CHAPTER VII

GENERAL HISTORICAL SURVEY OF THE ACTIVITIES OF THE COMMISSION.

A. PERSONNEL OF THE COMMISSION AND THEIR MOVEMENTS

(i) Changes in Personnel of the Commission

In the first year of the Commission's activities, from February, 1944 to February, 1945, there were several changes in its personnel. Dr. L. Preuss (U.S.A.), who played an important part in the proceedings of Committees II and III, particularly in the drafting of the Convention for the Establishment of an International Court, returned to America in April, 1944. The Commission also lost the services of the distinguished French jurist, M. Cassin, who had represented the Provisional French Government at the outset. In June, 1944 Lord Atkin, who had already rendered valuable counsel to the Commission, died after a short illness; he was replaced as the representative of Australia, in the following month, by Lord Wright of Durley. In the same month, the place of M. Blum (Luxembourg), appointed Minister in Moscow, was taken by M. Bodson, who was in turn replaced by M. Clasen in October, 1945. For a few months after September, 1944, the British delegation was reinforced by Lord Schuster of Cerne, while M. Milanovic, who had been recalled to his post in Brussels, was replaced as Yugoslav delegate by Dr. Zivkovic.

On 2nd January, 1945 the Chairman, Sir Cecil Hurst, had to resign on medical advice, owing to ill-health aggravated by his unwearying devotion to his charge; he was replaced as United Kingdom representative by the late Lord Finlay, and on 31st January, 1945 Lord Wright was elected Chairman of the Commission in his place. At the same time the Commission was informed of the resignation of Mr. H. C. Pell (U.S.A.) and of M. Colban, the Norwegian Ambassador, both of whom had taken an active part in the work.

In December, 1944 the Canadian Government asked to be represented by an observer, as a preparatory step towards full membership.

It was intimated to the Commission on 29th February, 1944 that Brazil and Mexico might be disposed to join the Commission. The matter was taken up, but no decision seems to have been reached and no formal application for the admission of these States was made.

During the following phase of the Commission, March, 1945 to June, 1946, it lost, by death, the services of two of its most valued members; Dr. de Moor, Netherlands representative, who died in May, 1945, and Lord Finlay, United Kingdom representative, who died on 4th July, 1945. Dr. de Moor's place was subsequently filled by the appointment of Commander M. W. Mouton; Lord Finlay was temporarily replaced

by Mr. Beaumont of the Foreign Office, until Sir Robert Craigie was appointed as representative of the United Kingdom on 20th September, 1945.

Colonel J. V. Hodgson, designated as full representative of the United States, in place of Mr. H. C. Pell, attended in that capacity until 1st May, 1946 when he returned to the United States. He was replaced in August, 1946 by Colonel R. M. Springer. Mr. Kintner served as Acting Commissioner during the interim period. Mr. Oldham the Australian member left for Washington in October, 1945 and was replaced by Flying Officer Bridland.

Sir Torick Ameer Ali was appointed as colleague to the Indian High Commissioner, who was the official representative for India, on 30th May, 1945. Mr. Terje Wold attended as representative for Norway from 25th July, 1945 until 6th March, 1946, after which he was replaced as an observer, by Major Palmström, head of the Norwegian National Office. Dr. Schram-Nielsen, of the Royal Danish Legation, acted as deputy to Professor Hurwitz, accredited representative for Denmark, during his absence. Dr. Szerer, appointed as Polish Commissioner, attended the Commission from 5th September, 1945. Justice Mansfield attended as temporary representative for Australia from 12th December, 1945 until his departure for Tokyo on 17th January, 1946. Mr. Bell, who had attended meetings as Canadian observer since 1944, became the official representative after the accession of Canada in March, 1945; his place was taken by Mr. Horne on 20th March, 1946. In the absence of M. Clasen (Luxembourg), M. de Baer (Belgium) held a watching brief in the Commission for the interests of Luxembourg.

On the departure of Dr. Wellington Koo, the Chinese Ambassador, his place on the Commission was taken by his successor Dr. Cheng in September, 1946. M. Stavropoulos (Greece) was replaced by M. Dimitsas; Mr. Terje Wold (Norway) by Mr. Aars Rynning; and Dr. Szerer (Poland) by Dr. Muszkat. General Eċer (Czechoslovakia) continued to be absent on official duties in his own country; he was represented in 1946 by Dr. Mayr-Harting and from January, 1947 first by Dr. Neumann and then by Dr. Zeman. Professor Gros (France), who was likewise detained on duties in his own country, was represented by M. Maillard and Mlle. Capiomont. In May, 1947 Dr. Zivkovic (Yugoslavia) was replaced by M. Milenkovic, and Mr. Burdekin, who had represented New Zealand from the beginning, withdrew on 10th June, 1947 on the termination of his appointment.

In September, 1947 M. de Baer (Belgium) having received an appointment in the International Refugee Organisation, was unable to continue as Chairman of Committee I, though he still remained a member of the Commission. He was represented, in his absence, by Miss E. M. Goold-Adams.

(ii) THE SECRETARIAT

Mr. McKinnon Wood, who had been elected as Secretary General at the foundation of the Commission, left in the summer of 1945, as his

release had been asked for by the Foreign Office. In September, 1946 Colonel G. A. Ledingham, D.S.O., M.C., was elected by the Commission to succeed him. In March, 1945 Dr. Egon Schwelb (Czechoslovakia) was appointed as Legal Officer to the Commission, a post which was afterwards combined with that of Secretary to Committee III; and on 3rd May, 1945 Dr. J. Litawski (Poland) was appointed as second Legal Officer and subsequently as Secretary of Committee I. From 29th June, 1945 Mr. E. Lyman (U.S.A.) was Chief Executive Officer until November 1945 when, on his return to the United States, the post was abolished. Dr. Schwelb left the Secretariat in July, 1947, having accepted an appointment as Assistant Director of the Division of Human Rights on the United Nations Secretariat. Meanwhile Dr. Mayr-Harting (Czechoslovakia) had joined the staff in March, 1947 as Historian. Mr. G. Brand was appointed in June, 1946 to write the reports on the trials of war criminals, and Dr. Zivkovic in June, 1947 to assist in compiling the report on Human Rights. Dr. Schwelb's duties were shared between Dr. Litawski, Mr. Brand, Dr. Mayr-Harting and Dr. Zivkovic, Dr. Mayr-Harting becoming Secretary of Committee III and Mr. Brand Secretary of the Legal Publications Committee.

(iii) MOVEMENTS OF MEMBERS OF THE COMMISSION

The entry of the Allied armies into German territory enabled the Chairman and Members of the Commission to visit the scene of some of the war crimes and to attend important trials. Thus, on 26th April, 1945 a delegation of the Commission, headed by the Chairman, visited the newly-liberated concentration camp of Buchenwald, at the invitation of General Eisenhower, and submitted a report to the Commission.(1) In October, 1945 the Chairman and some of the members attended the trial of the Hadamar Asylum staff at Wiesbaden in the American zone, at the invitation of the U.S. Third Army. In the same month the Chairman and some of the members attended the Belsen and " Peleus " trials in the British zone.

On 18th July, 1945 the Commission held a meeting which was attended by Justice Jackson, United States Chief of Counsel, who was preparing the Charter for the establishment of the International Military Tribunal. He was accompanied by Colonel Bernays and Commander Donovan. Sir David Maxwell Fyfe, Attorney General for the United Kingdom, was also present. An informal visit was paid to the Commission, at the Chairman's invitation, by members of the U.S. Congress on 24th May, 1945.

The Chairman attended the opening of the trials of the Major Nazi War Criminals at Nuremberg on 20th November, 1945, and paid a further visit to Nuremberg in September, 1946 when he and the Secretary General were present, by invitation, to hear the delivery of the judgment. On 8th April, 1946 Lord Wright left England for Tokyo by air, via Washington, to attend the trial of the Japanese Major War Criminals in the Far East, returning on 26th June, 1946, having addressed a meeting of the " Far

(1) C. 101., 5.5.45. *Visit of delegation to Buchenwald concentration camp in Germany—Report adopted by the Commission on 3rd May*, 1945 and M. 59. 3. 5. 45.

Eastern Commission" in Washington on the way back. During his absence he was replaced as Chairman by Sir Robert Craigie (United Kingdom).

In January/February, 1946 the Secretary General undertook a complete tour of the occupied zones in Germany and established contact with the Judge Advocate Generals and with war crimes offices. Other members of the Commission attended the trial of K. H. Frank at Prague at the end of March, 1946, and the trials of officials of the Dachau and Mauthausen concentration camps at Dachau in November, 1945 and April, 1946.

During the Christmas recess in 1946, the Chairman and Secretary General paid another visit to Germany; first to Nuremberg in the American zone, where the trial of the medical personnel, charged with carrying out medical experiments on human beings, was in progress; next to Berlin, where they had useful discussions with the officials of C.R.O.W.C.A.S.S.[1] and, lastly, to the British zone where they witnessed part of the Ravensbruck concentration camp trial, and had important discussions with General MacCreery, the Army Commander, and the Judge Advocate General's Department.

In May, 1947 the Chairman, Secretary General and the United States and Belgian representatives were present, by invitation of Brigadier General Telford Taylor, United States Chief of Counsel, at the trial at Nuremberg of the doctors and scientists (Case No. 1); the Ministry of Justice officials (Case No. 3); the Industrialists (Case No. 5) and the officials responsible for the administration of concentration camps (Case No. 4). The party also visited Dachau where other trials were in progress. In September-October, 1947, the Secretary General, together with the British and Norwegian representatives, were present, by invitation, at the Nuremberg trials.

In August, 1947 the Chairman attended the I.G. Farben trial (Case No. 6) at Nuremberg, and in December, 1947 he and the Secretary General attended the opening of the trials of the Directors of the Krupp works (Case No. 10). Other members of the secretariat visited the United States and British zones in connection with war crimes trials in the autumn of that year.

B. OUTLINE OF THE COMMISSION'S ACTIVITIES

The story of the establishment of the Commission by the constituent meeting at the Foreign Office in October, 1943, and of its organisation in committees has already been related.[2]

The subsequent history of the Commission falls naturally into four principle phases: the first was a preparatory phase, while hostilities were still in progress, during which important questions of principle and procedure were debated and the machinery of retribution was being prepared. This phase may be said to have ended in the spring of 1945, when the German resistance was breaking up.

