

UNITED NATIONS TEMPORARY COMMISSION ON KOREA

FOURTH INFORMATION REPORT ON THE WORK OF THE COMMISSION**

(Period 22 February - 6 March 1948)

I. GENERAL

1. In view of the consultation by the Commission with the Interim Committee on the application of the General Assembly resolution of 14 November 1947 in the light of developments, and the consequent absence of the permanent Chairman and the Assistant Secretary-General from Seoul between 15 February and 5 March inclusive, plenary meetings of the Commission were not held during the two-week period covered by this report. An informal meeting of the Commission was held on 28 February following adoption by the Interim Committee of its resolution of 26 February,*** and it was unanimously decided by the representatives present at this meeting to issue a public statement to the effect that the Commission would observe elections, in such parts of Korea as are accessible to it, not later than 10 May 1948, according to the terms of reference of the General Assembly resolutions and taking into account the recommendations made by the Interim Committee as to the conditions to be fulfilled for such elections (Annex 1). In a telephone conversation on 29 February (Seoul time) between the Chairman of the Commission at New York, and the Principal Secretary of the Commission at Seoul, the Chairman agreed to the decision of the informal meeting of 28 February.
2. On 1 March 1948, in conformity with the decision of 28 February, the Chinese representative, as acting Chairman of the Commission, delivered a speech at Seoul Stadium in which he announced the text of the statement referred to above concerning observation of elections (Annex 2).
3. During the period under consideration, the three Sub-Committees continued their programmes of work.

* First issued at Seoul as document A/AC.19/50.

** For the last report, see document A/527.

*** For the text of the resolution see document A/AC.18/36, page 2.

II. WORK OF THE SUB-COMMITTEES

4. At the sixteenth plenary meeting of the Commission on 8 March 1948, the representative of China reviewed the work of the three Sub-Committees since their establishment, and more particularly during the period 15 February to 6 March inclusive.

Sub-Committee 1

A summary of the work of Sub-Committee 1 during the period 2 February to 7 March 1948 is contained in Annex 3. As a result of its work the Sub-Committee has drawn up certain recommendations which it considers essential for the attainment of a free atmosphere for elections (Annex 4). These recommendations have been submitted to the Commission for its consideration.

Sub-Committee 2

A summary of the work of Sub-Committee 2 between 15 February and 6 March is contained in Annex 5.

On 2 March, the members of the Sub-Committee visited a village in Yang P'Yong Gun, near Seoul, and interviewed the village headman. Information was obtained concerning the attitude of the villagers toward the elections and electoral procedures.

Sub-Committee 3

A report of the work of Sub-Committee 3 from its establishment on 19 January to 6 March is contained in (Annexes 6 and 6a). The report presents the recommendations of the Sub-Committee to the Commission concerning the modification of provisions in electoral laws and regulations in order to bring them into greater conformity with the General Assembly resolution concerning adult suffrage, the secrecy of the ballot, and a representation of the Korean people from each voting area or zone proportionate with the population, and in general, to promote as complete and as free expression of popular will as possible.

During the period under consideration, seven meetings of the Sub-Committee were held, during which the reports and studies prepared by the Secretariat on the electoral laws and regulations of South and North Korea were examined in detail. The recommendations of the Sub-Committee resulting from this examination are contained in the report referred to above.

ANNEX 1*

STATEMENTS CONCERNING THE ELECTION DATE

I

STATEMENT BY DR. LIU YU-WAN, ACTING CHAIRMAN OF THE
UNITED NATIONS TEMPORARY COMMISSION ON KOREA
DELIVERED AT THE SEOUL STADIUM ON 1 MARCH 1948

As acting Chairman of the United Nations Temporary Commission on Korea, I have the honour and extreme pleasure of presenting to you and good Koreans everywhere the following statement:

"In conformity with the views expressed by the Interim Committee of the General Assembly in its resolution adopted on 26 February 1948, the United Nations Temporary Commission on Korea will discharge its duties, that is to say, observe elections in such parts of Korea as are accessible to the Commission, not later than 10 May 1948, according to the terms of reference of the resolutions of the General Assembly, and taking into account the recommendations made by the Interim Committee as to the conditions to be fulfilled for such elections, namely, 'that the elections be held on the basis of adult suffrage and by secret ballot', and in 'a free atmosphere wherein democratic rights of freedom of speech, press and assembly would be recognized and respected'."

II

PROCLAMATION BY THE COMMANDING GENERAL, UNITED STATES
ARMY FORCES IN KOREA, ON THE ELECTION OF
REPRESENTATIVES OF THE KOREAN PEOPLE

TO THE PEOPLE OF KOREA:

The General Assembly of the United Nations, having established a United Nations Temporary Commission on Korea, recommended that elections be held to choose representatives with whom the Commission may consult regarding prompt attainment of the freedom and independence of the Korean people, and which representatives, constituting a National Assembly, may establish a National Government of Korea;

The United Nations Temporary Commission on Korea having consulted the Interim Committee of the United Nations, which expressed the view that it is incumbent upon the United Nations Temporary Commission on Korea to implement the programme as outlined in the resolution of the General Assembly in that part of Korea which is accessible to the Commission;

The United Nations Temporary Commission on Korea having concluded to observe such elections in those parts of Korea accessible to it, and the territory occupied by the armed forces of the United States of America being accessible to the Commission;

NOW, THEREFORE, by virtue of the power vested in me as Commanding General of the United States Army Forces in Korea, I do hereby proclaim as follows:

1. That election of the representatives of the Korean people, under the observance of the United Nations Temporary Commission on Korea, shall be held within the territory of this command on 9 May 1948.
2. That such election being held under the terms and provisions of Public Act Number 5, dated 3 September 1947, Law for the Election of Members of the Korean Interim Legislative Assembly, with such changes, additions and emendations as, after consultation with the United Nations Temporary Commission on Korea, may be deemed necessary. Given under my hand at Seoul, Korea, on 1 March 1948.

(signed) JOHN R. HODGE

Lieutenant General, United States Army

ANNEX 2

SPEECH BY DR. LIU YU-WAN, ACTING CHAIRMAN OF THE UNITED
NATIONS TEMPORARY COMMISSION ON KOREA, DELIVERED AT
THE SEOUL STADIUM, ON MONDAY,
1 MARCH 1948 AT 11.00 A.M.

Ladies and Gentlemen,

Seven weeks ago, we came to Korea. We were charged with the solemn duty of assisting and expediting the re-establishment of the national independence of Korea. We were given the right to travel, observe and consult throughout the length and breadth of this beautiful Korean peninsula.

After one month of general observation, limited consultation, and very much restricted travel, our activities were called to a halt by the "negative attitude" of a great, friendly Power. So much so that, for a little while, we didn't know whether we should satisfy ourselves by just sitting pretty in the magnificent Duk Soo Palace of Seoul, or whether we should pack up our troubles in a kitbag and "scream". To be faithful to our job, and to be loyal to our Korean friends, we did neither. We decided on consultation with the Interim Committee of the United Nations.

The result of our consultation is by this time known all over the world. We asked the Interim Committee whether "under the terms of the General Assembly resolution of 14 November 1947 and in the light of developments in the situation with respect to Korea since that date", it is incumbent upon us to implement the programme as outlined in resolution II in such parts of Korea as are accessible to the Commission. And the answer, Ladies and Gentlemen, is a big, affirmative "YES"! By a vote of thirty-one to two, with eleven abstentions, the Interim Committee has given us the advice to proceed.

In giving us this "green light", the Interim Committee has chosen to emphasize a few points which are so fundamental in nature that although they are embodied in a so-called "explanatory note", they should be regarded as an official appendix to the resolution. With your permission, then, I shall enumerate them to you today with the hope that you will bear them in mind especially in the few months to come, which will mean so much to the national life of the Korean people. Here they are:

1. The elections to be observed by the United Nations Temporary Commission on Korea should be held in a free atmosphere wherein democratic rights of freedom of speech, press and assembly would be recognized and respected.

/2. The form

2. The form of a Korean government is to be determined by the Korean people themselves.
3. The Korean representatives constituting a National Assembly would be entirely free to consult with the United Nations Temporary Commission on Korea.
4. These representatives would be free to carry on such negotiations as they wish with any other Korean groups which might not have participated in the elections regarding the form of government to be established and the participation of those groups therein.
5. All peaceful methods of persuasion would be used to the greatest possible extent for the attainment of Korean unity.
6. The United Nations Temporary Commission on Korea itself has the authority and the discretion to discharge its duties in Korea wherever and to the extent that circumstances permit.

It is true that , so far as we know, the people of Korea have never conducted a general election for the selection of national representatives under elective procedures commonly accepted by most parts of the world as democratic. Personally, I share the great faith of General Hodge, commanding the United States Forces in Korea, when he said recently in a public statement that Koreans today have a genuine regard for democratic processes. When we get down to the business of election, as we shall soon do, let us one and all strive to put in motion the election laws, regulations and electoral mechanism, as well as the spirit that lies behind them, and to conduct an election so that the representatives thus chosen will be "in fact duly elected by the Korean people and not mere appointees by military authorities in Korea."

