities should be requested to make a thorough and urgent search for Sepp Dietz, or at least ascertain whether he was still alive.

The CHAIRMAN said that he felt it was particularly desirable that the Commission should be able to record a ^{unanimous} decision on this rather thorny problem and he knew that this would also be the view of Lord Wright. Discussion of the whole problem was adjourned until a later meeting.

REPORT BY DR. CYPRIAN ON WAR CRIMES TRIALS IN POLAND

Dr CYPRIAN said that he wished to pay tribute to the outstanding help and cooperation which his country had received especially from the Americans and from the British, in the matter of apprehending war criminals. It had also been very gratifying to find how high the Commission stood in the estimation of his countrymen. As the members of the Commission already knew, a start had now been made with the trials of two major criminals -- the Governors of Warsaw and Poznan. In spite of formidable difficulties, for example lack of suitable premises in which to hold the trials, it was

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N. 104.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and fourth meeting

held on

May 1st, 1946

In the Chair: Sir Robert CRAIGIE - United Kingdom.

There were also

present:

Lieut. KINTNER	- United States of America
Mr. BRIDGLAND	- Australia
M. de BAER	- Belgium
accompanied by H. GOLSTEIN	
Mr. HORNE	- Canada
Major FANDERLIK	- Czechoslovakia
accompanied by Dr. HILYR HARTING	
Dr. SCHRAM NIELSEN	- Denmark
Dr. ST. PROKOPIUS	- Greece
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Dr. ZIVKOVIC	- Yugoslavia

MINUTES

The Minutes of the 102nd meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 103rd meeting were received from Dr. SCHRAM NIELSEN, Dr. HILYR HARTING, and Commander MOUTON.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Professor GROS, Captain WOLFF, and Dr. SZERER.

INVITATION TO SOVIET GOVERNMENT TO JOIN COMMISSION

The CHAIRMAN said that members had received Misc. 25 in which they were notified of the reply of the Soviet Government to the invitation extended from the Commission through the British Charge d'Affaires in Moscow. It would be useful to have a preliminary expression of views of members of the Commission in this regard.

Commander MOUTON said that his Government looked forward to the U.S.S.R. being represented on the War Crimes Commission, but they were of the opinion that this representation should be on the same basis as the Russian representation on U.N.O., namely the Soviet Government and the Governments of Byelorussia and the Ukraine.

Dr. ZIVKOVIC said that his Government was of the opinion that the proposal as put forward by the Soviet Government (Misc. 25 of 10th April 1946) should be accepted. If the Governments of the Soviet Republics felt they should present their cases individually, the Yugoslav Government did not see why they should not do so. He added that he personally felt that the presence of five, seven or even ten Soviet representatives would tend to give the Commission a clearer picture of all the crimes perpetrated in the different areas and that it would probably result in speedier presentation of their cases.

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	Mr. HORNE	- Canada
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	accompanied by Dr. HILAR HARTING	
	Dr. SCHRAM NIELSEN	- Denmark
	M. STAVROPOULOS	- Greece
	Commander MOUTON	- Netherlands
	Mr. BURDEKIN	- New Zealand
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Dr. MEYER HARTING said that his Government welcomed the Russian proposal and felt that it should be accepted as it stands and that it was important that the matter should be settled as quickly as possible.

Mr. BRIDGLAND said that the Australian Government had always welcomed the idea of Russian participation in the work of the Commission, but they were of opinion that Soviet representation should be similar to their representation on U.N.O.

M. de BAER said that, subject to final confirmation from his Government which would be forthcoming within the next week, he had reasons to believe that his Government was inclined to feel that the Russian proposal should be accepted as it stood.

Lieutenant KINTNER said that the United States welcomed Soviet participation as being in the interests of securing justice for war criminals, but that since war crimes were not directed against particular groups in each of the Russian Republics but against the people in general, there was no need for representation of specific entities.

Mr. BURDEKIN said he still awaited final confirmation from his Government, but thought it was probable that their view would coincide with that expressed by the Netherlands and Australian Governments.

Dr. SCHRAM NIELSEN, M. STAVROPOULOS and Mr. HORNE were still not in a position to express the views of their respective Governments.

Sir Robert CRAIGIE said that he understood that the view of the United Kingdom Government was that Soviet representation should be in line with their U.N.O. representation.

The CHAIRMAN proposed that the matter should be postponed for a fortnight. This was agreed but Dr. ZIVKOVIC pleaded that there should be no further delay after that.

NAZI WAR CRIMES EXHIBITION

Mr. GIBSON said that he had again been in touch with the French Ministry of Information and it was estimated that a tour of eight towns in England, as now planned, would cost approximately £5,000 of which sum, the French authorities were prepared to provide £1,000. In general, members were of the opinion that their Governments would not welcome requests for financial support. It was accordingly agreed that Mr. GIBSON be instructed to discover whether the French Government were in fact still interested in this project, and, if so, an approach to the eight towns concerned should be made to discover whether they would be willing to undertake the cost themselves. If the Commission were to be asked to sponsor the Exhibition, it would require to know full details of the proposed arrangements and conditions agreed between the French Government and the Authorities of the towns concerned, before committing itself in anyway.

APPROVAL OF THE 30th LIST OF WAR CRIMINALS

The CHAIRMAN reported that the 30th List, having been circulated to members and no comments having been received, had been sent out.

DEPARTURE OF COLONEL HODGSON

A letter from Colonel HODGSON reporting his departure to the United States on his release from the Army together with a reply sent by the Secretary General, was read.

The CHAIRMAN said that he felt that the Commission would suffer serious loss through the departure of Colonel Hodgson as he had

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always been one of the pillars of the Commission and had taken a great personal interest in its work. His great knowledge and experience had been of outstanding assistance.

Dr. ZIVKOVIC wished to associate himself with all that the Chairman said and added that he personally deeply regretted the departure of Colonel Hodgson. There had been many occasions when his knowledge and his kindness of heart had been of great assistance in solving the problems which had to be met particularly at the beginning of the Commission's work.

M. de BAER and Commander MOUTON also expressed their great regret at Colonel Hodgson's departure. M. STAVROPOULOS suggested that the Chairman might send a letter to Colonel Hodgson on behalf of the Commission, conveying to him their appreciation of his great services and their regret at being no longer associated with him. This was unanimously agreed.

LETTER TO COLONEL WADE FROM THE BRITISH WAR CRIMES EXECUTIVE.

A letter was read from Mr. Sinclair of the British War Crimes Executive, who wrote on behalf of Sir David Maxwell Fyfe from Nuremberg thanking Colonel Wade for the great assistance he had rendered in connection with the trial.

PROGRESS REPORT OF TRIALS TO DATE FOR PUBLICATION IN THE PRESS.

The CHAIRMAN said that it was proposed to hand to the Press details of the progress and results of trials of war criminals. He said that he felt that there was considerable misapprehension on the part of the public as to what was being done in the way of war crimes trials. Attention was almost exclusively focussed on the Nuremberg Trial, and it was therefore considered desirable to issue a short progress report showing what had been achieved.

The proposed statement would be circulated to the members before the next meeting for their consideration.

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M. 105

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and fifth meeting

held on

May 15th, 1946.

In the Chair: Sir Robert CRAIGIE - United Kingdom

There were also
present:

Lt. KINTNER	- United States of America
Mr. BRIDGLAND	- Australia
M. de BAER	- Belgium
Mr. HORNE	- Canada
Mr. DAO	- China
Major FANDERLIK	- Czechoslovakia
accompanied by Dr. MAYR HARTING	
M. STAVROPOULOS	- Greece
Sir Torick AMEER ALI	- India
accompanied by Mr. DUTT	
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Major PALMSTROM	- Norway
Dr. SZERER	- Poland
Dr. ZIVKOVIC	- Yugoslavia

and

Mr. MEIGH - Howard, Howes. Co. - Accountants
in attendance.

MINUTES

Referring to the minutes of the 103rd meeting Dr. MAYR HARTING asked that the paragraph on page 3 reading "Dr MAYR HARTING agreed and suggested ..." be amended to read "Dr MAYR HARTING agreed."

The minutes of the 103rd meeting were approved and signed by the Chairman.

Amendments to the draft minutes of 104th meeting were received from the Chairman, General de Baer and Dr. Mayr Harting.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Professor Gros and Dr. Schram Nielsen.

PRESENTATION OF THE BUDGET FOR THE YEAR ENDING 1947

The CHAIRMAN said that members of the Commission would have received documents setting out the proposals of the Finance Committee which had been unanimously adopted by it. He reported that a cheque had since been received from Dr. Szerer which enabled him now to say that there were no arrears. He did not think it was necessary to make a preliminary statement because it seemed that the document as presented to members was quite clear.

Mr. BURDEKIN referred to Item 4, which shows that the provision for salaries for 1946/1947 is greater than the actual sum used last year. As the peak period of the Commission's work was completed, he questioned the estimate for salaries for 1946/1947.

The CHAIRMAN thought it was extremely difficult to know exactly what would be involved. To begin with, there must be a report on the Commission's activities which would be a document of some importance. Then there was the question of War Crimes Trials. If the Commission were to undertake these reports there would require to be additions to the Staff. Altogether the situation merited an additional allowance for possible increases, and he thought it would be wise to keep something in hand. It would not be wise to underestimate. He suggested that representatives put this point to their governments and stated that when there was a surplus at the end of a year, a rebate would be made.

Mr. BURDEKIN wished to say that he was not questioning this amount in a critical way, but just wished to have this made clear so that he could inform his government.

As several of the members present wished to have the opportunity of referring the Budget to their respective Governments before voting, the CHAIRMAN suggested a fortnight's postponement and added that once the Budget was passed by the Commission it might be difficult to re-open a discussion. This was agreed. The CHAIRMAN thanked Mr. Meigh for his attendance.

(Mr. Meigh left the meeting)

PROGRESS REPORT OF TRIALS TO DATE FOR THE PRESS (Doc. A.1.)

This report, having been circulated to members, was brought up to date and approved for issue to the press.

CROWCASS MOVE TO BERLIN FROM PARIS (Doc. A.2)

The CHAIRMAN referred to Document A.2, which announced a decision to move CROWCASS to Berlin. He thought this was

rather regrettable and was bound to interrupt their work owing to the change over to new staff and premises.

PUBLICATION OF REPORT ON WAR CRIMES TRIALS

The CHAIRMAN said that Lord Wright, before he left had discussed with him and the Secretariat the question of reporting of war crimes trials. He was very anxious that we should begin the work without delay. He had anticipated leaving this whole matter over until Lord Wright's return, but it had become urgent, so far as this country is concerned, owing to considerable pressure from Law reporting firms to start reporting. He proposed to have a preliminary discussion in order that he might sound members as to what was their general opinion on this subject. A meeting had already been held with representatives of some of the United Kingdom departments concerned.

There were two or three ways of dealing with the question of reporting war crimes trials.

Firstly the work might be undertaken by this Commission, in which case there would be the advantage that reports could be published more or less simultaneously in the different countries and we should get a uniform method of reporting.

Secondly we could hand over the business of reporting to some of these firms which specialised in law reporting or the reporting of criminal trials. In regard to some of these more important cases, such as the Belsen Trial, there would be at least one whole volume devoted to one trial, - a bigger undertaking than the Commission could well contemplate. The type of reporting which Lord Wright had in view was to produce annotated summaries of the more important trials which would cover perhaps 10 - 20 sheets of foolscap.

A third possibility was that we should combine the two methods. First of all authoritative statements would be issued, prepared in the first instance by the Secretariat of this Commission, on a number of trials up to date and with the outside assistance of legal experts as may be required, and published for this country by H.M. Stationery Office. The material would then be open to any reputable law reporting or trial reporting firm to undertake a fuller report.

In addition to the type of law reporting to which the Chairman had referred, i.e. reports for serious students of international law, there might be an advantage in issuing, as soon as possible, popular editions so as to spread rather more fully the information in regard to war crimes trials amongst the public at large. From that point of view it was desirable to have popular editions passed on in addition to the more authoritative reports which are

issued by this Commission. The Chairman believed these general ideas to be also those stated by Lord Wright.

M. DE BAER said that he was most interested in the expose just made and personally he would agree to it entirely on the main lines. We should interfere in the popular version as little as possible, helping the firm which produces it, but not appearing as sponsoring it. The popular version may be a little theatrical and not in keeping with the dignity of the Commission.

M. DE BAER did not think we should give the work destined "for serious students" to outside firms. 1) Uniformity in dealing with war crimes should be aimed at and it should not be left to individual firms to expound their point of view. 2) There was also another advantage in favour of the Commission keeping the control of this work. British Law firms who are very specialised in this kind of work see these trials exclusively from the British point of view. The Commission is better placed to explain the problem to the public of the countries whose system is not based on the Common law. M. DE BAER agreed with the Chairman's proposal No. 3, that is combining the first and second methods provided the greater part of the work is left to the Commission. The Commission had Dr. Schwelb and Dr. Litawski, men in whom they have placed their absolute confidence, and he would therefore suggest that the whole work should remain under the supervision of this Commission. The summaries published officially by the Commission should be substantial.

Sir TORICK AMEER ALI mentioned that, as far as English trials were concerned the Council of Law Reporting would probably have a say in the matter.

The CHAIRMAN said that the law reporting firms were ready to submit their drafts to anybody who was ready to go through them.

Commander MOUTON pointed out that this was a matter of great urgency because the public interest must be sustained. The method promising the quickest result was most preferable. He asked whether the short publications of about 10 - 20 pages for each case, would be published by the Commission.

The CHAIRMAN concurred and added that so far as the publication in this country was concerned they would go through H.M. Stationery Office.

Sir TORICK AMEER ALI supported M. de Baer on the point of the popular reports. He was against the Commission taking up anything in the thriller edition. As regards the summaries he would support full summaries not directly for the public, but for serious and scientific use.

Mr. BURDEKIN asked whether, if the Commission were to undertake the summaries, it would entail an addition to its legal staff.

The CHAIRMAN replied that it would mean an addition, but the Commission would get into touch with some of the authorities interested in those matters to get the additional help necessary to make this report. The Commission has put aside some £4,000 for unforeseen expenditure and £1,000 under publications. If the work proved to be too heavy the Commission might have to make other arrangements. It seemed to him however that the Commission could make a start, as Lord Wright suggested, with half a dozen cases and then proceed on the basis of trial and error.

Dr. ZIVKOVIC supported the view that it was the task of the Commission to prepare summaries of a kind that serious students of International Law may draw from the material all data which they might desire for their work. This question ought to be considered fully, perhaps in a committee, which could be set up to examine what are the types of reports which the Commission are receiving from the various sources and to secure uniformity.

The CHAIRMAN said that, perhaps, it would be best to wait until Dr. Schwelb had been able to produce his first six drafts.

Lt. KINTNER saw many advantages to International Law in the future to have these reports from this Commission and found himself in agreement with what the Chairman and M. de Baer have said along that line, but he thought the individual governments might raise questions when it came to publishing individual trials. Governments might wish to report their own trials. This matter should be given more consideration and held in abeyance until we get an expression of opinion. He doubted very much whether the individual governments had decided what they wanted to do.

Dr. MAYR HARTING thought that the question of selection was of some importance. This should be decided by the Commission or by a Committee. The best solution would be for the Commission to start preparing such reports and appoint a committee to decide which of these reports should be published first.

Dr. ZIVKOVIC added that apart from the Commission publishing such summaries, each government would always be at liberty to publish what they liked.

The CHAIRMAN replied that anything on a larger scale would be, of course, a matter for the government concerned, but it would be valuable if official summaries prepared by the Commission could be published in each member state.

Lt. KINTNER said that he offered no objection to the Commission publishing a summary of any kind, but he did raise the question of the disposal of a complete record of a trial by any one nation. That record is an official document which they would have no objection to handing to the Commission, but which they may object to the Commission transferring to a third party.

The CHAIRMAN pointed out that in this country as in other countries it was open to any firm to get hold of what material they could and publish it, but the publication would not be authoritative. So far as the Commission's summaries were concerned, one would hope that they would be authoritative in all countries.

Dr. SZERER remarked that the most important thing was to decide from what point of view these summaries should be done. He thought that the Commission ought to produce summaries for lawyers and for politicians and not to think of the general public.

Sir TORICK AMEER ALI suggested that one trial be chosen as a specimen, prepared by the staff and considered by the Commission.

This was agreed and Dr. Schœlb was instructed to prepare a specimen report based on the Peleus trial for circulation to and consideration by the Commission.

INVITATION TO THE SOVIET GOVERNMENT TO JOIN THE COMMISSION

The CHAIRMAN said that this matter had been brought up at the last meeting, but that as some representatives had not then received instructions from their Governments, the discussion had been postponed.

Mr. HORNE said he had now received instructions from his Government that Canada would welcome Soviet representation on the Commission on the same basis that it had on the United Nations.

M. STAVROPOULOS and Mr. BURDEKIN said that they had received similar instructions.

Mr. DAO said that he was still awaiting instructions from China but wished to express the view that invitations should be sent to the Soviet Union and two republics.

Dr. SZERER stated that he had had no instructions from his government but that he was in favour of inviting the Soviet Union on their terms, i.e. extending the invitation to the seven republics.

Dr. ZIVKOVIC said that he had had the opportunity at the last meeting of expressing the views of his government on this subject and now agreed to Dr. Szerer's statement. He did not see any inconvenience in enlarging the Commission by

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3, 4, 5 or 7 members. During the last fortnight he had enquired into the question and had learned that in many official documents issued by both the Soviet Governments and Soviet War Crimes Commission there was a full record of atrocities perpetrated in the seven republics in question, and he had in his possession a list of published documents which he would like to submit to the Commission.

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Most serious crimes were perpetrated in those republics and therefore it was difficult to understand why only three of these republics should be in a position to present their evidence and why should not the other four be in the same position if they felt that they should present their cases directly, instead of through Moscow. This was why he thought that no objection should be raised to the Soviet proposal to extend the invitation to the seven republics. He added that if any members were interested in the particulars concerning the crimes he would be glad to help them. He added that he did not see why the Commission should follow the example of another international organisation.

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The CHAIRMAN said that the United Kingdom Government considered that if the Soviet Government would be satisfied with their own representation, the Commission could give them all the guarantees necessary for the consideration of the cases of the sister republics. In practice there should be no difficulty at all in these war crimes being put before the Commission and considered by the Commission exactly in the same way as those of other nations. The United Kingdom Government would welcome very warmly Russian participation, and it should be a great advantage. His experience was that the smaller the body the more effective it was. He added that the United Kingdom Government did not recognise some of the Governments mentioned in the Soviet reply and this constituted a further difficulty. He was in favour of inviting the Soviet Union and the Ukrainian and Byelorussian Republics.

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Lt. KINTNER only wished to reiterate the position of his Government expressed at the last meeting. The U.S. did not favour the Russian proposal for representation of 8 republics on the Commission for the reason that war crimes, in their view, were not committed against particular groups but against the nation as a whole and while it was realised that Russia had suffered grievously it was felt that a large representation was out of proportion in the circumstances.

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The CHAIRMAN thought that as there seemed to be quite considerable division of opinion in this matter, members might care to think it over a little longer. He had drafted a motion for their consideration in the hope, that after reflection, they might secure unanimity upon it.

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WAR CRIMINALS IN SPAIN.

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The Secretary General read a copy of cablegrams from the Secretary General United Nations, New York, to U.N.E.C.C.C. re-

questing information regarding the presence of War Criminals on Spanish Territory.

The CHAIRMAN said that it occurred to him that possibly other members of the Commission might have some information which they would like to have passed on to the Secretary General of the United Nations.

Dr. MAYR-HARTING asked if the request from the United Nations concerned Quislings as well as War Criminals.

The CHAIRMAN replied that the cables referred specifically to War Criminals and that it would be better to confine ourselves to that. Dr. Zivkovic suggested that the Commission's Lists of War Criminals be sent either to the British or the American Embassies in Madrid to be checked against lists of German refugees and possibly Italian Refugees at present in Spain. Commander MCUTON thought that CROWCASS should be informed and Major FANDERLIK thought that CROWCASS should be asked to supply Wanted Lists to the Embassies.

The CHAIRMAN then asked the Secretary General to take the matter up with the Foreign Office and report back.

APPROVAL OF 31st LIST OF WAR CRIMINALS.

This List, which had been approved by all the National Offices concerned was unanimously adopted.

NAZI WAR CRIMES EXHIBITION

Speaking about the possibility of a replica of the Nazi Crime Exhibition coming to this country from France Mr. GIBSON said that since the last Commission meeting he had approached the Mayor of Stockton-on-Tees and one other business acquaintance in Leicester.

In both cases it was emphatically stated that towns would not take the risk of guaranteeing admission monies, neither did they approve of charges being made for this type of national exhibition. Contrarily, said Mr. Gibson, he had just heard on the day previous that a society or group of people, who work under the title of Les Francis de Grande Bretagne have expressed to M. Green of the French Embassy their extreme interest in the matter.

Mr. GIBSON had not yet met any members of the society in question but said he would report to the Commission at the next meeting.

M. 106

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SECRET

M. 106

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and sixth meeting

held on

May 29th, 1946.

In the Chair: Sir Robert CRAIGIE - United Kingdom.

There were also
present:

Lt. KINTNER	- United States of America
Mr. BRIDGLAND	- Australia.
M. de BAER	- Belgium.
Mr. HORNE	- Canada.
Mr. DAO	- China.
Major FANDERLIK	- Czechoslovakia.
M. STAVROPOULOS	- Greece.
Commander MOUTON	- Netherlands.
Mr. BURDEKIN	- New Zealand.
Dr. LACHS	- Poland.
Dr. ZIVKOVIC	- Yugoslavia.

Colonel HALSE and
Major Thomson - Office of the Judge
Advocate General.
Mr. Meigh - Howard Howes Co. - A.G.3., V.W.
Accountants
in attendance.

MINUTES.

The minutes of the 104th meeting were approved and signed by the Chairman. Amendments to the draft minutes of the 105th meeting were received from the Chairman and Dr. Mayr-Harting.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Dr. Mayr-Harting, Dr. Szerer, and Professor Gros.

BUDGET FOR YEAR ENDING 31st MARCH 1947

The CHAIRMAN referred to the last meeting when it had been decided to postpone further discussion of the Budget in order that members might study it and have the opportunity to refer to their Governments if necessary.

All members being in agreement with the Budget as presented, it was unanimously adopted.

(Mr. Meigh left the meeting).

REPORT ON LORD WRIGHT'S MOVEMENTS.

The Secretary General read a letter which had been received from Mr. Bridgland reporting on Lord Wright's movements, saying that he was quite well and comfortably placed, and that he was considering leaving Tokyo about the 9th June and would return via the United States.

INVITATION TO THE SOVIET GOVERNMENT TO JOIN THE COMMISSION

The CHAIRMAN referred to the last meeting when he had offered to circulate a draft resolution containing what he thought would be the views of the majority of Governments represented here in view of the statements made by various representatives. Unfortunately there were certain representatives who were unable to accept this draft and the problem now was to decide the question of procedure. The main question was by what method it would be best to reply to the Soviet Government so as to leave a good prospect of the Soviet Government being represented on this Commission. There were also one or two representatives who did not express views at the last meeting. He had now received definite instructions from the United Kingdom Government and wished to confirm the views he had expressed before. Mr. DAO stated that his Government's view was in accord with what was expressed in the draft. Commander MOUTON stated that he had received instructions that his Government were in agreement with the draft. It was also stated by Lieut. KINTNER that he had received instructions to vote in favour of the draft as submitted.

Major FANDERLIK stated that he could not vote for the proposed resolution. He did not think his Government's opinion would be expressed clearly enough if he abstained from voting and felt that he must vote against it. He was prepared to vote for a resolution which would simply state that the Commission would welcome the Soviet Government joining the Commission and which would not say anything about the number of republics included in the invitation.

Dr. ZIVKOVIC said that his position was much the same as that of Major Fanderlik and, according to the instructions he had received, he certainly could not vote in favour of the draft resolution as it stood, although he knew that the majority of members were in favour of it.

Dr. LACHS referred to Dr. Szerer's statement in the last meeting. He thought Dr. Szerer would confirm the views of the previous speakers. It was the view of the Polish Government that these republics were overrun by the enemy and that the crimes committed there could not be judged by normal standards. These countries suffered so much and it was due to this unfortunate fact that the Soviet Government probably held the opinion that these republics should be represented.

The CHAIRMAN said that we were anxious to do everything possible so far as the method of the reply was concerned to make things as easy as possible. A suggestion had been made to him that instead of taking a vote on the resolution it should be arranged that a small Deputation, representing the views both of the majority and of the minority of the Commission, should call on the Soviet Ambassador and present the reply orally; explain what the difficulties were and express the hope that the Soviet Union will assist in tracking down criminals. It might be that an oral reply would be less likely to run up against serious opposition in Moscow, and he would be glad to hear what members had to say on this subject.

M. de BAER supported the Chairman's suggestion.

Commander MOUTON said he felt that all members were anxious to get Soviet representation on our Commission and he was quite in favour of the Chairman's suggestion. He suggested that, as much value was attached to an oral contact, this contact should also be made by the British Ambassador in Moscow and the Russian authorities who have the power to decide the matter.

Dr. ZIVKOVIC thought the proposal was a very wise way of approach at this stage and that was why he thought that a Deputation of three members (two of whom represented the majority and one the minority) should state the position, and see what could be done about this matter.

Mr. BURDEKIN agreed that the proposal presented by Sir Robert Craigie was the wisest method and was unlikely to give offence. A previous speaker had spoken of the proposed deputation negotiating with the Soviet Ambassador. He thought that the Deputation could not be authorised to negotiate, but could merely state the position in light of replies received from Governments represented on the Commission.

The CHAIRMAN asked if he could take it that the majority of the Commission would favour the answer being returned in the form of an oral communication to the Soviet Ambassador, made by three members of the Commission, two to represent the majority and one the minority. There could be no question of negotiations but merely a matter of putting the Commission's answer in the least disagreeable way to the Soviet Government and that some indication should be given of the valuable results we might expect to flow from their presence on the Commission. Members were in agreement.

Mr. BURDEKIN proposed that the Commission should also say that they would of course be glad to give every consideration to cases which Governments of any of the Soviet republics desire to submit.

Commander MOUTON wished to add that he did not think his Government would be in favour of mentioning the names of any republics outside the three that the Commission had in mind and would prefer the reply to be in general terms.

It was then proposed that the Chairman and M. de Baer should represent the majority on the Deputation of three and Dr. Szerer the minority.

The CHAIRMAN undertook to ask the Foreign Office to make the necessary arrangements for an interview with the Russian Ambassador in London. Once that interview had taken place, a record of it would be telegraphed to Moscow and the British Ambassador would be asked to speak in the same sense.

PUBLICATION OF REPORTS ON WAR CRIMES TRIALS

The CHAIRMAN said that after the preliminary discussion at the last meeting, there seemed to be general agreement that this Commission should undertake the publication of annotated summaries of the proceedings of war crimes trials. The matter had, however, been postponed until to-day, in order to give members an opportunity to state their views at this meeting.

Dr. ZIVKOVIC said he understood that the paper (C.199). had been prepared by Dr. Schwelb, and wished to congratulate him because he thought it was a great success. He would suggest that this specimen be adopted as the model for our future reports on these trials.

Lt. KINTNER supported the remarks made by Dr. Zivkovic.

M. STAVROPOULOS having been present at the Peleus Trial considered Dr. Schwelb's report very good indeed and said he was glad that the Prosecutor of this trial was present at the meeting.

Colonel HILSE, who had conducted the prosecution at the Peleus Trial, wondered whether it was necessary to go into such detail in the evidence. If the same detail in the Belson and Dachau trials was entered into it would make the reports rather too long.

The CHAIRMAN stated that Dr. Schwelb intended to limit the length of these reports to not more than twenty foolscap sheets.

Dr. LACHS said he wished to join the previous speakers with his appreciation of Dr. Schwelb's work. It provided serious students with a clear and concise picture of the proceedings which took place.

Major FANDERLIK congratulated Dr. Schwelb on this work.

Commander MOUTON also expressed his appreciation.

Dr. ZIVKOVIC thought that reports should not be limited to twenty pages.

The CHAIRMAN stated that twenty pages would probably be the maximum for readability, but that where it was found desirable to make it longer then it would be done.

Mr. BURDEKIN thought that it was reasonable to assume that cases would fall into categories, for instance, Trials of Staff of Concentration Camps. After a fairly full report on the first such case dealt with, it would not be necessary to go into too much detail in regard to future similar cases. As regards the reports in general, he wished to know whether a special Committee, composed of members with special legal knowledge would review these reports before they were published.

The CHAIRMAN stated that the intention was that a Committee should be constituted for that purpose and would be glad to hear any views on this matter.

M. STAVROPOULOS thought the main idea of Doc. C.200 was the establishment of a Committee which would have to make recommendations to the Commission.

M. DE BAER suggested that Committee III could assume this task.

M. STAVROPOULOS supported that proposal.

The CHAIRMAN thought a smaller committee might be better but suggested that a start could be made with Committee III and when Lord Wright returned he could decide whether a special Committee should be constituted or not. Committee III might be asked to consider this document C.200 and to examine Dr. Schwelb's "Peleus" draft and any other drafts Dr. Schwelb may produce before Lord Wright's return. The Committee should also have power to co-opt representatives of interested National authorities.

It was therefore agreed to proceed on these lines until Lord Wright's return.

APPROVAL OF 32nd LIST OF WAR CRIMINALS

As no amendments had been received, the 32nd List of War Criminals had been circulated.

WAR CRIMINALS IN SPAIN

The SECRETARY GENERAL reported, that, in accordance with the proposal made by Dr. Zivkovic at the last meeting, the Commission lists had been sent to the British Embassy in Spain via the Foreign Office for inspection.

Dr. ZIVKOVIC thought that we should obtain a list of Germans in Spain and check against that list.

The CHAIRMAN stated that the Foreign Office had undertaken to send to the Commission, a list containing approximately 360 names and suggested that if all other Governments would do the same it would help considerably.

