

SECRET.

M. 108

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and eighth meeting

held on

June 19th, 1946.

In the Chair: Sir Robert CRAIGIE - United Kingdom

There were also present: Lieut. KINTNER - United States of America
Dr. LEMKIN
Mr. BRIDGLAND - Australia
M. de BAER - Belgium
Mr. HORNE - Canada
Mr. DAO - China
Major FANDERLIK - Czechoslovakia
accompanied by Dr. MAYR HARTING
Dr. SCHRAM NIELSEN - Denmark
Sir Torick AMEER ALI - India
Major PALMSTROM - Norway
Mr. BUPDEKIN - New Zealand
Dr. LACHS - Poland
Dr. ZIVKOVIC - Yugoslavia
and
Colonel HALSE - Office of the Judge
Advocate General.

MINUTES

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

APOLOGIES FOR ABSENCE

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

WELCOME TO DR. RAPHAEL LEMKIN.

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

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LORD WRIGHT'S MOVEMENTS

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

REQUEST FROM CZECHOSLOVAK GOVERNMENT FOR ISSUE OF EXTRADITION CERTIFICATE

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

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

PUBLICATION OF WAR CRIMES TRIALS REPORTS

The CHAIRMAN asked Dr.Mayr-Harting to report.

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

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

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

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

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

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

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

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ISSUE OF EXTRADITION

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

MEMORIAL TO FOUR BRITISH WOMEN PARATROOPERS.

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

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

PROCEDURE FOR SURRENDER OF WAR CRIMINALS

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

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

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

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

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6th August, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

July 19th, 1946.

Chairman: Sir Robert CRAIGIE
later, Lord WRIGHT.

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

LORD WRIGHT

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

MINUTES OF 107TH MEETING

Minutes of the 107th meeting were approved and signed.

MINUTES OF THE 108TH MEETING

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

APOLOGY FOR ABSENCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dr. ZIVKOVIC supported the Chairman's proposal.

Commander MOUTON seconded it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dr.SCHRAM-NIELSEN seconded this proposal.

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

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

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

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

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

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

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

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

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

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

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

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

Lord WRIGHT now took the Chair.

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

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

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WAR CRIMES COMMITTED

ferred to Doc.C 212, which
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questions and answers in the House with regard to the
jurisdiction of the Commission over war crimes committed
prior to September 1939. He felt that the Commission should
discuss the matter as there would undoubtedly be further reference
to it in the House of Commons. In his opinion it would be a mistake
to encourage the Ethiopian Government to submit cases for consider-
ation if, afterwards, the Commission decided they had no jurisdiction
over crimes committed before September 1939. His own view was
that, except as regards crimes against humanity, the Commission
should, normally, only deal with crimes arising out of the late
war. He understood that the main charge likely to be brought
by the Ethiopians was the use of gas. This was a war crime and
a breach of the conventions, but it was also a crime against humanity.
The question remained as to whether the Commission should limit
itself to crimes committed during the late war; if not, it would
have to be decided just how far back they were prepared to go.

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

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

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

M.de BAER said he would support that view.

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

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

COMMITTEE III

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

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

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

Dr.ZIVKOVIC supported this suggestion.

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

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

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

INVITATION TO THE USSR TO JOIN THE COMMISSION

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

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

At this point M.Stavropoulos left the meeting.

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

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

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

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

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

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

At this point Lieut.KINTNER left the meeting.

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

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

Dr.ZIVKOVIC proposed that a vote be taken.

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

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

COMMITTEE I

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

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

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

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

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

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

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

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

Both the above mentioned proposals were agreed.

Wright.

SECRET

M.110

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

July 31st, 1946.

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

MINUTES OF THE 108TH MEETING

Minutes of the 108th Meeting were approved and signed

MINUTES OF THE 109TH MEETING

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

APOLOGIES FOR ABSENCE

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

LORD WRIGHT'S VISIT TO NUREMBERG & TOKYO

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

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

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

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

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

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

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

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

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

ATTENDANCE AT NUREMBERG

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

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

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

CRIMES PERPETRATED BY THE GERMAN MEDICAL PROFESSION

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

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

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

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

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

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

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

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

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

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

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

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

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

exactly what had been done. material, it would be a tremendous task. The Chairman had great faith in it would not be fair to report to look after the General de Baer always stoking Dr. Mayr-Harting. Then there was the question of the Law Reports.

