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THE CHAIRMAN: Are not we getting into some questions which do not affect this Commission? This Commission, of course, is interested in the efficient conduct of the affairs of CROWCASS, because the Commission has expressed the view that the operations, which, of course, means the central operations, of CROWCASS, were something which were of the greatest value to the purposes of this Commission. As I understood it, what we were doing this afternoon was ascertaining exactly the processes which are being adopted by CROWCASS, but it looks to me now as if there were some question of difference between what are now described as Governmental levels; but I do not appreciate that the Commission is concerned with those matters. The Commission is greatly concerned, as it appears to me, with the successful operation of CROWCASS. Various Governments may have to deal with other questions which it seems to me cannot be usefully proceeded with at this Board where we are sitting today. I do not know how it strikes other members of the Commission, but my view is that we ought to stick to the particular matters which I have indicated. It is perfectly clear and perfectly true that we have from time to time tried to help the operations of CROWCASS by doing what was in our power to secure these two upper floors which have been the bone of contention, and the absence of which undoubtedly has hampered those operations. That is one thing. Our powers, there, as in other matters, are merely advisory or hortatory; we do our best to see if we cannot help to tide over the difficulties; but we have got no coercive or operative powers at all in this or in any other matter, except one or two matters not important here. That being so, I do not think the Commission is concerned to attempt to disentangle any question in regard to the internal management of CROWCASS from the point of view of the Governments concerned. It is an important point, and I should like the views of the other members of the Commission about this.

SIR ROBERT CRAIGIE (Great Britain): My Lord Chairman, I would agree with what you have said on that latter point. It does not seem to me that this Commission has any locus standi for attempting to expedite or to deal with the particular question which is under discussion in regard to the control of CROWCASS. That is a matter which has been discussed presumably between Governments and has now, we understand, been referred by the Allied Control in Berlin to the Judicial Committee, if that is its right name.

MAJOR TURROU: The Legal Committee.

SIR ROBERT CRAIGIE: Yes, the Legal Committee. But the other question, the question of the efficient functioning of CROWCASS, does, it seems to me, affect this Commission, at least indirectly, and since we have been informed several times that that efficiency is being impaired by the failure up to date to evict the tenants from the two top floors of the building at present occupied by CROWCASS, I am wondering whether there is not some practical step which could be taken in the meanwhile.

THE CHAIRMAN: Beyond what we have already taken?

SIR ROBERT CRAIGIE: Yes, beyond what we have already taken. Professor Gros has kindly informed us of some of the difficulties that we all, of course, appreciate, the very great difficulty at present of finding accommodation, whether in Paris or London or anywhere else. Here, as I understand it, is the problem: CROWCASS has these three floors. They have installed very extensive machinery and spent a lot of money there, on wiring and so on, so that it would be difficult and would involve further delay if CROWCASS were to move its headquarters. Therefore there seems to be only one alternative, unless there is to be very considerable delay, which would be the acquisition of those two

floors, which are interested. Professor Gros has these two questions of policy at stake. If the Commission is in order to

PROFESSOR GROS: lot. Member saw two Secretaries were despatched. I to make one CROWCASS authorized

THE CHAIRMAN:

PROFESSOR GROS: authorities have already building, we beyond the scope of the French Republic when we know, tion wasted in one, but let if I were in hopeful as to

DR. ZIVKOVIC: Major Turrou's views which are would it be possible for people on these

MAJOR TURROU: comparable accommodation matter of fact was overruled, de Gaulle - it taken. It has his personal desire two tenants in offered them, Office in Paris be evicted from have a guarantee pliances in the be in the appropriate located, which, requisitioned but we could not give comparable quarters

PROFESSOR GROS: two floors in a is difficult to course to follow to go to General

floors, which thus becomes a matter of general concern to all those interested in the question of war crimes. I understood from something Professor Gros said that he thought we might possibly be able to separate these two questions, which are really very different. One is the question of policy and the other is purely and practically a question of accommodation. If Professor Gros thinks it is possible, perhaps he could give the Commission some idea as to what steps would be possible or desirable in order to secure an early settlement of the accommodation question.

PROFESSOR GROS: My Lord Chairman, I think we have already done quite a lot. Members of the Commission will remember that Lord WRIGHT went and saw two Secretaries of State. Immediately after that visit, two letters were despatched, reminding the French Authorities of the Chairman's démarche. It is always open to the Commission to write one more letter, to make one more intervention. If that course is agreeable to the CROWCASS authorities, I certainly would agree to it.

THE CHAIRMAN Will you say that again, please?

PROFESSOR GROS: I meant that if it were agreeable to the CROWCASS authorities that we remind once more the French authorities that we have already asked for the requisitioning of two more floors in that building, we can always adopt that course; but I think it is a little beyond the scope of the problem to send a petition to the President of the French Republic merely to ask for two floors in a building, especially when we know, and I repeat it once more, that there is a lot of accommodation wasted in Paris. If we want to make a formal gesture, let us make one, but let us make it to the authorities already informed. Nevertheless, if I were in the place of the CROWCASS authorities, I would not be very hopeful as to its results.

DR. ZIVKOVIC: My Lord Chairman, I should like to ask a question, and Major Turrou will probably be in a position to answer. Among the buildings which are still requisitioned for the United States Forces in Paris would it be possible to accommodate anywhere in such buildings these people on these two floors?

MAJOR TURROU: We have offered to the two tenants of the upper two floors comparable accommodation if they would leave 53, Rue des Mathurins. As a matter of fact, an Eviction Order was signed by General Juin, but that was overruled, and the matter is at present in the Cabinet of General de Gaulle - it is right in his office to-day - but no action has been taken. It has been submitted by the Anglo-American Mission in France for his personal disposition, because we could not get anywhere. Now, the two tenants in question were not satisfied with the quarters which we offered them, which were proposed to them by the American Real Estate Office in Paris. They wanted to have a guarantee that they will not be evicted from that place for ninety-nine years. They wanted also to have a guarantee that we will instal all the necessary electrical appliances in that office, and they specifically asked that the new locus be in the approximate neighbourhood where our building is presently located, which, of course, is an impossibility. There were no buildings requisitioned by the American authorities in that neighbourhood, so that we could not give them any other place; but we did offer them suitable comparable quarters.

PROFESSOR GROS: May I repeat that once the question of the requisition of two floors in a building has reached the cabinet of the Chief of State it is difficult to see what else we can do. I would suggest that the best course to follow would be for the British and American Ambassadors in Paris to go to General de Gaulle's Cabinet and ask for the papers themselves.

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SIR TORIC ALLEN (India): My Lord Chairman, listening to Professor Gros on a matter that is purely French, I feel, with great diffidence, that it is rather a psychological matter and that perhaps it would be better if it were left alone for the moment by us.

THE CHAIRMAN: I am not for one moment doubting the wisdom of what you say; in fact I am very much puzzled by it; but let us see what M. de Baer has to say.

M. TORJE OLD (Norway): My Lord Chairman, before M. de Baer replies, may I say that I agree in regard to what has been said about these two storeys in Paris? I do not think the Commission ought to deal any further with that matter. I agree with you, my Lord Chairman, that we should bring this question of CRO CASS within the terms of reference of this Commission. Of course, we are sitting here as representatives of our Governments in an advisory capacity, and the important point to-day, in my opinion, is as has been stated, that the four occupying Powers in Germany have decided to take on the business of the administration of CRO CASS, and I think that until we can have further information about how those four Powers are going to administer CRO CASS, and in regard to the whole business, it will be difficult for this Commission to do anything about it. I entirely agree that we must not interfere in any way with the requisitioning difficulties in all these occupied countries. I think that is outside what this Commission ought to do. Especially I could agree with Professor Gros that when this matter has been brought so far as to be put before the Council of the Government of France and General de Gaulle, I think there is very little we can do. But I should like to stress all the same that I think all members of this Commission agree that it is of essential importance that all four occupying Powers of Germany should agree in some way on how to administer CRO CASS in the future. That is a most important point, and until that has been decided I think some decision must be taken very soon, and as Professor Gros states that the four Legal Officers in Berlin are fully acquainted with everything and the importance of the whole matter, I think, therefore for the time being, probably it would be for the best if we did not take any more steps just now.

THE CHAIRMAN: We are waiting to hear M. de Baer.

M. de BAER (Belgium): My Lord Chairman, I should like to say how much I sympathise with Professor Gros's point of view and how well I understand the difficulties in which he and his Government are at this moment. All the same, this Commission is now faced with certain problems, and it seems to me that we must solve them one way or the other. We have first either to accept Major Furrou's proposal, or there is the second possibility, which is doing nothing at all, that is the easiest course; and the third proposal is doing something different. I am glad to hear Professor Gros, when he spoke the second time, make it clear that he did not any longer object to this Commission doing something. It seems to me we are justified in doing something, because after all we have an interest, a vital interest in CRO CASS functioning properly. We must not forget that this question of the two floors is not an unimportant question, because it is holding up the whole

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work of CROWCASS. As we were saying, this is a vital condition for the work of CROWCASS going on. If we do not get those two floors - and I have been personally on the spot and have seen these dossiers accumulating in halls, in corridors and everywhere - we shall be in great difficulties, so that within a very short time, if this goes on, it will not be possible for us to face up to a very difficult situation. I realise it. It is holding everything up, and if something is not done about those two floors, well, the whole work of the apprehension and the localising of war criminals is going to be held up too. Also it seems to me that although there have been errors made in the past - let us say that the building has been left free and has been left unoccupied for five or six months, which is very sad, of course - the important question is whether that ought to weigh in regard to the whole future, even if it has happened in the past. Therefore I would be very much in favour of this Commission doing something, showing at least that we have an interest in the question, because the question is now before the President of the French Republic; it is there; that is the fact. Is not it, therefore, our duty to try to give some weight to our point of view so that a decision is taken, and is at least taken in favour of CROWCASS? That was the only thing that I wanted to say, and I very much hope that something will be done in this respect.

DR. ZIVKOVIĆ: My Lord Chairman, I should like to say a few words more about this, and again ask Major Turrou to answer the question. I should like to know whether your explanation is definite as to the time limit which you foresee for the processing of all the seven million prisoners of war and security suspects? You said that if you cannot extend your premises you will require fourteen more months, which would lead us up to the end of 1946 or the beginning of 1947. Is it a definite estimate?

MAJOR TURROU: That is correct, Sir. We are at present processing 13,000 to 15,000 a day, and if we double that amount, that is to say, if we process 30,000 or, with a little overtime, 35,000 a day, it will be about a million a month, and that is with the additional cost and the corresponding number of machines which we have right now. We have not got any place in which to put them to work. We can get a competent trained personnel; we have the machines, and we have the facilities, but we have no place, and as long as we have no place we cannot humanly increase the operations and the efficiency of CROWCASS.

DR. ZIVKOVIĆ: In other words, that means that if this question is not solved comparatively shortly many trials of war criminals may have to be postponed and delayed until later in 1946, and possibly also into 1947, which means from one to two full years after the end of hostilities.

MAJOR TURROU: It also means retarding the apprehension of criminals who may be among the 7 million files which have to be processed.

MAJOR FRICHARD: In view of the very large number of German prisoners we have demobilised, it is going to be very difficult to find them, so that if we do not find a man through CROWCASS until, say, eight months from now, and he has been out of the armed forces then for a year, it will take another six months to find him.

PROFESSOR GROS: May we know how many names have been sent in by CROWCASS up to now and how many people have been tried by any of the National Courts?

MAJOR TURROU: I believe I can give the figures for the last two months. It is an average of fifty a day.

PROFESSOR GROS: That would be fifteen hundred a month. Let us double the amount, even treble it, that would mean five thousand a month. One can always juggle with figures, but statistics never lead one very far.

THE CHAIRMAN: Major Turrou is very anxious to double, to treble, to quadruple, or to do any other multiplication that you think fit. That is his great ambition, but, Professor Gros, you are as interested as any one of us in getting on with this whole question of the apprehension and punishing of war criminals. Now, we are all agreed that the functions of CROWCASS are most vital; we are all agreed that it is essential to hurry up these operations, and we are all agreed, now that we have heard Dr. Zivković put the point so clearly in regard to the part to be played by CROWCASS, that something ought to be done at once. You have suggested, I gather, that the Commission ought to do something, and I agree fully with that. The difficulty is to know, not only that it ought to do something, but how it can best do something and that is where I confess at the moment I feel a very great difficulty. I am sure the Commission would be most grateful now if you could indicate, from your knowledge of the position from both sides, what is the practical course you suggest the Commission should take in order to speed up its operations, because I know well enough, having twice visited the CROWCASS establishment, how vital these two floors are. It sounds a small thing, but from the point of view of the operations of CROWCASS it is most vital. Now, Professor Gros, would you kindly give us the benefit of your suggestions and advice as to the course which we could take?

PROFESSOR GROS: My Lord Chairman, I said that I would accept any suggestion or any recommendation of the Commission, but I stick to the first point I made, and that is that this request is wrongly directed to the Commission.

THE CHAIRMAN: Wrongly directed by the Commission?

PROFESSOR GROS: No, to the Commission. I mean that CROWCASS, through its representative here, is asking the Commission to make a formal recommendation to the French Government to get these two floors.

THE CHAIRMAN: Do you mean that the Commission has no locus standi?

PROFESSOR GROS: We have already asked for that already.

THE CHAIRMAN: Yes, we have.

PROFESSOR GROS: We have repeated that request. What more is there we can do? I still insist that the best way of securing satisfaction is to proceed through normal channels. A central body has been constituted in Berlin to control CROWCASS. That body is composed of representatives of the four Powers, amongst them a French Representative. The British and American members will certainly secure better results in Berlin or in Paris by approaching their opposite numbers on that body.

THE CHAIRMAN: Yes. You are saying that the Commission, however interested practically in the result, has no power and no right to do anything more?

PROFESSOR GROS: I would not say that the Commission had no right. We can always make recommendations, and, as many speakers have stressed, we have

an interest in the good functioning of CROWCASS. But there are many sides to this problem. May I inform the Commission, if they are not aware of the fact, that the American representative on the Control Council said on the 7th September that CROWCASS ought to be wound up.

THE CHAIRMAN: Yes, we know about that.

PROFESSOR GROS: Now we think it is essential to retain CROWCASS. In two weeks or in two months' time, another decision may be reached. We must, therefore, not raise a storm in a teacup over this matter.

THE CHAIRMAN: No. I think we remember sufficiently well what happened in the early part of September. We know that that proposal or tentative idea was abandoned, and that it is now generally agreed that CROWCASS is important. This Commission cannot for one moment admit that CROWCASS is otherwise than important for the location and apprehension of war criminals. That being so, I still would like to know what you suggest the Commission could do.

PROFESSOR GROS: My position is a bit difficult, as I appear to be the only Delegate to have definite instructions and I also possess a good knowledge of the different aspects of the situation. My instructions are that I am not competent to deal with questions relating to CROWCASS, since it is controlled by a central body in Berlin.

THE CHAIRMAN: I see.

PROFESSOR GROS: That applies only to me. That is the reason why I said that the Commission could make any recommendation they wished to. What I objected to was a formal petition to General de Gaulle, as I thought it went too far.

DR. ZIVKOVIC: May I submit to the Commission, not as a motion but as a tentative proposal, that as far as the Commission is concerned, that is, as a body, we should request our French colleague in writing to make such representations on behalf of the Commission to the Cabinet of General de Gaulle?

PROFESSOR GROS: I would prefer a formal request from the Commission, because I do not like to transmit requests to my Government. If you want to make a request, I think that the Chairman should communicate with my Government by channels more important than through me. I would remind you that this question is of special interest to two Governments who have diplomatic representatives in Paris. One can always make representations via those diplomatic channels, rather than through a body like ourselves.

THE CHAIRMAN: Yes.

DR. SZERER (Poland): My Lord Chairman, it seems to me that M. de Baer has put the situation with his usual clarity and perfection. Supposing an extract from the Minutes of this meeting were made, together with the speech of M. de Baer himself, would not our colleague then transmit it?

PROFESSOR GROS: All Minutes are transmitted.

DR. SZERER: But I mean a special extract, with the speech of M. de Baer.

PROFESSOR GROS: I would not say that it represented the unanimous views of the Commission, because the Norwegian delegate spoke in support of my views.

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DR. SZERER: Perhaps he has changed his opinion.

M. WOLD: No, I have not changed my opinion.

PROFESSOR GROS: At any rate, my Government get the Minutes and a summary of every Meeting, and therefore will be fully informed of this discussion. I am also perfectly willing to stress personally the importance of this matter.

M. WOLD: My Lord Chairman, we have discussed this matter about these two floors long enough, and as we have a meeting to-morrow again...

THE CHAIRMAN: No, I think not, not as far as I am concerned. The Commission, of course, is dominus of the situation, but I would like to remind the Commission that Major Turrou is here at the invitation of the Commission, and we must express our appreciation of his coming here and of the very valuable information he has given us. As to the further question, in view of what has been said in the course of this discussion, and in view of the form the discussion has taken, I do not feel that we are likely to get any further to-day by any further discussion. As far as I can follow, every possible point of view has been touched upon. Speaking for myself - and it may be that in expressing the view I do and the feelings I am now expressing I am also expressing the feelings of the other members of the Commission - I want to think this matter over. Whether the result of my reflections will be any further enlightenment or any further practical idea I do not know; but I do not think we shall do any good by further discussion now. The discussion has certainly been very valuable, because it has made several things clear which, certainly to me, were not clear, and it may well be that as a result of this discussion either we or some other authorities will be able to pursue the matter further to some practical result. I really do not know, but I would ask the Commission to agree with me that no advantage can be gained by pursuing the matter further. If anyone has anything to say to the contrary, let him say it.

M. WOLD: My Lord Chairman, I must apologise if I in any way have said anything against the Chairman at this meeting; but M. de Baer said, I thought, that the matter was exhausted in any case for the time being, and I think that upon that point I agree with you. I should like to add that I must not be taken as implying that I do not very much appreciate that we have had representatives of CROWCASS here, and all the information we can get in dealing with the activities and the work of CROWCASS, of course, will be valuable to every member of this Commission.

M. C. STAVROPOULOS (Greece): Could not we write a letter to the Control Commission in Germany stating that we consider the work of CROWCASS is very valuable and that everything that can be done ought to be done, not as a special matter but as an ordinary routine matter, for helping forward the work of CROWCASS, and at the same time that in our opinion we consider that work very valuable?

THE CHAIRMAN: Yes, there is a great deal to be said for that view; but, of course, we have already expressed and indicated as clearly as words can our feelings on the matter. As I say, speaking for myself, I think the best course to adopt is to explore the matter further - I think that is the technical expression - either in our own minds or by consulting other authorities. Unless the Commission wish to continue this discussion,

I venture to suggest that we should now conclude it with an expression of thanks to Major Turreau for coming here to-day, coming over from Paris, to give us the benefit of his ideas. We had a long discussion this morning, and we have had a not so long but still quite a lengthy discussion this afternoon.

If it is not asking too much of the members of the Commission, there are one or two pieces of business which it would be desirable to bring before the Commission to-morrow afternoon; it will not take long. One is a matter of great importance, and that is the question of the Commission electing a Secretary-General. A candidate has appeared and has been interviewed by some of the members, and it may be that to-morrow would be a convenient time for coming to a decision. There are one or two other things which we ought to deal with also. That being so, I shall ask the Commission to be patient with me and not to be too angry if I suggest a meeting at 3 o'clock to-morrow. I may add that I do not consider the time we have spent to-day, though it has resulted in nothing definite, as having been wasted.

W. H. L.

SECRET

M. 85

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Eighty-fifth meeting

held on

November 8th, 1945

In the Chair: Lord WRIGHT

- Australia

There were also

present: Colonel HODGSON

- United States of America

F/O BRIDGLAND

- Australia

M. de BAER

- Belgium

accompanied by M. GOLSTEIN

Major MORDEN

- Canada

Dr. Wellington KOO

- China

accompanied by Dr. LIANG

Dr. MAYR HARTING

- Czechoslovakia

Professor GROS

- France

Sir Robert CRAIGIE

- United Kingdom

M. STAVROPOULOS

- Greece

Mr. BURDEKIN

- New Zealand

Mr. WOLD

- Norway

accompanied by Major PALMSTROM

Dr. SZERER

- Poland

accompanied by Dr. CYPRIAN

MINUTES

The minutes of the 82nd meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 83rd meeting were received from Mr. Burdekin, F/O Bridgland, and Professor Gros. They will be incorporated in the final text for distribution.

APOLOGIES FOR ABSENCE

Dr. Zivkovic and Commander Mouton sent apologies for being unable to attend the meeting.

APPOINTMENT OF NEW SECRETARY GENERAL

The CHAIRMAN reported that a candidate had been found for the post of Secretary General, which had been vacant since the resignation of Mr. McKinnon Wood last September, Mr. Lyman having performed the duties in a temporary capacity.

Colonel George Alexander Ledingham, D.S.O., M.C., was educated at Aberdeen Grammar School and The Royal Technical College Glasgow and had qualified as a Civil engineer. He had served during the 1914-1918 war, was awarded the M.C., wounded and mentioned in despatches. From 1919-1939 he was engaged in various business

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undertakings. He commanded Surrey and Sussex Yeomanry Field Regiment, R.A., from 1937 to 1942; awarded the D.S.O. in 1940, mentioned in despatches twice, promoted to Colonel in 1942, and appointed Commander Bucks Sub-District. He was transferred to Civil Affairs Military Government in July 1944, proceeded overseas and served with Second Army and later the Canadian Army in Holland. He was Civil Affairs Commander for Brabant until the Netherlands took over administration in March 1945, when he became Military Government Commander for Westphalia, until released under his Age and Service group on 23rd August 1945.

The CHAIRMAN considered that Colonel Ledingham's experience was such as to give him an especially intimate acquaintance with matters connected with the tracking down and apprehension of war criminals, which was of vital importance for the work of the Commission in its present stage. He would therefore strongly recommend the appointment of Colonel Ledingham, whom some members had already had the opportunity of meeting.

Members having expressed their approval of the appointment, Colonel Ledingham was asked to join the meeting. Having been welcomed by the Chairman on behalf of the Commission, Colonel LEDINGHAM expressed his thanks and said he would do his utmost to justify the confidence which had been placed in him.

REPORTS OF COMMITTEE CHAIRMEN

Committee I

Commission's Lists of Witnesses

M. de BAER, chairman, said that a question had been raised regarding the fate of those persons listed as witnesses by the Commission. It seemed unfair that those who had voluntarily given evidence should be treated as accused persons, placed in custody and detained until the time of trial. In that connection, Mr. Kent had informed the Committee that as far as the British National Office was concerned, it was not intended to penalise any German who had volunteered to give evidence, provided he was not concerned in the commission of war crimes; arrangements were therefore being made to release such persons. It would be left to the discretion of the military authorities to decide whether the witness could be relied upon to appear before the court; if he were suspected of Nazi leanings, however, he would be retained in custody.

M. de Baer and the CHAIRMAN of the Commission expressed appreciation of the satisfactory manner in which the British National Office had handled the problem.