(1) Central Registry of War Criminals and Security Suspects.
(2) See Chapter VI, Section A. (iii), p. 112 et seq.

In the second phase retribution was begun; a conference of National Offices was held; tribunals were constituted by the Allied Powers and trials were opened. Relations between the Commission and the prosecuting agencies were established and maintained. The end of this phase was marked by the judgment on the Major War Criminals at Nuremberg in October, 1946.

In the third phase, which extended to the latter part of 1947, the listing of accused persons by the Commission and the trials of war criminals by the Allied Powers attained an increased tempo; numerous problems of law, arising out of treaties and charges, were examined and reported on by the Commission, and relations with international organs were developed. The Commission's Law Reports began to appear.

Finally, during the latter part of 1947, and the spring of 1948, the Commission was also occupied in winding up its activities or transferring them to other bodies, and with the writing of its own history.

(i) PREPARATORY PHASE—OCTOBER, 1943 TO JANUARY, 1945

(1). *Preliminary Discussions*

During the first few months, discussions in the Commission turned frequently on the extent of its terms of reference, which were capable of being construed either in a restrictive or in a liberal sense. Thus, the Czechoslovak representative contended that the Commission should regard itself as " authorised to deal with all problems connected with the punishment of war criminals in the widest sense of the word, in accordance with Allied Declarations "[1] This principle was also supported by the Chairman, Sir Cecil Hurst, who considered that, in advising Governments on the problems which arise in regard to war crimes, the Commission should not fear objections on the ground that it was exceeding its competence.[2]

On the other hand, it must be borne in mind that the policy of retribution, of which the Commission was the expression, had not met with universal approval in official or in lay circles. To certain publicists the punishment of war criminals appeared to be a one-sided and vindictive measure; moreover, some had doubts as to its legality, while others feared that it might lead to a repetition of the fiasco of the Leipzig trials in 1922-23.

With the early abandonment of the proposal to establish a separate Technical Committee, the Commission itself assumed the functions intended for that body, so that its activities developed under three main heads—investigation, enforcement and legal opinions. Committees I, II and III, respectively, were appointed to pursue these aspects of the Commission's work.[3]

Committee I was the first to get into operation, but the flow of charges from the National Offices was at first disquietingly slow, and throughout

(1) C. 76., 8.2.45. *Memorandum on the present position of the UNWCC, the work already done and its future task*—presented by Dr. Écer.
(2) M. 8. Minutes of Commission Meeting of 8th February, 1944.
(3) The detailed history of these activities, as dealt with by these Committees is to be found in Chapters VIII to XV.

the year 1944 members of the Commission were concerned with the means for speeding up the listing of war criminals before the termination of hostilities. In the spring of 1945 this situation was beginning to improve, though it still gave grounds for anxiety. A more important problem facing the Commission was that of the Major War Criminals, since it seemed illogical to accept charges against the lesser criminals, while the leading Nazis, in whom the crimes had originated, had not yet been indicted. As a result of these discussions the Commission decided, in the autumn of 1944, to include the names of the Major War Criminals in the first List. In October, 1944, it adopted recommendations for the establishment of a United Nations War Crimes Court for the trial of such persons, and of those charged with crimes outside the competence of the national tribunals. During the discussions on the formation of such an international court it had become apparent that some other inter-allied tribunals should be established during the period of military occupation, for the immediate trial of war criminals; accordingly the Commission drew up, in September, 1944, a recommendation for the establishment, by Supreme Military Commanders, of Mixed Military Tribunals for that purpose.

(2) *Crimes against Humanity*

Another question, which arose early in the Commission's discussions, was whether the competence of the Commission covered the investigations of crimes committed by the Nazis against Jews and stateless persons in Germany—offences which were subsequently defined in the Charter of the Nuremberg Court as crimes against humanity. The British Government, which was approached in June, 1944, took the view that the Commission should not undertake this additional work, though it might collect evidence on the policy of extermination carried out in the occupied territories.

(3) *The Crime of Aggression*

Important discussions were held in the Commission in the autumn of 1944 concerning the crime of aggressive war. In a preliminary report, prepared for Committee III, with academic assistance, it was maintained that the waging of aggressive war could not, in the existing state of the law, be regarded as a war crime. A report in the opposite sense, presented by the Czechoslovak representative, and supported by a strong minority of the Commission, resulted, after debate, in general agreement that the waging of aggressive war constituted a war crime. This view was finally vindicated in the indictment of the Major War Criminals which included the planning of aggressive war among its charges under Count II.

(4) *Detention of Leading officials*

The efforts of the Commission to expedite the listing of war criminals had a necessary counterpart in measures designed to facilitate their tracing and apprehension. A recommendation was made in May, 1944, that all persons who had held responsible positions in the civil or military administration of the occupied countries, or in the military or police organisations, should be available immediately after the Armistice for interrogation. For this purpose National Offices were asked to supply the names of all

enemy persons exercising authority in the occupied territories in their respective countries. A recommendation was also made in May, 1944, that the military authorities should, at the time of the Armistice, detain all members of the S.S. or the Gestapo, above a certain rank, so that these persons and the organisations of which they were members, could be adequately investigated.

(5) *Central Investigating Agency*

A project was considered, in November, 1944, for the creation of an "Investigating Branch" of the Commission, under a Central Investigating Officer, having its headquarters in London and local headquarters in some of the ex-occupied countries, for the collection of evidence. However, this recommendation was never carried out, owing in part to the smallness of the Commission's own staff, and also to doubts as to whether such a scheme might be regarded as an encroachment on national sovereignty.

(6) *Interrogation of Prisoners of War*

During the winter of 1944-45 increasing numbers of German prisoners were being captured and sent to camps in the Allied countries without being first questioned concerning war crimes. To remedy this deficiency, the Commission, after consultations with Allied military authorities, adopted a recommendation proposing a form of interrogation which could be used to secure evidence of this nature, and to ascertain which men were likely, by their membership of particular bodies, to have been guilty of war crimes. The Commission also recommended that prisoners of war should not be released until they had been so interrogated, or until inquiries into incidents in which they had been involved had been completed.

(7) *Transfer Convention*

In August, 1944, the Commission approved a draft convention intended to facilitate the transfer of a war criminal from one Allied nation to another. This project was not, however, approved by the British Government which considered that it already possessed adequate means of a more informal kind and the proposal was not carried further.

(ii) THE BEGINNING OF RETRIBUTIVE ACTION—FEBRUARY 1945 TO JUNE, 1946

(1) *Debate in the House of Lords, 20th March, 1945*

The second phase of the Commission's work may be said to have opened in the spring of 1945. It was marked by a debate in the House of Lords on 20th March, 1945, when the question of the progress of the Commission was raised by Lord Addison. Fear was expressed by some speakers that if the war came to an end the Allies would be found still unprepared in the matter of war crimes. Lord Wright, who had been elected Chairman of the Commission about six weeks previously, explained to the House that the Commission was limited not only by the obligation of secrecy—which was necessary to avoid reprisals—but also for practical reasons, because its sphere of operations was restricted. He outlined briefly the "articulated scheme" by which evidence was collected by Governments, charges were prepared and cases submitted to the Commission, which

selected those in which a *prima facie* case had been made out, placed the names on its Lists and sent them to the military authorities for apprehension of the accused. In regard to the method by which the Major War Criminals were to be punished, he observed that this question was outside the scope of the Commission, though he was able to state that their names had been placed on the Commission's Lists.

(2) *Action by Committee I*

During this stage, Committee I continued to develop its procedure. In addition to listing persons as " accused ", it introduced Lists of " suspects " and " witnesses "; with the authorisation of the Commission, it issued certificates, stating that a given individual had been listed as a war criminal, to any Allied Government which was endeavouring to obtain his surrender from a neutral Government. It also decided, in March, 1945, that, in cases where no National Office was in a position to bring a charge, or where the Commission was in possession of specific information, the Commission itself might bring charges before the Committee. The Commission also issued, in May, 1945, two Lists of " key men ", regarded as participants in terrorism, in the hope that the National Offices would be encouraged to file charges against them. It was indicated that the detaining authorities were to apply to the Commission for instruction before releasing these persons or otherwise disposing of them. Committee I also proposed and organised a conference of the representatives of National Offices, which met in London on 31st May, 1st and 2nd June, 1945, and concerning which details are given later in this Chapter.

(3) *C.R.O.W.C.A.S.S.*

An organisation known as the Central Registry of War Criminals and Security Suspects (C.R.O.W.C.A.S.S.) had been created in Paris in the spring of 1945, under the British and American armies, and it was hoped that co-operation could be developed between it and the War Crimes Commission, in connection with the centralisation of information about war criminals. Its usefulness to the Commission was restricted by the fact that, at first, it was compelled to devote its chief effort to the registration of prisoners of war. Visits were paid to C.R.O.W.C.A.S.S. by the Chairman and members of the Commission—in particular by the Chairman of Committee I—and representatives of C.R.O.W.C.A.S.S. attended Commission meetings. In June, 1946, after C.R.O.W.C.A.S.S. had been moved from Paris to Berlin, its duties were modified, largely as a result of the Commission's representations, and it was able to devote the major part of its attention to the locating of war criminals.

(4) *Liaison with S.H.A.E.F.*

During this period Committee II—the Committee on Enforcement—was concerned at the want of effective co-ordination with S.H.A.E.F., the need of which was increasingly felt when the Allies were advancing into German territory. A proposal was made in May, 1945, for the setting up of a War Crimes agency at S.H.A.E.F. headquarters. The project, in the form submitted, was not implemented, but contact with S.H.A.E.F. was provided by the attendance of a representative of that body at meetings

of the Commission. In the absence of a War Crimes agency at S.H.A.E.F., many of the National Offices were represented by liaison teams attached to the Allied commands in the respective zones of occupation. At its meeting on 29th August, 1945, the Commission received a report from the Czechoslovak representative concerning the activities of the French, Belgian, Polish, Yugoslav, Norwegian and Czechoslovak liaison teams in the American zone, and after his tour in January-February, 1946, the Secretary General reported to the Commission on the activities of the liaison teams in the British zone. Recommendations were also made in May and June 1945, for the establishment of agencies for the collection of evidence in Italy and in the Far East, but these proposals never materialised, since other arrangements concerning war crimes had been made in the meanwhile by the authorities on the spot.

