CHAPTER VI

THE ESTABLISHMENT AND ORGANISATION OF THE UNITED NATIONS WAR CRIMES COMMISSION.

A. ESTABLISHMENT OF THE COMMISSION

(i) THE DEBATE IN THE HOUSE OF LORDS, 7TH OCTOBER, 1942

Largely as a consequence of the discussions by the unofficial bodies referred to in Chapter V.B. and because of the increasing insistence of public opinion that war criminals should be brought to justice a first step in that direction was taken by an announcement in the House of Lords on 7th October, 1942.

Lord Maugham, who had contributed actively to the deliberations of the London International Assembly, had announced his intention of bringing the subject up in Parliament, but the date of the discussion had been twice postponed till the Lord Chancellor should be in a position to reply on behalf of the British Government. When the debate was eventually opened in the House of Lords on 7th October, 1943, Lord Maugham reminded his hearers that both Great Britain and the United States of America were pledged to the principle that retribution for war crimes was among the major purposes of the war. He referred, in particular, to the Declaration signed in St. James’s Palace on 13th January, 1943, by nine of the United Nations, who affirmed, among their principal war aims, the punishment of those guilty or responsible for these crimes “through the channel of organised justice”—a phrase which the speaker specially emphasised. The necessary action must, he contended, be begun before the end of the war. “I cannot,” he said, “too strongly state that delay will mean the escape of the guilty.” To illustrate this point, Lord Maugham went on to review the futile attempts at retribution which were made after the First World War, including the Leipzig trials, the story of which has already been narrated in Chapter III. The conclusion that he drew from this survey was that, if the criminals were not again to escape scot-free, the Allies must provide courts to try them and all the necessary machinery for doing so. Under this head he analysed in some detail the arguments in favour of national or international courts, and the legislation which would be necessary to give them jurisdiction—questions which will be referred to in another chapter.(1)

Lord Cecil of Chelwood, who spoke from his own experience at the Paris Conference after World War I, and who, as President of the London International Assembly, had taken an active part in the deliberations on the subject of war crimes, agreed that too little previous consideration had been given between 1914 and 1918 to the question of war criminals, and urged that plans should be worked out this time before the end of hostilities.

(1) See Chapter XIV, Section A. (ii) (3) p. 442.
Lord Simon, the Lord Chancellor, who spoke on behalf of the British Government, referring first to the question of the tribunal which would be required for trying war criminals, observed that there were two prerequisites without which no war crimes tribunal could act effectively: the recording of evidence, and the presence of the accused. These two points had, he said, been studied for some time past by the British Government in consultation with others of the United Nations. He was now in a position to make an announcement.

"The proposal is," he said, "to set up with the least possible delay a United Nations Commission for the Investigation of War Crimes. The Commission will be composed of nationals of the United Nations selected by their Governments. The Commission will investigate war crimes committed against nationals of the United Nations recording the testimony available, and the Commission will report from time to time to the Governments of those nations cases in which such crimes appear to have been committed, naming and identifying wherever possible the persons responsible. The Commission should direct its attention in particular to organised atrocities. Atrocities perpetrated by or on the orders of Germany in occupied France should be included. The investigation should cover war crimes of offenders irrespective of rank, and the aim will be to collect material, supported wherever possible by depositions or by other documents, to establish such crimes, especially where they are systematically perpetrated, and to name and identify those responsible for their perpetration."

Lord Simon added that a corresponding statement was being issued on the same day in Washington by the President of the United States (see below). The proposal for a United Nations War Crimes Commission, thus jointly supported, had, he said, been communicated to the United Nations directly concerned, including the U.S.S.R., China, the Dominions, India, and the Fighting French, with a view to obtaining their concurrence and co-operation; replies, welcoming the proposal, had been received from the Governments established in London and from the French National Committee.

Lord Simon specially emphasised that the aim of the proposed Investigating Commission was not to promote wholesale execution of enemy nationals, but the punishment of individuals who had proved themselves responsible for atrocities, whether as ringleaders or as actual perpetrators.

In regard to the second prerequisite—the production of the accused persons—Lord Simon said that the United States and Great Britain were "taking a common stand and making a contemporaneous declaration" on that point. The reason, he reminded the House, why the Treaty of Versailles had failed to secure the effective punishment of the principal war criminals was because provision for this purpose was only contained in the final Treaty of Peace, which was signed several months after the Armistice. That mistake, he said, must not be repeated; therefore named criminals wanted for war crimes should be handed over at the time of, and as a condition of, the Armistice, and there would be a right to require the delivery of others as soon as the supplementary investigations were
complete. This proposal, likewise, had been welcomed by the Allied Governments established in London and by the Fighting French, all of whom attached extreme importance to it. The British Government, he added, was in communication with Soviet Russia and China on that point, as well as with the Dominions and India, but their replies had not yet been received.

In conclusion, Lord Simon observed that the proposals contemplated post-war action in a region where there were few precedents to guide them, but they should act in the spirit of the above-quoted declaration by the British Prime Minister that among the major purposes of the war must henceforth be included retribution for the cold-blooded execution of innocent peoples.

The statement by President Roosevelt to which Lord Simon had alluded as being issued on the same day as the debate in the House of Lords (7th October, 1942) contained the following passage:

"I now declare it to be the intention of this Government that the successful close of the war shall include provision for the surrender to the United Nations of war criminals. With a view to establishing responsibility of the guilty individuals, through the collection and assessment of all available evidence, this Government is prepared to cooperate with the British and other Governments in establishing a United Nations Commission for the Investigation of War Crimes... It is not the intention of this Government, or of the Governments associated with us, to resort to mass reprisals. It is our intention that just and sure punishment shall be meted out to the ringleaders responsible for the organised murder of thousands of innocent persons and the commission of atrocities which have violated every tenet of the Christian faith."

In the meanwhile, however, on 17th December, 1942, a further Declaration had been made simultaneously in London, Moscow, and Washington in connection with the reports, unhappily true, that the Germans were engaged in exterminating the Jewish people in Europe. In this declaration, the Governments of Belgium, Czechoslovakia, Greece, Luxemburg, the Netherlands, Norway, Poland, the United States of America, the United Kingdom, the Soviet Union, Yugoslavia and the French National Committee once more announced their resolve that those responsible should not escape retribution and their intention to press on with the necessary practical measures to that end.

(ii) THE INTERVENING YEAR 1942-1943; REASONS FOR THE DELAY

The announcement made by Lord Simon in the House of Lords on 7th October, 1942, did not, as had been expected, lead immediately to the constitution of the projected "Investigation Commission." It was not indeed till twelve months later that this step was undertaken.

The delay was no doubt due in part to the reluctance that was observable in official circles to embark on measures which might lead to a repetition of the fiasco of the Leipzig trials. Another evident cause of delay was the correspondence which, as Lord Simon had said in the debate in the House of Lords on 7th October, 1942, was still in progress with the more distant Governments, and especially with the Soviet Government.

In regard to the latter Government, some light was thrown on the nature of the obstacles to agreement in an account by Dr. Ečer (Czechos-
slovakia) of an interview which he had on this subject with the Soviet Chargé d’Affaires. On that occasion Dr. Ééer was shown: an aide-memoire of 27th July, 1943, sent by the Soviet Ambassador in reply to a communication from the British Foreign Office dated 6th March, 1943; a letter from Mr. Cadogan to the Soviet Ambassador, dated 19th May, 1943; a memorandum of 18th October, 1943, sent by the Soviet Ambassador to Mr. Cadogan in answer to a note from the British Foreign Office dated 30th August, 1943; and a letter of 18th October, 1943, accompanying the above-mentioned memorandum.