Disposal instructions for General Hartmann

Referring to the recent case of Paul Kanstein (Cf. M. 79, p.6., and M.80, p.4), M. de BAER said that another letter had been received from CROWCASS requesting instructions for the disposal of General Hartmann, who figured on the Commission's List No.7, Key-men. The situation this time, however, was not one in which a National Office might be asked to apply for the surrender of the criminal, inasmuch as General Hartmann had committed war crimes against the U.S.S.R., in addition to having taken part in the framing of Nazi policy. Committee I therefore considered that an appropriate communication should be sent to the U.S.S.R. authorities, informing them that Hartmann had been captured in the Mediterranean area and was being detained pending instructions.

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Mr. WOLD said that if Hartmann were a key criminal, the Allied Control Commission in Berlin might have an interest in him. He was not clear as to the distinction between a "major war criminal" and a "key criminal". He felt that the Commission should discuss that question.

After further discussion, it was decided to inform the National Offices of the detention of General Hartmann, requesting them to consult their Governments and report at the next meeting.

Request for extradition of Franco Scasselati

It was unanimously agreed to issue a certificate - similar to the one relating to Giuseppe Bastianini (Cf. M.63, p.5) - to the Yugoslav representative on the Commission, to enable his Government to secure the extradition of Franco Scasselati, Italian war criminal listed in the Commission's List No. 5, who had taken refuge in Switzerland.

Italian charges against German war criminals

M. de BAER referred to the Commission's decision to receive charges against German war criminals presented by the Italian Government. A suggestion had been made that one of the member Governments might examine such charges and present them formally to the Commission; the later decision was to the effect that such charges should be taken up as Commission charges in order that the accused, when apprehended, might be handed over direct to the Italian Government.

The case of Colonel Langsdorff had now been discussed by Committee I and it had been proposed that the material relating to the looting of Italian art treasures should be transmitted to Signor Manzini of the Italian Embassy, in order that he might formulate a charge.

The proposal was unanimously adopted, the CHAIRMAN pointing out that similar cases might arise in the future.

Committee III

Dr. MAYR HARTING, on behalf of Dr. Ecer, chairman, reported that the Committee hoped to submit its final report on the Czechoslovak case No. 26 after its next meeting.

Finance Committee

Sir Robert CRAIGIE, chairman, said that two meetings had been held during the last fortnight, after a considerable lapse of time. Two matters had been thoroughly examined.

Financial situation of the Commission

The actual balance held by the bank to date amounted to £17,671. Sir Robert explained that the Commission had provided in its budget for the establishment of a number of agencies overseas, particularly in the Far East, as well as for certain expenditure which had in fact not been incurred. The budget items foreseen under those headings amounted to £17,000, so that the present balance was actually not very great. That was due to the fact that outstanding contributions (budget excess over "basic contributions") from member Governments were £19,000 in arrears. He ventured to suggest that members of Governments whose contributions had not been paid should urge their Governments to do so. He added that the moment for considering whether the balance was excessive would be when the next budget was being discussed.

Increases of Staff salaries

A number of proposals for increases in salary had been received, and after thorough consideration, the Committee had felt they were justified and approved them.

The CHAIRMAN thanked Sir Robert Craigie for his report.

RECOMMENDATION CONCERNING JAPANESE WAR CRIMES AND ATROCITIES - C. 145 (1)

The CHAIRMAN requested the representative of Australia to open the discussion - which had been adjourned at the last meeting - by stating his views on the draft letter to the United Kingdom Secretary of State for Foreign Affairs.

F/C BRIDGLAND did not have much to add to the statement he had already made. In his opinion, the responsibility of the Commission in regard to the question of dealing with the Japanese war criminals extended beyond making recommendations on how to bring them to justice. It was important that the recommendations should not be shelved for so long that their effectiveness would be impaired, if and when it was eventually decided to carry out the plans proposed. He said this, having in mind the fact that there were investigating teams already at work in the Far East, but no central inter-Governmental agency existed to co-ordinate the evidence collected. In that spirit of urgency, he had suggested that a letter, on the lines of the draft submitted at the last meeting, should be sent to the United Kingdom Foreign Office in accordance with Recommendation VIII adopted by the Commission on August 29th, 1945 (C. 145(1)). He had no information regarding the number of representatives who had received the views of their Governments on the recommendations, but provided a sufficient number had received replies, he suggested that the question of sending the draft letter might be put to the vote.

The CHAIRMAN asked whether any members were in a position to state the views of their Governments.

Sir Robert CRAIGIE said that he had received an interim reply and was willing to give a provisional report, but he would prefer to make a detailed statement at the next meeting.

Dr. Wellington KOO said that he had telegraphed to his Government and had received a reply to the effect that the recommendations had been examined and, speaking generally, no objections had been found. He was requested to add, however, that since conversations were proceeding between certain Governments principally interested in the subject with very much the same object in view, his Government wondered whether the moment was opportune for taking a decision. If the Commission should consider it opportune, however, Dr. KOO would be authorised to express more definitely the views of his Government which were, speaking generally, favourable.

The CHAIRMAN then asked Colonel Hodgson to express the opinion of his Government.

In reply, Colonel HODGSON stated that the United States, as one of the signatories of the Potsdam declaration, had declared that Japanese war criminals should be swiftly and surely punished. His Government was extremely anxious that these perpetrators of monstrous war crimes should be quickly apprehended and brought to trial and justice as soon as possible, and wished to do everything necessary to achieve that end. For some time, it had been studying the most appropriate methods to effectuate that purpose and in the course of

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those studies and the preparation of a plan, had found the recommendations contained in document C.145(1) very valuable. They had been of much assistance and in a number of respects were very close to its own policy.

In view, however, of the desire for swift punishment for Japanese war criminals, discussion through diplomatic channels had already begun with Governments especially concerned with the punishment of Japanese war criminals. It was not felt, therefore, that it would be appropriate to request the United Kingdom Foreign Office to take action in accordance with recommendation VIII, contained in document C.145(1). For that reason, it was also believed that action upon document C.145(1) should be deferred pending consideration of the subject through diplomatic channels.

Professor GROS said his position was the same as that of Colonel Hodgson. The question was at present being considered by the French Government also and he would find it difficult to give any information at this stage. He was inclined to agree with Colonel Hodgson that it was extremely difficult to participate in a decision of the Commission on a matter which was being considered on a diplomatic level. The Commission no doubt appreciated that as soon as a decision was taken, it would be communicated to it.

Mr. BURDEKIN was then asked to speak. He had received no definite instructions from his Government but felt justified in saying that its only interest lay in providing adequate machinery to be set in motion as soon as possible. He considered that the Far Eastern Advisory Commission, now meeting in Washington, might appreciate receiving the views of the U.N.W.C.C. as set forth in document C.145(1). Without wishing to make difficulties - in view of the diplomatic conversations now proceeding, he felt personally that his Government would wish the Commission's recommendations to be brought to the attention of the Washington Commission.

Major MORDEN reported that his Government considered the Chairman's proposal inopportune at the present moment in view of the fact that Canada - and presumably other Governments - were considering the proposals of the Far Eastern Commission in Washington. The Canadian Government, however, wished to make it known that it generally supported the suggestion that the U.N.V.C.C. should acquaint the Washington Commission with the recommendations set forth in C.145(1).

Sir Robert CRAIGIE stated that, since other members had made preliminary statements, he would add that the United Kingdom Government had been studying the Commission's recommendations very carefully and had found them very valuable. As had been mentioned, discussions were taking place between the Governments interested and, so far as he could see, they were very much on the lines of the Commission's recommendations, i.e. a proposal for international military tribunals, for a central registry and generally for the early detention of prisoners and their trial. So far as the area under British occupation was concerned, steps had already been taken to set up national courts and to detain prisoners and generally to set the machinery in motion, pending a final decision between Governments as to what exactly the machinery was to be.

As regards any action by the Commission, it was of course open to it to send the letter proposed, but in his opinion it would be preferable to await developments. He was sure that the question was being considered as a matter of urgency, and it seemed very doubtful whether anything which the Commission would do at this stage would

expedite it further. Neither did he believe that it would serve any useful purpose for the Commission to propose that the recommendations be submitted to the Washington Advisory Commission. He was certain that the Governments would themselves do that if they considered it to be the best method of achieving their object. He would therefore suggest that the Commission confine itself to advising the member Governments that the matter was of the greatest urgency and to expressing the hope that detailed information would be sent to the Commission.

The CHAIRMAN felt that, after hearing the statements made by the representatives of certain Governments, the question was being thoroughly and vigorously considered by those Governments and he would therefore be reluctant to support a view which would involve the Commission's pursuing the matter by sending the draft letter or by taking any other action. He would be disposed to suggest that the matter be left in abeyance for at least a week or two. If it were then possible to show that there were reasons of real practical importance why the Commission should interfere, the matter could be raised again. He personally took the view that the Governments concerned were doing their best and that the Commission's recommendations were receiving full attention. He ought to add that the recommendations were neither final nor complete in form or effect. He asked the Australian representative for his opinion.

F/O BRIDGLAND replied that he was prepared to defer the question in view of the statements just made. The position might be clarified in a week or two: the problem might solve itself. If not, the Commission might reconsider the whole question.

The CHAIRMAN said he would have an opportunity to raise it again if he felt that a useful purpose would be served thereby.

MEMBERSHIP OF COMMITTEE III

Sir Robert CRAIGIE asked to be relieved of membership of Committee III, owing to commitments on other committees, particularly on Committee I, the meetings of which Mr. Beaumont was no longer able to attend.

The CHAIRMAN and Mr. WOLD, chairman of Committee III, regretted the necessity for Sir Robert's resignation and hoped that he would return as soon as circumstances permitted. Mr. WOLD suggested that, to replace Sir Robert, another member be appointed, whose mother-tongue was English and who was fully conversant with Anglo-American law. Mr. STAVROPOULOS supported Mr. Wold's suggestion.

Colonel Hodgson and Mr. Burdekin were each invited to join the Committee but did not feel able to accept.

The CHAIRMAN reminded the meeting that the proceedings and conclusions of the Committee had to be reconsidered by the Commission in any case and that the Committee was assisted by a secretary.

Colonel HODGSON pointed out that one of the members of Committee III was Dr. Liang who was an expert not only on international law, but also on Anglo-American law. He had already produced valuable reports for the Commission.

RECOMMENDATION CONCERNING ORDER OF TRIAL - C.123(1)

The CHAIRMAN stated that a letter had been received from Dr. Mayr Harting, reporting agreement by the Czechoslovak Government to the proposal for arbitration by the Commission in the case of a war criminal being wanted by more than one United Nation. The following Governments had now agreed to the recommendation: Australia, Belgium, Yugoslavia, New Zealand, Netherlands and Czechoslovakia.

M. de BAER suggested that the Allied Control Commission might be informed of the number of Governments who had agreed to the recommendation, in order that, in the event of arbitration being necessary, the question might be referred to the Commission.

The CHAIRMAN said he would prefer to await further replies from member Governments, but hoped to raise that point shortly.

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ATTENDANCE AT DACHAU CONCENTRATION CAMP TRIAL

Colonel HODGSON made the following statement, at the request of the Chairman:

"This noon I received a telegram, dated November 6th, from the United States Forces, stating that approximately 40 major perpetrators in the Dachau Concentration Camp case who are charged with murder and other mistreatment of civilian nationals and members of the armed forces of nations then at war with Germany, will be tried by General Military Government Court at Dachau, Germany, on or about 15 November 1945.

It was also stated that because of the importance of this proceeding it is believed the trial will be of interest to the members of the United Nations War Crimes Commission.

Accordingly I was requested to convey to the members of the Commission an invitation to be present throughout the course of the trial or at any time during the progress thereof.

I was further requested, in case any or all members of the Commission desired to attend the proceedings, to advise the War Crimes Branch at Wiesbaden as soon as possible of the names of the members, dates they may desire to be present and the probable duration of their visit in order that adequate accommodations may be assured. Therefore, in case any or all members desire to accept this invitation, it will be appreciated if they will give the mentioned items of information to the Secretary General at the earliest convenient time."

Professor GROS asked whether it would not facilitate matters for the United States authorities if members were to go in a party rather than individually.

Colonel HODGSON thought it would be preferable in view of transport difficulties. He added that Colonel Straight would like to know as soon as possible, in order to arrange for accommodation.

Appreciation of the offer made by the American Army was expressed by the Chairman and all members.

M. de BAER asked whether Colonel Hodgson could tell him whether there was any intention of adding foreign judges for the Dachau trial. A precedent had recently been set at the Peleus trial, to which two Greek judges had been invited. He added that if the prisoners at the Belsen trial were to be acquitted (he referred to Professor Smith's statement, reported in the "Times"), it would be unfair that the British judges alone should have to bear the responsibility of that decision and the resulting unpopularity in all countries.

Colonel HODGSON said that his military authorities were giving careful consideration to that matter. There were many difficulties to be overcome in bringing 40 major perpetrators to trial, and so far as the Dachau trial was concerned, the proceedings would be before an American court. He understood that observers had been invited from those countries whose nationals had been confined in Dachau.

Referring to M. de Baer's reference to Professor Smith's statement, Professor GROS urged that a full report be made available to the Commission, to be studied by the Legal Officers and then discussed by the Commission. He felt that it was of great importance that a statement should be issued, when the report had been examined.

The CHAIRMAN suggested that the matter be made the subject of discussion at a future meeting.

Wright

SECRET

M. 86

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Eighty-Sixth Meeting

held on

November 14th, 1945

In the Chair: Lord WRIGHT - Australia

There were also
present:

Colonel HODGSON	- United States of America
accompanied by Captain WOLFF	
E/O BRIDGLAND	- Australia
M. GOLSTEIN	- Belgium
Major MORDEN	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING	- Czechoslovakia
Dr. SCHRAM-NIELSEN	- Denmark
Professor GROS	- France
Sir Robert CRAIGIE	- United Kingdom
M. STAVROPOULOS	- Greece
Mr. DUTT	- India
Mr. BURDEKIN	- New Zealand
Mr. WOLD	- Norway
accompanied by Major PALMSTROM	
Dr. ZIVKOVIC	- Yugoslavia

and

Mr. AIKMAN	- New Zealand National Office
Major LABORDE	- French National Office

WELCOME TO MR. AIKMAN AND MAJOR LABORDE

The CHAIRMAN welcomed Major Laborde and Mr. Aikman, of the French and New Zealand National Offices respectively, stating that he was always glad to establish contact with the National Offices.

Major LABORDE and Mr. AIKMAN expressed appreciation for the opportunity of following the proceedings of the Commission at first hand.

RESIGNATION OF MR. LYMAN

The CHAIRMAN reported that the Commission would soon be deprived of the services of the Executive Secretary who planned to return to his home in the United States shortly. His loss would be particularly felt by the newly appointed Secretary General and the Chairman therefore hoped that a candidate would very soon be found to replace him.

The CHAIRMAN referred to the fact that Mr. Lyman had been placed in a very difficult position by the sudden retirement of the former Secretary General and mentioned various functions Mr. Lyman had performed and the efficient way in which he had arranged the affairs of the Commission when the Secretariat moved from the Law Courts to Church House. He moved a resolution expressing the Commission's indebtedness to Mr. Lyman for admirable, efficient and self-sacrificing services. The Chairman also felt that the Commission would support him if he secured Mr. Lyman's passage to America.

Dr. LIANG and Sir Robert CRAIGIE supported the Chairman's resolution. Professor GROS thought that support was unanimous and proposed that a letter be addressed to Mr. Lyman to that effect. Sir Robert CRAIGIE - who, as a newcomer, had been greatly assisted by Mr. Lyman - wished him every good fortune in the future.

The CHAIRMAN said he would write a letter to Mr. Lyman as suggested.

MINUTES

The minutes of the 83rd meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 85th meeting were received from the Chairman, P/O Bridgland, Sir Robert Craigie and Colonel Hodgson. They will be incorporated in the final text for distribution.

APOLOGIES FOR ABSENCE

Apologies for absence were reported from M. de Baer and Commander Mouton, and Sir Torlok Amoor Ali.

REPRESENTATION OF THE U.S.S.R. ON THE COMMISSION

Dr. LIANG declared that the Chinese Government had agreed to the Commission's proposal to approach the United Kingdom Government with a view to inviting the Soviet Government to join the Commission.

Mr. DUTT made a similar statement on behalf of the Government of India.

AMENDMENT OF DOCUMENT C.155 - MEMBERSHIP OF COMMITTEES

Dr. LIANG asked that his name be substituted for that of Dr. Wellington Koo in the list of members of Committee III. He pointed out that he had been appointed to and served on Committee III in his own right and not as deputy for Dr. Wellington Koo.

An amended text of C. 155 will shortly be circulated.

ACCOMMODATION FOR CROWCASS

The SECRETARY GENERAL read the following note of a conversation between Major Turrell and Mr. Lyman, on November 9th:

"General de Gaulle has signed an order which directs the tenants of the upper floors in the CROWCASS building to vacate the premises in order that CROWCASS may promptly move in.

While it is not certain, it is probable that the tenants will vacate within the next 2-3 days.

Mr. Lyman had been placed in retirement of the former functions Mr. Lyman had performed. He had arranged the affairs transferred from the Law Courts to the Commission's efficient and self-sacrificing work. The Commission would be a great asset to America.

The Chairman's resolution was unanimous and proposed that effect. Sir Robert had assisted by Mr. Lyman.

Mr. Lyman as suggested.

Approved and signed by the

At the meeting were received Mr. Craigie and Colonel final text for distribution.

M. de Baer and Commander

COMMISSION

The Government had agreed to the United Kingdom Government with join the Commission.

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COMMITTEES

Reported for that of Dr. Welling Committee III. He pointed out that Committee III in his own right

circulated.

Note of a conversation on 9th:

which directs the Commission building to vacate promptly move in.

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Major Turron has agreed to keep us informed by telephone as to the developments within the next two weeks. He has asked us to convey to the Chairman and to other members of the Commission his gratitude for the manner in which he was received and for the interest shown in the problems of his organisation."

The CHAIRMAN was gratified to hear the news. He wished to express appreciation of the work done by Professor Gros in urging the matter forward and achieving the happy result.

Professor GROS expressed the view that the Chairman himself had made the greatest impression on the French Government on the occasion of his visit to the Ministers of Justice and Foreign Affairs. He was pleased to know that CROWCASS would now be able to continue its work. Professor Gros added that he proposed to prepare a memorandum on the work of CROWCASS in relation to the Commission to clarify the situation.

The CHAIRMAN said the Commission would welcome Professor Gros' observations. The work of apprehending war criminals and bringing them to justice was very important. He was not sure whether present arrangements were the best obtainable, but considered that a great deal of improvement and progress had been made.

In reply to the Chairman, Professor GROS said his report should be ready in a fortnight's time.

CRIMES AGAINST PEACE AND CRIMES AGAINST HUMANITY

The CHAIRMAN reported that the Executive Committee had held a meeting at which a preliminary discussion had taken place on a very important subject. It appeared that a report would shortly be submitted by Committee III showing that some difference of opinion existed in connection with the Sepp Dietz case.

He considered that the best way to prepare for a discussion on that subject would be for the Secretariat to circulate a letter which had been addressed to him by Mr. Wold - provided Mr. Wold did not object. (Mr. WOLD said he had no objection) The gist of the letter might be put, briefly, in the following question: What was the Commission's relationship to the Charter of August 8th, 1945, and to crimes against peace and crimes against humanity? How did those questions affect the Commission? It was obvious, of course, that within limitations, the Commission had mainly concerned itself with what might be termed "ordinary war criminals". In theory, however, the Commission had always accepted the view, or part of the view expressed so clearly in Mr. Wold's letter, i.e.

"In my opinion, it is also within the Commission's terms of reference to advise the member Governments regarding the prosecution of those accused of crimes against peace and of crimes against humanity, who are not considered as major war criminals."

In view of the importance of the question, therefore, the CHAIRMAN felt that members should have an opportunity to study and reflect upon Mr. Wold's letter before a full discussion was held in two weeks' time. He also proposed that Committee III's report on the Sepp Dietz case, to which he had referred, should be circulated simultaneously to members.

REPORT OF COMMITTEE III

Dr. MAYR HARTING, acting Chairman, reported that the Committee had concluded its report on the Sepp Dietz case.

He then referred to the law reports submitted by the secretary, Dr. Schwelb, regarding the first two weeks of the Belsen trial. The Committee had discussed generally the question of law reporting and asked Dr. Schwelb to continue the preparation of further studies.

The CHAIRMAN remarked that he had found the reports very valuable.

REPORT OF PUBLIC RELATIONS COMMITTEE

Dr. ZIVKOVIC, Chairman, said that no meeting had been held but progress was being made in regard to the forthcoming War Crimes Exhibition. The French representative, M. Robert, had asked the Commission to decide whether the exhibition, including the cinema performance, should be open to adults only or should also admit children under 14 years of age. He pointed out that the films to be shown had been graded by the British Film Censors as category "A" - for adults only.

The CHAIRMAN asked whether the London County Council had been approached for their views.

Mr. GIBSON thought it was a matter for the Commission to decide. If children were not to be admitted, the fact would have to be advertised.

After some discussion, it was unanimously decided that the exhibition and cinema performance should be open to adults only.

STATEMENT BY PROFESSOR SMITH AT BELSEN TRIAL

At the request of the Chairman, Professor GROS recalled the proposal he had made at the last meeting that the Commission should obtain a copy of Professor Smith's exact statement to the court regarding the guilt of the accused, at the Belsen trial. He felt that, after the legal officers had examined the statement, the Commission might wish to take some action. He thought that if those views were known in some of the ex-occupied countries, they would provoke serious apprehension, and that the Commission should be ready to state that they were only the views of one man, and did not necessarily represent the views held by British lawyers. He suggested that a statement be prepared for use if the need should arise.

The CHAIRMAN then referred to an earlier statement made by defending counsel at the same trial which had caused intense annoyance and which counsel had attempted to explain by saying that he had been acting only as the mouthpiece of the accused. The Chairman maintained that a counsel had no right to make such statements merely to gratify his client; he ought to have a sense of responsibility. He also wondered whether Professor Smith really held the view he was reported to hold or whether he also was merely a mouthpiece. However, the quotation should have appeared in bald print - particularly in a newspaper like "The Times". The logical implication was that the War Crimes Commission had no right to exist, that there was no law which justified the punishment of war criminals, and that the declarations made by the President of the United States, the Prime Minister of Great Britain and Marshal Stalin had no justification in international law. He was vexed that Professor Smith should have committed himself to such unqualified statements.

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He was also perturbed at the thought that those words might be quoted in some of the countries which had suffered from barbarities perpetrated by war criminals, and it would be disastrous if it was felt that they represented the feelings and ideas of the British public, or - even worse - the feelings of the responsible members of the Allies. He would be in favour of putting forth a "counter-blast", but would prefer to await the summing up and the decisions of the Court.

He repeated, finally, his extreme annoyance and concern at reading the bald statement of an advocate quoted without qualification and taken out of context, in "The Times".