Today is 1 March 1948. Twenty-nine years ago, Korean patriots launched their first attack against their alien masters. It was the beginning of the movement to regain independence for Korea. For a time the job looked hopeless. The alien masters were too tough a nut for them to crack. But the Korean leaders didn't think so. Every life that was lost in the movement became a seed for the beautiful flower of Korean patriotism. Every drop of blood that was shed became the fertilizing dew which nurtured the patriotic blossoms springing up everywhere, some in China, some in the United States of America, and some in Korea itself under the very noses of the alien masters. The movement has become so strong, so deep, and so wide-spread that within a generation the day of 1 March has become a day dear to every Korean heart, whether that little heart is beating in Pyongyang in the North, or in Pusan in the South, or in the tiny little island of Ulung in the midst of the Japan Sea!

/Like 4 July

Like 4 July for the Americans, 10 October for the Chinese, 14 July for the French, and 7 November for the Russians, 1 March will be forever a day of joy for the Koreans!

As acting Chairman of the United Nations Temporary Commission on Korea, I have the honour and extreme pleasure of presenting to you and good Koreans everywhere the following statement:

(For the text of the statement see Annex 1 (I))

Before I sit down, let me express, on behalf of my colleagues on the United Nations Temporary Commission on Korea, as well as all the staff members of our able Secretariat, our best wishes for the immediate independence of a United Korea! Ladies and Gentlemen, Long Live Korea!

ANNEX 3*

SUMMARY OF THE WORK OF SUB-COMMITTEE 1 DURING
THE PERIOD 2 FEBRUARY TO 7 MARCH 1948

1. The Sub-Committee convened eleven times during the period covered by the report, namely on 18, 19, 24, 26 (two sessions) February, and 1, 3 (two sessions) 5, 6 and 7 March 1948.
2. Presiding officers during the absence of the Chairman were Mr. Manet (France), fourth and sixth meetings, Mr. Patterson (Canada), fifth meeting, and Mr. Mughir (Syria), seventh to fourteenth meetings. Mr. Mughir's term of office as acting chairman expires at midnight 7 March, to be succeeded for terms of one week by the representatives of China, France and Canada, in that order.
3. The Sub-Committee's meetings were divided into regular business meetings and hearings of officials and experts. The following persons were heard: Lt. General John R. Hodge, Commanding General, United States Army Forces in Korea, on 3 March 1948; Major General W. F. Dean, Military Governor, on 24 February and 5 March 1948; Brigadier General John Weckerling on 19 February 1948; Dean Charles Pergler, special advisor to the Military Governor and Dr. Ernest Fraenkel, advisor to the Department of Justice, on 25 February 1948.
4. The Sub-Committee also decided at its seventh meeting to hear in due time the following Korean officials: Mr. Kim Bong No, Director of the Department of Justice; Mr. Lee Sang Ki, Justice of the Supreme Court; Mr. Sin Tai Ik, lawyer; and Mrs. Pak Seung Ho, member of the KLLA, educator and politician.
5. The work of the Sub-Committee has further consisted of drafting recommendations for a free atmosphere for elections. As is known, the Interim Committee of the United Nations on 26 February 1948 adopted, in addition to the resolution an "explanatory note", reading in part as follows:
"That elections to be observed by the United Nations Temporary Commission on Korea should be held in a free atmosphere wherein democratic rights of freedom of speech, press and assembly would be recognized and respected".
6. It was therefore incumbent on Sub-Committee 1, charged "to devise ways and means to ensure a free atmosphere for elections" to formulate the requirements to be recommended by the Commission to the United States authorities in South Korea, on the understanding that these recommendations are acted upon by the authorities, in a way and to an extent satisfactory to the Commission.

* Document A/AC.19/20/Add.1.

7. With this object in view, the Secretariat was charged with preparing a first draft of recommendations which served as a basis of the report of the Sub-Committee which this day has been approved by the Sub-Committee and submitted for the consideration of the Commission (Annex 4). This report covers four main points essential for the attainment of a free atmosphere, namely:

- (a) The question of law;
- (b) The question of enforcement;
- (c) The question of information and education;
- (d) The question of political prisoners.

8. On each of these points the Sub-Committee has suggested to the Commission a number of recommendations, which the Commission will take up on 9 March at its seventeenth meeting.

ANNEX 4*

SUB-COMMITTEE 1

RECOMMENDATIONS FOR A FREE ATMOSPHERE FOR ELECTIONS

1. The Interim Committee of the United Nations on 26 February 1948 adopted in addition to the resolution an "explanatory note", reading in part as follows:

"That elections to be observed by the United Nations Temporary Commission on Korea should be held in a free atmosphere wherein democratic rights of freedom of speech, press and assembly would be recognized and respected."

2. It is now incumbent on Sub-Committee 1 of the United Nations Temporary Commission on Korea, charged "to devise ways and means to ensure a free atmosphere for elections" to formulate certain requirements to be recommended by the Commission to the United States authorities in South Korea, on the understanding that these recommendations are acted upon by the authorities in a way and to an extent satisfactory to the Commission.

A. The question of law

3. The Sub-Committee, having heard the views of Korean personalities and competent experts, has arrived at the conclusion that it is difficult to determine to what extent the free atmosphere required for the elections is ensured by the existing laws and regulations.

4. Meanwhile, the Military Governor has prepared a draft ordinance entitled "Changes in Criminal Procedure" which will greatly increase the civil liberties of the people of South Korea. The new ordinance provides that there shall be no arrests without warrant, or in certain specified cases where arrests without warrant are permitted, no detention for longer than forty-eight hours without subsequent warrant; provisions for bail and counsel and punitive measures for abuse of power. The Sub-Committee recognizes that this ordinance is an important step forward in the direction of guaranteeing civil liberties.

5. The Sub-Committee suggests to the Commission a recommendation to the United States authorities to submit to it a compilation of the existing laws and regulations which, in its opinion, provide that "democratic rights of freedom of speech, press and assembly would be recognized and respected". This compilation might, at a later stage, form the basis for a proclamation of the United States authorities on this subject.

* Document A/AC.19/42.

6. Pending the receipt of such a compilation, the Sub-Committee is unable to pronounce itself on the adequacy of the existing laws and regulations governing this subject.

7. In the meantime, the Sub-Committee goes on record that, in its opinion, the above-mentioned freedoms do include the right to vote or not to vote and to advocate either point of view by peaceful and legal means. The Sub-Committee has taken note of the relevant testimony of Lieutenant General John R. Hodge, Commanding General, United States Army Forces in Korea, on 3 March 1948 which endorses this point of view.

B. The question of enforcement

8. The Sub-Committee is fully aware of the fact that neither laws, ordinances or proclamations in themselves provide sufficient guarantees for a free atmosphere for elections. The Sub-Committee has been impressed by the evidence submitted that the Police Department plays an important role in the application and execution of these laws and ordinances. It has come to the conclusion that there are divergent views among the Koreans about the manner in which the Police Department executes its duty, which might indicate that changes in the Department might be desirable. On the other hand, the military authorities, taking into consideration the present circumstances, appear to be satisfied with the performance of the Police Department.

9. The Sub-Committee, therefore, recommends to the Commission to advise the appropriate authorities that the Commission is genuinely concerned about the possible role the police might play during the elections: that it will make it its task to watch the attitude of the police very closely and that the results of its observations will be an important factor in determining whether it is able to report to the General Assembly that the elections were held in a free atmosphere.

10. In addition, it recommends that the appropriate authorities be advised by the Commission to take such action as may bring about a re-orientation of the police force as to their attitude towards a free atmosphere for elections.

11. The Sub-Committee also studied the advisability of placing the national police under a special department, for instance, a department of the Interior in the South Korean Interim Government.

12. It is a generally accepted principle of constitutional government that the police should be under a department of the government.

13. In South Korea, at this time, if action were taken which would thus place the police under a department of the Interim Government, it would serve as an indication of the desire and determination of the authorities to do everything in their power to provide guarantees for a free atmosphere for elections.

/14. On the other

14. On the other hand, the Sub-Committee has noted that, in the circumstances now obtaining in Korea, the police are responsible to the United States military authorities and has been informed that they constitute an important element in maintaining conditions of security.

15. The Sub-Committee found it difficult to weigh these two sets of considerations and therefore submits this problem for consideration by the Commission.

16. The Sub-Committee has been informed by the highest authority that, among the factors that might adversely affect free elections, are the activities of some of the youth organizations.

17. The Sub-Committee suggests a recommendation from the Commission to the effect that it would be desirable that the competent authorities make it known to the leaders of youth organizations that the activities of their members are under scrutiny of the United Nations Commission and that their attitude will be an important factor in the report the Commission will have to make to the General Assembly.

18. The Sub-Committee also suggests a recommendation that no members of youth organizations be allowed to congregate in the vicinity of polling places, and that no uniformed members of these organizations be allowed in the vicinity of polling places except for the purpose of voting themselves.

C. Freedom of information

19. The Sub-Committee has decided that it would be desirable for the Commission to recommend to the United States authorities a strenuous and active campaign of impartial dissemination of information about the elections. The Sub-Committee is aware of the fact that this is the first election to be held in Korea, and an educational campaign on a non-partisan basis would be extremely desirable.