From these documents, and from his conversation with the Soviet Chargé d’Affaires, Dr. Ééer gathered that the Soviet Government had been disposed to participate in the United Nations War Crimes Commission, on condition, however, that the right to be represented would be granted to the Soviet Republics which had been actively engaged in the war against the enemy, namely, the Ukrainian, Byelorussian, Moldavian, Lithuanian, Latvian, Estonian and Karelo-Finnish Republics.

(iii) THE DIPLOMATIC CONFERENCE AT THE FOREIGN OFFICE, 20TH OCTOBER, 1943

It was not till a year after Lord Simon had announced in the House of Lords the proposal to set up a United Nations Commission for the Investigation of War Crimes that a meeting of Allied and Dominion representatives was at last convened for this purpose at the Foreign Office in London.

Its composition was as follows:

The Lord Chancellor (in the Chair)

Australia: Rt. Hon. S. M. Bruce
N. Zealand: Mr. W. Jordan

Lord Atkin
Norway: M. Colban

Belgium: Vicomte de Lantsheere
Poland: Count Raczynski

Lt. General de Baer(3)
Professor Glaser

Canada: Rt. Hon. Vincent Massey
Union of South Africa: Mr. Jones

China: Dr. Wellington Koo
United Kingdom: The Lord Chancellor
Dr. Liang Yuen-Li
Mr. George Hall

Czechoslovakia: M. Lobkowicz
Sir Cecil Hurst

Dr. Bohumil Ééer
United States:

Greece:
Mr. Winant

M. Aghnides
Yugoslavia:

M. Stavropoulos
Mr. Yevtic

M. Milanovitch

(1) C.76, page 7 dated 8th February, 1945. Memorandum on the present position of the U.N.W.C.C.
(2) For subsequent developments in the matter of Soviet participation in the Commission, see Chapter VII, Section D. (ii) p. 158 et seq.
(3) Described at his request as Monsieur de Baer in the course of this volume.
India:
Sir Samuel Ranganadhan
French Committee of National Liberation:
M. Clasen
M. Vienot
Professor Cassin
Netherlands:
Jonkheer Michiels van Verduynen
Dr. J. M. de Moor

The Soviet Government was not, it will be seen, among the participants. Lord Simon, who opened the conference, said that the Soviets were, he understood, in agreement with the establishment of the Commission and the general objects which it was to serve; there were, however, one or two points still outstanding which had unfortunately prevented them from being represented at the meeting; while it was right that he should inform the meeting of this circumstance it need not, he said, prevent them from establishing the Commission. As will be seen from the narrative of the proceedings, members of the conference were still not without hope that the Soviets would participate, and they showed regard, on various points, to what was believed to be the Soviet standpoint. The regret which the Lord Chancellor expressed at the absence of the Soviet Government from the conference was, however, fully justified, for their non-participation was destined to be a serious obstacle to the effective discharge of the Commission’s mandate.\(^1\)

In outlining the steps that were now to be taken, Lord Simon recalled the statements which he, as representing the British Government, and President Roosevelt, on behalf of the United States Government, had made on 7th October, 1942, announcing the intention of the Allied Governments to set up a Commission for the Investigation of War Crimes. Discussions had, he said, been proceeding since then between the various Allied Governments concerned, and the British Government felt that the time had come when a formal decision to set up the Commission should be taken without further delay.

It was apparent, he continued, from the statements of the British and United States Governments on 7th October, 1942, that the Commission was intended to serve two primary purposes:

1. It should investigate and record the evidence of war crimes, identifying where possible the individuals responsible.

2. It should report to the Governments concerned cases in which it appeared that adequate evidence might be expected to be forthcoming.

These two activities were, Lord Simon said, essential preliminaries if the just and orderly trial of war criminals was to be ensured. He considered it important, however, to draw a clear distinction between the preparatory investigatory work of the Commission and the procedure for the eventual trial of war criminals. The latter would represent a later

\(^1\) See in this connection Chapter VII.D.—Relations with the Soviet Government; and M. de Baer’s report on his visit to CROWCASS (M.30—3rd October, 1945).
stage and would be a question for decision by the Governments concerned rather than by the proposed Commission. The Governments concerned would also be specially interested in the treatment of those who might properly be described as the arch-criminals. It might well be felt, he suggested, that this was primarily a political question.

Before the formal decision to set up a United Nations Commission for the Investigation of War Crimes was put to the meeting, certain declarations were made by some of the representatives on behalf of their Governments.

The Netherlands Government, starting from the supposition that justice would in principle be administered by national courts, considered that a fact-finding committee of the Commission should be competent to prepare the trial of enemy subjects and to decide, having regard to the evidence, what names of enemy subjects should be placed on the list of persons whose surrender would be demanded, and what national courts would have jurisdiction to try them if they were claimed by more than one country; and that the committee in question would also make proposals in regard to the tribunal and the procedure for the trial of major criminals. It would not, however, be competent in regard to the bringing to trial of nationals of Allied States. The trial of quislings would be left exclusively to the National Governments, which could demand their surrender without the intermediary of the Committee.

The Chinese Ambassador said that, while his Government were in full agreement with the proposal to establish the Commission, they wished to make it clear that they reserved the right, after the Commission had been set up, to raise the question of the period of time which its investigations should cover in so far as war crimes committed in China were concerned. In this connection Dr. Wellington Koo pointed out that China had suffered the consequences of enemy invasion for a longer period than the other Governments represented at the meeting.

The meeting took note of these statements.

In regard to the Netherlands declaration Lord Simon, on behalf of the British Government, agreed that the trial of quislings was the business of the Government individually concerned; but he doubted whether there would be agreement on the proposal that the War Crimes Commission should make preparations for the bringing to trial of war criminals.

He proposed therefore that the meeting should take a decision to set up the Commission forthwith, but that the possible expansion of the scope of its investigations and functions should be reserved for future consideration.

This was unanimously agreed to.

It was also agreed that the headquarters of the Commission should be established in London.

(1) Panels

The Lord Chancellor, on behalf of the British Government, proposed
that the Commission should be empowered to set up panels or arrange otherwise, in the light of the wishes of the Governments most closely concerned, for investigations on its behalf so far as these seemed appropriate. He understood—and the Chinese Ambassador confirmed this—that the Chinese Government was in favour of the establishment of a panel in Chungking. The Soviet Government, on the other hand, did not consider that the circumstances called for the establishment of a panel in the Union of Soviet Socialist Republics.

The meeting adopted the proposal.

(2) Chairmanship and Procedure

The Lord Chancellor said that his Government had originally proposed that it should be left to the Commission to settle the question of chairmanship at its first meeting. The Soviet Government, however, had proposed that the chairmanship might suitably be held in rotation by the representatives of the United Kingdom, the United States, the Union of Soviet Socialist Republics and China.

The other members having been invited to express their views on this question, the Norwegian Ambassador said that on purely practical grounds he thought the British representative on the Commission should be appointed Chairman, to begin with.

The Netherlands Ambassador said that, if the principle of rotation were adopted, it should apply also to the smaller States; but he favoured the appointment of the British representative as Chairman as an act of courtesy to the British Government.

The Polish Ambassador thought that if the presidency were held in rotation the practical functioning of the Commission would suffer and the chairmanship would, in practice, be left in the hands of the Secretariat. For this reason he preferred the temporary appointment of a British Chairman.

M. Vienot, representing the French Committee of National Liberation, considered that, if the principle of rotation were adopted, it should apply equally to all the members; he agreed with the principle of a permanent British Chairman.

The Greek Ambassador was also opposed, on practical grounds, to the principle of a rotating chairmanship.