Colonel HODGSON fully agreed with Professor Gros. He felt that the Commission should take cognisance of the matter by making a statement regarding the question upon which Professor Smith had attempted to comment. He could not say whether the views expressed were those held by the members of the British Bar or by legal scholars, but they certainly did not represent the vast majority of students of international law throughout the world. The point might arise again and be made before other courts and for that reason it would be advisable to have a concise and accurate opinion stated, for submission to the appropriate bodies, which would not only be of great value to them, but also of great value so far as public opinion in the different countries was concerned, in order to re-assure those who wished to see the perpetrators of those terrible crimes brought to justice and punished.

The CHAIRMAN agreed. He suggested that the Commission should find out what had been said by defending counsel and by the Judge Advocate General who, according to English practice, advised the Court on questions of law.

Dr. SCHWELB described the procedure on the first appearance of Professor Smith on the 26th day of the Luneburg trial. It was made quite clear that Professor Smith did not act as an expert nor did he claim the position of an expert; he expressly said that he was simply one of the Bar who would address the Court in exactly the same manner as any other member of the Bar.

The CHAIRMAN felt that the importance of preparing a statement was now even greater.

Colonel HODGSON suggested that Professor Gros might be willing to draft an appropriate statement.

Professor GROS proposed that Dr. Liang (who had now left the meeting) should undertake it. It was advisable to defer making a public legal pronouncement until the verdict of the Court was known, but there was no harm in drafting a statement in the meantime.

Colonel HODGSON considered that the matter should be divorced from the Belsen trial and that a position in law should be taken and a statement made, irrespective of the decisions of that trial, to be furnished to any other court. He agreed that either Professor Gros or Dr. Liang should prepare such a statement.

Mr. WOLD raised a question of procedure. He had no objection to the work being undertaken by Professor Gros or Dr. Liang, but maintained that it should more properly be entrusted to Committee III, which had been set up to discuss legal problems, and of which both gentlemen were members.

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The CHAIRMAN was grateful for the suggestion. His idea was that a short statement should be prepared without delay and, when approved by the Commission, sent to "The Times" and other newspapers, as emanating from the Commission. It would not refer specifically to the alleged statements of Professor Smith, nor to the Belsen proceedings nor to the awaited sentences of the Court.

Mr. WOLD fully appreciated that the statement should emanate from the Commission. He wished merely to propose that Committee III - which was part of the structure of the Commission - should prepare the statement.

The CHAIRMAN pointed out that the Commission was dominus of this matter, and with the greatest respect to Mr. Wold, formally proposed that the matter be dealt with in the manner he had indicated: by obtaining a preliminary report either from Professor Gros or Dr. Liang for consideration by the Commission in full session. When approved, the statement would be issued to the press by the Public Relations Officer, as an expression of the views of the Commission.

M. STAVROPOULOS felt that Professor Smith's arguments were the basis for accepting or not accepting the validity of punishment of war criminals. If Committee III were not entrusted with the task of determining that point, it would seem that its competence for dealing with matters relating to war criminals was being questioned.

After further discussion, it was unanimously decided to adopt a proposal made by Sir Robert Craigie to the effect that a statement should be prepared by Professor Gros and Dr. Liang, for submission to the Commission; if the statement raised any point of law or other point which the Commission thought should appropriately be referred to Committee III, it would be done at that stage. The Commission would decide the action to be taken.

ADHERENCE TO THE FOUR-POWER AGREEMENT OF AUGUST 8th, 1945.

The CHAIRMAN said he was anxious that all member Governments should notify the Commission of their adherence to the Four-Power Agreement and asked how many replies were still outstanding.

After Mr. BURDEKIN and Mr. DUFF had stated that they had received instructions that their respective Governments had acceded to the Agreement, it was reported that replies were now outstanding from Canada, China and Luxembourg. Major MORDEN said he would approach his Government again, and the Secretary General was asked to ascertain the position of the remaining two Governments.

Colonel HODGSON understood that a number of other nations, not represented on the Commission had adhered to the Agreement (e.g. Panama, Haiti, Ethiopia and the San Dominican Republic) and suggested that the Commission should obtain information on that point from the United Kingdom Foreign Office. Sir Robert CRAIGIE was asked to approach the Foreign Office and agreed to submit a report at the next meeting.

ATTENDANCE AT NUREMBERG TRIALS

The CHAIRMAN reported that according to the last instructions received, members of the Commission who wished to go to Nuremberg should make arrangements through their respective Embassies. He mentioned that in the court-house at Nuremberg, there would be one seat for an observer from each interested country, as had been the case at Belsen.

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M. 87

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Eighty-Seventh meeting

held on

November 28th, 1945

In the Chair: Lord WRIGHT - Australia

There were also

present:

Colonel HODGSON	- United States of America
accompanied by Captain WOLFF	
F/O BRIDGLAND	- Australia
Major MORDEN	- Canada
Mr. DAO	- China
Dr. MAYR HARTING	- Czechoslovakia
Dr. SCHRAM NIELSEN	- Denmark
Sir Robert CRAIGIE	- United Kingdom
Mr. DUTT	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Mr. MARKOVIC	- Yugoslavia

and

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

MINUTES

The minutes of the 85th meeting were approved and signed by the Chairman.

The draft minutes of the 84th and 86th meeting were also approved, subject to the incorporation of Professor Gros' amendments in the former. The final text will be duly circulated to members.

APOLOGIES FOR ABSENCE

Apologies for absence were received from M. de Baer, Professor Gros, Mr. Wold, M. Stavropoulos, Dr. Zivkovic and Sir Torick Ameer Ali.

ADJOURNMENT OF CERTAIN SUBJECTS OF DISCUSSION

Owing to the absence of certain representatives, and at their request, the CHAIRMAN suggested that a number of matters which were to have been raised at the present meeting be adjourned until December 5th. Among them were the following:

- (a) Professor Gros' memorandum on CROWCASS (this document will be circulated to members before the next meeting); and other points concerning CROWCASS:

(b) Mr. Wold's letter of 12th November, 1945, concerning crimes against peace and against humanity, together with Committee III's report on the Sepp Dietz case (document C.156 already circulated);

(c) A letter from Dr. Zivkovic relating to charges against Italian war criminals and to the delay in handing over these criminals to the Yugoslav authorities for trial.

REPORTS OF ATTENDANCE AT DACHAU AND NUREMBERG TRIALS

At the request of the CHAIRMAN, who had been unable to remain in Germany long enough to attend it himself, Colonel HODGSON gave a brief report of his impressions of the Dachau trial. He had attended one session and had left before the case for the prosecution had been completed, but considered that the trial was being well conducted before an American Military Commission the presiding officer of which was Brigadier General Lenz. Although he had not examined the charges and specifications, he understood that the defendants were charged with having committed murder, torture and other crimes at the camp as well as with conspiracy. The prosecution undertook to prove the criminal character of the camp, that the defendants held positions in connection with the camp, and in addition to present evidence that certain defendants had participated individually in the crimes, for which purpose they summoned fifty to sixty witnesses. The witnesses who testified while he was present were Polish, Lithuanian, Dutch and French.

In reply to questions from the CHAIRMAN and other members, Colonel HODGSON said that he believed the number of recorded deaths in the camp to be 35,000, but that he was not certain of this figure and that he did not know of the number of inmates who had perished since its inception, ten or fifteen years ago. The defending counsel consisted of four American officers appointed by the Court, beside whom sat two lawyers (presumably German). He was unable to say what line the defence would take or how long it would last, but he understood that the defence would open on November 28th. Only English and German were being used in court (most of the witnesses selected spoke one of those two languages) and the interpretation problem was therefore much simpler.

Dr. MAYR HARTING asked whether the trial was restricted to crimes against Allied nationals. Colonel HODGSON believed so, but could not be certain.

After thanking Colonel HODGSON, the CHAIRMAN gave a brief account of his attendance at the opening of the Nuremberg trial, which he said had been a very impressive scene. The great feature of the proceedings had been the fine and historic speech of the U.S. Chief Prosecutor, Mr. Justice Jackson, which had put the trial on the proper plane of elevation. The Chairman said he had been struck by the precise and concentrated way in which the great mass of material had been assembled for the trial - in their part of the case for the prosecution, the United States alone would use 1000 captured and other documents as evidence.

Colonel HODGSON said that it had been a great experience to see the 20 defendants in a court-room of law, facing their judges and the case being presented against them in a formal business-like fashion; it was probably the first time in history that anything like that had occurred.

At the end of the discussion, Colonel HODGSON said that, before leaving Nuremberg, he had requested that copies of the documents introduced as evidence, together with accompanying statements, be sent to the Commission in London. He hoped they would be received shortly. The CHAIRMAN believed that the British War Crimes Executive had undertaken to do the same thing.

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REPORT OF COMMITTEE I

Presentation of 16th List of German War Criminals

Owing to the fact that some of the National Offices concerned had not yet inspected the List, it was decided to wait another week before adopting it formally. Major MORDEN and Mr. MARKOVIC, however, gave their formal approval, subject to two minor amendments.

REQUEST FROM THE LEGAL COMMISSION OF THE FREE GERMAN MOVEMENT TO CIRCULATE COPIES OF THE REPORT ON THE PERSECUTION OF GERMAN ANTI NAZIS (Commission document C. 152)

At the request of the Chairman, DR. SCHWELB recalled the circumstances which led to the compilation of the report. A request had now been received from Dr. Rawitzki for permission to circulate it to interested persons, and asking for 50 copies for that purpose. Dr. Schwelb stated that there was no doubt that the report was good, that it did not disclose any secret information, but that in view of the two exceptions made by Committee I (Cf. minutes M.82, pages 6 & 7), it would be undesirable to circulate it outside the Commission as a document emanating from the Commission. He therefore suggested two ways of meeting Dr. Rawitzki's request:

- (a) Delete the objectionable passages, or
- (b) Delete the heading of the document, so that it does not appear as a U.N.W.C.C. document.

After some discussion, during which several members insisted that the Commission should not associate itself in any way with the report as it stood, it was decided that Dr. Rawitzki be informed that the Commission was unable to comply with his request, but would raise no objection to a separate report being produced, provided it did not appear as a Commission document. Mr. BURDEKIN also emphasised the necessity for ensuring that the covering letter which the Legal Commission might prepare should not contain any reference to the United Nations War Crimes Commission.

ADHERENCE TO THE FOUR POWER AGREEMENT

Following a request made at the last meeting, Sir Robert CRAIGIE stated that he had ascertained from the Foreign Office that Ethiopia, Honduras, Panama and Haiti were the other United Nations (non-members of the Commission) who had adhered to the Agreement.

The SECRETARY-GENERAL reported that the Luxembourg representative had notified the Commission of his Government's adherence to the Agreement.

Major MORDEN said that he had still not heard from his Government.

PARTICIPATION OF THE U.S.S.R. IN THE WORK OF THE COMMISSION

Commander MOUTON stated that his Government had authorised him to inform the Commission that it was anxious to obtain the cooperation of the U.S.S.R. and agreed to the suggestion that the Secretary of State for Foreign Affairs of the United Kingdom be asked to approach the U.S.S.R. also on behalf of the Netherlands Government.

(Note: The French and Luxembourg representatives have sent similar statements to the Commission.)

RECOMMENDATION CONCERNING JAPANESE WAR CRIMES & ATROCITIES, C. 145(1)

Commander MOUTON also announced that his Government had approved the above recommendation.

Wright

SECRET

M.88

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Eighty-Eighth Meeting

held on

December 5th, 1945

In the Chair: Lord WRIGHT - Australia

There were also
present:

Colonel HODGSON	- United States of America
accompanied by Captain WOLFF	
F/O BRIDGLAND	- Australia
M. de BAER	- Belgium
accompanied by M. GOLSTEIN	
Major JOHNSTON	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Mr. SCHRAM NIELSEN	- Denmark
Sir Robert CRAIGIE	- United Kingdom
M. STAVROPOULOS	- Greece
Mr. DUTT	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Dr. SZERER	- Poland
Mr. MARKOVIC	- Yugoslavia

and

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

MINUTES

The minutes of the 84th and 86th meetings were approved and signed by the Chairman.

The draft minutes of the 87th meeting were approved, subject to the incorporation of amendments received from Colonel Hodgson. The final draft will be circulated in due course.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Professor Gros, Mr. Wold, Dr. Zivkovic and Sir Torick Ameer Ali.

The CHAIRMAN regretted the absence of the above members, who would be unable to contribute to the discussion of two important items on the agenda (i.e. Crowcass, and Committee III's report on the Sepp Dietz case), and said that a full debate on these subjects would have to be held next week.

ADOPTION OF 16th LIST OF GERMAN WAR CRIMINALS

The list, which had been approved or amended by all the National Offices concerned, was unanimously adopted.

WAR CRIMES EXHIBITION

The CHAIRMAN referred to the opening of the Exhibition which had taken place that morning, and which some members had attended. He would be interested to hear what impressions had been received, although he appreciated that it was too early to express any final opinion.

Colonel HODGSON wished first to congratulate Mr. Gibson and his assistants for their excellent work in assisting the French authorities. The CHAIRMAN joined Colonel Hodgson in expressing appreciation.

A discussion arose as to whether the Exhibition as it was now organised showed a sufficient number of "horrors". The CHAIRMAN said that he had talked to the French representatives, who had been faced with the same problem and had felt that too many horrors might arouse the worst elements of sadistic feeling in France. He did not feel, however, that this danger existed in England. On the other hand, were there enough shocking examples to prevent the public regarding the whole show as impossible and a fake? It seemed to him, that in its present form, the Exhibition did not exaggerate the extent and the extremity of horrors committed by the Nazi

Dr. SZERER, who had just returned from Warsaw, felt very strongly that there could be no question of exaggeration.

The CHAIRMAN fully agreed. The only question was whether the sight of the full horrors would alienate sympathy rather than encourage it.

Dr. SZERER appreciated that point of view, but feared that those countries which had suffered from German atrocities would hear about the Exhibition and feel it was not up to their expectations.

Colonel HODGSON supported Dr. Szerer. The real test was whether the Exhibition was an accurate portrayal of war crimes committed in the occupied countries. He felt personally that it was and that if the Exhibition erred, it erred on the side of mildness.

M. de BAER considered that the question should be viewed from the practical angle of the reaction of the British public. In his opinion the whole exhibition, including the cinema films was excellent, and should be shown throughout the British Isles, including Ireland, and nothing should be cut out. Furthermore it was not for the Commission to criticise a French exhibition; if the British press reacted unfavourably, it was for the French themselves to take action.

M. STAVROPOULOS said he had attended the first public cinema performance and noticed the sustained interest of the audience. The people seemed to be impressed, but showed no signs of being shocked.

The CHAIRMAN referred to a suggestion by Sir Robert Craigie that there should be a more extensive "Rogues Gallery". He had been profoundly impressed by the sight of the swaggering figures in some of the film shots taken at the time when the present defendants at the Nuremberg trials were at the height of their power and arrogance, particularly the shot showing Hans Frank arriving in Poland. Such scenes must necessarily be recalled to the public mind in order to emphasise the present decline of The Nazi War Lords.

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Dr. SCHRAM NIELSEN said that he had noticed the absence of exhibits from Norway. It was pointed out by Monsieur de Baer that all National Offices had been asked to contribute material for the Exhibition and if they had been unable to do so until now it was not too late to start. The French authorities would do their utmost to add any material received.

Mr. GIBSON said he would make a full report at the next meeting. He wished however to apologise to those members who had not received invitations for the official opening. This unfortunate oversight was not the fault of any department of the U.N.W.C.C., Referring to a suggestion which had been made by the Chairman to cut the film and the speech at the end, he hoped that this would not be done, as, in his opinion the performance was not too long. As regards Sir Robert Craigie's suggestion for a "Rogues Gallery", he drew attention to the pictures adorning the cinema hall, showing the "master criminals" in all their glory. He hoped to obtain from Nuremberg, a set of the same criminals in a more miserable condition, which he would place alongside.

Finally, he announced that it was hoped to continue the Exhibition into the first week in January, owing to the opening having been postponed and the intervention of Christmas holidays.

TERMINATION OF STAFF CONTRACTS

The SECRETARY GENERAL announced the following termination of contracts by three members of the staff:

Miss Pittendrigh, Chief Clerk,	on November 26th
Mrs Rudman, Indexer,	on November 26th
Mr Lyman, Executive Secretary,	on November 30th

Colonel HODGSON said he had heard with great regret of the resignation of Miss Pittendrigh, who had been one of the most valuable members of the secretariat, ever since the early days. She had been responsible for the keeping of very accurate records for Committee I. He hoped personally that she might be asked to reconsider her resignation, in order that the Commission should not lose the benefit of her experience, but if the Commission felt otherwise, he proposed that an expression of gratitude and appreciation be sent to her.

M. de BAER, as chairman of Committee I, whom she had mostly served, supported Colonel Hodgson. If it were not possible to ask her to reconsider her resignation, she should be sent a letter of thanks for her great services. Sir Robert CRAIGIE also supported the latter suggestion.

The CHAIRMAN agreed with what had been said concerning the valuable services rendered by Miss Pittendrigh. He did not consider, however, that it would be satisfactory to ask her to withdraw her resignation. As a matter of principle he could not support that suggestion. He would, however, cordially support the proposal to send her an expression of thanks and would act accordingly.

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ITALIAN WAR CRIMES

At the request of the Chairman Sir Robert CRAIGIE read a letter from Dr. Zivkovic to Lord Wright, dealing with the question of Italian war crimes. Sir Robert said that he had received a similar letter from Dr. Zivkovic, to which he had sent the following reply - which he then read out. He hoped that the matter - purely one of delay in the administrative machinery - would be settled shortly and, had Dr. Zivkovic been present, he would have asked him not to insist on the Commission's taking further action for the time being.

Colonel HODGSON said that he had not heard of this correspondence before Sir Robert's statement. In view of this, he was surprised to hear that his Government was mentioned in it. He was not in a position to make any statement at this time, and would appreciate receiving copies of the correspondence in order that he might be permitted to consider the matter.

It was decided to circulate all three letters to members of the Commission, with a view to considering them at the next meeting.

The CHAIRMAN expressed the opinion that letters of this kind should be circulated to the Commission, as Commission documents, and said that it would be advisable in future if they were addressed to the Commission officially, instead of to him personally. A clear distinction should be drawn between the Chairman in his official capacity and in his private capacity.

RELATIONS WITH CROWCASS

The CHAIRMAN referred to document Misc.I, Professor Gros' observations on CROWCASS. He said that, although the matter could not be fully discussed in the absence of Professor Gros, he would appreciate receiving information in regard to the control of that organisation.

F/O BRIDGLAND felt that the administration of CROWCASS was a matter for the military authorities rather than for this Commission, and believed that the Allied Control Commission were considering the question of its future control. At the present time, it was being administered jointly by U.S.F.E.T. and B.A.O.R. Since the Commission could not dissociate itself from the work of CROWCASS and had discussed its problems on various occasions without achieving any result, he suggested that some members might visit Paris with a view to finding out more about it.

The CHAIRMAN stated that, whereas the Commission had no control or influence over CROWCASS, it had adopted a recommendation to the effect that its work was very important for the Commission. He hoped that at the next meeting, Professor Gros would be able to enlighten members and say whether the Commission could make any suggestions in an advisory capacity.

PRESS STATEMENT REGARDING PROFESSOR SMITH AND THE BELSEN TRIAL

Dr. LLANG asked the Commission not to think that he was neglecting his duty by not producing the statement asked for in M.86, p.6. He had, however, been in consultation with the Chairman and the Secretary-General on this subject.

He pointed out that, at the time when he and Professor Gros had been asked to prepare such a statement, he had not been present in the meeting. On being contacted by Mr. Lyman, however, he had immediately spoken to

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Dr. Schwelb who had offered to send him the full text of Professor Smith's statement as soon as it was available. He felt personally that it would be undesirable for the Commission to make a statement on the press reports only, since that would provoke a reply from Professor Smith. He added that if the latter's remarks were read in their context, it would be found that they dealt with every point. Had he been present at the time when the Commission discussed the matter, he would have pointed out that, if it was desired to contradict the views of a private individual, the usual procedure was to appoint a spokesman for the Commission, perhaps the Public Relations Officer, who would use the ordinary channels of publicity.

Now that the Belsen trial was over, he felt it would be unwise to issue a statement from the Commission which might not be printed at all. He therefore proposed, after consultation with the Chairman who had agreed with him, that the matter should not be placed on the agenda again, unless any member wished to raise it at a future date.

The CHAIRMAN agreed.

CHRISTMAS LEAVE

It was decided that there would be no committee meetings during the week before as well as during Christmas week, but that a meeting of the Commission would be held on December 19th, unless otherwise announced.

Arrangements have been made by the Secretary-General for one senior member of the staff and an assistant to be on duty, during the period December 21st to December 29th inclusive.

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M. 89.

UNITED NATIONS WAR CRIMES COMMISSION.

Minutes of Eighty-ninth Meeting

held on

December 12th, 1945.

In the chair : Lord WRIGHT - AUSTRALIA

There were also present:

Colonel HODGSON, accompanied by Captain WOLFF	- United States of America.
Mr. Justice MANSFIELD, accompanied by F/O BRIDGAND	- Australia
M. de BAER accompanied by M. GOLSTEIN	- Belgium
Major JOHNSTON	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING accompanied by Major FANDERLIK	- Czechoslovakia
Professor GROS accompanied by M. MALEZIEUX	- France
Sir Robert CRAIGIE	- United Kingdom
Mr. DUTT	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Major PALMSTROM	- Norway
Dr. SZERER	- Poland
Dr. ZIVKOVIC	- Yugoslavia

WELCOME TO MR. JUSTICE MANSFIELD.

The CHAIRMAN introduced Mr. Justice Mansfield of the Supreme Court of Queensland. Judge Mansfield had been closely connected with all questions affecting war criminals in Australia and he would be most helpful to the Commission in its deliberations.

On behalf of other members of the Commission, Colonel HODGSON extended a cordial welcome to Mr. Justice Mansfield.

LETTER FROM M. DE BAER.

The CHAIRMAN referred to a letter just received from M. de Baer, raising a number of questions which he felt ought to be discussed by the Commission.

It was decided to circulate the letter to members of the Commission (document Misc.3) in order that the points raised might be discussed at the next meeting. The CHAIRMAN again urged that correspondence of this nature should be addressed to the Commission so that no time is lost in preparing copies for circulation to members.

MINUTES

The minutes of the 87th meeting were approved and signed by the

Chairman.

Amendments to the draft minutes of the 88th meeting were received from M. de Baer and Colonel Hodgson, and they will be incorporated in the final text for circulation in due course.

APOLOGIES FOR ABSENCE.

Mr. Wold sent apologies for absence and was represented at the meeting by Major Palmström.

Sir Torick Ameer Ali also regretted his inability to attend, owing to indisposition.

REPRESENTATION OF THE USSR ON THE COMMISSION.

