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Dr. ZIVKOVIC also felt that U.N.O. was the only permanent international organisation of the United Nations which should be entrusted with keeping the records of the United Nations War Crimes Commission when the latter ceased to exist. He suggested that in drafting the proposed resolution, the Documents Committee should bear that in mind.

Colonel HODGSON and Sir Robert CRAIGIE declared that the Committee had considered that point but since U.N.O. at the time had not been permanently established, it had not made any final recommendation. Sir Robert Craigie added that it was most desirable to come to a decision regarding the establishment of a centre which would assemble documents as and when they became available after the trials. He therefore recommended that Professor Gros and the Documents Committee should prepare a draft motion to be submitted to the Commission at an early date; the motion when approved would be sent to all member governments and upon receiving their agreement an approach should be made to U.N.O.

M. STAVROPOULOS strongly doubted that U.N.O. was the organisation to be approached, although he was entirely in agreement with the suggestion to establish a research centre. In his opinion the Commission could not make such a suggestion to U.N.O. under the terms of its charter.

The CHAIRMAN referred to the activities of the League of Nations before the war and said that U.N.O. would no doubt adopt a similar rôle. The question would however have to be very carefully considered before a suggestion could be made to U.N.O.

Before the discussion adjourned it was pointed out that the Documents Committee had only considered the question of documents available in the European Theatre and that the centre which had been suggested should be established in Europe possibly in London.

The discussion was then adjourned pending circulation of a formal resolution of Professor Gros to members.

Committee III.

Appointment of Second Deputy Chairman.

It was reported that Dr. Mayr Harting had been appointed second Deputy Chairman of Committee III.

Report by Committee III.
on the question of the criminality of German Officers
who sentenced French nationals from Alsace-Lorraine
to death as alleged deserters from the German Army. (Doc.C.174)

Dr. MAYR HARTING reported that the Committee had approved a report on some questions raised in a letter from the French National Office (document C.174). The letter raised the question which government was competent to deal with a case concerning war crimes committed in Czechoslovakia the victims of which were French nationals. It was obvious that Czechoslovak courts had jurisdiction over crimes committed in Czechoslovak territory. On the other hand, French courts would also be entitled to claim jurisdiction if French municipal law so provides. In the opinion of the Permanent Court of International Justices, such a claim would not overstep the limits which international law placed upon the jurisdiction of national courts. In a case

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such as the one outlined by the French National Office there was therefore concurrent jurisdiction. The French National Office had requested a statement of principle regarding the State to which criminals should be surrendered. Dr. Mayr Harting recalled that the Commission had recently adopted a recommendation which proposed that arbitration in regard to the order of trial of war criminals wanted by more than one United Nation should be entrusted to the Commission (document C. 123(1)). In view of the fact that many governments had not given their views on this recommendation Committee III felt that it must refrain from giving a general ruling as long as it was possible that the Commission might be called upon to arbitrate in particular cases. A general ruling might be considered to bind the Commission.

The second point raised by the French National Office concerned the question as to whether the members of a German Military court were criminally responsible if they sentenced as deserters Alsations who had been compulsorily enlisted into the German Army. These facts clearly represented a case of usurpation of sovereignty during military occupation which Committee III considered to be a war crime. According to the practice adopted by Committee I it was a war crime for which, in this case, the German Government could be held responsible, but not the judges or administrative officials who acted in accordance with the necessary consequences of annexation. Committee III had seen no reason to differ from the practice of Committee I. The problem was not isolated; there were a number of cases in which it was not possible to punish every individual involved in the consequences of the crime. For example, every German soldier who had fought in the war could not be punished for participating in aggressive war. Another example was the case recently considered involving the execution of a policy destined to denationalise the inhabitants of occupied territory. It would be useful, Dr. Mayr Harting added, if in all these cases the Commission would consider establishing limits beyond which it would be unsound to go.

Dr. Mayr Harting then proceeded to give a brief outline of the conclusions of the Committee's report and proposed that it be adopted for submission to the French National Office.

Colonel HODGSON wished to make a reservation regarding paragraph II of document C. 174, which seemed to imply that the jurisdiction of tribunals of a particular state was restricted to crimes committed either on the national territory or against the state's nationals. In the case of war crimes the principle of universality came into play. He compared war crimes to the international crime of piracy, where it was recognised that whoever secured the body of the perpetrator was also entitled to jurisdiction over it. His objections were made particularly in view of the proceedings now taking place in Germany, where American and British military courts and commissions tried cases of crimes committed outside American and British territory irrespective of whether American or British nationals were among the victims. He foresaw the danger in adopting a report to which such an interpretation might be given and which could be invoked in favour of criminals standing trial before Allied Courts in Germany.

The CHAIRMAN stated that he had not interpreted the Committee's report in this manner. There was a danger however in generalising about a particular point and he therefore felt that the Committee might wish to redraft its report. On the question of military courts and their jurisdiction he reminded the Commission that it had itself positively and firmly laid down the rule that military courts could exercise jurisdiction over criminals brought before them, irrespective of the place where and of the time when the crime was committed. He pointed out that generally speaking, under international

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law, the jurisdiction of municipal courts was usually considered to be territorial. The jurisdiction of military courts was however wider and it was established that custody by itself was sufficient to vest jurisdiction in the Court. Conflict would only arise if the accused person was not in the custody of either of the claiming parties. When neither of those parties was in possession of the body, the military authorities had the first right to adjudicate.

Referring again to his reservation, Colonel HODGSON explained that he feared that the language of the report might be interpreted as laying down the principle that a crime had to be committed upon the territory of a state or against the nationals of a state in order to give the state the right to try the accused. This was not according to international law nor was it the practice followed when the present trials were set up.

Dr. ZIVKOVIC said he wished to make a reservation on another point. He would submit his views in writing, but the gist was that the Commission should bear in mind and allow in this report for the possibility of the Nuremberg prosecutors declaring certain courts of Nazi Germany to be criminal with the result that membership of such courts would constitute a war crime.

The CHAIRMAN was of opinion that too general statements of law should be avoided.

The discussion was then adjourned until next week.

PROGRESS REPORT OF WAR CRIMES TRIALS.

The CHAIRMAN drew the attention of the meeting to the Progress Report of War Crimes Trials prepared by the Secretary General, (Misc. 11 restricted) and urged members of the Commission to ensure that the co-operation of the military authorities and national offices be obtained in order that similar reports might be circulated at regular intervals.

Dr. MEYER HARTING suggested that the reports be issued at monthly intervals, as it was difficult to obtain information more often. Other members stated that they would endeavour to keep the Secretary General regularly informed.

A suggestion from the Public Relations Officer that such information be supplied to the Press, in view of its interest to the general public, was rejected for the time being.

SURRENDER OF ITALIAN NATIONALS AND NATIONALS OF SATELLITE COUNTRIES.

The CHAIRMAN reported receipt of the following letter from Colonel Hodgson, dated February 12th, 1946:

"As was mentioned by Lieutenant Kintner of this office at the meeting of the Commission held on February 6th, I have been authorized by the Government of the United States to inform the Commission that a directive was issued by the Combined Chiefs of Staff on December 8, 1945, which authorized the surrender of Italian nationals and nationals of satellite countries accused of war crimes on the same terms as are in effect for the surrender of Germans similarly accused."

Dr. ZIVKOVIC said that his Government had received a similar communication from the United Kingdom Government, and asked Sir Robert Craigie to obtain a copy for circulation to members of the Commission.

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M. 97.

UNITED NATIONS WAR CRIMES COMMISSION.

Minutes of ninety-seventh meeting

held on

February 27th, 1946.

In the Chair: Lord WRIGHT

- Australia

America

There were also
present:

Colonel HODGSON

accompanied by Capt. WOLFF

Major MORDEN

Dr. LIANG

Dr. MAYR HARTING

accompanied by Major FANDERLIK

Dr. SCHRAM NIELSEN

Professor GROS

Sir Robert CRAIGIE

M. STAVROPOULOS

Sir Torick AMEER ALI

Commander MOUTON

Mr. BURDEKIN

Dr. SZERER

Dr. ZIVKOVIC

- United States of America

- Canada

- China

- Czechoslovakia

- Denmark

- France

- United Kingdom

- Greece

- India

- Netherlands

- New Zealand

- Poland

- Yugoslavia

MINUTES

The minutes of the 95th meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 96th meeting were received from Commander Mouton and Dr. Mayr Harting. They will be incorporated in the final text for distribution.

APOLOGIES FOR ABSENCE

An apology for absence was reported from M. de Saer who had been detained in Belgium on official business.

M. STAVROPOULOS stated that he would be absent for several weeks as his Government had asked him to return to Greece for consultations.

PROBLEMS OF WAR CRIMES ON THE AGENDA OF THE FIRST SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY - document C.179

M. STAVROPOULOS drew the attention of the Commission to the questions of war crimes on the agenda of the General Assembly which had just completed its first session. As document C.179 had now been circulated, he would merely give a brief survey of the two resolutions

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which had been passed (I & II of C.179), and of the circumstances which had surrounded the draft proposal of the Uruguayan delegation (III of C.179)

With regard to the first resolution, M. Stavropoulos pointed out that, although there was nothing new in the text of the resolution, its importance lay in the fact that it had been passed by 51 United Nations. Commander MOUTON added that, by adopting this resolution, the United Nations, who had not previously been invited to adhere to the Moscow Declaration, would now appear to have done so - at least by implication. Dr. ZIVKOVIC stressed the fact that it was not only the United Nations who were members of the War Crimes Commission who had adopted this resolution but all the United Nations represented at the General Assembly.

Referring to the text of the recommendation itself, Dr. Zivkovic said that in presenting the draft resolution the Byelo-Russian delegation had inserted the phrase "regardless of their nationality" after "war criminals", but in the final draft this had been omitted. Dr. Zivkovic felt that its inclusion would have covered the case of traitors and quislings who had collaborated with war criminals in perpetrating war crimes. He pointed out that although the first resolution did not mention quislings and traitors their case was covered in the second resolution which distinguished between displaced persons on the one hand, and war criminals, quislings and traitors on the other. The international body which would take care of refugees would therefore have clear directives on this point.