M. de BAER stated that his government did not think that any accused whose surrender was requested by Belgium was in Spain.

Dr. LACHS thought it would be advisable that other Governments who had relations with the present Spanish Government should proceed on the same lines. That would help the work of the British Embassy.

Lt. KINTNER thought that his Government was doing that at the moment.

LETTER FROM THE PORTUGUESE LEGATION

The SECRETARY GENERAL read a letter (dated 23rd May 1946) from the Portuguese Embassy requesting a copy of Document C.61 (1).

The CHAIRMAN said that this document C.61(1) did not seem to him to contain anything now very secret which would necessitate our declining to give a copy to the Portuguese Embassy.

M. de BAER stated that he was responsible for the document in question and he agreed that it was no longer secret. There would be no objection from that point of view, the more so because they would appear to have already seen it. It seemed that the intention of the Portuguese Government was to use it in order to refuse the surrender of Quislings. He believed that it was drafted at a time when we were very anxious not to go too far. Now it seemed that things had gone further than this paper and, as Dr. Schwelb had pointed out in a paper, the United Nations, when they agreed on the Charter of the International Tribunal and accepted the Indictment against the Major War Criminals at Nuremberg, had accepted that a person can be held criminally responsible for a mere political crime which had not been the view held until now. The Nuremberg Indictment and the agreement of the United Nations on the Charter seemed to indicate a new train of thought and that one could be held as a criminal for a political crime. In his opinion it would be unwise to give this document officially to the Portuguese Government as we were justified in not holding the views we held in November, 1944.

The CHAIRMAN thought this was a very wise precaution. The document C.61(1) was headed "Report by Committee I". It could be stated that it

was very confidential and must not be taken as representing the views of the Commission.

M. DE BAER believed that if we did that, it would be best to state what the Commission really felt now in accordance with the view of the United Nations.

Dr. ZIVKOVIC said he remembered the document in question and he remembered that the main point which the Commission had in view at that time was to make clear that changes of nationality by quislings would be considered as void. The Commission had always held the view that it was a question of the Sovereign Rights of each country to prosecute their own nationals and secondly that the purpose for which the Commission had been set up indicated that it was only enemy alien nationals that should be prosecuted. There was a danger that if we issued the paper as it stood, they might understand that we intended to omit Quislings from punishment. That was why he agreed with M. de Baer.

Dr. LACHS thought that the views expressed by M. de Baer and Dr. Zivkovic were right. He felt that the Portuguese Legation, by sending this request had a certain aim. If they wanted the opinion of the Commission on this particular subject this could be done by asking the Commission to present the views it holds.

The CHAIRMAN thought there might be a tendency to deal with the question of Quislings on a different basis but the Commission in fact only dealt with war criminals and was not prepared to deal with Quislings.

M. DE BAER said the only thing that he was afraid of was the use that could be made of this paper by an outside Government. If he had known that this document was not to be regarded as a secret document he would have drafted it in a different form.

Mr. BURDEKIN thought that it might be a wise course to reply to the Portuguese request that this document had been compiled by a Committee, that it was prepared as a secret document and therefore was hardly suitable for outside transmission, but if the Portuguese Government desired to obtain the views of the Commission on any point the Commission would be glad to give its views if the matter was within its province.

Dr. SCHWELB stated that the report laid down traditional rules of international law which were valid and continue to be valid. It was mainly the distinction between common crimes and political crimes and the document proceeded on the distinction between political crimes not extraditable and common crimes extraditable. The United Nations had deviated from this particular aspect in certain cases. The document contained nothing secret and the rule of law on which it was based was well-known.

Dr. ZIVKOVIC thought that Dr. Schwelb had touched the right point in question. He felt that as the Portuguese Government had asked for this paper they wanted to make use of it and there was a danger that they might distort what was said in the paper for the sake of

protecting Quislings. He thought that it would not be suitable to send this paper to the Portuguese Government and agreed with Mr. Burdekin's proposal.

Lt. KINTNER thought that the remarks made, particularly by the Chairman, were much in order at this point and he wondered if the Commission would be prepared to answer any question that the Portuguese Government might submit, particularly a question on Quislings.

The CHAIRMAN said he appreciated that point but he thought we could say we were prepared to answer any questions as regards our practice.

Lt. KINTNER agreed.

The CHAIRMAN felt that we should return as courteous a reply as possible to the Portuguese Embassy and that possibly a letter on the lines proposed by Mr. Burdekin would meet the general views of the Commission, using the word practice instead of view.

The CHAIRMAN asked the Secretary General to acknowledge the letter and to say that the matter would be brought before the Commission at an early date. The Secretary General was also asked to draft an answer for approval at the next meeting.

REPORTS OF COMMITTEE CHAIRMAN

The CHAIRMAN stated that there was not much to say for Committee III except so far as the Alsatian case was concerned. All the members of the Ad Hoc Committee had agreed to the draft which had been prepared by Committee III, except Professor Gros who was in Paris and as it was his Government that raised the point he was reluctant to express any view. The Chairman thought that in that case we could go ahead and the Ad Hoc Committee need not meet. The paper would be circulated and discussed at the next Commission meeting. The other point was the question of crimes against humanity. Committee III had gone into that matter very carefully and decided that no useful purpose would be served by going into the concrete cases until the interpretation of the documents pertinent to this matter had been decided. They had completed this task and had reached the conclusion that as regards the individual cases it was necessary to have, if possible, assistance from the various Governments to see whether those cases did constitute a pattern of German behaviour either before or during the war. That paper would be circulated. There would also be a request sent to other member Governments to supply all the analogous information which they could produce.

MISCELLANEOUS 30

The SECRETARY GENERAL asked members to make the following alterations in the ALFSEA Columns of MISC. 30 dated 29th May 1946:- for 206 read 177, for 89 read 73, for 84 read 77, for 33 read 27, and "as at 20th May" should read "as at 24th May"

VICTORY PROCESSION

The Secretary General reported that he had been informed by the Vice Marshal, the Diplomatic Corps, that accommodation would be reserved for members of the Commission and their ladies to enable them to view the Victory Parade on June 8th, but added, that at present, it was not possible to guarantee seating accommodation.

R. Craigie

UNITED NATIONS WAR CRIMES COMMISSION

Budget 1946/47

In accordance with Article 2 of the Financial and Administrative Regulations, the Secretary General has prepared and the Finance Committee have approved and recommend to the Commission the Budget for 1946/47 totalling £22,350 as per Statement "A" attached.

Surplus 1945/46

The amount budgeted for 1945/46 was	£34,700
The amount expended was	12,153 17 6
Accounts outstanding for Stationery are estimated at	308 2 6
together	<u>12,462</u>
Leaving a surplus of	<u>£22,238</u>
	=====

The amount expended includes payments totalling £920. 17.6. to the Far Eastern and Pacific Sub-Commission whose accounts for the year have not yet been received. The surplus therefore excludes cash in the hands of the Sub Commission.

Contributions for 1946/47

The Finance Committee agreed :-

- (a) That Member Governments should be required to pay their basic contributions of £400 each for 1946/47, producing £6,800
- (b) That there should be transferred from the surplus for 1945/46 an amount of 15,550
- Making together the amount budgeted for 1946/47 £22,350
=====
- (c) That the balance of the surplus of 1945/46, £6,688 should be repaid to Member Governments in the proportions in which they contributed to the excess.
- (d) That where the basic contribution for 1946/47 exceeds the amount repayable for 1945/46 the Member Government should be asked to remit the net amount only.
- (e) That where the basic contribution for 1946/47 is less than the amount repayable for 1945/46, the Member Government should not be asked to remit the basic contribution but that the Commission should refund the net amount when contributions have been received under (d) above to enable it to do so.

The amount due from or to each Member Government will be found set out in the Table attached hereto marked Statement "B".

"A"

UNITED NATIONS WAR CRIMES COMMISSION

7th May, 1946.

BUDGET FOR THE THIRD FISCAL PERIOD
1st April 1946 - 31st March 1947

ESTIMATED REQUIREMENTS.

Part I - WORKING CAPITAL FUND

	1945-1946 £	1946-1947 £
No increase proposed.....	6,800	Nil
TOTAL OF PART I.....	£6,800	Nil

Part II - EXPENSES OF THE COMMISSION

	Details for reference 1945-1946 Estimate £	Actual £	Estimate for 1946-1947 £
1) (a) Office equipment (duplicators, typewriters etc) and cleaning of premises in London.....	500	479	300
Premises (including furniture, heating, lighting, telephones etc.) Supplied free of charge by H.M. Government in the United Kingdom.			
(b) Premises & equipment for branch offices (including furniture, etc.) as above.....	2,000	0	0
2) Stationery and multigraphing.....	500	708	850
3) Postage, telegrams, cables.....	600	161	200
4) Salaries (including national health & unemployment insurance).....	20,000	9322	12,000
5) Provision for additional staff (included in item 4).....	0	0	0
6) Travelling.....	3,000	226	850
7) Accountants & auditors charges.....	100	52	150
8) Publications, including such expenditure as may be necessitated by the Recording and Reporting of War Crimes Trials and the Publication of a History of the Commission.....	500	0	1,000
9) Expenses of the Far Eastern & Pacific Sub-Commission:			
(a) Premises (including heating, lighting, cleaning, telephones, etc.) provided free of charge by the Chinese Government.....	0	0	0
(b) Expenses of the Sub-Commission.....	2,500	921	2,000
0) (a) Miscellaneous expenditure.....	5,000	593	1,000
(b) Unforeseen expenditure.....	0	0	4,000
TOTAL OF PART II.....	£34,700	£12,462	£22,350

"B"

UNITED NATIONS WAR CRIMES COMMISSION

CONTRIBUTIONS PAYABLE FOR 1946/47 LESS SURPLUS REFUNDABLE FOR 1945/46.

Basic Contributions for 1946/47		£ 6,800
Estimated excess expenditure for 1946/47	£15,550	
Deduct:- Part of Surplus for 1945/46	<u>15,550</u>	<u>6,800</u>
Deduct:- Surplus for 1945/46	22,238	
Less:- Allocated to 1946/47	<u>15,550</u>	<u>6,688</u>
Net amount collectible for 1946/47		112
Add:- Arrears from 1945/46		<u>354 1 11</u>
Total to be collected less repaid		<u>£ 466 1 11</u>

1. Country.	2. No. of Units	3. Basic Contribn 1946/47	4. Surplus 1945/46 (£22,238) less excess Expenditure (£15,550) 1946/47.	5. Arrears 1945/46	6. Balance due to :- UNWCC	7. Member Governments
Albania	30	400	126 17 4	- - -	273 2 8	- - -
Belgium	20	400	84 11 7	- - -	315 8 5	- - -
Bulgaria	60	400	253 14 8	- - -	146 5 4	- - -
Czechoslovakia	100	400	422 17 9	- - -	- - -	22 17 9
Denmark	20	400	84 11 7	- - -	315 8 5	- - -
Egypt	* 6	400	* 19 - 7	- - -	380 19 5	- - -
France	80	400	338 6 3	- - -	61 13 9	- - -
Greece	10	400	42 5 9	- - -	357 14 3	- - -
Holland	80	400	338 6 3	- - -	61 13 9	- - -
Luxembourg	1	400	4 4 7	- - -	395 15 5	- - -
Netherlands	30	400	126 17 4	- - -	273 2 8	- - -
Norway	6	400	25 7 6	- - -	374 12 6	- - -
Sweden	6	400	25 7 6	- - -	374 12 6	- - -
Switzerland	20	400	84 11 7	354 1 11	669 10 4	- - -
United Kingdom	550	400	2,325 17 10	- - -	- - -	1,925 17 10
Yugoslavia	* 550	400	2,325 17 10	- - -	- - -	1,925 17 10
Latvia	14	400	59 4 1	- - -	340 15 11	- - -
	1,583	£6,800	6,688 - -	354 1 11	4,340 15 4	3,874 13 5
					<u>£466 1 11</u>	

* Denmark was allocated 4½ Unites only for 1945/46.

SECRET

M. 107

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and seventh meeting

held on

June 5th, 1946.

In the Chair: Sir Robert CRAIGIE - United Kingdom

There were also

present: Colonel SPRINGER - United States (Observer)
Lieut. KINTNER
Mr. BRIDGLAND - Australia
accompanied by Mr. GLASHEEN
M. de BAER - Belgium
accompanied by M. GOLSTEIN
Mr. HORNE - Canada
Mr. DAO - China
Major FANDERLIK - Czechoslovakia
accompanied by Dr. MAYR HARTING
Dr. SCHRAM NIELSEN - Denmark
M. STAVROPOULOS - Greece
Sir Torick AMEER ALI - India
accompanied by Mr. DUTT
Commander MOUTON - Netherlands
Mr. BURDEKIN - New Zealand
Major PALMSTROM - Norway
Dr. SZERER - Poland
M. MARKOVIC - Yugoslavia

and
Colonel HALSE - Office of the Judge
Advocate General
Major THOMSON - A.G. 3., V.W.

MINUTES

The minutes of the 105th meeting were approved and signed by the Chairman. Amendments to the draft minutes of the 106th meeting were received from Mr. HORNE, Commander MOUTON, Mr. DAO, and Dr. ZIVKOVIC.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Professor Gros, for his absence in Paris. It is understood that he may not be able to attend the Commission meetings before next month.

M.107

WELCOME TO COLONEL SPRINGER AND MR. GLASHEEN

The CHAIRMAN welcomed Colonel Springer, who had come to attend the meeting as observer, and also Mr. Glasheen, representative of the Australian Department of External Affairs who would be attending the Commission's meetings with Mr. Bridgland.

INVITATION FROM U.S.A. TO SEND OBSERVERS TO DACHAU TRIAL

The CHAIRMAN referred to a letter which had been received from Lt. Kintner, extending to the Commission an invitation to send one or two observers to attend the forthcoming trial at Dachau. It would not be necessary for the same observer to remain throughout the whole of the trial. The U.S. authorities would like members who wished to go to communicate their names to Lt. Kintner through the Secretary General as early as possible. It was clearly most desirable that representatives of the Commission attend this very important trial if possible.

PUBLICATION OF REPORTS ON WAR CRIMES TRIALS

The CHAIRMAN referred to Doc. C.200, which had been circulated to members before the meeting, and the Report by Committee III in Minutes No. 12/46, which was handed round. He then asked Dr. Mayr-Harting if he had any comments to make.

Dr. MAYR-HARTING said that at the last meetings of the Commission, the question was discussed as to whether the publication of reports on war crimes trials should be undertaken by the Commission itself or whether it should be left to one of the firms which specialise in the reporting of trials. It was the general feeling that the work should be undertaken as far as possible by the Commission. At the last meeting of the Commission, Committee III was charged with reporting on Document C.200, which outlined the procedure to be followed in reviewing the reports and drafts compiled by the legal secretariat. Committee III was in agreement with the proposals of C.200 Section 2. He added that the task of Committee III was a preparatory and temporary one. Committee III was, in his opinion, too large a body for this particular task but he suggested that it should continue to operate until the return of Lord Wright, who might have in mind a smaller Committee. The Committee considered that the legal secretariat should be charged with drafting summarised annotated reports of all trials, other than those of major war criminals, regarding which the necessary information was available. They had recommended the appointment of a sufficiently qualified English lawyer to assist Dr. Schwelb and Dr. Litawski in the preparation of these reports. As to the publication of the summaries, Committee III thought it advisable first of all to contact Messrs. Hodge & Company to ascertain under what conditions they would undertake this work and it was hoped to report on this matter at the next meeting of the Commission. Sections 1 to 4 of C.200 were agreed and it was decided to adjourn discussion on Sections 5 - 8. It was felt that it would be more

had been judged immediately because it was more convenient to do so, and then application had been made afterwards for the inclusion on the List. He would like to propose that this procedure be accepted and that in the future, when such an event occurred, the accused should be placed on the list even if he had already been executed.

The CHAIRMAN thought this was desirable because the Commission's List should be as complete as possible.

M. STAVROPOULOS seconded this.

Mr. BURDEKIN asked whether, when such cases were put forward after the trial and it was requested they be put on our Lists, Committee I would deal in the same way as in cases where no judicial proceedings had been conducted.

M. DE BAER said he thought it would be considered as practically automatic because in his view the Court which was called upon to decide on a specific case was in a better position to judge than was the Commission.

The CHAIRMAN said that no question could arise after a man had been executed.

Mr. BURDEKIN asked what would be the position in the unlikely case when the Commission thought a man should have been acquitted.

M. DE BAER said that when a man had been sentenced by a regularly constituted court, in the usual form and with the guarantees provided by civilised justice, it was not for anybody to question the propriety of the sentence. Furthermore, the material on which the United Nations War Crimes Commission bases its decision as to whether there is a good prima facie case is far less complete than the evidence brought before a Court. If therefore the Commission thought that a man who was sentenced by a court should have been acquitted, he would suggest that the Commission held the wrong view.

COMMITTEE III

The work of Committee III had already been mentioned.

FINANCE COMMITTEE

Nothing special to report.

GENERAL PROPOSITIONS DEFINING THE TERM "CRIMES AGAINST HUMANITY" (Doc. C.201)

Document C.201 had been circulated with an explanatory note. The CHAIRMAN explained that this was in the nature of an interim report because the mandate of the Ad Hoc Committee was to report back to Committee I on types of cases which they considered should fall within the term Crimes against Humanity. A number of cases were needed in order to establish the pattern of

crime which was necessary if the crime was to fall within the term "crimes against humanity" and he suggested that members of the Commission should invite their National Offices to communicate with the Commission any case which would contribute to the pattern.

THE CASE OF THE ALLEGED ALSATIAN DESERTERS (DOC. C.202)

Dr. MAYR-HARTING said that when Committee III drafted their first report (Document C.174) they assumed that during the war Alsace Lorraine had been annexed by Germany contrary to international law and that they were of the opinion that the decisions of the courts who sentenced Alsatian deserters were in accordance with German law but contrary to international law. They thought that a decision based on municipal law could not be considered a war crime when no crime against humanity was committed. Certainly a municipal law does not justify a crime against humanity but if it led to an act to which a sovereign state would be entitled it would hardly be possible to consider such an act a war crime. Some members did not share in this opinion and the Committee redrafted their report. In the meantime Dr. Schwelb pointed out that no enactment concerning the annexation of Alsace Lorraine had been promulgated and that nothing could be gathered from the German law supporting the view that Alsace Lorraine was part of the German Reich. Alsace Lorraine could not therefore be considered German territory even under German law. Committee III accepted this opinion and felt that in this case the decisions of the courts must be considered as a war crime whatever Members' opinion might be in the case of illegal annexation. There was no doubt that an occupying power was not entitled to introduce compulsory military service. The new report did not deal with the question on which opinion was divided. It avoided the question.

The CHAIRMAN said he thought all members were in agreement with the report C.202 and hoped it would now be possible to adopt it and send it as the reply of this Commission to the enquiry made by the French National Office.

Lt. KINTNER said he noted that this report was based on the opinion which had been held by his office from the beginning and he therefore moved its adoption. M.de BAER seconded and the report C.202 was agreed unanimously.

PROCEDURE FOR SURRENDER OF WAR CRIMINALS, DOCUMENT C.203

The CHAIRMAN said that he personally felt considerable sympathy with Dr. Zivkovic's desire to get hold of wanted persons as quickly as possible. He was afraid, however, that the procedure which Dr. Zivkovic recommended might handicap much of the work which this Commission had done in establishing the procedure by which war criminals were only surrendered for trial as an exceptional measure if not appearing on the Commission's Lists. The general tendency of members was actually quite the other way. So far as the U.K. delegation was concerned, he thought they would prefer to leave matters as they were and only intervene if it were found that very serious delays were occurring or criminals were actually escaping as a result of the Commission's resolution (Doc. C.177).

M. DE BAER said he would like to support every word the Chairman had said. The Commission had been struggling to obtain the best results. He would have understood Dr. Zivkovic's point better had there been great delay, but as far as he was aware this was not the case. Decision by Committee I was taken within a week. If a case were urgent and if a Government were to ask to have a criminal listed by the Commission that very same week, the question could be placed before the Commission at the next meeting and a decision obtained in a very short time. He would like to ask our Yugoslav member how it came that he had made this proposal. Were there any people who had not been listed and if so why had they not been listed?

M. MARKOVIC said that the proposed change was intended only for practical purposes. It happened that the Yugoslav war crimes team had discovered several war criminals and wanted to collect them on the spot. It was necessary first to send the documents to Belgrade and communication was rather difficult. Some time must elapse before a charge could be sent to London for presentation to the Commission - perhaps two or three months - during which time the man was at liberty and could escape. That was the only question because Yugoslavia was in agreement with the resolution of the Commission. (Document C.177). He said they were only trying to find a way to solve this other question. He thought that some authorities were too strict and refused to apply any exceptions.

M. DE BAER said he wondered if the case could not be met if a resolution was made that when one of the liaison officers, or a Government, discovered a war criminal and there was no time for listing, the power who had the accused in custody would retain him until requested.

Dr. MAYR-HARTING did not think there was any need for this. Liaison officers had possibly to file wanted reports which would effect the arrest of the discovered war criminal. The fact that some delay occurred when the military authorities declined to surrender was mainly due to the national office itself when it bypassed the Commission and instructed merely the liaison officer to ask for surrender. He felt the correct procedure would be to submit a charge to the Commission and to notify at the same time the national investigating team. The investigating team could file a wanted report and no possibility of escape could occur.

Commander MOUTON said he was completely in agreement with Dr. Mayr-Harting and although he was sympathetic with the Yugoslav investigating team, he felt that if we accepted Dr. Zivkovic's proposal we would lose all we had struggled to achieve.

The CHAIRMAN said he was pleased to find that the military authorities were taking the Commission's resolution so seriously. He hoped M. Markovic felt that in view of the discussion and of the observations of M. de Baer, Commander Mouton

and Dr. Mayr-Harting there would not be much danger of a criminal escaping. There could be a kind of priority listing if the case was urgent, to avoid such delay as unavoidably arose from the circulation of the lists.

M. DE BAER said he thought this would be practical and he felt sure members of Committee I would all agree.

Dr. MAYR-HARTING agreed.

Mr. DAO said he remembered that on two occasions the Commission had given a special certificate.

The CHAIRMAN said that if there was a case which was so urgent that a special procedure should be adopted, then that case could be taken separately. He proposed a motion that national offices be informed that this exceptional procedure would be available for urgent cases.

M. DE BAER proposed and Commander MOUTON seconded.

The CHAIRMAN said that the Secretariat would draft and circulate to members a communication to this effect. Members would notify their national offices accordingly.

APPROVAL OF REPRODUCTION OF SUB-COMMISSION'S LISTS OF JAPANESE WAR CRIMINALS (LISTS 33-37)

Approval was given to the reproduction of the Sub-Commission's Lists of Japanese War Criminals, Lists 33-37 as circulated to members. It was agreed that Japanese characters may be omitted.

THE INVITATION TO THE U.S.S.R. TO JOIN COMMISSION

The CHAIRMAN reported that as agreed at the last meeting, he had tried to arrange an appointment with the Soviet Ambassador for the deputation of three who were to present the Commission's reply. It appeared that the Ambassador was in Paris and would be absent from London for at least a further two weeks but the Chargé d'Affaires was prepared to see the deputation. The CHAIRMAN felt however that it would be wiser to postpone the interview until after the return of the Ambassador. This was unanimously agreed. Dr. SZERER requested that if he should be out of this country when the interview took place, one of the other members who held the minority view on this question should take his place.

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REQUEST FROM PORTUGUESE EMBASSY FOR DOCUMENT C.61(1)

A draft reply to the letter of 23rd May 1946 from the Portuguese Embassy was read by the Secretary General and approved.

SEATS FOR VICTORY PARADE SATURDAY 8th JUNE.

Due to the fact that only fifteen single tickets had been made available to members of the Commission to view the Victory Parade and as members wished to be accompanied by their wives, it was decided to ballot for the tickets, the result being as follows:-

Dr. Schram Nielsen
Commander Mouton
Dr. Szerer
Major Palmstrom
Colonel Springer
Lieut. Kintner
Mr. Bridgland
M. Stavropoulos
Mr. Dao.

R. A. Craigie

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M. 108

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and eighth meeting

held on

June 19th, 1946.

In the Chair: Sir Robert CRAIGIE - United Kingdom

There were also present:

Lieut. KINTNER	- United States of America
Dr. LEMKIN	
Mr. BRIDGLAND	- Australia
M. de BAER	- Belgium
Mr. HORNE	- Canada
Mr. DAO	- China
Major FANDERLIK	- Czechoslovakia
accompanied by Dr. MAYR HARTING	
Dr. SCHRAM NIELSEN	- Denmark
Sir Torick AMEER ALI	- India
Major PALMSTROM	- Norway
Mr. BUPDEKIN	- New Zealand
Dr. LACHS	- Poland
Dr. ZIVKOVIC	- Yugoslavia

and

Colonel HALSE	- Office of the Judge Advocate General.
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MINUTES

The Minutes of the 106th Meeting were approved and signed by the Chairman. Amendments to the draft minutes of the 107th meeting received from M. de Baer and Dr. Mayr Harting will be incorporated in the final text.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Professor Gros, Commander Mouton and Dr. Szerer.

WELCOME TO DR. RAPHAEL LEMKIN.

The CHAIRMAN extended a welcome to Dr. Raphael Lemkin on behalf of the Commission, and said how glad the members were to have him attend the meeting.

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LORD WRIGHT'S MOVEMENTS

The CHAIRMAN reported that Lord Wright was on his way home and would arrive in the Queen Mary due at Southampton next Wednesday 26th June about 9 a.m.

REQUEST FROM CZECHOSLOVAK GOVERNMENT FOR ISSUE OF EXTRADITION CERTIFICATE

A written request was submitted from the Czechoslovak Government for the issue of a certificate to the effect that the United Nations War Crimes Commission had found that there was a prima facie case against Wilhelm Bruening, Charge Z-29/46 U.N.W.C.C. No:2981/CZ/G/60 and that he had been placed on its list of War Criminals.

The request was granted and the Secretariat was instructed to issue the required certificate.

PUBLICATION OF WAR CRIMES TRIALS REPORTS

The CHAIRMAN asked Dr. Mayr-Harting to report.

Dr. MAYR-HARTING said that at the last meeting he had reported that Document C200, which contains proposals regarding the publication of war crimes reports, had been discussed and that sections 1 - 4 of this document had been agreed. At the Committee Meeting yesterday discussion of Document C200 had been continued. First as to the question as to who should be entrusted with the publication of our summaries. The members would remember that the publishing firm Messrs. Hodge and Company were prepared to print and publish the Commission's summaries as part of the whole task of trial reporting. On the other hand, H.M. Stationery Office has shown great interest in the publication of these summaries and there were many arguments in favour of entrusting the Stationery Office with the work. At yesterday's meeting of Committee III Mr. Plumbly of the Stationery Office, informed the Committee about the practical possibilities of printing, publishing and circulation. The most practical suggestion seemed to be to publish the reports in volumes of about 140 pages, each volume containing the reports on 6 or 7 trials and costing 2/6. The Stationery Office would act as agents for the Commission. Publication by the Stationery Office would certainly bear a more official character than publication by a private firm and would command a much wider circulation and publicity. Samples of Stationery Office covers and binding had been examined and were found to be satisfactory. The Committee accordingly had asked the Secretary General to arrange a contract with the Stationery Office and he now proposed that the Commission should approve this decision. This was unanimously agreed. Dr. Mayr-Harting added that the Committee would, at their next meeting, consider the second series of fuller publications and

To page 3.

also the third series of popular publications. In this connection the Committee had asked the Secretary General to contact Messrs. Penguin Books Ltd, and it might be possible to give a fuller report at the next meeting.

Dr. ZIVKOVIC said that he was not present at the last meeting and he wished to raise a technical question. He pointed out that the Commission was the only international body which used only one language and he suggested that the Commission's official publication of trials should be in French as well as English.

The CHAIRMAN replied that this point had been considered but the Committee had felt, that in order that there might be no undue delay in starting the publication of reports, they should be done in the first place in English only. It was felt also that in view of the difficulties of translation a simultaneous publication in French would result in considerable delay. Members would appreciate that in view of the differences between English Common Law and Continental Law anyone undertaking the work of translation would need not only to be bi-lingual, but also to have a thorough and professional knowledge of the differing legal outlooks.

Dr. ZIVKOVIC said that he still felt that if publications were to be issued in the name of the Commission, the practice of the United Nations Organisation should be followed, viz. English and French editions. If, however, they were to be issued in the name of the Stationery Office that would perhaps be another matter.

The CHAIRMAN said that the Commission's publications were really not quite comparable to those of UNO. It was hoped that the trial reports would be published in other countries as soon as possible, and he expressed the opinion that the Secretariat of this Commission were not in a position to undertake the publication of French editions. He undertook to contact Professor Gros with a view to arranging for the French authorities to collaborate in the issue of a French edition as early as possible.

Mr. HORNE supported Dr. ZIVKOVIC's proposals for a French edition, which he said would be very valuable in Canada. The CHAIRMAN had pointed out that a translator would have to be familiar not only with the language but with the fundamentals of the matter which he was translating. This, together with other factors, might produce the result that only some national governments would undertake national translations, or would alternatively produce literal translations by unqualified translators. In the latter case the translation could not be considered authoritative by the Commission and therefore a lawyer, politician or student using that language would have to fall back upon the reports authorized by the Commission. In the event that such a person was more familiar with French than with English, as might well be the case, the Commission might consider this as favouring the proposal of Dr. Zivkovic.

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ISSUE OF EXTRADITION

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The CHAIRMAN said that there was no doubt that the tendency would be for a greater proportion of cases to come before Committee I in future. He pointed out that this entailed a considerable burden on Committee I and particularly on the Secretariat of the Committee, and he wished to take this opportunity of saying how greatly he appreciated the very hard work which was being done by Dr. Litawski and his staff.

MEMORIAL TO FOUR BRITISH WOMEN PARATROOPERS.

