

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION
AND THE PROTECTION OF MINORITIES

FIRST SESSION

SUMMARY RECORD OF THE EIGHTH MEETING

Held at the Palais des Nations, Geneva,
on Friday, 28 November 1947 at 2.30 p.m.

Present:

Chairman: Mr. E.E. EKSTRAND (Sweden)
 Vice-Chairman: Mr. Herard ROY (Haiti)
 Rapporteur: Mr. Joseph NISOT (Belgium)
 Members: Mr. W.M.J. McNAMARA (Australia)
 Dr. C.H. WU (China)
 Mr. A.M. PALLARES (Ecuador)
 Mr. J. DANIELS (United States of America)
 Mr. Samuel SPANIEN (France)
 Mr. M.R. MASANI (India)
 Mr. Rezazada SHAFaq (Iran)
 Miss Elizabeth MONROE (United Kingdom)
 Mr. A.P. BORISOV (Union of Soviet
 Socialist Republics)

Representative of
 the Commission on
 the Status of
 Women:

Mme. LEFAUCHEUX

Specialized Agencies: Mr. Rodolphe LOPES (ILO)

International
 Non-Governmental
 Organizations:

Mr. F.R. BIENENFELD (World Jewish Congress)
 Mr. A.G. BROTMAN (representing the Co-
 ordinating Board of Jewish
 Organizations)

Secretariat:

Prof. J.P. HUMPHREY
 Mr. Edward LAWSON
 Mr. Emile GIRAUD
 Mr. A.M. HEKIMI

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I. Examination of paragraph 2 of the opinion of Mr. BORISOV on Article 6 (Document E/CN.4/SUB.2/21)

(1) Discussion of the amendment submitted by Mr. DANIELS (United States of America).

The CHAIRMAN pointed out to the Sub-Commission that a list of the various amendments proposed had been distributed to members. He suggested that they should begin by discussing Mr. DANIELS' amendment proposing the rejection of paragraph 2 of Mr. BORISOV's text. If this amendment were accepted, there would clearly be no need for the Sub-Commission to proceed further with their examination of the later amendments.

Mr. BORISOV (Union of Soviet Socialist Republics) observed that these amendments did not refer especially to Article 6. Thus, even if Mr. DANIELS' motion to exclude his proposal from Article 6 were accepted, it would still be possible to include it elsewhere. Moreover, in his first amendment, Mr. DANIELS had proposed the omission from Article 6 of paragraph 2 of his (Mr. BORISOV's) proposal, and in the second, he had accepted the text of this proposal, with certain additions. Mr. DANIELS could not expect to reject the motion of the Soviet member and at the same time to share his opinion, if it happened to be the view of the majority. Such a procedure was not acceptable. He proposed therefore that no vote should be taken on the first amendment of Mr. DANIELS.

Mr. DANIELS (United States of America) stated that his second proposal was not coming up for adoption. It was a proposal for the addition to Mr. BORISOV's text, if it were adopted, of the categories of discrimination mentioned in the new Article 6.

Mr. BORISOV (Union of Soviet Socialist Republics) declared his readiness, in view of the reservations made by certain members, to have his proposal inserted in Article 6, and, in order to reach a compromise with Mr. DANIELS, to withdraw his suggestion for its insertion in Article 6. But he maintained his proposal in the form of an independent point, to be included among the Sub-Commission's recommendations and, as such, to be discussed and examined by the Sub-Commission. In these circumstances he considered that there was no longer any need to take a vote on Mr. DANIELS' first proposal.

Mr. NISOT (Belgium) proposed that, since Mr. BORISOV no longer intended to link his proposal with Article 6, they should pass on to the examination of Article 13.

Mr. BORISOV (Union of Soviet Socialist Republics) pointed out that he had not withdrawn his original proposal, but had proposed a compromise between his original proposal and the opinion of Mr. DANIELS, which was also shared by certain other members. Not inserting his proposal in Article 6 did not mean that it was withdrawn and he pressed for its immediate discussion. If the Sub-Commission did not take his second proposal in that sense, he would prefer to withdraw it.