After further discussion, Dr. Zivkovic declared that by showing such interest in the question of war criminals the United Nations Assembly had given its full authority to the principles upon which the United Nations War Crimes Commission had always worked.

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

The 26th List of War Criminals (*Italians* German) was unanimously adopted. It was reported that the List had been inspected and approved by the National Offices concerned.

On the proposal of Dr. Szerer it was agreed that the Commission's lists of war criminals should in future show the date on which the list was closed.

Documents Committee.

Draft Recommendation regarding the establishment of a Research Centre for documents. (Misc.14)

Subject to the incorporation of an amendment proposed by Dr. Schran Nielsen the draft recommendation was unanimously approved and will be circulated to all member Governments as document C.180.

Committee III

Report by Committee III

on the question of the criminality of German Officers, who sentenced French Nationals from Alsace-Lorraine to death as alleged deserters from the German Army. (Doc.C.174)

After some discussion it was decided to adjourn further consideration of the report until March 13th. Dr. Schwelb read the paragraph which he had redrafted as a result of the reservation made by Colonel Hodgson at the last meeting.

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Dr. ZIVKOVIC raised the question of membership of German courts which were illegally instituted and said he doubted whether the wording of paragraph V could be accepted, in view of the possibility that the Nuremberg Tribunal might declare some courts to be criminal organisations. Some members however considered that the wording of this paragraph did not have a bearing on any possible decision by the Nuremberg Tribunal and Dr. Zivkovic was therefore asked to prepare an amendment to paragraph V for consideration at the meeting of March 13th.

The CHAIRMAN expressed the view that paragraph V of the Report was drafted too widely and required close examination.

LETTER FROM COLONEL HODGSON REGARDING THE ESTABLISHMENT OF TWO CENTRAL ENCLOSURES FOR PERSONS SUSPECTED OF OR WITNESSES TO WAR CRIMES.

The Commission took note of a letter which had been received from Colonel Hodgson which it was decided to circulate (See Doc. C.181)

CONTROL OF CROWCASS

The CHAIRMAN reported that a communication had been received from Colonel Hodgson regarding the assumption of control by the Allied Control Council. After making this announcement the Chairman said that the inclusion of the U.S.S.R. in the controlling body of CROWCASS might mean the modification of its activities.

PROGRESS REPORT OF CZECHOSLOVAK TRIALS OF WAR CRIMINALS AND QUISLINGS, 1st OCTOBER TO 30th NOVEMBER 1945. (Misc. 15)

In drawing the attention of members to the Progress report of the Czechoslovak trials of War Criminals and Quislings, the CHAIRMAN felt that it was desirable, for the purpose of this report, to distinguish between War Criminals and Quislings.

Dr. Schwelb undertook to differentiate between those two categories basing his decisions on the nature of the crime and on the practice followed by Committee I in their deliberation and findings.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-eight meeting

held on

March 6th, 1946.

In the Chair: Lord WRIGHT - Australia

There were also
present: Colonel HODGSON - United States of America
accompanied by Capt. WOLFF
Mr. BRIDGLAND - Australia
H. de HAER - Belgium
Major MORDEN - Canada
Mr. DAC - China
Major FLINDERLIK - Czechoslovakia
accompanied by Dr. MAYR HARTING
Dr. SCHRAM-NIELSEN - Denmark
Professor GROS - France
Sir Robert CRAIGIE - United Kingdom
Sir Torick AMER ALI - India
Commander MOUTON - Netherlands
Mr. BURDEKIN - New Zealand
Dr. SZERER - Poland
Dr. ZIVKOVIC - Yugoslavia

and

Lt.-Colonel LUCK - CROWCASS

MINUTES

The minutes of the 96th meeting were approved and signed by the Chairman.

The draft minutes of the 97th meeting were also approved and will be duly circulated.

Dr. MAYR HARTING asked why the discussions of the last meeting were not fully recorded in the minutes, particularly with regard to Committee III's report on the Alsatian deserters. He hoped that this was not a new departure from the usual procedure, as the full report of the Commission's discussion was a valuable record for the Governments. The CHAIRMAN explained that the discussion referred to had been inconclusive and, in view of the fact that the Report had been adjourned for full discussion in two week's time it was considered unnecessary to record details of the preliminary discussion until then. As a general rule there was no intention to shorten the minutes.

DEPARTURE OF MR. WOLD.

The CHAIRMAN announced that Mr. Wold had returned to his judicial and administrative duties in Norway. On behalf of the Commission, he wished to express his appreciation of the contribution made by Mr. Wold during his attendance of the meetings of the Commission.

RELATIONS WITH CROWCASS.

The CHAIRMAN introduced Lt. Col. Luck, British Representative and Second-in-Command at CROWCASS, who would report on the present position of CROWCASS, answer any criticisms and deal with any difficulties which might be raised. Various accounts had been heard about CROWCASS, that it would shortly be removed to Berlin and that the control was now vested in the Allied Control Council.

Lt. Col. LUCK stated that when he left CROWCASS a few days ago, Colonel Elms had received no orders or instructions whatsoever. This morning he had received a telephone message through the War Office from HQ., B.A.O.R., informing him that the Allied Control Council have now taken over CROWCASS. He had no further information.

In reply to a question from Lord Wright, Col. Luck stated that he had received full authority from A.G.3. and B.A.O.R. to accept the Commission's invitation to attend the meeting this afternoon.

Lt. Col. Luck said that he understood that a Directorate was being formed and that the British member of that Directorate had already been nominated.

CROWCASS was an Information Bureau, but unlike a newspaper office or detective agency where one might ask a question and receive an answer, they had no executive functions, and relied entirely on the information supplied by the National Offices. They could not compile Wanted Reports unless forms were completed and presented, nor could they work at all unless Detention Reports were completed up to date, etc. He emphasised that they must receive as well as give, although it was a great disappointment not to be in a position to give more.

The policy of the present Commander was that when a query was received a reply must be sent within 48 hours. In January 754 enquiries were received and in February 885. Such queries were in addition to the receipt of Wanted reports, and each was dealt with individually and a reply sent, regardless of whether the search was successful or not. When a "Wanted Report" was received, a search was immediately made among the prisoners of war files, and if successful, a reply sent at once; if not, the name of the wanted person would be included in the next Wanted List, now published every 4 weeks. The Consolidated list appeared every 6 months. To keep up this policy of giving out information quickly, there must be co-ordination and therefore, there should be exchange of all information from the United Nations War Crimes Commission and the War Ministries of the nations concerned, as well as information at the disposal of the National Liaison Officers at the Headquarters of the armies of occupation.

(COLONEL HODGSON LEFT THE MEETING).

Sometimes, for example, a liaison officer in Germany might give information which perhaps did not reach the United Nations War Crimes Commission. Sometimes CROWCASS received an application for a war criminal and could not find him. An interrogating officer picked up a man, removed him and never told CROWCASS, and the next nation to apply for the wanted man could not be told where he had gone. In the same way if a man was detained, tried, sentenced, acquitted, or died, and CROWCASS were informed, Nations could be told the latest situation. In other words, accurate and up-to-date information would save the authorities much trouble.

CROWCASS' duty and object under the present directive was to get war criminals; to try to locate them on the information supplied. They realised that war criminals might be dead, detained, or prisoners of war, in which case if CROWCASS had their records, they could be traced. CROWCASS were not interested in prisoners of war as such, except insofar as many German soldiers were taken prisoner among whom there were probably many "wanted" men.

They appreciated the difficulty of making out Detention Reports, and of getting Wanted Reports filled in accurately. CROWCASS needed particularly to know the name and christian names and the date of birth of an individual (the date of birth was a tremendous help) because very often a man's rank changed between the time a Wanted Report was filled in and the time he was taken prisoner and named in a Detention Report.

If CROWCASS could definitely identify the person, they said so. If not, they informed the wanting authority that there were so and so many people of the same name, sent the details and suggested that arrangements be made for interrogation. What happened after that CROWCASS did not know. It was therefore difficult to say what progress had been made.

In reply to a request from the CHAIRMAN for facts and figures, Col. Luck stated that in January 2368 Wanted Reports were received; in February 1135. Detention reports: January 9564, (of which 9453 were people detained because they were in the "automatic arrestees" category, which meant that they were not actually arrested because they were known to be war criminals, but were arrested because they were of a certain rank in a certain organisation, which ipso facto made them suspect.) In February 5506 Detention Reports were received, (of which 5142 were "Automatic arrestees".) The number of people detained as a result of CROWCASS Wanted Lists was, in January 87, in February 348. These were CROWCASS figures, and might be completely accurate because of the time lag: a certain number of people detained in February would be shown in the March figures.

Lt. Col. Luck then described the procedure followed at CROWCASS for matching Wanted Reports and Detention Reports. When a Wanted Report came in, it was taken to a room where there was an alphabetical name index. The Wanted Report was taken to the Detained Report Section of the name index, which was then searched. In the case of a man actually detained, a note was made in the detained index that the man detained was now wanted, and a note put into the Wanted index, thus completing the record there. From the files, the original Detention Report was obtained and the two reports were "married". The party concerned was informed then that the man was detained and the next Detained List showed him as detained and as wanted, with the CROWCASS file number. The monthly Wanted List (due out this month), would also show the country wanting him.

These reports were then filed together and that fact was shown in the name index.

If the accused were not traced, they took the Wanted Report but not the Detention Report, and found out whether he was wanted by anyone else and the two reports filed together.

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Col. Luck said he could give a rough estimate of the number of persons detained as a result of the Wanted Lists only since last November; previous to that they were not kept.

Lord WRIGHT then asked Col. Luck to give the figures for January and February, so that it would be possible to judge the success of CROWCASS and how far the new system had affected the results. The figures given by Col. Luck were:

		January:	February:
United States:	Definite:	10	28
	Possible:	56	37

(Col. Luck explained that that meant that they had had 56 enquiries to which they had possibly sent 556 names.