The CHAIRMAN said that Members might have seen in the "Daily Sketch" some reference to a suggestion that a memorial should be erected to the four British women who were killed and cremated at Natzweiler Concentration Camp. The suggestion had originated from Mr. Gibson who had conveyed the idea to Lord Kemsley in a personal capacity. Mr. Gibson explained that the impression given in subsequent publicity in the Daily Sketch that the scheme was sponsored by the Commission was entirely unauthorised and was due to a misapprehension on the part of the Daily Sketch writers. He had therefore taken steps to have this apprehension corrected.

Sir Torick AMEER ALI said that it was quite understandable how the mistake had occurred, but he thought members would appreciate that it had occurred inadvertently and that adequate steps were being taken to correct it.

PROCEDURE FOR SURRENDER OF WAR CRIMINALS

Dr. ZIVKOVIC said that he regretted that he had been unable to attend the previous meeting when his proposal Doc.C.203 (Surrender of War Criminals) was discussed. He expressed surprise at the decision taken by the Commission to reject his proposal. His motion was submitted merely with a view to giving a correct interpretation to the Resolution adopted by the Commission. That Resolution was adopted in order to prevent the following rule becoming unreasonably widely applied: namely the rule laid down in the instructions issued to the military authorities, according to which war criminals not listed by the Commission were also to be handed over under certain conditions.

With this motion he wished to prevent another unreasonable issue, that of seeing the Resolution too narrowly applied as regards the rule of the exceptional surrender of criminals not listed by the Commission.

When criminals were located it was only natural to have them handed over without delay where their case was clear, and the subsequent transmission of the charge to the Commission as provided for in the Resolution would secure the purposes aimed at by the Resolution. Leaving things as they were would mean that great delay would be caused in the surrender of the already traced war criminals, for reasons which, in his opinion, were not justified, and that to the prejudice of the agreed policy that war criminals should be brought to justice promptly.

After considerable discussion the majority of members agreed that the present procedure was satisfactory and was calculated to serve the best interests of the Commission. Colonel Halse offered to assist Dr. Zivkovic to overcome the present embarrassing delays due to poor communications, by taking advantage of an arrangement which had already proved of benefit to the Polish authorities, namely to send any communications through the offices of the British military authorities.

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6th August, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

July 19th, 1946.

Chairman: Sir Robert CRAIGIE
later, Lord WRIGHT.

also present: Lieut. KINTNER	United States of America
Mr. BRIDGLAND	Australia
M. de BAER	Belgium
Mr. HORNE	Canada
Major FANDERLIK	Czechoslovakia
accompanied by	
Dr. MAYR-HARTING	
Dr. SCHRAM-NIELSEN	Denmark
M. P. MAILLARD	France
M. STAVROPOULOS	Greece
Mr. DUTT	India
Commander MOUTON	Netherlands
Mr. BURDEKIN	New Zealand
Dr. SZERER	Poland
Dr. ZIVKOVIC	Yugoslavia
accompanied by	
Dr. MEZULIC	
M. KLEMENCIC	
Colonel HALSE	Office of the
Lieut. Col. SAVILL	Judge Advocate General.
	AG3 V/W

LORD WRIGHT

Sir Robert CRAIGIE said that Lord Wright, who was unable to be present until later on in the meeting, had asked him to act as Chairman until his arrival and hoped that would meet with the approval of the members present.

MINUTES OF 107TH MEETING

Minutes of the 107th meeting were approved and signed.

MINUTES OF THE 108TH MEETING

Draft minutes of the 108th meeting had been circulated and amendments, received from Mr. Horne and Dr. Zivkovic, would be incorporated.

APOLOGY FOR ABSENCE

An apology for absence was received from Sir Torick Ameer Ali.

The CHAIRMAN welcomed M. P. Maillard, who would take Professor Gros' place during the latter's absence in Paris. He felt sure that the Commission would benefit from his help and advice. He also welcomed Dr. Mezulic and M. Klemencic, assistants to the Yugoslav representative.

LETTER FROM DR. SZERER RE MASS RELEASE OF SS MEN (DOC C 209)

The CHAIRMAN referred to a letter, dated 8th July, 1946 from Dr. Szerer (Doc C 209) which had been circulated, concerning a report of a mass release of SS men and asked Dr. Szerer if he would like to amplify this.

Dr. Szerer said that his letter concerned some disquieting news which had reached him during his stay in Warsaw which alleged that mass releases of SS men were being made and he would like to know if this was in fact the case. He added that M. de Baer had expressed a similar uneasiness of mind. He appreciated the fact that prisoners of war constituted an enormous burden on the occupying powers, but suggested that it would be inappropriate to release potential war criminals prior to the declaration from Nuremberg regarding the criminal character of these organisations. He suggested that there might be a middle way.

The CHAIRMAN said that so far as he knew no releases were being made in the British zone.

Colonel HALSE said that the Control Commission (British element) were at present discussing who of the many people now held in protective custody should be released. The conclusion had been reached that the Waffen S.S. was not likely to be declared a criminal organisation and accordingly it was not proposed to retain all personnel in the Waffen SS. All members of the Allgemeine SS were, however, being retained. Quite a large proportion of the members had been conscripted into the SS and it might be assumed that every member of the SS had been listed. If any man was listed with CROWCASS or with this Commission he would certainly not be released.

The CHAIRMAN said that probably that was just the assurance which Dr. Szerer was seeking. As, however, the Commission was continuing to list people it might mean that a certain number of SS people might be released now who would afterwards appear on the list. He wondered therefore whether it would be possible to track down such persons after release.

Colonel HALSE said that every man must give an address on release and that so long as he did not leave the British zone it would be possible to find him. There was, however, no way in which such a person could be prevented from leaving the British zone.

Lieut. KINTNER said that he had gone to some trouble to check whether in fact SS men were being released in the American zone. He had contacted Colonel Micklewaite, who is now the Theatre JAG for the U.S. Army, and the latter had verified the information that Dr. Szerer already possessed. Release of SS men in some categories under the rank of Unterscharfuhrer were being released, but Colonel Micklewaite was unable to say whether 16,000 had been released from Dachau. He stressed, however, that releases were only being made after considerable discussion and along lines of a definite policy. He would be very interested to have the comments of this Commission and would see that they were passed on to the proper authorities responsible for determining the policy of releasing SS men. He suggested that if the Commission desired to

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take a stand on this question, he would send a copy of the
minutes to Colonel Micklewaite for delivery to the proper
quarter, but in addition, he suggested that the Chairman of the
Commission might make representations in writing to Colonel
Micklewaite on the matter.

Dr.ZIV OVIC suggested that a letter might be sent
to both the British and American authorities asking them
when releasing SS men, if they could continue to keep in touch
with the men until the Commission's lists were complete.

The CHAIRMAN said he wondered whether it would be
possible to make arrangements for SS men to report periodically
to the occupying authorities in their local towns in order that
trace of them might not be lost.

Dr.SZERER said that he realised that releases were only
made after most careful consideration of policy, but he still felt
it was disquieting that men should be released without consideration
of their individual deeds, but solely according to their rank. He
stressed that the work of the investigating teams was not yet
complete and they might find many wanted criminals among the SS men.

Lieut.KINTNER said he felt sure that no one was being
released who was suspected of being a war criminal, or who had
been listed by the Commission, or by CROWCASS or was the subject of
a detention report.

The CHAIRMAN said that it was now a question of the
future - whether some persons subsequently listed by the Commission
might not have been among those released. He suggested that the
Commission might request the occupying powers to make arrangements
to have all released persons report periodically, for the next
six months.

Dr.ZIVKOVIC supported the Chairman's proposal.

Commander MOUTON seconded it.

Dr.MAYR-HARTING reminded the Commission that one or
two whole Divisions of the Waffen SS had been listed, and asked
whether it was known whether any members of these Divisions were
among those being released.

The CHAIRMAN suggested that if the Commission adopted
his proposal they should not write formally to the occupying
authorities but the United States, British and French representat-
ives should pass on to the authorities concerned the suggestion
of the Commission making it clear that it was put forward merely
because the Commission was anxious that criminals who might
subsequently be placed on the Commission's lists should not be
lost due to the present policy of release.

Major FANDERLIK said that from discussions he had
had some time ago with the American authorities he knew that the
present policy had been under discussion for a long time. He
suggested that the Commission should enquire whether it was only
men of the Waffen SS who were being released.

Colonel HALSE said that so far as he was aware, in the
British zone, members of the Waffen SS were being released, but at
no time had it been the intention to release members of the
Allgemeine SS. He stated that the British also were very inter-
ested in one or two Divisions of the Waffen S.S.

Lieut. KINTNER said that he was unable to state whether this was the case with releases in the American zone. He thought it might be well if the Commission would have the opinion transmitted to the American authorities that they had understood that only Waffen SS were being released and that they would look with very great concern upon the release of any other SS men.

Dr. SZERER asked whether it would not be wise to ask the British and American authorities for a definite statement as to exactly who was being released.

The CHAIRMAN said he thought the Commission should also make the suggestion that it was understood that releases were confined to the Waffen SS and that appropriate machinery should be set up to keep in touch with the men so released.

Mr. BURDEKIN asked whether in fact this would be practicable.

Colonel HALSE did not think there would be any objection to making such a suggestion.

TRACING AND SECURING THE SURRENDER OF ALLEGED WAR CRIMINALS(DOC.C 210)

M. de BAER said he wished to express his appreciation of the very complete way in which the various Offices concerned had answered the various points which he had submitted. He believed that these answers would help in clarifying the whole position. He also wished to express his appreciation for the work of the excellent staff which is engaged in the detection of war criminals in Germany. They had proved most efficient and he was most grateful for the help which the occupying authorities had given to the various liaison teams. The only question was whether the existing machinery could be improved, supplemented or developed. He realised that it was impossible to envisage at this stage the setting up of a central agency for the tracing and detention of war criminals, which had been recommended as far back as 1943. The zone system prevented that, and it was impossible to alter that now. It was now clear that it was the liaison officers who were responsible for the detection of and searching for war criminals. It was also clear that there was no automatic follow up action in respect of persons listed. Therefore it is the responsibility of each Government to take such steps as are necessary to locate, identify and detain such war criminals as they are interested in. As to the mass release of SS men he welcomed the assurance that had been given that no person listed had or would be released. He also welcomed the proposals to oblige suspects to report periodically to the local authorities. As he had no further communication from his Government and as he realised the immensity of the task of the occupying powers he was satisfied with the answers received and the explanations given. He therefore proposed to inform his Government that it was too much to hope that all the war criminals listed could be discovered and brought to justice, and to suggest to his Government that when they had any particular interest in a certain prisoner, or a number of prisoners, they should try to identify them as completely as possible and press the liaison officer to discover their whereabouts.

Dr. ZIVKOVIC said that in connection with the question raised by M. de Baer there was also the question of CROWCASS to consider. He had recently received back a list that he had sent to Germany as "address unknown" and he wondered whether in fact CROWCASS had moved to Berlin.

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Colonel SAVILL said that CROWCASS had moved to Berlin and, in consequence of the reorganisation which was taking place, it would be impossible to expect them to start functioning again for another two months.

At this point Lord WRIGHT joined the meeting and received a warm welcome from all the members of the Commission.

Lord WRIGHT requested Sir Robert Craigie to continue to act as Chairman until discussion on the subject under review had been concluded.

Sir Robert CRAIGIE said that from the statement of M. de Baer we could assume that the correspondence which had been circulated (Doc.C 210) threw a light on exactly what was happening and answered many of the questions which we had in mind with regard to the procedure. Large numbers of names were added to the list week after week and yet, under the present system, there was no prospect at all of the investigating teams being able to investigate even a very small proportion of these names. In any case they were not in a position to investigate automatically any name that appeared on our list. Sir Robert suggested that it was for each Government to concentrate on the people they particularly wanted to see arrested and where there were no investigating teams in that zone, we ought to try and help the countries concerned. It had occurred to him that where there was no liaison officer and no investigating team the country concerned should inform either himself, if it concerned the British zone, Lieut. Kintner the American zone, or M. Maillard the French zone, and if it were at all possible to track down these individuals, the military authorities in the respective zones would, he felt convinced, do everything possible to assist people.

Colonel SAVILL informed the Commission that the military authorities would certainly help, but it would be of assistance if a special priority list of names was sent, when they would make particular efforts to find them. He stressed that the number of these special requests should be kept small.

Colonel FALSE said that if any country had any suspicion that a wanted war criminal was in British custody, and if they supplied the name, a search would be made by the Prisoners of War Information Bureau.

Dr. ZIVKOVIC said that he entirely agreed with Sir Robert Craigie's proposal and he suggested that everyone of the members should present a list of these war criminals who were wanted by the respective governments.

Dr. SCHRAM-NIELSEN seconded this proposal.

Lieut. KINTNER said that he wished to point out that where there were liaison teams in the zones, he felt that no further burden should be put on occupying powers.

M. STAVROPOULOS said that this was the point that he had tried to raise in his letter. Some countries were without teams and it was for this reason that he had suggested the setting up of a detection administration.

Dr. SCHRAM-NIELSEN said that Denmark had liaison officers but no teams and as there were only a few officers they would not be able to undertake a real search for war criminals.

Lord WRIGHT said that all members were agreed that we should all help each other in this work as much as possible. He understood that some countries might have liaison officers but no teams and in the same zone area there might be a liaison officer of other countries with teams. He suggested therefore that the countries with both liaison officers and teams should do what they could to help those countries who have liaison officers with no teams. He asked whether the Army representatives present thought this would be practicable.

Colonel SAVILL said that so far as the British were concerned this was a perfectly practicable suggestion.

Sir Robert CRAIGIE said that reciprocity was required in the work of tracing and detection and in particular that those countries who were better equipped with machinery for detection should help those that are less well equipped. Where a country had a special reason for desiring to track down any particular war criminal and where it had experienced difficulty in meeting with any success, then the name or names should be submitted to the appropriate representatives of the Commission and the country in whose zone the criminal was believed to be. The representatives concerned would then undertake to forward these names to the appropriate military authorities, such procedure being subject to the over-riding request that the numbers demanded be kept as low as possible.

Lieut. KINTNER said that the U.S. Office had, in fact, for some months past been doing just what was now suggested. He mentioned that Dr. Szerer had put in several requests and that although not all the searches had been successful great pains had been taken and in some instances it had been possible to trace the wanted criminal.

Dr. SCHRAM-NIELSEN asked whether it was possible for war criminals to move from one zone to another.

He said that most of the War Criminals from Denmark were probably in the British zone and asked whether it would have been possible for them to go to another zone.

Colonel SAVILL replied that if they were prisoners they would still be in the British zone, unless they had been temporarily exchanged with the Americans for purposes of interrogation. There was nothing to prevent persons at large from moving from one zone to another.

Dr. ZIVKOVIC agreed with Sir Robert Craigie's proposal that when a government wanted a particular criminal they should apply directly to the country controlling the zone where this person was thought to be, and that the occupying authorities would then do their best to find him.

At this point Colonel Halse and Lieut. Colonel Savill left the meeting.

Lord WRIGHT now took the Chair.

JURISDICTION OF THE COMMISSION OVER WAR CRIMES COMMITTED
PRIOR TO SEPTEMBER 1939 (DOC C 212)

Sir Robert CRAIGIE referred to Doc. C 212, which had been circulated, and which contained the exchange of

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WAR CRIMES COMMITTED

ferred to Doc.C 212, which gained the exchange of

questions and answers in the House with regard to the jurisdiction of the Commission over war crimes committed prior to September 1939. He felt that the Commission should discuss the matter as there would undoubtedly be further reference to it in the House of Commons. In his opinion it would be a mistake to encourage the Ethiopian Government to submit cases for consideration if, afterwards, the Commission decided they had no jurisdiction over crimes committed before September 1939. His own view was that, except as regards crimes against humanity, the Commission should, normally, only deal with crimes arising out of the late war. He understood that the main charge likely to be brought by the Ethiopians was the use of gas. This was a war crime and a breach of the conventions, but it was also a crime against humanity. The question remained as to whether the Commission should limit itself to crimes committed during the late war; if not, it would have to be decided just how far back they were prepared to go.

The CHAIRMAN said that most people now felt that it was all one war and mentioned that the Far Eastern Commission had gone back as far as 1935.

Dr. ZIVKOVIC said that he felt that it was clearly all one war, waged by the powers who formed the so-called Axis, and accordingly the Commission should prosecute all criminals in that war - he saw no legal difficulties.

The CHAIRMAN thought it would be a good thing to have a carefully considered legal opinion. There were questions of international law involved, and also practical difficulties in bringing cases from the Abyssinian war of 1935 within the scope of the courts. He did not imagine the United Nations would care to create new courts. It might be thought that as Italy was an aggressor and as Italy was one of the nations proceeded against, a special military court might have to be established.

M. de BAER said he would support that view.

The CHAIRMAN then reminded members of a passage in one of Mr. Eden's letters at the time when the Commission was constituted stating that the Commission ought not to be too anxious to curtail its jurisdiction or to take too narrow a view of its powers.

Dr. ZIVKOVIC suggested that Committee III should be asked to examine the question as a priority.

COMMITTEE III

The CHAIRMAN enquired as to the reasons why the Law Reports had been referred to Committee III. He had been under the impression that an Ad Hoc Committee was to be formed to deal with this matter.

Sir Robert CRAIGIE explained that the proposal to form an Ad Hoc Committee had been postponed until Lord Wright's return as it was known that he had given considerable thought to its composition.

The CHAIRMAN said that his idea had been that there should be a Committee consisting of Sir Robert Craigie, M. de Baer, Dr. Mayr-Harting and Lieut. Kintner, on which he hoped he might also participate.

Dr. ZIVKOVIC supported this suggestion.

Sir Robert CRAIGIE said that he wondered whether it might be wise to postpone the appointment of such a Committee until the first volume, on which Committee III had been working, had appeared.

The CHAIRMAN said he felt Committee III should be relieved of its duties in respect of the Law Reports in order that they might be prepared to take up the Abyssinian question as soon as possible.

It was agreed that Committee III should try to finish its work on the first volume of Law Reports within the next two weeks and that, thereafter, they should begin an intensive study of the Abyssinian question.

INVITATION TO THE USSR TO JOIN THE COMMISSION

The CHAIRMAN asked Sir Robert Craigie to outline what had happened in connection with the invitation to the USSR to join the Commission.

Sir Robert CRAIGIE said that when the matter was last discussed a resolution was drawn up, in which the terms of a suggested reply to the Soviet Government were incorporated. As the terms of this resolution might not have been acceptable to all the members and in order to avoid a vote which it was evident would not be unanimous, it was proposed that a deputation, consisting of M.de Baer, Dr.Szerer and himself, should call on the Soviet Ambassador and explain to him the difficulties of the case. M.de Baer and he would speak in the sense of the majority and Dr. Szerer would speak for the minority. This plan had, however, been upset owing to the Soviet Ambassador being in Paris and there was no sign of his returning to this country in the immediate future. The question now was whether the deputation ought to call on the Chargé d'Affaires, instead of the Ambassador? He stressed that a reply must be sent soon, by one means or another, otherwise we should be guilty of discourtesy.

At this point M.Stavropoulos left the meeting.

The CHAIRMAN said he did not think that, as representing the Commission, Sir Robert Craigie should call upon the Chargé d'Affaires, nor did he think that this Commission should carry on negotiations with anyone but an Ambassador personally.

Sir Robert CRAIGIE said that it was a question of procedure, because, although no vote was taken, a large majority were in favour of a reply on the basis of the document. It was just a question of how the reply should be conveyed.

Lieut.KINTNER said that since the matter had come up again he was instructed by his Government to state that they felt that any statement of the Commission's attitude of this whole question should be put in writing rather than be communicated orally.

The CHAIRMAN asked whether the United States Government would be satisfied with a simple statement that the Commission could not accede to the Russians being invited on the basis of their having eight votes.

Lieut.KINTNER replied that his Government were in complete agreement with the proposal put forward by Sir Robert Craigie in his proposed draft answer and that they had already so expressed themselves. He merely added that his Government felt that these views should be conveyed in writing rather than orally.

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Dr. ZIVKOVIC said he would like to remind members
that the proposed visit to the Soviet Ambassador was adopted
as a method of procedure because it was thought that this was
a better way at the time to reach a satisfactory solution to
the question. He felt that as a good deal of time had elapsed
and it had not been possible to arrange the meeting, a prompt
reply should be sent to the Soviet Government. Everyone knew that
he and his colleagues from Czechoslovakia and Poland were proposing
to vote against the proposed resolution. He did feel, however,
that a prompt reply should now be sent.

At this point Lieut. KINTNER left the meeting.

Dr. MAYR-HARTING said that he understood that the
Chargé d'Affaires had been informed that a delegation might visit
him. He felt that it would be difficult to explain why the procedure
had been changed and therefore he preferred to keep to the procedure
agreed upon earlier.

Sir Robert CRAIGIE considered that all it was necessary
to say to the Soviet Chargé d'Affaires was, that on further consider-
ation, the Commission had decided to send a reply by the same method
as they had received the Soviet letter, namely through diplomatic
channels.

Dr. ZIVKOVIC proposed that a vote be taken.

Dr. SCHRAM-NIELSEN said that he knew his Government would
warmly welcome the collaboration of Soviet Russia but to his great
regret he was without instructions from his Government on this
particular point and accordingly, he must abstain from voting.

A vote was then taken. Those in favour of the Draft
Resolution - 10, - Sir Robert Craigie, Lt. Kintner, Mr. Bridgland,
M. de Baer, Mr. Horne, M. Maillard, M. Stavropoulos, Mr. Dutt, Commander
Mouton, Mr. Burlekin. Those in favour of accepting the Russian
proposal in its original form - 3, - Major Fanderlik, Dr. Szerer,
Dr. Zivkovic. Sir Robert Craigie undertook to confer with the Foreign
Office as to the method of presenting the Resolution to the USSR.

COMMITTEE I

M. de BAER pointed out that as it was essential
that the Commission's Lists of War Criminals should be published
in the speediest possible way he suggested that the Commission's
sanction of the Lists prior to printing them should be omitted
and proposed that when Committee I had unanimously accepted cases
the List including such cases should be published forthwith. The way
in which he proposed to reserve the rights of the Commission was
that if by extraordinary one country does not agree to the inclusion
of a criminal in the list, then it will be open to that country to
put the matter before the Commission.

Such a change in procedure would necessitate that
the National Offices concerned would be requested in future to
sign immediately after inspection of proofs special forms author-
ising the Secretariat to publish each current List, provided the
necessary corrections were inserted. Then the Lists would be sent
direct to the Stationery Office for printing and circulated
without delay. The formal sanction of the Commission would be
sought only after the printed Lists were circulated and any further
corrections and amendments made by the Commission would be inserted
in each subsequent List.

Dr. ZIVKOVIC said he wished to support M. de Baer, so
much the more as all members were aware of how efficient Committee I's

work had been and he proposed that the Commission rely on the Committee for the Lists. He supported also the proposal that Lists should be issued forthwith on the fiat of the National Offices concerned and the lists should be approved by the Commission after the prints were circulated.

After some further discussion it was agreed to adopt M.de BAER's proposal.

M.de BAER then reported that some urgent Yugoslav cases had been submitted that morning. It was thought that the criminals concerned were at the present time in custody and the Yugoslav Government would like to have them delivered without delay. He proposed that as there was no time to go into the details and as the criminals had been unanimously listed by Committee I the Commission should comply with the request of the Yugoslav Government and issue the necessary certificates.

M.de BAER then said that in view of the fact that the Commission would probably take some holidays during the month of August, he suggested that Committee I should be given authority to issue certificates in such exceptional cases provided its decision had been taken unanimously.

Lord WRIGHT said he felt sure the Commission would be prepared to accept any decision arrived at by Committee I during the holiday period.

Both the above mentioned proposals were agreed.

Wright.

SECRET

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UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

July 31st, 1946.

Chairman:	Lord WRIGHT	Australia
Also present:	Sir Robert CRAIGIE	United Kingdom
	Lieut. KINTNER	U.S.A.
	Mr. BRIDGLAND	Australia
	M. de BAER	Belgium
	Mr. HORNE	Canada
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr. MAYR-HARTING	
	Dr. SCHRAM-NIELSEN	Denmark
	M. P. MAILLARD	France
	Sir Torick AMEER ALI	India
	Commander MOUTON	Netherlands
	Dr. SUND	Norway
	Dr. SZERER	Poland
	Dr. MARKOVIC	Yugoslavia
	accompanied by	
	Dr. MEZULIC	
	Lt. Col. BARRATT	Office of the Judge Advocate General.

MINUTES OF THE 108TH MEETING

Minutes of the 108th Meeting were approved and signed

MINUTES OF THE 109TH MEETING

Draft minutes of the 109th Meeting had been circulated and amendments received from Sir Robert Craigie, Monsieur de Baer, Dr. Schram-Nielsen, Lieut. Kintner and Dr. Mayr-Harting would be incorporated.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr. Dutt, Mr. Burdekin and Mr. Dao.

LORD WRIGHT'S VISIT TO NUREMBERG & TOKYO

Lord Wright gave a brief account of his visits to Nuremberg and Tokyo. He had been able to make only a very short visit to Nuremberg, where he heard the speech of the Attorney-General, Sir Hartley Shawcross. He was unable to hear Mr. Justice Jackson, as he did not get there in time, and had to leave before the other speeches, French and Russian, were delivered.

From his seat at the British prosecuting table, Lord Wright was able to observe the criminals at close quarters. What struck him most of all was the extraordinary change that had taken place in them. Formerly, they were jaunty, cheerful and somewhat insolent, but none of these qualities seemed to be obvious in their expressions or their manner now. They listened intently to the catalogue of their crimes and shortcomings. Whether they were merely annoyed, conscience-stricken or suffering from the effects of about ten months in the prison precincts, he did not know, but he would not be readily disposed to think they were conscience-stricken. Ribbentrop seemed to be very much overcome. Lord Wright said that proceedings were now taking place against the Nazi Organisations and when they are concluded, possibly in three weeks' time, there would be a conclusion of the hearing and an interval of perhaps two or three weeks, to enable the court to reach their final decision, when the judgment will be pronounced and the sentences, if any, promulgated. Everything in the courtroom went smoothly and with dignity and the presiding judge seemed to have the whole of the court well under his hand and prepared to abide by the rulings. As a matter of fact, there was no question of ruling, so that did not arise. The whole atmosphere made one feel that everything was proceeding in the most business-like and dignified manner.

Turning to his visit to Tokyo, Lord WRIGHT said that it would be a long story to relate his adventures or lack of adventures on the journey. He stopped at Washington on his way out and had the privilege of giving a short address to the members of General Green's staff and the privilege of giving a short address to the Far Eastern Commission. Lord Wright had not a shorthand note of his first address, but Mr. Bridgland had promised a copy of the second, which, as yet, had not come to hand. When it did arrive, and if it was thought worthwhile, it would be circulated to members.

Lord WRIGHT informed members that he had also written a supplement to the article he wrote for the Law Quarterly Review, and the publishers had promised to publish it in October.

In Tokyo itself, Lord Wright found things proceeding rather well. The Indictment had been read and the defendants pleaded not guilty and then there was a considerable interval. Naturally they wanted some time to study the Indictment and then later, the American Government felt that they ought to make provision for the defence of these defendants, that is, for those of them who were able to plead. There was one somewhat sprightly individual who slapped one of his fellow prisoners on the head. This defendant however had now retired from the scene and it had been certified that he was not capable of following the proceedings. The one who struck him as a really strong person was Tojo.

The courtroom, which he thought was slightly bigger than Nuremberg, was modelled on the same arrangements. There were eleven judges, but as one of them had retired, they had now appointed another, a General Kraemer, who was head of the J.A.G. Branch and who seemed to be a very able and judicial person. There was some objection raised against his appointment but this was overruled by a majority. Lord Wright expressed the opinion that it was a pity the court could not have been of accord on this point.

There had been some difficulties owing to the Court House not being sufficiently air-conditioned. This difficulty had now been surmounted and he had received a letter since his return from the presiding judge, Sir William Webb,

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in which he spoke very cheerfully of everything. He said
the prosecution was being well conducted by the counsel
which the American Government had sent out, twenty six
qualified, and in some cases distinguished, lawyers. Sir
William Webb expressed the opinion that the trial would
not end until the end of the year, but a lot depended on the
extent to which the particular defendants would wish to give
evidence. Mr. Comyns Carr was a tower of strength, and the
American counsel were working very hard. General MacArthur
was taking a great personal interest in everything that was
going on and Lord Wright had found him extremely able and
sympathetic.

Lord Wright said he ought to mention that at
Nuremberg, he was pleased to see his old friend Dr. Eger,
who told him how very pleased he was with the speech of the
British Attorney-General, in which he recognised several
principles of the Commission. Generally, he seemed extremely
cheerful and said he hoped to be coming over to London soon.

ATTENDANCE AT NUREMBERG

Dr. SZERER asked if it would be possible to make
arrangements for Members of the Commission to go to Nuremberg
as a body, on the final day or days of the Trial, to hear the
judgment pronounced.

Lord WRIGHT thought that for this purpose the Secretary-
General should get in touch with the appropriate authorities
and explore the possibilities.

While each Member Government had a seat allotted to
it in Court, Lord WRIGHT thought there would be difficulties
over transport and accommodation. However, everything that
could be done would be done.

CRIMES PERPETRATED BY THE GERMAN MEDICAL PROFESSION

Dr. SCHRAM-NIELSEN said there was a general feeling
amongst scientists in Denmark that it would serve a very
useful purpose to have a survey made of the crimes perpetrated
by the German Medical profession. The so-called scientific
results which were achieved by the Germans during the Nazi
régime were methods of extermination. In the opinion of the
Danish Medical profession, these crimes should be made known
throughout the world. The CINFO Report No:5, which had been
circulated as Documents Series No:44, was not full enough for the
Danish Medical profession. In the first place, it is a confid-
ential report; secondly it is a preliminary report; and thirdly,
information from all possible sources was not included in the
survey. Dr. Schram-Nielsen therefore moved, that the Commission
ask the Secretariat to take the necessary steps with a view to
compiling a survey of the crimes committed by the German Medical
profession during and just prior to the war, in the concentration
camps and elsewhere, especially in regard to medical experiments
carried out on human beings.