Mr. DANIELS (United States of America) stated that he would withdraw his amendment if Mr. BORISOV withdrew his proposal in connection with Article 6. He reserved the right to re-submit it when Mr. BORISOV's proposal was submitted to the Sub-Commission in connection with other Articles. He suggested that the Sub-Commission should pass on to the examination of Article 13.

The CHAIRMAN pointed out that Mr. BORISOV had asked that his proposal, divorced from Article 6, be examined immediately and that the question of its position should be considered at a later stage.

Mr. DANIELS (United States of America) said that in these circumstances he maintained his amendment.

The CHAIRMAN then asked the Sub-Commission to vote on Mr. DANIELS' amendment understood as a rejection of Mr. BORISOV's proposal, wherever it appeared.

Mr. NISOT (Belgium) supported the CHAIRMAN's proposal.

Mr. BORISOV (Union of Soviet Socialist Republics) also expressed his approval of the procedure suggested by the CHAIRMAN.

Mr. NISOT (Belgium) on a point of order, moved that a vote be taken on the question whether the Sub-Commission should discuss Mr. BORISOV's proposal and the amendments made to that proposal immediately.

The CHAIRMAN put Mr. NISOT's motion to the vote.

Mr. BORISOV (Union of Soviet Socialist Republics) declared that he could not accept this procedure. The Sub-Commission had in fact decided on two occasions that his proposal should be examined immediately.

Mr. NISOT (Belgium) asked that a vote be taken on the question whether this proposal should be dealt with in relation to Article 6 or not.

The CHAIRMAN pointed out that, as the Sub-Commission was

still discussing Article 6 and as the Soviet proposal had been made in connection with this Article, the only motion on which a vote should be taken was that of Mr. DANIELS proposing the rejection of this proposal in connection with Article 6.

Mr. SHAFaq (Iran) pointed out that by a vote taken that same morning, the Sub-Commission had decided to deal with the Soviet proposal independently of Article 6. He therefore saw no need for a fresh vote on this subject.

Mr. McNAMARA (Australia) observed that he would never have submitted his amendment had it not been decided that only the first paragraph of Mr. BORISOV's proposal would be inserted in Article 6. His proposal and that of Dr. WU only made sense if considered independently of Article 6.

The CHAIRMAN stated that Mr. BORISOV's proposal would be dealt with independently of Article 6, in accordance with the decision taken that morning. Mr. DANIELS had entitled his amendment "Rejection of the opinion of Mr. BORISOV on Article 6" purely for descriptive purposes. He therefore put to the vote the amendment proposing the rejection of this proposal as such, independently of Article 6.

Decision: The amendment of Mr. DANIELS was rejected by 5 votes to 4 with two abstentions.

(2) Joint proposal of Mr. McNAMARA and Dr. WU.

The CHAIRMAN drew attention to a slight change in the text of this amendment affecting the title which now read: "Joint amendment to paragraph 2 of the opinion of Mr. BORISOV on Article 6 to be added to Article 9, paragraph 3, of the Draft Convention".

Mr. BORISOV (Union of Soviet Socialist Republics) asked whether the rejection of Mr. DANIELS' proposal did not imply that his own proposal and the amendments made to it should be added to Article 6.

The CHAIRMAN stated that the Sub-Commission had before it an amendment submitted by Mr. McNAMARA and Dr. WU, and that he wished first of all to put the text of this amendment to the vote. If this text were accepted, he would then call for a vote on the question of where it was to be inserted.

Dr. WU (China) wished to make some observations on the amendment in question. The terms "or of national exclusiveness, or hatred and contempt" had been omitted because they were superfluous, being already included in the term "hostility". The words "constitute a crime and shall be punishable under the law of the State", at the end of the paragraph, had been altered to "shall be prohibited by the law of the State". The Sub-Commission's task was, in fact, to suggest principles, not to draft an article. Moreover, this proposal had an international bearing. The term "prohibition" was wider than the term "punishment", and covered penal as well as any administrative measures that might be required.