Britain:	Definite:	3	3
	Possible:	14	13
Canada:	Definite:	-	-
	Possible:	-	2
France:	Definite:	5	12
	Possible:	57	25
Holland:	Definite:	-	-
	Possible:	5	2
Belgium:	Definite:	-	1
	Possible:	4	4
Norway:	Definite:	-	-
	Possible:	1	-
Czechoslovakia:	Definite:	-	1
	Possible:	2	1
Poland:	Definite:	1	-
	Possible:	-	3
Yugoslavia:	Definite:	-	1
	Possible:	-	3
TOTALS:	DEFINITE:		65
	POSSIBLE:		229

(PROFESSOR GROS LEFT THE MEETING).

Colonel Luck mentioned that although one of their lists produced information that a certain Japanese general was wanted, he wished to make it quite clear that CROWCASS did not deal with Japanese. They did, how ever, deal with Italians.

Replying to a question from Lord WRIGHT, Colonel Luck said that CROWCASS still held the records of 81,000 people described as Security Suspects whose names were published in two volumes. Since Wanted Lists now dealt entirely with war criminals, these names were no longer shown. Colonel Luck said that there was a good deal of disagreement about the

definition of Security Suspects. These were people who because of their rank and position were considered to be worth arresting for interrogation purposes and became "automatic arrestees". He declared that practically none of the "automatic arrestees" were wanted by any country. Belgium had taken 4 or 5 recently from the British Army area, but it was not known whether they had been found to be war criminals or not. Colonel Luck explained that "Security Suspects", as CROWCASS understood the term, referred to anyone of a subversive nature, who could be taken into "preventive custody", but who in due course was released if nothing were found against him. He need not have committed any war crime to qualify as a "Security Suspect". The term also applied to people suspected of sabotage or any other form of subversive activity which might interfere with the occupying forces. There were definite instructions from B.A.O.R. regarding the three categories.

In reply to Dr. SZERER's question how many security suspects who were listed had been released already, Colonel Luck said many had not yet been locked up. He did not know how long they were kept before being released, but suggested that CROWCASS should be informed so that it could be shown on the cards.

M. de BAER expressed his appreciation to Colonel Luck for the interesting information given, said that the Commission fully realised the difficulties with which CROWCASS is faced. It was obvious that if information was not supplied to CROWCASS they could not pass it on. Any criticism which had been made was directed, not to CROWCASS but to the system. If a man were on the Wanted and Detention Reports, all was well, but if not, was anything done to catch him? Although M. de Baer knew that this was not CROWCASS's task, he felt that the matter should not be left incomplete, and wondered whether the organisation in Germany did try to detect him.

Colonel Luck said if CROWCASS could not trace a "wanted" person, the information was sent for checking to Prisoner of War Camps in the United States and the British Empire. That took time. The original idea was to have records of all prisoners of war, and already CROWCASS had four million records. Owing to lack of space, in which to compare them, however, the machinery could not work properly. He could not say what was being done in the field by the occupying authorities; that information must be obtained from the national liaison officers.

Dr. ZIVKOVIC said that in view of the fact that the Wanted Lists were rather heavy, he was having considerable difficulty in sending the parcels to the Yugoslav War Crimes Commission in Belgrade. He had asked Major Ryan (Cf. H. 90, Page 5) to have the parcels sent directly from Paris to Belgrade, but was still receiving the Wanted Lists in London. He stated that the organisation in Belgrade was able to check whether among the Prisoners of War there were war criminals whose names appeared on the Wanted Lists.

Colonel Luck said that they used a distribution list as ordered by their superiors, but promised to look into the matter. Dr. Zivkovic said that in the meantime he would write to Paris about it.

Dr. ZIVKOVIC raised the question of CROWCASS sending officers to headquarters of detaining authorities with a view to expediting the completion of detention reports. Colonel Luck said the authorities were sympathetic but lacked the necessary staff for this purpose.

Dr. ZIVKOVIC described his regular connections with CROWCASS during the past 2 or 3 months. In order to expedite proceedings, he sent CROWCASS Wanted Reports of all criminals wanted by Yugoslavia and

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listed by the War Crimes Commission, and also sent Wanted Reports for quislings and traitors. From time to time he received from CROWCASS information as to the location of war criminals. This information had recently included Italians as well as Germans. He took action upon the information received from CROWCASS by writing to the detaining authorities with copies to CROWCASS and to the United Nations War Crimes Commission. He considered this a good way to achieve the aim of locating the man and having him arrested, and handed over to the Yugoslav authorities. Once the man was arrested, it was easy to have him handed over because every nation had a liaison officer at the headquarters of the Allied occupying authorities in Europe.

In reply to Mr. Burdekin, Colonel Luck said that the processing of prisoners of war record cards was still continuing. CROWCASS had actually coded about 13,000 cards, but priority was given to Wanted and Detained forms. He added that about half a million prisoner of war forms had been processed already. Processing meant giving code numbers to the particulars on the prisoner of war form, which was then filed. Its chief purpose was to provide statistical data.

In response to M. de Baer's question concerning co-operation with the Russians, Colonel Luck said that at present there was none, although he had been told that the four Powers would eventually co-operate. Colonel Elms and an interpreter had visited the Russian authorities in Berlin and had explained the purpose of CROWCASS. The Russian officer had been extremely interested and had promised to report on it but said that he could give no information as to what the Russian policy would be since he would have to refer for instructions.

M. de BAER reverted to the subject of "automatic arrestees" and referred to the Commission's Lists Nos. 7 and 9, which concern German key men. He said that members of the Commission were interested to know whether they had been listed.

Colonel Luck said that the CROWCASS lists covered all categories such as civil servants, police and customs officials, and anyone who might be a Nazi. Concerning the Gestapo, Colonel Luck thought that every member above the rank of Corporal would be Security Suspect.

Colonel WADE asked the meaning of the word "recalcitrant" and Colonel Luck said he understood it to mean a "security suspect" type.

(LT. COLONEL LUCK LEFT THE MEETING).

FIRST AUSTRALIAN LIST OF JAPANESE MAJOR WAR CRIMINALS.

Mr. BRIDGLAND stated that, while the draft minutes of the 95th meeting had recorded the Commission's decision to submit the First Australian List to the Far Eastern Commission, the amended minutes stated that the List would be sent to the Allied Council for Japan. The CHAIRMAN explained that the minutes had been amended at the request of Colonel Hodgson, as a result of a statement distinguishing between the two bodies.

Mr. BRIDGLAND pointed out that the Far Eastern Commission was established in Washington and was a more representative body as it consisted of the representatives of eleven United Nations. It laid down the general policy in matters affecting the Far East, whereas the Allied Council, on which were represented only the four great powers, was concerned with the implementation of that policy. As questions of policy were raised therein, his Government would wish the Australian List to be sent to the former so that, if it were decided to refer it to Tokyo, their comments would be appended.

The CHAIRMAN asked whether there would be any harm in sending the list to both bodies.

Captain WOLFF said that Colonel Hodgson, being indisposed during the early part of the meeting, had been compelled to leave. Before leaving, however, he had asked Captain Wolff to state that, in his opinion, the Far Eastern Commission had no jurisdiction over the matter, that it did not have the evidence, and that it was therefore unnecessary to send the list to that Commission. Captain Wolff pointed out that this matter was not on the Agenda which had been distributed to the members, and therefore asked that a decision be adjourned for one week.

Mr. BRIDGLAND insisted that the correct channel was the Far Eastern Commission in view of the questions of policy involved. A decision should not be postponed since the trials in Japan were imminent and the list would serve no purpose if held up any longer. He proposed, therefore, that a copy be sent to both bodies.

Sir Robert CRAIGIE agreed that the Far Eastern Commission was the policy-making body. To overcome any difficulty, however, he felt it would be useful to send a copy to both.

It was finally decided to send the list, as formerly agreed, to the Allied Council for Japan and to the International Prosecution Section immediately, and the Secretary General was asked to inform Colonel Hodgson of the general feeling of the Commission. If he raised no strong objections, the Secretary General would transmit a copy to the Far Eastern Commission as well.

ADOPTION OF 25th LIST OF WAR CRIMINALS (GERMANS).

Dr MAYR HARTING asked the meaning of "Wanted by the U.N.W.C.C." which appeared against some of the names appearing in the list. Dr. LITAWSKI explained that these individuals had already appeared on previous lists as charged by the Commission in connection with crimes committed at concentration camps, and in particular referred to defendants convicted at the Belsen Trial. The CHAIRMAN suggested that Committee I should discuss the matter before adopting it as a regular practice.

The List was then unanimously adopted.

REPORT OF COMMITTEE I.

At the suggestion of M. de Baer, Chairman of Committee I the Commission agreed that Committee I should decide on its own initiative and without reference to the Commission when to close a list, which would happen, generally speaking, as soon as 1,000 names had been passed by the Committee.

ISSUE OF CERTIFICATE TO YUGOSLAVIA GOVERNMENT.

Dr ZIVKOVIC asked that a certificate be issued by the Commission declaring that a certain Kronholz had been listed by the Commission and would appear on the next list. He wished to present this as confirmation to the French Foreign Office in whose custody the man was, without waiting until the next list was published in about a month's time.

Dr. MAYR HARTING objected on the grounds that this would create a precedent. His Government had been faced with the same problem and

he had, in each case, sent a copy of the relevant portion of the minutes of Committee I when making a request for surrender to the military authorities. If a certificate were to be issued to Dr. Zivkovic, the authorities would in future probably not be satisfied with the procedure which he (Dr. Mayr Harting) had adopted.

Dr. ZIVKOVIC maintained that as this certificate was intended for the French Foreign Office and not the military authorities, the case was not comparable.

It was finally decided to grant Dr. Zivkovic's request, and the hope was expressed that there would be no great increase in applications for such certificates.

