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<u>Chairman:</u>	Mr. ROY	(Haiti)
<u>Rapporteur:</u>	Mr. MENESES-PALLARES	(Ecuador)
<u>Members:</u>	Mr. BORATYNSKI*	(Poland)
	Mr. CHANG	(China)
	Mr. DANIELS	(United States of America)
	Mr. EKSTRAND	(Sweden)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. SHAFAGH	(Iran)
	Mr. SPANIEN	(France)
	Mr. ZONOV*	(Union of Soviet Socialist Republics)

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Free Trade Unions (ICFTU)

Miss KAHN

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(WFTU)

Category B:

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Representative of the  
Secretary-General

Mr. LAWSON

Secretary of the Sub-Commission

DECISION OF THE ECONOMIC AND SOCIAL COUNCIL TO DISCONTINUE THE SUB-COMMISSION,  
AND FUTURE WORK OF THE UNITED NATIONS FOR THE PREVENTION OF DISCRIMINATION AND  
THE PROTECTION OF MINORITIES (E/CN.4/Sub.2/136, E/CN.4/Sub.2/136/Add.1,  
E/CN.4/Sub.2/L.4, E/CN.4/Sub.2/L.5, E/CN.4/Sub.2/L.8, E/CN.4/Sub.2/L.9)  
(continued)

The CHAIRMAN invited the representative of the World Federation of  
Trade Unions to give the views of her organization on the question under  
discussion.

Miss KAHN (World Federation of Trade Unions) indicated that the  
recent decision of the Economic and Social Council to discontinue the Sub-  
Commission on Prevention of Discrimination and Protection of Minorities had  
aroused grave concern in her organization. The WFTU regarded the Sub-Commission  
as one of the most important organs of the Council; its opinion was based

not only on the work of the Sub-Commission which had not gone as far as its terms of reference permitted but also on the supreme importance of the questions studied by the Sub-Commission.

The WFTU had consistently displayed the utmost interest in the question of prevention of discrimination and protection of minorities. That position was natural for a non-governmental organization representing 78 million workers many of whom were members of minorities or groups subjected to discrimination. The WFTU had therefore made the campaign against discrimination one of its fundamental activities.

As part of that campaign, the WFTU had repeatedly brought cases of discrimination to the attention of the United Nations. In particular it had brought before the Council the issue of discrimination against women workers in the matter of wages and at the Council's tenth session had presented documentation and detailed proposals for the abolition of economic and social discriminatory measures against workers based on race or colour (E/1563, E/1563/Add.1 and E/1563/Add.2). Unfortunately, the Council had decided to refer those documents to the International Labour Organisation. In the same spirit, the WFTU now wished to submit its views to the Sub-Commission at a time when that body was considering the fundamental question of the future work of the United Nations in the field of prevention of discrimination and protection of minorities, a field in which the Sub-Commission had the grave responsibility of making adequate recommendations for those who would carry on its work.

The great importance of that task immediately became apparent when it was considered that the concrete steps needed to prevent discrimination had not yet been taken and that no organ had been set up within the United Nations with competence to hear complaints and make recommendations, although instances of discrimination throughout the world were increasing sharply and world public opinion was seriously alarmed.

The documentation submitted by the WFTU to the Economic and Social Council at the end of 1949 and the beginning of 1950 (E/1563, E/1563/Add.1 and E/1563/Add.2) described many cases of discrimination with respect to employment, wages, living standards and housing, social legislation, labour recruitment and forced labour, trade union rights etc. Since then, the situation had deteriorated still further. Thus the problem of discrimination in employment was particularly acute in many countries. As proof, it was only necessary to refer to a statement made by Mr. Elmo Roper on 27 July 1951, at Cornell University in New York State, and reported in the New York Herald Tribune on 28 July 1951, that discrimination in industry cost the United States thirty billion dollars a year because of the decreased purchasing power of workers. Similarly an article in the Chatham House Review, entitled The World Today, pointed out that the employment policy of petroleum companies in the Bahrainis was to give preference to imported labour over indigenous labour.