Mr. NISOT (Belgium) stated that this text was contrary not only to freedom of the press, but also to freedom of religious belief.

The CHAIRMAN put the text of the amendment proposed by Mr. McNAMARA and Dr. WU to the vote. There were five votes for, and five against the amendment, with one abstention.

The CHAIRMAN read out Rule 39 of the Rules of Procedure, according to which "if a vote is equally divided in matters other than elections, the proposal shall be

regarded as rejected".

Decision: The amendment proposed by Mr. McNAMARA and Dr. WU was rejected.

(3) Consideration of the second amendment proposed by Mr. Daniels.

Mr. DANIELS (United States of America) pointed out that his proposal was simply to add the words "based on national or social origin, race, religion, sex, language, political or other opinions, or property status" to Mr. BORISOV's text, that was all.

Mr. BORISOV (Union of Soviet Socialist Republics) observed that this was therefore a new proposal.

The CHAIRMAN emphasized that Mr. Daniels had simply clarified his amendment.

Mr. DANIELS (United States of America) explained that the purpose of his amendment was to add the categories of discrimination, defined and adopted by the Sub-Commission on the previous day, to the text which might be adopted. Therefore a vote could hardly be taken on his amendment before a text had been adopted.

Mr. ROY (Haiti) stated that this was an impossible procedure, since a vote ought to be taken on the amendments before the text of the proposal was voted on.

Mr. DANIELS (United States of America) withdrew his amendment, but reserved the right to revert to it when the text of the proposal was adopted.

(4) Amendment proposed by Miss MONROE

The CHAIRMAN pointed out that this amendment had been slightly altered and, in its present form, read: "The Sub-Commission recommends to the Human Rights Commission:

- (1) The inclusion in Article 8 of the Convention of a clause condemning incitement to violence against religious groups;
- (2) The inclusion in Article 9 of the Convention of a clause condemning incitement to racial or national violence."

Mr. ROY (Haiti), raising a point of order, held that Miss MONROE's proposal should not be considered, since the Sub-Commission had decided to deal separately with the text of amendments, and the place they were to be inserted.

Miss MONROE (United Kingdom) also felt that it would be preferable to discuss this amendment in connection with Articles 8 and 9 and with the consideration of omissions to the Declaration. She therefore withdrew her amendment and proposed that the Sub-Commission should vote on the proposal submitted by Mr. BORISOV.

Mr. McNAMARA (Australia) regretted the Sub-Commission's decision not to examine Miss MONROE's amendment, and feared that the Sub-Commission would never get down to studying the omissions to the Declaration.

He therefore wished to take up Miss MONROE's proposal on his own initiative.

Dr. WU (China) supported the suggestion made by the representative of Australia and proposed that the words "in Article 8 of the Convention" in Miss MONROE's amendment be amended to "in the Convention", and that "in Article 9 of the Convention" be similarly amended to "in the Convention".

The CHAIRMAN pointed out that the Sub-Commission had two proposals before it: first the proposal made by Mr. BORISOV, and secondly, the new proposal of Dr. WU and Mr. McNAMARA in regard to the place where such a clause should be inserted. He proposed first to call for a vote on Mr. BORISOV's proposal. He stressed the fact that any texts adopted by the Sub-Commission would be subject to possible changes by the Drafting Committee.

(5) Consideration of the second paragraph of Mr. BORISOV's opinion on Article 6

Mr. ROY (Haiti) wished the vote to be taken by sections, and suggested that Mr. BORISOV's proposal be divided into a first part, reading "Any advocacy of national, racial or religious hostility, or of national exclusiveness or hatred and contempt", and a second part comprising the remainder of the proposal. He reserved the right to vote against the first part, which restricted freedom of the press and of religious belief, but supported the second part.

Mr. NISOT (Belgium) did not believe that such a division was possible.

Mr. MASANI (India) pointed out that the second part of this paragraph would be superfluous, since it was a paraphrase of Paragraph 6, which had already been adopted.