The text of the certificate was as follows:

"The United Nations War Crimes Commission hereby certifies to all whom it may concern that it has examined the evidence brought by the Yugoslav Government against Robert KRONHOLZ, former Director-General of "Schenker A.G." in Belgrade and former Austrian Consul-General in Belgrade, a member of the Nazi Party and a secret agent of the Gestapo, now believed to be in the hands of the French authorities, in support of charges of criminal responsibility during the period between April, 1941, and October, 1944, for war crimes, namely, murder and systematic terrorism, and has found there to be a prima facie case against him in respect of these charges and accordingly has placed him upon its List of persons who ought to be brought to trial as war criminals."

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-ninth meeting

held on
March 13th, 1946.

In the Chair: Lord WRIGHT - Australia.

There were also

present: Colonel HODGSON - United States of America
accompanied by Lieut. BUCKER.
Mr. BRIDGLAND - Australia.
Mr. HORN - Canada.
Accompanied by Major MORDEN.
Mr. DAO. - China.
Major FANDERLIK - Czechoslovakia.
accompanied by Dr. MAYR-HARTING.
Dr. SCHRAM-NIELSEN - Denmark.
Professor GROS. - France.
Sir Robert CRAIGIE - United Kingdom.
Sir Torick Ameer ALI - India.
accompanied by Mr. DUTT.
Commander MOUTON - Netherlands.
Mr. BURDEKIN - New Zealand.
Dr. SZERER. - Poland.
M. MARKOVIC - Yugoslavia.

MINUTES

The Minutes of the 97th meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 98th meeting were received from Mr. BRIDGLAND and Captain WOLFF and will be incorporated in the final text for distribution.

APOLOGIES FOR ABSENCE

An apology for absence was received from M. de BAER who was detained in Belgium on official business.

APPOINTMENT OF SIR ROBERT CRAIGIE AS ACTING CHAIRMAN.

The CHAIRMAN stated that circumstances had arisen in connection with the Commission's work which would probably make it necessary for him to be absent from London for six or seven weeks. It was therefore necessary to appoint an acting chairman to assume his duties in his absence. He had in mind three gentlemen of the highest ability, but as regards two of these, their occupations were so engrossing that they would not be able to take on the duties of acting Chairman. Of the gentlemen whose names had been suggested, Sir Robert CRAIGIE was willing to act in that position. Professor GROS said that there was no need for a discussion and to spare difficulty, suggested a vote.

A vote having been taken Sir Robert Craigie was unanimously elected acting Chairman to serve in the absence of Lord Wright.

INVITATION FROM THE UNITED STATES MILITARY AUTHORITIES TO THE UNITED NATIONS WAR CRIMES COMMISSION. (C.183).

Colonel HODGSON read a letter which he had addressed to Lord Wright, circulated as Doc. C.183.

Mr. BURDEKIN asked whether any action would be taken on this invitation and whether the representatives would be chosen from the Commission or not. Lord WRIGHT did not think it necessary that the representatives should be confined to the Commission, as some members might not be able to take leave from their work.

Colonel HODGSON said he would appreciate receiving some indication as to whether the invitation was accepted and the persons who will represent the Commission as observers, when he would be pleased to forward that information on to the HQ, U.S. Army so that proper accommodation could be arranged.

He explained that USFET had sent individual invitations to the Governments interested, but the invitation addressed to the Commission was in addition. From the text of the telegram he had received, however, it did not appear that the invitation was restricted to members of the Commission although of course their wishes would receive priority.

In reply to the Chairman, Colonel HODGSON promised to ascertain whether it was intended that the official observers should remain throughout the course of the trial, or whether they could attend in rotation. He said that probably accommodation would not be available for more than two people at one time.

It was agreed that the Commission would decide on whom to send at the next meeting.

ADOPTION OF 27th LIST OF WAR CRIMINALS (Germans).

This list, which has been approved by all the National Offices concerned, was unanimously adopted.

THE FIRST AUSTRALIAN LIST OF JAPANESE MAJOR WAR CRIMINALS.

The CHAIRMAN recalled that in accordance with the decision taken at the meeting of February 13th (see M.95 P.8) the First Australian List of Japanese Major War Criminals was sent to the Allied Council for Japan and to the International Staff of Prosecutors. At the last meeting however the question had been raised as to whether the list should not have been sent to the Far Eastern Commission in Washington. After some discussion, and owing to the fact that Colonel Hodgson had been obliged to leave before this matter arose, it was decided to adjourn a final decision. The Chairman therefore asked Mr. Bridgland whether he still wished to have a copy sent to the Far Eastern Commission.

Mr. BRIDGLAND said that members would no doubt recall the opinion which he had expressed to the effect that the Far Eastern Commission was the more appropriate body to which the Australian List should be referred. At this late stage however, when the trials were due to commence in a month's time, he did not regard the matter to be a very serious one and he would therefore be prepared to accept the general opinion of the Commission as a whole.

Colonel HODGSON said he very much regretted having to leave the last meeting and recalled the discussion which had preceded the Commission's decision to refer the Australian List to Tokyo. At the meeting of February 13th, he had mentioned the name of the Far Eastern

Commission as he had been under the impression that it was situated in Tokyo. Subsequently, he had learnt that the Commission had returned to Washington. His attention had also been drawn to the fact that the Commission would not have jurisdiction in this case, in as much as it was only concerned with broad policy and was not an operational agency dealing with and preparing lists of war criminals. As a result, the minutes of that meeting had been amended in order to provide for the list to be sent to the Allied Control Commission and the International Staff of Prosecutors, both of which had jurisdiction over it, and in addition possessed the necessary evidence on the spot. The decision of the Commission also provided that if those two bodies did not have the necessary jurisdiction, the list should be sent back to the United Nations War Crimes Commission for further consideration. Colonel HODGSON pointed out that when this decision was taken on February 20th no objections had been raised and he therefore considered the matter settled. It seemed quite clear to him both from the information received from his Government and from Dr. Schwelb's memorandum that the Far Eastern Commission would not be the appropriate body to act upon the list. After the matter had been raised again last week Colonel Hodgson said he had consulted with Mr. Bridgland and the Secretary General and it was suggested to send a letter to the Far Eastern Commission, identical with the letter sent to the other two bodies. It seemed to him quite natural that the Commission would return the list to London because it was not the appropriate body to deal with it, in which case we would be precisely in the same position as we were now. He had no objection, however, to that action being taken.

(PROFESSOR GROS LEFT THE MEETING).

Mr. DAO considered the Far-Eastern Commission a policy-making body and as the policy of bringing Japanese major war criminals to trial had already been settled, there would appear to be no need to send the list to that Commission. However, he shared the view that the listing of the Emperor of Japan as a war criminal involved a question of policy and, for that reason, perhaps a copy of the list might be sent to the Far-Eastern Commission, for their information.

Mr. BURDEKIN did not feel strongly about the matter but wondered whether the Far Eastern Commission should not at least be informed, if solely for the reason that the name of the Emperor of Japan was included in the Australian List. This raised a question of highest policy and was therefore of interest to that body.

Colonel HODGSON said that he would not oppose sending the list to the Far Eastern Commission for their information provided the covering letter made this clear. In reply to Sir Robert Craigie's suggestion Colonel HODGSON stated that he would have no objection to a copy of the letter sent to the Allied Council for Japan and the International Staff of Prosecutors also being sent to the Far Eastern Commission for their information.

Mr. BRIDGLAND said he was also prepared to support Sir Robert Craigie's suggestions but he added that he had not changed his opinion and merely considered it unnecessary to press the issue any further in view of the lapse of time.

It was finally decided to send a copy of the First Australian List of Japanese Major War Criminals together with a copy of the letter addressed to the two bodies in Tokyo, to the Far Eastern Commission for their information.

REPORT OF COMMITTEE III ON THE QUESTION OF THE CRIMINALITY OF GERMAN OFFICERS WHO SENTENCED FRENCH NATIONALS FROM ALSACE LORRAINE TO DEATH AS ALLEGED DESERTERS FROM THE GERMAN ARMY - Document C.174.

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The CHAIRMAN re-opened the discussion which had been adjourned at the meeting of February 27th (see M.97 p.2.) and referred to the reservation made by Colonel Hodgson in regard to paragraph II of document C.174 as a result of which a re-draft had been prepared and circulated by Dr. Schwelb (document C.174 (A)).

Colonel HODGSON explained that his reservation had been prompted by the fear that the wording of the original paragraph might give the impression that the Commission was deciding on a doctrine repudiating the universality of jurisdiction of war crimes courts or tribunals. Although he fully agreed with the text submitted by Dr. Schwelb, he suggested that in order to meet the objection of Professor Gros who did not believe that all nations subscribed to this doctrine and maintained that it was peculiar to Anglo-American Law, and also in order to avoid controversy on the general issue of universality of jurisdiction, the following paragraph might be added at the end of section II:

"Having stated the view that in the light of the factual situation presented to it, International Law prevents neither the courts of Czechoslovakia nor the courts of France from claiming jurisdiction, the Commission deems it unnecessary to go farther; and no intimation is to be implied as to the conclusions it might reach if different facts or the claims of other nations were involved."

The CHAIRMAN felt that the Commission should take a position on this matter and suggested that the Chairman of Committee III should consider a new paragraph II on the lines of Dr. Schwelb's draft.

Colonel HODGSON repeated that he had no objection to the latter, and had only wished to meet Professor Gros' objections.

The CHAIRMAN expressed regret at Professor Gros' earlier departure, but pointed out that the discussion could not be adjourned again at this stage.

Dr. SCHRAM NIELSEN supported Colonel Hodgson's proposed text. The shorter paragraph was sufficient, since the report recognised that both French and Czechoslovak courts had jurisdiction.

The CHAIRMAN stated that in the present case there were two grounds of jurisdiction in point, the first was based on territoriality, the second on the principle of "protection". He had been astonished to hear the opinion voiced that there were special rules in English and American law which did not exist on the Continent, and he had therefore asked for a paper on the Continental solution of this problem to be prepared (Misc.18). He knew that the Moscow Declaration had meant to adopt the territorial principle; however, its application could not be absolute, and as an illustration, the Chairman quoted the Peleus case.

The CHAIRMAN recalled that the Commission had previously debated the question of the jurisdiction of military courts fully and had come to a precise decision that there was special jurisdiction attaching to military courts in respect of war criminals; that decision had since been maintained, and there should therefore be no reluctance at this stage to uphold it.