20. The Sub-Committee would also suggest a recommendation from the Commission to ensure that the available newsprint, which it knows to be limited, be distributed on an equitable basis by the competent authorities and not on the basis of first come, first served, or of the ability of certain groups to buy out the market.

21. The Sub-Committee further suggests a recommendation from the Commission to the effect that if the radio stations are being put at the disposal of political candidates and parties, this be done on an equitable basis and not on the basis of ability to buy radio time.

D. The question of "political prisoners"

22. The Commission has noted that, during the hearings of Sub-Committee 2 none of the personalities was able to provide that Sub-Committee, although

/requested to

requested to do so, with lists of names of the political prisoners they had mentioned in the course of their hearings.

23. On the other hand, the Sub-Committee has also taken note of a memorandum submitted to it by Brigadier General Weckerling, dated 29 January 1948, which stated among other things that, of the total number of persons tried in Korean Courts, only "those in three categories: namely 'participating in riot', 'participating in illegal meeting', and 'distributing handbills', totalling 710 persons, could possibly be considered to be within the meaning of 'political offences'". These figures were based on the situation as of 31 October 1947.

24. The Sub-Committee, under these circumstances, is not in a position to pronounce itself on the fact whether or not there are "political prisoners" detained in South Korea.

25. The Sub-Committee, however, wants to go on record that, in its opinion, political activity accompanied by crime such as, for instance, arson, counterfeiting, etc., cannot be considered as political offences.

26. It further goes on record that, in its opinion, participating in illegal meetings, distributing handbills, unless accompanied by a criminal act or incitement to criminal acts are to be considered as political offences.

27. The Sub-Committee, fully recognizing the responsibilities for law and order by the authorities, but also taking into account the beneficial effects that might obtain from an act of good will and conciliation, suggests to the Commission a recommendation for a pardon for persons described in paragraph 26 who have served or who would have served at least six months of their sentences at the time of the election date.

ANNEX 5*

SUMMARY OF THE WORK OF SUB-COMMITTEE 2 DURING
THE PERIOD OF 15 FEBRUARY TO 5 MARCH 1948

1. The work of Sub-Committee 2 up to 14 February 1948 has been summarized previously.** The Sub-Committee now presents a brief survey of the main aspects of its work since that date.

Hearings of Korean personalities

2. The Sub-Committee has now heard twenty-four Korean personalities*** in accordance with its terms of reference "to secure the statements from Korean personalities whose views may be helpful to the Commission in the discharge of its duties". In addition, the Sub-Committee has heard the views of the Commanding General, United States Army Forces in Korea, and held an interview with Mr. Haw Sawng Taik, Chairman of the Federation of Korean Trade Unions (see paragraph 6 below).

3. In the course of the above hearings representatives of political parties were heard as follows:

Representatives of rightist parties:	3
Representatives of moderate parties:	3
Representatives of leftist parties:	3
Representatives of extreme left parties:	none.

Hearings of representatives of leftist and extreme left opinion

4. In order to secure a balanced representation of Korean opinion the Sub-Committee at its twentieth meeting decided to invite the following persons of leftist and extreme left affiliations to a hearing:

HAW Sawng Taik (Chairman, Federation of Korean Trade Unions).

HUH Hun (Chairman, South Korea Labour Party).

KIM Won Bong (Chairman, People's Republic Party).

PAIK Yong Hi (Chairman, All Korea Farmers' Union).

YOO Yawng Choon (Chairman, Women's Democratic Alliance).

5. Taking account of the fact that the above persons were either in prison, under order of arrest, or under some form of police surveillance, the Sub-Committee approached the United States authorities with a view to securing an appropriate grant of immunity which would enable the above-mentioned persons, if they so desired, to accept its invitation to a hearing.

* Document A/AC.19/21/Add.2

** See documents A/525, Annex 2, and A/527; Annex 5.

*** For the list of names see Appendix.

A public announcement by the Commanding General, United States Army Forces, in Korea to this end was made on 18 February*.

6. While letters of invitation were delivered to the above persons** the only one with whom the Sub-Committee was able to make contact was Mr. Haw, following his release from Seoul prison on 19 February. In an interview with the Sub-Committee, Mr. Haw indicated that the assurance given him while in prison that he would be free to consult with his organization, prior to deciding whether to accept the Sub-Committee's invitation to a hearing, had not been carried out. At the request of the Sub-Committee a further assurance was then given by the United States authorities that Mr. Haw would be free from police surveillance and not subject to re-arrest between the period 21 February to 7 March*.

7. It appears from statements made in the Korean press by the Democratic Women's Alliance and by Mr. Haw Sawng Taik*** that representatives of extreme leftist opinion are not willing to appear before Sub-Committee 2. The reasons stated are objections on political grounds to the United Nations Temporary Commission's functions and lack of confidence in the assurances given by the authorities regarding their immunity from police surveillance.

8. The views of the following leftist and extreme left organizations have been received in written form:

- Federation of Korean Trade Unions
- Democratic People's Front
- South Korea Labour Party
- People's Republic Party
- All Korea Farmers' Union
- Democratic Women's Alliance

Freedom of communication with the Sub-Committee.

9. Under its terms of reference the Sub-Committee has the responsibility to "examine any documents already received or which may be received from Korean sources by the Secretariat". On 28 January, the Sub-Committee publicly invited Koreans to continue to submit written statements of their views. In this regard the Sub-Committee has taken note of the following incidents concerning which information was provided on request by the

* See document A/527, Annex 3.

** Except Mr. Paik Yong Hi, to whom it was not found possible to deliver the letter.

*** Seoul Times, 2 March 1948.

the United States authorities:

(a) On 24 February three persons (LEE Po Hyung, PAK Soon Wum, and SOM Hae Yong) belonging to the Korean Railroad Labourers' Association were arrested outside the Duk Soo Palace grounds, while bearing a communication to the Commission, and the communication confiscated by the police. Upon request the United States authorities made enquiries from the police and recovered the document which expressed the leftist viewpoint of the Commission's activities. The three men were reported to have been immediately released after police investigation.

(b) On or about 27 February, a Korean (CHUNG Wo Ilg) was arrested within the Duk Soo Palace grounds while conveying a number of communications, including signed petitions, addressed to the Commission. The communications, which express the leftist attitude towards the Commission, were confiscated by the police and were delivered to the Secretariat on 4 March after recovery by a United States officer who by chance had learnt of their existence. The person arrested has been sentenced to twenty-nine days' imprisonment on charges which were stated to be not connected with his bringing of communications to the Commission.

10. In regard to the above incidents a press communique was issued indicating the concern of the Sub-Committee that no interference should occur "with any Korean whose legitimate purpose is to present views in writing to the Sub-Committee, irrespective of the nature of those views". At the request of the Sub-Committee the Acting Chairman of the Commission addressed a letter to the Commanding General, United States Army Forces in Korea, expressing the view "that there should be no unnecessary restrictions on freedom of communication with the Commission".

Recommendation concerning the future work of the Sub-Committee.

11. At the twenty-seventh meeting, the Sub-Committee considered the immediate future of its work in the light of the resolution of the Interim Committee and the fixing of the date for elections. It was considered that while representatives of certain right, moderate and leftist (excluding extreme left) parties had expressed their views at an earlier stage before the Sub-Committee, it would provide a useful background of information if the present views of all the main political groups towards participation in the elections could be ascertained.

12. To this end the Sub-Committee agreed to submit the following recommendation for the consideration of the Commission:

"That, having in mind the resolution of the Interim Committee and

/the announcement

the announcement of the date for the holding of elections, Sub-Committee 2 should proceed as soon as possible to examine the present views of political parties and organizations towards participation in the elections and report on its findings to the Commission."

APPENDIX

LIST OF KOREAN PERSONALITIES HEARD BY SUB-COMMITTEE 2,
26 JANUARY TO 6 MARCH 1948

<u>Name</u>	<u>Organization and Status</u>
Dr. RHEE Syngman	Chairman, National Association for the Rapid Realization of Korea Independence.
Mr. KIM Koo	Chairman, Korean Independence Party.
A Representative of a moderate left organization.	
Dr. KIM Kyu Sik	Chairman, South Korean Interim Legislative Assembly, and Chairman, National Independence Federation.
Rev. HAN Kyung-Chik	Christian Pastor, formerly in North Korea.
Mr. LYUH Woon Hong	Chairman, Social-Democratic Party.
Mr. KIM Sung Soc	Chairman, Hankook Democratic Party.
Mr. CHO Pyung Chai	Secretary-General, Civil Liberties Union.
Mrs. Esther Whang PARK	President, Federation of Women's Clubs.
Mr. AHN Chai Hong	Civil Administrator, South Korean Interim Government.
Mr. KIM Yung Mo	Chief Justice of the Supreme Court, South Korean Interim Government.
Dr. CHOUGH Pyung Ok	Director of National Police, South Korean Interim Government.
Mr. CHANG Kun Sang	Chairman, Labouring People's Party.
Most Rev. Paul M. RO D.D.	Bishop of Seoul.
Mr. LEE Dong Sun	President, Chamber of Commerce and Industry of Korea.
Mr. CHUN Yong Soon	Vice-President, Chamber of Commerce and Industry of Korea.
Mr. CHEY Soon Ju	Director of the Bank of Chosun and Vice-President, Chamber of Commerce and Industry of Korea.
Mr. LEE Choon Ho	President, Seoul National University.
Mr. MIN Won Sik	President and Publisher, <u>Seoul Times</u> .
Mr. KIM Pyung Soon	Secretary-General, Young Friends' Party of Chundo-Kyo.
Mr. YI Eung Chin	Adviser, Young Friends' Party of Chundo-Kyo.
Mr. KWON Tai Suck	Chairman, Democratic Korean Independence Party.
Mr. PAK Keun Oong	Chairman, Industry and Agriculture Committee of the South Korean Legislative Assembly.
Mr. HAM Undong	Headman of Yokchon village, Yang P'yong-Gun.