The United States Ambassador said that his Government did not object to the Soviet Government's proposal. On the other hand, he had authority to support the proposal for a British Chairman and personally he would be prepared to support it. He had been instructed to make it clear that if the Commission should wish to elect the United States representatives to be its Chairman, his Government would wish to be consulted first.

The Chinese Ambassador, while not objecting to a British Chairman, felt that, as the Soviet Government had put forward their proposal, and as they were not represented at the meeting, it would be preferable to
leave the matter to be decided by the Commission, as was originally proposed by the Lord Chancellor.

The Czechoslovak Ambassador agreed that the question of chairmanship should be left to the Commission to settle.

When the members had thus expressed their views, the Lord Chancellor said that, although the appointment of a British Chairman, if made, would be temporary and without prejudice to final arrangements, he agreed with Dr. Wellington Koo that, in the absence of a Soviet representative, it would be preferable not to take a decision in conflict with the Soviet proposals. He felt that, if it were left to the Commission to elect its first Chairman at the first meeting, that need not prevent arrangements for the recruitment of a Secretariat from being taken in hand on a preliminary basis forthwith.

It was accordingly agreed that it should be left to the Commission to settle the question of its first Chairman when it met, without prejudice to the question of rotation in office.

It was also agreed that it should be left to the Commission to settle its own procedure.

(3) Secretariat

The Lord Chancellor said that his Government were prepared to find a British Secretary-General for the Commission, if this were considered appropriate in view of the headquarters of the Commission being in London. There being no dissent, he put forward the name of Mr. H. McKinnon Wood (who was not, at that time, in England) as Secretary-General, and suggested that he should receive from the other Governments informal suggestions for the appointment of additional staff.

The Norwegian Ambassador thought that the staff should be limited to British subjects, at the outset, as the occupied countries of Europe were short of administrative personnel, and could not, therefore, be adequately represented. The United States Ambassador did not wish to go on record as supporting the proposal for a purely British Secretariat, and felt that the Soviet Government might have views on this question. It was accordingly agreed that the appointment of a British Secretary-General should be approved, but that the question of further appointments to the Secretariat should be left entirely open.

(4) Expenses

The meeting agreed that each member of the Commission and his staff, if any, should be paid by the Government appointing him, but that the salary of the Secretary-General and additional secretarial and administrative expenses should be divided equally between the various Governments represented on the Commission. The Luxembourg Chargé d’Affaires said that his Government felt that equal division of expenses would fall heavily on smaller countries and asked whether contributions could not be made proportionate to the resources of the countries represented. It was agreed that the arrangements should be subject to the possibility of future adjustment between the Governments concerned.
(5) Proposed "Technical Committee"

In addition to the more or less formal matters, a question of substantial importance arose in connection with the proposal for what was termed a "Technical Committee"—in reality a body of legal experts.

Explaining this project, the Lord Chancellor said that there might be a number of questions relating to the trial and punishment of war criminals which would require to be settled, but would fall outside the competence of the Commission. He accordingly proposed, on behalf of the British Government, the establishment of a committee of legal experts, nominated by those of the Allied Governments participating in the Commission who desired to be represented on the committee. The latter would work concurrently with the Commission and in adequate contact with it; it would be charged with advising the Governments concerned upon matters of a technical nature, such as the sort of tribunals to be employed for the trial of war criminals, the law to be applied, the procedure to be adopted and the rules of evidence to be followed. The function of this committee would be to formulate recommendations for the guidance of Governments. It would not be empowered to take any decisions which would be binding upon the Governments.

The proposal for a Technical Committee of the sort thus indicated was supported on general grounds by the French delegate, who observed that the War Crimes Commission would require guidance as to the general principles which it was to follow in its investigations, and that these general principles must be established by agreement between the Governments concerned. A Technical Committee, separate from the Commission, could facilitate this. The proposal was also supported by the British representative who considered that in practice there would be scope for both bodies. An active investigatory Commission, would, he said, be in danger of becoming immersed in detail, and would need the help and guidance of another body, more directly representing the Governments concerned, which would take decisions based also on political considerations. The two bodies must, however, be in close contact, so as to ensure that the principles established by the Technical Committee should be applicable in practice.

The formation of the proposed Technical Committee, at this stage, received, however, only qualified support from the meeting. The United States Ambassador questioned the need of setting it up before the Commission itself had begun its work. The Chinese Ambassador and the Australian High Commissioner also indicated a similar reservation. The Netherlands representative feared that the existence of the two separate bodies might result in friction.

In view of the evident reluctance of the meeting to proceed further, at the moment, with the creation of the Technical Committee, the Lord Chancellor asked the Conference to agree that it would be desirable to set up, in due course, a Technical Committee of the nature and for the purposes already indicated, and that the members should give consideration to the choice of their representatives upon it, though the actual establishment of the Committee would be deferred.
ESTABLISHMENT AND ORGANISATION OF THE U.N. WAR CRIMES COMMISSION

The proposal, in this form, was accepted by the Conference.

The meeting closed after adopting a resolution for communication to the Government of the U.S.S.R., expressing the hope of those present that the Soviet Government would participate in the work of the Commission, and also in that of the Technical Committee when the latter body had been set up.

The subsequent decision to abandon the project of a separate Technical Committee, independent of the Commission, is dealt with in the section dealing with the establishment of Committee III.

(iv) PREMISES OF THE COMMISSION

The Commission was at first installed by courtesy of the United Kingdom authorities in the Royal Courts of Justice, in the Strand, London, W.C.2. In July, 1945, it moved to Church House, Westminster, where it remained until January, 1946, when premises were allotted to it in Lansdowne House, Berkeley Square.

B. ORGANISATION OF THE COMMISSION

(i) THE MEMBERS

The delegates of the participating Powers, who formed the Constituent Meeting of the United Nations War Crimes Commission at the Foreign Office on 20th October, 1943, have been enumerated. The names of the representatives who composed the Commission when it began its regular sittings in 1944 varied somewhat from this list. As recorded in January of that year, the Commissioners and Deputies were:

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<th>Australia:</th>
<th>France:</th>
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<tr>
<td>The Rt. Hon. Lord Atkin</td>
<td>Professor André Gros.</td>
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<tr>
<td>United Kingdom:</td>
<td>Greece:</td>
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<tr>
<td>Sir Cecil J. B. Hurst</td>
<td>Monsieur C. Stavropoulos</td>
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<tr>
<td>United States:</td>
<td>India:</td>
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<tr>
<td>H.E. Mr. Herbert Pell</td>
<td>Sir Samuel Runganadhan</td>
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<td>Belgium:</td>
<td>Luxembourg:</td>
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<tr>
<td>Monsieur M. de Baer</td>
<td>Monsieur Victor Bodson</td>
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<tr>
<td>Monsieur F. Dumon</td>
<td>Netherlands:</td>
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<tr>
<td>China:</td>
<td>Dr. J. M. de Moor</td>
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<tr>
<td>H.E. Dr. Wellington Koo,</td>
<td>Norway:</td>
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<tr>
<td>Chinese Ambassador</td>
<td>H.E. Mr. Erik Colban,</td>
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<td>Dr. Y. Liang</td>
<td>Norwegian Ambassador</td>
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<td>Czechoslovakia:</td>
<td>Poland:</td>
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<td>Dr. B. Eéer</td>
<td>Professor Stefan Glaser</td>
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<td>Dr. V. Benes,</td>
<td>Yugoslavia:</td>
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<tr>
<td>Czechoslovak Ministry</td>
<td>H.E. Vladimir Milanovitch</td>
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<td>of Justice</td>
<td>Dr. Kuhar</td>
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<td>Mr. Milan Ristitch</td>
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(1) The changes which subsequently occurred among the Commissioners are noted in Chapter VII, Section A. p. 135.
(ii) THE CHAIRMANSHIP

As mentioned in the previous section the Soviet Government’s proposal that the chairmanship should be held in rotation by the Four Powers had not commended itself to the constituent meeting at the Foreign Office on 20th October, 1943, and no decision had been taken on the alternative proposals put forward at that meeting. At the first informal meeting of the Commission it had been agreed to leave the chairmanship in suspense until official meetings began. The chair had been provisionally occupied by Sir Cecil Hurst (United Kingdom) at the first three (unofficial) meetings of the Commission on 26th October, 1943, 1st December, 1943 and 4th January, 1944.