Dr. MAYR-HARTING agreed. It was clear that no opinion was expressed as to whether the Czech or the French court had the stronger claim in this particular instance. He would not hesitate to indicate in the report that such jurisdiction could also be claimed by a third or fourth party on additional grounds. According to the Draft report (C.174) the Commission would purposely refrain from expressing an opinion which of the several jurisdictions had a claim to priority.

Turning to the question of substantive law, the CHAIRMAN said that the Committee's report stated that this question could only be dealt with on the assumption that the court was aware of the Alsatian

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origin of the victims. He himself felt some doubt as to whether nationals of Alsace Lorraine could be considered German citizens. The claim to annex and treat that territory as part of the German Reich was contrary to the Hague Convention and contrary to the customary rules governing annexation of occupied territory. A change of nationality of the inhabitants could therefore not be recognised. The judges were presumably aware of the facts and knew that they had no right to treat the victims as German citizens; it should also have been recognised that the latter had been compulsorily enrolled into the German Army - contrary again to the Hague Convention, under whose regulations they were entitled to protection. The whole law on this point had been set out with accuracy, supported by many quotations, in a very valuable memorandum received from Colonel Hodgson last October, and circulated as document C.153 (War Crimes committed by Enemy Nationals performing judicial functions). The Chairman quoted the following from this document, which in his opinion, was the decisive sentence:

"The decisive consideration would seem to be whether the trial of an accused by the particular court deprived him of the protection to which he was entitled under the law of nations, e.g. whether a given judicial action flouted a specific prohibition of the Hague Regulations, or was in disregard of those fundamental principles of human justice accepted by civilised peoples."

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In assessing the criminality or non-criminality of the judges, the above view would need to be considered and the report should be re-considered in the light of it. It was not the first time that the Commission took a view different from that held by Committee III. Once before the Commission had disavowed the opinion of the Committee, at the time of the discussions regarding the waging of an aggressive war, when the Committee presented a very valuable report stating that it was not a war crime. Although the results of the long discussions in the Commission were inconclusive, it was quite clear that the Committee's report was not adopted. The balance of opinion in the Commission was however in favour of a declaration of criminality, and the report was referred to the Governments, - a strange procedure - Lord Wright added, as it was the Commission's task to advise the Governments, not vice-versa.

He finally repeated his suggestion that the Committee re-consider its report, bearing in mind the law laid down in document C.153.

Dr. MAYR HARTING raised the question to what extent the usurpation of sovereignty was a war crime. He pointed out that Committee I in deciding on such cases, had adopted the point of view that it was a war crime, for which legislature and the executive could be held responsible, but not the judges. It might be useful to consider the practice of Committee I in other cases.

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The CHAIRMAN believed that the Commission must take a stand and state the principle with accuracy and with its full implications. The application of the principle to particular cases was a different matter and would no doubt raise difficulties. In addition to the redrafts submitted by Colonel Hodgson and Dr. Zivkovic and to the American Memorandum (C.153), the Committee should also take into consideration the memorandum prepared by Dr. Schwelb. (C.174(C)).

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Colonel HODGSON reverted to paragraph V of C.174. He agreed with the opinion expressed by Dr. Schram-Nielsen at the last meeting that the mere fact of sitting as a judge was not a war crime, for the reasons put forth in C.153 at great length. It was quite obvious that a judge might sit on a court and do nothing, or acquit everybody in which case he would not be guilty of a war crime. It was his acts as a judge of that court,

not the mere sitting on it, which would determine whether war crimes had been committed. The regulations of the Hague Convention provided for the protection of victims of situations such as had arisen in the case under discussion and this was foreseen in the re-draft of Para.V submitted by Dr. Schwelb (document C.174(C)), with which he was in full agreement.

Major MORDEN observed that the opinion of Committee III on these paragraphs was so diametrically opposed to the opinion expressed in C.174 (C) (with which he entirely agreed) that consideration should be given to the preparation of a report embodying the opinion of the Commission which should then be given serial document number in order to avoid embarrassing Committee III. In his opinion, the matter resolved itself into the question of the defence of superior orders, which all parties had recognised to be insufficient ground for freeing from responsibility for war crimes.

Dr. SCHRAM NIELSEN was not in complete agreement with C.174(C). He considered the main point to be whether a judge who followed the municipal law, but acted contrary to international law had committed a crime or not. He wished, in that connection, to refer to the statement made by a British court in 1906 that the court was bound by a British Act of Parliament, even if international law were to be violated thereby.

The CHAIRMAN remarked that that case was always being quoted. Neither in law nor in fact could the occupation of Alsace Lorraine be termed annexation; it remained throughout occupied territory and the provisions of the Hague Convention were therefore applicable to it.

Colonel HODGSON held that the two situations in the case referred to by Dr. Schram-Nielsen and in the case before the Commission were quite different. Germany had been a signatory to the Hague Convention; had ratified it, made it a part of its municipal law and was bound by its provisions. In the case referred to by Dr. Schram Nielsen, it was a question of the principle of customary law and whether it could be accepted as British law or not.

Sir Robert CRAIGIE asked to intervene with great diffidence, as he viewed the question from a not strictly legal standpoint. There was no question but that the Germans had committed a crime against international law in having annexed Alsace Lorraine before the end of the war. But if we were now to assume that it was a war crime for a German court to have acted on the assumption, of the de facto annexation surely the door would be opened very wide. It would be tantamount to saying that if every German court, when interpreting the numerous illegal laws enacted by the German Reich, did not first consider whether they were contrary to international law, it was guilty of a war crime. Sir Robert did not wish to suggest that the interesting arguments in favour of the other point of view should not have very great weight, but he would urge very careful consideration beforehand. We must consider the practical side of the question and the scope which may be given to the work of Committee I if we were now to adopt a definite ruling that the German court committed a war crime by the mere fact of having acted on the assumption that Alsace Lorraine was annexed by the Reich.

It was finally decided to appoint an ad hoc sub-committee, to consist of M. de Baer, Sir Robert Craigie, Professor Gros, Colonel Hodgson and Dr. Mayr Harting, Dr. Schwelb to act as its secretary. The terms of reference would be; to answer the question, whether the facts disclosed show a war crime, the facts being (a) that the men were natives of Alsace Lorraine; (b) that Alsace Lorraine had been occupied by the German forces; (c) that during the occupation, the men had been forcibly conscripted into the German army and compelled to serve; (d) that in Czechoslovakia they attempted to desert, were captured, tried by a military court and sentenced to death; and (e) that so far as the evidence shows, there was no annexation of Alsace Lorraine either in fact or in law.

Wright

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UNITED NATIONS WAR CRIMES COMMISSION

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Minutes of hundredth meeting

held on

March 20th, 1946

In the Chair: Lord WRIGHT - Australia

There were also

present: Colonel HODGSON - United States of America

accompanied by

Lt. BOUCEK and Lt. Polster.

Mr. BRIDGLAND - Australia.

M. de BAER. - Belgium.

Mr. HORN - Canada.

Mr. DAO - China.

Dr. MAYR-HARTING - Czechoslovakia.

Dr. SCHRAM-NIELSEN - Denmark.

Sir Robert CRAIGIE - United Kingdom.

Sir Torick AMEER ALI - India.

accompanied by Mr. DUTT.

Commander MOUTON - Netherlands.

Mr. BURDEKIN - New Zealand.

Dr. SZERER - Poland.

Dr. ZIVKOVIC - Yugoslavia.

and

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

MINUTES.

The minutes of the 98th meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 99th meeting were received from Colonel Hodgson and Mr. Dao and will be incorporated in the final text.

APOLOGIES FOR ABSENCE.

An apology for absence was received from Professor Gros.

WELCOME TO MR. HORN.

The CHAIRMAN, introducing Mr. Horn who was now attending the Commission meetings as the Canadian Representative in place of Major Morden who had deputised for Mr. Bell, said the Commission was very pleased to welcome him. Colonel HODGSON joined the Chairman in welcoming Mr. Horn and looked forward to his help and assistance.

REPORTS OF COMMITTEE CHAIRMEN

There were no reports from the Committee chairmen.

APPOINTMENT OF OFFICIAL OBSERVERS TO ATTEND TRIAL OF MAJOR
PERPETRATORS FROM SAUTHAUSEN CONCENTRATION CAMP (Doc. C.183)

The CHAIRMAN referred to the last meeting when this matter had been discussed. He thought it was desired as far as possible to have a general representation at the trial so that every country concerned could have the feeling that it had had a share in the proceedings. The U.S. Government had therefore sent this invitation requesting the presence of official observers from the United Nations War Crimes Commission, and he hoped that this invitation would be responded to. The trial was fixed for the 28th though his experience of trials was that they seldom began on the date they were fixed to begin.

Colonel HODGSON said that at the last meeting he had been asked to find out whether two representatives could attend in rotation. He had telephoned to the U.S. Army Authorities and had been informed this was possible. Regret was expressed that owing to limited facilities, accommodation could only be offered for two representatives at one time. The second question, which was raised by some members after the last meeting, concerned the identity of the accused prisoners. He had been informed that there were 67 accused and that a list of their names had been dispatched to him by air mail though he had not received it as yet. As soon as this was received he would send it to the Secretary-General so that any members who were interested in the accused could be informed. He added that the desire of some members to attend the trial might be contingent upon their interest in the persons who would be tried, and that he understood that the victims were nationals of all the European countries then at war with Germany.

Dr. ZIVKOVIC was of the opinion that every such trial was of international importance apart from the interest of each individual government in its own victims, and that a representative from the United Nations War Crimes Commission should accordingly be present. He said that the Yugoslav Government had collected evidence concerning crimes committed by the staff of the Mauthausen Camp, and this material had been sent to the Yugoslav liaison staff at Wiesbaden with instructions to submit it to the tribunal.