The CHAIRMAN reported receipt of the following letter from Sir Robert Craigie, dated 3rd December, 1945:

"With reference to your letter of 19th October addressed to Mr. Beaumont about the participation of the Soviet Government in the work of the United Nations War Crimes Commission, I am informed by the Foreign Office that the views of His Majesty's Government have not changed since the time when the original motion was passed by the Commission on the 22nd. August suggesting that His Majesty's Government in the United Kingdom should approach the Government of the Union of Soviet Socialist Republics with an invitation to join the Commission.

2. His Majesty's Government are still prepared to approach the Soviet Government in this sense on behalf of the other Governments represented on the United Nations War Crimes Commission provided all those Governments are agreeable to this course."

The CHAIRMAN said that it would be desirable to have unanimous agreement on the suggestion to request the British Government to approach the Soviet Government inviting it to join the Commission, before transmitting that request to the British Government. Up to date, replies were outstanding from two Governments: Poland and Yugoslavia.

Dr. ZIVKOVIC stated that he had urged his Government to reply, but so far had not had any response. He would send another telegraphic reminder.

Dr SZERER said that he had not had any reply from his Government but would endeavour to obtain their views as soon as possible.

The CHAIRMAN hoped that the matter could be decided after the Christmas holidays.

RELATIONS WITH CROWCASS.

The CHAIRMAN asked Professor Gros to open the discussion. Professor GROS referred to his memorandum (document Misc.1) which represented his personal views and had, therefore, been circulated to members of the Commission only: it was not intended for outside distribution. He spoke now on behalf of the French National Office and consequently as the representative of the French Government. Recalling the points made in his memorandum, he urged that, before deciding whether CROWCASS could be of much assistance in the work upon which the Commission was engaged, CROWCASS' proposed policy must be clearly understood. The decision taken at the two meetings held in Berlin (that CROWCASS should be under a four-power control) did not seem to have been carried out, since control was being exercised by the Supreme Commanders of the British and American military authorities in Germany. The work of CROWCASS therefore was primarily

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devoted to making a register of all prisoners of war and of suspected persons (known to be Nazi sympathisers, but not necessarily war criminals) for the benefit of those military authorities. The work of the Commission, namely, the tracing and apprehending of war criminals would not be helped thereby. Without wishing to deprecate the general usefulness of CROWCASS, he did feel that the Commission should realise its limitations in so far as collaborating with the Commission in its particular activities was concerned. Real progress in that direction can only be made by close liaison with the National Offices.

As an example of the present state of confusion in the relationship between the two organisations, he quoted Colonel Elms' letter (circulated as document C. 158). He did not see how the Commission could get the information requested. CROWCASS was a military body and it should make full use of the liaison officers attached to it or to the Allied Control Commission in Berlin. The Commission could not ask its member Governments to supply information to a body with which it had no official relationship - the connection was entirely unofficial.

In conclusion, therefore, two points require to be emphasised:

- (1) The fact that confusion seemed to exist regarding the exact relationship of CROWCASS and the Commission.
- (2) The fact that CROWCASS was not engaged 100% on work connected with war criminals and therefore could not be of much help in tracing war criminals.

In reply to the CHAIRMAN, Professor GROS did not doubt that, primarily, the intention had been to undertake the work connected with war criminals proper, but it had turned out differently and CROWCASS were now interested in completing the mechanical registration of prisoners of war, in another six months. He fully appreciated that this task was much simpler as it did not entail consultation with national offices, G-2 branches and intelligence services, but at the same time it did not assist the Commission in its own task. The Commission could not make suggestions to CROWCASS nor issue instructions; these must come from its controlling authority, i.e. U.S.F.E.T. and B.A.O.C. If, on the other hand, control had been assumed by a non-military organisation such as the Allied Control Commission, the U.N.W.C. Commission would be in a position to communicate with it, as from one international organisation to another.

M. de BAER supported Professor Gros' views. At the time of his visit to Colonel Palfrey, he had been convinced of the sincere desire of CROWCASS to help in matters concerning war criminals. But the position had changed and he was unaware of what it now was. He suggested that the best way to solve all difficulties and misunderstandings would be to ask a representative to attend a meeting of the Commission.

Sir Robert CRAIGIE also felt that a greater emphasis was being laid on the preparation of lists of prisoners of war than of war criminals. If CROWCASS were not going to undertake the latter work, some other organisation should do it. He would favour discussing the question with CROWCASS in order to ascertain whether they were prepared to lay more emphasis on the war criminal side of their activities.

The CHAIRMAN appreciated the fact that the military authorities were interested in obtaining a register of all prisoners of war. He had greatly admired the lists which had been produced, but had noticed that the names of war criminals were missing. The practical question, in this connection, was to ensure greater cooperation between CROWCASS and the National Offices.

Professor GROS said there were also other sources, such as intelligence

services, and G-2 branches, from which information about war crimes should be obtained.

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It was unanimously decided that the Secretary-General should telephone to Colonel Elms of CROWCASS and request him or a representative to attend the next meeting of the Commission, failing that, the meeting of January 9th. M. de Baer and Professor Gros were asked to draw up a schedule of practical and concrete suggestions regarding the organisation of CROWCASS, and cooperation with the Commission as well as with National Offices, military authorities and any other agencies likely to have information about war crimes, such as police bureaux, the Red Cross, philanthropic organisations, etc.

Major PALMSTROM said that he had recently visited CROWCASS and had ascertained from them that if they received a wanted report and had no information on record concerning the whereabouts of the criminal, the report was circulated to all war crimes branches attached to Allied military headquarters, and the name included in the "Wanted List". All requests for surrender should be transmitted to CROWCASS and not to military authorities.

(DR. LLANG JOINED THE MEETING AT THIS STAGE)

The CHAIRMAN referred to a letter he had received from Mr. Wold, suggesting that "it was the duty of the Commission, in a reasoned recommendation to the member Governments, to outline the necessity for such an international organisation which can take over the main work of CROWCASS. The recommendation should give an account of the international work which is necessary for the identification, apprehension, extradition and trial of war criminals. It should stress the necessity for this work to be performed and controlled by the United Nations. It should also contain an estimate of the smallest administrative body necessary for the efficient performance of these tasks, and finally, it should give some suggestions regarding the financing of the administration."

The CHAIRMAN said that would be a very serious undertaking, and he personally would prefer to try and come to a working arrangement with CROWCASS, who had done admirable work and were anxious to assist the Commission.

Mr. BURDEKIN felt that, before considering setting up such an organisation, it should be clearly understood what it should do. With regard to CROWCASS, what exactly was being done beside circulating the lists? What was the next step, if any, to be taken by the holding authority? Until a Government knew the whereabouts of a particular criminal, it could not apply for his surrender. Such information should be conveyed as soon as possible to the National Offices concerned, in order to enable them to send disposal instructions.

He also asked whether the register of prisoners of war indicated whether a prisoner was known to be a member of the S.S. or Gestapo.

Professor GROS replied that, in the case of France, CROWCASS had advised the National Office that 120 war criminals were detained in some particular place. That was a beginning, although it was very slow.

Major FANDERLIK recalled that, some time ago, the National Offices had been asked to submit detention reports, regarding prisoners held by the United Nations. The Czechoslovak Ministry of the Interior had circulated all police offices and compiled a register which was being transmitted to CROWCASS. He felt that it was necessary for all National Offices to help in this manner.

Dr. SZERER stated that the only help which could be expected from CROWCASS would be connected with prisoners of war, but the Commission

PROFES
always

was essentially concerned with the location of war criminals who might not be prisoners of war. That point should also be borne in mind

The CHAIRMAN said it would be kept in mind

(PROFESSOR GROS LEFT THE MEETING)

CRIMES AGAINST PEACE AND AGAINST HUMANITY

Dr. MAYR HARTING, acting chairman of Committee III, reported that the Committee had discussed at its last meeting the Czechoslovak Case No.26 (Sepp Dietz). The result of the discussion was fully set out in C.156. He wished now to mention two or three points of some importance.

Firstly, it was agreed that at least for the purpose of the discussion the acts of Sepp Dietz should not be considered as violations of the laws and customs of war.

It would be remembered that Sepp Dietz, leading a gang of other S.S. men invaded Czech territory at the beginning of March 1939 and provoked clashes with the Czechoslovak police. During these incidents members of the Czechoslovak police as well as civilians were killed. In the Czechoslovak opinion, there existed already at the beginning of March 1939 a state of war between Czechoslovakia and Germany. It is thus obvious that the acts of Sepp Dietz must be qualified as violations of the laws and customs of war. The Czechoslovak representative, however, dropped that argument and Committee III decided unanimously to restrict itself to the question whether Sepp Dietz should be listed, even if his acts were not considered as violations of the laws and customs of war.

The second point on which the Committee agreed was that even in this case he should be listed as a war criminal provided, of course, that Committee I is satisfied as to the facts stated in the Charge.

Some difference of opinion occurred when it came to the question of whether the facts set out in the Charge comprised the elements of a crime against humanity or of a crime against peace. Some members of the Committee held that the acts of Sepp Dietz represented crimes against humanity, others that they represented both crimes against humanity and crimes against peace. One member eventually was of the opinion that they should be considered as crimes against peace and as such crimes only.

In other words the Committee agreed on the substance if not (to some extent at least), on the reasons for recommendation. With one exception the opinion was that the acts of Sepp Dietz set out in the Czechoslovak Charge No.26 represented, possibly amongst others but in any case crimes against humanity. The report therefore only dealt with the question whether crimes against humanity should be considered as war crimes in the same way as violations of the laws and customs of war. To answer the question whether the same holds good for crimes against peace appears superfluous.

Dr MAYR HARTING said he did not know the opinion of the other members of Committee III on this subject. As far as he was concerned, he agreed entirely with Mr. Wold if he thought that it would be necessary to go into the question whether and in which way the Commission should deal with crimes against peace. The importance of the subject requires, however, that it should be dealt with in a general way, not on the basis of an individual case, certainly not on the basis of the case of Sepp Dietz which is not, to say the least, a very clear example of a crime against peace. He added that the Committee was, of course, aware of the fact that in order to come to a conclusion on that case it was not necessary to deal with every conceivable type of crime against humanity. In connection with the particular case, those crimes committed against Allied nationals or Allied territory appear of some interest.

The Committee confined itself, therefore, to the question whether persons charged with crimes against humanity committed against Allied nationals or on Allied territory should be listed by the Commission and surrendered to the Allied government concerned; the question was answered in the affirmative and a recommendation made to list Sepp Dietz as a war criminal.

He proposed that the Commission might consider the Report and adopt it.

The CHAIRMAN thanked Dr. Mayr Harting for his report, and it was decided to adjourn further discussion until Mr. Wold was able to attend.

REPORTS OF COMMITTEE CHAIRMEN

Committee I

Lists of Japanese War Criminals received from Chungking Sub-Commission

On the proposal of M. de Baer, chairman, it was decided to reproduce the seven lists received from Chungking, for distribution as a Commission list, provided no changes were made.

Dr. LIANG offered to arrange for the Japanese spelling of names to be reproduced on the stencils.

(DR LIANG LEFT THE MEETING)

Finance Committee

Sir Robert CRAIGIE, chairman, reported that three meetings had been held to discuss various matters. The financial position of the Commission was as follows:

The current account on December 1st, 1945 stood at £17,000. On December 3rd, the Working Capital Fund amounting to £6,226, was transferred from current account to deposit, as provided in Article 4, para 1 of the Financial Regulations of the Commission (Document C.45). This account would amount to £6,800 when all outstanding contributions to the Working Capital Fund had been received. The balance in the Commission's favour, on December 4th, amounted to £10,863, but when all outstanding contributions amounting to £18,836 had been received, it would stand at £29,699. Sir Robert CRAIGIE said he hoped that all contributions would be paid in before the end of January.

He announced that the Controller and Auditor General had begun the audit of the Commission's accounts for the first fiscal period (October 26th, 1943 to March 31st, 1945). Finally, the Committee had approved a number of small increases in staff salaries.

(M. de BAER LEFT THE MEETING)

WAR CRIMES EXHIBITION

Mr. GIBSON, Public Relations Officer, stated that the average attendance at the exhibition was 2,400 per day, and that the public continued to show intelligent interest.

He wished to thank all the members for the help they had given and to explain to the Yugoslav and Czechoslovak representatives that some of the material they had sent, which had not been used, would be put up on Monday. There would also be a change in the film programme.

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The Exhibition would remain open until January 17th. The original intention had been to send the Exhibition to Europe after that date, but it had now been decided to show it in six cities in this country.

An account had been opened at Lloyd's bank in Piccadilly and a sum of £98 had so far been collected, for UNRRA.

The CHAIRMAN said it was worth considering sending the exhibition or at least the films to the U.S.A. and Canada.

REPORT BY DR ZIVKOVIC

Dr. ZIVKOVIC gave a brief report of his visit to Nuremberg.

WAR CRIMES TRIAL REPORTING

The CHAIRMAN proposed that at its next meeting the Commission should discuss the question of the preparation of reports of war crimes trials. Dr. Schwelb was asked to prepare a memorandum on this subject, for circulation to members before the meeting.

Wright

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UNITED NATIONS WAR CRIMES COMMISSION

M.90

Minutes of Ninetieth Meeting

held on

December 19th, 1945.

In the chair : Lord WRIGHT

There were also present:

Colonel HODGSON,
accompanied by Captain WOLFF
Mr. Justice MANSFIELD
Mr. GOLSTEIN
Captain MACDONALD
Dr. LIANG
Dr. MAYR-HARTING
accompanied by Major FANDERLIK
Dr. SCHERER-NIELSEN
Professor GROS
Sir Robert CRAIGIE
M. STAVROPOULOS
Mr. DUTT
Commander MOUTON
Mr. AIKMAN
Major PALMSTROM
Dr. SZEKER
Dr. ZIVKOVIC

- Australia

- United States of
America
- Australia
- Belgium
- Canada
- China
- Czechoslovakia

- Denmark
- France
- United Kingdom
- Greece
- India
- Netherlands
- New Zealand
- Norway
- Poland
- Yugoslavia

and

Major RYAN

Major Thomson

- CROWCASS (by in-
vitation)
- A.G.3. V.W. War
Office.

WELCOME TO CAPTAIN MACDONALD.

The Chairman extended a welcome to Captain J. A. Macdonald,
who was representing Canada.

MINUTES.

The minutes of the 88th meeting were approved and signed by
the Chairman.

The draft minutes of the 89th meeting were approved for
final circulation, subject to the incorporation of amendments
received from Dr. Mayr-Harting and Professor Gros.

APOLOGIES FOR ABSENCE.

Sir Torick Ameer Ali, M. de Baer and Mr. Burdakin sent apologies
for absence.

REPRESENTATION OF THE U.S.S.R. ON THE COMMISSION.

The CHAIRMAN reported receipt of a letter from Dr. Szerer in which he stated that the Polish Government viewed "with great favour the contemplated action and agreed to the Commission's asking H. M. Government in the United Kingdom to approach the Government of the U.S.S.R. inviting it to join the Commission".

Dr. ZIVKOVIC stated that he had just received a telegram from his Government, authorising him to inform the Commission that the Yugoslav Government agreed to the recommendation regarding the approach to the Soviet Government.

The CHAIRMAN was gratified to know that all members of the Commission had now agreed to this recommendation. The Secretary General was authorised to ask the Foreign Office to approach the Government of the U.S.S.R. inviting them to join the Commission.

DISPOSAL OF DOCUMENTS USED AT THE NUREMBERG TRIAL.

The CHAIRMAN referred to a letter dated 12th November which he had addressed to the Ministers of Foreign Affairs of the United States, United Kingdom and France, and to the four Chief Prosecutors of the International Military Tribunal, dealing with the question of the disposal of documents used at the Nuremberg trial.

The CHAIRMAN stated that replies had been received from Mr. Bevin, the Secretary of State for Foreign Affairs of the United Kingdom, from Sir Hartley Shawcross and from Mr. Justice Jackson, and quoted the relevant extracts.

The CHAIRMAN added that the sympathetic and courteous tone of those replies implied that the Commission had been thoroughly justified in taking the course adopted.

CROWCASS

The CHAIRMAN welcomed Major Ryan, who had come over from Paris at the request of the Commission to discuss matters relating to CROWCASS.

He stated that two questionnaires had been compiled to facilitate discussion and proposed that Major Ryan be invited to reply to those questions. Document C.162 represented the views of a number of people and might be called the "Commission's questionnaire", and document C.161 had been drawn up by Professor Gros. Some of the questions, however, appeared to overlap.

Present constitution of CROWCASS : C.161:1 & C.162:10.

Major RYAN stated that, as a result of a meeting held in Berlin at which the United Kingdom, the United States and France were represented, an interim directorate to control CROWCASS was set up on October 20th, 1945, and authority vested in G-1, USFET Main, for the United States, and E.A.O.R. for the United Kingdom (British Army reference : BAOR/3796/39/A(PS)). He confirmed that the arrangement was temporary and that negotiations were now proceeding for that authority to be assumed by the Allied Control Commission, i.e. by all four powers.

Wanted and Detained Reports and Lists C.161:2,3 & C.162,1-5.

Major RYAN maintained that the figures quoted by Professor Gros in his questionnaire were not up-to-date and that a greater number of replies

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had been returned by CROWCASS within the last fortnight. Contact was established with the national liaison officers attached to the United States military headquarters at Wiesbaden and to the British headquarters at Bad Oeynhausen, and information was being exchanged daily.

Professor GROS explained that he was not interested in the exact figures, but wished to know the reason for the wide difference between the number of Wanted Reports sent in by the National Offices and the number of replies received by them from CROWCASS.

Major RYAN attributed this discrepancy to the fact that, while Wanted Reports were being received in great numbers, CROWCASS were only just beginning to receive the co-operation of Governments with regard to the submission of Detention Reports. If national authorities did not send information regarding the prisoners they held, CROWCASS could not sift and compare that information in order to pass it on to the National Offices concerned. Detention Reports were, however, now beginning to come in principally from B.A.O.R. and USFET and it was hoped that the military authorities in the Mediterranean Theatre would shortly follow suit. Belgium, the Netherlands, Czechoslovakia and Yugoslavia had also recently begun to send in their reports.

In reply to Dr. Mayr Harting, Major RYAN said that nothing had been received from the Soviet Government.

Major RYAN then explained how the Wanted Lists were checked against the Detained Lists. If a detention report had been received, the name of the war criminal concerned would not appear on the Wanted List, but the national authority "wanting" him would be informed. Owing to the discrepancy of dates of issue, it might happen sometimes that the name appeared on the Wanted List, although the Detention Report might have been received in the meantime.

Professor GROS asked whether the Wanted List was checked against the list of Prisoners of War; if not, there was a danger that the prisoners would be released and later untraceable.

Major RYAN appreciated this fact, but pointed out the practical difficulties involved. When Germany collapsed, it was quite impossible in the early stages to cope with the enormous number of prisoners with the result that many had to be released without being checked. Another difficulty was lack of accommodation in which CROWCASS could operate efficiently.

Regarding the distribution of the Lists, Major Ryan said that quotas were sent to the United States Judge Advocate General, War Crimes Branch (for distribution to all United States war crimes agencies and attached liaison officers) and to B.A.O.R. for similar distribution; 260 copies were despatched to the United Nations War Crimes Commission for distribution to National Offices. CROWCASS had no other links except with these military headquarters and the United Nations War Crimes Commission.

Regarding the issue of lists, Major Ryan stated that seven Wanted Lists and four Detention Lists had so far been issued. The first three Wanted Lists had been embodied in one volume and printed in two parts. No. 7 had only just been sent off. It was a consolidated volume containing the names of war criminals and witnesses, but no security suspects. Wanted List No. 8 was due to appear before January 1st, and Detention List No. 5 some time early in January. The number of wanted reports received was 15,000, but he could give no figure for detention reports.

Registration of Prisoners of War : C.162, 6 & 7.

Major RYAN reported that in about six months' time there would be a register containing the names of about 7 million prisoners of war. Another three to five million might have been registered, had the USSR authorities been prepared to co-operate.

At the present time, however, CROWCASS was primarily engaged in handling Wanted and Detained reports, as it was found that the prisoner of war forms had not given the yield expected (he estimated that less than 200 war criminals had been traced thereby), although evidence of war crimes might be obtained by screening them. He stressed, however, that CROWCASS was a recording and collecting agency and had no detective functions; it was unable to go forth and seek out the criminals, but had to depend on information supplied by the Governments.

Sources of information

Major RYAN confirmed that the names in the Commission's lists of war criminals were automatically included in the CROWCASS Wanted Lists. The other chief source from which the names of wanted war criminals were obtained was the National Offices.

Security Suspects : C.161, 6.

Major RYAN explained that the names of security suspects had been supplied primarily by the intelligence sections of BAOR and USFET, as persons wanted for interrogation, etc. in connection with the denazification of Germany. Practically every adult person in Germany came into this category. This task had now been completely abandoned, and although forms were still being received, they were not being filed.

Italian war criminals.

Dr. ZIVKOVIC enquired whether the seven million prisoner of war forms included any Italian war criminals. He was concerned about the tracing and surrender of Italian war criminals following the announcement that the Italian Government would assume administration in Italy as from January 1st, 1946.

Major RYAN said that the forms received only concerned Germans. The Allied authorities in the Mediterranean, however, were preparing forms at the present moment.

Professor GROS said that the discussion so far amounted to one thing: that CROWCASS hoped eventually to present to the Allied authorities a complete register of names. But it would then be too late, as the people would have been released, and no amount of checking the names against the Wanted Lists would serve any purpose. Was it possible for the Commission to do anything about that?

Major RYAN replied that the main trouble would appear to be that Governments were sending in Wanted Reports, but few Detention Reports were being received, i.e. everyone knew whom he wanted, but no one could be told where the wanted person was, unless the holding authorities supplied the information.

Professor GROS said he was not concerned about the prisoners already detained and kept in custody, but about those who would be released if they were not checked up now. Every moment was precious and the longer it took to "marry" Wanted and Detained Reports, the more difficult it would be to find the criminals.

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Sir Robert CRAIGIE pointed out that our main purpose was to try the criminals, and it was therefore very important to ensure that Detention Reports, showing where the criminals were, be submitted to CROWCASS. Even if incomplete, our main purpose would be served.

Major RYAN stated that USFET and BAOR were holding up the transfer and release of all prisoners, pending the publication of the present lists, and that as a result, it was hoped that a number of criminals would be discovered.

In reply to Commander Mouton, Major RYAN rejected the idea of attaching Liaison Officers to CROWCASS. Machinery already existed for making contact through the United States and British military authorities, and it would serve no useful purpose for CROWCASS to have separate liaison. In any case, lack of accommodation in Paris would make Commander Mouton's suggestion impracticable.

Rate of enquiries received from National Offices : C.162, 5.

Major RYAN stated that about 200 letters and 20 cablegrams were dealt with daily and sometimes as many as 5,000 Wanted Reports were received in one day. Telephone communication with Bad Oeynhausen and Wiesbaden was constant. Colonel Elms' policy was to answer every enquiry within 48 hours.

Principal difficulties encountered : C.162, 8.

Major RYAN repeated that, under the plan adopted by the interim directorate, no releases of prisoners would be made until the two lists had been completed. The trouble up till now had been due to concentration of activity on lists of security suspects and prisoners of war, but this was no longer the case.