At the first official meeting on 11th January, 1944, Sir Cecil Hurst was formally elected as Chairman. When he retired, for reasons of health, in January, 1945, the Right Hon. Lord Wright of Durley, who was sitting as representative of Australia in the Commission, was asked to act as Chairman, pending the election of a successor. On 31st January, 1945, Lord Wright was formally elected by the Commission as its Chairman.

(iii) THE SECRETARIAT

As previously mentioned the name of Mr. Hugh McKinnon Wood had been put forward for the post of Secretary-General by the Lord Chancellor at the constituent meeting at the Foreign Office on 20th October, 1943. At the first official meeting of the Commission on 11th January, 1944, the Commission confirmed this choice. On 11th September, 1945, Mr. McKinnon Wood’s release was requested by the Foreign Office which required him for other work, and on 8th November, 1945, Colonel G. A. Ledingham, D.S.O., M.C., was elected by the Commission as Secretary-General.

During the earlier stages of the development of the United Nations War Crimes Commission, the Secretariat was maintained on an extremely small scale, consisting only of the Secretary-General, and three clerical assistants. As the work progressed, this number was found insufficient. In May, 1944, the establishment was increased by a Research Officer (Lieut.-Col. H. Wade). To meet the pressing need of further development, the Secretariat was reinforced in March, 1945 by a legal officer, Dr. E. Schweb (Czechoslovakia), and in May, 1945 by a second legal officer, Dr. J. Litawski (Poland). Dr. Schweb became secretary to Committee III (Legal), and Dr. Litawski to Committee I (Investigation). When the compilation of the Law Reports was undertaken, under control of Committee III, in the summer of 1946, Mr. G. Brand was appointed to assist Dr. Schweb in this work. In June, 1945, Mr. E. Lyman, U.S.A., was appointed as Chief Executive Officer and as Secretary of the Executive Committee, but when he resigned in November, 1945, in order to return to America, that post was abolished.

Further changes took place in the spring and summer of 1947 when Dr. Zivkovic (Yugoslavia) and Dr. Mayr-Harting (Czechoslovakia) joined the Secretariat and Dr. Schweb left to take up an appointment in the United Nations. Meanwhile, the work of the Secretariat had been enlarged
by the preparation of the History of the Commission and the report for
the United Nations on Human Rights.

C. STRUCTURE OF THE COMMISSION

(i) PROCEDURE

When the United Nations War Crimes Commission was created, as
related above, by the Diplomatic Conference at the Foreign Office on
20th October, 1943, no precise rules were laid down for its organisation
or procedure. The regulations of these questions was appropriately left
to the Commission. Accordingly, at a first unofficial meeting on 26th
October, 1943, the Commission appointed a sub-committee, under Sir
Cecil Hurst, to submit plans for its organisation. The discussion of this
sub-committee touched on some of the more general problems confronting
the Commission; the establishment of lists of war criminals, the machinery
for their apprehension and trial, and the signification of the term "war
crime." In regard to the latter point it was agreed that no authoritative
list of war criminals should be drawn up, for the time being, though the
lists compiled at Paris in 1919 might be of illustrative value. At another
unofficial meeting of the full Commission on 2nd December, 1943, the
plans worked out by the sub-committee were approved.

At the next meeting on 11th January, 1944, it was agreed that the
Commission would consider itself organised for business on 18th January,
1944. On the latter date, the Commission formally confirmed all the
elections, resolutions, etc., accepted at the meeting on 11th January, 1944,
together with the proceedings of the earlier unofficial meetings; and it
adopted the rules of procedure which had been drafted by a sub-committee,
consisting of Mr. Pell (U.S.A.), Professor Gros (France), Dr. Wellington
Koo (China) and Lord Atkin (Australia).

As regards the latter point, among the chief points of procedure agreed
upon in this early stage were: that the elected Chairman should have an
additional vote, in the case of a tie, and that all members of the Com-
mission, were entitled to attend the meetings of any Committee, but only
the members composing the Committee, and the Chairman of the Com-
mission, were entitled to a vote.

(ii) COMMITTEE I

(1) The Function of Investigation

At the time of the creation of the Commission the investigation of war
crimes had been regarded as its chief function. Lord Simon, in his
opening speech at the constituent meeting of the Commission on 20th
October, 1943, had described it as a "Commission for the Investigation
of War Crimes"; and in stating its terms of reference he had put the duty
of investigation as the first of "its two primary purposes."

At the unofficial preliminary meeting of the members of the Commission,
referred to above, on 26th October, 1943, the Australian and Czech
representatives had proposed that the several Governments should be asked
to submit the evidence that they possessed in support of allegations of
STRUCTURE OF THE COMMISSION

war crimes. A little later, at the sixth meeting of the Commission on 25th January, 1944, the Czech representative moved that a Committee should be formed to consider facts and evidence in order to facilitate the examination of individual cases submitted by the various Allied Governments.

The result of these proposals was (a) the creation of Committee I,(1) under the chairmanship of Monsieur de Baer (Belgium), to examine the information submitted by the different Governments; and (b) the constitution by the participating Governments, pursuant to a recommendation by the Commission, of National Offices whose duty it would be to investigate, in the first instance, reports relating to war crimes, and to submit to the Committee, in an approved form, information concerning the offences which they had investigated. These National Offices were affiliated to the Commission, but they continued to be organs of their respective Governments, functioning in most cases, under the respective Ministries of Justice.

A list of these National Offices is given below. Their number was increased in April, 1945, by the creation of a Luxembourg Office; and in June, 1945, by the admission of Denmark as a member of the Commission. The Canadian National Office was abolished on 28th May, 1946. The work of the British National Office was performed at the outset by the Treasury Solicitor's Office; in May, 1946, it was taken over by the Office of the Judge Advocate General in London.

After the liberation of the occupied countries, some of the National Offices were transferred, wholly or in part, to the capitals of their respective countries. Their duties, as regards the presentation of charges to Committee I continued, however, to be discharged by the representatives of their countries on the Commission, or by their deputies.

The following is a list of the National Offices, and their directors shortly after the capitulation of Germany in 1945.

**Australia:** Department of External Affairs, Canberra, A.C.T.

**Belgium:** President: M. Antoine Delfosse, ex-Minister of Justice, Brussels.

**Canada:** Canadian War Crimes Advisory Committee.
Secretary: Wing Commander E. R. Hopkins, c/o Department of External Affairs, Ottawa.