(5) *Problems of Extradition*

On several occasions complaints were made to the Commission by the representatives of member States, relating to the difficulty of obtaining the surrender of wanted persons from the detaining authorities in Germany. In September, 1945, the United States representative was able to inform the Commission that, subject to certain limitations, United States Commanding Generals had been authorised to comply with requests for the surrender of war criminals. It was also stated that the United States State and War Departments attached great weight to the placing of a war criminal's name on the Commission's Lists.

As mentioned above, the draft convention for the extradition of war criminals, adopted by the Commission in July, 1944, had failed to secure the approval of the British Government. The problem of extradition continued, however, to present difficulties and in July, 1945, the Commission adopted a proposal providing that when a war criminal was wanted by several nations, the Commission should decide, as arbitrator, the order in which the accused should be tried by the nations concerned, or should delegate the task to some other body. This recommendation was approved by some of the member Governments, but it was not, in fact, ever implemented.

(6) *Control Council Law No.* 10

On 24th January, 1946, the Control Council issued its Law No. 10, which related to the treatment of war criminals in Germany. Under this Law the final arbiter in deciding whether or not a person should be surrendered for trial to another Government, or another zone of occupation, was declared to be the zone Commander. No mention of the Commission's Lists was made in the Law. This omission was no doubt inevitable, since Russia was not a member of the Commission, but one result of it was that certain Liaison Officers in the British zone believed that they could obtain the surrender of prisoners of war without reference to the Commission's Lists. In February, 1946, the Commission discussed the matter, and, as a result, the practice was established in the British—as in the American and French zones—that persons wanted as war criminals would normally be handed over only if they had been listed by the Commission.

(7) *The International Military Tribunals*

It was during this period of the Commission's work that Justice Jackson and his colleagues, in conjunction with the British Attorney General and the appropriate French and Russian authorities, drew up the Charter of the International Military Tribunal which was embodied in the London Agreement of 8th August, 1945. The trial of the twenty-one[1] Major War Criminals opened at Nuremberg on 20th November, 1945, and continued until the judgment was delivered on 1st October, 1946.

In the Far East the International Military Tribunal, on which eleven nations were represented, was established by virtue of a proclamation of General MacArthur dated 19th January, 1946. Twenty-six defendants were arraigned on 3rd May of that year, charged with the crime of planning a war of aggression, violations of international law and crimes against peace and humanity. The trial opened at Tokyo on 3rd June, 1946.

Data in regard to other important trials held in Europe and the Far East are given in Appendix V.

(8) *The Far Eastern and Pacific Sub-Committee*

In August, 1945, the *ad hoc* Far Eastern and Pacific Sub-Committee of the Commission which had been instrumental in forming the Far Eastern Sub-Commission at Nanking, was reconstituted, with representatives of the U.S.A., Australia, Canada, China, France, the United Kingdom, India, the Netherlands and New Zealand. On 29th August, 1945, the Chinese Ambassador, as Chairman of this Sub-Committee, submitted recommendations to the Commission for the formation of an International Military Tribunal for the trial of the Japanese responsible for criminal policies; the establishment of a Central War Crimes Agency in Japan, to collect evidence and to register war criminals and of a War Crimes Prosecuting Office; and the making of arrangements for the surrender of war criminals to the countries that had charged them. These recommendations were approved by the Commission.

(9) *Committee III*

During this time Committee III had been considering various questions referred to it for advice on legal points by the Commission or by Committee I. Such, for instance, as the implications of the legal principles contained in the Charters of the International Military Tribunals and the Indictments of the Major War Criminals.

(10) *The War Crimes Exhibition*

The French Government having generously offered to send to England their War Crimes Exhibition—which had been exhibited with great success in Paris—the Commission decided in June, 1945, to sponsor it and to lend the services of the Public Relations Officer to organise it. The Exhibition was opened on 6th December, 1945, in the Prince's Galleries, Piccadilly, by Monsieur Tietgen, the French Minister of Justice, and Lord Wright.

(1) These included Martin Bormann tried *in absentia* and Dr. Ley who committed suicide.

War Crimes films were displayed in an adjoining hall four times a day, Sundays included. The Exhibition had a good reception from the Press and was so well attended—over 100,000 visitors—that it was decided to show it for an additional fortnight. Admission was free but collection boxes were put about and yielded £300 which was handed to U.N.R.R.A.

(iii) RETRIBUTIVE ACTION CONTINUED—JULY, 1946, TO JULY, 1947

(1) *Committee I*

During the spring of 1947 demands began to be heard, particularly in Great Britain, for the cessation of war crimes trials, having in view the time which had elapsed since the capitulation of Germany. Appeals were made in the British Press and in Parliament for the release or respite of certain notable German war criminals, and doubts were sometimes expressed as to the justice of the procedure under which they were tried or detained in custody.

These matters were discussed by the Commission on 24th April, 1947, when the United Kingdom representative suggested that the work of Committee I might be brought to an end on 30th May, 1947, and that the activities of the Commission as a whole might terminate at the end of that year. On the other hand, the Belgian representative, Chairman of Committee I, pointed out that charges were still coming in steadily; that, in the countries which had been occupied, priority had unavoidably been given to the prosecution of quislings; and that the preparation of charges against Germans had consequently been delayed, though trials were about to begin. The Commission reached the conclusion that it was preferable that no time limit should then be fixed, but that the whole question should be re-examined in November, 1947.

During this period the number of charges received by Committee I was increasing in volume. Information given to the Commission on 24th April, 1947, showed that the number of persons listed in the first three and a half months of 1947 had increased 50 per cent. over a similar period in 1946, and 75 per cent. over a similar period in 1945. In June, 1946, the Commission approved the principle that, in certain cases, the names of accused men might be added retrospectively to the Lists, even after they had been tried and convicted by an Allied court. Another change in procedure came about on 31st July, 1946, when it was decided that in future the names in each List were to be arranged in alphabetical order throughout, instead of in alphabetical order of countries as heretofore. The Committee also decided to tighten up its procedure with regard to the listing of " suspects ", so as not to overburden the Lists. In December, 1946, it was decided, that, in order to obtain a wider circulation of the Commission's Lists, they should no longer be marked " Secret ", as had been done in the beginning for fear of reprisals. During this time protests were occasionally received from the friends or legal advisers of persons listed by the Commission and in each case the Commission examined the particulars in detail and made appropriate decisions.

(2) *Priority Lists*

By 6th March, 1947, about 20,000 persons had been listed by the Com-

mission. It was recognised that it was impossible for the Occupying Authorities to take effective action with regard to the apprehension of all these individuals and the Commission decided to institute " Priority " Lists of persons who had committed really heinous crimes, and whose apprehension was a matter of urgency. Two such " Priority " Lists were issued, but it was found that they had no effective result and the practice was accordingly abandoned.

(3) *Apprehension and Extradition*

In June, 1946, the question of the apprehension of accused persons was raised by the Belgian representative, who observed that the number of persons apprehended was absurdly small compared with the number of persons listed. He suggested that the competence of the Commission should be extended to cover the administrative function of tracing, and surrendering to the respective Governments, persons listed by the Commission. After discussion the project was considered to be impracticable, but the Commission was informed that the occupying authorities were willing to assist national liaison teams in apprehending war criminals in their respective zones.

In May, 1947, the Yugoslav representative protested that for some months the Yugoslav authorities had failed to obtain from the American zone the extradition of persons listed by the Commission. The question was examined at length and it was pointed out that each Occupying Authority reserved the right to inquire into each case and make its own decisions as to whether or not a transfer was to be made.

(4) *Provisions of the Draft Peace Treaties*

In September, 1946, the Commission considered draft provisions concerning war criminals to be inserted in the Peace Treaties with the " satellite " countries, which were to be negotiated in Paris in the autumn of 1946. The Commission, acting in its capacity as an advisory body, put forward draft proposals relating to these provisions, but they reached Paris too late to be given adequate consideration by the peace negotiators.

(5) " *Subsequent Proceedings* " *of the Nuremberg Judgment*

This period was marked by the delivery of judgment on the Nazi Major War Criminals, at the end of September, 1946, by the Nuremberg Tribunal, with the result that twelve of the defendants were sentenced to death, six to imprisonment and two others acquitted (one defendant, Ley, had committed suicide during the trial). Parts of the judgment entailed, as a necessary consequence, the institution of further prosecutions. To carry out these trials the " Subsequent Proceedings Committee " under General Telford Taylor was instituted at Nuremberg by the United States authorities. The attorneys responsible for preparing the trials were in constant touch with the United Nations War Crimes Commission which provided them with valuable information and documents.

Certain groups, such as the Leadership Corps, the Gestapo, the S.D. and the S.S. had been declared to be criminal organisations. With regard to the prosecution of the members of these bodies, a proposa l

was put forward by the French Minister of Justice and the French National Office[1] that there should be a convention for the standardisation of the procedure, the penalties to be imposed and the burden of the proof, in the trials of such persons throughout the occupation zones of Germany and in the Allied countries. The matter was discussed by the Commission in December, 1946, and January, 1947, but since other Governments were not favourable to the idea and as, moreover, it was outside the scope of the Commission, the proposal was withdrawn.

(6) *International Military Tribunal in Tokyo*

During this period the trial of the Japanese Major War Criminals in Tokyo was continuing. Owing to the difficulties of translation and the difference between Japanese law and the law of the eleven United Nations concerned, this trial progressed much more slowly than the proceedings at Nuremberg, where only four nations were represented on the Tribunal.