Apart from that, CROWCASS was still suffering from lack of accommodation. That problem had not yet been solved.

Delivery of war criminals : C.162, 9.

This question did not concern CROWCASS, but Colonel HODGSON stated that, as far as the United States authorities were concerned, the USFET directive had been furnished to members of the Commission and that the procedure for obtaining delivery of a wanted war criminal would be found therein. The authority to surrender was vested in the Theatre Judge Advocate in Wiesbaden.

Commander MOUTON asked that similar directives be sent to the Commission from BAOR and the French authorities.

After further discussion, Major Ryan was asked to prepare a memorandum for the use of National Offices, describing exactly what help they could give to CROWCASS and what help could be expected from CROWCASS. He stated that a report had been submitted to USFET and BAOR on those lines and was being considered at the present moment. Instructions could be issued only by those authorities. He added that plans were under way to visit a number of countries and give them firsthand information, and it was hoped to arrange for representatives - if not from CROWCASS' staff, then from BAOR or USFET - to travel in the field and explain any difficulties.

Dr. ZIVKOVIC was glad to hear this. In his opinion, it was essential to establish direct contact between the National Offices and CROWCASS. He proposed that CROWCASS should send its lists direct to Yugoslavia from Paris, and thus avoid delay in sending them to this Commission for onward transmission to the National Offices.

Major RYAN said he would be glad to do this, and for any other country if specifically instructed. Should members therefore wish to have lists

transmitted direct, they should write to CROWCASS, stating the exact address; otherwise the lists would be sent to the Commission for distribution, as heretofore.

Dr. ZIVKOVIC proposed that CROWCASS should, as soon as possible, concentrate its attention on Italian war criminals whose names appeared in the Commission's lists.

Major RYAN said that question should be taken up with the interim directorate itself, from whom CROWCASS could alone take instructions. The letter should be sent jointly to USFET and BAOR.

On the suggestion of Colonel Hodgson, Major RYAN agreed to submit written replies to the 18 questions submitted in documents C.161 and C.162.

The CHAIRMAN thanked Major Ryan for attending the meeting.

Major RYAN thanked the members of the Commission for the opportunity they had afforded him for attending this meeting and stated that Colonel Elms wished to co-operate fully with the United Nations War Crimes Commission and expressed regret that Colonel Elms had been unable to come himself.

PROPOSED EXHIBITION OF JAPANESE WAR CRIMES.

Mr. Justice MANSFIELD proposed that, in view of the success of the "Nazi Crime Exhibition", an exhibition of Japanese war crimes be held in London to show the British public what had happened in the Far East and Pacific areas. The Australian Government would handle all arrangements and pay expenses and asked the Commission to sponsor the exhibition.

Sir Robert CRAIGIE strongly supported the proposal and the Commission agreed to give its sponsorship.

Dr. LIANG felt that if an exhibition were held under the auspices of the Commission, other member Governments, whose territories had been invaded by the Japanese, should also take part. The Chinese Government would certainly be willing to co-operate.

The CHAIRMAN pointed out that any Government was free to hold an exhibition and ask for the Commission's sponsorship. In this case, the Australian Government had taken the initiative and while they might ask for co-operation from other member Governments, the exhibition would be under the control of the Australians. In the same way, the "Nazi Crime Exhibition" had been staged by the French Government, under the auspices of the War Crimes Commission but other Governments had participated.

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

Mr. Justice MANSFIELD reported that he had taken the chair at a meeting of Committee I, in the absence of M. de Baer, and that the Committee had considered and passed 100 cases submitted by the National Offices.

Public Relations Committee.

Dr. ZIVKOVIC, the Chairman, reported that the Nazi Crime Exhibition continued with great success and that 33,000 had attended so far. A film had been received from the United States Office.

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As he was shortly leaving for Nuremberg and expected to be away for an indefinite time, Dr. ZIVKOVIC proposed that a deputy Chairman should be elected for that period. It was decided that the Committee would elect its own deputy.

REPORT OF WAR CRIMES TRIALS.

The CHAIRMAN referred to the question of the reporting and recording of war crimes trials. In order to deal effectively with this aspect of the Commission's work, it was necessary to have an estimate of the number of trials, the material available, and to discuss how the reports should be drawn up. He felt, personally, that the first report by the Commission should be comparatively short and should merely state the charge, the general nature of the evidence, the decision of the court and the sentence passed. He considered, however, that the time was not yet ripe for making any definite decision.

It was decided to adjourn further discussion until the next meeting.

DATE OF NEXT MEETING OF THE COMMISSION.

The CHAIRMAN intimated that with the approval of the members, the next meeting of the Commission would be held on January 9th unless a matter of real urgency should arise, in which case, a meeting would be arranged and members informed.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-first meeting
held on
January 9th, 1946.

In the Chair: Lord WRIGHT - Australia

There were also

present: Colonel HODGSON	- United States of America
accompanied by Captain WOLFF	
Mr. Justice MANSFIELD	- Australia
M. de BAER	- Belgium
Major MORDEN	- Canada
Dr. LLANG	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Dr. SCHRAM-NIELSEN	- Denmark
Professor GROS	- France
Sir Robert CRAIGIE	- United Kingdom
Sir Torick AMEER ALI	- India
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Mr. WOLD	- Norway
accompanied by Major PALMSTROM	
Dr. CYPRIAN	- Poland

MINUTES

The minutes of the 89th meeting were approved and signed by the Chairman.

The draft minutes of the 90th meeting were also approved and will be circulated in due course.

APOLOGY FOR ABSENCE

The CHAIRMAN reported that Dr. Zivkovic was absent in Nuremberg.

REPORTS OF COMMITTEE CHAIRMEN

Committee I.

Competence of the Committee to consider charges of crimes against peace and crimes against humanity.

M. de BAER, Chairman, proposed that Committee I should be competent to deal with all three categories of war crimes, as defined in the Agreement of August 8th, 1945, i.e. crimes against peace, violations of the laws and customs of war, and crimes against humanity. He pointed out that the committee had already examined cases coming within the third category (e.g. dossiers submitted by

the Association of German Democratic Lawyers and various Jewish organisations, which had been forwarded to the American Attorney General); it had also prepared two lists (Nos. 7 & 9) containing the names of German key-criminals, which were not based on charges brought by National Offices.

His proposal was a result of a list which had been submitted that morning by the Australian Government, containing the names of Japanese holding key positions in the Far East.

The CHAIRMAN himself saw no objection to the proposal, although it might be said that the Commission would be extending its competence according to the mandate given to it in October 1943. On the other hand, he felt that the Commission was an international body which could determine its own terms of reference.

Colonel HODGSON pointed out that fundamental questions, which had not been considered by the Commission before, were involved in M. de Baer's proposal, and urged that, if the Commission saw fit to proceed, the matter should be proposed as a substantive motion, after which the members of the Commission should be given adequate time to secure the views of their Governments. He needed to consult his Governments, and said that ample time should be afforded to those members who represented Governments located some distance from London.

Mr. WOLD referred to his letter to the Chairman, dated 12th November, (which had been circulated to members) on the subject of crimes against peace and humanity. It had been decided that the Commission should consider those views but he wondered now whether Committee I might not be the appropriate organ. It might even be referred to Committee III, since Law No. 10 had been one of the items placed on its last agenda.

The CHAIRMAN supported Colonel Hodgson's suggestion for a substantive motion, to be discussed by the Commission in a plenary session. Afterwards, it could be referred to Committee I, or Committee III for consideration from the legal angle. He did not believe that it would be easy to define crimes against peace and humanity in clear cut terms and would therefore prefer members to consult their Governments first. He proposed that the question should be adjourned for that reason.

Colonel HODGSON did not believe that a fortnight would be sufficient. He suggested three weeks as a minimum.

Mr. Justice MANSFIELD said that matters were reaching a climax in the Far East. The Australian Government were vitally concerned in establishing final lists of major war criminals before the trials started next February in Tokio. The Commission should not adjourn the question for longer than a fortnight, otherwise consideration of the Australian lists would necessarily be delayed for 3 weeks.

The CHAIRMAN proposed that the matter be put on the Commission's agenda on January 23rd and that members should endeavour to obtain the views of their Governments by that time. He appreciated that it might not be possible in the case of every member.

Discussion then arose as to whether it was the competence of the Commission or of Committee I which was at stake. M. de BAER maintained that the Commission's terms of reference were not being questioned. But could the competence of Committee I be considered to include consideration of crimes against peace and humanity, as well as violations of the laws and customs of war?

Mr. Justice MANSFIELD said he was under the same impression.

The CHAIRMAN put its terms of reference.

Sir Robert CRAIG the Commission itself Governments.

Colonel HODGSON

Professor GROS criminals to this Commission effect. In the case prosecutors had four upon them. If a similar presumably be submitted put to application and suggest, in order to prosecution of major simultaneously present own representative of Governments might, in theoretical question

Mr. Justice MANSFIELD to deal with lists of Far East - was the United Nations to be sent to the Far East action.

The CHAIRMAN suggested lists during the next actively by the Commission principle.

Commander HOUTON Agreement of August 8 therefore, since they the members of the Commission themselves.

Mr. BURDEKIN said had not been raised with crimes against peace

The CHAIRMAN quoted the notes of the meeting it was a question of whether that the Commission was added that in adhering Governments had concurred nevertheless, that if

Dr. LLANG wished the question for instruction would carry out its functions a whole. While there the Commission was able expression of that view Agreement to date, but it possible to give it unanimous enunciation

The CHAIRMAN pointed out that the Commission gave Committee I its terms of reference.

Sir Robert CRAIGIE felt it was a question of the competence of the Commission itself and that members would wish to consult their Governments.

Colonel HODGSON also held that opinion.

Professor GROS felt that the presentation of Japanese major war criminals to this Commission would probably have no immediate practical effect. In the case of the lists of German key criminals the team of prosecutors had found them useful for consultation but had not acted upon them. If a similar list were drawn up for the Far East, it would presumably be submitted to the Far Eastern Commission, but would not be put to application automatically by that body. He would therefore suggest, in order to save time, that those Governments interested in the prosecution of major war criminals in the Japanese theatre should simultaneously present their list to the U.N.W.C. Commission and by their own representative on the Far Eastern Commission to that body. Member Governments might, in the meantime, be consulted on the purely theoretical question of this Commission's competence.

Mr. Justice MANSFIELD considered that the appropriate body to deal with lists of major war criminals - whether in Europe or the Far East - was the United Nations War Crimes Commission. A copy could be sent to the Far Eastern Commission for its information, but not for action.

The CHAIRMAN suggested that Committee I study the Australian lists during the next fortnight; they could then be ratified retroactively by the Commission, after it had considered the question of principle.

Commander MOUTON felt that the principles laid down in the Agreement of August 8th applied equally to minor war criminals and therefore, since their Governments had all adhered to the Agreement, the members of the Commission should be able to take a decision themselves.

Mr. BURDEKIN said that the question of the Commission's competence had not been raised when lists had been made of those charged with crimes against peace and humanity. Why should it be raised now?

The CHAIRMAN quoted the mandate of the Commission, as expressed in the notes of the meeting held on October 20th, 1943 and said that it was a question of interpretation of war crimes. He felt, personally, that the Commission was entitled to give its own interpretation and added that in adhering to the Agreement of August 8th, its member Governments had concurred in the views expressed therein. He agreed, nevertheless, that if a discussion was desired, it should be held.

Dr. LLANG wished to support very warmly the proposal to submit the question for instructions. It was quite apparent that Committee I would carry out its functions under the auspices of the Commission as a whole. While there was no doubt as to the nature of war crimes which the Commission was able to put on its list, there should be a unanimous expression of that view. The Chinese Government had not adhered to the Agreement to date, but if the proposal were presented, China might find it possible to give its reply to the Commission, thereby making a unanimous enunciation of opinion possible. In any case, it was their

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view that the operative part of the Agreement was of European application. If the proposal were submitted to the Governments, it would, he felt be possible to get a unanimous resolution which would sustain the Commission's own authority, apart from the Agreement.

Colonel Hodgson said that he did not believe that the Commission had, as yet, decided that crimes against peace or crimes against humanity were within its competence or had listed any persons for such crimes. List 7 listed certain persons for violations of the laws and customs of war. List 9 listed other persons for "systematic terrorism" as defined in the preface to the list. Neither the Commission nor Committee I had acted upon the charges brought by the Association of German Democratic Lawyers and other similar organizations, but had referred them to the Legal Director of the U.S. Group, Control Council, on the ground that the Commission did not have jurisdiction. The questions were, therefore, being raised for the first time, and inasmuch as they were fundamental questions members should be given full opportunity to consult their Governments.

Mr. WOLD agreed that it was a fundamental question, not only insofar as the competence of the Commission was concerned but also from the important point of view of law. Without doubt, the two categories of crimes should be dealt with, but how far should the Commission go? What limitations or definitions ought to be made? He agreed with the opinions expressed by the Australian and Netherlands representatives and also appreciated Colonel Hodgson's point of view.

It was decided to adjourn the discussion until January 23rd, in order that members might consult their Governments. In the meantime, members of Committee I should study the lists submitted by the Australian representative, in order to save time.

Committee III.

Appointment of Mr. Justice Mansfield.

Mr. WOLD, Chairman, reported that Mr. Justice Mansfield had agreed to serve on the Committee.

Reports of the Committee.

Mr. WOLD, said that the Committee at its last meeting had not concluded its study of the Czechoslovak case (Document III /23) and of various questions of law submitted by the French National Office. Reports would however shortly be submitted to the Commission.

He also reported that, at its next meeting, the Committee would discuss Law No.10 issued by the Control Commission for Germany, if the Commission had no objection. There was no objection.

Finance Committee.

Sir Robert CRAIGIE said that a meeting had been held to discuss various current matters. He added that the only point of interest which he had to report was that a considerable saving in salary expenses had been realised owing to certain re-adjustments within the Secretariat.

CONFIRMATION OF COMMANDER MOUTON'S APPOINTMENT.

The CHAIRMAN announced that a letter had been received from the Royal Netherlands Embassy confirming the appointment, as from

October 27th last, of Commander Houton as Netherlands representative on the Commission.

Colonel HODGSON welcomed the news and, on behalf of all members of the Commission, expressed appreciation of the contribution made by Commander Houton since the death of Dr. de Moor last summer.

TRANSFER OF SECRETARIAT.

The CHAIRMAN referred to Mr. Noel-Baker's letter (circulated as Document Misc.6.) and said that everyone would appreciate the force of the reasons given by the Foreign Office in requesting the United Nations War Crimes Commission to vacate its premises in Church House in order to provide further accommodation for the staff of the United Nations Organization. His only complaint was that the notice given had been very short and peremptory, in view of the fact that U.N.O.'s requirements must have been anticipated some time ago.

The alternative accommodation offered to the Commission in Lansdowne House, Berkeley Square was not very suitable and compared most unfavourably with that in Church House. The Secretary-General had succeeded, however, in arranging for a certain amount of repair and cleaning to be done before the offices on the 3rd floor were occupied, and the Secretariat would move to temporary accommodation on the 2nd floor in the meantime. It would not be possible to hold a meeting of the Commission next Wednesday but some committees would arrange meetings in the French or Belgian Embassies, where rooms had kindly been offered by Professor Gros and M. de Baer. Members would be duly informed.

The CHAIRMAN concluded by saying that the Commission was very much indebted to the United Kingdom Foreign Office for making possible its short tenancy in Church House.

Colonel HODGSON said the members were grateful to the United Kingdom Government for having made available space in Church House and would be grateful for arranging premises at Lansdowne House. They appreciated the difficulties in arranging for the conference of the United Nations, and he believed that the Commission should do everything in its power to help. He trusted that the new premises would prove satisfactory.

PROPOSAL FOR REPORT ON THE ACTIVITIES OF THE UNITED NATIONS WAR CRIMES COMMISSION(Misc.5).

At the request of the Chairman, M. de BAER explained that his letter had been prompted by the feeling that the Commission should begin to consider the drafting of its final report. He asked that his proposal, as embodied in document Misc.5, should first be placed on the agenda of the Documents Committee and that he might be allowed to attend its meeting.

Professor GROS, Chairman of the Documents Committee, said he would certainly welcome M. de Baer to the Committee. The question of preparing a final report had already been raised and approved in principle by the Commission (Cf. M.83, Page 4).

Mr. WOLD pointed out that the Documents Committee was set up to consider the question of the disposal of documents from the Nuremberg trial. He had no objection to M. de Baer's proposal being submitted to that Committee but urged that an opportunity for general

discussion be given in the Commission itself.

Professor GROS suggested that the Documents Committee might prepare the way by studying the question of the utilization of Documents. There would still remain the legal part of the Commission's activities.

The CHAIRMAN said the latter work was most important, in view of the early abandonment of the independent Technical Committee and the transfer of its functions to the Commission's Legal Committee. A general survey of the work of the United Nations War Crimes Commission should extend beyond the mere study of documents. Mr. Eden, it would be remembered, had warned the Commission against taking too narrow a view of its functions. It had special duties to perform and those duties were not restricted to those to be performed by the Four-Powers.

He would, therefore, be in favour of appointing an ad hoc committee to study the best way to draw up such a report which, he suggested, should include full and accurate details of the Commission's activities up-to-date, indicate defects in its powers and organisation and give the views of its member Governments on its ultimate purpose and how that should be fulfilled. The ad hoc committee would then report back to the Commission.

Mr. WOLD fully endorsed the Chairman's views, and stressed the point that the United Nations War Crimes Commission was a representative body not of the four great powers alone but of the United Nations. The final report was a very important part of the Commission's whole task.

Professor GROS distinguished between two suggestions. The first was to compile a history of the War Crimes Commission, the other to write a report on the punishment of war criminals from 1939 to, say 1947. In his opinion, the first suggestion, while describing some very interesting achievements of the Commission, would also show where it had failed, where it had not been consulted, where its recommendations had been ignored. On the other hand a history of the punishment of war crimes, which would necessarily cover the work of other institutions as well would be a study of more value.

The CHAIRMAN, while supporting in principle Professor Gros' point of view, said that the moment was not yet come to tackle that task. If the chapter on the punishment of war crimes had closed before the Nuremberg trials and the other trials which have been taking place in the last few months, he would have been inclined to think that the fiasco of 1919/20 was repeating itself. On the contrary, he still looked forward to many more prosecutions.

One of the points which would have to be raised later would be the question of discussing future methods of procedure, of prosecution, of employment of detective agencies. Many of those functions had been passed to the Judge Advocate Generals and the military authorities.

The CHAIRMAN said he did not envisage at the present moment anything more than a general up-to-date survey of the position of the Commission. Something bigger and more fruitful would come later. The Research and Legal Departments could already now produce some valuable trial reports. But this would only be a beginning.

Dr. LING also spoke in favour of the preparation of a "progress report", similar to the two already produced since the inception of the Commission (Cf. Documents C.48(1) & C.84). When the work of the

United Nations War Crimes Commission was terminated, that would be the time to produce a final report.

It was finally decided to appoint an ad hoc committee consisting of the Chairmen of committees and presided over by the Chairman of the Commission, assisted by the Research Officer and the Legal Officers; its task would be to prepare a progress report and it would have the power to enlist the help of other members of the Commission.

M. DE BIER'S LETTER (Document Misc.3.)

The discussion was adjourned until the next meeting.

WAR CRIMES EXHIBITION.

Mr. GIBSON, Public Relations Officer, reported that 67,314 people had so far attended the exhibition and 13,600 the cinema performances. The sale of catalogues, presented by the French Government, had already realised £260 which would be given to U.N.R.R.A.

A replica of the exhibition had been prepared by the French Government and would start on a tour of the British Isles next week. A misunderstanding had arisen regarding the expenses of this tour, but the French Government had now put up £2,000 and Mr. Justice Mansfield on behalf of the Australian Government had agreed to help. Mr. Gibson asked if any other members would be willing to assist.

Professor GROS reported that five replicas of the exhibition with copies of the films were being prepared and that any Government interested should make a request to the French authorities. Copies of the same exhibition were being shown simultaneously in nine French towns and in North Africa; a German version in Vienna and in Baden Baden. It was also hoped to send a copy to Berlin and to show an Italian version in Rome.

STATEMENT REGARDING GAULEITER WAGNER.

Referring to the discussion with Major Ryan at the last meeting (Cf. M.90, P.2 etc.) during which he had deplored the delay in the handing over of Wagner by the American authorities, Professor GROS stated that he had since been informed by Colonel Hodgson that Wagner had been in French hands since November 10th. He wished to apologise for his ignorance of this fact and added that it was unknown at the time both to the French National Office and to CROWCASS.

ABSENCE OF SECRETARY GENERAL.

The CHAIRMAN informed the Commission that the Secretary-General would be absent for two weeks as he was leaving for the continent on January 14th where he would visit B.A.O.R Hq., USFET, Nuremberg, the French and Belgian National Offices and CROWCASS. It was very important that contacts should be established by the Secretary-General with those engaged upon the actual work of tracking down and prosecuting of war criminals.

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M. 92.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-second meeting
held on
January 23rd, 1946.

In the Chair: Lord WRIGHT - Australia

There were also
present:

Captain WOLFF	- United States of
accompanied by	America
Lt. KINTNER.	
F/O BRIDGLAND	- Australia
Major MORDEN	- Canada
Dr. LLING	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Mr. BEAUMONT	- United Kingdom
M. STAVROPOULOS	- Greece
Commander HOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Major PALMSTROM	- Norway
Dr. CYPRIAN	- Poland
M. MARKOVIC	- Yugoslavia

MINUTES.

The minutes of the 90th meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 91st meeting were received from the Chairmen, Professor Gros and Colonel Hodgson. They will be incorporated in the final Text which will be circulated in due course.

NEW PREMISES.

The CHAIRMAN welcomed the members to the new Commission Room in which they were meeting for the first time and expressed pleasure at the success achieved in making the new premises of the Secretariat more comfortable.

He then read to the Commission the following letter dated 17th January which he had received from Mr. Noel Baker :-

"I should like to say how deeply grateful I am to you for your co-operation in the recent move from Church House. On behalf of the Secretariat of the United Nations and the Foreign Office, may I thank you and say how much it contributed to the success of the Conference? I realise the great inconvenience you and your staff have put up with in order to help us over this, and regret it very much indeed."

On behalf of the Commission the CHAIRMAN expressed gratitude to the United Kingdom Foreign Office for their generous assistance in making available the premises in Lansdowne House. A vote of thanks should also be made to the officials of the various Ministries

in connection with arrangements for settling in the Secretariat.

RESIGNATION OF MR. JUSTICE MANSFIELD.

The CHAIRMAN reported receipt of the following letter, dated 16th January, addressed to the Secretary-General by Mr. Justice Mansfield:-

"I desire to inform you that I have been called to Australia and shall leave London on the 17th January 1946. I shall therefore not be able to be present at the future meetings of the Commission or the Committees. I have already taken steps to have a successor appointed and hope that action will be taken very shortly.

I desire to express to you and to your staff my appreciation of the assistance and courtesy extended to me during my term as a member of the Commission."