**China:** Principal Officer: Dr. C. T. Wang, Chungking (afterwards at Nanking).

**Czechoslovakia:** Czechoslovakia Ministry of Interior (Section IV).
Principal Officer: Colonel J. Bartik.

**France:** Service de Recherche des Crimes de Guerre, Paris. Principal Officer: Colonel Chauveau.

**Greece:** M. Stavropoulos (London).

(1) Full details in regard to Committee I will be found in Chapter XV.
India: Defence Department, New Delhi.
    Chief Officer: Secretary to the Government of India.
Luxembourg: C/o Ministry of Justice, Luxembourg.
    President: M. Charles Leon Hammes.
Netherlands: Principal Officer: Dr. J. van den Bergh, London. From
    31st October, 1945, onwards, Dr. J. S. Bijl, head of
    the War Crimes Investigation Office, Amsterdam.
New Zealand: Department of External Affairs, Wellington, New
    Zealand.
    Principal Officer: Mr. Foss Shanahan.
    Principal Officer: Major Finn Palmstrom.
Poland: Polish War Crimes Office.
    Principal Officer: Dr. J. Litawski.
United Kingdom: Treasury Solicitor’s Department, London.
    Principal Officer: The Treasury Solicitor.
United States of America: Office of the Judge Advocate General of the Army, War
    Crimes Office, Washington, D.C.
    Principal Officer: Brigadier-General J. M. Weir.
Yugoslavia: Yugoslav State Commission for the Investigation of War
    Crimes, Belgrade.
    Chairman: Professor Dr. Nedeljkovic.

The functioning of Committee I (sometimes referred to as the “Committee on Facts and Evidence,”(0)) and the rules of international law on which it founded itself, are referred to elsewhere in full detail. Here it may briefly be said that the procedure of the Committee was to meet regularly once a week and to examine the charges filed by the National Offices—or, in exceptional cases, by the Commission itself—in the presence of representatives of Governments submitting the charges. When a sufficient number of names had been accepted to justify the printing of a List, the current List would be declared closed and a draft of it would be circulated to the Commission for the latter’s approval at a Plenary Meeting. When finally approved, the List was printed, and distributed to the different apprehending authorities in order that they might take the necessary action.

The progressive growth of these tasks is illustrated by the fact that, whereas by the end of March, 1945, the Commission had issued only five Lists, this total had risen by August, 1947, to 60 Lists, comprising over 28,000 persons and units.

Some of the participant Governments created, in their own countries, war crimes commissions which investigated alleged war crimes, and forwarded charges to the Commission, through the intermediary of their own National representatives.

(1) With regard to this expression it should be noted that at the Conference in the Foreign Office on 20.10.43, Lord Atkin observed that the description of the Commission for Investigation of War Crimes as a “fact-finding Commission” was inaccurate and rather dangerous. It must be the tribunal which tried the war criminal which found the facts; the Commission was engaged in collecting material which might be put before the tribunal.
One of the first examples of this sort came from Yugoslavia, where a State Commission for Ascertaining the Crimes of the Occupying Forces drew up regulations as early as 6th May, 1944. The French Government, in November, 1944, instituted a commission, the “Service de crimes de guerre ennemis” in Paris, which was instructed to collect and verify information and to submit files to the Commission; the Netherlands Government, in November, 1946, announced the existence of a Commission for the Investigation of War Crimes; other Governments took similar action. The Soviet Government also created an “Extraordinary State Commission for Ascertaining and Investigating Crimes committed by the German-Fascist Invaders and their Accomplices,” but this body was not, at any time, in contact with the United Nations War Crimes Commission.

(2) Personnel of Committee I

Chairman and Members. The Chairmanship of the Committee was held from the outset of the Commission’s work until August, 1947, by Monsieur de Baer (Belgium). The deputy Chairman for the greater part of that time was Sir Robert Craigie (United Kingdom). After the departure of M. de Baer, Sir Robert Craigie and Mr. E. W. Kintner (U.S.A.) were appointed as joint Chairmen. Mr. Kintner resigned the joint chairmanship early in January, 1948, owing to pressure of work with the Legal Publications Committee.

The other original members were: Mr. Pell and Dr. Lawrence Preuss (U.S.A.) and Dr. Eéer (Czechoslovakia). In addition Sir Cecil Hurst (United Kingdom) attended the meetings, ex officio, as Chairman of the Commission. The membership was increased on 21st March, 1944, by the election of the late Dr. de Moor (Netherlands). Subsequently, at different dates, the Committee comprised: Lord Wright (then representative of Australia, with Mr. J. Oldham as deputy); the late Lord Finlay (United Kingdom); and Mr. Justice Mansfield (Australia), who also acted for a time as deputy Chairman; Major Fanderlik and Dr. Mayr-Harting (Czechoslovakia), who replaced Dr. Eéer; Colonel Hodgson (U.S.A.) who was replaced in his absence by Captain Wolf; Colonel Springer and Mr. Kintner (U.S.A.); Dr. Neumann (Czechoslovakia), who succeeded Major Fanderlik and Dr. Mayr-Harting, and was in turn succeeded by Dr. Zeman in August 1947; Mr. Aars Rynning (Norway), who replaced M. de Baer after the latter’s departure.

(3) Secretariat

In its early existence, owing to the smallness of the Commission’s staff, Committee I had no secretariat of its own, and, although its decisions were recorded, no formal minutes of its debates were circulated. Subsequently, after the appointment of a second legal officer, Dr. Litawski, the latter became Secretary of the Committee, the staff of which was more than once enlarged to meet the growing volume of work caused by the constantly increasing number of indictments received from Europe and the Far East.

The Secretariat of Committee I, thus reinforced, besides producing
and indexing the Commission's Lists, issued periodical statistical reports, instructions for National Offices regarding forms and substance of charges, and the processing of charge-files, besides numerous memoranda on questions of law and procedure which were referred to the Legal Committee or to the Plenary Commission itself.

(iii) COMMITTEE II: THE FUNCTION OF ENFORCEMENT

The second main committee of the Commission was concerned with "Enforcement," a term which comprises all measures considered necessary to ensure the detection, apprehension, trial and punishment of persons responsible for war crimes.

At its meeting on 1st February, 1944, the Commission constituted this Committee with the following members: Dr. Wellington Koo (China); Sir Samuel Runganadhan (India); Mr. Erik Colban (Norway); Mr. H. Pell (U.S.A.); Dr. Kukar (Yugoslavia); Lord Atkin (Australia); Professor André Gros (France). The Committee was further reinforced by the appointment of Sir Cecil Hurst (25th April, 1944), Monsieur de Baer (Belgium—8th February, 1944); Monsieur Blum (Luxembourg—23rd May, 1944); and Dr. Eére (Czechoslovakia); and later by the appointment of Flying Officer Bridgland (Australia); Commander Mouton (Netherlands); and Dr. Zivkovic (Yugoslavia).

Mr. H. Pell (U.S.A.) was elected by the Committee as its Chairman. He was succeeded, after his departure, by Colonel J. Hodgson (U.S.A.).

Committee II met once a week, at the outset, working in close contact with Committee III. In course of time its duties came to be assumed either by Committee I or Committee III; its meetings became less frequent and finally ceased. No separate secretariat was created for this committee.

Details of the deliberations of Committee II will be found in later chapters. Here it will suffice to say that its chief efforts were directed (a) to the elaboration of clauses to be inserted in the expected Armistice with Germany to ensure the apprehension of war criminals; (b) to the provision of draft conventions for the establishment of courts for trial of war criminals in cases where, owing to an inter-allied decision or to other reasons, it was not convenient for them to be tried by national courts; and (c) to projects for the creation of war crimes offices or agencies in the occupied enemy countries to undertake the detection and arrest of war criminals.

As will be shown in Chapter XIV, the recommendations of Committee II referring to tribunals for the trial of war criminals influenced not only the creation of the Nuremberg International Military Tribunal which was instituted by the Four-Power Agreement of 8th August, 1945, but also the establishment of the many other national and inter-allied military tribunals which were invested with jurisdiction over war crimes, including, in the first place, the International Military Tribunal for the Far East.