The CHAIRMAN said that he felt sure the Commission
was very grateful to Dr. Schram-Nielsen for raising this very
important question. The matter had been examined by Lieut. Col-
onel Wade, Dr. Schwelb and Dr. Litawski and a memorandum had been
prepared. He thought perhaps it would be best if the Commission
appointed a Committee consisting of Lieut. Colonel Wade, Dr.
Schwelb and Dr. Litawski and any other members the Commission
thought fit, with Colonel Ledingham acting as Secretary. The
task of this Committee would be to assemble all the documentary
reports and material, partly from trials and partly from scientific

documents which would explain exactly what had been done. Even if limited to documentary material, it would be a tremendous task, and although the Chairman had great faith in the gentlemen mentioned above, it would not be fair to overload them. It was very important to look after the business of Committee I, with General de Baer always stoking the flames, ably assisted by Dr. Mayr-Harting. Then there was the question of the publication of the Law Reports.

A Report might be prepared by the Committee referred to, purely as an experiment, or perhaps the Commission would prefer to transfer the duty to them straight away, of entering into the subject with the assistance of some members of the Commission and producing a final report. It was not a thing which could be done in a hurry, but if it could be done with the present resources of the Commission it would be of great value indeed.

Lieut. Colonel WADE said that from a survey which he had made for himself, he had noticed how very technical the material was, but he did not believe the report called for would serve any useful purpose unless it were undertaken by a medical expert. He thought the material was far too technical for a layman to handle.

The CHAIRMAN agreed with Lieut. Colonel Wade, and thought the first thing to be done was to get hold of a medical expert.

Colonel LEDINGHAM then read Lieut. Colonel Wade's memorandum to the Commission.

Dr. SCHRAM-NIELSEN said he was sure that the Danish Medical profession would appreciate that the compiling of a report would take a certain time, but he thought it could be done little by little, so long as it was certain that the Commission would undertake to have it compiled and printed.

The CHAIRMAN agreed that the report ought to be started as soon as possible, but he did not like to use the word undertake. He thought that we had enough reserves in hand, but a medical expert would, no doubt, involve some expense. The only thing was to put the matter in the very able hands of Lieut. Colonel Wade, Dr. Schwelb and Dr. Litawski, and ask them to make a practical report of method of procedure and ask them to investigate the possibilities of obtaining the services of a medical expert.

As Chairman of the Finance Committee, Sir Robert CRAIGIE suggested that in any enquires which would be made, it should be ascertained what the fees of the medical expert were likely to be as well as the cost likely to be involved in the publication. He hoped that whoever gave the technical advice might also be able to help with the compilation of the survey, as he felt that the work of law reporting should not be held up.

Lieut. Colonel WADE suggested that a suitable expert might be Major Leo Alexander, the author of the intelligence report on the "Treatment of Shock from Prolonged Exposure to Cold", which was a very technical piece of work.

The matter was left in the hands of Lieut. Colonel Wade, Dr. Schwelb and Dr. Litawski to investigate and report.

PRESENT STATE OF LAW REPORTING SCHEMES (DOC. C 216)

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suggested that a suitable officer, the author of the report, the Commission of Shock from which was a very technical report.

in the hands of Lieut. Litawski to investigate and report.

Dr. MAYR-HARTING said he was glad to be able to report that the preparations for the publication of the first volume of law reports were now far advanced. The first volume would comprise nine reports, five British, three American and one French. The French Report had been discussed and the re-draft will come before Committee III in the near future. The final drafts had been approved in six cases altogether, and the two remaining cases had been discussed and will be approved in the near future.

The first volume would also contain a glossary on the National Laws concerned. The glossary on the British Law had been approved. That on American and French Laws will come before the Committee in the near future. These glossaries were being included because it was felt that it would be useful to the reader to have some knowledge of the National Laws.

Regarding the question of the fuller reports the Committee proposes that the Commission approves that a letter, on the lines contained in document C 216, should be sent to the publishing firm Messrs. Hodge & Co. The Committee also approve the suggestion that a lawyer conversant with such matters should be consulted before the letter is sent. Dr. Mayr-Harting asked the Commission to approve this letter.

The CHAIRMAN agreed that great care had to be taken over a matter of this kind.

Sir Robert CRAIGIE said that copies of this letter had been sent to Mr. Lambert, Assistant Under-Secretary of State; Mr. Plumbly, H.M. Stationery Office; Mr. Reed, Attorney-General's Department; and Mr. Scott-Fox, Foreign Office for their observations, and, if the Commission agreed, when replies had been received from these gentlemen, and if there were no amendments, the letter should be sent to Messrs. Hodge & Co.

This was agreed.

LETTER FROM ACTING SECRETARY-GENERAL OF THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL, UNITED NATIONS WAR CRIMES COMMISSION (DOC. A 10).

The CHAIRMAN felt sure that everyone would agree we ought to establish the closest possible relations with the United Nations. It was therefore necessary, in answering this letter from the United Nations, to give them full access to all the information and material in our possession, which we consider would be of interest to them.

That attitude had been given effect to in a draft reply which Colonel Ledingham had prepared and he asked the Secretary General to summarise the main points.

Colonel LEDINGHAM said that he proposed to inform the Acting Secretary-General of the United Nations what the Commission had been doing in respect of the collection of information concerning human rights arising from the trials of war criminals; also, in general terms, the class of material which this Commission had collected, the type of Research work on which it had been engaged and the examination of charges it had been engaged on since its formation. He also proposed to mention that the Commission proposed to publish Law Reports of Trials of War Criminals and that the

first volume of this series would appear shortly. The letter would conclude:-

"I am instructed to inform you that the United Nations War Crimes Commission is prepared to give the Economic and Social Council of the United Nations every assistance in implementing the Resolution of the 21st June, 1946, mentioned in your letter of 22nd July, 1946, and to make available all the material and documents at its disposal. It would however be advisable to make arrangements regarding the most fitting and convenient procedure to be adopted for the examination of the great amount of material which is available.

" It is suggested, that if a representative of the Commission on Human Rights could come to London, the whole matter could then be fully discussed and the material and documents referred to examined."

Sir Robert CRAIGIE said that he was not quite clear as to what was meant by a "Commission on Human Rights".

Monsieur de BAER said that he thought it was "human rights in the future".

Dr. SZERER agreed with Monsieur de Baer.

The CHAIRMAN said that the letter from the United Nations stated "The collection and publication of information concerning human rights arising from trials of war criminals, quislings and traitors and in particular from the Nuremberg & Tokyo trials". The British authorities were publishing a report, volume by volume, on the Nuremberg trial and he thought the same was to be done on the Tokyo trial. He thought that all the United Nations were asking for was to place at their disposal, all the material we had in this connection. The letter which Colonel Ledingham had drafted had indicated our willingness to do this and if we sent this letter it would open the discussion.

Sir Robert CRAIGIE said he believed that the Secretary-General of the United Nations was ^{now} in Europe, and that if a meeting between him and Lord Wright could be arranged in London before his return to the United States, it would be possible to discuss this and other matters of common interest.

The Secretary-General was instructed to add a paragraph to this effect to the letter already drafted and which was now approved.

JURISDICTION OF COMMISSION OVER WAR CRIMES (Doc. C 217)

Dr. MAYR-HARTING presented to the Commission the opinion of Committee III on the question of the jurisdiction of UNWCC over war crimes committed in Ethiopia during the Italo-Abyssinian war (Doc. C 217). It was suggested that the question should be divided into two parts:-

- 1) whether the Commission should restrict itself to crimes committed during the late war.
- 2) whether the Italo-Abyssinian war should be regarded as a part of the late war, or as a separate war.

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Committee III had reached the conclusion that
there was no evidence to show that it was the wish of member
Governments that the Commission should deal with war crimes
committed in any other war, and that it was the opinion of
Governments that no direct connection existed between the
Italo-Abyssinian war and the late war.

Dr. MAYR-HARTING requested the Commission's approval
of this opinion.

The CHAIRMAN remarked that this was a difficult
problem and it would be useful if the Abyssinian Government
would submit some cases.

Sir Robert CRAIGIE considered that a resolution on
this point would be useful to the British Foreign Office, in
the event of the question being raised again in Parliament.
His views on the matter had been sought, when the matter was
raised previously, but, in the absence of any authority from
the Commission, he had merely indicated what he thought might
be their views. He considered that it would be unwise to
encourage the Ethiopian Government to submit cases arising out
of the 1935 war, only to be told that nothing could be done
by this Commission.

The CHAIRMAN said that he would like to see at
least one case, for instance the use of gas, though he did not
think the Commission could make that a pre-requisite to stating
their position. He had always gone on the assumption that the
Abyssinian war was outside the scope of the Commission's
mandate. In the Far East, of course, the indictment went
back as far as 1928 and included the Manchurian war, the
Nanking episode and the war which followed it; and reaching
more modern times - the Chinese war which started in 1937.

Although the Abyssinian war was an outrage
against humanity, it was a separate chapter and a chapter call-
ing for separate discussion. He assumed this to be the view
of Committee III. He did not deny that there had been crimes
against humanity, or war crimes, or that it was a criminal
war, but simply considered it outside the Commission's assign-
ment. He asked the Commission to adopt the very lucid report
submitted by Committee III. The report was unanimously adopted.

REPORTS OF COMMITTEE CHAIRMEN

Committee I.

General de BAER submitted a proposal in connect-
ion with the compilation of the Commission's lists. In a
recent meeting with Committee I, it was pointed out that
considerable difficulty was being experienced by the Military
authorities on account of the way in which the Lists were
presented. Colonel Halse asked whether, in order to obviate
going through each of the 40 lists published, when trying to
trace an individual who was in custody, it might be possible
to modify the Lists, by putting them in alphabetical order
only, instead of dividing them into sections according to
countries submitting charges. At first it was thought that
this would mean an entire re-casting of the Lists, but Dr.
Litawski had arrived at the conclusion that it would be poss-
ible to make a general alphabetical index of all the names
at present on the Lists, and arrange the Lists in future as
suggested above. The interests of National offices would
still be preserved because, in the introductory section to
each new list, the total of persons charged by each National
office would be clearly indicated. To give an idea of the
importance of the work, General de Baer said that the general
index of names comprising the 40 lists already issued would

include about a thousand pages and these would have to be sub-divided into four or five volumes which would then be circulated to the various authorities charged with apprehending war criminals and also to the National offices concerned.

THE CHAIRMAN said that the plan which had been so lucidly outlined by General de Baer seemed to afford no grounds for objection and that unless the Commission had any observations to make, they would delay General de Baer no longer, as he was going abroad for a few weeks and was anxious to get away.

General de Baer then left the meeting.

CROWCASS

Sir Robert CRAIGIE wished to discuss one particular aspect of the temporary closing down of CROWCASS. It was now two and a half months since CROWCASS had been closed down owing to their move to Berlin. He understood that owing to complications connected with the move, it was likely to be six months before they would be operating smoothly and certainly that before they could catch up with arrears. This meant that detention reports would not be dealt with during that period. It seemed to him important that, as soon as a man was detained, notification should be sent to the National offices, otherwise there would be considerable delay and the machinery would be thrown out of gear. He wondered whether it might be possible for the Commission to make some temporary arrangement with CROWCASS in regard to detention reports. It might be possible to ask the various authorities - British, American and French, - whether they would send the Commission lists or copies of reports which had been sent to CROWCASS since they had closed down in Paris.

The CHAIRMAN said that the detention reports included a very large number of security suspects.

Sir Robert CRAIGIE agreed that a large percentage of security suspects who were not war criminals was included, but he stressed the importance of bridging the gap. There had already been a very regrettable delay and no one wished it to last another six months.

The CHAIRMAN asked Dr. Litawski whether he had any idea of the proportion of security suspects to war criminals.

Dr. LITAWSKI replied that up to 90% of security suspects were included.

Sir Robert CRAIGIE said that what the Commission were concerned with was the detention of names appearing on their lists and added that so far as the British authorities were concerned they were already taking the necessary steps. His intention was to enquire whether the U.S.A. and French representatives would be prepared to take similar action as regards their part in their authorities.

M. MAILLARD agreed to give all assistance possible.

Lieut. KINTNER agreed to do all that was necessary to facilitate the working of the plan.

The CHAIRMAN considered it a purely practical question and thought that when Lieut. Colonel Luck came over, it might be possible to discuss this point and arrive at some practical solution.

Sir Robert CRAIGIE said, that the matter was being discussed with the British authorities, as to whether the Commission could obtain copies of detention reports from the time CROWCASS had closed down in Paris, until it was in operation in Berlin. He expressed the hope that the U.S.A. and French representatives would ascertain whether their authorities would be ready to assist in this, bearing in mind that the lists should be restricted to war criminals.

CZECHOSLOVAKIAN GOVERNMENT'S REQUEST FOR EXTRADITION CERTIFICATE
(NANDOR BATISFALVY)

It was agreed that the extradition certificate for Nandor Batisfalvy be given to the Czechoslovakian Government.

Dr. MARKOVIC requested that he might be given ordinary certificates for handing over of three German War criminals listed that morning by Committee L. This was agreed in view of urgency.

LETTER REGARDING TRACING & SURRENDER OF ALLEGED WAR CRIMINALS
(DOC. A. 11)

The CHAIRMAN then requested Commander Mouton to read his letter of 30th July.

After he had done so the Chairman enquired whether the Netherlands had investigation teams and liaison officers.

Commander MOUTON replied that they had, but that they were rather small.

The CHAIRMAN pointed out that all the investigation teams were small and that it was almost impossible to increase them. It was to be hoped that countries would assist each other in this difficulty. He agreed that the teams might be insufficient in number, but so far as his experience went, they were wonderfully efficient and energetic. He was very satisfied with the results obtained and did not think that any admonition would be justified, but of course the more the teams could be increased the better. It was a matter for each Government to seek the co-operation of the Military Authorities in the various Zones and he understood that this had already been agreed.

Dr. SCHRAM-NIELSEN remarked that Denmark had a Liaison Officer but no investigating teams and was very much in the same position as the Netherlands.

The CHAIRMAN said that the Moscow Declaration was well-known, but it had not been very active. However, if the Commission thought that any good could be done by a resolution criticising the present situation, that was a matter for the Commission. He, however, was not prepared to support any such thing.

Commander MOUTON wished to explain what he had actually in mind. The Commission had in the past discussed plans for a special body for the searching of war criminals in Germany, but these never materialised and he thought the Commission were satisfied that the allied authorities, in co-operation with the investigating teams, were doing their job.

Mr. HORNE left the meeting.

The CHAIRMAN suggested that what Commander Mouton wanted was that the member governments should increase their investigating teams.

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Commander MOUTON considered that his country was not in a position to cope with the number of criminals on its lists. Their pre-war number of experienced police was diminished by a certain number of traitors. The police have to cope with a crime wave - a normal feature after a war, with the number of traitor cases that they have in hand, the collecting of evidence for the Commission, and they are therefore not in a position send out a large number of experienced officers with a knowledge of German and English to search in the occupied zones of Germany. Though they appreciated the assistance given by other investigating teams, he wondered if it would be possible to ask existing investigating teams concentrating on crimes committed against their own subjects to include in their work the search for war criminals listed by other countries.

The CHAIRMAN sympathised with Commander Mouton's request but suggested that his complaint should be inspected more closely, in order to see whether it was justified. He said it was unfortunate that the term "liaison team" had been used, when "investigating team" was really meant. The whole difficulty now was, and he had checked this with the American and British JAG and to some extent with the French, the extreme difficulty in getting really qualified people to carry out investigation. There were a certain number - and the quality was very high indeed - but they were limited, and, very naturally, the Military authorities feel that what have first claim on their services are the atrocities committed on their own people, and they have their hands full with these. He thought it most unfortunate that a country like Holland was unable to produce a sufficient number of teams to cope with the work to be done. He thought that each team would do its best to help any other team, but he did not shrink from saying that a team's first duty was to their own people. He said that the problem stated by Commander Mouton was not peculiar to the Dutch. The Norwegians had been working very hard, as also had the French and the Czechs.

Commander MOUTON stated that it was his hope that, in the future, if the allied occupying authorities were ready with their own cases they would proceed to assist the Dutch in their troubles.

The CHAIRMAN thought that, from conversations he had had, they would not be ready for some considerable time. He thought that the Commission should write and thank Commander Mouton for his letter, the object of which was understood and with which the Commission were in sympathy. The Commission were fully possessed of the great desirability of searching out and apprehending war criminals. It is acknowledged that the number of teams is too small, but it should be pointed out that the Allied Governments, at a time like this, were doing their best to provide a sufficient number of equipped investigators and though undoubtedly their first duty would be towards their fellow nationals, they would always do their best to help any other country which had found it difficult to equip itself with trained investigators.

Lieut. KINTNER stated that he found himself in sympathy with the problem of Commander Mouton and, on behalf of the American Government, promised to do everything possible to give additional assistance to the Dutch in the American zone.

Sir Robert CRAIGIE said that it occurred to him that if Commander Mouton gave him a letter explaining the particular difficulty which Holland had in putting teams into the field, then he would put in an appeal for such assistance as was possible to be given to the Dutch authorities in the tracking down of their criminals. He asked Commander Mouton to realise however that the work of the British in their zone was becoming increasingly difficult, but said that they would at least have the facts of Holland's difficulties before them.

The CHAIRMAN said that when he was in Washington, he had several talks with General Green and the JAG authorities there.

General Green had pointed out that the chief difficulty was to increase the numbers of their teams with men with sufficient knowledge and experience. The man shortage in England is very serious - it is serious even in America.

At this point Dr. SCHRAM-NIELSEN left the meeting.

The CHAIRMAN informed the Commission that this was the last time they would have present with them the Public Relations Officer, Mr. Gibson. He had done excellent work, but the time had come when the pressure of other interests had made it apparent that the Public Relations Officer was not so essential a part of the staff as he had been at the time of his appointment. He was sure that the Commission would all agree in thanking Mr. Gibson for the zealous and able work he had done.

This was carried unanimously.

Mr. GIBSON thanked the Chairman for his kind words and said that he had been aware that his appointment would eventually have to come to an end. He thanked the members of the Commission for their kindness to him during his term of office.

Wright

SECRET.

M. 111
21st September, 1946.

UNITED NATIONS WAR CRIMES COMMISSION
MINUTES OF MEETING

HELD ON

September 4th, 1946.

Chairman: LORD WRIGHT Australia

Also present:

Sir Robert CRAIGIE	United Kingdom
Colonel SPRINGER	United States of America
Mr. BRIDGLAND	Australia
M. de PAER	Belgium
Mr. HORNE	Canada
Dr. MAYR-HARTING	Czechoslovakia
Dr. SCHRAM-NIELSEN	Denmark
Commander MOUTON	Netherlands
Dr. SZERER	Poland
Dr. MARKOVIC	Yugoslavia
accompanied by	
Dr. MEZULIC	
Dr. DAO	China
M. STAVROPOULOS	Greece
accompanied by	
M. DEMITSAS	

Lieut. Col. BARRAT	Office of the Judge Advocate General.
Major THOMPSON	AG3 War Office.

Apologies for absence were received from:

M. MAILLARD	France.
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The minutes of the 109th meeting were approved and signed by the Chairman.

Amendments to the draft Minutes of the 110th Meeting, having been received by Commander Mouton, will be incorporated in the final text.

The CHAIRMAN said that during the last month, he had paid another visit to Germany. He went first to Bad Oeynhausen, then to Iserlohn, and from there attended a British trial at Essen on a very brutal attack and murder of airmen who had baled out there, then to Wiesbaden and had long talks with Colonel Micklowait and Colonel Straight - very interesting talks. From there, he motored to Dachau, where he stayed for two days and attended two trials which were going on in American courts there. After Dachau, he went to Nuremberg and had a long talk with Brigadier-General Telford Taylor, and he would say something about their conversation a little later. Lord Wright thought it was very important that Members of the Commission should occasionally go and visit the men who were working at the various Headquarters and who were collecting evidence, often under very great difficulties. They were very conscientious and stuck to the trail in a most tenacious way. He had also learned with great satisfaction of the arrest of a man called Pohl. He was the head of all the concentration camps, and the investigating teams had been, for a long time, trying to trace him. They generally found them in some very large city, disguised and making a living as workmen. The investigating teams were aware that we had a great interest in their work, but they

liked to feel that their efforts and their difficulties were being understood and appreciated. They were doing marvellous work.

Lord Wright had taken the opportunity, when he was in Germany, to ask the Bad Oeynhausen and the Wiesbaden authorities how their investigating teams were getting on, and he had a most gratifying report on how efficient they were and what they were doing - and as one would expect - there was a general feeling on all sides that every possible help should be given to them. They had all made a very good start and he hoped they would continue, with support and encouragement from all of us.

The Military Courts were sitting and he believed the British were staging four or five courts at once, while the Americans were doing seven. There seemed to be a tremendous output of effort in the way of trials of criminals, and very competent officers were acting as prosecutors. They are not men of the highest standard of advocacy as judged by our standards, but they are quite efficient and quite competent, and it seemed that as long as they got a fair number of convictions, it did not matter, if, occasionally, someone requiring a more high-powered standard of advocacy should escape conviction, so long as a sufficient number of people charged were found guilty and so long as the courts showed a very high standard of impartiality and desire to do justice. And this they were certainly doing.

PROPOSED GENERAL SURVEY OF MEDICAL CRIMES(DOC.C.223 of 30th August,1946)

The CHAIRMAN said it would be remembered that Dr.Schram-Nielsen made a very important proposition in connection with the survey of medical crimes, and the Commission all agreed that that was a matter of the first importance on which they ought to have a statement. Lord Wright said that he had discussed the matter very fully with Brigadier-General Telford Taylor at Nuremberg. Apparently, the importance of this matter had occurred to others than the members of the Commission and it was being worked out very thoroughly.

What the Commission had agreed to, was to appoint a committee comprising its Legal and Research officers and a certain number of members of the Commission, assisted by a Medical expert, to look into these medical matters.

The French, in particular, were working very energetically on this question. The Chairman added that when he was at Nuremberg, he was told that it remained to be decided by the different departments concerned whether a trial should be instituted for that particular class of war crimes, and whether a certain number of medical men, who were implicated, should be brought to trial. One question was whether the charges should be dealt with by an International Military Tribunal, as in the Nuremberg Trial, or by a special military court, to be appointed by the Americans; also, who ought to undertake the prosecutions, appoint the judges and so forth. The authorities concerned could decide to do this, only if they had the co-operation and the help of all the interested countries, which would be most welcome. Lord Wright stated that he had always found the Americans to be most helpful to the Commission for all the help it had given in connection with the Nuremberg trial and he was quite sure that we could all help with the work of investigation and preparation for these proposed trials.

He believed that it was the French who had taken the matter up first; and he considered that if the trials took place, they would be among the most important to be held. He had been wondering whether a proposal should not be made that this Commission should apply, in some form, to be given a recognised standing in the discussions. For instance, the Commission might be represented at the trial or at the preparations for the trial, which were more important than the actual trial - by an observer,

and with this object they might like to appoint a small deputation, consisting, say, of Lieut. Colonel Wade and any other members, who might possibly be able to spare the time. It might mean day-to-day attendance, and keeping in touch with what was going on. If the Commission did not disapprove of that course, he thought that he might write a personal letter to General Telford Taylor, giving the substance of what he had just said. This suggestion was generally approved.

Dr. SCHRAM-NIELSEN said he would be most grateful if the Chairman would write such a letter. When he proposed that this Commission should take over the compiling of such a survey, he was not aware that other institutions intended to undertake a similar task and he thought that if we get such a survey, it would not be necessary for this Commission to institute a similar enquiry. He hoped that documents and other material in the possession of the Commission would be placed at the disposal of the judges and General Telford Taylor.

The CHAIRMAN asked Colonel Springer whether he thought that there would be any objections to what he had proposed.

Colonel SPRINGER thought there would be no objection, and believed that this step might prove very beneficial to General Telford Taylor's work.

The CHAIRMAN thought that if we had to appoint a delegation of the Commission, or a small committee of observers, Dr. Schram-Nielsen and Colonel Wade would be the most likely representatives. He understood that Colonel Wade had a mass of material relating to this question.

Lieut-Colonel Wade said that he had sent all the material in his possession to General Telford Taylor in response to his letter quoted in document C 223. There were, however, two questions which engaged the interest of the Commission. First, that of the Conferences which were being held at Paris, to examine the whole question of these medical crimes, and secondly, that of ensuring that the Commission should be represented by observers at the trials.

The CHAIRMAN thought that the Commission should be represented both at the trials and at the conferences.

Lieut-Colonel WADE observed that, as General Telford Taylor had said in his letter, the Conferences were not being held under the Subsequent Proceedings Committee, the Committee would, therefore, have to make its request through some other body, if it wished to have an observer at the Conferences.

Sir Robert CRAIGIE suggested that it would be very profitable for the Commission to have some representative or observer at the discussions which he understood were taking place at Paris. He thought the Paris discussion was the point where the information obtained would be most valuable, and where our own contributions would be most appreciated.

The CHAIRMAN agreed and thought that the Commission was in full assent on these matters. He was glad to think that we had been able to take a step in good time, owing to the intervention of Dr. Schram-Nielsen.

PROVISIONS OF DRAFT PEACE TREATIES CONCERNING WAR CRIMINALS (DOCS. MISC. 43, A. 14, 15 & 16)

The CHAIRMAN called upon M. Stavropoulos to survey the issue raised in his letter (Doc. A. 14) and to explain his proposal (Doc. A. 15) as amended in Doc. A. 16.

M. STAVROPOULOS said that before going any further, he should like to introduce to the Commission, M. DIMITSAS, present today, who was a representative of the National Office, War Crimes Commission of Greece, and had come to London in connection with certain charges, and also to follow the proceedings of the Commission, in order to co-ordinate the work when he returned to Greece.

Continuing, M. STAVROPOULOS said that when he was in Paris, he had the opportunity to examine the Peace Treaties, and was struck by the fact that the terms regarding war crimes were a little too vague and general. He remembered that some years ago, on the initiation of General de Baer, the Commission had made some proposals to the Government for inclusion in these treaties (Doc.C.31), but he did not see any of these proposals incorporated in the draft peace treaties and wondered whether any action could be taken. When he came back to London, he had a discussion with the Chairman and certain other members of the Commission, when it was suggested that if the Commission thought it was wise, new proposals could be submitted, which might have an effect on the discussion and approval of the final text of the treaties.

The draft resolution contained in Doc.A.15 was a sort of amalgamation of the treaties as they were today, in which he had inserted parts of Doc.C.31, dated 16th June, 1944. After, however, putting the question to and following the suggestions of the Chairman and some of the members of the Commission, a new amended text had been produced (Doc.A.16) and which was now before the Commission for examination. As the treaties are today, it was left almost completely to the discretion of the enemy governments concerned to apprehend the war criminals, whose surrender was demanded. If this was the case, then, in his opinion, the trial of war criminals would come to an end. It was very difficult, on paper, to bind a country to keep its word, and he did not think the best text would succeed in doing so. Nevertheless, the Commission should draw the attention of its Member governments to the shortcomings of the proposed text and at least record for history the interest it had taken and the warning it had given. He did not, however, think the Peace Treaties could achieve what we had been unable to do in two years - it was in the nature of a failure, that after two years, we had still to think of ways and means of getting our hands on war criminals.

The CHAIRMAN thought the matter should now be open to general discussion. He pointed out that the matter was urgent and, to have any practical effect, the result of the Commission's deliberations should be available for submission at the earliest possible date.

M. de BAER said that the text that members had before them at this moment was not really new. Two years before, the Commission had voted a similar recommendation, but then we had in view, not the Peace Treaty, but the Armistice, but that was all still very far away. As it happened, in the instance of the Armistice, it was an unconditional surrender, and therefore did not need to have all these provisions included in the armistice convention, but with a peace treaty, it was quite a different matter. Just as in the last war, provisions were included in the Versailles treaty about the treatment of war criminals, so they should be included in these Peace Treaties. In the last war, the criminals were helped by the Reich authorities. There was the instance of the Llandoverly Castle, where the criminals who were sentenced to four years' imprisonment, were, a few weeks later, allowed to escape. The prison warders responsible for the escape, far from being punished, were allowed compensation for the inconvenience caused, and even congratulated; that of course should not happen again, and it was with a view to this experience that M. Stavropoulos had been kind enough to examine the proposals that the Commission had made two years ago, and to recast them in the way that you have before you now. This morning, a small committee had met and a few points were made. It considered that

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who were negotiating in Paris. It was thought therefore that it would
be better to impose upon Italy to make it a penal offence to violate
these provisions. That was the resolution before members now and he
thought that it had been drafted in a very satisfactory way. These
recommendations, of course, may not be accepted in Paris, but at
least they would be placed on record for future historians, and the
Commission, at least, would have done what it could to avoid a failure.

Sir ROBERT CRAIGIE said he had listened to this discussion
with a great deal of interest, and he thought it important, as M.
de Baer had just said, from a historical point of view, for the Comm-
ission to place its views on record. If it were to be the intention of any
government in Paris to raise this question of the clauses relating to
war criminals, it would be helpful if there existed some document for
discussion, expressing the views of this International Body. At the
same time, he felt that he should make it clear from the outset that
as this article of the draft treaty had been approved by the U.K.
representative in Paris, it would clearly not be possible for him to
vote for a resolution which suggested an amendment to that document.
While his Government would not wish him to do so, he felt that it would
not in any way militate against the present suggestion that the Comm-
ission's views should be placed on record.

Sir Robert added that these articles, including the ones
relating to war criminals, had been subject to long and difficult
discussions in Paris. They represented a compromise and compromises
were seldom, in their outlay, entirely satisfactory to everyone
concerned. He was of the opinion, therefore, that a careful consid-
eration of the resolution, in relation to the peace treaty, would
be of value to all governments concerned, as the opinion of this
International body.

Colonel SPRINGER said he would prefer to reserve his
views, as he had received the paper only yesterday-afternoon, and he
thought it ought to be carefully considered. He said, however, that
the resolution should not purport to criticise, or to imply criticism
of the Draft Treaties, but be restricted to the recommendation of
additions to them. He would reserve further remarks until later.