(7) *Medical Crimes*

A request had been received in July, 1946, from the Danish General Medical Association, that the Commission should carry out a survey of the medical crimes committed by the Germans. The Commission was, at first, disposed to accede to this request; however, it was ascertained that the French Government had, in June, 1946, proposed the creation of a " Committee of Investigation on Scientific War Crimes " in Paris, which was to work in conjunction with the British and American experts in investigating the use of unwilling human subjects by the Germans for medical experiments. On 27th September, 1946, the Chairman informed the Commission that he had recommended to the Prime Minister the appointment of Lord Moran as Chairman of the British element of the international committee which was to deliberate in Paris. Moreover, the trial of the " twenty three doctors and scientists " (Case No. 1) was in preparation by the " Subsequent Proceedings Committee " at Nuremberg, and was expected to produce valuable evidence. In these circumstances the Commission abandoned for the time being the idea of carrying out such an investigation itself.

(8) *Trials before German Courts*

In the autumn of 1946 there was considerable discussion concerning a trial, held in the British zone of Germany before a German court, of Germans who had been listed by the Commission for ill-treatment of Allied nationals. In the trial the charges mostly concerned the ill-treatment of Germans by the defendants, but since Belgian nationals had been among the victims it was agreed, after consultation between the members of the Commission and the appropriate British Control Commission authorities, that the defendants should be surrendered to Belgium for a further trial in that country.

(1) A. 30., 10.12.45. *Questions which the French Representatives wish to discuss with the UNWCC in London.*

(9) *History of the Commission and Law Reports*

As early as October, 1945, the French representative had emphasized the importance of preparing a record of the Commission's proceedings. Tentative schemes were put forward at different times during 1945-46, but it was not until December, 1946, that the Commission decided to form a committee for the purpose. By March, 1947, a plan for the arrangement of material had been approved by the Commission.

In October, 1945, the Commission had authorised the preparation of reports of war crimes trials, but it was not until October, 1946, that the Legal Publications Committee was created to supervise the preparation of these Law Reports. The first volume appeared in 1947.

(iv) THE CONCLUDING PHASE—JULY, 1947, to MARCH, 1948

(1) *Arrangements for Winding up the Commission*

As mentioned in section (iii) above, this question had been suspended for six months in April, 1947. When it was again examined in October, 1947, the Chairman observed that there was a feeling in some countries that the Commission ought not to continue indefinitely. The closing of the Commission would not, however, imply that individual States could not, in their own countries, arrest and punish persons whom they had charged as war criminals. The fact was that, largely owing to the Commission's efforts, the laws concerning war crimes had now become standardized. The Chairman suggested 31st March, 1948, as an ultimate date, which proposal was finally approved.

(2) *Committee I*

In view of the decision to wind up the Commission on 31st March, 1948, the closing date for examination of cases by Committee I was fixed for the end of February, 1948. As a result, during the last months of the Commission's life, charges poured in at an increasing rate, the numbers rising to as many as one hundred and twenty per week.

During this period further requests were received from various sources for the removal of names from the List, and, as before, each case was given due consideration. In some cases, the Occupying Authorities in Germany also notified the Commission that, although the persons concerned had been listed by the Commission, the evidence submitted by the requesting Governments was not adequate to justify surrender, and that applications for extradition in such cases had been rejected.

(3) *Ethiopian charges*

As early as March, 1946, the Ethiopian Legation had asked if its Government might submit charges against Italians for war crimes committed during the Italo-Ethiopian war of 1935-36, but the Commission had then decided that its competence did not extend to war crimes committed in that war. Following a debate in the House of Commons on 10th July, 1946, the Commission had re-examined the question and accepted the report of Committee III in which it was stated that the participating Governments did not appear to have wished the Commission to deal with

war crimes committed in any other than the present war. However, the matter was raised again by the Ethiopian Minister on 1st May, 1947, when he asked permission to submit charges in respect of alleged war crimes committed in 1935-36 by the Italian ex-Marshals Badoglio and Graziani. The matter was discussed by the Commission during the autumn of 1947 and, in view of the statement made by the Ethiopian Advocate General that the charges would be limited in number and that the accused, if surrendered, would be tried by a court which would include European judges, the Commission agreed to entertain the charges, which reached Committee I in time for examination at its last meeting in February, 1948.

(4) *Requests from the Albanian Government*

An application for assistance in the matter of war criminals was received from the People's Republican Government of Albania. On 29th October, 1947, it requested the surrender of some hundreds of listed persons; one list contained the names of 170 alleged quislings and traitors; in the other two lists there were 63 Germans and 105 Italians named. The Commission declared that, not only was Albania not a member of the United Nations, but that the request was misconceived as the Commission had no competence to order the surrender of persons, particularly of quislings and traitors. The matter was again raised on 25th February, 1948, when the Albanian Government requested that its charges against the Germans and Italians named on the list should be investigated by the Commission. In the debate that followed, the British representative, speaking as Chairman of Committee I, pointed out that in view of the closing of the Commission it was, in any case, too late to examine new charges. On a vote being taken it was decided, by a majority, to reject the Albanian request.

(5) *Inquiries from the Italian Government*

On 24th September, 1947, the Chairman of Committee I reported that the Italian Government had asked whether it could, in future, apply direct to the Commission for information concerning Italians charged with war crimes, whose extradition was requested. The reply having been given in the affirmative, several requests were received from the Italian Government concerning Yugoslav, French and Greek demands for extradition.

(6) *Extradition*

The subject of extradition was also raised in the Commission by various national representatives; for instance, on 16th January, 1947, by the Yugoslav representative, and again, in June, 1947, when the Polish representative raised the matter in Committee I. The matter was again raised in Committee I by the Polish and Yugoslav representatives, in December, 1947, and on 7th January, 1948, the Commission considered a memorandum on the same subject presented by the Polish representative. It was, however, pointed out by the Chairman that the Commission had never claimed that its lists were a complete authority for extradition, and that the final

decision in matters of surrender rested with the zone commanders. This principle was approved by the Commission by a majority vote.

(7) *History and Law Reports*

During this period the production of the Law Reports was continuing. By 31st March, 1948, when the Commission closed, 4 volumes had already been published and 2 others were in preparation. It was decided that the sum of £6,600 of the Commission's funds remaining after the winding up of the main body should be used for the employment of a skeleton staff for a further eleven months to compile a total of 20 volumes which would comprise 122 cases, and to finance their publication.

During the closing months of the Commission the members of the Legal and Research staffs had been engaged in compiling the History of the Commission which was to cover not only the actual work of the Commission, but to give the background of developments in the conception of war crimes prior to its formation in 1943, and also to show how the Commission's recommendations and decisions fitted into the developments in war crimes jurisprudence during the post war period.

(v) CONCLUSION

The Governments participating in the Inter-Allied Declaration of January 13th, 1942, had placed among their principle war aims: " The punishment through the channel of organised justice of those guilty or responsible for these crimes." With this statement must be coupled Mr. Churchill's declaration on 25th October, 1941, that " retribution for these crimes will henceforward take its place among the major purposes of the war." In making these pledges the Allies had, in fact, committed themselves to the creation of an international organisation—the United Nations War Crimes Commission—which would implement their decision.

The course of events, no doubt, shaped the action of the Commission on lines rather different from what had been contemplated at its origin. Its composition, which was mainly legal or diplomatic, was not well adapted for the undertaking of administrative or executive tasks, and these duties devolved naturally on the authorities which exercised direct power in the ex-enemy countries—that is, on the Commanders-in-Chief in the Western zones.

The influence of the Commission came, therefore, to be exercised indirectly, as a counsellor of the governments, as an impulse to their action, and as a forum for international discussion. In one sphere, however—that of investigating charges—the Commission's duties underwent little modification. During the four and a half years of its existence it examined 8,178 charges, involving over 36,000 persons and issued 80 Lists of war criminals. When one compares these totals with those of the trials and convictions they may seem disproportionately small. Swifter progress could not, however, be achieved consistently with the principle of fair trial according to civilized standards.

In this connection a debate may be recalled which took place in the House of Lords on 15th October, 1946. Lord Pakenham, Minister for

German Affairs, had told the House that, up to date, the British Military Courts had tried 495 persons; cases were in preparation against 3,913 others, but only 1,000 of the latter were actually in custody. Lord Maugham, who spoke in the same debate, would have wished the trials to be ended in two years, but he feared that, at this rate, they might go on for five years; however—as he admitted—" one cannot hurry a man who wishes to call witnesses or graduate the speeches of defence counsel." Lord Maugham gave his opinion that the system of trials evolved in Germany was admirable and " will be absolutely just as far as human justice can be just."

It may be recalled in this connection that Lord Wright, in his speech in the House of Lords on 20th March, had indicated that if ten per cent. of the war criminals were tried, this would be a satisfactory result. Even if many of the guilty escaped punishment, enough was accomplished to establish the fact that the authors of atrocities, of whatever rank, could not divest themselves of responsibility by simply declaring that they had acted under orders.

In the words of the United States judge, Michael Musmanno, in his concurring opinion[1] in the judgment on ex-Marshal Milch on 16th April, 1947:

> " The purpose of these post-war trials obviously is not vengenace. The object aimed at (as in the criminal jurisprudence of all civilised nations) is the truth. When guilt is established the penalty imposed is to serve as a deterrent to all others who might be similarly minded. Albert Speer, convicted in the first trial[2] stated here in this court room that had trials such as these followed the first World War the second World War might have been averted."

C. WAR CRIMES IN THE FAR EAST

(i) THE FAR EASTERN AND PACIFIC SUB-COMMISSION

As has been related earlier[3] the Commission had, at its outset, adopted a proposal by the Government of China for the establishment of a Far Eastern Sub-Commission at Chungking to receive cases arising out of the Far Eastern war, especially war crimes committed by the Japanese against the Chinese. This Sub-Commission held its inaugural meeting on 29th November, 1944.

On 6th June, 1945, the main Commission decided to ask the Chungking Sub-Commission for a progress report showing the number of cases dealt with and the names listed to date. This report, dated 15th February, 1946, showed that the Sub-Commission had held twenty-one meetings and had issued nine Lists, containing 1,111 names; a tenth List, with 88 names, was being printed; up to 10th February, 1946, 111, Japanese war criminals listed by the Sub-Commission, had been arrested, and orders

(1) Page 86 of the transcript.
(2) Albert Speer, ex-armament minister, was tried by the International Military Tribunal at Nuremberg as a major war criminal, and was sentenced on 1st October, 1946, to twenty years' imprisonment.
(3) See Chapter VI, Section E. p. 129.

for the establishment of tribunals in Nanking, Wu-Han, Peiping and Shanghai had been issued.(1)

Writing on 26th January, 1946, a prosecuting officer of the United States War Crimes Branch spoke of the " invaluable aid and co-operation " which his Branch had received from the Chinese authorities, who were making excellent use of the Sub-Commission's List of war criminals. He described the listing of war criminals in the manner in which it had been done by the Sub-Commission as " one of the most valuable aids that could be devised for the apprehension of war criminals."