(iv) COMMITTEE III: THE ADVISORY FUNCTION

(1) Abandonment of the Technical Committee

As mentioned above, the appointment of a body of legal experts—

(1) See Chapters XIII and XIV.
styled the Technical Committee—working concurrently with the Commission, had been left open at the constituent meeting held at the Foreign Office on 20th October, 1943. It was a point which called for immediate decision.

At the first unofficial meeting of the Commission at the Law Courts on 26th October, 1943, this question was placed in discussion. It was argued, in the debate, by the Belgian and Norwegian representatives that the Technical Committee ought to be a sub-committee of the Commission and not an independent body; that is to say that its tasks should be prescribed by the Commission itself. The British representative observed that the term "technical committee" was perhaps misleading, and that the idea was to have a body which could discuss large questions of principle and of policy.

At the second informal meeting on 2nd December, 1943, the subject of the Technical Committee was again debated, this time in connection with a discussion on the law which should be applicable to certain classes of war crimes. The question arose how basic legal questions of this kind ought to be dealt with: whether by a sub-committee of the Commission or by the so-called Technical Committee—which did not yet in fact exist—or by some combination of the two.

The Chairman explained that the Technical Committee had been conceived as a body of persons intimately connected with the formation of government policy (e.g., in the case of the United Kingdom, the Law Officers of the Crown). Fear was, however, expressed by some of the members that the work of the Commission would constantly be brought to a standstill if it had to refer legal problems to an independent body. The Commission, it was represented, was itself a body of jurists. Several members wished to have legal questions considered as they arose by a sub-committee of the Commission, which, they suggested, might be strengthened by adding members, as had been contemplated in the plans for the Technical Committee, or by any other method guaranteeing close contact between the Commission and the Committee. It was ultimately decided that each member would ascertain and report the attitude of his own Government on the subject, and the Chairman undertook to take the matter up with the United Kingdom Government.

To pursue this matter to its conclusion: the opposition within the Commission towards the principle of an independent Technical Committee showed no sign of abating. At the fifth meeting on 18th January, 1944, the Chairman informed the Commission that Mr. Eden, the British Secretary of State for Foreign Affairs, was in favour of dropping the project, but desired to be sure that the other Governments represented on the Commission took the same view, as the idea of having a technical committee had originated with some of those Governments. At the next meeting, a week later, it was ascertained that no Government had objected to the abandonment of the Technical Committee.

However, as the debate showed a division of views in regard to the consequences of this step, the Foreign Office was informed that the
question of the transfer to the Commission of the problems originally intended for the Technical Committee was being reserved.

As a result of an inquiry, which was addressed to the British Foreign Office, by request of the Commission, it was ascertained that Mr. Eden did not propose to convene another conference to define more fully the functions of the Commission. It would suffice, in his view, to send a note to that effect to each of the United Nations Governments. The Commission could then proceed with its work on the footing that it was now charged with the functions which would have been exercised by the Technical Committee.

Similar views were expressed in replies received from some of the other Governments. Thus, the United States Government accepted the abandonment of the Technical Committee and the taking over of its duties by the Commission. The Czechoslovak Government considered that the competence of the Commission should be extended to all questions connected with the problem of war crimes and that "the committee of experts should be dropped." The French Committee of National Liberation also agreed that the Technical Committee should be abandoned, adding "at the same time it is understood that all studies of a legal nature, as well as the possibility of making proposals to the Governments will be entrusted to the Commission itself."

The implications of these decisions were of the highest import. The Commission now became empowered to deal, in an advisory capacity, with questions of policy and of law which, under the original plan, would have been decided separately by an independent body. Owing to the significance of many of the legal questions which were subsequently examined, the Commission's advisory function tended, in course of time, to exceed in importance its original task of investigation.

(2) Creation of the Legal Committee; Personnel

The next step was the appointment by the Commission of a committee of its own to advise on legal questions. This was done on 1st February, 1944, by the creation of Committee III. The following were nominated as members of the new Committee: Dr. Liang (China); Dr. Écer (Czechoslovakia); M. Stavropoulos (Greece); Dr. Preuss (U.S.A.); Professor Glaser (Poland). The latter was elected as chairman at the first meeting.

On 25th April, 1944, the strength of the Committee was increased by the election of Sir Cecil Hurst (United Kingdom) and of Mr. Pell (U.S.A.); and on 23rd May, 1944, by the election of M. Blum (Luxembourg).

On 8th August, 1944, the Committee was reconstituted so as to consist of: Dr. Écer (Chairman); M. Stavropoulos (Greece); Colonel Hodgson (U.S.A.); Dr. Liang (China); Dr. Zivkovic (Yugoslavia); Mr. Terje Wold (Norway); Professor Hurwitz (Denmark); Commander Mouton (Netherlands) and Sir Torick Ameer Ali (India).

Subsequent changes in the Committee resulted in the appointment of: Dr. Szerer (Poland), on 26th September, 1945, in place of Dr. Glaser, who had left; Sir Robert Craigie (United Kingdom) on 3rd October, 1945; Mr. Justice Mansfield (Australia) on 9th January, 1946.
On 20th August, 1945, Mr. Wold (Norway) was elected as acting Chairman during the absence of Dr. Eeër; and on 12th February, 1946, Dr. Mayr-Harting was elected as acting Chairman. After Dr. Mayr-Harting’s departure, Sir Robert Craigie was elected Chairman of Committee III. Mr. Kistner (U.S.A.) was appointed as member of the Committee in June, 1946, and Mr. Aars Rynning (Norway) in September, 1946.

On 22nd August, 1945, Dr. Schweb, Legal Officer to the Commission, was appointed Secretary to the Committee.

The deliberations of the Legal Committee are related elsewhere in this History. It may be noted, however, in passing that its first concern was to appoint rapporteurs on several important questions: such as definition of a war crime; superior orders; gaps in national legislation; and collective responsibility.

For the rest, Committee III was constantly being called on to examine and advise on a number of questions of substantive law when dealing with particular charges brought before it by National Offices; those questions ranged from the defence of "military necessity" to the implications of "usurpation of sovereignty."

D. THE LEGAL STATUS OF THE COMMISSION

The United Nations War Crimes Commission, as established by the meeting of the Allied and Dominions representatives held in London on 20th October, 1943, was an international body formed and created by its member Governments. The minutes of the inaugural meeting do not contain any detailed provisions regarding the Commission's legal status. Its character as an international organisation or inter-governmental agency, however, has never been doubted. The Diplomatic Protocol of 20th October, 1943, provides that the headquarters of the Commission should be established in London and that the Commission should be empowered to set up panels or arrange otherwise for investigations on its behalf so far as these seem appropriate. The meeting decided that the Commission should have a Secretariat and that while each member of the Commission and his staff, if any, should be paid by the Government appointing him, the salary of the Secretary-General and additional secretarial and administrative expenses should be divided between the various Governments represented on the Commission.

From this it appears that the Governments, when establishing the Commission, endowed it with the legal capacity of owning property and entering into contracts, because otherwise no Secretariat could be established and no staff engaged.

The Commission, although it had its headquarters in the territory of one of its member States (the United Kingdom) and though, in the course of its activities, it set up a Far Eastern Sub-Commission with its site on the territory of another member State (China), it had not been incorporated in the municipal law of any particular country, but was a truly international body not subject to any specific municipal legal order.

(1) See Chapters VIII and XV.
It was decided at the inaugural meeting of the Commission that its headquarters should be in London. This decision was never questioned or altered; it is, therefore, of particular importance how the status of the Commission in international law has been given effect to in the municipal law of the United Kingdom.