The CHAIRMAN appreciated the desire of everyone concerned to make the trial as representative as possible of all the Allied Nations, and said that in this particular case it would appear that every United Nation had victims on the list. On behalf of all the members he accepted with gratitude the invitation conveyed in Colonel Hodgson's letter, and said that Colonel Wade was willing to go as legal representative on behalf of the Commission. He suggested that any members wishing to go should get in touch with the Secretary-General.

LETTER FROM DR. MAYR-HARTING REGARDING TRIAL OF KARL HERMANN FRANK.

(Document C.184).

The CHAIRMAN reported that the Commission had received an invitation from the Czechoslovak Government to send official observers to the trial of Karl Hermann Frank, to start in Prague on March 22nd. He thanked the Czechoslovak Government on behalf of the Commission for their generous offer, and said that members should take whatever steps in their power to send observers. Dr. MAYR-HARTING apologised for not having been able to send the invitation earlier, due to the fact that the exact date of the trial was not yet known. He did not think that the trial would take less than a week, so that if members could leave now /they..

they would see the most important part of the trial. He explained that some means of transport would have to be arranged with the British government, and Sir Robert CRAIGIE said he would be pleased to help in this matter.

The CHAIRMAN asked that members wishing to go should make their wishes known as soon as possible to the Secretary-General.

APPOINTMENT OF NETHERLANDS REPRESENTATIVES ON THE FAR EASTERN MILITARY TRIBUNAL.

The CHAIRMAN reported that he had received a letter from Commander Mouton informing him that the Netherlands Government has appointed:

Prof. Dr. B.V.A. Roeling as Netherlands Judge, and Dr. W.F.G. Borgerhoff Mulder, as Netherlands Prosecutor on the International Military Tribunal for the Far East.

REQUEST FROM WING COMMANDER STEPHENSON (AI.12., Air Ministry) FOR A COPY OF COMMISSION'S LIST NO.25 OF GERMAN WAR CRIMINALS.

The Secretary-General reported that he had been informed by Wing-Commander Stephenson, Air Ministry, that he had in London a complete dossier of all German Air Force officials, and invited a representative of the Commission to inspect. This, Lieut Colonel Wade has done. Wing Commander Stephenson asked if a copy of List No.25 could be sent to him.

It was suggested that one of the legal officers should go through the list and make a note of any charges against Luftwaffe personnel and that this list should be sent to Wing Commander Stephenson. It was nevertheless agreed that a copy of List No.25 should be sent to Wing Commander Stephenson.

LETTER FROM THE IMPERIAL ETHIOPIAN LEGATION IN CONNECTION WITH THEIR DESIRE TO SUBMIT CHARGES AGAINST ITALIANS.

The Secretary General reported that, the First Secretary of the Imperial Ethiopian Legation, desired to submit charges against Italians who had committed crimes against Ethiopians during the Italo-Ethiopian campaign. The matter was now raised in the Commission owing to the question of jurisdiction involved.

After some discussion, the Secretary General was instructed to send forms to the First Secretary to complete and return for submission to Committee I. The CHAIRMAN added that the mere filling in of these forms would incur no liability on the part of the Commission that action would be taken upon these charges.

STATEMENT BY MR. GIBSON REGARDING TOUR OF FRENCH WAR CRIMES EXHIBITION.

This matter was adjourned owing to the indisposition of Mr. Gibson.

RELATIONS WITH THE U.S.S.R.

Sir Robert CRAIGIE stated that he had been informed by the Foreign Office that the invitation to the U.S.S.R. to join the Commission had been personally conveyed to M. Vishinsky by the United Kingdom Charge d'Affaire in Moscow at the end of last month. M. Vishinsky had taken careful note of the invitation and of the reasons supporting it and had promised to have the matter examined.

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The CHAIRMAN drew the attention of members to the latest progress report of war crimes trials which had been prepared by the Secretary General and circulated as Document Misc. 20. He took a great personal interest in the results so far achieved which, when we considered the number of atrocities committed during the war, seemed very unimpressive. He appreciated of course that the Nuremberg trial was not yet over but nevertheless he wondered how the figures of trials could be rendered more impressive in order that those concerned might appreciate the fact that war criminals were being brought to trial. There was no doubt that, compared with events after the last war, the law had been vindicated to a much greater extent. The results showed that justice was being done although he considered that more might have been achieved if greater enthusiasm had been shown by the nations concerned.

He was particularly impressed by the figures of trials held by Australian Military Courts in such a very short period, and he hoped that other national courts would shortly be able to produce similar satisfactory results. Every effort should be made to encourage the holding and the speeding up of trials. In his opinion what was lacking was vigorous attempt on the part of the different occupying countries to punish those who had committed crimes against civilians and armed forces in their own countries. One of the great purposes of the Hague Convention was to bring within the protection of international law all civilian inhabitants of occupied territories and if that aspect of the Hague Convention was ignored at the end of this last war without the appropriate proceedings being taken, and punishment, where proper, imposed, it would cause very serious regret to future generations, in particular to those interested in international law. History would no doubt pass judgment, but the CHAIRMAN felt that he could safely say that the United Nations War Crimes Commission, with its limited powers of jurisdiction and machinery, could not be accused of having failed to do its best to prevent any failure in the execution of the terms of the Hague Convention and of the Moscow Declaration, in so far as it referred to punishment of war crimes.

The CHAIRMAN then read the figures given in Misc. Doc. 20

In reply to Mr. Burdekin, Dr. MAYR-HARTING stated that he hoped shortly to submit a memorandum regarding the differentiation between war criminals, quislings and traitors, in connection with the figures of Czech trials recently submitted to the Secretary General.

Colonel HODGSON informed the Commission that he had requested his Government to send details of war crimes trials held by the U.S. Forces in the China Theatre, the Pacific Theatre, Pacific Ocean Area, Mediterranean Theatre, and by the U.S. Pacific Fleet.

In connection with the Chairman's remarks regarding the Hague Convention, Colonel Hodgson said he had been very interested to read that during cross examination, Goering had declared that he had only learnt of the Hague Convention just before the attack on Poland, and that had he known about the Convention earlier, Germany would have renounced it. This seemed a clear confession of guilt not only on Goering's part but on the part of all the Nazi leaders who had intentionally and willfully violated those provisions.

- 5 -

Lord WRIGHT referring to his earlier statement regarding the work of the United Nations War Crimes Commission stated that he hoped some day, to make it quite clear how much the Commission had been doing ever since it was established, in order that future generations might recognise that no blame could ever be attached to it.

Sir Robert CRAIGIE stated that everyone had listened to the Chairman's observations with great interest. He felt that the statistics although incomplete at present were of great value to the members. It would be very valuable if all the representatives could influence their governments to send in statistics at an early date in order to complete the picture of the whole situation, which might also serve to hasten on the trials in areas where there had been delay up to date.

The CHAIRMAN said he intended to remain optimistic although the time element was very important and he feared that people would soon begin to say "Let bygones be bygones". The question whether such trials were justified under international law had been raised and might perhaps again be raised in the future, but he thought that this issue was not really now a subject of controversy but had been settled for good.

Colonel HODGSON supported the Chairman's statement very warmly. He agreed that the Commission had nothing to regret: it had designed a good programme and had urged that it be put into effect. He recalled a debate held in the House of Lords in March 1945, in which the Chairman took part, when high expectations existed regarding results of war crimes trials. When someone, perhaps Lord Simon, said that the United Nations should be satisfied if 10% of guilty persons were tried and punished. It seemed at that time a low figure; but it would now seem that if that percentage were reached, it would be satisfactory. The figures in document Misc.20. were undoubtedly very disappointing when compared with the ringing declarations of the Allied leaders during the war. They were also disappointing when we considered the high hopes and plans formulated during 1944-1945. He did however agree that they showed that something had been done and that justice had been vindicated to a certain extent and that the world could not point to the dismal failure of the Commission's programme as it had pointed to the fiasco after the last war.

M. de BAER strongly supported the views expressed by the previous speakers. Obviously the number of trials held in ex-occupied countries depended entirely upon the number of accused who were actually surrendered to these countries by the powers occupying Germany: if few accused were surrendered there could be only few trials. He realised the difficulty of ferreting out and detecting those who were hiding among their own people in Germany. To achieve this it was necessary to have a large and skilled staff (which might not be available) and also the co-operation of the Germans themselves. Perhaps, if some investigating agency had been instituted, with one man at its head, fully responsible to the world for the success of the scheme, as he (M. de Baer) had proposed as far back as 7th April 1944 and 27th July 1944, results might have been effected with more speed.

M. de BAER, however, recognised that although the results had been slow to come, there was, nevertheless, a steady improvement in the functioning of the machinery: the liaison officers were given every

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facility to carry out their work, the first surrenders had recently been made, and there was, in his opinion, every reason to believe that in the near future a substantial number of accused would be surrendered. He expressed the hope that in those countries where the trials were to take place and where the necessary legislative adjustments had not yet been effected, this would be done speedily.

Finally M. de BAER urged the publication of the available statistics, even if these were incomplete, owing to returns not being available.

Dr. SZERER wished to take this opportunity to explain why Poland had not produced any results so far. The first reason for this was that there were practically no war criminals left in Poland as they had had opportunities to escape during the retreat. Secondly the Polish Army which fought at the end of the war with the Allied Armies had not taken any prisoners on its own behalf. Before starting to arrange for trials his government had to obtain the extradition of the wanted criminals and as soon as this was done the trials would begin.

The CHAIRMAN finally referred to the question of Russia's participation in the apprehension and trial of war criminals. The Russians next to the Poles had probably suffered more acutely from the axis atrocities than any other country. It was not his affair to speculate on whether there had been extra-judicial punishment; he was only concerned with judicial punishment. It was his personal view however that at this stage the co-operation of Russia would not be of great assistance except in so far as many German war criminals having been taken by the Russians into their own area were withheld from the jurisdiction of other Allied authorities.

Wright

SECRET

11.101.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundredth and first
meeting

held on

March 27th, 1946.

In the Chair:

Lord WRIGHT:

- Australia.

There were also
present:

Captain WOLFF

Accompanied by Lt. KINTNER.