The Sub-Commission found that its work was drawing to a close by the end of 1946 and at a meeting of the main Commission on 29th January, 1947, the Chinese representative said that his Embassy had been asked to ascertain the Commission's views as to the means whereby the Sub-Commission might be wound up, having in view the decreasing number of charges. The Commission agreed that they should accede to the Sub-Commission's desire to terminate its action, it being understood that the files, transcripts and records, together with a Progress Report, would be transferred to the custody of the Commission. It was also observed that the Far Eastern Sub-Commission had been run on very economical lines.

The Commission was notified on 12th March, 1947 of a formal resolution(2) dated 4th March, 1947, in which the Sub-Commission declared that it had now completed its task, and recommended that its work be brought to an end on 31st March, 1947, subject to the above-mentioned requirement. The Commission unanimously approved this declaration.

The Progress Report(3) was forwarded in due course and contained the following brief survey of the very considerable work accomplished by the Commission.

From the outset the Far Eastern Sub-Commission had realised that its main task would consist of classifying the charges brought to their notice by the Chinese National Office. At its third meeting it arrived at the following classification :

A-1, cases against named individuals where evidence is sufficiently complete to charge them as actual perpetrators of war crimes.

A-2, cases against named military or civilian personnel where evidence is sufficiently complete to charge them as having been concerned in the commission of war crimes, either by having encouraged them, condoned them or in any way shown their responsibility for them.

(1) Data given in the UNWCC Statistical Progress Report (I/65 of 24.6.46) under the heading Chungking Sub-Commission's List showed that, up to April, 1946, 1,196 war criminals and material witnesses had been listed besides 130 war criminals holding key positions.

(2) C. 251., 10.3.47. *Dissolution of the Far Eastern and Pacific Sub-Commission—Resolution adopted by the Sub-Commission on 4th March*, 1947.

(3) Misc. 109., 17.9.47. *Final Report of the Far Eastern and Pacific Sub-Commission of the United Nations War Crimes Commission.*

B, cases not falling under A-1 or A-2, but where there is sufficient evidence to justify any named individual or military or civilian enemy person in authority being held for interrogation as a material witness after the cessation of hostilities.

C, cases where the evidence is insufficient to justify their classification under A or B.

This classification, which was used with modification throughout the Sub-Commission's work, differed from the one followed by the main Commission in London, which had not been available when the Sub-Commission first met. Altogether 1,234 charges were dealt with, involving the names of approximately 3,000 persons and/or units, of which 1,676 were classified A-1, 255 A-2, 341 B and 162 C.

At the time when the Sub-Commission was established, the Australian representative had raised the question of war crimes committed by the Japanese in China prior to the attack on Pearl harbour. " In the opinion of the Australian Government," he said, " events in China, prior to December, 1941, present a special case which should be made the subject of a special commission concerned with the China incident as a whole and operating separately from the United Nations Commission for the Investigation of War Crimes."(1) The question was referred to the main Commission in London which replied subsequently as follows: " Taking note of the statement made by the Australian representative on the Commission that the Australian Government would see no objection to the Sub-Commission's dealing with war crimes committed by the Japanese before December, 1941, and after, and considering the question in the light of its own practice, the Commission feels that the Sub-Commission should not limit its investigations to war crimes committed after a particular date, and that each case should be considered on its merits."(2)

At its 36th meeting on 7th January, 1947, the Sub-Commission considered that war crimes committed against Formosans at the time they were still Japanese subjects should not be dealt with by the Sub-Commission.

Altogether the Sub-Commission held 38 meetings, each of them was attended by representatives of America, Great Britain, China and the Netherlands.

According to figures submitted by the Far Eastern Sub-Commission in October, 1946, there were, at that time, about 160,000 complaints of Japanese atrocities in the hands of the Chinese War Crimes Authorities. Of these some 30,000 of a more serious nature had been used for charges; 70,000 of a less serious nature had been dealt with directly by the Chinese authorities. The remaining 60,000 were still under investigation.

(ii) FAR EASTERN CHARGES SUBMITTED TO THE MAIN COMMISSION

Charges concerning Japanese war crimes in the Far East were also presented direct to the main Commission—for instance, by the United States, Australia and India. Thus, at the meeting on 6th May, 1945,

(1) Misc. No. 109, page 3.
(2) Loc. cit. p. 3.

between the United Nations War Crimes Commission and members of the United States Congress Delegation, the Australian representative mentioned, as an example of co-operation between the Commission and the Allied authorities in the Far East, that Sir William Webb, Chief Justice of Queensland, after making investigations in New Guinea, had come to London in January of that year to submit charges to the Commission arising from his investigations; as a result, war criminals had been listed, and the Lists had since been issued to the British and United States Zone Commanders and legal officers in the Pacific.

On 13th February, 1946, Professor Bailey, representing the Australian Government, attended a meeting of the Commission and asked the latter 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. After a debate it was, however, decided to send the Australian List to the Allied Council in Tokyo, having regard to the fact that evidence relating to the charges which it contained was available in Tokyo but not in London.

D. RELATIONS WITH MILITARY, NATIONAL AND INTERNATIONAL BODIES AND WAR CRIMES PROCEEDINGS

(i) CONFERENCE OF NATIONAL OFFICES

In the spring of 1945, a great part of the occupied territories had been liberated, the capitulation of Germany was seen to be imminent, and it was evident that the Commission would soon be faced with new problems. The moment was therefore appropriate for the convening of a Conference of National Offices in London, in order to review the whole position and consider possible improvements in the operation of the system.

(1) *The Situation in the National Offices*

The representatives of the different countries had been asked in February, 1945, to answer a questionnaire, supplying information on the following main points:—the situation and organisation of the National Offices; the methods of contact employed, and the general procedure in carrying out investigations; the number of charges submitted to the main Commission in London, or to the Sub-Commission in Chungking. The answers to this questionnaire revealed a certain variety in the systems adopted.

In *Australia* there was a War Crimes Commissioner in the Department of External Affairs at Canberra, whose duty was to collect evidence of war crimes; about 300 cases had been investigated and 21 charges submitted to the Commission. In *Belgium* the National Office was at Brussels; a Commission of Inquiry had recently been set up for investigating war crimes; 18 charges had been submitted to the Commission. *Canada* had no National Office, but its duties were undertaken by a War Crimes Advisory Committee. In *China* there was a National Office at Chungking. In *Czechoslovakia*, which was still under enemy occupation, the Police Section of the Ministry of the Interior in London carried out the work of a National Office, obtaining its material largely from underground channels. The *French* Service for the Detection of War Crimes was in Paris, working in

conjunction with regional services throughout the country, and having liaison officers attached to the Allied armies. *India* had a National Office in the Defence Department at Delhi; charges concerning crimes against Indians in Europe passed through the British Foreign Office; in the East, S.E.A.C. reports received by the Indian Government, formed the basis of charges sent to the Chungking Sub-Commission. *Luxembourg* had a National Office situated in the Ministry of Justice in Luxembourg. A *Netherlands* National Commission had recently been appointed, but action was retarded owing to the greater part of the country being under enemy occupation. In *New Zealand* the work of the National Office was performed by the Department of External Affairs. *Norway*, being still under enemy occupation, had a National Office in London under the Norwegian Ministry of Justice, acting upon reports received by Norwegian authorities in England and Sweden. *Poland* also had a National Office in London, attached to the Ministry of the Interior, relying for information on military intelligence, the underground movement and statements made by escaped prisoners. The *United States* had a War Crimes Office, established under a Directive of 23rd January, 1944, in the Judge Advocate General's Office in Washington. It was now proposed to have mobile teams to carry out an aggressive investigation programme. In *Yugoslavia* there was a State Commission for Investigating War Crimes, having six federal and two provincial committees; investigations had so far been based chiefly on captured archives; 800 alien war criminals had been identified.

A list of the sixteen National Offices represented at the Conference, and the members of the Commission taking part in it, will be found in Appendix II.

(2) *The Agenda of the Conference*

The Agenda comprised the following six items:—

(1) General Survey of the present activity of the Commission and National Offices.

(2) Establishment and maintenance of a central recording office and pooling of information on war crimes.
   (a) Information actually available in the U.N.W.C.C.
   (b) Supply of information by the Commission to National Offices.
   (c) Supply of information by the National Offices to the U.N.W.C.C.

(3) Establishment of a uniform indexing system and use of uniform machine records.

(4) Exchange of views and consideration of the way in which persons accused of crimes against nationals of several United Nations should be dealt with.

(5) Co-operation between National Offices and the U.N.W.C.C. with a view to preparing evidence and charges against enemy key-men who have not yet been indicted by National Offices.

(6) Establishment of closer connections between the Commission and the National Offices and strengthening and assisting those Offices.

The Conference met on 31st May, 1945, in the Law Courts, where one of the King's Bench Court Rooms had been placed at its disposal. Lord Wright, Chairman of the Commission, presided not representing any of the National Offices.

The debate on the first day was devoted to a general survey, in the course of which data were furnished by the delegates regarding the organisation and functions of their respective National Offices; in addition to the particulars furnished in reply to the earlier questionnaire, the following points were made:

The British and French delegates emphasized the importance of expediting the trials and of pooling information collected by the National Offices; the Belgian delegate asked for more information as to the procedure by which war criminals would be handed over to the national courts; the Chinese delegate attributed the paucity of charges hitherto filed by his Government to fear of reprisals and to the smallness of the area hitherto liberated; the Yugoslav representative feared a repetition of 1919, when there were lists of war criminals and no trials, while the United States delegate said that his Government were interested in three categories of war criminals, namely, the major criminals, the authors of crimes against citizens of occupied countries, and the authors of crimes against prisoners of war in Germany.