Commander MOUTON said that he felt, more or less, the
same difficulty as Colonel Springer. His government was also partic-
ipating at the conference in Paris and he felt that, as a represent-
ative of his government on the Commission, he should not vote or
decide before consulting his government.

Dr. MAYR-HARTING felt he was in a similar position to Comm-
ander Mouton. He thought that the delegations in Paris must certainly
have been informed about the paper C 31, which, as far as he could see,
contained, on the whole, the same recommendations as those contained in
this draft resolution. It would be difficult for him, without previously
contacting his Government, to vote on a point which his government had
certainly in mind when instructing the Paris delegation. He was prepared
to ask at once for instructions.

Dr. SCHRAM-NIELSEN stated that his Government was not
represented in Paris and he did not think he could do anything in the
matter. He felt he should a... as he felt he could not
support something which he knew his government... not be able to
carry out, as it was not represented at the Paris Conference.

Dr. MARCOWIC said he would like to defer his answer. Dr.
Zivkovic was coming back that day and he would no doubt have views on this
matter.

Mr. BRIDGLAND thought that as the Commission had already expressed its views earlier on this subject, there would appear to be no harm in reminding delegates to the Paris Conference of what the Commission had already recommended. He thought it most desirable for the Commission to express its views on a matter of this kind and a recommendation could be made tactfully.

Dr. SZERER said that it seemed to him that the point was, whether members could express their own opinions, or only the opinions of their governments.

The CHAIRMAN said that it had sometimes appeared to him that though charged with the task of advising the governments, when it came to the point, the Commission had to ask their governments what advice they were to give them.

Dr. SZERER said that if an amendment to the article of the peace treaty was suggested, it was rather a delicate question and he thought that a better form of expressing the Commission's opinion could be found, without members engaging their governments. He would see no difficulty in taking part in a vote expressing merely an opinion, without formulating a definite text for inclusion in the treaties.

Mr. DAO said that it seemed to him to be difficult to take a decision today, and suggested that each delegate should consult his delegation in Paris.

The CHAIRMAN said that the attitude which had been expressed by so many representatives had not altogether taken him by surprise. There was no doubt, he thought, when looking at the constituent documents, that we were charged with the duty of reporting war crimes and of advising the governments, and all that we could do here was to express an opinion in an advisory capacity. The problem, as stated by M. Stavropoulos was this:- he was of opinion that in its present form, some amplification of the present clauses in the peace treaties was necessary. Therefore, it was very important, if Article 38 was insufficient, and, if the Commission thought it to be insufficient or unsatisfactory, that it should record its view. He would remind members that though their first duty was to do what they could at this stage of history, the time would come when the records of the Commission would be examined, and it would be noted that either we had expressed no opinion at all, or that we had expressed an opinion one way or another on this very important question as to what was the proper action to be taken with regard to peace treaties, i.e. what were the proper and appropriate terms on a question of war crimes to be answered in treaties of peace. There were certain well-recognised rules of international law on this matter, but it had always been considered necessary, as for instance in the Versailles treaty, to put something in as to the duties of the countries concerned.

Towards the end, when the vanquished nation resumed its position as an independent sovereign nation, it should still give thought to the prosecution of war criminals. That did not matter very much when the enemy nation was subject to military occupation, but as soon as the military occupation ended, the allied governments had no control over power of detection, or of the difficult work of apprehending suspected persons. It had been suggested that the language of Article 38 was too vague: "Italy should take the necessary steps to insure the apprehension or surrender for trial.....etc".

There ought to be some definition of the term "necessary steps". Any proposition to amend the terms of the draft peace treaty in that respect would have to be made by one of the initiating governments.

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in this case, he understood the attitude of the Greek government was that they desired to make such a proposition. This Commission could not say one way or another what the Greek government should do, it was for them to decide. One could say, however, that the opinion was generally, that at a time like this, when peace treaties were being negotiated, there ought, as a matter of common policy, to be a more specific clause in place of the vague term "necessary steps". If the Greek government brings this question before the Commission and asks it to give its opinion for what it is worth, the Commission may think it proper and desirable to give such advice as it thinks proper, on this point. That was all that we were dealing with here, - we were not telling anyone what was to be put in the peace treaties - neither in the case of Italy, Bulgaria, Hungary, Finland, Rumania, nor eventually Germany; we could not dictate to anyone and it was a matter for the negotiating governments. We could say, however, that it was the considered opinion of the Commission that Article 38 as already drafted, would not give effect to the purpose. He thought that the Commission ought to express its views as to the provisions, and to say that without some additional provisions, the Article was not satisfactory. Lord Wright then suggested that all the members present should take steps to ascertain the views of their respective governments before the Commission meet next Wednesday. A commission meeting would be held on the 11th September, provided answers had been received. If, unfortunately, the answers had not come in by next Tuesday, he would not be disposed to hold a meeting on Wednesday, as the main purpose of such a meeting would be to deal with the resolution once and for all.

M. STAVROPOULOS said that he wished to make a clarification, as he thought there was some misunderstanding. When he made the proposal, he did not make it on behalf of the Greek government, but had made it as a member of this Commission. In his opinion, members of this commission could express their opinions without having to refer to their governments. He thought that as the Commission was the competent body for this work, it would be worth while to give an opinion, but if the proposal was going to cause controversy, he was ready to ask forbearance and to withdraw it. He was of the opinion that, if the respective governments were asked for their opinions, we should either receive no answers or answers from only a few.

The CHAIRMAN said that as M. Stavropoulos had asked the Commission to exercise its duty and to give an advisory opinion on this question; it should do so, if we could get sufficient to vote on this question, - if nobody would vote the result would be a stalemate.

Dr. SCHRAM-NIELSEN understood the representatives had a strong objection to voting without the opinions of their governments, but suggested that it might be possible for the members of this Commission to agree to another resolution stating that the Commission would like to draw attention to the resolution (Doc.C.31) passed on the 16th June, 1944, which reads as follows, and to quote the 1944 Resolution.

He assumed that the members of the Commission, without asking their governments, could vote for a mere reminder of a resolution which had already been passed.

The CHAIRMAN said that we should add that the Commission could see no ground for departing from that expression of opinion simply as a matter of principle. He hoped that the members would feel able to vote for that without consulting their governments.

M. de BAER considered this to be a very valuable suggestion, but thought it did not go far enough. He thought that this was a technical point which was within the field of the Commission's terms

of reference. It was most important that we should discuss this question where there was no political issue at stake. If, in wording the peace treaties one important word had been forgotten, we would not hesitate to point out the omission to the Government and they would be grateful for our having pointed it out to them. In Para 2 of the draft peace treaty with Italy, it had obviously been forgotten that if there were documents, Italy should also communicate them. The draftsmen, in proposing para 2, had overlooked this point. The proposed additions do not alter the substance of the peace treaty, on the contrary, they are in agreement with the general meaning of the peace treaty and the same could be said of Para 6 of A.16. In conclusion, M. de Baer said that he could vote without getting the opinion of his government.

M. STAVROPOULOS said he had the same idea as Dr. Schram-Nielsen in his proposals, but, unfortunately, it seemed to him that it was impracticable. When Doc.C.31 was produced, it contained many provisions which did not apply today, and even the provisions which did apply, require some re-drafting. That was why he had produced a new text, embodying a few changes which should be made. The Governments might not approve of Doc.C.31 today, because it was made in a different spirit.

The CHAIRMAN said it had been suggested, and he thought that members might well consider it, that we should not put our recommendations or opinions in the form of suggested draft amendments to the peace treaties. As a matter of form we might simply say that on considering the text of Article 38, the Commission take the view that Article 38 was insufficiently expressed, because the phrase "Italy should take the necessary steps" was too vague and general and should be supplemented, by providing more specific terms. Also that the particular government, for instance Italy, should give an undertaking to comply with these various requests. The question of documents was dealt with in Article 5 of the proposed draft. Then we could sum up with sub-section(6), without putting it in the form of the suggested draft. There were some changes in the subject matter which appear to need re-drafting, yet it seemed to him that we should not propose a re-drafting of the Peace Treaties, but should express the opinion that the terms of Article 38(1) were too general to be made practically effective and that they ought to be made more specific. It would involve re-writing the resolution, which he was very much averse to doing today. He had no doubt however that a draft could be prepared in a very short time, the result of which would not look so offensive to sensitive minds, because it would simply ask for further clarification of words, which were undoubtedly, on the face of it, very vague.

Sir Robert CRAIGIE added one suggestion: that in the form suggested, the proposal might prove more palatable to the Governments concerned, but it should not be necessary to alter the document at this stage; the final form could be adopted by the Commission. If the Commission approved the amendments as they stood, it was just a question of the form the resolution should take.

Dr. MARKOVIC thought that the Commission as a technical body, could express a view, without engaging the governments represented on it. He also thought that the terms of the treaty were very vague and that it would be useful to draw attention to it. He did not know whether any members of the Commission had been consulted during the drawing up of these treaties, and observed that we were much more accustomed to the difficulties of tracing war criminals than the Italians.

The CHAIRMAN thought that the practical upshot was that a special meeting of the Commission should be fixed for next Wednesday, to decide what the Commission was going to say about this resolution.

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Next Wednesday, provided that by Tuesday afternoon, sufficient numbers of replies had come in from the member governments, a meeting would be held. If there were positive replies from all the member governments at once, he would not like there to be only one without a reply from his government. On the other hand, if there were a number of abstentions so large that there would be no vote, there would be no point in holding a formal meeting. There was no use holding a meeting on Wednesday on the subject of this resolution, if it was perfectly clear that the members would not vote on Wednesday.

Sir Robert CRAIGIE suggested that if members would be good enough to communicate with the Secretary General of the Commission before mid-day on Tuesday, it would then be possible to decide whether or not a meeting should be held. This was agreed.

Colonel Springer asked to have some form of resolution for those members who were to request instructions from their governments. He wished to know whether the provisions of this amendment (Doc. A.16) were generally acceptable to everyone present.

The CHAIRMAN suggested that the type of resolution could be written out in a more or less precise form. The substance of the Resolution could begin by saying that in the Commission's opinion, the provisions were too general and so on. Members could then relay it to their particular governments for consideration. In the Commission's view, it would be of value if the above-quoted article were supplemented, and the way in which it should be supplemented would be by putting it in the form of a suggested revision of the draft, or by simply stating it in positive terms.

Sir Robert CRAIGIE thought that it would be more palatable in the form of points, rather than actual amendments to the treaty. It would be a very simple task and could be done before the draft resolution in its final form was placed before the Commission.

The CHAIRMAN understood that Colonel Springer would like to put before his government the existing terms of the resolution.

Colonel SPRINGER said he was not so much concerned about preliminaries as with the different provisions of Article 38, but it would be sufficient if members were generally agreed upon each of these provisions.

Commander MOUTON said that if the substance of this paper could be discussed and agreement reached on the points mentioned, he could, in very short terms, send it to his government, and get an answer on Saturday or Monday. He was not in favour of para 2 of Doc. A.16.

Mr. HORNE said he felt a strong objection to asking his government to vote on a proposal like this. His country like others was involved in the Paris negotiations and would be placed in a difficult position on being asked at this stage whether in fact it did agree that the present drafts were inadequate. He said it would involve considerable fresh discussion as it was a very important question and that the Commission should merely express an opinion which members could report in that form to their governments. He did not agree that members should ask for instructions for an actual vote.

The CHAIRMAN said he could never see why any delegate should not express an opinion which did not bind his government.

Mr. HORNE said that raised his point, that we should confine ourselves to expressing an opinion, gained by our experience of War Crimes and not put it to our Governments.

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Mr. HORNE said that raised his point, that we should confine ourselves to expressing an opinion, gained by our experience of War Crimes and not put it to our Governments.

The CHAIRMAN agreed with that view. The purpose of the document was to express an opinion, that the provisions as they stood in Article 38, were too general in terms. That was the first step. He then asked each member in turn whether he was prepared to say 'Yes' or 'No' to the question as to whether in his opinion, the terms of Article 38 were too general for practically achieving its purposes, a simple question which could be answered 'Yes' or 'No'.

M.de BAER thought it desirable that it should be pointed out that the terms of the draft were too general.

Sir Robert CRAIGIE felt that he was perhaps in rather a different position from some of the other governments. The U.K. representative had actually accepted the terms on the four-power conference and, only from that point of view, he did not feel that he could express a personal opinion.

Mr.DAO entirely agreed with what the Chairman had said about the provisions of the draft peace treaties.

Colonel SPRINGER said that in view of what had been stated, he felt it would be well to submit the matter to his Government. We all wanted to see the draft effective, and he thought that next time, he might be able to vote for that.

Mr.HORNE said he felt that it was the Commission's duty to point out that these terms appeared to be inadequate.

Dr.MAYR-HARTING said that in his personal opinion, the terms were certainly too general.

Commander MOUTON said that his personal view was that the terms were too general.

Dr.SCHRAM-NIELSEN agreed with what Commander Mouton had said.

Dr.MARKOVIC considered the draft too vague and too general.

M.STAVROPOULOS's personal view was that the terms were too general and too vague.

Mr.BRIDGLAND thought the terms were too general and should be supplemented.

Dr.SZERER agreed that they were too general.

The CHAIRMAN said that, having got the personal opinions of the Commission, that the terms were too general, the next step was, could they be made more specific on the lines which we had set out in Doc.A.16, regarding them not as terms in a treaty, but having regard to simply the substance. Could they be improved, amplified, or clarified on the lines which had been subsequently expressed in the remaining paragraphs of the document.

M.de BAER Yes

Sir Robert Yes, if agreeable to the U.K.delegate in Paris.

Colonel Springer }
Mr.HORNE } Yes
Dr.MAYR-HARTING }

Commanader MOUTON Yes, with a reservation as to para 2.

M. STAVROPOULOS Yes.

Dr. SZERER Yes, with a reservation about point 3.

Mr. DAO Yes.

The CHAIRMAN said that the substance of the resolution and its terms were now made quite clear. We were not dictating the peace treaties, but were expressing an opinion about what was necessary or proper or sufficient to achieve the ends which were aimed at by the treaties. In order to decide that, we must wait until Tuesday afternoon, and by Tuesday mid-day, the Secretary-General should have received a sufficient number of replies to indicate how this matter stood.

INTERNATIONAL FILM FOR THE DISCOVERY AND IDENTIFICATION OF WAR CRIMINALS.

On Colonel Springer's suggestion, this item on the agenda was adjourned until the next meeting.

INTERVIEW WITH THE SECRETARY-GENERAL OF THE UNITED NATIONS.

The CHAIRMAN said that as a matter of interest to members, some little time ago, on the 8th of August, Colonel Ledingham and he had a short interview with Mr. Trygve Lie, Secretary-General of the United Nations. Members would remember that we had two letters to consider at an earlier meeting and the question was whether we could help the UN on matters relating to human rights. They could not get very far with Mr. Trygve Lie, because he was very much pressed for time. He was very kind, polite and sympathetic and it was provisionally agreed that some contact should be established between the Economic and Social Council and the Commission. Mr. Trygve Lie was in accord with the general statement of the position, and it was left for arrangements to be made for representatives of both bodies to meet. This might be rather difficult to achieve, but although we would not have much difficulty in picking out two representatives of ourselves, he did not know how long it would take for the UN to select theirs. The Chairman had suggested that Dr. Liang, who, he understood, was the Director of the Division of the Development and Codification of International Law in the Legal Department of the UN, might be in a position to fix up the most useful form of contact between the two bodies. He felt it would be most desirable to establish some sort of contact, but it was not desirable to press for too much at the outset, especially from Mr. Trygve Lie with all his problems, and thought that probably the best thing would be for the Secretary-General to contact Dr. Liang.

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UNITED NATIONS WAR CRIMES COMMISSION.

Minutes of Meeting held on 18th September,

1946, at 4. 15 p.m.

Chairman: Lord WRIGHT

Australia

Also present:

Sir Robert CRAIGIE

United Kingdom

Lieut. KINTNER

United States of America

Mr. HORNE

Canada

Mr. BURDEKIN

New Zealand

Dr. MAYR-HARTING

Czechoslovakia

Dr. AARS RYNNING

Norway

M. STAVROPOULOS

Greece

accompanied by

M. DIMITSAS

Dr. ZIVKOVIC

Yugoslavia

Dr. SZERER

Poland

Commander MOUTON

Netherlands

Mr. DAO

China

Mr. DUTT

India

Major THOMPSON

War Office. AG3(V/W)

Apologies for absence were received from:

Dr. SCHRAM-NIELSEN

Denmark

Mr. BRIDGLAND

Australia

Colonel SPRINGER

United States of America

M. de BAER

Belgium

M. MAILLARD

France

The Minutes of the 110th Meeting were approved and signed.

Draft Minutes of the 111th Meeting, having been circulated, amendments were received from Sir Robert Craigie, Mr. Horne, Dr. Mayr-Harting, M. de Baer and Mr. Bridgland and will be incorporated in the final text.

PROVISIONS OF DRAFT PEACE TREATIES CONCERNING WAR CRIMINALS (DOCS. A. 15, 16, 17, 18.)

The CHAIRMAN said that at the last meeting the proceedings had been adjourned, so as to be able to record the answers of the different member governments. He did not want to repeat what he had said on the last occasion, because he had expressed his opinion at some considerable length. His personal opinion was in favour of the resolution.

Dr. ZIVKOVIC said that he was fully in favour of the resolution. He was not present, unfortunately, when the proposals were discussed, but he had studied all the papers which were sent to his office and wished to state that he would vote for the resolution. Before voting, he would like to say just a few words. We had three papers - Doc. A. 16, afterwards A. 17 as an alternative draft, and finally he received, that morning, A. 18. He thought that the spirit of all was the same.

Sir Robert CRAIGIE explained that such amendments as were suggested in Doc. A. 18 were purely verbal and designed to make the document

more palatable to the governments to which it will be addressed. The Commission did not want to appear to be laying down the law to the governments and therefore he thought the Commission should put it in the form of suggestions.

Dr. ZIVKOVIC, continuing, drew attention to some of the amendments proposed. In the draft documents A.16 and A.17 there was a para 2, page 2 of A.17 (last sentence) saying that "the United Nations Government concerned will be given every facility to supervise the way in which their requests are carried out". That sentence was left out in A.18. He, Dr. Zivkovic, would think that the wording of A.18, "to keep the United Nations Government concerned fully and promptly informed of the manner in which effect is being given to its request" was not very satisfactory, because he did not think this should be left to the ex-enemy governments. He thought that all United Nations Governments should have the power to supervise the execution of the requests and the carrying out of the obligations of the Peace Treaties. He would prefer to leave the sentence as formulated in A.17.

Sir Robert CRAIGIE said that his reasons in suggesting that amendment were these: from the moment Italy signs the Treaty, she becomes a nation - free and independent, without any control - and it seemed to him that the United Nations Government in Paris might consider that the word "supervision" over an independent nation would be contradictory in terms, but as far as he was concerned, he attached no particular importance to it and was quite willing to accept any wording the Commission might think appropriate.

The CHAIRMAN remarked that he was exactly in the same frame of mind as Sir Robert, and asked for the opinions of members.

Commander MOUTON explained that he knew that his government had some objection to the wording of A.17, Point 2, and felt that A.18 was quite an improvement and although he was asked by his government to make a reservation as to A.17 in this respect, he was quite prepared to vote for A.18 without reservation.

Dr. ZIVKOVIC thought that the idea in Paris was, and still is to have the four ambassadors in Rome as a sort of controlling body, after the Peace Treaty was signed, and that was the channel for the governments concerned to act through, if they had no direct access themselves to supervise the carrying out of these clauses concerning war criminals. He still believed that a sort of guarantee, at least in wording, should be given in the text, saying that this supervision should be claimed by the governments concerned in certain cases. As a matter of fact, the Yugoslavian authorities had had a very bad experience up to now, in respect of the handing over of Italian war criminals. Eight hundred Italian war criminals had been listed and not a single one had been apprehended. He had reason to believe that the Italian government would do everything possible to avoid handing over these criminals, for political and other reasons. That is why he believed that such a clause should be inserted, as is contained in the last sentence, point 2, A.17.

The CHAIRMAN remarked that he felt that once the occupation was over, it would be very difficult to enforce any of these requests.

Sir Robert CRAIGIE said that Dr. Schwelb had pointed out that the point mentioned by Dr. Zivkovic was covered to some extent in Article 75 of the Draft Peace Treaty with Italy and in the corresponding provisions of the four other treaties. Sir Robert Craigie read the text of Article 75 of the Draft Treaty with Italy and added: "There is no mention of supervision here and they speak only of guidance, technical advice and clarification, so I venture to think that our Draft A.18 would be

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much more in accord with the spirit of Article 75 than the original
draft, which speaks of supervision. As our main effort is to secure
the sympathetic consideration of our resolution by the governments
concerned, I would say, particularly in view of 75, - and I think
that Dr. Zivkovic will see this - that there are certain advantages
in adhering to the intention of those who drafted the treaties".

Dr. MAYR-HARTING declared that he was prepared to vote for
document A.18 as it stood. If the Commission felt some slight
alteration to be desirable, he was prepared to agree.

Mr. DUTT said he was sorry that he was not yet able to
give his government's views.

Mr. DAO reported that he had referred this matter to the
Chinese delegation in Paris. In general, they found no objection to
the draft, with the exception of Article 4 in Doc. A.17. In their
opinion, the sentence saying that the Italian Government will pass
and enforce legislation to the effect that they will make it a penal
offence etc., would only obstruct the purpose, due to the fact that
the Italian government may delay, find all sorts of excuses, or
refuse to pass this legislation, and therefore there would be no
enforcement. He would vote for A.18, subject to that exception to
para 4, of A.18.

Dr. SZERER said that since our last meeting, the Polish
representatives in Paris had put forward amendments to the article
of the treaty, which were not so explicit as those proposed here.
They had quite an open mind as to the amendments. He was prepared to
vote for the resolution in the form of A.18.

The CHAIRMAN said he was prepared to vote as representative
of Australia, on A.18 as it stood. He had got no instructions, but
would take the personal responsibility.

Mr. BURDEKIN said he had obtained no instructions and would
have to vote on his personal responsibility. Nevertheless, he was
quite prepared to vote on the proposals set out in A.18. He pointed
out that in Doc. A.15, para 3, it had been made a condition for the
surrender that the name of the accused person appears on the Commis-
sion's lists. This was omitted in the later drafts A.16, 17, 18. He
was wondering whether this was a deliberate omission or whether it
was left out in error.

Dr. SCHWELB said that it was omitted on purpose, because the
provision would hardly be acceptable to the Soviet Union, who is not
represented on this Commission.

Mr. BURDEKIN said he quite appreciated that.

Dr. ZIVKOVIC said he would vote with the reservation he made a
few minutes ago on point 2 of document A.18. He also drew attention to
another sentence which appeared on page 2, last line of point 3, of
document A.17, and proposed to keep the wording: "And to assist in any
other way in which such assistance may be required."

Sir Robert CRAIGIE said he was responsible for that because
it seemed to him that the sentence was very long and it was hardly clear.
His main idea was to take out the phrase regarding the just appreciation
of responsibility. He did not know what it meant, but he had no object-
ion to retaining "to assist in any other way....."

Dr. ZIVKOVIC said the last - his third point - was the one
raised by Mr. Burdekin. We should mention somewhere that our lists were a
basis for the request for surrender.

The CHAIRMAN thought we had better leave that out altogether in this particular connection.

M. STAVROPOULOS was completely in agreement with A.18 and he would vote for it, but he also agreed with what Dr. Zivkovic said about para 2, of paper 18. He should prefer to have the sentence as formulated in A.17, as it was taken from Doc. C.31. In his opinion, we should leave the word "supervise", as it was not an amendment, but an opinion that we wanted to convey, and the men who draft the actual article will find an appropriate word. He was sure that there were other sections in the Peace Treaties, which needed supervision. About the lists of the Commission, he was the one to put the sentence in, in A.15, but, unfortunately, he agreed it was not possible to have such a mention without bringing up the question of the Soviet Government. The Soviet Government was not a member of this Commission and would not accept it. It was better to leave it out.

The Chairman welcomed Dr. Rynning as acting Norwegian representative, and called upon him to express his opinion.

Dr. RYNNING replied that the best thing for him this time, would be to abstain from expressing his views on voting, because he had not participated in the previous discussions.

Dr. MAYR-HARTING said he was prepared to vote for A.18 as it stood.

Lieut. KINTNER declared that he was instructed by his government to vote in opposition to the resolution.

Mr. HORNE said that he had to abstain from voting.

Mr. Dutt would abstain because he was not yet able to give his government's views.

Sir Robert CRAIGIE made the following statement: the U.K. Government, having accepted the provisions relating to war criminals contained in the draft Peace Treaties now under discussion in Paris, are unable to support proposals for their amendment. But though it may not prove possible to give effect to any views which may be expressed by the UNWCC in connection with the present draft treaties, the U.K. Government will take note of those views when the time comes to negotiate treaties with other ex-enemy states.

He added that he had been impressed by the Chairman's view as to expression of opinion by members of this Commission, when it was acting in an advisory capacity, as it was today, and therefore, he was proposing to vote in favour of this resolution, as his own opinion, on the clear understanding that it did not commit his government in any way.

Thereupon, the CHAIRMAN put the Resolution, as formulated in Doc. A.18 (point 3 supplemented by the words "and to assist in any other way in which assistance may be required") to the vote.

Lord WRIGHT, Sir Robert CRAIGIE, Dr. MAYR-HARTING, M. STAVROPOULOS, Dr. ZIVKOVIC, Mr. BURDEKIN, Dr. SZERER, Mr. DAO and Commander MOUTON (9 members) voted for. Lieut. KINTNER (1 member) voted against. Mr. DUTT, Dr. RYNNING and Mr. HORNE (3 members) abstained from voting. The representatives of France, Belgium, Denmark and Luxembourg were absent; the representative of Belgium (M. de BAER) had informed the Secretary-General that he was in favour of the Resolution.

The Resolution was therefore carried, subject to the reservations of some members recorded above.

The CHAIRMAN said the governments, in theory, were all here present. They were all apprised of the resolution and he had always thought that no further information was necessary. It was not undesirable, and it had been done in the past, to make a fair copy of the resolution and send that from the Commission to each government. He saw no harm in that being done, and if all members agreed, the Commission would request the Secretary to have that done.

INTERNATIONAL FILM FOR THE DISCOVERY & IDENTIFICATION OF WAR CRIMINALS (DOC.35 OF 21ST JUNE,1946)

Discussion was adjourned until next meeting.

NOTIFICATION OF SURRENDER OF WAR CRIMINALS (DOC.C.225)

The CHAIRMAN thought it would be better to leave consideration of this letter to the next meeting. Personally, he welcomed it, and thought it a most admirable letter. He stated that the procedure, at present in force, so far as the British Military Authorities were concerned, is, when a war criminal is surrendered by them, to another country, that CROWCASS is informed by both countries of the transfer, and the detention reports issued by CROWCASS showed by which country the criminal is held.

Lord WRIGHT suggested that this information was useful to bear in mind and when we met next week, members would have an opportunity to discuss it.

REPORTS BY CHAIRMEN OF COMMITTEES.

Deputy
Sir Robert CRAIGIE, as Chairman of Committee I, had nothing to report.

Dr.MAYR-HARTING reported that Committee III had completed their work so far as Vol.1 of the Law Reports was concerned, and understood that the bulk of the manuscripts had been sent to H.M. Stationery Office for printing.

The CHAIRMAN undertook to write a short preface to the publication.

LISTS 41 AND 42 were formally approved.

GRANTING OF EXTRADITION CERTIFICATES.

Dr.MAYR-HARTING said that Committee I had just listed one Czechoslovak case of great importance to his government, a certain Dr. Durčanský. The man was at the moment at large and as he was in France, the Czechoslovak Government cannot have him arrested without submitting a request for extradition. He therefore asked the Commission to grant this certificate.

The CHAIRMAN said that although he was strongly opposed to the granting of these certificates, he was quite satisfied that the certificate should be granted on this occasion as, by the time the next list was published the man may have escaped.

Dr.ZIVKOVIC said that his application for a certificate concerned a German war criminal, named Stoecker, who had been listed by the Commission and who was in Switzerland. The Swiss Government was not a member of the Commission and so could not provide the UNWCC lists of names to the Swiss Government. What we must provide was a special certificate.

SECRET

M.113
2nd October, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

27th September 1946

Chairman:	Lord WRIGHT	Australia
Also Present:	Sir Robert CRAIGIE	United Kingdom
	Colonel SPRINGER	United States of America
	accompanied by	
	Lieut. KINTNER	
	Mr. HORNE	Canada
	Mr. BRIDGE	Australia
	Mr. BURDEKIN	New Zealand
	M. de BAER	Belgium
	Major FANDERLIK	Czechoslovakia
	Commander MOUTON	Netherlands
	M. J. ARRS-RYNNING	Norway
	Dr. SZERER	Poland
	Dr. ZIVKOVIC	Yugoslavia
	Mr. DAO	China

Apologies for absence were received from:-

Sir Torick AMEER ALI	}	India
Mr. DUTT		
Dr. MAYR-HARTING		Czechoslovakia
M. MAILLARD		France

The minutes of the 111th meeting were approved and signed by the Chairman.

Amendments to the draft Minutes of the 112th meeting received from Sir Robert Craigie and Mr. Dutt will be incorporated in the final text.

NEW MEMBER

The CHAIRMAN read a letter, dated September 20th, from the Chinese Embassy, announcing that Dr. Cheng, the Chinese Ambassador, would represent his Government on the Commission, in place of Dr. Wellington Koo, appointed to Washington.

Mr. DAO apologised, on behalf of Dr. Cheng, for his absence, which was due to an engagement, and said that he would deputise.

INTERNATIONAL FILM FOR THE DISCOVERY AND IDENTIFICATION OF WAR CRIMINALS
(DOC.35)

The CHAIRMAN observed that the proposal was really a condensation of an article by Dr. Lemkin. He invited Colonel Springer, who had put it on the agenda, to open the discussion.