Mr. BORISOV (Union of Soviet Socialist Republics) observed that in his opinion the second part of this paragraph was, in fact, the vital portion, since it stated that these discriminations constituted a crime.

Mr. MASANI (India) felt that in relating the establishment of discrimination, which was a form of State action, to the

concept of crime, which was only applicable to the individual, the proposal was inconsistent.

Mr. McNAMARA (Australia) thought there would be no difficulty in dividing the sentence, making the words "shall be punishable" apply to both parts.

Mr. BORISOV (Union of Soviet Socialist Republics) proposed that, to simplify the Sub-Commission's work, his text should be divided into five parts:

- 1) Any advocacy of national, racial and religious hostility;
- 2) or of national exclusiveness or hatred and contempt;
- 3) as well as any action establishing privileges or discrimination based on distinctions of race, nationality or religion;
- 4) constitute a crime;
- 5) and shall be punishable under the law of the State.

Mr. ROY (Haiti) proposed a division into three parts, the words "constitute a crime and shall be punishable under the law of the State" being added to each of the first three phrases.

Miss MONROE (United Kingdom) stated that she would have to vote against these proposals, so long as they contained the term "constitute a crime", which could not properly be inserted in a convention.

Mr. NISOT (Belgium) would vote against the first two parts, since they restricted freedom of the press and of religious belief, and would also vote against the third part, because it precluded the establishment of privileges on behalf of a minority requiring special protection.

Mr. BORISOV (Union of Soviet Socialist Republics) observed that it was the business of the Sub-Commission, not to express individual opinions on the subject, but to reach an agreement on certain terms, if not on the whole, of his proposal. It was with this in view that he had agreed to a divided vote. He asked the Sub-Commission to proceed at once to a vote.

THE CHAIRMAN stated that the text proposed by Mr. BORISOV embodied two ideas: 1. certain actions constituted a crime; 2. certain actions constituting a crime were punishable by law. He considered that the vote should be taken on six sections, that is to say, the first three phrases, accompanied in turn by the words "constituted a crime" and afterwards by the words "shall be punishable under the law".

Mr. SPANIEN (France) wished to record an express reservation. In view of the vagueness of the French text, he would abstain from voting, whether the text were sub-divided or not, and would express his opinion in an observation annexed to the Summary Record.

The CHAIRMAN called for a vote on the first part of Mr. BORISOV's proposal: "Any advocacy of national, racial and religious hostility constitutes a crime".

DECISION: This proposal was rejected by 5 votes to 3, with 3 abstentions.

The CHAIRMAN emphasised that he had abstained from voting on this part and would probably abstain when the other parts were voted on, not because he disagreed with the ideas expressed by Mr. BORISOV, but owing to the wording of the text.

Mr. SPANIEN (France) explained that he had abstained on similar grounds.

Mr. SHAFQAQ (Iran) remarked that he had abstained for the same reason.

The CHAIRMAN called for a vote on the second part of Mr. BORISOV's proposal: "Any advocacy of national exclusiveness, or hatred and contempt, constitutes a crime".

DECISION: This proposal was rejected by 6 votes to 1, with 4 abstentions.

The CHAIRMAN called for a vote on the third part of Mr. BORISOV's text: "Any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion constitutes a crime".

Mrs. LEFAUCHEUX (Representative of the Commission on the Status of Women) felt that the omission of the word "sex" was due to an oversight on Mr. BORISOV's part.

The CHAIRMAN thanked Mrs. LEFAUCHEUX for her remark and took the opportunity to express his satisfaction at the presence among the members of a representative of the Commission on the Status of Women.

Mr. BORISOV (Union of Soviet Socialist Republics) remarked that it was merely a question of drafting and that he had no objection to inserting the word "sex", since by virtue of the first paragraph, the provisions of the second paragraph should be understood as applying equally to women.

Mr. ROY (Haiti) raised a point of order, in view of the demurs voiced by some members.