In 1944 the legislature of the United Kingdom passed a statute, the Diplomatic Privileges (Extension) Act, 1944, which deals, inter alia, with privileges, immunities and capacities of certain international organisations and their staffs.

The relevant provisions of the United Kingdom Act apply to any organisation declared by Order in Council to be an organisation of which His Majesty’s Government in the United Kingdom and the Government or Governments of one or more foreign sovereign Powers, are members.

Such declarations have, so far, been made by Order in Council with regard to a considerable number of international organisations, among them one with regard to the United National War Crimes Commission.

The Diplomatic Privileges (Extension) Act of 1944 gave power to His Majesty to confer by Order in Council on the organisation, on representatives of member Governments on it, and on officers and servants of the organisation, certain immunities and privileges. The extent of the immunities and privileges granted to the Commission, to the representatives of the member Governments on it and to its high officers and other officers and servants, have been specified by an Order in Council, S.R. & O. 1945, No. 1211.

The Commission as such had the following immunities and privileges:

(a) Immunity from suit and legal process.

(b) The like inviolability of official archives and premises occupied as offices as is accorded in respect of the official archives and premises of any envoy of a foreign sovereign Power accredited to the United Kingdom.

(c) The like exemption of relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

(d) Exemption from taxes on the importation of goods directly imported by the organisation for its official use in the United Kingdom, or for exportation, such exemption to be subject to compliance with such conditions as the appropriate British authorities (the Commissioners of Customs and Excise) may prescribe for the protection of the Revenue.

It was further provided that the Commission should have the legal capacities of a body corporate.

One representative of each member Government on the Commission had the following immunities and privileges, corresponding to what is generally called “full diplomatic status”:
(a) The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign Power accredited to the United Kingdom.

(b) The like inviolability of residence as is accorded to such an envoy.

(c) The like exemption or relief from taxes as is accorded to such an envoy.

E. THE FAR EASTERN AND PACIFIC SUB-COMMISSION

As mentioned above it had been resolved at the constituent meeting at the Foreign Office on 20th October, 1943, that the United Nations War Crimes Commission should be empowered to set up panels, and it had been noted that the Chinese Government was in favour of the establishment of one such panel at Chungking, at that time the provisional capital of China.

A Foreign Office memorandum of March, 1943, had indicated that such panels should enjoy the greatest possible degree of autonomous action consistent with the central co-ordinating functions of the Commission. On 10th May, 1944, the Commission adopted a proposal by the Chinese Ambassador establishing a Far Eastern Sub-Commission as a branch of the United Nations War Crimes Commission.

(i) ORGANIZATION OF THE SUB-COMMISSION

The Commission's letter(1) which was despatched in June, 1944, to the Governments, announcing the establishment of this Sub-Commission, declared that the Sub-Commission might sit at other places than Chungking, but that recommendations for modifying the principles and rules adopted by the main Commission, which might be required by local circumstances, should be reported to the main Commission for approval; that recommendations to the Governments must be made through the Commission; that the expenses of the sub-Commission should be met in the same manner as those of the Commission—i.e., that each Government would pay the expenses of its representatives and the cost of preparing and transmitting cases to it and that the expenses incurred in the operation of the Sub-Commission itself would be met out of the budget of the main Commission. The Chinese Government had been good enough to provide the Sub-Commission with premises in China, as was done in London for the main Commission by the United Kingdom Government.

The Far Eastern Sub-Commission held its inaugural meeting on 29th November, 1944. The Governments represented on it were to be those interested in the Far Eastern problems, but no Government not at war with Japan might be a member.

The possibility of a second panel being required, in view of the distance between the theatres of war in the Far East, was raised in the main Commission(2) but the proposal never, in fact, took shape.

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(1) See C.25, 2.6.44, Establishment of a Far Eastern and Pacific Sub-Commission; draft letter to the Governments.
(2) See M.15, 25.4.44.
The Sub-Commission set up two sub-committees: a Finance Committee and a Committee on Facts and Evidence.

(ii) Composition of the Sub-Commission

The Governments of eleven United Nations accepted the invitation to participate in the Chungking Sub-Commission, namely: Australia, Belgium, China, Czechoslovakia, France, India, Luxembourg, Netherlands, United Kingdom, United States of America. Poland was subsequently added. Dr. Wang Chung Hui, Secretary-General of the Supreme National Defence Council, the Chinese representative, called an inaugural meeting on 29th November, 1944, and was elected as first Chairman. He was succeeded in June, 1946, by Dr. Liu Chieh, Vice-Minister for Foreign Affairs. Sir Horace Seymour, British Ambassador; M. Jacques Delvaux de Fenffe, Belgian Ambassador, served at different times as acting Chairman.

The following is a list of the representatives of the participating States, at different times during the life of the Sub-Commission:

The United States of America:
- H.E. General P. Hurley; Mr. George Atcheson, Jr.; Mr. Robert Lacy Smith; Mr. Ray Ludden; Colonel E. H. Young, Major W. West, Captain Bailey, Mr. Ralph Clough.

Australia:
- H.E. Mr. Douglas Berry Copland; Mr. Keith Officer; Mr. Patrick Shaw; Mr. H. A. Stokes; Mr. Charles Lee.

Belgium:
- H.E. Jacques Delvaux de Fenffe; Mr. Robert Rothschild; Mr. Charles Brogniez; Mr. Max Wery.

China:
- H.E. Dr. Wang Chung-Hui; H.E. Dr. K. C. Wu; H.E. Dr. Hsieh Kwan Sheng; H.E. Dr. Liu Chieh; Dr. Wang Hua Cheng; Mr. Yang Yun Chu; Dr. Hsu Tuen Chang; Mr. Cha Liang Chien; Dr. Dison Poe; Dr. C. Y. Cheng.

Netherlands:
- H.E. Mr. A. H. J. Lovink; Dr. R. H. van Gulik; Mr. J. van den Berg; Mr. C. D. Barkman.

(iii) Functioning of the Sub-Commission

About ninety per cent. of the cases presented to the Sub-Commission came from the Chinese National Office; these were first prepared by the Ministry of Justice and verified by the Ministry of Defence; they were then translated into English by the Ministry of Foreign Affairs and copied on special charge sheets modelled after those in use by the Main Commission. From the Ministry of Foreign Affairs, these cases were transmitted first to the Secretariat and then to the Sub-Committee on Facts.

and Evidence. After careful examination, the Sub-Committee classified them as A-1, A-2, B and C. The findings of the Sub-Committee were reported back to the Sub-Commission for approval. Lists of Japanese war criminals were then printed by the Secretariat. The Sub-Commission also furnished the main Commission regularly with minutes of all meetings, which were usually held every two or three weeks. Up to March, 1947, it had held 38 meetings.

F. MISCELLANEOUS COMMITTEES

(i) THE FAR EASTERN COMMITTEE OF THE MAIN COMMISSION

In connection with the establishment of the Chungking Sub-Commission in the Far East, the main Commission created a small sub-committee of its own, consisting of the representatives of countries specially interested in the Far East, under the chairmanship of the Chinese Ambassador, Dr. Wellington Koo.

(ii) PUBLIC RELATIONS COMMITTEE

The attitude of the Commission towards Press publicity, at the outset of its work, was that the Press should be told that it could best help the Commission by not talking too much about its work. Later on, after the capitulation of Germany, it was recognised that certain indiscreet or misleading statements in the newspapers were due, in part, to the lack of a recognised channel for information. An attempt to meet the difficulty by holding a Press conference in August, 1944, was not wholly successful. On 7th February, 1945, it was decided to create a Public Relations Committee. The engagement of a Public Relations Officer was agreed to on 6th June, 1945, and this post was held successively by Colonel L. Fielden and Mr. D. Gibson. In July 1946, the post was abolished, as it was considered to have become superfluous.