ANNEX 6*

EXAMINATION OF ELECTORAL LAWS AND REGULATIONS AT
PRESENT IN FORCE IN NORTH AND SOUTH KOREA

REPORT OF SUB-COMMITTEE 3

1. Sub-Committee 3 was established by the United Nations Temporary Commission on Korea by a resolution adopted at the sixth meeting held by the Commission on 19 January 1948. At the outset the Sub-Committee consisted of the representatives of Canada, France, the Philippines and Syria. At its seventh meeting, the Commission decided that the representative of El Salvador would take the place of the representative of France. At the thirteenth meeting of the Commission, the representative of China was appointed to the Sub-Committee.

2. The terms of reference of the Sub-Committee, as listed in the resolution of 19 January 1948, were: "to examine the electoral laws and regulations at present in force in North and South Korea from the point of view of:

- (a) Their compatibility with the General Assembly's recommendations;
- (b) Their consistency with democratic practices generally accepted in elections held in the territories of Members of the United Nations;
- (c) The particular requirements for Korea as they will appear from consultations which Sub-Committee 2 will hold with representatives of Korean public opinion;

and to report its findings to the Commission."

By the same resolution the Sub-Committee was invited to acquaint itself with the views of Korean, Soviet and United States officials and experts.

3. The Sub-Committee held eight meetings. At its first meeting, Mr. Melecio Arranz (Philippines) was elected Chairman, and Mr. George Patterson (Canada), Rapporteur. At the third meeting, Mr. R. Luna (Philippines) was appointed Acting Chairman for the period of the absence of Mr. Arranz.

4. At its first meeting the Sub-Committee requested the Legal Adviser to the Commission, who acted as Secretary to the Sub-Committee, to present reports and other technical and documentary studies on the electoral laws and regulations of North and South Korea, with observations as to:

* Document A/AC.19/43.

- (a) Their compatibility with the General Assembly's recommendations;
- (b) Their consistency with democratic practices generally accepted in elections held in territories of Members of the United Nations.

The Secretary of the Sub-Committee was also authorized to consult with United States and Korean experts, including some of the authors of the electoral law and regulations in force in South Korea, and to obtain from them such information as was necessary for the preparation of his reports.

5. At its second meeting, at the request of Sub-Committee 2, Sub-Committee 3 adopted a list of questions to be used by Sub-Committee 2 in the hearings of Korean personalities. These questions are reproduced in Appendix 1.

Members of the Sub-Committee followed with attention the hearings conducted by Sub-Committee 2 by studying the documents circulated by Sub-Committee 2 or by being present at Sub-Committee 2 meetings. The Secretariat subsequently circulated a summary of the opinions expressed by Korean personalities interviewed by Sub-Committee 2 on questions relating to elections.

6. The Sub-Committee based its study of the electoral provisions on the following texts:

- (a) Public Act No. 5 of the South Korean Interim Government, being the Law for the Election of Members of the Korean Interim Legislative Assembly, enacted by the Korean Interim Legislative Assembly on 12 August 1947 and approved by the United States Military Governor on 3 September 1947.

- (b) The Draft Temporary Regulations for implementing the Law for the Election of Members of the Legislative Assembly.

The English translation of both of these texts has been transmitted to the Commission by the United States authorities.

- (c) A text of the Electoral Regulations for North Korea (for the election of the members of the Myun, County, City and Provincial People's Committees) which was transmitted in an English translation to the Secretariat, at its request, by the United States authorities in Washington.

7. The Sub-Committee was unable to consult with North Korean or Soviet experts or receive information as to the application of the electoral regulations in force in North Korea. Members of the Sub-Committee, however, had cognizance of the transcripts of broadcasts from the North Korean radio, which have been circulated by the Secretariat. The text of a broadcast from Pyongyang which summarizes the main points of criticism habitually made by North Korean authorities of the election law in force in South Korea, has been circulated to the members of the Sub-Committee.

/8. As a result

8. As a result of the decision of the Sub-Committee mentioned in paragraph 4 above, informal conversations were held by the Secretariat with a group of representatives of the Korean Legislative Assembly who had been designated by the Chairman of the Assembly, Mr. KIM Kyusik:

Mr. YUN Ki Sup, Vice Chairman of the Interim Legislative Assembly

Mr. PAK Kim Oong, Chairman of the Legal Committee

Mr. KIM Poong Choong, Chairman of the Electoral Committee

Mr. CHEUNG Hong Kyu, Secretary of the Interim Legislative Assembly

as well as with:

Mr. RO Chin Sul, Justice of the Supreme Court

Mr. KIM Do Sung, Chairman of the Korean Press Association

both of whom had been designated by the Military Governor from among the authors of the Draft Regulations, which were drafted to implement the Electoral Law for South Korea and with

Brigadier General John Weckerling

Dean Charles Pergler

Dr. Ernest Fraenkel

who had been designated by the Military Governor as United States experts.

9. At its third meeting the Sub-Committee began a thorough and detailed consideration of the reports and studies which had been prepared by the Secretariat. These documents deal with the following questions:

- I. The franchise: Qualifications and Disqualifications.
- II. Candidature.
- III. Electoral districts and representation.
- IV. Election organization: Administrative divisions and election agencies.
- V. Registration of voters.
- VI. Electoral campaign and voting procedure.
- VII. Counting of ballots and declaration of election results.
- VIII. Incompatibilities, litigation and penal provisions.

10. The Sub-Committee's understanding of the mission which has been entrusted to it by the Commission was not so much that of a theoretical study of the electoral laws and regulations as one of preparation of draft recommendations, which the Commission, after consideration, would transmit to the authorities in Korea. The purpose of the recommendations would be to bring the electoral provisions which would govern the election to be held under the observation of the Commission into greater conformity with the General Assembly resolution concerning adult suffrage, the secrecy of the ballot and a representation of the Korean people from each voting area or zone proportionate with the population and, in general, to

/promote

promote as complete and as free an expression of the popular will as possible.

The Sub-Committee is quite aware that even the best legal provisions are not sufficient to achieve these aims. An honest and sincere application of the texts in the spirit in which they were conceived and a free atmosphere during the election period are essential. The Sub-Committee is, however, of the opinion that, if the recommendations included in the following paragraph were implemented, the electoral texts would constitute a sufficient basis for fulfilling the General Assembly resolution on this subject.

11. The Sub-Committee's understanding of the General Assembly resolution in recommending adult suffrage in Korea was that as many Koreans as can express a considered opinion should be able to take part in the election of the representatives and that categories of people should be excluded by law from voting only if there were strong reasons for it not incompatible with democratic practices. The Sub-Committee, therefore, is of the opinion that:

(a) In view of the administrative situation of the country, the provisions concerning citizenship in Public Act No. 5 and Section 2 of the Draft Regulations can be considered as satisfactory for the purpose of elections.

(b) For the reasons outlined in the Secretariat's study (See Appendix 2, A), the right to vote should be granted to Korean citizens, regardless of sex, property, education or religion, at the age of twenty years.

(c) The requirement of sixty days residence, as in the South Korean Law (Public Act 5, Section 11) should be maintained without special provisions concerning voters changing their residence between the period of registration and the voting day, as in Section 15 of the North Korean Regulations.

(d) Persons unable to read or to write should be permitted to vote and a change is recommended in the existing provisions of the South Korean Law in order to permit the registration of such voters and their participation in the balloting, while ensuring the secrecy of the voting (See paragraph 23 below).

(e) With respect to categories of persons disqualified from voting by Section 2 (a) of Public Act No. 5, exclusion should be limited:

(1) To persons who have been declared "incompetent" by decision of a court of justice or declared "quasi-incompetent" by decision of a court of justice because they are "weakminded." Persons declared "quasi-incompetent" because they are "deaf," "dumb," "blind" or "spendthrift" should be permitted to vote.

/(2) To persons

- (2) To persons who are sentenced and serving prison sentence or who are under suspended sentence or under a sentence not yet executed.
- (3) The Sub-Committee recommends the deletion of sub-paragraph (3) of Section 2 (a), relating to persons who have served a prison sentence in the past (See Appendix 2, B).
- (4) With respect to pro-Japanese "collaborators", in the absence of a law classifying certain persons as "traitors", "collaborators" or "profiteers", the Sub-Committee recommends that those categories of persons who under Section 2 (b) are declared not eligible for election should also be deprived of the right to vote, with the addition of two categories:
 - a. Persons who accepted peerages from the Japanese;
 - b. Persons who were members of the Japanese Imperial Diet.