Numerous examples of discrimination in wages were contained in the information transmitted by Administering Powers under Article 73 e of the Charter. Among other things, the information submitted showed that in French Morocco the minimum wages prescribed by law were less than half the wages prevailing in France itself. Similarly, according to information received by the WFTU, in Dakar (French West Africa) in January 1951, Africans received 3,848 CFA francs and Europeans 21,000 francs for the same work. That type of discrimination, however, was not limited to non-self-governing territories only, as was shown by the comments made in April 1951 by the President's Commission on Migratory Labour on working and living conditions of alien labour in the United States. Such discrimination led to constant deterioration of the living conditions of the indigenous inhabitants as was shown particularly in the case of the Gold Coast where the cost of basic foods had increased 37 per cent from 1949 to 1950, while wages had registered an increase of only 15 to 20 per cent.

In the economic field, discrimination assumed various other forms. For example, the indigenous inhabitants were denied the right or the practical possibility of exploiting the mineral resources of their country, as was clearly revealed in the case of French Equatorial Africa.

Social legislation and housing also provided numerous examples of discrimination.

Similarly, discrimination in labour recruitment and forced labour were encountered frequently in various areas of the world. The WFTU had had occasion to study the question closely during its preparatory work for a contemplated Pan-African Trade Union Conference which was to be held at Duala (Cameroons under French administration) but which had been banned by the French authorities. The WFTU had also raised the forced labour question at the twelfth session of the Economic and Social Council in connexion with indigenous workers in Latin America, and had brought to the attention of the last session of the Economic Commission for Asia and the Far East certain aspects of the problem as it arose in Asia. That practice was found in different forms in the Union of South Africa where in 1949 there had been 104,000 convictions for violations of the Pass Laws. The "Apartheid" system in effect in the Union Territory might spread to other parts of Africa when large-scale mining operations were begun there.

Attacks on trade union rights often took the form of discriminatory measures. Thus, the indigenous inhabitants of French Morocco who, the French Government admitted in information transmitted under Article 73 e of the Charter (A/1827/Add.1) were not yet authorized by law to form trade unions or associations, were subjected to extremely severe punishment if they violated the prohibition against trade unions. It should be noted that that territory was the object of a number of complaints of violation of trade union rights brought to the attention of the Economic and Social Council at its thirteenth session by the WFTU and various organizations. Yet, no concrete steps had been taken in the matter and the Council had decided to refer the complaints to the International Labour Organisation which maintained the colonial clause in Article 35 of its Constitution.

Discrimination in education and culture continued to be practised and had even increased in some respects since the last session of the Sub-Commission. According to an article in the New York Post of 9 July 1951, one half of the Moslem children in French Morocco were unable to attend school because of the lack of school facilities while the European population had all the facilities it required. In Malaya, the British High Commission had decided in 1950 that Chinese would no longer be one of the languages of instruction in the schools although it was spoken by 40 per cent of the population. In another connexion, the authorities in the State of South Carolina were seeking to maintain the system of segregation in the schools.

A similar trend existed in the political field where attempts by the authorities in Ceylon to disenfranchise the Indians who represented the vast majority of the working population of the Island, restrictions on the exercise of electoral rights in the Union of South Africa and various other events of the same nature provided evidence of a recrudescence of discriminatory practices.

Faced with such a situation, the United Nations could not, in fulfilling the basic obligations for which it was responsible in that field, consider taking purely negative action against discrimination. As the WFTU had already had occasion to stress in its communication to the tenth session of the Council (E/1563/Add.1, page 35): "...the abolition of discriminatory practices requires the application of a comprehensive programme of positive action -- expansion of the part played by and of the scope of action of democratic and progressive organizations, utilization of the profits of trusts and monopolies for a development and industrialization programme, to raise the standard of living and increase the well-being of the people and for the establishment of hospitals, schools, technical institutes and universities in ever-increasing numbers." In other words, the United Nations must recognize that the prime causes of discrimination were economic and social in nature, for discrimination made a more intense exploitation of labour possible. That explained why the expansion of mining had been accompanied in the non-self-governing territories by the development of varied forms of discrimination and conversely why discrimination had disappeared in the Union of Soviet Socialist Republics and in the countries of the People's Democracies concurrently with the elimination of the economic conditions giving rise to discrimination.