Colonel SPRINGER said that Dr. Lemkin had recently mentioned the matter to him and he had expressed interest in the idea. However, he had since discussed it personally with people who were handling the war crimes prosecutions in Germany and found that they seemed reluctant to adopt this idea. Both Colonel Mickelwaite and Colonel Straight were in favour of any scheme which might assist in apprehending war criminals, but they feared that there would not be sufficient trained personnel available to operate the plan. In view of that attitude, he was not prepared to give unreserved support to the proposal, though he thought it merited discussion.

The CHAIRMAN asked how it was suggested that, with their limited equipment and organisation, the Commission should undertake this task. It would require a special organisation to be set up and he felt he could not encourage the idea, unless a new organisation under a new staff were to be provided. While he did not think that the Commission could undertake it, he would like to have the opinion of members.

M.de BAER supported the Chairman's view; he also was of the opinion that an audience would weary of seeing hundreds of faces of prisoners-of-war passing before their eyes.

Sir Robert CRAIGIE thought the idea was very interesting, but it was primarily a matter for the occupying authorities in the different zones in Germany. He did not know what was the attitude of the U.K. authorities, but he imagined that it would be similar to that of the U.S. authorities, that they had not got the resources or the staff for working such a scheme; in fact it was not practicable. They had now reached a stage when it would only be possible to try a fraction of the war criminals who had been listed, so that no useful purpose would be served by putting this scheme into force.

Mr.HORNE said it would be difficult to fit the scheme into the Canadian picture, because they no longer had investigation teams of Canadian personnel in the European theatre. His personal view was that it would be difficult to achieve much with films, as most spectators find it difficult to identify people on the screen.

Mr.RYNNING thought that the scheme would be of very little use. Onlookers might think that they had recognised war criminals and yet be mistaken.

Major FANDERLIK said it would not be practicable to get people to look at the faces on a screen for some hours, in order to recognise some of them. It might, however, be useful to show these films to certain organisations - such as liberated political prisoners, who were likely to have seen some of these criminals. The change in the appearance of the prisoners however would make identification difficult; he himself had seen some of them in Germany, whom he knew before the war, and he could hardly recognise them. If the scheme were tried, the films should be exhibited only to people who are really interested in war crimes. If they were shown to large audiences, mistakes would be made, and the result would be more confusing than ever.

The CHAIRMAN considered that the operation of such a scheme was a matter for the individual governments to undertake if they so wished, and would have to be undertaken independently of the Commission.

Commander MOUTON regretted that he could not support the scheme. On the other hand, photographs of criminals might help; he had often thought it might be well to reproduce them in the Lists as an illustrated appendix.

Mr.BURDEKIN agreed that it would be impracticable to carry out such a scheme in its entirety. It might, however, be possible, in a limited way, to have pictures of suspects exhibited in Displaced Persons Camps but that should be a matter for the authorities and not for the Commission.

Mr.BRIDGLAND did not think that the results would justify the expenditure of time and money involved by such a scheme, which raised the question as to whether the Commission ought to be responsible for it. Opinion had been expressed that it was outside the scope of the Commission. As regards the time factor, the production and distribution

of the film would require so much time that it would be too late to be of any value. He agreed with Sir Robert Craigie that Dr. Lemkin should be thanked for submitting the idea, but should be informed that the execution of the project was outside the Commission's sphere.

Dr. SZERER said that, before expressing an opinion, he would like to know what the cost would be. If the money was not available, it was useless to discuss it.

The CHAIRMAN doubted whether the necessary funds were available and did not suppose that the Commission would wish to ask for a special grant. The cost would no doubt be considerable.

Dr. ZIVKOVIC agreed with previous speakers who had doubted whether the scheme was practicable. Something might be achieved, at less cost, by obtaining photographs of German war criminals, and of other persons in the custody of the Allies. Such photographs could be multiplied and distributed to various bodies and individuals.

The CHAIRMAN said that, no doubt, the investigating teams were provided with photographs.

Mr. DAO thought it was generally agreed that - interesting though it was - the scheme was outside the Commission's mandate. Its task was limited to undertaking prima facie examinations and did not include the work of investigation. As to the scheme itself he had doubts as to its effectiveness, when shown to large audiences, who would probably find it impossible to identify a face; and if it were applied in the Far East he would have even greater doubts of its utility, because most of the Japanese had been repatriated.

The CHAIRMAN said that in view of the opinions expressed, he would propose a resolution which he was sure they would all support, thanking Dr. Lemkin for the proposal he had put forward so clearly, expressing the utmost sympathy with the plan; but stating that it was not within the scope of the Commission's activities or capacity at this moment.

Colonel SPRINGER observed that there were two parts to the scheme, the taking of the pictures, and the showing of the film. The discussion had turned principally on the second part, the showing of the film; but there would be no need to adopt this part immediately. He thought it should appear on record, for the benefit of the National offices - he was thinking of Washington in particular - that if it was desired to employ this plan, the films should be taken now while the subjects were readily available and decision on what was to be done with the film could be considered at such time and with such deliberation as the circumstances might require.

In reply to a question by the Chairman Colonel SPRINGER agreed that this would involve going round the camps, and making a film for each camp, unless as Mr. Burdekin had suggested, the scheme were limited to photographing suspected persons.

M. de BAER believed that photographs would be much less expensive and more effective.

Colonel SPRINGER said he understood that this had already been tried but not in a complete or uniform manner.

NOTIFICATION OF THE SURRENDER OF WAR CRIMINALS(DOC.C.225)

Commander MOUTON said he had sent a letter, which was circulated under Doc.C.225, and which did not need much explanation. At the last meeting, when they were discussing the arrest of war criminals in Germany, it was agreed that the investigating teams ought to help one another as much as possible, but what was also needed was some

method of advising the other teams that they could stop investigation, as soon as the criminal had been found. Perhaps the solution suggested in his letter was not the best. It might be better for the Commission to advise the Governments to devise some method by which all the teams who were searching for the same war criminal could be notified at once when he had been found. His only aim again was to find some means of avoiding unnecessary work and if this end could be attained, he was not greatly concerned about the means.

The CHAIRMAN said he understood that what Commander Mouton desired was, that, if a country had put on its wanted list a particular name, and the individual so named had been delivered to the country wanting him that fact should be circulated through the Commission, by the periodical issue of lists to the various interested governments.

Commander MOUTON feared that if the Commission had first to receive the name and then circulate it on a list, the process would take too long. They should try to find a short cut. For instance, if a team finds a man who was wanted, all other teams working in Germany should be notified immediately.

The CHAIRMAN thought this was a useful proposal and that the Commission would give its full approval.

Dr. ZIVKOVIC asked whether Commander Mouton had in mind especially, the case where a war criminal is wanted by more than one country and if found by another country's team. In this case the easiest way of informing other countries that the man had been found would be for the military authorities who had been asked to hand him over to advise the Commission that such and such a man had been found and was now claimed by such and such a country. His own experience was that before handing over any such criminal they had to obtain a clearance from CROWCASS, that this difficulty would be met within the procedure was already existing between the detaining authorities and CROWCASS. As regards information, one way would be for the National Office concerned to advise the other National Offices as soon as possible that such and such a war criminal had been handed over and to whom; another way would be for detaining authorities, when they delivered a man to a team, to advise the UNWCC as well. He suggested therefore that the Commission should frame a recommendation, asking the detaining authorities to advise the Commission of any war criminal handed over, and asking the National Offices to do likewise.

Commander MOUTON explained that he was not thinking of war criminals wanted by one country, or those wanted by several countries; he did not think the "moment of surrender" was early enough; as soon as a war criminal had been found, the fact should be notified.

The CHAIRMAN thought that perhaps it was complicating matters to make a point of "as soon as he had been found" or "as soon as he had been surrendered".

Sir Robert CRAIGIE entirely agreed with the Chairman. The most important thing was to make it known when the man had been found. The present channel ran through CROWCASS - which was right, but at this moment, much of the work of CROWCASS was in arrears. It was possible that the military authorities might help, but it was preferable to keep to one channel. As far as the U.K. authorities were concerned he was willing to suggest to them that they should let the Commission know as soon as a man had been found and the Commission would then notify all concerned; but he could not tell whether the American or the French authorities would be prepared to do the same.

In connection with this question, Colonel Wade^{had} pointed out that difficulty was sometimes being caused because the prosecuting authorities had not been notified of persons who had been tried and sentenced, so that sometimes they go on preparing cases against people, who have already been tried and executed by other countries.

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Dr. ZIVKOVIC said that as regards his own country, he believed that Germans and Austrians had been handed over to it, from time to time and that a list was being compiled which he would no doubt receive in due course and which he would communicate to the Commission.

It seemed desirable therefore to request the authorities concerned with trials, to be good enough to send us also lists of persons who had been tried and sentenced.

The CHAIRMAN said the Commission did not receive information from some of the countries of the persons tried, the sentences and executions. He found himself constantly referring for information on the matters to the public press and he felt that the Commission ought certainly to be notified of every trial that takes place and the results.

Colonel SPRINGER said that his office had received information that morning that CROWCASS was now preparing a new list, consolidating all the old ones, and eliminating from the wanted list those names on which they now had detention reports. CROWCASS had requested that, when the list was sent over in draft, it should be checked carefully against the Commission's list, to make sure that no names had been omitted.

Dr. ZIVKOVIC wanted to point out that, so far as his own Government was concerned the first trial of a war criminal took place three weeks ago, when Police General Erwin Rosener was condemned to death and executed. He expected to receive the records of this first trial in due course. He had recently received a letter from the Secretary General asking for such records to be communicated to the Commission. This would certainly be done.

The CHAIRMAN would propose a resolution that the Commission attaches great importance to this question of notifying it of all trials with full details. That was one point. The other was that the Commission should be notified at the earliest possible moment of all alleged war criminals who had been found, leaving out any mention of surrender.

Commander MOUTON said that would be a very good idea but he suggested at the same time, that a team which found a war criminal should somehow, notify all the other teams from a central point so as to put an end at once to any further search for that man.

The CHAIRMAN said that was a practical question which the Commission perhaps could not deal with. What Commander Mouton desired was a direct notification by the Government which had found the criminal to the other member governments but primarily to those who were likely to be interested in that criminal.

Sir Robert CRAIGIE suggested that on the latter point, it might be a better plan for him to take the matter up, quite unofficially, with the United Kingdom authorities and ask them whether it would be feasible to make such notifications to other teams, not only in Germany, but in the other occupied countries.

INVESTIGATION OF AND REPORT ON MEDICAL WAR CRIMES

The CHAIRMAN informed the Commission that, at the suggestion of Brigadier Shapcott the Military Deputy of the Judge Advocate General, he had written two identical letters, one to the Prime Minister and one to the Foreign Office, recommending the appointment of Lord Moran, one of the most eminent British physicians at this moment, as Chairman of a British medical committee which would act along with similar committees of the American and French Governments, to investigate medical atrocities committed during the war. He had every reason to think that this proposition had been sympathetically received, and that the appointment would be made without undue delay. There would

Dr. ZIVKOVIC said that as regards his own country, he believed that Germans and Austrians had been handed over to it, from time to time and that a list was being compiled which he would no doubt receive in due course and which he would communicate to the Commission.

It seemed desirable therefore to request the authorities concerned with trials, to be good enough to send us also lists of persons who had been tried and sentenced.

The CHAIRMAN said the Commission did not receive information from some of the countries of the persons tried, the sentences and executions. He found himself constantly referring for information on the matters to the public press and he felt that the Commission ought certainly to be notified of every trial that takes place and the results.

Colonel SPRINGER said that his office had received information that morning that CROWCASS was now preparing a new list, consolidating all the old ones, and eliminating from the wanted list those names on which they now had detention reports. CROWCASS had requested that, when the list was sent over in draft, it should be checked carefully against the Commission's list, to make sure that no names had been omitted.

Dr. ZIVKOVIC wanted to point out that, so far as his own Government was concerned, the first trial of a war criminal took place three weeks ago, when Police General Erwin Rosener was condemned to death and executed. He expected to receive the records of this first trial in due course. He had recently received a letter from the Secretary General asking for such records to be communicated to the Commission. This would certainly be done.

The CHAIRMAN would propose a resolution that the Commission attaches great importance to this question of notifying it of all trials with full details. That was one point. The other was that the Commission should be notified at the earliest possible moment of all alleged war criminals who had been found, leaving out any mention of surrender.

Commander MOUTON said that would be a very good idea but he suggested at the same time, that a team which found a war criminal should somehow, notify all the other teams from a central point so as to put an end at once to any further search for that man.

The CHAIRMAN said that was a practical question which the Commission perhaps could not deal with. What Commander Mouton desired was a direct notification by the Government which had found the criminal to the other member governments but primarily to those who were likely to be interested in that criminal.

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then be a British Committee, under Lord Moran, organised and presumably constituted by him, as he was most capable of selecting the right colleagues. That would be a very important step forward in the investigation of the medical atrocities, which had played a great part in this war. He had sent copies of these two letters to the Attorney General, who was essentially interested; no doubt, in due course, the Treasury would be consulted about the financial aspects of the scheme. That was all he could tell the Commission at the moment; as soon as answers had been received, they would be laid before the Commission.

Mr. BURDEKIN wondered whether the Committee, of which Lord Moran was to be head, constituted the Scientific Advisory Committee mentioned in Document 223.

The CHAIRMAN explained that the Committees would be constituent elements of the Scientific Commission.

REPORTS BY CHAIRMEN OF COMMITTEES

The SECRETARY GENERAL stated that Dr. Mayr-Harting had sent his apologies for absence, he had nothing to report from Committee III at present, but would make a full report at the next meeting of the Commission.

Mr. Dao said that Committee I had studied 80 or 90 cases in the last week, but there was nothing special to report.

The CHAIRMAN asked how far back the charges went and what were the various dates of incidents.

Sir Robert CRAIGIE observed that some of the charges related to 1945.

M. de BAER said that some of the cases now being received came from countries that had only just started submitting charges - Greece for instance - and some of the charges went back to the period of occupation. He could well appreciate why there had been this delay.

The CHAIRMAN said it seemed that it would not be possible to appoint a certain period of limitation beyond which charges would not be pursued.

Mr. DAO said that one of the accused whose name appeared in a recent List happened to be a diplomatic representative in a certain country. He had handed a personal note on the subject to the Chinese representative there which had been passed on to the Embassy in London. Mr. Dao wondered what advice the Commission could give them.

The CHAIRMAN said the Commission could only decide whether there was *prima facie* evidence that a man had committed a crime; not whether he had diplomatic immunity. That was a question which had been raised in Paris, but it did not concern the Commission.

M. de BAER said that the Commission was not concerned with the status - diplomatic or otherwise - of an alleged criminal. If he had committed a war crime he was put on the list.

The CHAIRMAN said that he had been asked this question recently by a representative from the French Embassy in London and he had replied that it was not the Commission's business to determine whether the particular accused had, or had not, diplomatic immunity; he might have added that this question would only arise if the aggrieved government demanded his surrender from a government that was holding him.

Mr. DAO asked if it would be appropriate for him to forward a note to the Commission.

Sir Robert CRAIGIE did not think that the question of diplomatic status was one at all for the Commission. He assumed from what Mr. Dao said that the matter in question had been mentioned in Paris, and not only to the Chinese representative. When this particular case was submitted to Committee I, no mention was made of diplomatic status; if it had been his own personal opinion was that it would have made no difference. The question to be determined was whether the individual was or was not *prima facie*, guilty of a war crime; in his view there was undoubtedly *prima facie* evidence of war crimes in the case of this particular individual. The Commission had, therefore, done what it had to do, and the rest was a matter for governments concerned.

The CHAIRMAN said that was exactly his own view, and he had conveyed it to the gentleman who came to see him.

Lieut. KINTNER said that the Commission would recall that at its meeting on July 19th, Dr. Szerer had raised the question of a mass release of prisoners of Waffen SS, and others, held in Germany by the occupying authorities, and that anxiety in regard to this action was expressed by Dr. Szerer and other members. As representative of the U. S. on the Commission at that time, he had undertaken to convey to the American occupation authorities the concern of the Commission at any mass release of German prisoners of war, and its desire that releases of the Waffen SS in particular should be very carefully screened. Minutes of that meeting had been forwarded to the occupation authorities and a letter had now been received from Col. Mickelwaite, the theatre Judge Advocate General for the American zone, who referred them to two directives, one of the 2nd February 1946 and the other of the 2nd July 1946, issued by the American authorities and stating that the procedure concerning Waffen SS persons below the rank of *Scharfuerher* was to transfer such prisoners to the status of internees, and screen them in accordance with the second directive of the 2nd July, 1946. He stated further that no such personnel had been released from civilian internment camps, that there was no mass release in the American zone of SS personnel and that all war crimes ^{interests} were being adequately protected. He wished the Commission to know that the minutes of the meeting in question expressing concern at this problem, were being forwarded to the proper authorities dealing with the detention and screening of SS personnel.

The CHAIRMAN said that the Commission was very much indebted to Lieut. Kintner for this information. He wondered whether any similar statement had been received from the British or French zones.

Sir Robert CRAIGIE said that Colonel Halse did make a statement at the meeting of 19th July referred to. He believed that the United Kingdom and American authorities were acting in close consultation in this matter, so what Lieut. Kintner had said with regard to the American zone would hold good with regard to the British zone, but he would ask for information.

Dr. SZERER expressed his personal thanks to Lieut. Kintner for the information he had supplied.

TRIALS OF WAR CRIMINALS BY GERMAN NATIONAL COURTS.

M. de BAER said he was concerned about the following question: Article III, I, a, Law No. 10 provided that the occupying authority should be entitled to try any German before any court which it appointed; and that in respect of crimes committed against German nationals, or stateless persons the Commission of Control might decide to have the accused tried by a German court. He was now informed that German National Courts had actually been entrusted with trials of war criminals who had committed crimes against the Allies.

It might be that the German courts were carrying out their tasks in a perfectly satisfactory way, but there was a danger - as in the Leipzig trial - that they might show undue leniency to those who had committed crimes against the Allies. He was

impressed, when reading the News Digest of the 16th August, page 3, by a case of a prison sentence of only four years awarded by a German court to a man who had executed three Air Force men for attempting to desert.

The CHAIRMAN asked if the men executed were British, American or French.

M. de BAER said he supposed they were Allies, but he did not know their nationality.

Lieut. Col. WADE said that he had understood from the newspaper account that they were German airmen who had tried to get away to the Allies. He believed that the German courts had only been allowed to try Germans for offences against Germans.+++

M. de BAER said that though he did not wish to say which trial he had in mind, nor in which zone it took place, information showing that persons accused of war crimes against allies, had been tried by German courts. There was, first the danger that these courts might be too lenient towards war criminals; secondly, that they might penalize Germans who showed pro-allied feelings; thirdly, there was a danger that the Germans themselves would be charged with carrying out the sentences, and that the persons sentenced would be allowed to escape by the German prison authorities. He thought, therefore, it would be desirable that this Commission should keep a check on the activities of German Courts. Two things would be needed. First, that the Commission should be informed about these trials. For that purpose, a request should be sent to the Commission of Control in Germany for all necessary information on trials; secondly, the Commission should appoint someone to check the results of all proceedings in which an Allied country was interested, he would be willing to act as a rapporteur to the Commission in that respect as his position as Chairman of Committee I obliged him to go into details of cases and this would not involve a great increase of work. He would circulate a paper on the subject for the next meeting. He would be most obliged to any members who could make any suggestions in this respect or give any information.

The CHAIRMAN said he regarded this as quite an important matter. They should take note of any circumstances which might militate against the fulfillment of their mandate. Whatever duties this Commission might - or might not - have, it certainly had a duty to record war crimes - and incidentally the trials which followed on war crimes - so that they would certainly be within the scope of their mandate if they adopted this very wise proposal made by General de Baer. The latter spoke with special authority as Chairman of Committee I, and if he would undertake the preliminary task of putting his proposition into a practical or definite form and bringing it before the next Commission meeting, they would all be grateful to him. If that view commended itself to the Commission, he hoped that they would indicate their assent. As there was no counter-proposal he would regard the proposal as accepted.

Dr. ZIVKOVIC said he would gladly second General de Baer's proposal and he hoped that at the next meeting they would have the text of the resolution before them. However, he would like it to refer not only to German courts but to ex-enemy courts. It was important for other governments represented on the Commission that all ex-enemy courts should be bound to send in reports on their war crimes trials.

+++This was an error; in two cases, at least, reported in the Press, German courts have tried Germans for killing Allied nationals.

M.de BAER said that his remarks did not apply only to German courts.

Dr. ZIVKOVIC said they were interested not only in the provisions of Law No:10, but in the procedure of the courts of all other ex-enemy countries when they tried war criminals; and that he would not be prepared to vote for a resolution restricted to German courts.

M.de BAER observed in reply to Dr. Zivkovic that this had not escaped him. As long as they were occupying Germany, and other ex-enemy countries, the courts, International or National, would sentence people. Those sentenced to death would be immediately executed, but the question arose: what was going to happen to men sentenced to long terms of imprisonment when the Allies withdrew from Germany. The question was perhaps still more actual when the Allies withdrew from Italy. He had already tentatively put down some proposals on this point and he would like to submit them at the next meeting.

The CHAIRMAN said that was an important matter and the Commission would like to hear from M. de Baer a fuller and more detailed statement. It was possible that they might have it at the next meeting of the Commission.

Wine N.

SECRET

M. 114

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

16th October, 1946

Chairman:	Lord WRIGHT	Australia
Also Present:	Sir Robert CRAIGIE	United Kingdom
	Mr. HORNE	Canada
	Mr. DUTT	India
	Colonel SPRINGER	United States of America
	accompanied by	
	Lieut. KINTNER	
	Dr. SCHRAM NIELSEN	Denmark
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr. MAYR HARTING	
	Dr. ZIVKOVIC	Yugoslavia
	Commander MOUTON	Netherlands
	Dr. AARS RYNNING	Norway
	M. Stavropoulos	Greece
	accompanied by	
	M. DIMITSAS	
	Mr. BURDEKIN	New Zealand
	Mr. BRIDGEMAN	Australia
	Dr. SZERER	Poland
	Dr. CHENG	China
	accompanied by	
	Mr. DAO	
	M. LE ROY	France
	accompanied by	
	Mlle. CAPIOMONT	
	M. de BAER	Belgium
	Colonel J. F. W. RATHBONE	of Legal Division Control Commission for Germany (British Element)

MINUTES.

The Minutes of the 112th Meeting were approved and signed by the Chairman.

Amendments to the draft Minutes of the 113th Meeting had been received from Colonel Springer, M. de Baer, and Mr. Horne and would be incorporated in the final text.

TRIALS OF WAR CRIMES & CRIMES AGAINST HUMANITY IN BRITISH ZONE OF GERMANY

The CHAIRMAN said he had much pleasure in introducing to the Commission, Colonel Rathbone, of the Legal Division, of the Control Commission for Germany (British Element). Colonel Rathbone was a very busy man and the Chairman thought the Commission should hear his statement on German Courts at the earliest possible moment.

The CHAIRMAN called on Mr. de Baer to make the introductory remarks resulting from his conversations with Colonel Rathbone on this very interesting and important subject.

M. de BAER said that the Commission would remember his proposal during their last meeting concerning the supervision of German Courts (Doc. C.230), concerning which Colonel Rathbone had been kind enough to come here today. He had had a conversation with him on Monday and from this conversation, he thought he was justified in drawing the conclusion that the word "supervision" of German Courts was wrong in this respect, as the Commission could not supervise and he had explained to Colonel Rathbone that that was not the intention of the Commission and that the word "observation" would have been more appropriate. Their object was to institute some form of reporting to this Commission of what the German courts were doing. This would enable small nations represented on the Commission, but not among those occupying Germany, to have a "look-in", at what was happening in the German Courts. Colonel Rathbone had thought his proposal would be acceptable and undertook to telephone to Germany and to report today what the position was. He, (M. de Baer) had also asked Colonel Rathbone whether it would not be possible to give the members of the Commission some idea of the type of courts now functioning in Germany.

Colonel RATHBONE stated that it was with great trepidation that he addressed the meeting, particularly because it was a month since he had been in Germany and also because he had had no documents available since he had been in England. But having worked in Germany on the legal side for nearly two years, and before that in London for six months, he could give a fairly clear picture of conditions, at least as they were, a month ago.

There were in the British Zone of Occupation in Germany three types of courts. There were military courts which were purely a military concern coming under the Judge Advocate General, but they were nothing to do with the Control Commission. Military Courts dealt with ordinary courts martial offences committed by serving soldiers in Germany. They also dealt with war crimes proper, crimes against the rules and usages of war, and possibly with crimes committed by serving officers of the German armed forces. The other two types of courts that were functioning in Germany were Military Government Courts and German Ordinary Courts. The Military Government Courts consisted of Summary Courts, Intermediate Courts and General Courts. These courts dealt with offences committed by allied nationals against Military Government ordinances or any other laws, they also dealt with certain types of war crimes and crimes against peace, in case any of the latter should arise. They had not had any crimes against peace in the British zone, but there may be one or two members of the Reich government who may have committed crimes against peace, and if there were any in the British zone they would be dealt with by Military Government Courts. Crimes against humanity would be dealt with finally, provided they were crimes committed by Germans against Germans, or against stateless persons, as provided by Control Council Law No. 10.

It had always been the policy of the British Government and the Control Commission British Element to hand over to the German Courts as many as possible crimes against Germans committed by Germans and crimes against stateless persons (Law No. 10). Up to date, however, these cases were being dealt with by Military Government Courts, in order that some precedent of sentences might be set for German courts when they take them over.

A third type of court which was functioning in Germany was the German ordinary courts and they came under the control of the Legal Division of the Control Commission (British Element). In view of the

fact that these German courts were going to play an increasing part in the trial of crimes against humanity, Colonel Rathbone thought it might be of interest to the meeting, if he, quite shortly, gave them some idea as to what the German courts were like and how they were functioning at this moment.

When Military Government went into Germany 18 months ago, with the Allied armies they shut down all German courts. There were three types of courts - the Amtsgerichte, (the lowest court), the Landgerichte and the Oberlandesgerichte. There were over three hundred Amtsgerichte in the British zone. The next court was the Landgerichte, of which there were 35 and of the Oberlandesgerichte there were eight in the British Zone.

Immediately after the occupation Military Government Courts tried all cases, even offences committed by Germans against Germans. They then started from the bottom reopening all the German courts. They opened first the Amtsgerichte in the villages and towns and at the present moment, they have opened about 80 per cent of the Courts in the British zone of occupation which were functioning in 1939, which they regard as a peak-point of the German administration. Although these courts were in fact open, they were working under the most appalling difficulties. In the first place, every judge and every prosecutor was removed from office, as a great number of judges were members of the Nazi party, and even where they were not Nazis, they had to be removed from office on account of their high grade civil service appointments. They have had great difficulty in finding reliable judges in the British zone of occupation and they were about 50 per cent short in the British zone at present. In addition, there was very little fuel, and last winter, the difficulties under which the courts were functioning were beyond all comprehension because in addition to having no fuel, the buildings were in an appalling state of disrepair. In addition to the lack of personnel and the lack of buildings, the food situation was very serious indeed and a judge or prosecutor, as an important member of the civil service could not go to the Balck Market, or get a sack of potatoes for his services in the same way as a barrister, as a result of which they were having a very grim time, and were very badly paid. Colonel Rathbone said that when he was in Hamburg five weeks ago, there were 170 members of the courts who were suffering from hunger oedema in the hospitals, or unable to carry out their work because they were so hungry. In spite of all these difficulties and in spite of shortage of paper, the wheels of justice were turning - very slowly and rather creakily.

The next thing Colonel Rathbone wished to say something about was, the method of supervision of the work in German courts. When they were planning the control of the German legal system, it was decided to exercise control at the highest possible level, and having given the Germans the responsibility, to let them carry on with the job. If a junior judge or prosecutor did something which was not approved, they would take it out of the senior official responsible for that area. They issued instructions to the German courts and as far as possible trusted the German legal service to carry out those instructions. They had found however, that these instructions were not carried out in all cases, and so they had to institute a system of supervision of the German courts, and this was done by demanding periodical returns from the German courts, showing all the cases tried. Particular reference was made in these returns to cases which might be of interest to Military Government, and these returns, which came into Colonel Rathbone's Headquarters every month, were gone through very carefully by his Branch of the Legal Division. In addition, they had an inspectorate of British officers all of whom spoke German and all who had attended courses in the German courts system, so that they knew all the proceedings of the

German courts, and also knew all their registers and files. These inspectorates, of which there were two, went on a circuit of each court and checked the accuracy of the returns submitted by the German Courts. They checked up, as far as possible, that the courts were functioning according to the policy laid down by the Allied governments.

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As Colonel Rathbone explained to M. de Baer, when he had seen him on Monday, he saw no reason why, when German courts took over the trial of cases which might be of interest to the Commission their work should not be supervised and checked, in the same way as other work, which the German courts carried out, by the British Inspectorates.

Colonel Rathbone wished to say just one word about war criminals, in so far as it affected German ordinary courts. Last winter, they had to start to make a plan to deal with the large number of persons who were locked up in internment camps. They also had to deal with the members of organisations convicted by the International Military Tribunal at Nuremberg and to give serious consideration to the handing-over to the German legal system of the trials, by their courts, of crimes against humanity, in pursuance of Control Council Law No. 10.

With regard to the members of organisations convicted by the International Military Tribunal, it had originally been his hope that those persons could be dealt with by Military Government Courts, under the Control Commission. In view of the shortage of British personnel in Germany, it was however, desirable as far as possible, to let the Germans clean up their own mess. It was therefore decided that all members of organisations convicted by the International Military Tribunal should be handed over to the German ordinary courts, and long before the actual plan was committed to paper, Colonel Rathbone consulted the senior members of the German legal profession about it. They were extremely reluctant to deal with these members because they said to try a man because he had been, e.g. a major in the SS, was tantamount to trying a man for an offence which was not in existence when he committed it. This was contrary to the doctrine of nulla poena sine lege which was removed by the Nazis and which had been reinstated by the British. He had great difficulty therefore in persuading the German legal profession to take on these cases, but ultimately he made them realise that there was no alternative. Eventually, it was decided to set up certain courts which they were going to call Ausnahmeegerichte, and these courts would deal with the members of organisations convicted by the International Military Tribunal.