The CHAIRMAN said that the Commission would no doubt agree to his conveying an expression of regret at Judge Mansfield's departure together with a recognition that his services were required for the very important duty of representing Australia on the Prosecuting Counsel at Tokyo. The assistance which Judge Mansfield had given during his short term with the Commission had been very considerable.

In answer to the Chairman, F/O BRIDGLAND announced that Professor Bailey would take over the question of the Australian List of major war criminals.

With regard to replacing Judge Mansfield on Committee I it was decided to adjourn a decision until Professor Bailey had been able to attend a few meetings. Captain Wolff and Sir Robert Craigie were proposed as vice chairmen of the Committee but a final decision was deferred.

F/O BRIDGLAND, on Judge Mansfield's behalf, thanked the Chairman for his kind words and said that Judge Mansfield had expressed regret that his association with the United Nations War Crimes Commission had been so short.

APOLOGIES FOR ABSENCE.

Apologies for absence were reported from Colonel Hodgson, Sir Robert Craigie and Dr. Szerer owing to indisposition.

Dr. Zivkovic, Professor Gros, M. de Baer, and Mr. Wold were unable to attend, owing to other commitments.

LETTER FROM THE GOVERNMENT OF INDIA REGARDING COMMISSION RECOMMENDATIONS.

The CHAIRMAN reported that the following letter had been received, dated 9th January, 1946:-

"With reference to the recommendations of the War Crimes Commission for the interrogation of enemy prisoners of war (Document C.65(2)) I am desirous to inform you that steps have been taken by the Government of India to bring the questionnaire to the notice of the interrogating authorities for use, where necessary, in the interrogation of HIFS and JIFS.*

* These initials stand for Hitler-inspired Fifth Columnists and Japanese-inspired Fifth Columnists.

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I am also desired to say that the Government of India approve the recommendation concerning persons suspected of war crimes and enemy persons wanted as witnesses adopted by the Commission on 7th March, 1945."

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REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

Lord WRIGHT reported that in the absence of M. de Baer he had taken the chair at a short meeting held that afternoon, at which the Committee had approved a corrected version of the introduction to the Chungking Sub-Commission's lists of Japanese War Criminals.

Committee III

Dr. MEYER HARTING, acting Chairman, said that no meeting had been held during the last week, but he hoped that one would be fixed for the following week at which there would be a quorum, since it was not possible for the Committee to come to any decision if the meeting was insufficiently attended. Owing to the departure of Mr. Justice Mansfield he ventured to suggest that Sir Robert Craigie be asked to return to Committee III if it were possible for Mr. Beaumont to attend the meetings of Committee I.

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Mr. BEAUMONT said he was unable to do so at present, but would be prepared to attend at a later date.

The Chairman hoped that a meeting would be convened next week and that a report from Committee III would be submitted to the Commission.

WAR CRIMES EXHIBITION.

Mr. GIBSON, Public Relations Officer, wished to confirm his conversation with the Chairman in connection with the French War Crimes Exhibition. The French Government was sending on tour a replica of the exhibition shown in London. Leeds, Hull, Manchester and Glasgow would be among the towns to be visited. From conversations he had had with members of the Commission, Mr. Gibson said there would appear to be a unanimous opinion that the exhibition should be held under the auspices of the United Nations War Crimes Commission. He added that the French Government had generously agreed to meet the expenses of the tour and that he was prepared to give his assistance from the London end. Major Gates would probably be employed by the French authorities to go around with it.

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The Commission was informed that if a Japanese atrocities exhibition could be staged by the Australian Government, it would be welcomed as an important section of the French touring exhibition.

The CHAIRMAN said that any additional sets of photographs would be most valuable. Commander MOUTON declared that he would ask his Government to send material.

CRIMES AGAINST PEACE AND CRIMES AGAINST HUMANITY.

The CHAIRMAN referred to the discussion reported in M.91, pages 1 - 4. He had received a letter from the Netherlands representative stating that the Netherlands Government accepted the view that the competence of the Commission should be extended to the crimes mentioned in Art. 6(a) and (c) of the Charter annexed to the Four-Power Agreement of August 8th, 1945. He asked whether any other members wished to make a statement.

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COMMISSION RECOMMENDATIONS.

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Dr. MAYR HARTING suggested that the Commission should consider and adopt Committee III's report on the Sepp Dietz case (Document C.156) embodying the majority view of the Committee that crimes against humanity fell within the competence of the Commission. It would then be easier to deal with the second category of crimes against peace. He added that the minority view held by Mr. Wold did not affect the question of competence, but merely the technical aspect of whether the Sepp Dietz crime was one against peace or against humanity.

The CHAIRMAN felt strongly that the authority of the Commission extended to all war crimes in the widest sense, and therefore to all the categories mentioned in the Four-Power Agreement, and that if that were agreed it was not necessary to refer the question to member Governments, as it was merely a question of construction.

Dr. LIANG recalled the discussion at the last meeting, at which it was proposed that an attempt should be made to obtain the views of the Governments in order to get a unanimous expression of opinion on this point. The Chinese delegation had immediately telegraphed to Chungking, but unfortunately no reply had yet been received. In his opinion, this procedure was preferable to that suggested by Dr. Mayr Harting, since before it could be adopted, Committee III's report (C.156) with all its ramifications, would have to be carefully considered. He hoped therefore that, by the next meeting, the representatives of the Commission would have received instructions from their Governments and that a unanimous view could be expressed.

F/O BRIDGLAND thought that, as the Australian Government had adhered to the Four-Power Agreement, it could be taken by inference that they would subscribe to the view that the Commission's competence included crimes against peace and against humanity.

The CHAIRMAN repeated what he had said at the last meeting, to the effect that the Commission was entitled to construe its own terms of reference and that it had, in fact, dealt with such questions as coming within its competence. Adherence to the Agreement implied acceptance of the definitions given to war crimes therein - inferentially at least. Dr. Liang, however, was in a different position, in that his Government had not acceded to the Agreement.

In reply to the Chairman, Mr. DEUMONT said he was not in a position to state the view of the United Kingdom Government, but he felt that Sir Robert Craigie agreed that adherence to the Agreement implied, ipso facto, acceptance of those definitions of war crimes, although he was unable to say what views Sir Robert held concerning the Commission's competence or the expediency of including those crimes within its scope.

Mr. MARKOVIC said that his Government considered that the Commission was fully competent to deal with crimes against peace and against humanity. They were anxious to have the question resolved as there were many charges awaiting the decision of the Commission.

Dr. MAYR HARTING was also anxious to have a decision on the question of crimes against humanity. The situation was illogical at present in that various German democratic organisations had been invited to submit charges of such crimes committed against German citizens, whereas Committee I refused to accept such charges of crimes committed against Allied nationals. He asked the Commission again to consider adopting Document C.156.

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The CHAIRMAN regretted that the question of principle had been raised at all. He himself would have been inclined to accept the competence of Committee I to deal with questions of this nature from the technical point of view and would have asked the Commission to support the view. Since doubt had been expressed, however, the situation might now become embarrassing.

The Commission must, therefore, come to a decision next week and if necessary a vote would be taken, although the Chairman hoped that unanimity would be declared.

Mr. BURDEKIN felt that it was not a question of general principle but a matter of expediency on a particular point. He understood that the discussion at the last meeting had arisen out of the submission of an Australian List of Japanese Major War Criminals; in that case - without intending any disrespect - he felt that the implications of the case should have been presented to the Commission before members were asked to obtain the views of their Governments.

Commander MOUTON considered the problem to be the application of the principles laid down in the Agreement to minor war criminals, and that was why some representatives had wished to consult their Governments.

The CHAIRMAN asked how many representatives had asked for instructions, after noting that the Czechoslovak and Yugoslav representatives had made statements at the present meeting. Major PALMSTROM and Major MORDEN said that they had asked for instructions.

Mr. BEAUMONT felt certain that his Government would be prepared to accept document C.156 and that the point made by Mr. Burdekin was not relevant. The question of whether the Emperor of Japan was a war criminal or not was a matter of expediency rather than of jurisdiction and he was convinced that the United Kingdom Government's views on document C.156 would not be influenced by that particular consideration.

Captain WOLFF read the following statement prepared by Colonel Hodgson:-

"I believe that we are greatly indebted to Committee III and Mr. Wolf for the reports which they have so kindly prepared for the Commission. I have studied both of them with much interest, and have been especially impressed by the clear and thorough manner in which both present the issues in respect of crimes against the peace and crimes against humanity.

Both reports point out very clearly that the crimes in question were committed within Czechoslovakia on Czech soil, and both, I believe, proceed on the basis that it is unnecessary to determine whether the crimes were committed during a period of war. In this regard, it can be presumed, I believe, that the massacres, murders, assaults and other crimes were contrary to then existing Czech criminal laws.

Inasmuch as the crimes were committed on Czech soil, contrary to its criminal laws - presumably during peace - Dietz, upon apprehension, can be surrendered and taken to Czechoslovakia for trial before the Czech Courts for crimes committed contrary to the Czechoslovak criminal laws.

Therefore, my Government believes that the most practicable way of handling the case would be to suggest to the Czechoslovak Government that it request Dietz' surrender for trial in Czechoslovakia where Dietz committed the criminal acts.

Insofar as the reports suggest that crimes against humanity and crimes against peace as defined in Articles 6 a and c of the Charter should be considered as war crimes in the same category as violations of the Laws and Customs of War, it would seem that two questions are involved: First, whether the mentioned crimes are crimes in international law, second, whether the United Nations War Crimes Commission has jurisdiction over those crimes. As regards the first question, the position of my Government is indicated by the London Agreement and by the trial now in progress at Nuremberg. As regards the second question, it is the opinion of my Government that irrespective of the question of jurisdiction, the United Nations War Crimes Commission, pending developments in the next stage of the Nuremberg trials, should continue to restrict itself to listing only persons accused of violations of the Laws and Customs of War, as it has done in the past."

The CHAIRMAN, said that he appreciated that the case of the Emperor of Japan was one of expediency, but that was not so in the case of Sepp Dietz. Colonel Hodgson's statement raised the question of choice between Czechoslovak municipal criminal law and international criminal law; the practical point however was how to obtain delivery of Sepp Dietz, assuming he was in custody. The apparatus for the surrender of wanted persons could not be taken to apply to offences under municipal law alone.

Dr. MAYR HARTING pointed out further that if Sepp Dietz were not listed as a war criminal, there would be no basis on which to request his surrender by the U.S. military authorities.

The CHAIRMAN agreed. He asked how the Czechoslovak Government could apply to the military authorities for Dietz' delivery, if the law of extradition were not applicable. The entire scope of application and reasons governing surrender of war criminals were entirely different from that law.

M. STAVROPOULOS said the law of extradition would only have been applied if the Czechoslovak Government had asked the German Government. The Directives from USFET provided for the delivery of persons wanted for war crimes and if the Czechoslovak Government accepted the principles laid down in document C.156 those directives would be applicable. Although Colonel Hodgson's statement declared that Dietz' crime was a common crime against Czech municipal law and that the Czechoslovak authorities should apply for his surrender, M. Stavropoulos did not believe that the U.S. authorities would agree to his extradition.

Dr. MAYR HARTING pointed out that Dietz was a German national and repeated that the only way to obtain his delivery was to list him as a war criminal

The CHAIRMAN asked the British representative to look into the question of surrender and the machinery devised therefor. The technical aspect was more important, he felt, than the question of principle regarding the competence of the Commission. It would have been better for the Czechoslovak Government to make an application for surrender to the military authorities than to discuss whether Dietz was

charged with a violation of an article of the Hague Convention, a crime against humanity or against peace - as far as the latter crime was concerned, the Kellogg-Briand Pact established certain principles too. It would be interesting, he added, in this connection to make a comparison between the statement recently made by Mr. Bevin - on the question of criminality and international law in the initiation of aggressive war - and the various utterances made and accepted by the Commission.

The CHAIRMAN concluded by saying that if the crimes were war crimes, the rules as to practice and the rules as to delivery of accused persons should be followed. As far as the Commission or Committee I was concerned, he failed to see how ~~the Commission~~ could fail to exercise such powers as it had in the case of war crimes in the wider sense. As a matter of logic, the Commission was bound to treat any case of this kind as under its own jurisdiction.

The discussion was then adjourned.

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-third meeting

held on

January 30th, 1946

In the Chair: Lord WRIGHT - Australia

There were also

present: Captain WOLFF	- United States of America
accompanied by Lieutenant KINTNER	
F/O BRIDGLAND	- Australia
M. de BAER	- Belgium
Major MORDEN	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Dr. SCHRAM NIELSEN	- Denmark
Dr. MALEZIEUX	- France
Sir Robert CRAIGIE	- United Kingdom
Sir Torick AMEER ALI	- India
accompanied by Mr. DUTT	
Commander MOUTON	- Netherlands
Mr. AIKMAN	- New Zealand
Major PALMSTROM	- Norway
Dr. SZERER	- Poland
accompanied by Dr. CYPRIAN	
Dr. ZIVKOVIC	- Yugoslavia

MINUTES

An amendment was received from F/O Bridgland to the draft minutes of the 92nd meeting and will be incorporated in the final text for distribution in due course.

APOLOGIES FOR ABSENCE

It was reported that Colonel Hodgson was unable to attend the meeting, owing to illness.

ADOPTION OF 24th LIST OF WAR CRIMINALS (JAPANESE)

On the proposal of Sir Robert Craigie, acting on behalf of the Chairman of Committee I, the Commission's 24th List of War Criminals (Japanese) was unanimously adopted. It was stated that the National Offices concerned had been given an opportunity to inspect it.

REPORTS OF COMMITTEE CHAIRMEN

Committee I. Apart from the routine business of Committee I, which was now examining about 100 dossiers each week, M. de BAER said he had nothing to report to the Commission.

Committee III. Dr MAYR HARTING, acting Chairman, said that discussion had been concluded on a French request for the Commission's legal opinion regarding the decisions of German military courts, who had tried French nationals compulsorily enrolled into the German Army. The Secretary had been asked to draft a report which the Committee would consider at its next meeting.

COMPOSITION OF COMMITTEES I AND III.

Committee I. Owing to the resignation of Mr. Justice Mansfield - who, in addition to serving on Committee I as the representative of Australia, had also acted as deputy chairman - it was decided to appoint two deputy chairmen to act jointly or singly in the absence of M. de Baer. Sir Robert Craigie and Captain Wolff, having given their consent, were unanimously elected deputy chairmen.

The question of appointing a representative of Australia to the Committee, to replace Mr. Justice Mansfield, was left in abeyance, until such time as a new Australian representative joined the Commission. F/O BRIDGLAND explained that Professor Bailey had come to assist, for the time being, with the presentation of the Australian List of Japanese Major War Criminals, but it was not known how long his association with the Commission would last.

In reply to the Chairman's expressed concern for maintaining a quorum at the meetings of Committee I, Sir Robert CRAIGIE and Captain WOLFF said that - beyond the replacement of Mr. Justice Mansfield - they considered it unnecessary to increase the membership of the Committee.

Committee III. Lord WRIGHT, referring to previous suggestions and particularly to a letter which he had received from Mr. Wold, deputy chairman of the Committee, asked Sir Robert Craigie whether he would be prepared to return to Committee III.

Sir Robert CRAIGIE expressed appreciation of the Committee's invitation and said he would be glad to accept. He hoped that he would shortly be replaced on Committee I as he found it difficult to be a member of both Committees. He had approached the Foreign Office who would endeavour to find a substitute as soon as possible.

It was decided that Committee III should elect a second deputy chairman, to serve in the absence of Dr. Eeer and Mr. Wold.

CRIMES AGAINST PEACE AND AGAINST HUMANITY.

The CHAIRMAN referred to the discussion which had been adjourned at the last meeting. The Commission should now decide whether the three categories of crimes mentioned in the Charter to the Four Powers Agreement of August 8th, 1945, fell within the definition of war crimes; and whether the Commission regarded those crimes as coming within its competence. In this connection he drew attention to the statement made by Mr. Bevin to the General Assembly of the United Nations on January 17th, and read an extract from "The Times".

Sir Robert CRAIGIE said there could be little doubt, in view of the terms of the Charter, that crimes against peace and against humanity would fall within the normal jurisdiction of the U.N.W.C.C. On the other hand, the British Government felt that it was much easier to establish a crime against peace or humanity in the case of the major war criminals, whose responsibility for the outbreak of the war of aggression was more obvious than the responsibility of the underlings. He deduced that, while this Commission had jurisdiction, it would be naturally desirable that it should exercise that jurisdiction with a great deal of caution. The criteria by which it was possible to judge whether a crime against peace or against humanity had been committed were of course much more obvious to the various Governments possessing all the records in their archives than to the Commission whose records were not complete. His reply to the question whether Committee I should consider any such charges which might be laid before it, was in the affirmative - but he would add that, as far as the United Kingdom delegate was concerned, the cases to be listed by the Committee would be very strictly limited and very carefully considered. He himself would first consult his Government upon each case.

Dr. ZIVKOVIC said he had already expressed his views at the time of the discussion of the Sepp Dietz case in Committee III, and he had also submitted a report on some Yugoslav charges in which he had referred to the theoretical aspect. He now wished to examine the question briefly from the practical point of view: the punishment of those responsible for the perpetration of crimes against peace and humanity.

While at Nuremberg, he had had the opportunity of raising the question of whether the Governments of the Four Powers would be ready to try internationally other major war criminals - apart from those now standing trial at Nuremberg. (Dr. Zivkovic was especially interested in the Italian, Bulgarian and Hungarian war criminals.) He had ascertained from those in authority at Nuremberg that it was unlikely that the Four Powers would organise other international trials. In their opinion, the Governments concerned should bring charges against those other major war criminals and claim their surrender for trial by national courts.

Dr. Zivkovic felt, consequently, that none of the other Governments should be prevented from bringing charges against major war criminals of crimes against peace, and against others responsible for crimes against humanity, before this Commission, because even if international trials were to take place after charges had been brought before the Commission, agreement could be reached between the Governments concerned. Otherwise there was the risk that the Governments interested in bringing such charges would fail to achieve their object of ensuring the punishment of such criminals.

He saw no danger in the Commission's listing such individuals - as it had in the case of Germans - and he saw no difficulty in listing them for having committed crimes against peace and against humanity. He agreed with Sir Robert Craigie that the net should not be spread too wide and that careful consideration should be given to each case submitted. At the same time, the Commission should proceed with the work of listing, irrespective of any eventual decision regarding trial before an international or national court. The trials would not be prejudiced thereby.

In conclusion, he urged that the Commission reach a decision upon the whole question, as his Government wished to present a number of charges to Committee I.

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M. de BAER, after reference had been made to Colonel Hodgson's statement at the last meeting (Cf. M.92, pages 5 and 6), said that from the point of view of international law, there could be no doubt on the first point (last paragraph of statement): whether the mentioned crimes were crimes in international law. On the second point - the competence of the Commission - he considered that since war crimes had been defined for the first time in the Agreement of August 8th, 1945, the jurisdiction of the Commission automatically covered all the war crimes so defined. As to whether it was expedient or opportune for the Commission to take a decision, he supported the view expressed by Sir Robert Craighie to leave it to Committee I to consider concrete cases and examine them thoroughly. He added that it was very important to ensure that, if the Commission listed an individual for a crime against peace or against humanity, there should be almost 99% certainty that he would be found guilty by the competent Court.

The CHAIRMAN proposed that a vote be taken on the question whether the jurisdiction of the Commission extended to crimes against peace and against humanity, since the practical application to individual cases would be raised by Committee I in specific instances.

Sir Torick AMEER ALI said that his instructions were to refrain from voting or to consent on the lines given by Sir Robert Craighie. He would, however, on his own responsibility, be prepared to vote on the mere question of competence. It was easier to decide the theoretical question of the Commission's jurisdiction over crimes against peace, but it was a different matter when the problem of practical application was involved, namely, what was and what was not preparation for aggressive war. He pointed out that "aggressive" was an imponderable word.

The CHAIRMAN sympathised with Sir Torick's views. The practical working of an idea was built up by dealing with separate instances.

Dr. LIANG regretted that he had not yet received a reply from his Government regarding their views on the question of principle; he would therefore abstain from voting. On his own responsibility, however, he wished to express agreement with the view that crimes against peace and against humanity should be put on the same footing as war crimes in the limited sense, and that the Commission's jurisdiction included them. The second question raised by Colonel Hodgson's statement was one which would follow logically from the question of principle, but it could also be considered independently from the point of view of policy and expediency at this stage. He would like to hear Colonel Hodgson's views before the implications of the second question were discussed and voted upon.

After further discussion, a substantive motion was put by the Chairman, to the effect that CRIMES AGAINST PEACE AND AGAINST HUMANITY, AS REFERRED TO IN THE FOUR POWER AGREEMENT OF AUGUST 8th, 1945, ARE WAR CRIMES WITHIN THE JURISDICTION OF THE COMMISSION.

The motion was approved by nine votes, with six abstentions and was accordingly carried.

Voted for: M. de Baer, F/O Bridgland, Dr. Mayr Harting,
Sir Robert Craighie, Commander Mouton, Dr. Szerer,
Dr. Zivkovic, Sir Torick Ameers Ali, Dr. Schram-Nielsen.

Abstained: Captain Wolff, Major Morden, Dr. Liang,
Mr. Aikman, Major Palmstrom, Dr. Malézieux.

Bridgland

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M. 94

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-fourth meeting

held on

February 6th, 1946

In the Chair: Lord WRIGHT - Australia

There were also present:

Lieut. KINTNER	- United States of America
F/O BRIDGLAND	- Australia
M. de BAER	- Belgium
Major MORDEN	- Canada
Dr. LIANG	- China
Dr. MAYR HARTING	- Czechoslovakia
Professor GROS	- France
Sir Robert CRAIGIE	- United Kingdom
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Major PALMSTROM	- Norway
Dr. SZERER	- Poland

accompanied by Dr. CYPRIAN

MINUTES

The minutes of the 91st and 92nd meetings were approved and signed by the Chairman.

Subject to the incorporation of amendments received from M. de Baer and Sir Robert Craigie, the draft minutes of the 93rd meeting were approved.

APOLOGIES FOR ABSENCE

Apologies for absence, owing to illness, were reported from Dr. Schram Nielsen, Colonel Hodgson and Captain Volff. Lieut KINTNER stated that Colonel Hodgson hoped to attend the next meeting.

REPORTS OF COMMITTEE CHAIRMEN

Committee I

Sir Robert CRAIGIE, deputy chairman, stated that a special meeting had been convened the day before for the purpose of considering the Australian proposals for listing some of the 64 Japanese key criminals as war criminals. Professor Bailey, representing Australia, had put his case in general terms, after which a discussion took place in the course of which it was pointed out that there were certain difficulties in the way of the Commission endeavouring to deal with the list on the information at present available. The Committee finally decided to recommend that the whole question should be referred to the Commission in order

that representatives from all the member Governments particularly interested in the Far East be given an opportunity to express their views.

It was decided to place the matter on the agenda for the next Commission meeting.