12. With respect to conditions to be filled by candidates, the Secretariat is of the opinion that:

(a) The age of candidature should be maintained at twenty-five, as in the South Korean law;

(b) With respect to persons declared incompetent or quasi-incompetent by the judgment of a court, the Sub-Committee proposes the same recommendation as is made above with respect to the right to vote (See paragraph 11, e, (1)).

(c) Persons who are serving or who have served prison sentences for political offences should be eligible for election. Persons now serving prison sentences and those who have received a sentence of one year or more of penal servitude or imprisonment for ordinary offences since 2 September 1945, should, however, be declared ineligible for office. The representative of Syria felt that persons who have served sentences for ordinary offences should not be eligible for office.

(d) The categories of pro-Japanese "collaborators" listed in Section 2 (b) of the South Korean Law should be declared not eligible for election as representatives. Two categories of persons should be added to this list, namely:

1. Persons who accepted peerages from the Japanese,
2. Persons who were members of the Japanese Imperial Diet.

(e) Section 5 excluding from candidature in the district concerned officials participating in election procedures and members of the election committees should be maintained.

(f) The minimum

(f) The minimum number of voters necessary to sponsor a candidate should be raised to two hundred.

(g) The Sub-Committee agrees that a candidate should not be required to be a registered voter in the district in which he stands for election. It also is of the opinion that Section 18 of Public Act No. 5, which declares invalid the candidacy of a person who registers or who is registered with his consent in two or more electoral districts should be maintained.

13. The Sub-Committee recommends the following changes in the system of allocation of representatives to each of the electoral districts, as outlined in Sections 9 and 36 of Public Act No. 5:

(a) The division into electoral districts should be made in such a manner as to provide for only one representative from each electoral district;

(b) Therefore, each Gun and each Pu which have less than 150,000 inhabitants will constitute one electoral district; the Island of Wool Lyong will constitute one electoral district;

(c) Each Gun, each Pu and each Xu of the City of Seoul having over 150,000 inhabitants should be divided into two, three, or four electoral districts, if its population is over 150,000, 250,000 or 350,000 inhabitants respectively. This division should be made as fairly as possible in a manner to constitute electoral districts of comparable population, while avoiding so far as possible the division of communities of inhabitants.

A list of electoral districts thus constituted should be included as an annex to the Electoral Law.

14. For reasons outlined in the Secretariat's study (See Appendix 2, C) it is suggested that the Commission should recommend the deletion of the provisions in the South Korean Law relating to the special electoral district.

15. Members of the Sub-Committee were divided (the representatives of El Salvador and the Philippines were in favour of a simple plurality system, and the representatives of China and Syria were in favour of "run-off" elections) with respect to a proposal to recommend a system of run-off elections. If such a system were adopted (this is the system provided for in the Election Regulations for North Korea), if in the first election no one of the candidates receives more than fifty per cent of the valid ballots, another election would be held, limited to the two candidates who received the largest number of valid votes. In the second ballot, which could be held about one week after the first, a plurality would be sufficient. The Sub-Committee decided to report this possibility of improving the present system of representation in the South Korean Law to

/the Commission

the Commission for its decision.

16. Section 6 of the Draft Regulations provides certain standards as to the number of voting sub-districts (polling places) to be established. The Sub-Committee is of the opinion that separate voting sub-districts should be established for groups of inhabitants of not more than 2,000.

17. The Sub-Committee considers that the name of the Central Election Committee should be changed to "National Election Committee." The Chairman of the National Election Committee should not be elected by its members, but designated by the Chief Executive from among the highest judges of the country.

18. The Sub-Committee considers that the provincial election committees could be dispensed with as they seem to constitute unnecessary intermediary organs, the National Election Committee and the district election committees both exercising functions of a supervisory nature.

In case the provincial electoral committees are not established, the Governor of each province should be invited to present to the National Election Committee such reports as he may consider necessary on the operation of the election committees in his province and the membership of the electoral district and voting sub-district electoral committees should be increased.

19. The Sub-Committee recommends a change in the procedure for appointment of the members of the electoral district election committees. These should be composed of eleven members appointed by the National Election Committee out of two lists of eleven persons, the first to be presented by the administrative head of the administrative district concerned and the second by the president of the highest tribunal located at the seat of the administrative district; if there is no tribunal, the second list should be proposed by the president of the tribunal having jurisdiction with respect to the district.

It is further recommended that the chairman of each electoral district election committee should be a judge designated by the president of the same tribunal.

20. The Sub-Committee recommends that voting district election committees should be dispensed with and that voting sub-district committees should have an increased membership of nine. The appointment of members of the voting sub-district committees should be made by the electoral district committee and confirmed by the National Election Committee by a procedure of nomination similar, in so far as possible to the one recommended in the preceding paragraph for the electoral district committee.

/21. The Sub-Committee

21. The Sub-Committee recommends that the second paragraph of Section 17 of Public Act No. 5 should be deleted, as the present wording may lead to an abusive interpretation of the terms "response to calling" or "emergency".

22. It is also recommended that for each election committee, there should be provided in the same manner as for full members as many alternate members as possible, sufficient to take the place of such full members as may be unable to perform their functions.

23. The Sub-Committee is of the opinion that registration of illiterates should be permitted by making possible the filling of the registration paper by a member of their family, or by another person. However, two literate persons should initial the registration paper to certify that it is in conformity with the declaration of the registrant.

24. (a) Section 13 of the Draft Regulations should be redrafted in a manner which would provide that unless the election committee possesses satisfactory evidence, preferably of a documentary nature (such as records of judicial findings) to the effect that a person who has filed his registration paper does not qualify as a voter, his name should be included in the poll register.

(b) It is also proposed that the word "immediately" be added in Section 14 of the Draft Regulations after the words "shall be informed", so as to give to the voter sufficient time to present his claim.

(c) It is also recommended that in Section 15 of the Draft Regulations dealing with the appeal of any voter against an incorrect listing or omission from the poll register by the voting district or sub-district election committee, the words "whenever necessary" should be changed to read "whenever possible."

25. (a) The Sub-Committee recommends that the words "but they may not give or promise to give money, goods or other property (in connection with their campaigns)" be deleted in Section 21 of Public Act No. 5, as they are not necessary in view of the provisions in Section 58 (2).

(b) The Sub-Committee expresses its agreement with the principles contained in the text of Draft Regulation 94. It considers, however, that the exact text of this provision should be subject to such texts as may result from recommendations which the Commission may adopt upon the recommendation of Sub-Committee 1, with respect to the free atmosphere of elections.

(c) The Sub-Committee is of the opinion that the interdiction preventing public officials, and in particular public officials connected with the election procedure, from taking part in the electoral campaign within the districts in which they perform their official duties, should be extended to the whole country.

/(d) The Sub-Committee

(d) The Sub-Committee is of the opinion that Sections 41 and 42 of the Draft Regulations should be deleted as their enforcement, assuming that it could be effective, would necessitate very extensive measures by police authorities, which it is better to avoid.

(e) The Sub-Committee marks its approval of the provisions of Chapter VI of the Draft Regulations dealing with the use of public buildings for election campaign purposes. It also marks its approval of Chapter VII of the Draft Regulations which permits each candidate to mail free of charge a limited amount of letters or postcards to the registered voters of his electoral district. It recommends, however, that if possible more extensive facilities of this type be extended to candidates on the basis of equality.

(f) The Sub-Committee has been informed that the Korean National Economic Board has constituted paper reserves for the period of elections. It is of the opinion that it should be recommended that a supply of paper be put at the disposal of each candidate in equal quantities at a reasonable price.

(g) The Sub-Committee suggests that during the electoral campaign special places should be reserved for the posters and bulletins of each candidate on the basis of equality at suitable locations determined by the election committees concerned.

26. For the reasons outlined in the study by the Secretariat (Appendix 2, D), the Sub-Committee is of the opinion that elections should take place on the same day throughout the whole country.

27. The Sub-Committee recommends the amendment of Section 21 of the Draft Regulations stating that the headquarters of election committees should be located at the office of the corresponding administrative agency, unless otherwise determined by the election committee concerned. The Sub-Committee is of the opinion that polling and registration should take place in schools, public halls, or such buildings of a similar type as may be selected by the electoral committee concerned.

28. The Sub-Committee is of the opinion that more detailed regulations are necessary to provide that the official announcement of the date, time and place of voting is adequately brought to the attention of the voters.

29. The Sub-Committee is in agreement with Regulation 57 which provides that the time necessary for the registration of voters and voting should not be deemed to be absence from the usual duties of public officials and persons employed by others.

30. The Sub-Committee is of the opinion that the hours of polling should be extended from 7.00 a.m. to 7.00 p.m. and that a provision should be added to the effect that those voters who have entered the polling place

/after

after closing time would be allowed to cast their vote and that if at 7.00 p.m. voters are still waiting outside the polling place, they should be permitted to enter the polling place until 8.00 p.m.