The draft resolution submitted by the WFTU to the tenth session of the Economic and Social Council (E/1563/Add.2) set forth that essential idea in clear and precise language. It then called attention to the obligations of the United Nations under Article 55 of the Charter, invited Member States to take legislative and administrative action providing concrete guarantees of absolute equality of treatment in the social and economic field for all

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wage-earners irrespective of race or colour, laid down that truly representative trade union organizations should participate in the elaboration and implementation of those measures, enumerated the points to which those measures should relate and proposed the establishment of a standing committee to examine reports from Member States on the implementation of the recommendations contained in the draft resolution and the documents relating to economic and social discrimination practised against workers because of their race or their colour, to study the comments and complaints made by governments or trade union organizations and to conduct hearings of the parties concerned.

Without wishing to propose a detailed plan to the Sub-Commission, the World Federation of Trade Unions thought that it was of the utmost importance that the Sub-Commission should bring to the attention of the Economic and Social Council and the General Assembly the necessity of expanding the work of the Sub-Commission rather than of discontinuing that body. In that connexion, the Sub-Commission should stress the necessity of maintaining a permanent subsidiary organ as part of the United Nations, which would be competent to examine complaints of discrimination put forward by governments, trade union organizations whose members, industrial and agricultural workers, were particularly affected by discrimination, and other non-governmental organizations concerned with the question. In sum, the WFTU considered that the decision of the Economic and Social Council to discontinue the Sub-Commission, the only United Nations organ dealing with questions of discrimination and protection of minorities, should be reversed and held the view that the Member States, the experts who were members of the Sub-Commission and the Secretariat should try to develop effective machinery for the study and analysis of problems of social and economic discrimination and the formulation of appropriate recommendations in the matter. In that way, the promises contained in the Charter and the Universal Declaration of Human Rights could be translated into reality.

The CHAIRMAN thanked the representative of the World Federation of Trade Unions and expressed the hope that the text of her statement would be made available as soon as possible to the members of the Sub-Commission.

/He then

He then requested the Sub-Commission to continue its study of Mr. Shafagh's proposal (E/CN.4/Sub.2/136, E/CN.4/Sub.2/136/Add.1).

Part B: section I

The CHAIRMAN observed that the meaning of the proposal contained in Section I was not very clear. It seemed to him that it was one of the regular functions of the Economic and Social Council to take all measures it considered necessary in connexion with the work of the Commission on Human Rights.

Miss MONROE (United Kingdom) expressed some surprise that under the heading "With regard to the draft covenant on human rights", Mr. Shafagh had referred solely to action to be taken after the completion of the draft covenant, without mentioning any changes which might be made in the draft text in the meantime, even though several proposals on the subject had been presented, or would be presented, to the Sub-Commission.

Mr. SPANIEN (France) felt that Mr. Shafagh's proposal was inadmissible in that it assumed a priori that after the completion of the draft covenant on human rights, it would be necessary to prepare a separate convention on the prevention of discrimination. That was a question of substance which could not be decided at the moment; it was quite possible that when the draft covenant had been put into final form, such a separate convention would be found to be unnecessary. Moreover, the Sub-Commission should direct its efforts toward achieving just such a result.

Mr. SHAFAGH (Iran) explained that his proposal was not intended in any way to prejudge the question of the eventual preparation of a separate convention on prevention of discrimination. The proposal merely suggested that after the completion of the draft covenant on human rights, the Council should study those provisions of the document which related to the prevention of discrimination and the protection of minorities, with a view to adopting such amendments or further international measures as might appear necessary.

/Mr. EKSTRAND



Mr. EKSTRAND (Sweden) felt that instead of assuming a priori, in accordance with Mr. Shafagh's proposal, that it would be necessary to amend the draft covenant on human rights after its completion, or to adopt supplementary measures, the Sub-Commission would do better to recommend specific amendments to the present text of the draft covenant.

Mr. SPANIEN (France) pointed out that in Mr. Shafagh's proposal the necessity for a separate convention on prevention of discrimination was treated not as a possibility -- which would be understandable, if not appropriate -- but as a certainty, it being assumed in the proposal that the draft covenant in its final form would contain gaps and would be inadequate as regards certain subjects.

The CHAIRMAN considered it the function of the Sub-Commission, not to invite the Economic and Social Council to arrange for study and, if necessary, amendment of the draft covenant after its completion, but rather to submit concrete proposals to the Commission on Human Rights concerning amendments to the present text of the draft covenant.