Mr. HORN

Mr. DAO

accompanied by Mr. LEE

Major FANDERLIK

accompanied by Dr. MAYR HARTING

Dr. SCHRAI NIELSEN

Sir Robert CRAIGIE

Professor GROS

Sir Torick AMEER ALI

accompanied by Mr. DUTT

Commander MOUTON

- United States of
America

- Canada

- China

- Czechoslovakia

- Denmark

- United Kingdom

- France

- India

- Netherlands

MINUTES.

The minutes of the 99th meeting were approved and signed by the
Chairman.

Amendments to the draft minutes of the 100th meeting were
received from Dr. SZERER and Colonel HODGSON and will be incorporated in
the final text.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Colonel Hodgson,
Monsieur de Baer, Mr. Bridgland and Dr. Szerer.

TRIAL OF KARL HERMANN FRANK.

Dr. MAYR HARTING said he would gladly inform the Commission of
details of this trial, but regretted that he had received no useful
information as yet.

ADOPTION OF 28TH LIST OF WAR CRIMINALS (Germans). * *

The CHAIRMAN reported to the members that he understood that
there was an objection to the name of SEPP DIETZ being included on List 28.

Captain WOLFF said that he was opposed to
the listing of Sepp Dietz. The views of his Government and of Colonel
Hodgson on that case had been fully expressed at a meeting of the Commission

* * Will members please note that the minutes recording the adoption of
of the 26th List (M.97, p.2) should be amended to show that the list
contained the names of Italian, not German, war criminals.

held on the 23rd January, 1946 (Minutes No.92), and at a meeting of Committee I held on the 28th February, 1946 (Minutes No.52). In view of what had been said at those meetings it was unnecessary for him to restate the position. However, he wished to call the attention of the members to one point. As had been stated at the meeting of the Commission held on the 23rd January, 1946, it was the opinion of his Government that the most practicable way of handling the case would be to suggest to the Czechoslovak Government that it request Dietz's surrender for trial in Czechoslovakia, where Dietz committed the criminal acts. At that meeting, some members had expressed the view that the extradition laws were not applicable to this case, and that the only way for the Czechoslovak Government to obtain delivery of Dietz was to list him as a war criminal. He agreed that the extradition treaties were not applicable to this case, but he did not agree that the only way for the Czechoslovak Government to obtain Dietz's delivery was to list him as a war criminal. Colonel Hodgson felt that the applicable principle was this, that Allies form one side in a war, and that one Ally could surrender an enemy national to another Ally as he saw fit. Captain WOLFF felt certain that if a proper request were made by the Czechoslovak Government, the United States Military Authorities would surrender Dietz, provided of course, that he was in their custody. He had appealed to the Czechoslovak representative at the mentioned meeting of Committee I to adopt the course suggested by him. He was sorry that despite his appeal, the case was being pressed, and he greatly regretted that, for the first time, it was not possible to adopt the List unanimously. Replying to a question put to him by the Chairman, he said that the Commission had not yet voted on the question of whether or not Sepp Dietz should be listed.

The CHAIRMAN said he had not followed this question very closely, and understood that Sepp Dietz was listed on the ground that crimes against humanity were war crimes and that the particular crime which he had committed was a crime against humanity. He thought it was unfortunate that this question was brought up when so many of the members were away, and asked when would there be a full attendance of members so that this matter could be dealt with.

It was suggested by Professor GROS that a notice be sent to members stating that their presence was particularly desired at the next meeting for the special purpose of deciding on this matter.

Sir Robert CRAIGIE suggested an adjournment for one week, and Dr. MAYR HARTING wished to know if this would mean that the List would not be distributed. The CHAIRMAN suggested that the name of Dietz be removed and the List could then be published. The List was accordingly unanimously adopted, with the suggested omission.

Sir Robert CRAIGIE pointed out that though he had actually voted for the listing of Sepp Dietz he had, when the question came up in Committee I, supported Captain Wolff's proposal that the matter should be dealt with by other means than listing him for a crime against humanity. He thought this was a test case, and that members of the Commission should be given ample time to think it over. Also it would be desirable that extracts from the relevant reports and minutes of Committee III and Committee I should be distributed to the members before the matter came up for further discussion.

The Secretary General was asked to ascertain when Monsieur de Baer and Colonel Hodgson, now attending trials on the continent, would be able to attend as it would be better that this discussion was held with a full attendance of the Commission. Dr. MAYR HARTING stated that Dr. Ecer was busy in Nuremburg though he had the intention of coming to London during the next few weeks.

(Captain WOLFF who was indisposed left the meeting at this point).

WAR CRIMES TRIALS

The CHAIRMAN asked if the Commission had been receiving special reports on the War Crimes Trials. He had noted that the Far East have had a number of trials.

Sir Robert CRAIGIE replied that the British National Office had been in communication with the authorities and the Chairman agreed that they had been extremely helpful.

Dr. SCHWELB stated that a synopsis of the trial reports so far received had been circulated as Document Misc.12, with supplements Documents Misc. 12(A), 17 and 22. A report on an Australian trial for cannibalism allegedly committed in New Guinea had been received recently.

Commander MOUTON stated that the Netherlands had held no trials as yet.

Professor GROS said that he was lacking information on trials held in the French zone in Germany. The trials in France were taking place before Permanent Military Tribunals competent to try Germans who had committed war crimes against French Nationals. Those tribunals judged according to the French Penal Code and without any special legislation.

Dr. MAYR HARTING said that though he had promised to submit a memorandum regarding the differentiation between war criminals, traitors and quislings he regretted that they had been chiefly engaged during the last week in moving their office, but he would submit the memorandum soon.

There were two questions to be dealt with. First the difference between war criminals and quislings. It was rather difficult to distinguish between these two groups. Secondly Czechoslovak reports were not only concerned with crimes committed during this war, they were also concerned with crimes committed in the so called time of extraordinary danger to the State, which had begun in May 1938. He stated that these points would be brought out in his memorandum.

In reply to a question from the Chairman concerning the trial of Karl Hermann Frank, Dr. MAYR HARTING stated that amongst other charges, Frank would be tried for High Treason committed before September 1938. At this time Frank was certainly a Czechoslovak national, even according to German law. Members should note that under Czechoslovak legislation though Czechoslovakia had been at war since September, 1938, the period of extraordinary danger started in May 1938.

The CHAIRMAN stated here that he thought it desirable that the positions taken up by the different countries regarding war crimes should be set out in memoranda and made available to the Commission.

Dr. SCHRAM NIELSEN said that a paper setting out the position taken up by his country would in due time be circulated to members.

Dr. MAYR HARTING thought that it would be useful if the members were informed as to the municipal law of the different countries. Perhaps translations of these laws could be made by the Secretariat to ensure uniformity of language.

The CHAIRMAN said that the Legal Secretariat would take up this matter.

Dr. SCHWELB stated that certain regulations governing the trials of war criminals had already been circulated, e.g. the French

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Ordinance (Doc. Series No.26), Australian provisions (Doc.C.169), United States provisions (Docs. C.112, Annex to Doc. C.178, Misc. 18, Misc.23), Paper on British provisions C.131, Misc. No.13, paper on Military Government Courts C.132, Far Eastern Tribunal C.182, Austrian provisions Docs. Series Nos. 23 and 32, and the Belgian Arrêté of 13th December 1944 in the Booklet on "Bande".

TRANSMISSION OF LISTS TO THE FAR EAST.

The Commission complied with a request from Lieut KINTNER for authorisation to send three copies of the Lists of Japanese war criminals to the Supreme Allied Commander in the Far East, and also copies of these Lists to the International Prosecutors Section in Tokyo, the U.S. Representative on the Allied Council for Japan, and the U.S. Representative on the Far Eastern Commission.

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UNITED NATIONS WAR CRIMES COMMISSION

M. 102

Minutes of hundredth and second
meeting

held on

April 3rd, 1946

In the Chair: Lord WRIGHT: - Australia

There were also
present:

Captain WOLFF	- United States of America.
accompanied by Lt. KINTNER	
M. de BAER	- Belgium
accompanied by M. GOLSTEIN	
Mr. HORNE	- Canada
Mr. LEE	- China
Dr. MAYR HARTING	- Czechoslovakia
Dr. SCHRAM NIELSEN	- Denmark
Professor GROS	- France
M. STAVROPOULOS	- Greece
Sir Torick AMEER ALI	- India
accompanied by Mr. DUTT	
Sir Robert CRAIGIE	- United Kingdom
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Dr. SZERER	- Poland
M. MARKOVIC	- Yugoslavia

MINUTES

The Minutes of the 100th meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 101st meeting were received from Sir Robert CRAIGIE, Professor GROS, Dr. SCHRAM NIELSEN, and Captain WOLFF, and will be incorporated in the final text.

APOLOGIES FOR ABSENCE

The CHAIRMAN reported that several members were attending trials on the continent. He was glad to welcome back M. de Baer and M. Stavropoulos and would ask them to give brief reports later in the meeting.

M. MARKOVIC reported that Dr. Zivkovic had unexpectedly left for Belgium and sent apologies for absence. On behalf of Dr. Zivkovic and himself he wished Lord Wright a good journey and safe return.

DEPARTURE OF LORD WRIGHT

The CHAIRMAN said that he was starting on his journey to Tokyo on Monday. He would stop off for 10 days at Washington for consultations, and was likely to be away till June 8th. In his absence Sir Robert CRAIGIE had undertaken to act as Chairman, and he was sure

that members would find Sir Robert's presence a welcome variety and there would be a good many interesting matters for discussion.

He thought this a not inconvenient moment to mention that the Commission was losing temporarily or permanently certain valuable members of its Staff. His secretary, Miss Fisher had gone away for six weeks to the Court of the Hague and might have a permanent appointment there. The Commission would very much regret her absence.