31. The Sub-Committee recommends that each ballot paper should substantially consist of the printed names of the duly nominated candidates of the electoral district concerned with a suitable space after the name of the candidate in which the voter could indicate by a mark the candidate of his choice. The order of names of the candidates on each ballot paper should be determined by lot at a public drawing held by the electoral district committee, at which the candidates or their representatives should be allowed to be present.

With a view to making the voting by illiterates possible, it is recommended that immediately before the name of the candidate on the ballot paper there should be a symbol easily recognizable: I, II, III, etc. strokes, corresponding to the order in which the names of the candidates have been printed on the ballot paper.

Photographs provided by each candidate, marked with the symbol identifying the candidate, should be placed in the same order as the candidates are placed on the ballot at the entrance of the polling place and in the polling place itself. No other symbols or indications, no titles or honorific appellations should appear on the ballot paper. Ballots should not be numbered and should all conform to a standard form to be prepared by the National Election Committee.

Each electoral district committee and sub-district election committee should give suitable publicity to the official ballot for the general information of the voters, by reproducing it on posters and in newspapers generally. Sample ballot papers for each electoral district, with the names of the candidates, and plainly marked "Sample Ballot", should be printed and given suitable publicity.

It is recommended that officially stamped envelopes made of opaque paper of a size and form determined by the National Election Committee should be used. The voter would present his ballot paper in the envelope and seal it before dropping it in the ballot box.

32. It is essential that in each polling place there should be several isolated booths or separate rooms so arranged as to make observation of the filling in of the ballot paper by election officers or other voters impossible.

33. It is recommended that the National Election Committee should attach to the Regulations a sketch of a standard polling place on which would clearly be indicated the place where voters would wait for their turn, the position of the seats to be occupied by the Chairman, the members of

/the sub-district

the sub-district election committee, the secretary and clerks, and the location of the ballot box, a place for the watchers designated by the candidates and for the voting booths.

34. It is recommended that the successive steps to be followed by the voter in casting his ballot should be described in the Regulations. A voter, after having awaited his turn, would in the presence of the members of the sub-district election committee seal or thumbprint the poll register opposite his name (Section 26, Public Act No. 5). He would then receive from the Chairman the official ballot paper bearing the Chairman's seal, together with the officially stamped envelope. He would proceed to one of the isolated voting booths where he would fill in the ballot and put it in the envelope. He would then in front of the Chairman and members of the election committee, put the closed envelope in the ballot box. If by accident the voter spoils the ballot, he may ask the Chairman for only one other ballot by returning to the Chairman the one he had received, which would immediately be cancelled by the Chairman.

35. A regulation should be added which would provide for a sufficient number of copies of the election law and electoral regulations to be at the disposal of such voters as may wish to consult them at each polling place.

36. With respect to voting by blind persons, the Sub-Committee recommends that the Chairman of each voting sub-district committee should be permitted to authorize a member of their family or another person to accompany them into the polling booth. The Chairman may request one of the members of the electoral committee to be present during the filling in of the ballot for the blind person.

37. The Sub-Committee recommends that:

(a) A provision should be added in the electoral law stating that no person may be placed under the obligation to disclose the identity of the candidate for whom he has voted during the election, even before courts or before the National Assembly.

(b) A penal clause should be added to punish the head of a Dong (division of a village) or Pan (division of a town) or any other person who knowingly gives false information to the election committee by application of Section 24 of Public Act No. 5.

(c) It is recommended that Section 29 of Public Act No. 5 and Section 61 of the Draft Regulations should be redrafted in a manner which would clearly state that police officials should enter the polling place only at the invitation of the Chairman and leave at his request.

/(d) A provision

(d) A provision should be added to the effect that the voter should be admitted in the polling place only during such time as is necessary to fill out and to cast his ballot.

(e) A provision should be added to the effect that voters shall not be allowed to enter the polling place with weapons.

(f) The power of the Chairman of the electoral committee, acting under the authority of the committee, with respect to taking the necessary steps to ensure order and tranquillity in the polling place, waiting hail and neighbouring area, should be more explicitly stated.

38. It is recommended that each candidate should be entitled to nominate a representative who would act as watcher during the voting. The watcher should be allowed to observe all the election operations, but be forbidden to interfere with the conduct of the voting.

In case the number of proposed watchers should exceed five, only five of them should be selected as official watchers by lot by the Chairman of the election committee at a public meeting.

39. It is recommended that the provisions concerning the counting of votes be amended in the following manner: that election committees of voting sub-districts should be instructed to convey the ballot boxes and the records to the electoral district election committees, without delay, after the voting has been closed. The counting of votes should begin as soon as the electoral district committees have received all the ballot boxes, and the result of the vote announced as soon as the counting is finished.

40. Section 35 of Public Act No. 5, dealing with ballots which shall be declared null and void, will have to be redrafted in order to enforce the recommendations made above. In particular, any two or more ballots which have been put in the same envelope should also be declared null and void.

41. It is recommended that the law should contain a provision authorizing the Military Governor, in consultation with the National Election Committee, to decide that the results of the voting in any of the electoral districts should be declared null and void and that another balloting shall take place at such date as they may determine. The representative of El Salvador abstained in the vote on this recommendation.

Any group of voters should be given expressly the right to bring to the attention of the Military Governor or the National Election Committee all cases of irregularity, fraud, or improper action of election officers.

42. Section 39 of Public Act No. 5 should be amended in the following manner:

(a) Sub-paragraphs 1 and 3 should be deleted.

(b) With respect to sub-paragraphs 2 and 4, it should be provided that a second election will take place.

Section 84 of the Draft Regulations should be deleted.

43. Section 88 of the Regulations should be deleted.

44. Section 48 of Public Act No. 5, dealing with the term of office of the members of the National Assembly should be altered to limit the term of office to two years, unless a general dissolution of the National Assembly is decided upon before that date by the competent authority.

45. With respect to Chapter IX of Public Act No. 5, it is recommended that, without prejudice to the powers of the Military Governor, acting in consultation with the National Election Committee (See paragraph 41 above), questions relating to the validity of elections should be submitted to a special commission composed of five members: two judges of the Supreme Court and two members elected by the National Assembly, with a Chairman designated by the President of the Supreme Court.

46. With respect to Section 58, dealing with penal regulations, it is recommended:

(a) That sub-paragraph 3 should be deleted;

(b) That the words "or being a candidate" should be added after the words "to prevent any one from voting";

(c) That sub-paragraph 7 should be deleted.

47. It is recommended that in conformity with the terminology used by the General Assembly and the Interim Committee in their resolutions, the words "Legislative Assembly" should be replaced throughout the text of the law by the words "National Assembly" and the words "members of the Legislative Assembly" by the words "representatives to the National Assembly".

48. On 1 March 1948 the United States Liaison Officer to the Commission drew the attention of the Principal Secretary to certain provisions of the electoral law. The application of these provisions involved technical preparations which were to be started immediately in view of the fixing of the election date on 9 May 1948. He requested an expression of views as early as possible. The Sub-Committee considered this question at its fifth meeting and decided to authorize the Secretariat to transmit to the United States authorities the substance of the decisions of the Sub-Committee as to the recommendations the

Sub-Committee would make to the Commission on the points mentioned in the United States Liaison Officer's memorandum.

49. On 3 March 1948 the United States Liaison Officer to the Commission communicated short biographical notes on the fifteen Korean personalities whom the Military Governor intended to elect to the National Election Committee.

At its sixth meeting the Sub-Committee examined these notes and authorized its Secretary to inform the United States Liaison Officer that on the basis of the information furnished by the military authorities, the Sub-Committee had no observations to make concerning the appointment of these persons. The representative of Syria was of the opinion that members of the National Election Committee should be appointed by the Military Governor only after a recommendation has been made by the Commission.

APPENDIX 1

LIST OF QUESTIONS TRANSMITTED BY SUB-COMMITTEE 3 TO SUB-COMMITTEE 2
FOR USE IN THE HEARINGS OF KOREAN PERSONALITIES

1. The voting age for the Legislative Assembly in the South Korean Public Act No. 5 has been fixed at twenty-three years and age at which a citizen can be elected at twenty-five. The North Korean regulations provide that twenty-year old citizens can vote and be elected.

Sub-Committee 3 requests that the opinion of Korean personalities be sought by Sub-Committee 2 on the voting age and the age of candidature best suitable for all of Korea in the light of the Assembly's recommendation for elections to be held "on the basis of adult suffrage".

2. Section 2, paragraph (a) of Public Act No. 5 for South Korea reads:

SECTION 2.(a) Persons to whom any of the following categories are applicable are not eligible to vote or to be elected:

- (1) Incompetents, quasi-incompetents, mentally deranged persons and drug addicts.
- (2) Persons who are sentenced and serving prison sentences, or who are under suspended sentence, or are fugitives from justice.
- (3) Persons who have received a sentence of one or more years penal servitude or imprisonment; provided, however, that if three or more years have elapsed since the completion of sentence, or since the time when final decision was made not to execute the sentence, or if the sentence was imposed for a political offence, the person concerned will not be included in this category.
- (4) Persons who have been forbidden to vote by law and persons who have been classified by law as "traitors", "collaborators" or "profiteers".