(3) *Maintenance of a Uniform System of Recording and Pooling of Information*

The Conference next discussed the pooling of information and the establishment of a uniform system of indexing and recording. The United States representative on the Commission pointed out that if there were some means of pooling information, the " pattern " of war crimes would be more apparent, and the units concerned in systematic atrocities could be more easily identified. Descriptions were given of the systems of classification employed in the U.S. National Office and in C.R.O.W.C.A.S.S., but it was decided, after discussion, that these systems were too complex for general employment and that it was too late to introduce a uniform system of recording. However, it was considered that either C.R.O.W.C.A.S.S. would serve as a clearing office for information, or else that there should be an information sub-section of the Commission.

(4) *Extradition of War Criminals*

The question of the extradition of persons charged by more than one country was then discussed. Various opinions were expressed as to the country which should have priority: some held that it was the country in which the gravest crime had been committed; others, the country which provided the heaviest penalty for the offence; others again, the country which first claimed the surrender of the accused. The French representative pointed out that there would be three types of cases, according as the war criminal was situated: (a) in occupied enemy territory, when the occupying authority was likely to be the final arbiter; (b) in one of the Allied countries, when the National Offices concerned could reach agreement between themselves, and (c) in a neutral country, in which case it was desirable that demands for extradition should be supported by the united

body of the Allies. It was finally suggested by the Belgian representative on the U.N.W.C.C. that the Commission itself should be the final arbiter in disputed cases.

(5) *Lists of Key Men*

There had been some misunderstanding concerning Commission Lists Nos. 7 and 9 containing the names of prominent Germans who, though not indicted for any particular crimes, were named as being implicated in " systematic " terrorism, by which was meant the implementation of the general criminal policy of the Nazi regime. Whereas the Commission had issued these Lists to ensure that persons such as Gauleiters, Gestapo chiefs and high officials did not escape, the National Offices had assumed that no further action was necessary on their part. The original purpose of the Lists had, however, been largely anticipated by S.H.A.E.F., which had ordered the detention as " security suspects " of all individuals considered as a danger to the security of the Allied occupation forces. National Offices were asked to collect all possible evidence about these persons and to frame charges against them. A recommendation was also made that similar action should be taken in regard to Japanese Key Men.

(6) *Relations between the Commission and National Offices*

The Yugoslav representative on the Commission presented a memorandum on the subject of closer relation between the Commission and the National Offices—relations which had hitherto been confined chiefly to the submission of charges by the latter to the former. It was suggested that the Commission could collect evidence not available to National Offices, while the latter could act as intermediaries with the military authorities, since there appeared to be a lack of co-ordination between investigating units in occupied enemy territory. It was suggested that the relationship between the Commission and the National Offices needed clarifying in regard to the measures relating to the arrest and surrender of war criminals. Finally, regret was expressed at the serious obstacle caused by the absence of the Soviets. The Czechoslovak representative on the Commission also emphasized the assistance that could be rendered by the Commission to the National Offices, or by one of the National Offices to the others, in circulating reports of detailed investigations made into some matter of general interest, as for instance the Czechoslovak report on the German Standgerichte.

(7) *Tentative Proposals by National Offices*

In the light of the foregoing discussions, the National Offices, at an informal meeting, drew up a series of recommendations, in the form, not of resolutions, but merely of " *voeux* ". They suggested, for instance, that one or more central recording offices should be set up as a part of, or under the supervision of, the Commission, for centralising and pooling information; that accused persons (except those reserved for trial as major criminals) should be surrendered without delay to the Governments demanding them; that the Commission should be informed of such surrenders and that it should ensure that this procedure was carried out; that surrender of accused persons by the military authorities should be

confined to persons figuring in the Commission's Lists; and that when a surrender was demanded by more than one nation, the Commission should arbitrate between them, or else delegate that duty to another body. These " *voeux* " were, however, accompanied by reservations by a number of delegates who either differed on certain points or were compelled to abstain in the absence of instructions.

When the recommendations were presented at the last session of the Conference, the Chairman observed that his only function was to receive the document and pass it to the Commission, together with any reservations.

(ii) RELATIONS WITH THE U.S.S.R.

From the time the Lord Chancellor announced in the House of Lords, on 7th October, 1942, the proposed formation of a United Nations Commission for the Investigation of War Crimes, it was hoped that the Soviet Government would be a member of this body. In the course of communications with that Government, prior to the establishment of the Commission in October, 1943, Russia expressed her willingness to participate in the Commission's work, provided that the right to be represented were granted to the seven Soviet Republics on whose territory the war had actually been fought, namely, the Ukrainian, Byelo-Russian, Moldavian, Lithuanian, Latvian, Estonian and Karelo-Finnish Republics.

When the inaugural meeting of the Commission was held on 20th October, 1943, the Lord Chancellor stated that the Soviet Government had agreed, in principle, to the establishment of the Commission, but that one or two points of agreement were still outstanding.

As the work of the Commission proceeded, it became increasingly apparent that the participation of the Soviets was desirable, and the Czechoslovak representative was requested, in August, 1944, to inquire unofficially on what lines the Soviet Government was willing to participate in the Commission. After an interview with the Soviet Chargé d'Affaires on 4th October, 1944, the Czechoslovak representative reported that Soviet participation was still dependent on the representation of the seven Republics. However,[1] he had been assured that, so far as the interchange of information was concerned, all appropriate material would be furnished if the Commission asked for it.

When Lord Wright assumed office as Chairman of the Commission, in January, 1945, he expressed the view that close co-operation with the Russian Extraordinary State Commission was very desirable. He also emphasized this point in a debate in the House of Lords on 20th March, 1945, when Lord Simon, the former Lord Chancellor, put forward the same opinion.

In February, 1945, the Czechoslovak representative observed that the Commission had not yet considered the Soviets' offer of exchange of information, and he urged that a delegation from the Commission should be sent to Russia to establish contact with the Soviet State Commission on

(1) C. 76. 8.2.45. *Memorandum on the present position of the UNWCC, the work already done, and its future tasks.* Presented by Dr. Eéer.

War Crimes. This proposal was not adopted, but with regard to the transmission of information, the Commission did everything in its power to promote an interchange. Material which appeared likely to interest the Soviet war crimes authorities was communicated to them from time to time. In April, 1946, the Commission agreed to send a complete set of its Lists to the Soviet representative on the Allied Control Commission, and thereafter to transmit the Lists regularly. These steps did not, however, lead to reciprocal action.

The question of co-operation was raised again in April, 1945, by the Belgian representative,(1) who pointed out that collaboration with the Soviet War Crimes Commission would be of immense service in procuring a co-ordination of methods of apprehension, punishment, etc. During the Conference of National Offices in May/June, 1945, attention was drawn more than once to the " fundamental difficulty " caused by the absence of collaboration with the Soviets.

The matter was again discussed by the Commission in August, 1945, when a draft letter from the Chairman to each of the member Governments was adopted.(2) In this, the importance of the participation of the Soviets was urged, and Governments were asked to agree that the United Kingdom should invite them to join the Commission. Favourable answers having been received from all the members, the British Chargé d'Affaires in Moscow delivered the invitation in February, 1946, but the Soviet reply was that participation was dependent on the same conditions as before. When the Commission considered this reply, in May, 1946, a few members were in favour of accepting these conditions, but the majority considered that Soviet representation in the Commission should be on the same basis as in the United Nations, that is by the Soviet Government and the Governments of Byelo-Russia and Ukraine. As a compromise, it was decided that a delegation of the Commission, representing both the majority and minority views, should call on the Soviet Ambassador and present an oral reply expressing the majority and minority points of view. In the absence of the Ambassador, the resolution arrived at by the Commission was transmitted to Moscow, through the Foreign Office. The Soviet reply, which was received by the Commission in January, 1947, maintained, however, the same standpoint as before. In view of the definite character of this reply, no further attempt was made to obtain Soviet participation on the Commission.

(iii) RELATIONS WITH THE MILITARY AND CONTROL COMMISSION AUTHORITIES

As has already been mentioned, the suggestions made in 1945 for the establishment of a War Crimes Agency at S.H.A.E.F. Headquarters, did not materialise, but liaison between S.H.A.E.F. and the National Offices was maintained through liaison teams attached to the military commands, and contact as mentioned above between S.H.A.E.F. and the Commission was maintained by the attendance of a representative of S.H.A.E.F. at the Commission's meetings.

(1) C. 93. 23.4.45. *Memorandum on the question of the co-operation of the UNWCC with the Russian Extraordinary State Commission.*
(2) C. 142(1) 10.8.45. *Co-operation with the U.S.S.R.—Draft letter to the Governments of the United Nations represented on the Commission.*

In the British zone of occupation the trial of war criminals was undertaken by the Judge Advocate General's Department, in which the British National Office was incorporated after April, 1946. Effective liaison with this Department was secured by the attendance of its representative at meetings of the Commission. On various occasions, when the Chairman or the Secretary General visited Germany—for instance in October, 1945, January and September, 1946 and January/February, 1946/47—contacts were made with the war crimes branches and with the law officers concerned in prosecutions in the British zone.

Liaison with the occupation authorities in the American zone in Germany was maintained through the United States representative on the Commission. When the Chairman or members of the Commission visited the American zone they established personal contact with the Chief of Counsel and the judges of the " Subsequent Proceedings " tribunals at Nuremberg, and the members of the U.S. Theatre Judge Advocate General's staff.

From 1946 onwards, when any question affecting specific problems arose in the British zone in Germany, representatives of the appropriate branches of the Control Commission attended meetings of the Commission. For instance, in October, 1946, when the policy of entrusting German Courts with the trial of Germans accused of war crimes against Allied nationals was debated, the Chief of the Legal Division of the Control Commission for Germany (British Element) attended the meeting and gave explanations.

As regards the Control Authorities in other ex-enemy countries, relations were confined chiefly to the transmission of the Commission's Lists, and to occasional replies, on the Secretariat level, to requests for documentary material. For instance, in March, 1945, the Commission approved the despatch of its Lists of Bulgarian, Roumanian and Italian war criminals to the Control Commissions in Sofia, Bucharest and Rome; and in September of that year it authorised the despatch of a complete set of its Lists to the U.S. representative on the Control Commission at Budapest.