Committee III

Dr. MAYR HARTING, deputy Chairman, reported that the Committee's report on the two questions of law submitted by the French National Office had not been submitted in time, but it was hoped to distribute it after the Committee's next meeting.

Mr. Justice Mansfield's proposal concerning the Commission's competence with regard to Japanese major war criminals had been removed from the Committee's agenda, as it was considered covered by the resolution adopted by the Commission on January 30th.

Public Relations Committee

Mr. GIBSON, Public Relations Officer, stated that he had sent £300 to Professor Gros for transmission to UNRRA, being the proceeds of the sale of programmes at the War Crimes Exhibition.

PROCEDURE FOR SURRENDER OF WAR CRIMINALS

In connection with a letter which he had received from his Government, Commander MOUTON raised the question of whether it would be more expedient to submit charges direct to the military authorities in Germany, instead of sending them to the United Nations War Crimes Commission.

Defending the procedure so far followed, Commander MOUTON stated, inter alia, that it was the result of a decision taken by the Governments of the Allied countries, to which the military authorities of those countries should submit and with which they should cooperate. It was clear that this procedure, in view of the experience which the Commission had gathered in handling innumerable cases with the many legal aspects involved, was more expedient than having the particulars of the cases scrutinised by military commanders.

Furthermore, by submitting cases to the U.N.W.C.C., uniformity in decision was guaranteed whereas different military commanders might use different criteria.

Finally, he remarked that if any criticism of the U.N.W.C.C. was implied, it could only be criticism of the delay in handling cases and producing lists of war criminals. In that case, Commander Mouton ventured to suggest that the procedure be speeded up by means of simplifying the charges and issuing lists more frequently. His suggestion was prompted only by the desire to "take the wind out of the sails" of potential critics, and he did not wish to criticise the work of Committee I which he had always admired.

Dr. MAYR HARTING said he had only just heard of this matter and had no instructions from his Government, but he was prepared to move a resolution, the general principles of which his Government would approve. He accordingly moved the following:

that representatives from all the member Governments particularly interested in the Far East be given an opportunity to express their views.

It was decided to place the matter on the agenda for the next Commission meeting.

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Dr. MAYR HARTING said he had only just heard of this matter and had no instructions from his Government, but he was prepared to move a resolution, the general principles of which his Government would approve. He accordingly moved the following:

"THAT the United Nations War Crimes Commission protests against the view that it is unnecessary that a case be sent to it before searching for the war criminal concerned and asking for his extradition.

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The Commission maintains that the procedure proposed by the Netherlands War Crimes Mission in Germany is not in accordance with the International Resolution defining the duties of the Commission and is not in accordance with the directives of the American and British Military Authorities."

There were two possibilities, he added, in connection with the decision to list a war criminal and the decision governing his surrender. The first was to take a decision by common agreement between the interested countries, thus affording the opportunity to all to express opinions - the democratic way; the second way was to ask the military authorities, in whose custody the criminal was held, for his surrender - in which case the decision was unilateral. He knew that his Government was in favour of the first method and for that reason he supported Commander Mouton.

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There were many practical circumstances showing clearly that a Liaison Officer, attached to a military body, did not have the authority to follow up a proposal, after submitting a Wanted Report to asking for surrender. Only the Commission as an international body, could insist on the Wanted Reports being acted upon, and it could only do that if the persons had been listed by the Commission.

Professor GROS said that he had not had time to study the document, but it did not seem to him that the problem had such wide consequences, nor was it entirely new. Member Governments could deal with war crimes in two ways: first by submitting charges to this Commission, second by forwarding requests for surrender of war criminals direct to the occupying forces. The Commission had no monopoly of war crimes questions and its terms of reference contained nothing to imply that the delivery of war criminals could only be effected through the Commission. The principle, however, was to submit the greatest number of cases to the Commission for listing and to deal directly with the military authorities only as an exception. The only aspect of the problem which was new was the Netherlands proposal to cut out the Commission completely and deal solely with the Allied military authorities.

The CHAIRMAN thought that the practice might have been growing up.

Professor GROS pointed out that Governments had always had the right to request surrender from the military authorities, and now, under Law No. 10 issued by the Control Council for Germany, it had been fully recognised that they could apply direct to the four occupying authorities.

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Sir Robert CRAIGIE felt sure that the Netherlands proposal was the direct result of Law No. 10. The CHAIRMAN pointed out that the procedure proposed was not set out as a potentiality for occasional procedure, but as a regular practice.

Professor GROS agreed. The formulation of a resolution was therefore somewhat difficult. The Commission might invoke its rights - but not in such a way as to imply that it did not recognise the rights of others. The Commission could only take note of Commander Mouton's

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remarks and pass a general resolution reminding authorities that, according to its information, the Commission's Lists were regarded as necessary.

The CHAIRMAN felt that it was a question of whether the Commission agreed with the principle (or practice). The proposed resolution expressed dissent with that principle, irrespective of who had stated it or where it had been stated. He therefore proposed that the question be discussed as a matter of general principle, without infringing the rights of the member nations.

Lieut. KINTNER wished to support very strongly the views of Commander MOUTON. The position of the American authorities was abundantly set forth in Colonel Hodgson's letter dated September 3rd, 1945 (circulated as document C.146) and there was every reason to believe that the same situation prevailed today.

M. de BAER was extremely glad that the subject had been raised by Commander MOUTON. It was of vital interest to the purpose of the Commission and to the work of Committee I. Two months ago, his Government had raised a similar question, stating that it was quicker to obtain the surrender of war criminals by applying direct to liaison officers. M. de Baer had thereupon called attention to the instructions given to the American military authorities in Germany, where it was stipulated that the authorities charged with surrender of war criminals must consult the documents of the U.N.W.C.C.

When Law No.10 had been issued, he had been very perturbed and had written privately to Lord Wright, saying that if, as it seemed to appear from Law No.10, surrender could be obtained with equal ease from the occupying authorities, without having to submit the cases to the U.N.W.C.C. then Committee I served no purpose and the listing of war criminals should be discontinued. After consultations with Lord Wright however, he had reached the conclusion that the omission of any mention of the U.N.W.C.C. in Law No.10 was due to the fact that the U.S.S.R. is not a member of the U.N.W.C.C. and therefore Law No.10, which applies to the whole of the occupied territory, could include no reference to the Commission. Moreover, it appeared that the instructions to the military commanders of the zones had not been altered. M. de Baer had then submitted a memorandum to his own Government, pointing out that, in his opinion, Law 10 did not change anything in the instructions of the British and American authorities to their J.A.G. in Germany, that the surrender of an accused by these authorities was still conditioned by the Commission's lists and only in cases of doubt, did the J.A.G. refer to the Control Council.

Regarding the question of delay - to which Commander Mouton had referred, M. de Baer admitted that he had also experienced some concern, and had proposed a month ago that Committee I should issue weekly lists. If the Governments could say that the Commission's process was slow, they had a right to make applications for surrender through their liaison officers. The delay, however, was not the fault of Committee I, whose decision was taken a week after the charges were submitted; it was rather a question of the internal machinery responsible for the actual typing of the lists. He ^{was} prepared to support a recommendation for the production of weekly lists, although it would involve considerable secretarial expansion and would have the disadvantage of increasing the number of short and numerous lists, to which reference by the authorities concerned would be rendered more complicated.

He suggested that the question required further study and that it should be adjourned until next week.

The CHAIRMAN agreed and suggested that an opportunity be given then to discuss the effect of Article 4 of Law No. 10.

Commander MOUTON agreed to the adjournment.

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Whether the Commission had adopted the resolution expressed in the letter which Commander Mouton had received. He felt rather that the Netherlands authorities did not fully appreciate that, in adopting as a regular procedure and not as an exception, the measures set out in Law No. 10, the strength which the United Nations War Crimes Commission could put behind its recommendations and its lists would be undermined. It seemed to him desirable therefore that when drafting any resolution regarding this question, the Commission should explain the advantages of referring cases to the United Nations War Crimes Commission.

the views of Commander Mouton were abundantly set forth in the letter (circulated as document C.143) that the same

had been raised by the representative of the United Kingdom to furnish the Commission with information regarding the effect of this whole question in the Far East. He was not clear as to what procedure was applied there. Sir Robert CRAIGIE undertook to make enquiries.

Mr. BURDEKIN asked the representative of the United Kingdom to furnish the Commission with information regarding the effect of this whole question in the Far East. He was not clear as to what procedure was applied there. Sir Robert CRAIGIE undertook to make enquiries.

The CHAIRMAN mentioned the Commission's recommendations embodied in document C.145(1) to which few Governments had reacted. He added that it was undesirable to enlarge the scope of this question.

Lt. KINTNER noted this, but in view of the fact that Dr. Mayr Harting had raised the question of the general problem of securing accused persons, asked to make the following statement:

"We are instructed by our Government that on the 8th December 1945, the Combined Chiefs of Staff issued a directive authorizing the surrender of Italians and nationals of satellite countries accused of war crimes. Colonel Hodgson is authorized to inform the Commission that the surrender of these individuals has been authorized on the same terms as the surrender of Germans accused of war crimes"

Commander MOUTON referred to a previous request he had made for the British and French directives governing the surrender of war criminals. (See M.90 page 5 para 8.) The Commission had received copies of the American directives.

The CHAIRMAN pointed out that the British views were contained in the letter from the Foreign Office, dated August 20th, and circulated as document C.143.

It was finally decided to place the matter raised by Commander Mouton on next week's agenda, and at the same time to consider the effect of Law No. 10 issued by the Allied Control Council.

M. DE BIER'S LETTER (document Misc.3)

M. de BIER stated that some of the points raised in his letter had solved themselves since the letter had been written. Regarding the fourth and fifth point, he still believed that no scheme of punishment could be properly carried out without the cooperation of the U.S.S.R.; he had just been informed that the Soviet Government had agreed to appoint a director to CROWCASS, and welcomed the news as the first step towards collaboration in that field. The first point had been settled at the last meeting and there was no answer yet to the third point. On the sixth point he said that the search for war criminals in p.o.w. camps was continuing and information would reach the Commission in due course.

There remained, therefore, only the second point. He explained that his Government were concerned about trials. It would appear that

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the prosecuting authorities were not taking into account all the charges submitted, and were not trying all the responsible officials. In the trials of concentration camp officials, for example, the persons charged were not all included in the indictment. He attributed this to lack of cooperation between the United Nations War Crimes Commission and the prosecuting authorities in Germany. He therefore wished to propose that when it was intended to hold a trial where there might be victims belonging to several allied countries the prosecuting authorities should apply to the United Nations War Crimes Commission for the information in their possession regarding that case, and take into account the persons charged by all member governments.

In connection with this matter, and in order that the Commission should be kept up to date with the knowledge of the general position of punishment, Monsieur de Baer also proposed that diagrams be prepared, and hung on the walls of the Commission room, showing (a) the numbers of charges submitted by each country, (b) the number of persons arrested at the request of member Governments, (c) the number of persons surrendered to each Government, and (d) the number of persons actually tried, thus showing the exact position from day to day. He fully appreciated that the number of arrests would be very small compared with the number of "wanted" persons, and the number of persons tried would be infinitesimal by comparison. The point was, however, to give members a graphic idea in order that they should know what results had been achieved.

The CHAIRMAN referred to document C. 168, which had been circulated at the meeting, reporting a number of trials to be held in the British zone. He said that this information was valuable and it was hoped to be able to circulate further information, as and when it was received with the least delay possible.

On the question of reports of trials held, he said that Dr. Schwelb had circulated a list of the reports received by the Commission (Annex to document Misc.4) and that a further list would be prepared and distributed very shortly. He suggested that it be a regular feature to circulate such lists for the information of members.

Sir Robert CRAIGIE wished to support Monsieur de Baer's proposal for comparative charts, although it would no doubt involve a great deal of work for the Secretariat. The chart would show great discrepancies however, between the number of persons listed and the number arrested; he added that this was not intended as adverse criticism, as he fully appreciated the value of what had been done, and the difficulties encountered in obtaining better results.

M. de BAER suggested as a practical measure that information similar to that contained in document C. 168 should be circulated without delay and that the members of the Commission should undertake to bring to the notice of the prosecuting authorities any charges they might have which related to the proposed trials.

The CHAIRMAN pointed out that the prosecuting authorities must decide which defendants and how many should be put on trial.

The Commission took note of the suggestions made.

REPORT OF THE SECRETARY GENERAL ON HIS VISIT TO THE BRITISH, AMERICAN AND FRENCH ZONES, NATIONAL OFFICES OF BELGIUM AND FRANCE, AND CROWCASS

At the request of the Chairman, the SECRETARY GENERAL gave a brief report on his visit to the continent.

In conclusion, the SECRETARY GENERAL said that throughout the three zones, British, American and French - as well as the National Offices, he had been extremely gratified to receive so many appreciations of the excellent work which the Commission had done and continued to do.

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He had been profoundly impressed by the high esteem in which the Commission was held in general and by the great regard and respect for the Chairmen in particular, by all those with whom he came in contact. He could not speak too highly of the kindness, consideration and courtesy with which he had been received by the many representatives in all the zones and countries he visited, and he was confident that the warmth of his welcome was due entirely to the reputation which the Commission had established for itself in the world at large.

On the suggestion of M. de Baer, who thanked the Secretary General for his excellent and interesting report it was decided to circulate the report as a memorandum. (See document C.171).

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of Ninety-fifth meeting

held on

13th February, 1946.

In the Chair: Lord WRIGHT

- Australia

There were also present:

Colonel HODGSON,
accompanied by Captain WOLFF
and Lieutenant KINTNER.

- United States of America

Professor BAILEY,
accompanied by F/O BRIDGLAND

- Australia.

M. de BAER

- Belgium

Major MORDEN

- Canada

Dr. LIANG

- China

Dr. MAYR HARTING

- Czechoslovakia

Professor GROS

- France

Sir Robert CRAIGIE

- United Kingdom

Sir Torick MEER LI

- India

Commander MOUTON

- Netherlands.

Mr. BURDEKIN

- New Zealand

Major PALMSTROM

- Norway

Dr. CYPRIAN

- Poland

and

Brigadier SHAPCOTT

- Military Deputy of the
Judge Advocate General.

MINUTES.

The minutes of the 93rd meeting were approved and signed by the Chairman.

Amendments to the draft minutes of the 94th meeting were submitted by Monsieur de Baer, Sir Robert Craigie and Professor Gros. They will be incorporated in the final text for circulation in due course.

APOLOGIES FOR ABSENCE.

Dr. Zivkovic and Dr. Szerer sent apologies for absence.

PROCEDURE FOR THE SURRENDER OF WAR CRIMINALS

The Commission resumed discussion of the matter raised by Commander MOUTON at the last meeting (see N.94 Pgs. 2-5) and the following motion was moved from the Chair:

"The United Nations War Crimes Commission is unable to accept the view, which is said to be that of the Netherlands War Crimes Mission in Germany, that it is unnecessary for a case to be referred to the Commission before a search is made for a war criminal and a request is made to the Military Authorities for his surrender. Such procedure would not be in accordance with the International Resolution defining the duties of the Commission nor does it comply with the directives issued by the American authorities as explained by Colonel Hodgson in his letter of September 3rd, 1945 or by the British authorities as stated in the letter from the Foreign Office dated 20th August, 1945. These directives contemplate that the normal and established practice is for the Commission, after due investigation, to put the accused on their List, and it follows from these directives that the normal procedure is departed from if an accused person is handed over without being listed by the Commission. The directives contemplate that that may be done only as an exceptional procedure to be adopted in urgent cases, and only after a careful examination of each case on its merits by the Commanding Officer of the forces by whom the accused is held."

Commander MOUTON, after explaining briefly the circumstances which had caused him to raise the question, proposed that the name of the Netherlands War Crimes Mission be omitted from the motion, maintaining that the matter was one of principle and did not involve his Government alone.

Before proceeding any further, Professor GROS, referring to the discussion at the last meeting, asked that the Commission consider Law No. 10 which had a bearing on the motion and which might modify the Commission's views on it. He reminded the Commission of the procedure adopted in compiling lists. If a request for surrender could only be made on the basis of the lists (which the motion seemed to imply) it would mean that no appeal would be possible by a national Government against a refusal by Committee I to include a name in the List. From the documents and minutes of the Commission he had been unable to find any mention of the Commission having powers of jurisdiction; it was also quite contrary to what had recently been stated by the Solicitor General when he said that under the Moscow Declaration the trials of minor war criminals were the responsibility of the Government of the country in which the crimes had been committed. The right of national Governments to request surrender must be admitted. The function of the War Crimes Commission was to assist the United Nations when they made requests, and it was for that purpose, Professor Gros added, that the Commission had been established two years ago. The Commission should not and could not deny to national Governments their own rights to request surrender.

In support of his argument and as a practical example, Professor GROS submitted that if his Government were not satisfied with a decision taken by Committee I they would have the right to ask for the surrender of a certain war criminal from the military authorities holding him. He repeated that it was not true to say that the Commission had powers of jurisdiction.

Regarding the phrase "the normal and established practice" Professor GROS denied that the practice was normal. If the four occupying Powers in Germany had to await the Commission's decision they would lose valuable time. The French National Office submitted cases both to the Commission and to the Legal Directorate. If the above motion were adopted it would mean that they would be unable to submit directly to the latter.

He therefore proposed that the Commission should recommend the National Offices to keep the Commission informed on matters raised with the four occupying powers, with a view to enabling it to list the greatest number of war criminals.

M. de RAER understood Professor GROS' objection to the motion to be

the infringement of the essential rights of a sovereign Government, by implying that Committee I would have the right to decide who should be prosecuted as a war criminal. Professor Gros' argument would be decisive if one Government or the Big Four had superimposed this Commission over each national Government on questions of war crimes, but the United Nations War Crimes Commission had been established by common agreement between the United Nations who had charged it with making lists of war criminals, and he did not feel that the sovereign rights of Governments were infringed thereby.

As Chairman of Committee I, M. de BAER said that Committee I had never refused a case although sometimes it had been adjourned pending receipt of further information, and he therefore disagreed with Professor Gros' statement as a matter of practice.

What was the use of this Commission and of listing, which was one of its main functions, if it were "by-passed" and application were made direct to the Military Authorities in Germany? The logical consequence would be that member Governments would apply to their liaison officers in individual cases, without referring to the Commission and the public would have no guarantee as to the listing of war criminals. Professor Gros spoke of loss of time; if the listing of criminals was useless then the Commission was wasting its time.

M. de BAER added that Committee I did its utmost to avoid any reproach of delay. Dossiers submitted to it were examined and a decision was reached within a week. Only in cases where evidence was insufficient, were cases adjourned, and then the re-examination took place within a week of the arrival of the complementary evidence.

In conclusion M. de BAER recalled his statement at the last meeting (See M. 94, page 4) concerning difficulties with his own Government similar to those encountered by Commander Mouton, and referred to his consultations with Lord Wright regarding the interpretation of Law No: 10.

Sir Robert Craigie supported the statement made by M. de Baer regarding Committee I's practice in not refusing cases out of hand. Were that to occur and were the Government concerned to disagree with the decision, he felt it would be possible, under the terms of the proposed motion to apply direct for the surrender of the accused person. To make this quite clear he suggested that the phrase "to be adopted in urgent cases" be omitted in order to emphasise that it was the special circumstances and not the urgency of the case which should be the deciding factor.

It was very important to have a list of all Germans and Italians against whom charges had been brought and passed by the Commission, in order that uniformity of presentation and procedure be ensured. This would also have more weight in the public eye than if the charge were passed to local military authorities who did not have the opportunity for applying uniform procedure and the same degree of investigation. He pointed out that it would not be possible to try every war criminal and it was therefore all the more desirable to show the extent and scope of German and Italian war crimes in a uniform list which had been prepared by a responsible international body.

The CHAIRMAN pointed out that in the cases contemplated it was the military authorities who were masters of the situation. If a certain country requested from them the surrender of a war criminal for trial it was for those authorities to use their judgment and discretion as to whether the individual should be delivered or not; it might be that he was required as a witness or for some other reason. They would have to establish, however, that prima facie evidence of guilt existed. That might be ascertained by an independent investigation or the authorities might act upon the Commission's list without further enquiry, basing that action upon the fact that the list had been drawn up by an international body of experienced jurists, after full examination of the facts of the case. He did not see how the question of national sovereignty was affected

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Normal procedure was as stated in the draft motion and Law No.10 did not have a bearing on it, except, perhaps, insofar as the U.S.S.R. authorities were concerned. The other three occupying powers were relieved of an onerous responsibility by consulting the Commission's lists, which had three advantages: (a) putting the matter on an international level, the nations agreeing that the accused person should be brought to trial, (b) ensuring uniformity of procedure and (c) - the Chairman stressed this point - providing a valuable and permanent record of the war crimes which had been put forward as fit for prosecution.

The CHAIRMAN then asked Brigadier Shapcott to give his opinion.

Brigadier SHAPCOTT stated that he had always proceeded on the understanding that Law No.10 had nothing to do with the trial of minor war criminals and that it did not affect the trials coming within the jurisdiction of the United Kingdom Judge Advocate General. He had therefore not altered his methods of procedure after the Law had been passed, as he understood it to have been brought into being in connection with the trial of those persons enumerated in Article II(1) (d) of Law No.10, (criminal groups or organisations etc.) which it was expected that the Nuremberg tribunal would declare to be illegal. In practice, the Control Commission had never interfered as far as the British were concerned. The trials envisaged for the persons in the above category would be before Military or Military Government Courts

Colonel HODGSON referred to Lt. Kintner's statement at the last meeting. He felt that an expression of the Commission's views would be in order, and that, with some amendments, the motion could be drafted in a manner which would accord with Professor Gros' views. He then made several suggestions, in particular with regard to the phrase "before a search is made for a war criminal", pointing out that apprehension by the military authorities should not be delayed by reference to this Commission first.

It was decided to refer the draft motion to a drafting committee consisting of General de Baer, Sir Robert Craigie and Colonel Hodgson and to submit this draft to members for their consideration at the next meeting of the Commission.

FIRST LIST OF JAPANESE MAJOR WAR CRIMINALS SUBMITTED BY AUSTRALIA

Owing to the question of principle involved, the list had been referred to the Commission by Committee I and Professor Bailey was asked to open the discussion.

Professor BAILEY stated that the Australian Government asked the Commission to agree in principle to the preparation of a list of Japanese major war criminals, for which the first Australian list should serve as a basis, and to instruct its legal officers to undertake investigations necessary for the preparation of such a list.

The Australian Government based its request upon the Commission's previous action with regard to German major war criminals, particularly the unanimous decision taken on September 26th, 1944 (see M.33, Page 5) regarding the listing of the members of the Hitlerite Government, resulting in the compilation of Lists 7 and 9. Professor Bailey quoted from the preamble to those lists, in further support of his Government's proposal. The names in the First Australian List, now under discussion, would all fall within the categories mentioned in Article 6 of the Four-Power Agreement of August 8th.