Mr. ZONOV (Union of Soviet Socialist Republics) thought that the Sub-Commission must bear in mind, first of all, its own particular function, and not attempt to do the work of the Commission on Human Rights or the Economic and Social Council. There was no reason, however, why the Sub-Commission should not request either one of those bodies to take into consideration such amendments to the draft covenant as it might wish to propose.

In his opinion, therefore, the substance of Mr. Shafagh's proposal was sound and he could accept it with the amendment he himself had suggested (E/CN.4/Sub.2/L.8, paragraph 2). Moreover, since paragraphs (c) and (d) of Part B, section II were logically related to the text at present under consideration, he felt that the Sub-Commission could adopt section I taking into consideration paragraphs (c) and (d) of section II, and with the addition of the amendment he had proposed.

/The CHAIRMAN

The CHAIRMAN did not feel that the Sub-Commission could adopt Mr. Shafagh's proposal. It was unnecessary for the Sub-Commission to request that the Council should take its recommendations into consideration, since one of the normal duties of that body was to examine the draft covenant submitted by the Commission on Human Rights and to adopt whatever amendments it considered necessary.

In his opinion, neither Mr. Shafagh's proposal nor Mr. Zenov's amendment was appropriate in the context.

Mr. MENESES-PALLARES (Ecuador) read the text of his proposed amendment (E/CN.4/Sub.2/L.9) to Part B, section I of Mr. Shafagh's proposal. In his opinion, the Sub-Commission's essential task, as regards the draft covenant, was to ensure the protection of minorities and to prevent discrimination; it was for that reason that he requested that the provisions of the draft covenant which related to non-discrimination should be strengthened and that a general article on discrimination in regard to economic, social and cultural rights should be included. On the subject of minorities, his amendment merely summarized the recommendations adopted by the Sub-Commission at its preceding session. Lastly, he pointed out that he had suggested only slight modifications of the last part of Mr. Shafagh's text, thus leaving the door open to eventual amendment of the text of the draft covenant, if such amendment was considered necessary.

In conclusion, he explained that in preparing his amendment, he had endeavoured to reconcile the recommendations made during the current session with those made during previous sessions.

Mr. SHAFAGH (Iran) did not wish to press urgently for the adoption of his proposal, but stated that, in his opinion, the text would in no way be prejudicial to the draft covenant. Moreover, he had not intended to imply that the Sub-Commission was not conversant with the work of the Council, but merely to draw the attention of the Council to certain points which the Sub-Commission considered important. As regards Mr. Meneses-Pallares' amendment, Mr. Shafagh was uncertain of the precise meaning of such phrases as "to undertake a special review of ...", "operative parts", and "strengthening".

/The CHAIRMAN

The CHAIRMAN recognized that it was the function of the Sub-Commission to submit recommendations, but he reiterated his view that it could not ask the Council or the General Assembly to do what it was itself responsible for doing. The same objection applied to Mr. Meneses-Pallares' amendment, although he recognized that that text contained concrete recommendations.

Mr. SPANLEN (France) thought that the proposals under consideration raised a question of substance. If the Sub-Commission wished its work to be of practical value, it must recognize, on the one hand, that the Commission on Human Rights was currently examining the text of a draft covenant and, on the other hand, that the Sub-Commission itself had the duty of ensuring the inclusion in that text of all necessary provisions to guarantee non-discrimination. In his opinion, instead of submitting numerous vague and general recommendations, the Sub-Commission should decide on what particular points it wished to submit amendments, in order that the General Assembly should not be forced to carry out a task which the Sub-Commission itself should have fulfilled.

Miss MONROE (United Kingdom) shared the view expressed by Mr. Spanlen and added that it was with a view to presenting such concrete recommendations that she and Mr. Daniels had prepared a document concerning the protection of minorities (E/CN.4/Sub.2/L.4).

She considered the text submitted by Mr. Meneses-Pallares as preferable to that of Mr. Shafagh, in that the former contained a concrete proposal. Yet, that text was not acceptable to her in its present form, and she greatly preferred the document which she had prepared in collaboration with Mr. Daniels.