(iii) FINANCE COMMITTEE

To deal with the Commission’s expenses, including the appointments of staff and the fixing of salaries, a small standing committee on finance was appointed, at first under the chairmanship of the late Dr. de Moor (Netherlands); subsequently of the late Lord Finlay and, after his death, of Sir Robert Craige.

The nomination of a financial expert to sit without a vote was approved by the Committee on 12th April, 1945. The United States was asked to nominate a second financial expert, but no one with the necessary qualifications was available.

(iv) EXECUTIVE COMMITTEE

To deal with current affairs it was decided in August, 1945, to create an Executive Committee, under the chairmanship of Lord Wright of Durley, to meet regularly either before or after each weekly meeting of the Commission. This Committee comprised the Chairmen of the chief standing committees, with the temporary addition of other members, when questions arose in which they might be specially interested. After
the abolition of the post of Executive Officer in November, 1945, this committee met less frequently and was finally discontinued.

(v) DOCUMENTS COMMITTEE

In order to examine and report on the question of the disposal of the large numbers of captured German documents which had been collected by the occupying armies at Nuremberg, for the trial of the major criminals, and also at a number of other centres on the Continent, a Documents Committee was created by the Commission on 3rd October, 1945, under the chairmanship of Professor Gros (France). The Commission submitted a report, which was adopted by the Commission on 27th February, 1946, after which it held no further meetings.

(vi) LEGAL PUBLICATIONS COMMITTEE

Until October, 1946, matters relating to the publications of the Commission’s War Crime Trial Law Reports were discussed by the Legal Committee (Committee III). On the 23rd of that month, however, the Commission set up a separate committee, entitled the Legal Publications Committee to deal with matters concerning the publication of the Law Reports. This committee originally consisted of M. de Baer (Belgium) as Chairman, and Dr. Mayr-Harting (Czechoslovakia), Mr. Burdekin (New Zealand) and Mr. Kintner (United States) as members. Dr. Schram Nielsen (Denmark) and Mr. Aars Rynning (Norway) subsequently replaced Dr. Mayr Harting and Mr. Burdekin upon their departure from the Commission. On 22nd October, 1947, after the departure of M. de Baer for Geneva, Mr. Kintner was appointed Chairman of the Committee. Lord Wright, as Chairman of the Commission, also took a particularly active part in the activities of this Committee.

G. FINANCE

(i) PRELIMINARY ARRANGEMENTS FOR FINANCE

At the first meeting of the Allied and Dominions representatives held at the Foreign Office, London, on 20th October, 1943, to make arrangements for the United Nations War Crimes Commission for the Investigation of War Crimes the representatives agreed to the following proposal of His Majesty’s Government in the United Kingdom.

“ That each member of the Commission and his staff, if any, should be paid by the Government appointing him but that the salary of the Secretary General and additional secretarial and administrative expenses should be divided equally between the various Governments represented on the Commission.”

The meeting took note of a statement by the Luxembourg Chargé d’Affaires who said that his Government felt that equal division of expenses would fall unduly heavily upon the smaller nations and asked whether some means could not be found of making contributions proportionate to the resources of the various countries represented. It was agreed that the financial arrangements should be subject to the possibility of future adjustments between the Governments concerned.
By an arrangement which the British Foreign Office was good enough to make with the Commission, the latter's early expenses were met by advances from that Department until the Commission was able to assume its own financial responsibilities from the contributions of the member Governments. This arrangement continued until 17th January, 1945.

The British Government also provided to the Commission, free of rental charge, suitable accommodation during the Commission's entire existence, for its staff and for such Commissioners who desired or found it necessary to maintain offices on Commission premises. In addition to office space, the British Government provided office furnishings, and extended to the Commission the printing and supplies facilities of His Majesty's Stationery Office on the same terms as those granted to the various Departments of the British Government.

(ii) APPOINTMENT OF FINANCE COMMITTEE

The Chairman of the Commission was authorized at its fourth meeting on 11th January, 1944, to appoint "a Committee to consider matters of finance having to do with the Commission". The Chairman appointed Dr. de Moor (Belgium), Chairman, Dr. B. Eéer (Czechoslovakia) and Monsieur Bodson (Luxembourg) to constitute this sub-committee.

Lord Finlay (United Kingdom) became Chairman of this Committee in June, 1945, and he was succeeded by Sir Robert Craigie in October, 1945. The Committee, during the concluding stages of the Commission consisted, in addition to Sir Robert Craigie, of Mr. Heydon (Australia), Mr. Dutt (India), Colonel R. M. Springer (U.S.A.), and Dr. Zeman (Czechoslovakia). Lord Wright, as in the case of all other Commission Committees, was an ex-officio member.\(^{(1)}\)

(iii) CONTRIBUTIONS BY MEMBER NATIONS

By a resolution adopted on 21st March, 1944, the Commission made detailed provision for its financial operation, and set its fiscal year to run from 1st April to 31st March inclusive.

Each Government agreed to make a basic contribution of £400 per year towards the expenses of operating the Commission. It was further provided that any sum required for the year's budget in excess of the amount brought in by the basic and equal contributions should be divided according to a total unit system of 1583 with each Government contributing in proportion to the number of units assigned to it. Units assigned to the member Governments were as follows: Australia 30; Belgium 20; Canada 60; China 100; Czechoslovakia 20; Denmark 6; France 80; Greece 10; India 80; Luxembourg 1; Netherlands 30; New Zealand 6;

By a later financial resolution adopted on 22nd August, 1944, provision was made for the creation of a Working Capital Fund of £400 from each

\(^{(1)}\) Other members at various periods were: Colonel Hodgson (U.S.A.); Mr. Oldham (Australia); Lord Wright (Australia); Dr. May-Hartling (Czechoslovakia); Major Panderlik (Czechoslovakia); Mr. Kintner (U.S.A.); Mr. Bridgland (Australia); and Dr. Neumann (Czechoslovakia).

United Kingdom Foreign Office financial experts who advised the Committee at various times were: Mr. E. Williams, Mr. Keighley, and Mr. S. G. Yorston.
member Government. This fund of £6,800, according to the provisions of the resolution, was to be utilized to pay budgeted expenses which could not be met from other contributions received from member nations, or for expenses not provided for in the annual budget. A financial regulation provided that upon the dissolution of the Commission its assets should be divided among the Governments which are or have been members of the Commission, as nearly as possible in the proportion in which they have contributed to create them."

(iv) EXPENDITURES OF THE COMMISSION

Lord Wright, Chairman of the Commission, has frequently stated that he considers the United Nations War Crimes Commission to have been the least expensive International Commission known in history. At any rate the records of the Secretary General indicate the following annual expenditures by the Commission: 20th October, 1943 to 31st March, 1944—£730; 1st April, 1944 to 31st March, 1945—£4,238; 1st April, 1945 to 31st March, 1946—£12,462; 1st April, 1946 to 31st March, 1947—£15,137; and 1st April, 1947 to 31st March, 1948—£15,388.

During 1946 provision was made for the Commission to begin the preparation and publication of a History of the Commission and of volumes of Law Reports of Trials of War Criminals. These expenses were met from the regular budget, and, before its dissolution at a meeting on 25th February, 1948, the sum of £6,600 was appropriated from the funds of the Commission for the completion of approximately 15 additional volumes of Law Reports. Despite this last expenditure it was estimated by the Secretary General that approximately £5,400 would remain of Commission assets for distribution to member Governments.