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The Australian Government took its stand also upon the Commission's recommendations regarding Japanese War Crimes. Professor Bailey said he was referring to document C. 145(1), two recommendations of which (No. V and VI) had been carried out when an International Military Tribunal and a War Crimes Prosecuting Office had been established. Recommendation IV (Central War Crimes Agency) had not been carried out. In the opinion of the Australian Government, however, even the full execution of Recommendations IV, V and VI did not create substitutes for the United Nations War Crimes Commission itself, and did not relieve that Commission of its responsibility with regard to Japanese major war criminals. In support of that view, Professor Bailey quoted paragraphs (c) (d) (f) and (i) of Recommendation IV, which implied that the Commission would continue to prepare lists. The case for the Commission was strengthened in the absence of a central war crimes agency - but even if an agency were established, the Commission's task would not be impaired.

To put it crudely, Professor Bailey stated, his Government was not satisfied to leave the preparation of lists exclusively to direct political negotiations between Governments or to the central prosecuting office in Tokyo. They were anxious that the United Nations should avail themselves of the services for which the United Nations War Crimes Commission was created: to advise the Governments as to persons whom it considered should be listed. The Australian Government therefore urged that the extensive and impressive advice given in respect of German major war criminals should also be given in respect of Japanese. They also felt that all member Governments should have the advantage of the representative character and experience of the Commission.

Professor BAILEY then referred to the Chairman's statement earlier in the meeting regarding the advantage of obtaining uniformity from a body of juridical experts. That advantage was considered by the Australian Government to be of prime importance in the case of Japanese major war criminals.

Summing up, Professor BAILEY stated that his Government submitted their request to the Commission, taking their stand from what had been done in regard to the German major war criminals, and from the implications contained in the Commission's own recommendations concerning Japanese major war criminals.

Colonel HODGSON stated that his Government as well as the other nine governments interested in the prosecution of Japanese War criminals was doing everything in its power to apprehend major war criminals and to bring them to trial. He was interested in Professor Bailey's proposal although he begged to disagree with it. There was no parallel between the German cases and the Japanese cases. The decision of September, 1944, to which Professor Bailey had referred, related only to German war criminals and Lists 7 and 9 listed Germans under conditions which were not the same as those existing at present. At that time the war in Europe was drawing to a close and the Commission had only listed a handful of German major war criminals and felt apprehensive that unless something was done, these persons would not be apprehended and brought to trial. The Japanese war, however, had been over for six months and it was known that Japanese major war criminals were being apprehended. At the time when Lists 7 and 9 had been adopted, no courts had been set up and no plan was known by the Commission to exist for the prosecution of German major war criminals. At the present time it was known that a court had been set up in Japan for the prosecution of Japanese, and a staff of prosecutors, to whom evidence was available. Again, when Lists 7 and 9 had been adopted, the Commission had before it a mass of evidence submitted in connection with charges against minor war criminals - evidence which consisted of decrees, directives and other material which would implicate the higher German authorities responsible for planning and directing the system of war crimes.

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committed in Europe. Lists 7 and 9 had therefore been adopted on the basis of available material.

When it was suggested that a list of Italian major war criminals should be prepared, the Commission refrained from doing so on the grounds that it did not possess the necessary evidence. The situation in respect of the Japanese was exactly the same. The evidence was in Tokyo, where it was available to the Tokyo Commission and the staff of prosecutors charged with preparing cases against the major Japanese war criminals.

Colonel HODGSON therefore felt that the appropriate procedure would be to refer the Australian List to another body which also had jurisdiction and had the necessary evidence. If that body did not desire to proceed, then the United Nations War Crimes Commission could proceed and would obtain the necessary material. A further argument in favour of this proposal was that at the time when the German list was compiled the Commission possessed a study of the German Government which showed conclusively that anyone occupying a position in the German Government would be a key criminal. No such study had been made in the case of the Japanese Government and it did not necessarily follow, therefore, that if a Japanese held a key position he would be a war criminal.

Referring to the Commission's Far Eastern recommendations (document C.145(1)), a prosecuting staff, on which were represented all the governments interested in the Pacific, had been organised to deal with Japanese major war criminals. In his view and in the view of his Government, the list should be referred to the Allied Council for Japan in Tokyo and to the prosecutors there, with an appropriate note stating that while the United Nations War Crimes Commission had jurisdiction, the Far Eastern bodies also possessed that jurisdiction and, in addition, possessed the necessary evidence.

Commander MOUTON said that, while he was unable to give an opinion on the information submitted by the Australian Government, he knew that his Government had not sent any information to London concerning the Japanese major war criminals, and he therefore agreed that the evidence before the Commission was insufficient for the preparation of a list of such criminals. He supported Colonel Hodgson's proposal to refer the Australian List to the Allied Council for Japan.

Dr. LIANG declared that the Chinese Government was very interested in seeing the Australian lists. He had listened with interest to the remarks of Professor Bailey and Colonel Hodgson and felt that the matter under discussion illustrated the disadvantage of having a multiplicity of organisations apparently authorised to discharge the same task. In his opinion, the United Nations War Crimes Commission was fully competent to deal with this matter but it could not exclude the possibility of the Tokyo Commission also dealing with it, likewise the Chungking Sub-Commission had jurisdiction over the matter. The question of policy was not being argued since everyone wished to see the Japanese major war criminals brought before a competent tribunal, and punished. The difference of opinion existed only with regard to the machinery for punishment, i.e. which of the three bodies mentioned would act most efficiently. After perusing the Australian list with its annotations, it appeared that most of the charges were crimes against peace and humanity. The Commission had recently discussed and adopted a resolution that as a matter of International law it considered those crimes to be on the same footing as crimes against the laws and customs of war. In the same way that the document relevant to the Nuremberg Trial was acknowledged to be the Four Power Agreement, the Nine Power Charter must be the relevant document for the Far Eastern war crimes. These two documents governed the prosecution of all three categories of crimes. Regarding the difficulties pertaining to the issue of a list of Japanese major war criminals, Dr. LIANG stated that, as far as actual trial and punishment were concerned, the matter was already in the hands of the Commission in Tokyo. As far as jurisdiction over crimes against peace and humanity was concerned

however, the Commission, by virtue of its wide authority, was entitled to give an opinion.

In view of the fact that the appropriate experts to study the Australian list were not present in London, Dr. LIANG suggested that the study of this list be referred to the Sub-Commission in Chungking, whose policy in regard to Far Eastern war criminals must resemble that of the United Nations War Crimes Commission in London. He was, therefore, inclined to support the view that, since the Commission in Tokyo was competent to deal with such a list and since no facilities and no expert advisers were available in London, the Australian list should be referred to the Tokyo Commission. If the United Nations War Crimes Commission had to take a decision it might be desirable for the Chungking Sub-Commission to study the list.

Professor GROS also supported Colonel Hodgson's proposal to submit the list to the Tokyo Commission, with a note explaining that the competence of the United Nations War Crimes Commission was not denied, but that it lacked expert advice for the examination of such a list. He pointed out that this treatment would resemble that given to the 7th and 9th lists of German key criminals, when they were sent to the Nuremberg Chief Prosecutors who, incidentally, had chosen only 24 names out of about 500.

Sir Robert CRAIGIE said that the United Kingdom Government greatly appreciated the action of the Australian Government in placing the list before the Commission and in its display of confidence in the Commission's ability. He felt, however, that - despite his own personal knowledge of Japanese war crimes - to deal satisfactorily with the list would be an extremely onerous task for the Commission. The material existed in Tokyo and was not available to the United Nations War Commission. He agreed with Dr. Liang that there was no disagreement regarding the Commission's competence in the matter, but that it was a question of practice to be adopted. The time element was very important, as it was hoped to start the trials in Tokyo in early spring.

He therefore wondered if the Australian Government's request would be met if their list were referred to the Commission in Tokyo, as suggested, with a note adding that this Commission would, of course, be prepared to assist in any particular way if the Tokyo Commission so desired.

Professor BAILEY stated that he had listened to the discussion with interest. He hoped Colonel Hodgson would forgive him if he disagreed on the question of whether or not a parallel could be drawn between the German and Japanese major war criminals. In submitting that a parallel could be drawn he appreciated that no list of major Japanese could be issued until a full examination of evidence had been made as in the case of the German lists.

He felt bound to state that the solution proposed would not be satisfactory from the Australian point of view. Australia was represented on both bodies mentioned (Mr. Justice Mansfield, who had prepared the Australian list, was himself a member of the prosecuting team in Tokyo, and Sir William Webb was on the tribunal; the Australian representative on the Far Eastern Commission had not yet been named.) The proposal amounted in effect to the Commission taking no action, since the two bodies in Tokyo already possessed the Australian list and would take whatever steps they thought fit. Presumably they had prepared lists themselves.

In reply to the Chairman's remark that it was not suggested that the Commission should abandon jurisdiction over the list, Professor BAILEY pointed out that the question remained a practical one: what action could the Commission take through its own staff? His Government attached real import-

ance to such action.

He was interested in Dr. Liang's suggestion to approach the Chungking Commission, but if no other decision were taken, the London Commission might consider referring the list to a sub-committee of its own.

The CHAIRMAN remarked that the matter was urgent and thought examination meant taking time to collect evidence and find experts.

Professor BAILEY said that, in that case, he felt that his Government would appreciate at least a commentary on the list by some members of the Commission, to be undertaken concurrently with the action proposed by Colonel Hodgson, which would not appear to preclude it.

After further discussion, during which it was pointed out that, owing to lack of material and expert advice, such a review would be difficult to produce, the CHAIRMAN proposed to adjourn discussion of Professor Bailey's last suggestion. Sir Robert CRAIGIE, however, expressed his willingness to consider making a review, from the material available in the archives of the Foreign Office and from his own knowledge, in order to assist any Committee which might be appointed by the Commission, provided that such a procedure would meet the views of the Australian Government.

Finally, on the proposal of Colonel Hodgson, it was unanimously decided to refer the Australian list to the Allied Council for Japan and International Staff of Prosecutors in Tokyo, with an accompanying letter reaffirming the jurisdiction of the United Nations War Crimes Commission, but stating that, in view of the fact that evidence relating to the charges brought against the persons named in the list was available in Tokyo and not in London, the United Nations War Crimes Commission considered the best practical method to be to refer the matter to that body, which had special jurisdiction. The letter should also state that if the Allied Council for Japan did not see fit to proceed, it should refer the list back to the United Nations War Crimes Commission, who would take what action it could.

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M.96

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-sixth meeting

held on

February 20th, 1946

In the Chair: Lord WRIGHT - AUSTRALIA

There were also
present

Colonel HODGSON	- United States of America
accompanied by Captain WOLFF and Lieut. POLSTER	
F/O BRIDGLAND	- Australia
M. GOLSTEIN	- Belgium
Major MORDEN	- Canada
Mr. DAO	- China
Dr. MAYR HARTING	- Czechoslovakia
accompanied by Major FANDERLIK	
Dr. SCHRAM NIELSEN	- Denmark
Professor GROS	- France
Sir Robert CRAIGIE	- United Kingdom
M. STAVROPOULOS	- Greece
Commander MOUTON	- Netherlands
Mr. BURDEKIN	- New Zealand
Mr. WOLD	- Norway
accompanied by Major PALMSTROM	
Dr. CYPRILIN	- Poland
Dr. ZIVKOVIC	- Yugoslavia

and

Mr. WOLTMAN - Netherlands National Office

MINUTES

The minutes of the 94th meeting were approved and signed by the Chairman.

In view of a statement which Dr. Schwelb had handed to the Chairman^{*}, pointing out that two allied bodies had been established in Tokio, the Far Eastern Commission and the Allied Council for Japan, Colonel HODGSON said that he had been referring to the latter at the last meeting. Whenever he had spoken of "Far Eastern Commission", therefore, he asked that "Allied Council for Japan" be substituted. The last paragraph on page 8 of M.95 was amended accordingly.

Other amendments were received from Sir Robert Craigie, Professor Bailey, Professor Gros, Dr. Liang and Colonel Hodgson.

APOLOGIES FOR ABSENCE

Apologies for absence were received from M. de Baer and Dr. Szerer.

* Circulated as Document C.176.

PROCEDURE FOR THE SURRENDER OF WAR CRIMINALS, IN CONJUNCTION WITH
LAW NO. 10 (continuation of discussion)

The drafting committee, appointed at the last meeting, presented the following draft motion to the meeting:

"The United Nations War Crimes Commission is unable to accept the view which has been suggested by the authorities of one of its member States that it is unnecessary for a case to be referred to the Commission before a request is made to the Military authorities for the surrender of a war criminal for trial. Such a view would not be in accordance either with the International Resolution defining the duties of the Commission or with the practice of the American authorities as explained by Colonel Hodgson in his letter of September 3rd, 1945, or with the practice of the British authorities, as stated in a letter from the Foreign Office dated 20th August, 1945. The normal procedure is for the Commission after due investigation to put the accused on their List and it follows that it is departed from after an accused person is handed over without being listed by the Commission. Such a departure is only justified as an exceptional measure and after careful examination of each case on its merits by the Commanding Officer of the forces by whom the accused is held. It is the hope of the Commission that in any such cases the government concerned will at the same time forward a copy of the dossier to the United Nations War Crimes Commission."

After some discussion and slight alteration, the motion was unanimously adopted and will be circulated as document C.177.

Professor GROS was anxious that this motion should not risk coming into conflict with any ruling which might be given by the Nuremberg prosecutors regarding the criminality of certain organisations. If the Nuremberg prosecution declared that certain groups were criminal organisations per se, the members of those groups would be surrendered without further formality, and it would be unfortunate if this Commission, by adopting the motion presented today, should appear to contradict such an international declaration.

The Chairman felt that this matter raised a number of exceptional and complicated questions. There ought to be some caveat entered in order to leave it open. The Commission would have to discuss this whole matter when the decision of the chief prosecutors of the Nuremberg Tribunal became known, but he did not feel that it was very urgent owing to the fact that the Nuremberg trial would not be over for some months.

In reply to Dr. Cyprian the CHAIRMAN stated that the motion would be sent to all member governments who would take what course they thought proper with regard to informing the military authorities concerned.

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

In the absence of M. de Baer, Sir Robert CRAIGIE deputy Chairman, reported that six charges had been submitted by the Legal Commission of the Free German Movement in Great Britain, and that in accordance with the Commission's decision they had been forwarded

to the Allied Council in Berlin without comment.

Owing to the recent removals of the Commission's offices the 25th List of War Criminals (German) had been sent to the Stationery Office for printing without the prior approval of the Commission. Sir Robert Craigie suggested that this departure from normal procedure be approved adding that the List had been inspected and approved by all the National Offices concerned. It was decided that the List should be shown to members of the Commission after it had been printed but before it was distributed.

Committee I had decided to close two new lists, the 26th List which would include the names of 128 Italians, Hungarians, Bulgarians and Roumainians, and the 27th List to include the names of about 1,000 Germans.

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Documents Committee.

Professor GROS Chairman, reported that the Committee had been convened to consider the question of all the documentation in the hands of Allied authorities and of how to centralise it. The Committee decided to recommend to the Commission that all documents which had been collected for use in trials of war criminals in the European theatre - excepting those which were in possession of Governments desiring to retain them - should be deposited, after the trials, at a research centre, established under some international authority. The Committee's view was further strengthened by the increase in the number of documentation centres which had been set up all over Europe (as reported in Research Summary of Information No 49).

Professor GROS added that a formal resolution had not been presented by the Committee, as no reply had yet been received from Mr. Byrnes to the Chairman's letter on the subject of documentation.

The CHAIRMAN then read a letter which he had just received from Mr. Byrnes. This will be circulated as document C. 178.

The CHAIRMAN said he quite appreciated that the United States required the documents which they had collected for their own prosecutions, but he wondered whether an interim resolution should not be drafted nevertheless.

Mr. WOLD said that, apart from the historical interest, documents relating to war crimes would be of interest for the future maintenance of justice and international law. He asked the Chairman to forward to the Documents Committee a letter which he (Mr. Wold) had sent to him some time ago.

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In this connection Mr. WOLD wondered if it would be possible for the United Nations to establish some sort of specialised agency within the framework of the United Nations Organisation. Such a documentation centre would be useful also for security and police purposes in the future. He would welcome the opportunity of having a discussion on this question at an early occasion.

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The CHAIRMAN remarked that the staff of the Secretariat were at the present moment engaged in the preparation of a history of the United Nations War Crimes Commission. The question of assembling all the material which, for example, Committee I was receiving, would in due course have to be considered. It might be that a special body, adequately staffed and financed, should undertake to produce an elaborate history of war crimes during the Second World War, as well as a history of the Nuremberg trial.

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

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

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

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

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

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

Committee III.

Appointment of Second Deputy Chairman.

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

Report by Committee III.

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

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

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

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

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

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

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

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

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

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

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

The discussion was then adjourned until next week.

PROGRESS REPORT OF WAR CRIMES TRIALS.

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

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

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

SURRENDER OF ITALIAN NATIONALS AND NATIONALS OF SATELLITE COUNTRIES.

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

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

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

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M. 97.

UNITED NATIONS WAR CRIMES COMMISSION.

Minutes of ninety-seventh meeting

held on

February 27th, 1946.

In the Chair: Lord WRIGHT

- Australia

America

There were also
present:

Colonel HODGSON

accompanied by Capt. WOLFF

Major MORDEN

Dr. LIANG

Dr. MAYR HARTING

accompanied by Major FANDERLIK

Dr. SCHRAM NIELSEN

Professor GROS

Sir Robert CRAIGIE

M. STAVROPOULOS

Sir Torick AMEER ALI

Commander MOUTON

Mr. BURDEKIN

Dr. SZERER

Dr. ZIVKOVIC

- United States of America

- Canada

- China

- Czechoslovakia

- Denmark

- France

- United Kingdom

- Greece

- India

- Netherlands

- New Zealand

- Poland

- Yugoslavia

MINUTES

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

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

APOLOGIES FOR ABSENCE

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

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

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

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

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

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

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

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

REPORTS OF COMMITTEE CHAIRMEN.

Committee I.

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

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

Documents Committee.

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

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

Committee III

Report by Committee III

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

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

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

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

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

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

CONTROL OF CROWCASS

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

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

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

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

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UNITED NATIONS WAR CRIMES COMMISSION

N. 98.

Minutes of ninety-eight meeting

held on

March 6th, 1946.

In the Chair: Lord WRIGHT - Australia

There were also

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

and

Lt.-Colonel LUCK - CROWCASS

MINUTES

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

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

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

DEPARTURE OF MR. WOLD.

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

RELATIONS WITH CROWCASS.

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

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

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

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

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

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

(COLONEL HODGSON LEFT THE MEETING).

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

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

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

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

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

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

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

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

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

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

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

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

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

(PROFESSOR GROS LEFT THE MEETING).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(LT. COLONEL LUCK LEFT THE MEETING).

FIRST AUSTRALIAN LIST OF JAPANESE MAJOR WAR CRIMINALS.

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

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

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

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

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

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

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

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

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

The List was then unanimously adopted.

REPORT OF COMMITTEE I.

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

ISSUE OF CERTIFICATE TO YUGOSLAVIA GOVERNMENT.

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

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

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

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

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

The text of the certificate was as follows:

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

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of ninety-ninth meeting

held on
March 13th, 1946.

In the Chair: Lord WRIGHT - Australia.

There were also

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

MINUTES

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

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

APOLOGIES FOR ABSENCE

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

APPOINTMENT OF SIR ROBERT CRAIGIE AS ACTING CHAIRMAN.

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

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

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

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

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

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

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

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

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

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

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

THE FIRST AUSTRALIAN LIST OF JAPANESE MAJOR WAR CRIMINALS.

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

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

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

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

(PROFESSOR GROS LEFT THE MEETING).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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UNITED NATIONS WAR CRIMES COMMISSION

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Minutes of hundredth meeting

held on

March 20th, 1946

In the Chair: Lord WRIGHT - Australia

There were also

present: Colonel HODGSON - United States of America

accompanied by

Lt. BOUCEK and Lt. Polster.

Mr. BRIDGLAND - Australia.

M. de BAER. - Belgium.

Mr. HORN - Canada.

Mr. DAO - China.

Dr. MAYR-HARTING - Czechoslovakia.

Dr. SCHRAM-NIELSEN - Denmark.

Sir Robert CRAIGIE - United Kingdom.

Sir Torick AMEER ALI - India.

accompanied by Mr. DUTT.

Commander MOUTON - Netherlands.

Mr. BURDEKIN - New Zealand.

Dr. SZERER - Poland.

Dr. ZIVKOVIC - Yugoslavia.

and

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

MINUTES.

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

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

APOLOGIES FOR ABSENCE.

An apology for absence was received from Professor Gros.

WELCOME TO MR. HORN.

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

REPORTS OF COMMITTEE CHAIRMEN

There were no reports from the Committee chairmen.

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

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

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

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

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

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

(Document C.184).

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

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

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

APPOINTMENT OF NETHERLANDS REPRESENTATIVES ON THE FAR EASTERN MILITARY TRIBUNAL.

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

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

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

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

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

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

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

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

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

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

RELATIONS WITH THE U.S.S.R.

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

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WAR CRIMES TRIALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundredth and first
meeting

held on

March 27th, 1946.

In the Chair:

Lord WRIGHT:

- Australia.

There were also
present:

Captain WOLFF

- United States of
America

Accompanied by Lt. KINTNER.

Mr. HORN

- Canada

Mr. DAO

- China

accompanied by Mr. LEE

Major FANDERLIK

- Czechoslovakia

accompanied by Dr. MAYR HARTING

Dr. SCHRAFF NIELSEN

- Denmark

Sir Robert CRAIGIE

- United Kingdom

Professor GROS

- France

Sir Torick AMEER ALI

- India

accompanied by Mr. DUTT

Commander MOUTON

- Netherlands

MINUTES.

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

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

APOLOGIES FOR ABSENCE

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

TRIAL OF KARL HERMANN FRANK.

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

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

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

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

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

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

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

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

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

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

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

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

WAR CRIMES TRIALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRANSMISSION OF LISTS TO THE FAR EAST.

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

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SECRET

UNITED NATIONS WAR CRIMES COMMISSION

M. 102

Minutes of hundredth and second
meeting

held on

April 3rd, 1946

In the Chair: Lord WRIGHT: - Australia

There were also
present:

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

MINUTES

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

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

APOLOGIES FOR ABSENCE

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

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

DEPARTURE OF LORD WRIGHT

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

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

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

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

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

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

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

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

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

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

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

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

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

The Motion was unanimously adopted.

WAR CRIMES TRIALS.

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

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

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

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

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

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

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

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

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

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

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

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

REPORTS OF COMMITTEE CHAIRMEN

Committee I

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

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

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

ACQUITTALS OF PERSONS LISTED BY THE COMMISSION

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

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

FREQUENCY OF MEETINGS

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

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SECRET

M. 103.

UNITED NATIONS WAR CRIMES COMMISSION

Minutes of hundred and third meeting

held on

April 10th, 1946

In the Chair: Sir Robert Craigie - United Kingdom

There were also
present:

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

MINUTES

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

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

WELCOME TO PROFESSOR HURWITZ.

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

APOLOGY FOR ABSENCE

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

REPORTS OF COMMITTEE CHAIRMEN

Committee I

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