The other loss which the Staff was about to suffer was Miss McIlfee, who was appointed by Mr. McKinnon Wood about a year ago and who had certainly been most helpful, efficient and extraordinarily devoted to her work. In referring to her work he would like to draw the attention of members to the document which had just been produced which was a preliminary draft of an Index of Minutes and Documents of the United Nations War Crimes Commission. He had read it right through and thought it a most useful document to take on his wanderings. He thought pages 52 and 53 were most important as they gave a list of the recommendations of the Commission. The Chairman was sure, however, that the document would be most useful, and added that he would like to express the thanks of the members to Miss Fisher and to Miss McIlfee for their valuable services to the Commission.

DISTRIBUTION OF COMMISSION'S LISTS (Report by Committee I)

The CHAIRMAN said in a report from Committee I it appeared that a request had been made that the Commission lists should be sent to the Soviet Element of the Control Council in Germany.

Sir Robert CRAIGIE reported that he had been asked to ascertain whether copies of the Commission's Lists were sent by the British Element of the Control Council to the Soviet Element. He had received an answer that this was not the procedure so far, at least they were not formally communicated, and that the Russians had not so far availed themselves of the opportunity of requesting the handing over of any persons listed. He had informed Committee I accordingly which was in agreement that under the circumstances it was desirable that the Commission's Lists should be communicated to the Russians. It was also agreed that the view of the Commission should be obtained on that point.

The CHAIRMAN said that he did not himself see any objection to the Commission communicating its lists to the Soviet authorities, though it should first be ascertained if the Soviet authorities would be willing to receive these lists. He presumed that they would, and in that case the question of communication with them would arise.

Sir Robert CRAIGIE said that the Foreign Office had agreed to pass them to the British Element of the Allied Control Council who in their turn would hand them over to the Soviet Representative.

The Commission agreed to the proposal that a complete set of the Commission's Lists should be tendered and thereafter regularly transmitted to the Soviet Element through the above channel.

In connection with the general distributions of lists Mr. BURDEKIN suggested that enquiries should be made as to exactly which authorities required the lists. He thought it better that the Commission should make it known that it was anxious that its lists should be as widely available as possible. He felt the Commission had suffered considerably through continuing to maintain the secrecy of its lists.

Sir Robert CRIGIE stated he was in favour of a wider distribution and added that his Government sent copies of the lists to all U.K. authorities in Germany to whom they should be sent.

Mr. BURDEKIN proposed that action be taken to communicate with the various Governments holding prisoners of war, informing them of the Commission's desire that its lists be circulated as widely as possible and asking to what addresses they should be sent or how many copies they would like to receive for distribution themselves.

The Motion was unanimously adopted.

WAR CRIMES TRIALS.

At the request of the CHAIRMAN, M. de BAER gave a short account of his and Colonel Hodgson's visit to various war crimes trials from which he had just returned. He had arrived in Nuremberg in time to hear part of the session during which the accused Hess was being tried and had found it most interesting. From there he went to Prague where he attended the trial of Karl Hermann Frank. He thought this trial had been organised in an extremely progressive way and in his opinion there was no chance of Frank escaping the hangman's rope. President Benes had received them in Prague and had expressed his great interest in and appreciation of the work of the United Nations War Crimes Commission. M. de BAER had also met Dr. Ecer, who had recently been decorated by the Americans, and who might be called as a witness by the Nuremberg Tribunal.

From Prague he had flown to the trial of the Mauthausen Concentration Camp officials at Dachau which he had also found most interesting. M. de BAER gave a brief description of the evidence given by Commander Taylor and by an inmate of the camp who had kept the "Death Books".

In the course of his visits M. de BAER said that he had been astonished to hear that the existence of the Commissions Lists was not generally known. As a result of this situations might arise such as that of Karl Brandt which had been brought to the notice of Colonel Wade and himself in Dachau. Brandt was the Nazi Ex Minister of Health and had been kept for some months at "Dustbin" (Frankfurt) as a suspected person pending the discovery of definite charges against him. The detaining authorities had been unable to find anything with which to charge him and he would probably have been released if it had not been pointed out to him that he was wanted as a war criminal by one or two Nations and that he certainly figured on the Commission's Lists. Dr. MAYR HARTING interposed that his government had for one charged Brandt and had also submitted a wanted report to CROWCASS.

The importance of wider circulation of the Commission's Lists was stressed by all members and it was urged once again that an effort should be made to insure that the military authorities make full use of them.

Professor GROS formally suggested that the case of Karl Brandt be taken as a test case in order to find out what use was being made of wanted reports submitted to CROWCASS. Were these being forwarded to the appropriate authorities and what steps were being taken by those authorities in regard to acting upon them?

Professor GROS' suggestion was duly noted by the Secretary General.

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M. de BAER was thanked for his report and the Chairman then called upon M. Stavropoulos to make a statement. M. STAVROPOULOS said that he had been recalled by his Government in order to collaborate with the Greek National Office in the preparation of charges. About 250 of these would shortly be submitted to Committee I - this was at least a good beginning. During his stay M. STAVROPOULOS had attended the trials of two war criminals in Athens and he described briefly the proceedings which had taken place.

The CHAIRMAN was interested as to the composition of the courts trying war criminals and M. STAVROPOULOS replied that they were composed of five members - two judges of the Court of Appeal and three Army Officers. This would be the same for all trials of war criminals.

The CHAIRMAN said this was similar to the composition of the tribunal before which the Peleus case had been brought. It would also appear to be similar to the Czechoslovak Tribunals. Dr. MAYR HARTING confirmed this saying that war criminals in Czechoslovakia were tried by Peoples Courts consisting of the Presiding Judge and an Assessor and three laymen.

M. de BAER then said that though he had expressed his appreciation of the way in which the Czechoslovak trials were conducted he had said nothing of the Nuremberg and Mauthausen trials. Much had already been said in appreciation of the Nuremberg trial, and he only wished to add that he had been very much struck by the admirable way in which the Mauthausen trial was organised and would like to express his appreciation of the help given to him by the American authorities during his stay in Nuremberg and Dachau.

Dr. SZERER reported that news had been received that two war criminals wanted by Poland have arrived in Warsaw - viz the former Regierungspresident-Governor of the incorporated territories of Western Poland, Greiser; and the former Governor of Warsaw, Fischer.

Dr. SZERER said that he would like to avail himself of this opportunity to thank the American authorities for their kind help and assistance in the whole procedure of extradition. He also wished to thank the British Military authorities for their assistance in arranging for the extradition of several of the war criminals most wanted by Poland, and in addition to record a special word of thanks to the Belgian and French representatives, who have agreed to give priority to the Polish courts in the trial of the war criminal, Dr. Wendler.

REPORTS OF COMMITTEE CHAIRMEN

Committee I

In regard to charges submitted by the Association of Democratic German Lawyers, Sir Robert CRAIGIE reported that it had been decided to advise this body to submit charges directly to the Control Council for Germany instead of transmitting them through the Commission, with copies to the Commission for information.

ADOPTION OF THE 29th LIST OF WAR CRIMINALS (Japanese)

This List having been seen by all the National Offices concerned was unanimously adopted.

ACQUITTALS OF PERSONS LISTED BY THE COMMISSION

On the question of sentences on war criminals, the CHAIRMAN, after reading various reports on war crimes trials; thought that some proper

authority might be asked to make some observations on this matter. It was rather alarming that accused men were acquitted or if convicted received such extremely small sentences. He would like to know what reason there was for this as he had always understood that Committee I made a point of putting only serious charges on their lists, rejecting the minor ones.

FREQUENCY OF MEETINGS

Mr. BURDEKIN suggested that it should not be considered necessary to have a Meeting of the Commission each week, unless there were matters of some urgency or importance to be dealt with.

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R. E. Craig

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M. 103.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and third meeting

held on

April 10th, 1946

In the Chair: Sir Robert Craigie - United Kingdom

There were also
present:

Colonel HODGSON	- United States of America.
accompanied by	
Captain WOLFF and Lt. POLSTER.	
Mr. BRIDGLAND	- Australia.
M. de BAER	- Belgium.
Mr. HORNE	- Canada.
Mr. LEE	- China.
Dr. MAYR-HANTING	- Czechoslovakia.
Professor HURWITZ	- Denmark.
accompanied by Dr. SCHRAM-NIELSEN	
M. STAVROPOULOS	- Greece.
Sir Torick AMEER ALI	- India.
accompanied by Dr. DUTT	
Commander MOUTON	- Netherlands.
Mr. BURDEKIN	- New Zealand.
Dr. CYPRIAN	- Poland.
M. MARKOVIC	- Yugoslavia.
and	
Major THOMSON - A.G.3. V.W., War Office.	

MINUTES

The minutes of the 101st meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 102nd meeting were received from Mr. Burdekin and Dr. Szerer.

WELCOME TO PROFESSOR HURWITZ.

The CHAIRMAN extended a cordial welcome to Professor HURWITZ and expressed the pleasure of the Commission at his presence.

APOLOGY FOR ABSENCE

An apology was received from Professor Gros who had gone to Paris.

REPORTS OF COMMITTEE CHAIRMEN

Committee I

M. de BAER reported that the work of Committee I was proceeding satisfactorily, 50 to 100 cases being dealt with per week.

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 Beneš 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 Beneš, 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

SECRET

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 M. GOLSTEIN	
Mr. HORNE	- Canada
Major FINDERLIK	- Czechoslovakia
accompanied by Dr. RAYMOND	
Dr. SCHULZ NIELSEN	- Denmark
A. ST. JEROMIGUOS	- France
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. SCHULZ NIELSEN, Dr. RAYMOND 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.

SECRET

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 M. GOLSTEIN

Mr. HORNE

- Canada

Major FANDERLIK

- Czechoslovakia

accompanied by Dr. HAYR HARTING

Dr. SCHREI NIELSEN

- Denmark

A. STAMBOULIS

- 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. SCHREI NIELSEN, Dr. HAYR HARTING, and Commander MOUTON.

APOLOGIES FOR ABSENCE

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

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Dr. MYR 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

SECRET

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 these 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.W.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.

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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.

and

Colonel HALSE

- Office of the Judge
Advocate General.

Major Thomson

- A.G.3., V.W.

Mr. Meigh - Howard Howes Co. - 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 Belsen 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".

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. to 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	- - -
Liban	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.

- 9 -

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. H. Craig