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said he was sure that the Danish Commission would be able to compile the report in time, but he thought it could be done as it was certain that the Commission would have it compiled and printed.

said that the report ought to be done, but he did not like to use the Commission's resources. He thought that we had enough reserves in the Commission, no doubt, involve some of the Commission. He put the matter in the very hands of the Commission, Dr. Schwelb and Dr. Litawski, and the report of method of procedure and possibilities of obtaining the report.

the Finance Committee, Sir Robert said that the Commission would be able to make the report, but the fees of the medical expert would be likely to be involved. He thought that whoever gave the technical report with the compilation of the report of law reporting should be done.

suggested that a suitable officer, the author of the report, should be appointed. The Commission of Shock from the Commission was a very technical report.

in the hands of Lieut. Litawski to investigate and

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

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

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

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

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

This was agreed.

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

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

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

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

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

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

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

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

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

Dr. SZERER agreed with Monsieur de Baer.

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

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

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

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

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

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

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

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

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

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

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

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

REPORTS OF COMMITTEE CHAIRMEN

Committee I.

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

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

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

General de Baer then left the meeting.

CROWCASS

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

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

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

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

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

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

M. MAILLARD agreed to give all assistance possible.

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

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

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

CZECHOSLOVAKIAN GOVERNMENTS REQUEST FOR EXTRADITION CERTIFICATE
(NANDOR BATISFALVY)

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

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

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

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

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

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

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

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

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

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

Mr. HORNE left the meeting.

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

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

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

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

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

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

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

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

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

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

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

This was carried unanimously.

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

Wright

SECRET.

M. 111

21st September, 1946.

UNITED NATIONS WAR CRIMES COMMISSION
MINUTES OF MEETING

HELD ON

September 4th, 1946.

Chairman: LORD WRIGHT Australia

Also present:

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

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

Apologies for absence were received from:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dr.SZERER agreed that they were too general.

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

M.de BAER Yes

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

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

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

Wright.

UNITED NATIONS WAR CRIMES COMMISSION.

Minutes of Meeting held on 18th September,

1946, at 4. 15 p.m.

Chairman:	Lord WRIGHT	Australia
Also present:		
	Sir Robert CRAIGIE	United Kingdom
	Lieut. KINTNER	United States of America
	Mr. HORNE	Canada
	Mr. BURDEKIN	New Zealand
	Dr. MAYR-HARTING	Czechoslovakia
	Dr. AARS RYNNING	Norway
	M. STAVROPOULOS	Greece
	accompanied by	
	M. DIMITSAS	
	Dr. ZIVKOVIC	Yugoslavia
	Dr. SZERER	Poland
	Commander MOUTON	Netherlands
	Mr. DAO	China
	Mr. DUTT	India
	Major THOMPSON	War Office. AG3(V/W)

Apologies for absence were received from:

Dr. SCHRAM-NIELSEN	Denmark
Mr. BRIDGLAND	Australia
Colonel SPRINGER	United States of America
M. de BAER	Belgium
M. MAILLARD	France

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BURDEKIN said he quite appreciated that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion was adjourned until next meeting.

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

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

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

REPORTS BY CHAIRMEN OF COMMITTEES.

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

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

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

LISTS 41 AND 42 were formally approved.

GRANTING OF EXTRADITION CERTIFICATES.

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

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

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

SECRET

M.113
2nd October, 1946.

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

27th September 1946

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

Apologies for absence were received from:-

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

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

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

NEW MEMBER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INVESTIGATION OF AND REPORT ON MEDICAL WAR CRIMES

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

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

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

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

REPORTS BY CHAIRMEN OF COMMITTEES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRIALS OF WAR CRIMINALS BY GERMAN NATIONAL COURTS.

M. de BAER said he was concerned about the following question: Article III, 1, a, Law No. 10 provided that the occupying authority should be entitled to try any German before any court which it appointed; and that in respect of crimes committed against German nationals, or stateless persons the Commission of Control might decide to have the accused tried by a German court. He was now informed that German National Courts had actually been entrusted with trials of war criminals who had committed crimes against the Allies.

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

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

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

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

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

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

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

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

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

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

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

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

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

Wine N.

SECRET

M. 114

UNITED NATIONS WAR CRIMES COMMISSION

MINUTES OF MEETING

HELD ON

16th October, 1946

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

MINUTES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Colonel RATHBONE agreed.

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

Colonel RATHBONE replied that there were Military Government Laws.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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