With regard to crimes against humanity, the German legal profession were anxious to get their hands on those Germans who have committed crimes against other Germans, or against stateless persons. The German legal profession had been attacked in the press for not dealing with these crimes against humanity, it being alleged that this delay in dealing with these cases was another example that the German legal profession was permeated by Nazi personnel. Nothing could be further from the truth. The Germans wanted to deal with these criminals, but it was the policy of H. M. Government that a certain number of these cases should be dealt with by Military Government courts before they were dealt with by German courts.

Colonel Rathbone said there had just been a big trial in the British Zone of a concentration camp guard and they were now handing over to the German ordinary courts all concentration camp cases in pursuance of Law No. 10. They could not

deal with them under ordinary German law because accused persons might plead the statute of limitations or a Nazi amnesty, and therefore it was necessary to invoke Law No. 10, which contained provisions excluding these pleas. These cases were being dealt with by German ordinary courts provided the persons who had suffered at their hands were Germans or stateless persons.

The CHAIRMAN remarked that there were several concentration camp cases ready for trial and he took it that they would go on.

Colonel RATHBONE said that the ones that had been scheduled for trial by Military Government courts would go on, all others would be handed over to German courts. They would welcome representatives of the United Nations War Crimes Commission in Germany both to see what the German courts were doing in connection with these cases and also to help and advise them in dealing with supervision of the work of these courts. He had spoken to Germany on the telephone the day before and he had been informed that no cases had yet been actually dealt with by German courts. They were in the process of getting ready and he felt that it might be a good plan if any visits by members of the Commission were postponed for a month or two. In the meantime, he had arranged with the Secretary General to send to the Commission returns of all the cases of crimes against humanity and all the cases of criminal organisations which were due for trial or had been tried by German courts. Similar arrangements would be made with regard to the trials by Military Government Courts, so that this Commission would have a picture of what was going on, and when cases were noted, which the Commission wanted to hear, he hoped members would pay a visit, because it would be very helpful and would have a good effect on the German courts to know that an International body such as the United Nations War Crimes Commission was taking an interest in their work.

The CHAIRMAN said that there was a rather important crisis in the history of war crimes. They were starting a subsequent operation scheme. Apart from that, there were also prosecutions being prepared on matters which may have to come before a second International Tribunal.

Colonel RATHBONE said that the only cases he had in mind were those of profiteers.

The CHAIRMAN said he had heard them described as industrialists and financiers and asked whether this was the same thing. He supposed the alternative methods of trial would be a German court or an Allied Military Government Court.

Colonel RATHBONE thought the idea was that a Military Government Court would try the industrialists.

The CHAIRMAN said there was then the question as to which country should take on which. He thought that they would probably be tried in the zone where the suspected criminals were found or held.

Colonel RATHBONE agreed.

H. E. Dr. CHENG asked what law applied to these courts.

Colonel RATHBONE replied that there were Military Government Laws.

Dr. CHENG asked whether they would apply general law and observed that what was possibly an offence in one zone would not be in another.

Colonel RATHBONE said this was correct, but that as far as the French, American and British zones were concerned, he did not think there were many discrepancies. Their ordinances were promulgated over the signature of General Eisenhower in the old days of SHAEF, before the various zones were constituted. The Military Government Courts could, of course, try any cases or take any cases away from German courts.

Dr. CHENG said that with regard to the assertion that certain criminals were turned over to German courts for crimes against humanity he wondered whether German law provided for such a crime.

Colonel RATHBONE said it did not always do so but a criminal could be tried for offences against Control Council Law No. 10 and would be tried in a German court.

Dr. CHENG said then that the German courts would have to administer the law laid down by the Allies.

Colonel RATHBONE stated that German courts could administer Military Government laws when so authorised.

Lord WRIGHT, at this point, introduced to the meeting H.E. Dr. F. T. CHENG, who, he said, was the Chinese Ambassador, in London and the Chinese representative on the Commission and that the Commission were hoping to see something of him and have his help. He was sure that all members of the Commission would welcome Dr. Cheng. The CHAIRMAN also welcomed, as acting French representative, Monsieur LE ROY, whom he saw was accompanied by Mlle. CAPIOMONT.

Colonel RATHBONE continued, by stating that an elaborate Directive had been issued with regard to the disposal of war criminals and potentially dangerous military Germans. This was called Zone Policy Instruction No. 38.

Sir Robert CRAIGIE said he had listened with a great deal of interest to what Colonel Rathbone had stated very clearly. He thought he had answered many questions which had been in their minds and he did not think there were many questions which he wished to ask. He thought Colonel Rathbone's suggestion that this Commission should take an increasing interest in the work of these German courts was very valuable valuable from the Commission's point of view. He thought that, as Col. Rathbone had said, the German courts would "be on their toes" if they felt an International Commission of this standing was taking a steady interest in their work. The only question he really had in mind was one which Colonel Rathbone was perhaps not yet in a position to answer whether it was the intention gradually to hand over to the Military Government Courts trials of Germans who had committed war crimes against allied nationals.

Colonel RATHBONE said that at the moment this was nothing to do with his Department. It was purely a matter for the British Army of the Rhine under the Judge Advocate General. He did not know what the policy was going to be in that respect.

The CHAIRMAN said this was being supervised by Brigadier Lord Russel and Group Captain Somerhaugh.

The CHAIRMAN imagined that the same might be true of the American courts under Colonel Mickelwaite and Colonel Straight, who were their opposite numbers.

Colonel SPRINGER thought that in the American Zone, Colonel Mickelwaite headed both the German division and also had a place on the Legal Section of the Military Government, so that gave him a review supervision over the whole system of civil and military justice in regard to war crimes.

The CHAIRMAN said he had been to both Headquarters and talked with people in charge and had got the impression that it was the same. He remarked that the handing over of such matters to German courts was a great experiment.

Colonel RATHBONE said it was an experiment he regarded with some misgiving but it had got to be done.

The CHAIRMAN did not consider it to be so fraught with danger, as after the last war, so long as we were in occupation of Germany and could exercise a certain amount of control.

Colonel RATHBONE stated that it was definitely his impression after working closely with the German legal profession that they were "playing" and particularly as far as crimes against humanity were concerned.

The CHAIRMAN thought there would be a sufficient degree of inspection not only by Colonel Rathbone's department, but he hoped some members of the Commission would pay an occasional visit and see how things were done. Members had done this with regard to Military Courts and Lord Wright said he himself had done so several times during the last two years. He thought it very important indeed.

M. de BAER wished to express his appreciation to the very clear exposé that Colonel Rathbone had just made and was sure the Commission felt the same. He had however been instructed by his Government to obtain some information about one particular case. He asked whether he was to understand and whether he should answer his government, in respect of the Wolfenbüttel case that the defendants tried before the German court had only been accused of crimes against German nationals and had not yet been made to answer for their crimes against allied nationals.

Colonel RATHBONE replied with regard to the Wolfenbüttel case that he had instructed his people at Herford to get full details of this trial and he hoped he would be able to give the full facts of this case, and as to whether there were Belgians among those who suffered. He had been discussing this with Sir Alfred Brown, who had said that it was the view of his office that Control Council Law No. 10 does not make it impossible for German Courts, when duly authorised, to deal with crimes by Germans against allied nationals.

M. de BAER said he would like to say that he believed his Government would have no objection to German courts trying German nationals, even for crimes against Belgians, provided there was some sort of supervision by the Allied Governments. In regard to the Wolfenbüttel case, there had been an article in the Belgian press, but General de Baer thought he would delay further questions until he had heard further from Colonel Rathbone. From the conversation he had had with Colonel Rathbone, the other day, he had had the pleasure of drawing the conclusion that the water-tight compartment which had existed up to now had been broken down. Could then this Commission hope to get some information about trials which were being held before German courts. M. de Baer asked.

Colonel RATHBONE replied that this was certain and that he did not think there would be any difficulty about it at all. He did not think that German courts would be allowed to try offences against allied nationals, until they had proved their worth by trying German nationals accused of crimes against Germans.

M. de Baer asked for confirmation that up to now no trials of allied nationals had come before German courts.

The CHAIRMAN said that there was a very great area of war crimes and war crimes jurisdiction entirely untouched by Allied Military Courts or Military Government Courts, or any of these courts in Germany, for instance; in France, he understood that there had been prosecutions going on under national law since 1944. There was that and it might be outside what had just been discussed, although the same was true of the Polish courts. He understood that they had been trying a certain number of cases

and were likely to go on trying them, and the Australians had done a great many. He did not know about New Zealand. If the Australians had ceased to function it was because they had exhausted their material.

Mr. BRIDGLAND said he had had no figures for about two months, but as far as he knew, the trials were still going on.

The CHAIRMAN enquired whether New Zealand had military offences which were being tried.

Mr. BURDEKIN said that any war crimes in the Far East, affecting New Zealand, were being dealt with by SEAC courts.

The CHAIRMAN remarked that Greek courts were going on trying cases.

M. STAVROPOULOS stated that the Greek courts had tried two cases this month - one Italian and one Bulgarian.

Dr. MAYR HARTING said that the Czech courts were trying many thousands of cases, both of war criminals and of traitors, and that there were many more to come. He informed the Commission that Kurt Daluge was to come to trial in a few days.

Dr. SCHRAM NIELSEN said that the Danish Government had just instituted a law which provided for war crimes, but the difficulty now was to get the war criminals.

Dr. ZIVKOVIC said that Yugoslavia had started with one trial and he understood that more would come up soon.

The CHAIRMAN said that the Commission should remember the great area of judicial operations that were going on and which were really essential to a complete scheme for the punishment of war crimes.

Mr. DUTT announced that India had left all trials to SEAC and that they were being dealt with by the military authorities.

Dr. AARS RYNNING said that the Norwegian government had started trials of war criminals also.

The CHAIRMAN said that was all that could be said about operations in the way of punishment of war crimes, and that though he would be the last person to claim that they were all that could be desired, it could not be said that they were a fiasco. There had been a really genuine system of trials, in different areas, and under different jurisdictions.

He asked Colonel RATHBONE whether his department kept in communication with allied nations.

Colonel RATHBONE thought that many allied nations had envoys accredited to the Control Commission at Berlin at present and that they had kept contact in that way.

The CHAIRMAN thought there were a certain number of Chinese cases which were being dealt with by SEAC.

Dr. CHENG agreed.

Dr. SZERER thought there was just a possibility that German courts may come across a crime committed by a German against an allied national.

Colonel RATHBONE said that the German Prosecution authorities had been instructed to report any such case to the military government and that the person would be dealt with by them.

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M.de BAER wondered whether Colonel RATHBONE could give the Commission some sort of advice on the following suggestion. It was known how concerned the Commission were about finding people on their lists, from the beginning and right through, and it was thought that if it was possible to institute a Central Agency in Germany, the Commission should try to obtain the active help of Germans, who were really and thoroughly the machinery by which other Germans must be found, to trace Germans who were wanted. If they wanted to find Germans, who were hiding among their own people, it was only by other Germans that they could do it. This was a problem which had concerned them very much for the last two years and M.de BAER wondered whether Colonel Rathbone could make any suggestion as to the way the co-operation of the German authorities in this respect could be obtained.

Colonel RATHBONE enquired whether the Commission's lists were the same as the CROWCASS lists.

M.de BAER said that the Commission's lists were very much shorter. The CROWCASS lists contained 100,000 names of wanted persons, whereas they had not a fifth of that number. Also, of those, many were already in the cages, and it was not necessary to try to find them because they could be located. There were many civilians and soldiers who could not be found.

Colonel RATHBONE thought the best thing would be for the Commission to communicate the names on the lists and he would get the Intelligence people on their track, or the German Police, or the German prosecutors. He thought it would be useful if they could have lists of names of people in the British zone, because the Intelligence people were now releasing a large number of people, who had been locked up for some time for security reasons. There were no security grounds for keeping them locked up further, but the Commission might have some evidence which would necessitate their having to be locked up again.

M. de BAER enquired, in view of this, whether Colonel Rathbone did not receive the Commission's lists.

Colonel RATHBONE said he had not seen any.

Sir Robert CRAIGIE stated that the Commission's official channel of communication with the British zone had always been A.G.3, War Office. He thought it would be very useful if the lists were also communicated to Colonel Rathbone.

Colonel RATHBONE said that these would go through the Rhine Army, but that it would be very useful if the lists were also communicated to his department. When a German soldier was demobilised, he ceased to be of any use or interest to the Rhine Army.

The Secretary-General undertook to ensure that a complete set of the Commission's Lists would be sent to the Legal Division at Herford without delay.

The CHAIRMAN thought that Colonel Mickelwaite and Colonel Straight would probably hold the same views as to the tracking down of listed criminals and asked whether this question could be passed on to his friends at Frankfurt.

Colonel SPRINGER said he would certainly pass it on.

The CHAIRMAN asked what was the relation of the newly projected scheme to the prosecutions or proceedings, which the Germans talked of among themselves as de-Nazification.

Colonel RATHBONE replied that it was all part of the same business. De-Nazification proper meant the removal of Nazis from office, and having removed them from office, one had to decide what was to be done about them. They had to be tried for crimes or interned, or released subject to certain restrictions, or released with a clean bill of health.

The CHAIRMAN thought that when the Commission received the Directive No. 38, they would have a better idea of what the scheme was.

Dr. MAYR HARTING mentioned that he would like to take part in the observations of German courts and to go to Germany to study how they functioned.

The CHAIRMAN then thanked Colonel Rathbone for sparing the time to come to the meeting and expressed his opinion on behalf of the Commission that his talk had been most enlightening and helpful.

Colonel RATHBONE left the meeting at this juncture

REPORTS BY CHAIRMEN OF COMMITTEES.

M. de BAER had two proposals to put before the Commission. The first was regarding persons listed as suspects (Doc. C.231) which had been circulated. It had been found, now that a year or two had elapsed, that liberated countries were not in the same position as to collecting evidence, as immediately after the liberation. Whereas two years ago, evidence had been accepted which was not quite up to the standard that they liked, because otherwise many war criminals would have escaped, they were not now in that position. Now they could ask for more precise evidence, and with a view to tightening up of the lists, he had proposed Doc. C.231. They must not forget that if they wanted their lists to be authoritative, they could not risk a large percentage of the suspects being tied down, if the alleged criminals had a very good alibi, or else proof that they were in no way responsible for the deeds with which they were charged.

The CHAIRMAN said the Commission was very glad of that proposal and suggested that it should be discussed in more detail at the next meeting. Now that they had the statement of what the point was, they would be in a better position to discuss it at the next meeting.

The CHAIRMAN asked the Chairman of Committee III whether he had anything to report.

Dr. MAYR HARTING stated that there was only one point which he would like to make with regard to the publication of war trials reports. In the first volume of these reports, which was in the process of being printed, it had been only possible to include British and American trials. The volume contained reports on six British trials, two held before United States Military Commissions in Europe and one before a United States Military Commission in the Far East. It would be remembered that Committee III was charged only with the preparation of the first volume of these law reports. It was intended to set up a special committee which had to deal with the publication of the following volumes. He was sure it would be possible to discuss the manuscript of the second volume in the near future. It might be found advisable to ask the Commission to set up this special committee. He also referred to Doc. A.21.

The CHAIRMAN said that what one really wished to do that evening was to approve the draft text A.21.

Dr. MAYR HARTING said that in the main points, this matter was set out very clearly in A.21. He could therefore restrict himself to a few words only.

Sometime ago, the Commission had considered and agreed to a draft letter to Messrs. Hodge and Co. concerning the publication of law reports. It was agreed that this draft letter contained in C.216 should be shown to the various authorities, asking them for their observations. This had been done and there were some very important observations of the Treasury Solicitor's department. Mr. Ridley strongly advised the Commission to refrain from sending the letter in the form contemplated.

According to the recommendation of the Treasury Solicitor's office, a new letter had been drafted and he proposed that the new letter contained in A.21 should be approved by the Commission.

Sir Robert CRAIGIE said that, as a matter of fact, he was reading it for the first time and that it seemed to him to be admirable, and that on first perusal, he thought the Commission could approve it being sent. He understood that in view of the long but unavoidable delay in having this text approved by the Treasury Solicitor, the Secretary-General was very anxious to get it off as soon as possible and that Messrs. Hodge were getting very impatient.

The CHAIRMAN then said that the matter might be considered settled and the letter was approved for transmission.

DRAFT PEACE TREATIES.

M. STAVROPOULOS said he had sent the suggestions made by the Commission to the Greek Delegation in Paris, but unfortunately, it had coincided with the new policy adopted by the Peace Conference for speeding up its work. It had, therefore, been too late to submit the resolution to the Peace Conference. He was advised that it would be better for the Commission itself to find a way to send it to the "Big Four", as from the Commission. He did not know whether this could be done.

The CHAIRMAN said this meant getting the bulk of the member nations to agree.

M. STAVROPOULOS thought there was plenty of time, because the "Big Four" were not to meet before the end of November.

The CHAIRMAN did not consider that very long and thought it ought to be followed out and asked whether it could be put into some definite shape which could be circulated by the Commission among the member nations.

Sir Robert CRAIGIE wished to mention one point. He said that, as stated when the matter was mentioned before, those governments who had already accepted the draft treaty would be in a difficult position in now suggesting that this treaty should be drafted in the manner proposed by the Commission, and that as far as he was concerned, he would find it difficult to vote for submitting the resolution to the "Big Four". It seemed to him that the best plan would be that all those countries, who were in favour of the proposal and who were not represented on the original "Big Four" meetings, should put it forward. There were several countries who were in favour of this resolution and if they all put it forward, he was sure that it would receive due consideration.

The CHAIRMAN said that it was suggested that all member governments approving of the resolution should also approve of it being submitted to the "Big Four".

Sir Robert CRAIGIE said that the governments concerned should submit it to the "Big Four" - each individual government.

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The CHAIRMAN was not aware of any other possibility.

M. STAVROPOLOUS thought that those who had voted for the resolution would like to make some sort of reminder.

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The CHAIRMAN wondered whether it would be possible for the Commission to make some sort of reminder that any government should send it on to the appropriate authority.

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Sir Robert CRAIGIE did not consider that it would be of much use unless one of the members took the matter in hand.

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The CHAIRMAN said that it should be decided by the next meeting what would be the best practical measure to take. The object which the Commission wanted to achieve was quite clear. He did not think it could be done by the Commission, and it was unlikely that they would get a majority.

REPORTS

The CHAIRMAN said the Commission should think this over and decide on what was the best course to adopt.

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25th October, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF 115TH MEETING

HELD ON WEDNESDAY

23rd October, 1946.

Chairman:	Lord WRIGHT	Australia
Also Present:	Colonel SPRINGER	United States of America
	Dr. SCHRAM-NIELSEN	Denmark
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr. MAYR-HARTING	
	Dr. MARCOVIC	Yugoslavia
	Commander MOUTON	Netherlands
	Mr. AARS-RYNNING	Norway
	M. DIMITSAS	Greece
	Mr. BURDEKIN	New Zealand
	Mr. BRIDGLAND	Australia
	Dr. SZERER	Poland
	Mr. TSIEN	China
	Mlle. CAPIOMONT	France.

Apologies for absence were received from:

Sir Robert CRAIGIE	United Kingdom
M. de BAER	Belgium
Dr. CHENG	China
M. STAVROPOULOS	Greece
Sir Torick AMEER ALI	India
Mr. DUTT	India
Mr. HORNE	Canada
Dr. ZIVKOVIC	Yugoslavia

MINUTES

The Minutes of the 113th Meeting were approved and signed.

No amendments to draft minutes M.114 had so far been received.

PROCEDURE REGARDING PERSONS LISTED AS SUSPECTS(DOC.C.231).

The CHAIRMAN suggested that the Commission might adjourn this question in view of the absence of Sir Robert Craigie and M. de Baer both of whom he knew were very much interested in it. Alternatively, as the members were aware of the point at issue, he thought he could ask members to express their individual views about it.

Dr. SCHRAM-NIELSEN said that he agreed with the document in every way.

Dr. MAYR-HARTING stated that he had had the opportunity of discussing the paper in question in Committee I and that so far as he could remember there was only one question of some doubt that arose and that was in connection with what should be done with the lists of suspects already in existence. One proposal was to ask the military authorities to abstain from surrendering persons listed under "S" and to wait until further information could be obtained from the various National Offices and the

persons transferred from "S" to "A". He thought the Committee was unanimously of the opinion that it would be wiser not to take any sort of retroactive action and so diminish the value of the lists already in existence. The proposal contained in Doc.C.231 contained only the suggestion that the listing on "S" should be restricted in future, and that Committee I would prefer in every case to ask National Offices for further information before listing persons on "S". The whole idea of the paper was to give members of the Commission information and to afford them an opportunity to advise their respective National Offices that they cannot expect persons to be listed on "S", if the material was not complete and that cases of this sort will, in future, be adjourned, so that it would be advisable to send as complete information as possible in the first instance. He did not think General de Baer or Sir Robert Craigie wished any sort of change on the paper, and they certainly approved and would welcome it if the Commission would undertake to communicate with the National Offices. He felt the Commission should take note of it and approve.

The CHAIRMAN said that that being so, he did not think that it was necessary to adjourn the question.

Mr. BRIDGLAND said he supported the recommendation of Committee I and thought that the military authorities were being informed of such large numbers of names of wanted criminals already, that it was pointless to encumber them when there was not a sufficiently strong case.

Dr. SZERER said he agreed entirely with Document C.231.

Commander MOUTON said he agreed with the paper.

Mr. BURDEKIN said he thought there was no need to postpone the matter and that he agreed.

Colonel SPRINGER said he had attended the committee meeting which discussed the matter and that, as he remembered, the paper grew out of remarks that the two lists "A" and "S" were being treated by the military authorities just alike and it was said, in explanation, that perhaps the military authorities did that because they found the two lists slightly confusing and did not require the additional examining because frequently, by just examining the lists, they could not tell what evidence was missing. Then two or three alternatives were suggested, one, that the suspect list be discontinued and abandoned altogether; Colonel Springer thought that alternative was rejected as it was thought that it would be more confusing to military authorities to abandon the lists than to keep them going. Then there was a suggestion to include on the list of suspects evidence which the Committee felt was missing, so that military authorities could look at the list and say: "If you will supply this evidence, we will do whatever is necessary". That likewise was rejected as a bit impractical. Then, in the interests of continuing the lists and making them serve a good purpose, they came to the conclusion that was embodied in this paper, and Colonel Springer was of the opinion that it merited the approval of the Commission.

The CHAIRMAN thought that, generally speaking, Document C.231 was approved by the Commission.

APPOINTMENT OF SPECIAL COMMITTEE FOR DEALING WITH LEGAL PUBLICATIONS.

The CHAIRMAN said that the first publication had been discussed by Committee III, of which Dr. Mayr-Harting was the acting Chairman and which consisted of several members. It was felt in some quarters that perhaps there were too many on that Committee, and that it might be better to have an "ad hoc" committee, that is, a special committee to deal with the legal publications. It was understood that the first volume was just on the point of going to press and he, Lord Wright, was now preparing the introduction

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Volume I, which he had undertaken to write.

The CHAIRMAN went on to say that Sir Robert Craigie had expressed his willingness to assist as far as he could, but in particular on questions of a political or diplomatic character. The Chairman thought that Sir Robert's help would be very valuable. Lord Wright said that he also would keep in touch with the work, in a rather grandfatherly manner, much as he had done on Volume I. It was suggested therefore that a temporary ad hoc committee should be appointed to deal with these questions of the reports so long as the Commission go on producing them. It seemed to him that there was considerable future in the reports. The following names of the members for this special committee which had been suggested to him were now submitted to the Commission for approval.

M. de Baer
Dr. Mayr-Harting
Lieut. Kintner
Mr. Burdekin
with Dr. Schwelb acting as Secretary,

and with Sir Robert Craigie and himself always prepared to assist when required. The CHAIRMAN added that members who were not represented on this special committee would be invited to be present when cases dealing with trials held in the courts of their countries were involved.

Dr. SZERER said he had pleasure in proposing the formation of this Special Committee, to be composed of the members indicated by the Chairman.

Commander MOUTON seconded the proposal.

This was unanimously agreed.

DRAFT PEACE TREATIES.

The CHAIRMAN said all members would no doubt remember the discussion at the last meeting and asked whether there were any further proposals, though he said he was rather sceptical about it all.

M. DIMITSAS said that M. Stavropoulos considered that if the Commission did not see its way to bring this matter to the attention of the "Big Four", that the individual governments should do so and express their views; he could not see any other way of getting the thing done.

The CHAIRMAN said it would be remembered that they had left off on the last occasion with the idea that some member or some government represented on the Commission, should bring the matter to the attention of the "Big Four" and the Commission had thought that that was the most practical method of giving an effective send off to the idea. He did not think that any progress had been made, and asked whether any one member government was prepared to take the matter up.

Dr. SZERER said he had a letter of what had happened when the Polish delegation presented amendments concerning war criminals to the Peace Conference. This letter might throw some light as to the attitude of the Conference. Poland was represented only on the Commission of the Peace Conference which had to deal with the Italian Treaty. Three weeks prior to the resolution passed by the United Nations War Crimes Commission, the Polish Delegation presented four amendments to the Draft Treaty with Italy. Only one amendment was accepted, the three others were rejected. The one that was accepted consisted of one word, instead of "Italy shall take the necessary steps"...it was agreed that the provision should read: "Italy shall take all necessary steps". When he sent the UNWCO resolution to his Government's delegation in Paris, it was too late to present any new amendments, so they presented it only in the form of a recommendation, but this also was rejected. That was what happened in Paris and the atmosphere was not very propitious.

The CHAIRMAN said that Sir Robert Craigie, who understood diplomatic proceedings, had examined the matter very carefully and had pointed out the

the difficulty of getting his Government, who had already accepted the Draft Treaties, to put forward these new suggestions. He thought however that it might be possible to find one of the member governments which was in favour of the proposals and which had not been already committed to the present form of the peace proposals, who would put it forward. What the Commission was trying to ascertain now was whether they had found such a member government. Sir Robert Craigie had pointed out that there were several governments who were in favour of this resolution and if they could see their way to put forward the proposals, he thought and the Chairman agreed, that it might have some effect. It was a matter for individual members to put, each to his own government, because the Commission could do nothing directly as far as he could see. At present, he felt the matter had got no further forward and he had not had brought to his notice the name of any government which would carry out the practical course which Sir Robert favoured.

Commander MOUTON said that personally he was quite prepared to propose to his Government to take steps on its own account but he did not know whether the Commission could decide that all governments should do the same thing.

The CHAIRMAN said that was what he would like to decide, but he did not suppose there were many in a position to do so.

Dr. SOHRAM-NIELSEN said that in his opinion it was not very likely that many of the governments would like to bring the matter before the "Big Four", because as Sir Robert CRAIGIE had explained there were many who had already accepted the draft treaties in Paris.

The CHAIRMAN said he was very positive about that. His own view in favour of the proposal did not blind him to the views in some quarters that it was too late.

Dr. SOHRAM-NIELSEN said many governments would probably not want to use their credit with the "Big Four" in order to bring forward the proposal. He was speaking without instructions from his Government, but as most governments had so many things to bring forward of vital interest to their countries, they would not like to bring forward this matter.

The CHAIRMAN said he quite understood that, but he could not see what the Commission could do beyond what had already been done.

Dr. MAYR-HARTING said he felt much as the Chairman did and thought that it had been their duty to point out where the Draft Peace Treaties differed from the Commission's proposals, and as this has been done, and he understood the Peace Conference had been informed of their opinion, he did not think it was the Commission's task to press the point further.

The Commission's duty had been done and they should not go further.

Colonel SPRINGER said he thought that if the proposition required a motion and it were put to the vote, he would be compelled, under the former instructions of his government, to vote against it.

The CHAIRMAN said that Colonel Springer was in the same position as Sir Robert and felt that the members understood the position, which had been very well summed up by Dr. Mayr-Harting. He thought that they had discharged their duty, they had expressed their views, and now it should be left to the statesmen deciding on the final text of the treaties, either to promote those views or not. The general problem seemed to be that there was no one however sympathetic, who was willing to take the matter up and he felt that the Commission, as a Commission, must leave it at that and hope for the best.

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REPORTS OF CHAIRMEN OF COMMITTEES.

Dr. MAYR-HARTING said that there had been no meeting of Committee III and consequently he had nothing to report.

FORMAL APPROVAL OF 43RD LIST OF WAR CRIMINALS.

The CHAIRMAN said that these lists, which now included over 18,000 names, represented a vast amount of work and should be of great value to the future historians and probably of great value to the people who were still attempting to trace wanted criminals.

The list was approved.

PROGRESS REPORT OF TRIALS.

The CHAIRMAN said that the Secretary-General wished to refer to a matter which had certainly been discussed and which interested him personally. He did not feel that very much could be done, but thought it ought to be mentioned and brought to the notice of the interested parties.

The SECRETARY-GENERAL said, in connection with the Progress Report of trials and results of trials which the Commission published each month, that it was understood that trials had been held in Greece, Czechoslovakia, Yugoslavia and Poland, and possibly in other countries, but no reports of these trials had been received by the Secretariat, for inclusion in the monthly report. He would be very grateful if members would furnish him with the numbers of these trials and the results, in order that the report might be kept up to date. This matter had been brought to the attention of members on several occasions, but with the exception of the United States, Britain, Australia and France, no reports had been received.

Dr. SZERER said he sympathised with the Secretary-General, but he was in the same position, as he was quite unable to get figures from his National office.