(iv) RELATIONS WITH THE UNITED NATIONS

The United Nations, from its inception, concerned itself with questions relating to war criminals. For instance, in a resolution of 13th February, 1946, the General Assembly, basing itself on the Hague Convention No. IV of 1907 (Laws and Usages of War on Land), and on the Charter of the International Military Tribunal, recommended that its members should take steps to arrest war criminals and—borrowing language from the Moscow Declaration of November, 1943—cause them to be sent back to the countries where their abominable deeds were done, in order that they be judged by the laws of those countries.

In another resolution, passed in February, 1946, the Assembly, after emphasising the distinction between genuine refugees and war criminals, deprecated any action likely to interfere with the surrender and punishment of war criminals.

In a report of January, 1947,(1) the Legal Officer of the Commission drew attention to the formation, by the Economic and Social Council in February, 1946, of a " Negotiation Committee " for ensuring co-operation between the United Nations and certain bodies known as " specialised agencies ". It was subsequently learned that the Commission was regarded by the United Nations as an " intergovernmental agency " and was thus placed on a special footing, so far as their inter-relationship was concerned. The Legal Officer also mentioned that the Legal Department of the United National was taking steps for the development and codification of international law.

In December, 1946, the Assembly directed the Committee on the Codification of International Law " to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the International Military Tribunal and in the judgment of the Tribunal ". This decision was noted by the Commission with much interest.

A resolution of 21st June, 1946, passed by the Economic and Social Council, set up a " Commission of Human Rights ", to collect and publish information concerning human rights " arising from the trials of war criminals, quislings and traitors, and in particular from the Nuremberg and Tokyo trials ". As the result, first of correspondence and then of a meeting between the Chairman and Secretary General of the Commission and the Secretary General of the United Nations, it was agreed that liaison between the two bodies should be maintained. In pursuance of this principle a selection of working papers and preparatory material relating to " human rights " and " crimes against humanity " was forwarded by the Legal Department of the Commission to the United Nations. Further conversations between members of the Human Rights Division and officials of the Commission took place in January and April, 1947, when it was agreed that the two organisations could usefully co-operate in regard to " human rights " and the codification of international law. In May, 1947, the Commission agreed to undertake the collection and publication of a report concerning human rights arising from war crimes trials.(2)

The Commission, at meetings in June, 1947, decided to limit the report, in the first instance, to the material at its disposal, that is, the trial of the Major War Criminals and other war crimes trials concerning which the Commission had received reports. At the end of November, 1947, the completed report, covering some 500 pages, with a foreword by the Chairman, was delivered to the Human Rights Commission, then in session at Geneva, which set up a special sub-committee to consider it.

Apart from these interchanges, information was supplied by the Commission in reply to occasional inquiries by the United Nations: for instance, in June, 1946, in regard to the alleged presence of Nazi war

(1) Misc. 66. 2.1.47. *Affirmation of the Principles of International Law embodied in the Charter of the International Military Tribunal by the United Nations Assembly* and Misc. 69. 17.1.47. *Recent activities of the United Nations bearing on the work of the UNWCC.*

(2) The Legal Officers concerned in this work were: MM. Litawski, Zivkovic, Mayr Harting and Brand. Sir Robert Craigie (U.K.) undertook to supervise the work.

criminals in Spain, and in regard to the list of countries which had adhered to the Four Power Agreement on 8th August, 1945.

(v) RELATIONS WITH THE INTERNATIONAL MILITARY TRIBUNALS AND THE SUBSEQUENT PROCEEDINGS COMMITTEE

Prior to the opening of the trial of the Major War Criminals at Nuremberg, the Commission was in close touch in London with the staffs of the Chief Prosecutors of the United States and Great Britain. As already mentioned, both Mr. Justice Jackson and Sir David Maxwell Fyfe—then British Attorney General—attended a meeting of the Commission in July, 1945, and subsequently, both before and during the trial, members of the prosecuting staffs came frequently to discuss matters with officials of the Secretariat. Similar visits were received from representatives of the French Prosecuting staff. These interchanges continued throughout the trial of the Major War Criminals, and, on several occasions, the Secretariat was able to supply the Prosecuting Committee with important documents and evidence which they required. Contact with the Far Eastern Tribunal was established by the Chairman's visit to Tokyo in April, 1946.

As has been mentioned, the " Subsequent Proceedings " Committee, under General Telford Taylor as U.S. Chief of Counsel, was placed under the U.S. Military Government of Germany for the prosecutions of " leaders of the European Axis Powers and their principal representatives " and " such members of groups and organisations declared criminal by the International Military Tribunal."

The relationship between the U.S. Theatre Judge Advocate and the Chief of Counsel had been defined as follows:

> " The Theatre Judge Advocate, as adviser to the Chief of Staff and the Commanding General, U.S. Forces European Theatre of Operations, is responsible for investigation and trial of war crimes involving ' violations of the laws of war to the prejudice of U.S. nationals, notably prisoners of war '; atrocities committed in concentration camps before seizure by United States armed forces; and other crimes assigned to the Theatre Judge Advocate for action by the Theatre Commander. The Chief of Counsel for War Crimes is responsible for prosecution of ' leaders of the European Axis Powers and their principal agents and accessaries ' and of ' such of the members of groups and organisations declared criminal by the International Military Tribunal as the Chief of Counsel for War Crimes may determine to prosecute '."

Six tribunals, capable of operating concurrently, were accordingly established at Nuremberg, in the United States zone, under Military Government Order No. 7, and it was found possible to begin trials at the end of 1946.

It was not the object of the prosecution to try all persons suspected of war crimes, but only those who, in each field of activity, bore the chief responsibility of war crimes.

The following were the cases undertaken by the U.S. " Subsequent Proceedings " Tribunals at Nuremberg:—

No. 1. 23 *Doctors and Scientists*: 9.12.46-19.8.47. Sentences: 7 death, 8 imprisonment, the rest acquitted.

No. 2. *ex-Air Marshal Milch*: 2.1.47-17.4.47. Sentence, life imprisonment.

No. 3. *Ministry of Justice officials*: 6.3.47-4.12.47 Sentences, 9 imprisonment.

No. 4. *Oswald Pohl and ex-officials of the Concentration Camp Administration* (" *WVHA* "). 10.3.47-3.11.47. Sentences, 4 death, 11 imprisonment.

No. 5. *Flick and a group of leading German Industrialists*: 19.4.47.-22.12.47. Sentences, 3 imprisonment.

No. 7. *The " Balkan Generals " or " Hostages " Case*: 15.7.47-19.2.48. Sentences, 8 imprisonment.

No. 8. *The " RKFDV " or " Kidnapping " Case*: 10.10.47-10.3.48. Sentences, 8 imprisonment.

The following cases are still *sub judice* at the time of going to press:

		Opening Date
No. 6.	The I.G. Farben trial	....28th August, 1947.
No. 9.	The Einsatzgruppen Case[1]	....15th September, 1947.
No. 10.	The Krupps' Directors Case	....8th December, 1947.
No. 11.	The " Wilhelmstrasse " Case	....6th January, 1948.
No. 12.	The " 13 Generals " Case	....6th February, 1948.

(vi) RELATIONS WITH THE PRESS

At the outset the Commission had worked in the strictest possible secrecy; no statements were issued; no photographs were allowed to be taken; the Commission's Lists of war criminals were " Secret ". This was necessitated by fear of reprisals against Allied prisoners-of-war in German hands. The policy had, however, certain disadvantages; for instance, allusions to the Commission's proceedings found their way into the Press, sometimes in a distorted form and gave rise to suspicion and misunderstandings. With the object of removing misconceptions the Chairman, Sir Cecil Hurst, held a Press Conference at the Law Courts on 30th August, 1944, but this did not entirely put an end to misleading reports in the British and American Press.

Proposals were made in August, 1944, and again in January, 1945, that a statement should be issued by the Commission to the Press to correct reports, which had appeared in some newspapers, that the work of the Commission was in danger. This step was, however, opposed by some of the participating Governments on the ground that the Commission was an advisory body and that publicity was undesirable. A proposal was then made that a statement should be issued by certain of the Governments, instead of by the Commission, but this was finally abandoned as, in the meanwhile, the Press campaign had died away.

(1) Judgment pronounced 10.4.48. Sentences 14 death, 7 imprisonment.

The uneasiness felt in many quarters and reflected in the more serious newspapers, is illustrated by the following extract from the Press of 15th January, 1945:

> "Opposition has been raised, it is understood, to the proposal of the United Nations War Crimes Commission, that Hitler, Mussolini and other Axis leaders, be tried by a Court convened by the United Nations.
>
> "It is understood that a letter was sent from the Foreign Office to the Commission, but its contents have not been disclosed. An Allied Government official, in close touch with the Commission, said he understood that British legal experts had found some objection in international law to the competency of the suggested Court to try Hitler, and had suggested alternative procedure. That, it is believed, might result in the trial of Hitler and other Axis principals not as criminals, but as political offenders. There was a general fear among the occupied countries that to treat Hitler in that way would mean that he would escape punishment."

At a Commission meeting held on 24th January, 1945, the Czechoslovak and Polish representatives urged that their respective Governments should be allowed to tell their people that Hitler had been placed on the List. The British War Office representative, however, maintained the view that the publication of specific names of war criminals might well lead to reprisals, so long as large numbers of Allied nationals were in the hands of the Germans. Lord Wright emphasized the same point in his speech in the House of Lords on 20th March, 1945.

The matter was again raised by the Czechoslovak representative in February, 1945, when he contrasted the policy of the Commission with that of the Soviet War Crimes Commission, which openly published the names of Germans whom it denounced as war criminals.

On assuming the Chairmanship, Lord Wright issued a statement to the Press, saying that his object, which was shared by all members of the Commission, was to carry out their duties so that justice, and not revenge, would be done to war criminals. The *Times* in publishing this statement, quoted the following resolution which had been adopted by the Commission:—

> "Reports have appeared in the Press suggesting that the success and even the continuation of the work of the United Nations War Crimes Commission are in danger. There is no question of this Commission's ceasing to discharge the task placed upon it by the Governments of the United Nations. On the contrary, its operations have been placed on a firmer basis by the liberation of Axis-occupied territory and the greatly increased opportunity of obtaining evidence."