The CHAIRMAN asked whether Mr. Meneses-Pallares would agree to replace the words "to undertake a special review of the operative parts of the draft covenant with a view to strengthening" by the phrase "in connexion with its review of the operative parts, to strengthen...".

/In reply

In reply to Miss Monroe's comment concerning the word "strengthening", Mr. MENESES-PALLARES (Ecuador) said that precisely because non-discrimination had not thus far been guaranteed, it was the duty of the Sub-Commission to urge that it should now be ensured. He considered the modification proposed by the Chairman entirely acceptable.

Moreover, he expressed the view that the draft covenant should at least include certain provisions relating to the fundamental rights of minorities.

Miss MONROE (United Kingdom) wished to know, in particular, how the provisions in question could be strengthened.

Mr. SPANLEN (France) asked the Secretariat to explain exactly what stage the Commission on Human Rights had reached in its examination of the draft covenant on human rights.

Mr. SCHWELB (Secretariat) recalled that the General Assembly, in its resolution 421 (V) adopted during its fifth session, had handed down to the Economic and Social Council certain instructions relative to the work of the Commission on Human Rights. The latter body had not had sufficient time to carry out all those instructions; for example, it had not been able to review the first eighteen articles of the draft covenant, nor to deal with the question of a federal State article nor with the provisions relating to petitions. At the end of its seventh session it had approved a report (E/1992) which the Council had just examined in the course of its thirteenth session. The Council had adopted a resolution (E/2105) requesting the Commission to proceed with the tasks which it had not had sufficient time to complete, deciding to transmit to the General Assembly the text of the draft covenant in its present form, in order to afford to governments not represented on the Commission or the Council an opportunity to express their views on the work done by the Commission, and, finally, inviting the General Assembly to reconsider its decision set forth in resolution 421 E (V) to include<sup>in</sup> the draft covenant articles on economic, social and cultural rights.

Mr. Schwelb explained that the General Assembly and the Commission on Human Rights now had before them different parts of the text of the draft covenant for consideration.

/The CHAIRMAN

The CHAIRMAN thanked the representative of the Assistant Secretary-General for his explanation. It was clear, from his statement, that the Sub-Commission was in a position to make recommendations concerning the first eighteen articles, since those articles were still under consideration.

Mr. SHAFAGH (Iran) was still convinced, despite Mr. Schwelb's statement, that the Sub-Commission had the right to ask the Commission on Human Rights to examine the provisions of the draft covenant with a view to the possible preparation of conventions relating to the prevention of discrimination and the protection of minorities.

He would not oppose Mr. Meneses-Pallares' amendment. He pointed out, however, that a few days before, Mr. Meneses-Pallares had submitted a draft resolution couched in similar terms, which had been adopted by the Sub-Commission (E/CN.4/Sub.2/L.3). In the circumstances, he felt that the present amendment was redundant.

Mr. MENESES-PALLARES (Ecuador) explained that he had submitted his amendment precisely because the Sub-Commission had adopted his draft resolution. He felt that it was impossible to over-emphasize the necessity of including in the draft covenant an article prohibiting discrimination as regards economic, social and cultural rights.

The CHAIRMAN asked whether the Sub-Commission had the right to submit recommendations to the General Assembly or the Economic and Social Council, or whether such recommendations must be addressed only to the Commission on Human Rights.

Mr. SCHWELB (Secretariat) explained that according to its terms of reference, the Sub-Commission submitted its report and its recommendations to the Commission on Human Rights. Mr. Shafagh's proposal constituted a request to the Secretary-General which concerned the latter's report to the Council. It was the duty of the Secretary-General, however, to transmit to the Council any suggestions received by him, as well as his own proposals. Therefore the procedure proposed by Mr. Shafagh was a perfectly normal one.

/Mr. ZONOV

Mr. ZONOV (Union of Soviet Socialist Republics) was surprised to note a tendency on the part of certain members of the Sub-Commission to consider that that body's only duty was to fill the gaps left, intentionally or unintentionally, by the Commission on Human Rights, in its work. For his part, he felt that the Sub-Commission had a specific task of its own to fulfil, namely, the prevention of discrimination and the protection of minorities.