The CHAIRMAN said that there seemed to be extraordinary modesty amongst member governments, who were very proud of having prosecuted so many German criminals, but who were unwilling to put forward their claims to fame. Nevertheless, it was unfortunate, as the Secretariat would like to have complete records of all trials and especially the transcripts of these trials. He thought it was humiliating to be constantly obliged to say that the Greeks, Poles, Belgians and Norwegians were prosecuting to the extent of their powers, but so retiring that they could not bring themselves to blow their own trumpets, for that was what it came to. It was certainly very humiliating for a person like himself, when others said "What about the smaller countries, aren't they doing anything?". He could only say: "Yes, they are, I am sure, but I do not know." If the Secretary-General could persuade the countries who were in that position to overcome their natural modesty and really say what they had been doing, it would be very beneficial to the Commission and enable it to carry out its duties in a proper manner. He felt more than that could not be done.

He asked whether the Australians had ceased to function to any extent.

Mr. BRIDGLAND replied that trials were still going on, but that he had received no reports for the last two months. However, he had telegraphed and the latest figures should be available shortly.

The CHAIRMAN felt that there was no more for the Commission to do that afternoon and pronounced the meeting closed.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON WEDNESDAY,

6th NOVEMBER, 1946.

Chairman:	Lord WRIGHT	Australia
Also present:	Sir Robert CRAIGIE	United Kingdom
	M. de BAER	Belgium
	Sir Torick AMEER ALI	India
	Colonel SPRINGER	United States of America
	Dr. SCHRAM-NIELSEN	Denmark
	Major FANDERLIK	Czechoslovakia
	accompanied by	
	Dr. MAYR-HARTING	
	Dr. ZIVKOVIC	Yugoslavia
	accompanied by	
	Mr. ZIMONJIC	
	Commander MOUTON	Netherlands
	Mr. AARS-RYNNING	Norway
	M. DIMITSAS	Greece
	Mr. BURDEKIN	New Zealand
	Mr. BRIDGLAND	Australia
	Dr. SZERER	Poland
	Mr. TSIEN	China
	M. MAILLARD	France
	accompanied by	
	Mlle. CAPIOMONT	
	Mr. HORNE	Canada
	Lieut. Colonel RYAN	Director, CROWCASS,
		in attendance
	accompanied by	
	Captain GOWING.	

MINUTES.

The Minutes of the 114th Meeting were approved and signed.

Amendments to Draft Minutes M.115 had been received from Colonel Springer and would be incorporated in the final text.

Apologies for absence were received from His Excellency Dr. Cheng and Lieut. Colonel Savill.

PROSECUTION OF KEY MEN LISTED ON LISTS NOS. 7 and 9

The CHAIRMAN announced that with the permission of Lieut. Colonel Ryan, he would take Item No. 4 before No. 3 on the Agenda.

M. de BAER said that when he had written this paper, he was really concerned because of the lack of "follow up" which had been given to the key men lists Nos. 7 and 9. The members would remember that when the two lists were produced the Commission had hoped that the Governments would follow them up by making dossiers against these people. Since the paper had been written, he had had a conversation with Mr. Clark Denny from Nuremberg, who told him that the prosecutions of at least a thousand of these people was envisaged. On the other hand, Dr. Litawski had communicated to him two letters, according to which one could draw the conclusion that also in the other Zones of Germany, prosecutions are being envisaged against leading Nazi functionaries. The number of persons listed in the lists 7 and 9

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was 562. Of these, about 200 have been listed ~~was~~ wanted by various governments, so there remain about 362 against whom no prosecution has been made, at the present time. In view of the information which he had received from Mr. Clark Denny, M. de Baer did not think anything should be done about it now except perhaps to remind the authorities in the occupied zones of Germany that the Commission was really interested in the prosecutions that are going to be made against these people.

Dr. ZIVKOVIC thought it would be useful if the Secretary could send members the names of the people who had been prosecuted on these lists first, and then they could examine them.

Colonel SPRINGER said he thought Monsieur de Baer was arranging to have them listed so that he (Colonel Springer) could check them with the Subsequent Proceedings Committee.

M. de BAER thought it would be quite easy if the Secretariat could check up on which of these key men had been demanded by the Allied governments and which ones had not.

Sir Robert CRAIGIE said that he entirely agreed with what was being proposed, but he thought the Commission should be quite clear as to the procedure. He wished to know whether it was M. de Baer's idea that they should do nothing more than note the fact that large numbers of prosecutions are due to take place, of men in that category, or was it proposed to draw special attention to the various persons on their key lists of the 362 men who have no one specifically interested in their prosecution.

M. de BAER said that it was the proposal that attention should be drawn to the remaining men.

The CHAIRMAN remarked that the Commission could not initiate prosecutions, though they might induce interested parties to take the matter up.

Sir Robert CRAIGIE said that then they would be in the same position because if these men were regarded by some government as war criminals they should be brought to trial and if they were not, they ought not to be kept on the Committee's lists. He asked M. de Baer whether he was proposing to bring cases against these men.

Dr. SCHWELB drew attention to the fact that the Allied Control Council Directive No. 38 had now been made available to the Commission and it covered the question of key men. He quoted the relevant provisions of the Directive, which will be circulated to members as Doc. Misc. No. 53.

Mr. BURDEKIN wondered if it might not, even so, be advisable to draw the attention of the Subsequent Proceedings Committee to the existence of the lists and that 362 men have not been claimed by any nation.

The CHAIRMAN thought that sounded a practicable measure.

M. de BAER also thought it would be a practicable measure. Even if a new law had been promulgated recently, he thought the Commission could usefully remind the Control Commission that they were interested in the scheme.

Mr. BURDEKIN said the Commission could make it link up with the new law.

Dr. ZIVKOVIC wished to say that some National Offices had not yet completed bringing charges before the Commission so that there was a possibility that some of these Germans would be charged subsequently before the Commission. He wished to ask how many German key men were involved.

M. de BAER replied that there were 362.

Sir Robert CRAIGIE said that the Commission wanted to be sure that these men would be proceeded against under this new Directive.

The CHAIRMAN asked that copies of the Directive might be made.

The Secretary General said that copies were now being made and would be circulated this week (Doc. Misc. 53).

The CHAIRMAN thought that in that case, M. de Baer might like to mention the matter again, after the Directive had been circulated. The Commission wanted to see that those names were not overlooked altogether. They might have a separate list made of the 362 and see exactly to what countries they appertained and what the charges were which were suggested against each. Then, he thought, they would know pretty well where they were.

They might be able to bring the matter of particular names before the respective countries which they thought were likely to be or ought to be interested.

Colonel SPRINGER wondered whether attention should not be drawn to the whole 562, because none of them was being prosecuted at present except the doctors.

Dr. SZERER remarked that at least one of them had been hanged (Kaltenbrunner).

The CHAIRMAN asked whether there had been any other prosecutions.

Dr. LITAWSKI thought there had been against very few of the men - about 20 or 30.

The CHAIRMAN said that if they had a sort of reasoned catalogue, they could make a note against those who had been prosecuted.

M. de BAER thought Colonel Springer's proposal a very good one - to send Lists 7 and 9 to the Control Commission. He also supported Sir Robert Craigie's proposal.

Sir Robert CRAIGIE said he would simply add that in sending these lists, the Commission might take it that all these people would be prosecuted under the new directive. If they were, there was nothing more for the Commission to do, but if they could give no definite answer, then the Commission must have cognizance of the subject. He did not know whether these prosecutions took place before national or international courts or before German courts. If the former, it meant the trial would go on for a very long time; if the latter, it was questionable whether the trials would be of the character they liked, but he did think it desirable that the question ought to be asked of the Control Commission when the United Nations War Crimes Commission communicated their lists to them.

The CHAIRMAN said that they would then send in their lists to the Control Commission and annotate against each one, giving any further particulars. They would refer to the new directive, and ask them if they could make any specific recommendation on the whole question. He thought that that was all they could do. Then they could probably, at a later stage, ask that the matter be put before the Commission again, when they would have had the opportunity of considering it more fully, and when some further practical idea might occur to them.

The CHAIRMAN asked M. de Baer, as he understood he might have to leave the meeting, whether he had any report to make as Chairman of Committee I.

M. de BAER replied that he had no report to make. He would like to take the opportunity, in the presence of Lieut. Colonel Ryan, to state that he had received a letter from his Government, saying they were very pleased with the way CROWCASS was running at the moment and had asked him to express their appreciation.

The CHAIRMAN was sure that everybody felt the same and the best thing would be to hear what Lieut. Colonel Ryan had to say.

Lieut. Colonel RYAN said that he had come over particularly to see what help could be given by the United Nations War Crimes Commission to CROWCASS and what assistance the latter could give to the United Nations War Crimes Commission. They had endeavoured to re-open against great difficulties in Germany and had re-established the organisation. They were now working smoothly and getting their lists out in complete order and as rapidly as possible. One thing they would like now was to find out just what the reaction of the United Nations War Crimes Commission was to their present type of lists, and any suggestions which may be of further assistance in carrying out their work would be appreciated. He added that he had a short brief which he would send out concerning their organisation and the work being done.

First, he wished to present Captain GOWING, who was in charge of Correspondence, Major Lewis, his Second in Command was Assistant Director and Chief of Operations, with Captain Gowing in charge of correspondence, under his supervision.

The CHAIRMAN asked Colonel Ryan if he could state what their present organisation was. He understood that in Berlin they had got their arrangements pretty well complete now.

Lieut. Colonel RYAN stated that he had been directed to take over the Directorship of CROWCASS and that he was assisted by Major Lewis, British Army. Captain Dabs, U.S.A., was in charge of Administration. Captain Gowing, British Army, was in charge of Correspondence and was assisted by Captain Seed, British Army. The French Government had sent two representatives - Monsieur Metz and Monsieur Sinding, who at present were being integrated into the organisation pending decision as to where they would be placed. The Soviet Government had not sent any representative. They also had Mlle. Toulaine from the Division de Justice, French Army, Mr. and Mme. Perry, Liaison Officers with the U. S. A. from the J.A.G. War Crimes Branch, Wiesbaden, and also Miss Ring, U. S. Liaison Officer, U. S. Headquarters, Wiesbaden, and with CROWCASS, who operates the teletype machine which is available to all powers. They had seven American soldiers who supervised the actual working of the Germans more or less as guards and administrators and some British personnel to assist in a like manner and to act as male couriers and to perform certain other duties. That comprised the military section.

As from the first of the month, they had 150 German civilians 80 per cent male and 20 per cent female - to assist them, all of which had been carefully screened by British and U. S. Many of these employees were persons who had suffered under the Nazi yoke and were capable of carrying on the work under proper supervision. There was nothing to worry about from a security angle, because they were closely supervised and there was a thorough check up on everything they did. In fact, they seemed most co-operative. They had not had instances yet which made it seem that they needed to tighten up on security.

The organisation had completely done away with all the machinery they were initially burdened with. The work was done manually. The organisation was divided into operational sub-sections. Firstly, in the operational section all correspondence passed through the hands of Major Lewis or Captain Gowing. The organisation was further divided into a section for those on the Wanted Lists and one for those on the Detention Lists. Upon receipt of reports they were put into a file and given a CROWCASS file number, the Wanted Reports passing to the Wanted Section and the Detention Reports to the Detention Section. The wanted reports and the detention reports were further noted in the name index and were then sent on to the various sub-sections and matched - a Wanted Report against a Detention Report, to see whether any person wanted had already been detained and vice versa. Based upon those findings, the various governments were notified and from the reports after they were matched, a Wanted List and a list of Detainees was prepared.

The latest list of detainees - No. 11 was placed in the mail on Monday of this week. Wanted List No. 13 was also placed in the mail this week.

Lieut. Colonel RYAN said CROWCASS maintained close liaison with the Headquarters of the British Army of the Rhine and also with the French in Paris with regard to the various holdings of the three nations. At present, there was much more co-operation than they had had in the past from other nations. Liaison was very good at the present time. They also searched the information that was submitted from various countries with regard to persons released or transferred between zones and between countries, also the sentences. Many documents were not being submitted by the nations. They had not yet received complete reports of persons who were war criminals, or who were suspected as being war criminals, nor had they received official reports from nations who were holding people whom they definitely knew to be wanted by other nations.

The CHAIRMAN remarked that CROWCASS was concentrating at present on war crimes.

Lieut. Colonel RYAN said this was so. They had eliminated the Security Suspect angle and were now in a position to locate war criminals or persons suspected as war criminals.

The CHAIRMAN said that if he remembered correctly, the great bulk of documents in Paris were Security Suspects.

Lieut. Colonel RYAN agreed, but said that many Security Suspects who were documented under the so-called POW form represented duplication.

The CHAIRMAN said that CROWCASS had given up the idea of having POW forms and that no one would blame them for it.

Dr. SZERER asked whether CROWCASS considered people who appeared on the Commission's lists of war criminals as ipso facto wanted or whether they must be notified separately.

Lieut. Colonel RYAN said that they did include those persons who were wanted by the UNWCC and they also asked for the wanted report to be filed with them, or through the individual nation. It was ^{of} much greater assistance, as long as they received a wanted report completely filled in, or as completely as possible.

Captain GOWING said there were one or two points which Lieut. Colonel Ryan had brought up which he would like to enlarge upon. First of all there were Detention Reports. They were sending out hundreds of letters weekly to National Offices, telling them that people they wanted were detained, but unfortunately, up to date, very few of the allied nations were sending them detention reports. CROWCASS was trying to serve everybody, but everybody was not trying to serve CROWCASS. They did know that there were thousands of persons held, who had been detained, but for whom no detention

reports had been received, and they did not think it was quite fair to all nations that they should not be informed of any persons detained as automatic arrestees as well as war criminals. It was important because a detention list giving people a record of automatic arrestees, made it of considerable value to other nations trying to search for people they wanted. A brief on "What is CROWCASS" was being prepared and distributed to all concerned, as a result of which it was hoped that a better understanding of CROWCASS would lead to all Allied nations serving CROWCASS as faithfully as CROWCASS were serving them.

The next point concerned Wanted Reports. CROWCASS, being a registering body was interested in all the reasons why any war criminals or alleged war criminals might be wanted. They were therefore interested in any persons who were not only wanted by the Allied Nations but also held by them. They required a Wanted Report and a Detention Report from all Allied Nations holding a person they wanted in connection with war crimes. They could then set up a co-ordination of all dossiers concerning one person, which would be available for anybody who might want it. At the moment, very few of the allied nations were doing that. In most instances, if a man was wanted by the nation in whose custody he was held, no wanted or detention report was submitted to CROWCASS. He hoped from what he had just said that it would be clear that there was great value in doing that for everybody concerned.

The CHAIRMAN summed up that Captain Gowing wanted each member of the Commission to request his government to help the work of CROWCASS in the way outlined by him. He hoped this would be acted upon, but the first thing would be to communicate the desire exactly as it was stated by Lieut. Colonel Ryan and Captain Gowing, and for that, one had to rely on each respective member. There was no means of committing members to the custody of some court if they did not do what was suggested.

Sir Robert CRAIGIE said that the Commission could not compel, but only stimulate.

The CHAIRMAN remarked that the Commission had done a great deal without any coercive powers at all, by the process of stimulation, but they had to rely to a large extent on the good will and energy of the individual representatives of the individual countries.

Dr. ZIVKOVIC said there were, in many of the U. N. countries and especially on the Continent, POWs still detained. It was nearly a year since he had asked his Government to send CROWCASS reports of POWs detained by the Yugoslav authorities, and he had received a letter two or three months ago saying that they had started sending such reports regarding POWs. As far as he could see, they had no machinery for checking the names on CROWCASS' wanted lists against names of persons detained by them, but he assumed that if CROWCASS received from them as clear a report as possible of Germans, or other ex-enemy nationals detained in Yugoslavia as POWs, he supposed that they could carry out the checking against names of the wanted persons in their files.

The second question was: He understood Captain Gowing to say that CROWCASS would like the nations to advise them, not only of those POWs they had, but also of every war criminal delivered to them as an accused or as a witness, for trial in their countries. But if CROWCASS wanted them to do that, Dr. Zivković said he supposed they could more easily do so if there was co-ordination between the detaining authorities in Germany and themselves, because whenever a criminal was delivered to a country, he supposed the authorities should advise CROWCASS that such and such a man had been delivered. He thought this was a much easier way than for the country to make a list and to send it to CROWCASS. These were the two points he wanted to stress.

Captain GOWING replied that with regard to Dr. Zivković's first question, CROWCASS could compare his screening reports against their records, but that was not the function of CROWCASS. POWs held in custody should be compared with their Wanted list and if found to be identical or possibly identical with wanted persons, Detention Reports should be sent to CROWCASS. They would then become detainees and no longer POWs. To say that CROWCASS would be able to cope with the mass of screening Reports in the way suggested would be rather more than CROWCASS could promise, because, actually, it was not their function. CROWCASS' function was Detention Reports and Wanted Reports and anything happening to a detainee afterwards. CROWCASS deals with interzonal transfers, sentences, acquittals and releases. He could say in answer to Dr. Zivković's question that if it was not possible to send him a Detention Report in the way he had suggested; CROWCASS would rather have a Screening Report than nothing at all.

Dr. ZIVKOVIC said he had been told by his National Office that on CROWCASS' request - the same request as made here - they had sent CROWCASS a list of 119 Germans detained in Yugoslavia, and Dr. Zivković wondered whether it had been received. It must have happened about three or four months ago.

The CHAIRMAN said that if Dr. Zivković had a copy of the 119 names, an extra copy could easily be made and sent on. The Chairman thought it possible that in all the changes that had taken place in the last few months, these documents might have gone astray and he therefore thought it best if Dr. Zivković could send a copy of the names to CROWCASS.

Dr. ZIVKOVIC said he would endeavour to do so.

Colonel SPRINGER asked whether, when CROWCASS received a wanted report, or information that a nation wanted a particular person, they automatically checked their detention file and then replied to that enquiry if they found a man in their detention file, but if the wanted man was a POW, they would not go into those files.

Captain GOWING said that was correct. They had started indexing cases of this kind, and after getting about one-sixteenth of the way they had dropped them. They actually had no lists of this kind.

Colonel SPRINGER asked whether, with regard to the Commission lists received by CROWCASS, any action was taken. He understood CROWCASS listed in their wanted reports all those people who had been listed on the "A" list, the "S" list or the "W" list.

Captain GOWING said they had to be careful, because though they did do it for a certain time, it was later decided that if a country wanted anyone, it should send them Wanted Reports. He was afraid therefore that from the 16th list onwards they had not been endorsed in CROWCASS records.

Dr. ZIVKOVIC said that though the answer did not affect his office because it was sending CROWCASS Wanted Reports, he thought CROWCASS should take the list of the War Crimes Commission automatically as a collective Wanted List, otherwise, he was afraid that the practical effect of the Commission's work would be to a considerable extent lessened. He said the Yugoslav government was sending CROWCASS Wanted Reports but there might be some difference with regard to other National Offices which were not equipped for sending these reports very quickly. Time was marching on and the Commission knew what that meant in respect of war criminals. He suggested therefore that CROWCASS should resume to treat the Commission's lists as Wanted Reports.

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Captain GOWING stated the entries against the United Nations War Crimes Commission lists were not as full as the CROWCASS Wanted Reports. CROWCASS kept a panel for personal description, while the UNWCC lists gave no physical description of the men.

The CHAIRMAN said that was a very important point. In other words the National Offices had to keep check of these lists and it would be a reasonable effort of labour for them if they picked out of the lists the names that interested each National Office. Otherwise they might break the back of CROWCASS. The Chairman thought that CROWCASS ought to be helped, especially as it was so willing and likely to be helpful to the United Nations War Crimes Commission. CROWCASS must get as much help as possible from each national office in respect of the names that interested them accompanied by various particulars which the Commission had never put in its lists.

Sir Robert CRAIGIE agreed. He thought it very important to get descriptions of the men. Sometimes they had the description and sometimes they had not. In such a case, there would be no advantage in waiting for the Wanted Report. He said that he hoped it would be possible to consider the suggestion of Dr. Zivkovic that names which appeared on the Commission lists should be included on the CROWCASS lists, with the idea that if at a later date supplementary information in regard to the characters of the accused should be forthcoming, it could be included in some later list.

Colonel SPRINGER remarked that there was a difference in classification - Commission lists were secret while CROWCASS lists were unclassified.

Captain GOWING said that this was one thing they wanted to discuss - why the United Nations War Crimes Commission lists remained marked "Secret".

Dr. ZIVKOVIC said that his third point of a very practical nature was this: He had looked through the new detention lists but had not found a space for the country wanting the different people. He had seen a space showing where the criminal was detained, but not for the country by which he was wanted; that was also important, as he thought that was the purpose of the war crimes lists.

He thought the CROWCASS lists had the purpose of informing them that those persons who were wanted were detained by such and such an authority, and as the lists contained a great many names it would take a considerable time to go through each name and meant working many days to see if there was just one man they might want. He suggested therefore that a space should be included in the CROWCASS lists, giving the name of the country which wanted the individual in question.

Captain GOWING replied that this was merely a record of war criminals, stating that a man who was an alleged war criminal had been detained at a certain place and it was up to them to pick out the information they wanted. CROWCASS was not told who wanted him.

Sir Robert CRAIGIE enquired whether, when it was known who was wanted, could not that additional information appear on the Detention lists

Lieut. Colonel RYAN said that some investigation force might be out in the field and working with some ^{other} investigation force, or on its own and receive information that a certain individual committed a crime against an ally whose nationality was unknown to the informant. The man might be handed to the U. S. or the Yugoslavs or to the British. They would take the individual and then say that this man was wanted

as a suspect of a war crime, they did not know whom the war crime was against, but they were going to take the man and detain him. They would then hope that the particular government might search its lists and find out why that man is detained and for what reason he is arrested by that particular nation.

Captain GOWING wished to add to Lieut. Colonel Ryan's remarks that they were receiving Detention Reports of persons who were only possibly identical with persons who were wanted.

Dr. ZIVKOVIC said that on the other hand, they had in their organisation a scheme for bringing the lists together. First they had information on receipt of a man who was wanted and after that they received a Detention Report saying that this man should be held. Then they had simply to compare the two names and see whether the wanted person was on the Detention List.

Captain GOWING said that this was often done, but it could not always be decided. He would give statistics to prove that. Every week they sent out 120 or 130 definite matches and perhaps 300 to 400 possible matches. In other words, about 1 to 3 were matches. Furthermore, he said that about nine-tenths of the Detention Reports were automatic arrestees, whom, as far as they knew, nobody wanted.

Dr. ZIVKOVIC said there were different ways of bridging the gap. For instance, the Commission Secretariat might go through each of the detention lists and compare the names with those on the Commission's lists.

Dr. ZIVKOVIC asked from where the Commission got the information for its Detention Circulars.

Dr. LITAWSKI stated that the information came from CROWCASS.

Dr. ZIVKOVIC suggested that CROWCASS might resume treating the Commission's lists as wanted lists.

Commander MOUTON said he would like to ask, if CROWCASS was quite certain that a person on a Wanted List was identical with the person on a Detained List, to whom they would send that information.

Captain GOWING said that in cases where they had the address of the liaison office they sent it to that office. Where they had no information, they sent it to the United Nations War Crimes Commission only and assumed that it would be passed on to the National Office concerned.

Commander MOUTON enquired whether CROWCASS was in direct contact with the Netherlands liaison officers in the British Zone.

Captain GOWING said they were, and also had contact with the Netherlands Officer in the American Zone at Wiesbaden.

Lieut. Colonel RYAN said that the Netherlands were probably the third most co-operative nation in submitting Wanted Reports and Detention Reports.

Commander MOUTON asked whether CROWCASS proceeding on the suggestion of Dr. Zivković, would examine the Detention Lists, go through their carded register and then send their names to the Liaison Officer in Germany. He thought this was how it should be.

Another question he wanted to ask: whether photographs and fingerprints were required. There would be some difficulty in his country about Detention Lists, if photographs and fingerprints were required.

Lieut. Colonel RYAN replied that CROWCASS had discontinued fingerprints in its entirety. Photographs were not always required, as they were of limited value, however when they were available, CROWCASS would like to have them.

Commander MOUTON enquired as to what sort of detainees were wanted on the CROWCASS lists. Some might be Security Suspects and some might be POWs left in custody by the allied armies. A few of them were alleged war criminals, but persons who were searching these camps did not know for what reasons they were in the camps and he supposed CROWCASS wanted them all.

Captain GOWING said the following categories were the only possible ones into which detainees could be fitted, subject to the government by whom they were detained.

- 1) Alleged war criminals
- 2) Witnesses to war crimes
- 3) Persons wanted for interrogation in connection with war crimes.
- 4) Any persons listed by the UNWCC or CROWCASS, who may be included in any of these three previous categories.
- 5) Automatic arrestees.

He understood from the Control Office that co-ordination and definition of the various categories was due to take place within a week or two and was to be issued to each particular nation in pamphlet form.

Commander MOUTON said he had been extremely happy to hear that all security troubles in the CROWCASS organisation had been solved, because he knew his Government were particularly upset that CROWCASS would be staffed by Germans.

Dr. SCHRAM-NIELSEN said he was not quite sure whether there was any contact between CROWCASS and the Danish Military Mission.

Captain GOWING said he was very pleased that this had been brought up, because the other day, CROWCASS had wished to send a letter to the Danish Military Mission and did not know their address.

Dr. SCHRAM-NIELSEN undertook to see that CROWCASS was notified of the address.

Dr. SZERER asked if the publications of CROWCASS were sent to the Polish Military Mission in Germany.

Lieut. Colonel RYAN replied that contact was maintained with the Polish representative in Wiesbaden.

He said there was one thing that he would like to make clear. From time to time, they were receiving requests from individual nations for statistics of criminals of individual countries. They did not deal with quislings and those individuals must be dealt with by the country concerned.

Commander MOUTON mentioned that the Commission were listing ex-Dutch nationals on the UNWCC lists. If any Dutchman entered the German forces - the SS or the Wehrmacht for instance, there was a legal provision that they should lose their Dutch nationality and they became German or stateless persons.

Dr. ZIVKOVIC thought that if the Dutch Government had no men or machinery at its disposal to search for a man, many of these Dutch nationals would never say they were Dutchmen. If there was no machinery to find such men, then they would escape justice. If CROWCASS thought that the initiative should be taken by the Government concerned, he felt they should tell them so.

Lieut. Colonel RYAN thought the Control Council would be the proper authority. He enquired whether, if a peacetime citizen of the Netherlands joined the German Army, he would cease to be considered as a Dutch citizen.

Commander MOUTON said he would lose his Dutch nationality.

Colonel SPRINGER enquired if there had been a case where a man had been a non-German national at the time of committing the offence but was a German national now, would his case differ a great deal from other war criminals.

Lieut. Colonel RYAN said they would list him as a German.

Commander MOUTON said there was a big case at the moment where Belgians had entered the SD in Antwerp and had committed crimes against the Allied Army; on transfer to Holland, and in listing these persons, they had to mention their Belgian nationality.

The CHAIRMAN thought the true category was that they were working in the German cause.

Lieut. Colonel RYAN said that the proper way would be to take the matter up with the Legal Division, Control Commission in Berlin.

Mr. BURDEKIN thought Colonel Ryan and Captain Gowing had made a remark about the classification of the Commission Lists as "Secret" being a handicap to the work of CROWCASS. If this was so, was there any sound reason why the Commission's lists should be marked as "Secret" documents.

The CHAIRMAN said there had been a time when it had been considered necessary.

Lieut. Colonel RYAN said that many of the British, American and French Forces had lifted all secrecy with regard to the POWs and wanted persons. The lists were now public property and were included in all the newspapers and were available to the public all over the world.

The CHAIRMAN stated that this was a practical question. He did not think the Commission would hesitate to dispense with the classification "Secret" if CROWCASS found in their work that this was a hindrance. He did not know how far the members of the Commission would take the same view.

Sir Robert CRAIGIE said that as far as the U. K. government was concerned, he was sure they would be prepared to omit the word "Secret" or even "Confidential" from the lists.

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Colonel SPRINGER wished to add that at the time when it was suggested that he should get in touch with Colonel Mickelwait and Colonel Straight and find out whether the Commission lists were getting the widest possible circulation, Colonel Straight said that they used only one or two because of the "Secret" classification.

The CHAIRMAN asked all members present if they would consult their governments on the question. He thought the idea of secrecy should be eliminated in the case of these lists and he thought that on the next occasion they met, the members might have come to a conclusion. He personally was in favour of abandoning the word "Secret".

Dr. MAYR-HARTING thought there was no reason for keeping the lists secret.

Dr. SZERER and Dr. SCHRAM NIELSEN were of the same opinion.

Commander MOUTON stated that secrecy was not of an obstruction now and he was prepared to vote for its abandonment.

Dr. ZIVKOVIC agreed.

The CHAIRMAN asked whether a decision on this point should be left over to the next meeting or whether the Commission should vote on it now.

Sir Torick AMEER ALI said he certainly agreed. He felt that the quicker these matters were dealt with the better.

The CHAIRMAN thought it should be put to the Commission there and then: Was the classification "Secret" of the Commission Lists still to be retained?

Mr. TSIEN said that as he was temporarily deputising for H.E. Dr. Cheng, he felt he must abstain from voting.

All members present voted in favour of the proposal to abandon the secrecy of the lists, with the exception of the Chinese representative, who, as stated, preferred to abstain from voting.

The CHAIRMAN declared that from that moment the ban of secrecy would be removed, and this decision would be made known accordingly.

Mr. BURDEKIN enquired whether this decision was retroactive and whether previous lists could be published.

Lieut. Colonel RYAN said that what could be done was that a letter could be sent down-grading all prior lists and all future lists would be unrestricted.

The CHAIRMAN said that the Commission would make it known that as of the 6th November, 1946, the ban of secrecy had been removed from all the lists issued by the Commission.

SIR TORICK AMEER ALI LEFT THE MEETING AT THIS POINT.

Sir Robert CRAIGIE said that he had just two small points to make. Everyone knew that in the course of CROWCASS' move to Berlin, arrears necessarily occurred as a result of the great difficulties which had to be overcome and he wished to take this opportunity of congratulating Lieut. Colonel Ryan on the difficulties overcome. Now, he wished to know whether Lieut. Colonel Ryan could tell them whether they had been able to catch up on those arrears.