In February, 1945, it was decided to form a Public Relations Committee, and in June, 1945, it was agreed to appoint a Public Relations Officer. This post continued until July, 1946, when it was abolished.

(vii) CRIMINAL LAW CONFERENCES IN BRUSSELS AND PARIS

At a meeting on 21st May, 1947, the Belgian representative conveyed to the Commission his Government's invitation for delegates of the Commission to attend, in July, the Conference of the "International Bureau for the Unification of Criminal Law", and the "International Commission for the Study of Crimes against International Law and Acts

Committed in the Interest of the Enemy."[1] It was agreed to reply, thanking the Belgian Government, but regretting that no staff could be spared; the Commission would, however, be glad to see the conclusions of the Conference when they were available, particularly as regards the subject of crimes against humanity, which was to be discussed

At the Commission's meeting of 18th June, 1947, the Chairman suggested that as the Polish representative was going to Brussels in July, he might act as the Commission's observer at these conferences, which he agreed to do, and forwarded to the Commission the conclusions of the Conferences on the subjects of interest to the Commission.

On 2nd February, 1946, the Yugoslav representative drew the attention of the Commission to a resolution adopted by the International Association of Democratic Lawyers, whose inaugural meeting he had attended in Paris, recommending that crimes against humanity should be regarded as a permanent part of the future of international penal law.

E. THE RESEARCH OFFICE

(i) THE WORK OF THE OFFICE

The work of the Research Office may be regarded as another aspect of the task of investigation. In a document[2], dated 25th April, 1944. the Chairman of Committee I had pointed out that the few charges presented by the National Offices up to that time related to persons and crimes of relatively small importance and that the superior German authorities, who originated the crimes, were not being indicted. In many cases dossiers had to be constituted on the basis of a single document which furnished proof in itself of the commission of a war crime: for instance, a decree providing the death penalty for acts of sabotage, or the execution of relatives of saboteurs, or a proclamation by a military commander threatening to execute hostages followed by publication of the names of those executed. It was, therefore, advised that research work on these lines should be undertaken.

The Commission approved this proposal and on 16th May, 1944, a Research Officer, Lieut.-Colonel H. Wade, was appointed " to collaborate actively with the National Offices in seeking certain kinds of information."

Researches undertaken on the lines indicated above confirmed the view that *prima facie* cases against German leading officials could often be established on the basis of a single decree or proclamation published in the German controlled Press in an occupied territory.[3] There was thus

(1) Docs. Misc. 90. 2.5.47. *Invitation to the Eighth International Conference for the Unification of Criminal Law* and Misc. 93, 16.5.47. *Permanent International Commission for the study of the punishment of crimes against International Law and of acts committed in the interests of the enemy.*

(2) C. 14. 25.4.4. *Proposal by the Chairman of Committee I regarding the future of the Committee.*

(3) As a typical example: A Belgian German-controlled newspaper had published on 19.9.41, and again on other dates, a proclamation signed by the Military Governor declaring that at least 5 hostages would be shot—and more in grave cases—for every German killed, in case of attacks upon German officers. That this threat was carried into effect was shown by a notice which appeared in the Belgian Press on 28.2.44 over the signature of the Brussels Oberfeldkommandant, announcing that, after an attack on a German detachment, 20 terrorists had been shot " in accordance with the warning issued by the Military Governor."

material at the disposal of the National Office either for formulating a *prima facie* case against the author of the decree or as a basis for further investigations.

A notice in a newspaper paragraph would not normally be regarded as satisfactory evidence. But, in the circumstances of the German occupation of conquered territories, it would have been impossible for such notices to be printed in the local Press, except by German direction.

Information obtained in this way was embodied in reports, subsequently called Summaries of Information, which were circulated to those entitled to receive the Commission's documents. The principle observed in compiling these Summaries was to trace some of the most notorious forms of war crimes up to their source. First, it would be shown from the documentary evidence that a given war crime was systematised; next, it was ascertained, from German official documents, what German authorities directed the organisations under which the war crimes were committed, and who were the departmental chiefs to whom those authorities were responsible.

The Research Summaries of Information were also communicated to the staffs of the United States and British chief prosecuting counsel, when the latter were beginning to collect material for the trials of the major war criminals at Nuremberg in the summer of 1945. Though necessarily incomplete—owing to their having been compiled from limited sources of information—they served a purpose, during this stage, as an indication of the objectives on which research might profitably be directed in the examination of the documents that were being brought to light in Germany.

Among the principal war crimes dealt with in this way were: deportations for labour and forced labour; the removal of foodstuffs; concentration camp and Gestapo atrocities; extermination of the Jews; crimes against prisoners of war; Germanisation of conquered territories; crimes against foreign workers; the looting of art treasures; medical experiments on prisoners and " mercy-killing ".

After the capitulation of Germany, the collection of documents bearing on war crimes and the distribution of this material to the interested governments was undertaken by the Allied occupying armies on so vast a scale that researches carried out among the comparatively small number of documents available in England could be of less service.

Apart from official documents, a good deal of more or less reliable information was obtainable from the Press and radio on such questions as arrests, war crimes legislation, trials in progress, and comments on such matters. News of this kind was circulated in a War Crimes News Digest.

Another part of the Research Office's work consisted in meeting requests for information and the tracing of documents. These requests were frequent and often of great urgency, particularly when they related to trials pending at Nuremberg.

(ii) DISPOSAL OF DOCUMENTS

(1) *Document Centres in Europe*

After the capitulation of Germany large quantities of documents were seized and processed by the Allied Intelligence Services and Investigating Teams. Some of this material was deposited in various collecting centres in Germany; documents of value to the prosecuting staffs were assembled in immense numbers at Nuremberg, and also at other War Crimes Centres.

On 22nd October, 1945, the French representative had written to the Chairman, with reference to the documents collected at Nuremberg, pointing out that many of them had no direct bearing on the prosecution of the Major War Criminals, which was then proceeding, and would therefore not be produced during the Nuremberg trial; they would, however, be of the utmost value in the subsequent prosecutions of other war criminals. He suggested that the Commission might approach the Committee of Chief Prosecutors with a view to obtaining delivery of these documents at the end of the trial.

The collections of documents stored in different centres in Germany had, at that time, reached formidable dimensions. For example, an official report, dated 31st August, 1945, on the " Ministerial Collecting Centre " at Furstenhagen showed that this centre alone contained 750 tons of documents, of which one group of 70 tons might well be connected with war crimes (SS. Race and Settlement Office). In September, 1945, a report by the " Enemy Documents Unit " of the Control Commission for Germany showed that Document Centres were operating in Germany and Austria at the following places:

(a) *Germany* :

(i)	British Zone:	Bad Oeynhausen, Iserlohn, Nienburg, Hamburg.
(ii)	U.S. Zone:	Berlin, Oberursel, Fechenheim, Freising, Heidelberg, Bremen.
(iii)	Joint:	Kassel.

(b) *Austria* :

(i)	British Zone:	Klagenfurt.
(ii)	U.S. Zone:	Linz.

The same report mentioned that there was a " Ministerial " Collecting Centre at Kassel; a *Feldwirtschafts Amt* collection at Frankfort; a collection of Krupp documents at the G.S.I. Library of the B.A.O.R., and another of I.G. Farbenindustrie at Heidelberg. The main collection of documents at Kassel on 16th September, 1945, amounted to some 1,300 tons, besides some 400 tons of Foreign Office records which were arriving at Kassel from Marburg on 12th September.

Besides these formidable collections there were many national stores of captured documents in the territories of the United Nations.

An important documentary centre, from the point of view of evidence, was the " B.B.C." in London, which held many records of speeches, delivered by Nazi ministers during the war, and intercepted by the monitor-

ing services. Copies of these records were readily supplied to the Research Office, on request, and were made available for trials in Germany.

Personnel records of the German Air Force, amounting to some 25 tons, constituted another important source of information. These records were for some time stored in the Air Ministry premises, Monck Street, in London. They comprised the personal dossiers of all German Air Force officers and *Beamte*, living and dead; some 30 card indexes of personnel; seniority lists of officers and *Beamte*; complete files of the *Chef Gruppe* " G ", and numerous working files relating to the above items.

The proposal of the French representative was discussed by the Commission on 31st October, 1945,(1) and was referred to a Documentation Committee, which advised that the authorities of the Four Powers should be consulted. This was done, and after considering their answers, the Commission adopted a resolution recommended that the documents in question, or copies thereof, excepting those over which Governments possessing them desired to retain control, should be housed, after the completion of the trials, under the control of an appropriate international authority in a Research Centre, for which purpose London was regarded as the most suitable place.

This resolution was communicated to the Governments concerned, but the plans indicated above were only partly adhered to, and, after the ending of the trial of the Major War Criminals, in October, 1946, a good deal of the material was dispersed. The United States Documents Service, which held the greater part of the material, is understood to have despatched a large part of it to Washington. A considerable body of documents was, however, retained by the United States Chief of Counsel at Nuremberg for the " Subsequent Proceedings," or Second Nuremberg Trials, which were held in that city in the winter of 1946 and in 1947.

The " British War Crimes Executive "—the name given to the British Element of the Prosecuting Committee at the Nuremberg Trial—brought a great part of the documentation in their possession back to London. It is understood that this was mostly deposited with the Research Department of the Foreign Office, which thus obtained a fairly complete set of the documents of the International Military Tribunal, together with microfilms, and became, therefore, the best repository of this material in Great Britain.

(2) *Ultimate Disposal of U.N.W.C.C. Documents*

The subject was discussed between officials of the U.N.W.C.C. Secretariat and a representative of the " Human Rights " Division of the United Nations, in January, 1947, when it was understood that the United Nations would, in principle, be prepared to assume custody of the archives of the Commission when that organisation was dissolved. This was confirmed in a letter dated 15th December, 1947, written by the Secretary General of the United Nations to the Secretary General of the United Nations War Crimes Commission(2). The documents held by the Research Office, which had been received from Government departments in London were, in most cases, returned to the respective Ministries.

(1) See M. 83.
(2) Misc. 118. 19.12.47. *Letter dated* 15.12.47, *received by the Secretary General from Mr. Trygve Lie, Secretary General of the United Nations.*