Section 1, paragraph (1) of the Election Regulations of North Korea reads:

1. Exclusive of mental patients and men who have been stripped of their franchise by the verdict of the Court of Justice, all twenty-year old citizens of North Korea shall have the franchise and be qualified for election regardless of their financial status, education, residential zone and their religion.

Do you consider these provisions as adequate?

3. (a) Should persons who have held official positions during the period of Japanese domination be deprived of their right to vote and/or to be elected? If so, to what official positions should /this apply.

this apply and by what authority is this decision to be taken in individual cases?

(b) Should persons who were guilty of pro-Japanese acts during the period of Japanese domination be deprived of the right to vote and/or to be elected? If so, to what types of acts should this apply and by what authority is this decision to be taken in individual cases?

4. In your opinion should persons who cannot read and/or write be given the right to vote?

5. Of approximately how many members should, in your opinion, the National Assembly of Korea be composed?

APPENDIX 2

EXTRACTS FROM A STUDY OF ELECTORAL PROVISIONS
OF SOUTH AND NORTH KOREA

(Prepared by the Secretariat of the United Nations
Temporary Commission on Korea)

A.

Extract from Document A/AC.19/W.2B (Pages 4 to 7)

D. Voting Age

1. The age at which Koreans should be allowed to vote has been the most controversial point during the discussions of the electoral law by the South Korean Interim Legislative Assembly. The decision restricting voting to those over 23 years of age* is the result of a compromise between a proposal to grant the franchise at 25 and another at 20.
2. The main argument in favour of 25 years is that in view of the nature of the Japanese occupation and of the Korean regime preceding occupation by Japan, Koreans have no political experience and the inclusion of young persons would add to the electorate a great number of inexperienced and extremist people. It has been pointed out among others, that graduation from a university takes place only at the age of approximately 25 years.
3. The reply of those in favour of 20 years is that graduation from secondary or high schools takes place before 20 and that there is a general tendency in democratic countries towards lowering the age at which voting rights are accorded. Twenty years of age is considered under Korean law and tradition as the age of maturity.
4. The General Assembly of the United Nations has recommended that the elections should be held on the basis of adult suffrage. The representative of France indicated that the meaning of "adult" could probably be determined by taking as the basis the age of legal majority. That age, as pointed out above, is 20 years. Article 3 of the Civil Code of Japan of 1896, now in force in Korea, provides that:

"The majority is attained at (full) 20 years of age." (Calculation of age is made in accordance with Western standards.)

* The age has to be calculated according to Western methods. It is understood that the Korean text of the law makes this entirely clear.

At 20 years citizens have the right to enter into marriage, conclude contracts, etc. They can practice law or become civil servants.

Enrollment in the army and navy used to take place at 20. Under the judicial organization of the country, juvenile courts have jurisdiction only over individuals under 20. After that age ordinary courts are competent.

5. It may be stated, on the other hand, that in a number of democratic countries the citizens vote at an age higher than 20, and that the electoral age does not always correspond to the age of legal majority. The voting age in some of the countries which are Members of the United Nations and some other states, is as follows:

Argentina	18
Austria	21
Belgium	21
Canada	21
Czechoslovakia	21
Denmark	25
Egypt	21
Eire	21
France	21
Greece	21
Iraq	20 (25 for secondary electors)
Italy	21
Japan (1947)	20
Lebanon	21
Mexico	18 (if married) 21 (if unmarried)
Netherlands	25
New Zealand	21
Norway	23
Philippines	21
Saar Plebiscite	20
Sweden	23
Switzerland	20
Syria	21 (25 for secondary electors)
Turkey	22
USSR	18
United Kingdom	21
United States	21 (all states)

6. The following population data have been received from the United States experts:

"The last census (September 1946) indicated that South Korea at that time had a population of 19,368,270. 47.6% of the population was 20 years and more of age and 43% was 23 years and more of age.

Accordingly the population above the age of 20 amounted to 9,220,000.

The population above the age of 23 amounted to 8,300,000.

If the voting age is reduced from 23 to 20, the number of voters would increase (on the basis of the 1946 census) by 920,000 and in actuality in view of the natural increase of the population in the 20 - 23 bracket, approximately 1,000,000."

7. On the whole there seem to be strong arguments in favour of the Commission recommending that the right to vote should be granted at the age of 20:

(a) It may be taken as a general guiding principle that the intention of the General Assembly in recommending adult suffrage was that as many Koreans who can express a considered opinion should be able to take part in the election of their representatives and that categories of people should be excluded by law from voting only if there are strong reasons for it not incompatible with democratic practices.

(b) The electoral age in force in North Korea is 20. It has been stated in the Commission that the two electoral laws should be combined as far as possible. It would probably prove impractical to take away from North Koreans between 20 and 23 the voting right which was granted to them previously. Moreover the relatively high voting age in South Korean law has been strongly attacked by spokesmen for the authorities in North Korea and by Leftist circles in the South as a reactionary measure and a difference between the two zones on such an essential point may add an additional obstacle to future political co-operation.

(c) Considerable importance has to be attached to the fact that the age of majority in private law in Korea is 20 and that this age is accepted not only by law, but also by tradition as the beginning of adulthood. The Japanese electoral law for the House of Representatives, put into force in 1947 under United States supervision, grants voting rights at 20 to Japanese citizens.

(d) The statistical estimate above shows the considerable proportion of the Korean population between the ages of 20 and 23. The argument of those who are in favour of a high voting age, that the atmosphere would be calmer if young people were not granted the right to vote, may not be accurate in view of the experience of other countries. It may well happen that young people, if deprived of the right to express their opinion by legal methods, would express it by means of political agitation.

8. However, as stated above, the question has its political implications and the Commission may wish to consider whether it should or should not accept the compromise reached in the South Korean Interim Legislative Assembly. It may also prefer to adopt another solution of compromise and recommend that the voting age should be 21.

B.

Extract from Document A/AC.79/W.28 (Pages 13 and 14)

3. (1) Under Section 2 (a), sub-paragraph (3), the following are not entitled to vote:

"Persons who have received a sentence of one or more years penal servitude or imprisonment; provided, however, that if three or more years have elapsed since the completion of sentence, or since the time when final decision was made not to execute the sentence, or if the sentence was imposed for a political offense, the person concerned will not be included in this category."

(2) Although some specialists consider that the disqualification from voting should end when the sentence has been completed, it is generally accepted in democratic countries that persons who have been sentenced for serious criminal offenses or for offenses of a particularly anti-social nature should be deprived of the right to vote either during their lifetime or during a limited period. However, the provision that at least three years must elapse before a person previously sentenced can be allowed to vote means that if elections are held before next September, some of the persons sentenced by Japanese courts for offenses other than political would be deprived of the right to vote. It has been stated that while judgements of the Japanese courts were very severe for political offenses, they were relatively fair in ordinary criminal cases. On the other hand, this recognition of judgements by Japanese courts has been strongly attacked from North Korea. It would on the whole appear advisable to replace the three year period by two years.

(3) With respect to political offenses, it is understood that all persons sentenced by the Japanese on political grounds were freed after the liberation of Korea. Since the liberation, it has been the rule in Korean courts under existing law to consider as ordinary offenders persons guilty of a criminal offense, even if their intention was a political one. There are therefore under existing law only very few cases of purely political offenses, such as propaganda against proclamations issued by the military government, propaganda against the military government itself, Communist propaganda, etc. As there is no practical possibility for the Commission to review these sentences passed by the Korean courts since the liberation, it would seem advisable to recommend the

/deletion

deletion of Section 2 (a) (3), which as is generally recognized, would have no serious effects on the result of the elections. There is no provision corresponding to Section 2 (a) (3) in the Japanese law of 1947.*

* Japanese Law for Election of Members of the House of Representatives, Article 6: "Any person who has been declared incompetent or quasi-incompetent or who has been condemned to penal servitude or confinement or whose term of punishment has not been completed or is yet to be effected, shall neither have the right to vote nor be eligible for election."

C.

Extract from Document A/AC.19/W.28/Add.2 (Pages 7 to 9)

F. In Chapter VII of Public Act No. 5, there is established a special electoral district. All persons who have their family register in North Korea, but who reside in South Korea and otherwise are entitled to vote, may choose to register in a special polling register and vote for a special series of candidates. If they vote in the special electoral district election, they are not entitled to vote in any regular district election.

Section 35 of the Regulations specifies that candidates for the special electoral district must also have their hojuk in North Korea and their residence in South Korea.

The provisions concerning the special electoral district were introduced in the Law after considerable discussion for political reasons, due to the coming of a great number of refugees from North Korea to South Korea. Among these refugees are a number of political leaders. It was considered by a majority of the South Korean Interim Assembly that some special measures should be taken to allow those persons who had come to South Korea because they fled a hostile regime in the North to elect their own representatives in whom they had confidence. It was also considered useful for a future assembly to have among its members some of these leaders from the North.

The estimates of the number of these refugees vary considerably. The United States experts consider that there are about 1,300,000 of them in South Korea, while some Koreans state that they number about 3,000,000 scattered throughout South Korea.