He noted that Mr. Meneses-Pallares' proposal requested the General Assembly to review the draft covenant after its completion in order to ensure that the provisions relating to prevention of discrimination and protection of minorities were sufficiently explicit. But such a request constituted a premature admission by the Sub-Commission that it was itself powerless to deal with the situation. Moreover, he thought the Secretariat was showing undue optimism in predicting that the draft covenant would be completed shortly. In actual fact, the text was far from completion. If the General Assembly reaffirmed its decision concerning the necessity of including provisions relating to economic, social and cultural rights, the text would be referred back to the Economic and Social Council, and thence to the Commission on Human Rights, and it would be at least two years before it again reached the General Assembly.

On the other hand, Mr. Shafagh's proposal, though perhaps not entirely satisfactory as to form, brought the Sub-Commission closer to a concrete solution, since it noted that in the preparation of the draft covenant no attention whatever had been paid to the question of prevention of discrimination and protection of minorities. In order to remedy that situation, it was logical that the Economic and Social Council, when it received the draft covenant for examination, should take into consideration the proposals presented in the Sub-Commission, since such proposals would represent the raw material with which the Council could work. He pointed out that the purpose of his amendment was to bring those proposals to the attention of the Council, and he hoped that the Sub-Commission would adopt Mr. Shafagh's text with that amendment.

In reply to a question by Miss MONROE (United Kingdom), he affirmed that the only proposals which should be taken into consideration by the Council were those which the Sub-Commission would adopt during its fourth and final session.

/Mr. BORATYNSKI

Mr. BORATYNSKI (Poland) supported Mr. Zonov's proposal.

Mr. NISOT (Belgium) proposed, as a compromise, the following text: "It is suggested that the Commission on Human Rights, when reviewing the draft covenant, consider including therein all the measures which are practicable, in the field of prevention of discrimination and protection of minorities, suggested by the Sub-Commission."

Mr. SHAFAGH (Iran) noted that Mr. Nisot's compromise proposal took account of the major considerations underlying the text of Part B, section I of his own proposal. He therefore withdrew the latter text.

Mr. BORATYNSKI (Poland) recalled that the Commission on Human Rights had expressly requested the Sub-Commission to confine itself to concrete recommendations; and pointed out that the phrase "all the measures which are practicable" was somewhat vague.

Mr. NISOT (Belgium) replied that the purpose of his text was to reassure the Commission on Human Rights, which had reproached the Sub-Commission with having contented itself with abstract debates having no connexion with reality. He pointed out that his text amounted to a recommendation that the Commission should espouse the principles laid down by the Sub-Commission only in so far as, in its view, circumstances permitted; in his opinion that text took full account of reality.

Mr. DANIELS (United States of America) suggested that the Sub-Commission should vote on the various texts before it.

The CHAIRMAN noted that Mr. Meneses-Pallares' amendment was the farthest removed from Mr. Shafagh's proposal, since it was intended to replace section I, and asked whether Mr. Meneses-Pallares wished to maintain his proposal.

/Mr. MENESES-PALLARES

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Mr. MENESES-PALLARES (Ecuador) having replied in the affirmative, the CHAIRMAN put to the vote the amendment in document E/CN.4/Sub.2/L.9.

The amendment was rejected by 4 votes to 2, with 4 abstentions.

Mr. ZONOV (Union of Soviet Socialist Republics) explained that he had voted against the amendment because he saw no use in the Sub-Commission's adopting the same recommendation twice during the same session.

The CHAIRMAN said that he had abstained for the same reason. He then asked Mr. Zonov whether he wished to maintain his amendment.

Mr. ZONOV (Union of Soviet Socialist Republics) indicated that he could not accept Mr. Nisot's text, since he felt that the procedure suggested therein would be followed in any event, and that therefore the proposal had no value. As far as his own amendment was concerned, it must automatically fall, since Mr. Shafagh had withdrawn his proposal.

The CHAIRMAN put Mr. Nisot's proposal to the vote.

The proposal was adopted by 4 votes to none, with 6 abstentions.

The CHAIRMAN explained that he had abstained because he felt that the recommendation could serve no useful purpose.

Mr. ZONOV (Union of Soviet Socialist Republics) had abstained for the same reason.

Mr. DANIELS (United States of America) moved that the meeting should be adjourned.

The motion was adopted by 7 votes.

The meeting rose at 5:25 p.m.