There are, however, a number of serious technical and general objections to the establishment of this special national list for a particular category of people:

- (1) There is no official census of the refugees from the North and no provisions exist in the Law or in the Regulations which specify how many representatives will be elected in such a manner.
- (2) There is no way of ascertaining whether a person has or has not a hojuk in North Korea, except by oral testimony or a presumption that a Korean who has no hojuk in the South necessarily has one in the North.
- (3) If the same system of allocation of Assembly seats is adopted for the special electoral district as is provided for in Section 36 for the ordinary electoral districts, the objections made above would even be stronger in the case of special electoral districts. Assuming that

only twelve representatives were to be elected in the special electoral district, we could arrive at a result where out of 1,000,000 voters, one candidate would receive 600,000 votes; another would receive 200,000 votes, a third would receive 100,000 votes, a fourth 50,000 votes, eight other candidates receiving amongst themselves only 50,000 votes and they would all be elected as representatives.

(4) Under the general provisions of the law, the refugees have the right to vote in the electoral district in which they reside and refugee leaders may be presented as candidates in any of the regular districts.

Voters "who have their hojuk in North Korea and their residence in South Korea" would be counted in the total population when the number of candidates to be elected in the general electoral districts is determined, in accordance with Section 9 of the electoral law and would be counted again when the number of candidates to be elected in the special electoral district is determined. This creates a difficult problem of representation and it may be questioned whether this situation would be in strict conformity with the General Assembly's resolution providing that: "The number of representatives from each voting area or zone should be proportionate to the population."

(5) The establishment of a special electoral district for North Koreans in the South goes against the general assumption in the General Assembly's resolution, confirmed by the Interim Committee's opinion that in so far as possible and as soon as possible the elections should be held throughout Korea on the basis of the existing population.

It is therefore suggested that the Commission should recommend the deletion of the provisions relating to the special electoral district from the electoral law.

D.

Extract from Document A/AC.19/W.28/Ann.5 (Pages 3 and 4)

- B. 1. Section 22 of Public Act No. 3 provides that the election shall take place on the same day throughout the whole country.

In the course of the recent meetings of the Interim Committee the U.S. representative made the suggestion that "since the Commission is not sufficiently numerous in membership or in staff to observe the elections in all areas or zones simultaneously, it might announce that the elections would be observed seriatim in the several areas or zones, perhaps beginning in the southern provinces of Korea and working northward until the task is completed." The authorities in South Korea have however shown the difficulties of such a course of action.* This procedure would make the election last a considerable time, would have considerable budgetary repercussions for the United Nations, as well as for Korea, and would prolong the period of electioneering excitement and political agitation. In view of the size of the electoral districts and the limited means of communication, it is doubtful whether even if such a system were to be adopted, the Commission would be able to actually perform more than a sample observation.

* See statement by General Dean before Sub-Committee 1, document A/AC.19/SC.1/PV.6, page 16:

"As I say, that is a question to which I have given a great deal of attention, and the advantages and disadvantages are several for each line of action. If the elections could be held simultaneously all over South Korea, there is less opportunity for dishonesty and more chance for fair elections in every place. If elections were not held simultaneously, word might get down from one province to another how things were going and there would be the desire to put on the pressure that we are trying to circumvent. The news might be wrong, but that would not make any difference. It would be much better if we could have the elections simultaneously throughout South Korea. On the other hand, it might be necessary, if it is desired to give a complete coverage to your observation, to have elections in one or two provinces at a time, but, even then, I think you are sanguine if you contemplate having elections every ten days, because just moving about from one place to another is going to take time."

ANNEX 6A*

EXAMINATION OF ELECTORAL LAWS AND REGULATIONS IN FORCE
IN NORTH AND SOUTH KOREA

SUPPLEMENTARY REPORT OF SUB-COMMITTEE 3

1. In paragraph 48 of the Sub-Committee's report to the Commission (see Annex 6), it was indicated that on 1 March 1948 the United States Liaison Officer to the Commission drew the attention of the Principal Secretary to certain provisions in the electoral law, on which technical preparations were to be started immediately in view of the fixing of the election date on 9 May 1948. The United States authorities requested as early as possible an expression of views on the steps to be taken. Sub-Committee 3 considered this question at its fifth meeting and decided to authorize the Secretariat to transmit to the United States authorities the substance of the decisions of the Sub-Committee as to the recommendations the Sub-Committee would make to the Commission on the points mentioned in the Liaison Officer's memorandum.

2. On 4 March, the Principal Secretary received a further memorandum from the United States Officer. The United States authorities, while accepting some of the points of the views of the Sub-Committee, requested the reconsideration of three of the recommendations made by the Sub-Committee.

3. It was the Sub-Committee's opinion that the structure of the election agencies envisaged in Public Act No. 5 could be advantageously simplified by dispensing with the establishment of the provincial election committees and voting district election committees.

It was the view of the Sub-Committee that the supervision of the action of the voting sub-district election committees which perform the functions of the registration of voters and conduct the voting operations, would be more efficiently performed if they were not separated from the central National Election Committee by too many intermediary bodies. A simplified structure would also facilitate the observation of the elections by the United Nations Commission, which will presumably be effected in great part by a constant contact with the National Election Committee.

The United States authorities are of the opinion that a close supervision cannot be performed by the National Election Committee of the activities of the electoral district committees in view of the vast distances and the poor transportation and communication facilities.

* Document A/AC.19/43/Add.1

/It was difficult

It was difficult for the Sub-Committee to determine whether the implementation of its recommendations would not be possible if special steps were taken by the United States and Korean authorities to provide sufficiently rapid means of communication. However, in view of the position taken by the United States authorities as to the practical possibility of implementing its previous recommendations, the Sub-Committee recommends that provincial election committees should be maintained, as well as such voting district committees as may be indispensable in rural regions.

If provincial election committees were established, the number of members of the electoral district election committees and the electoral sub-district election committees could remain as at present in Public Act No. 5.

4. Under Public Act No. 5, members of the election committees of each level were to be appointed by the heads of the administrative districts concerned (Section 15). The Sub-Committee was of the opinion that the appointment of these organs, each having wide responsibilities for the organization and conduct of the electoral operations, should not be left entirely to administrative officials responsible to the central authority and who may themselves have political affiliations. It recommended therefore that the members of the regional and local election committees should be appointed by the National Election Committee on the basis of lists of personalities recommended by the administrative head of the district concerned, and the president of the highest tribunal located in or having jurisdiction over the district.

The main objections of the United States authorities with respect to the Sub-Committee's recommendations were:

(a) That the proposal to require the submission of two lists, desirable as it may be in principle, is almost impossible to carry out in practice without causing serious delay, considering the short time available. It would require sending lists back and forth, a matter requiring not only days but even weeks.

(b) That there are a good many Guns without a judicial tribunal. It could be doubted whether a judge who in many cases is not a resident of an electoral district, will be able to submit within a short period a list of persons, taking into consideration the political affiliations of each of them. It was not considered appropriate that judges should make enquiries of a political nature and it is probable that some judges might take the position that they could not exercise non-judicial functions.

/The Sub-Committee

The Sub-Committee did not wish to enter into consideration of the question whether sufficient means of transportation could not be provided by the authorities in order to permit sending lists of nominees back and forth.

As to the advisability of requesting judges to participate in the procedure of appointment of members of electoral committees, the Sub-Committee differed with the views of the United States authorities as such methods are frequently used in democratic States when appointments to positions requiring a high degree of impartiality are envisaged. The Sub-Committee suggests that a transactional method of appointment proposed by the United States authorities, should be recommended:

- (1) The provincial election committees would be appointed by the National Election Committee on the basis of two lists, one presented by the Governor of the province, the second by the president of the highest tribunal having jurisdiction over the province. The Chairman of each provincial election committee will be appointed on the recommendation of the president of the tribunal.
- (2) The nine members of the electoral district election committees would be appointed in the following manner: four will be appointed by the head of the administrative district concerned and five, including the Chairman, by the president of the tribunal having jurisdiction for the administrative district. A detailed report on the appointment, with the qualifications of the appointees, would be sent without delay by the head of the administrative district concerned to the provincial election committee and by the provincial election committee to the National Election Committee both having the right to revoke any member of the electoral district election committee thus appointed.
- (3) The voting district and voting sub-district election committees will be appointed by the head of the administrative district concerned. However, these appointments, with a detailed report as to the qualifications of the appointees, will be reported immediately to the electoral district committee, the provincial election committee and the National Election Committee, and any appointment may be revoked upon the decision of any of the supervisory committees.

/5. The Sub-Committee has

5. The Sub-Committee has recommended that sub-district election committees should be established for groups of inhabitants of not more than 2000. This was considered necessary since even this figure is considerably higher than that which can be found in the legislation of democratic States, and since it would be extremely doubtful whether voters would actually cast their ballots in the course of one day if the number of polling places remained the one provided for in the Draft Regulations.

The United States authorities considered that the establishment of election sub-districts for groups of inhabitants of not more than 2000 would require much more preparatory work and would make the supervision of the local committees more difficult.

The Sub-Committee, however, feels unable to change its recommendations on this matter and recommends that the necessary steps should be taken for its implementation.