The Sub-Commission was at the moment engaged in voting, by sections, on the proposal submitted by Mr. BORISOV and had already reached a decision with regard to the first and second parts. The third part of this proposal should therefore be left as it stood, without any addition, deletion or revision.

DECISION: The third part of Mr. BORISOV's proposal was rejected by 4 votes to 4, with 3 abstentions.

The CHAIRMAN called for a vote on the fourth part: "any advocacy of national, racial and religious hostility constitutes a crime and shall be punishable under the law of the State".

DECISION: This proposal was rejected by 4 votes to 3, with 3 abstentions.

A vote was then taken on the fifth part: "any advocacy of national exclusiveness or hatred and contempt constitutes a crime and shall be punishable under the law of the State".

DECISION: This proposal was rejected by 5 votes to 1, with 5 abstentions.

The CHAIRMAN called for a vote on the sixth part: "any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion constitutes a crime and shall be punishable under the law of the State".

DECISION: This proposal was rejected by 4 votes to 4, with 3 abstentions.

Mr. McNAMARA (Australia) asked whether the result of this vote would be communicated to the Commission on Human Rights. Should the votes be equally divided the Commission might feel inclined to go more fully into the matter.

Mr. NISOT (Belgium) suggested that all the Minutes without distinction be put before the Human Rights Commission.

Mr. ROY (Haiti) urged that the Rapporteur should mention explicitly in his report to the Commission cases in which the votes were equally divided. The Commission might be able to give a casting vote.

Mr. BORISOV (Union of Soviet Socialist Republics) also asked that the voting results be communicated to the Human Rights Commission in the Rapporteur's report, so that the Commission might

realise that even if the Sub-Commission had not been unanimously in favour of adopting these essential points they had only been rejected by an almost equally divided vote.

Mr. ROY (Haiti) moved that the question be put to the vote.

Mr. NISOT (Belgium) understood this to mean that the results of all votes would be mentioned in the report, if the Secretariat consented.

Professor HUMPHREY accepted this proposal.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that the points just dealt with were essential to the prevention of discrimination and protection of minorities. The results of the voting consequently showed the Sub-Commission not to be unanimous even as regards the principles of its Terms of Reference, and it might be inferred that the Sub-Commission was in favour of discrimination. If such were not the case it was important that the attention of the Human Rights Commission be drawn to the fact that the Soviet proposal had been rejected on an almost equal vote.

The CHAIRMAN took it as agreed that the Sub-Commission was in favour of including the results of all voting in the report.

Mr. MASANI (India) said that Mr. BORISOV appeared to be drawing conclusions from the vote which he (Mr. MASANI) would like to correct. Though members were agreed upon the principle of non-discrimination, there were nevertheless several methods of applying that principle. The negative result of the vote did not imply that some members showed less interest than others in the task laid down for the Sub-Commission.

Mr. DANIELS (United States of America) and Miss MONROE (United Kingdom) announced their agreement with Mr. MASANI.

Mr. SPANIEN (France) explained that he had voted against the proposal because he thought it important to free the question of prevention of discrimination from texts he regarded as inadequate and confused.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that he had merely tried to make clear the different tendencies shown by the Sub-Commission's vote, without implying that the Sub-Commission was in favour of discrimination.

(6) Proposal by Miss MONROE taken up by Mr. McNAMARA and Dr. WU.

Mr. McNAMARA (Australia) pointed out that the proposal was the same as that submitted by Miss MONROE, but without a reference to any particular article. He thought it preferable to leave it to the Human Rights Commission to decide on the position and final drafting of these phrases.

He submitted the following draft of the amendment:

"The Sub-Commission recommends to the Human Rights Commission the inclusion in the Convention and at the appropriate place of a clause condemning: (1) incitement to violence against religious groups; (2) incitement to violence against any race or nation".

Mr. SHAFIQ (Iran) supported this proposal.

Mr. NISOT (Belgium) wished to have the word "proposed" inserted before the word "Convention", and in the French text to have the word "condamné" changed to "réprouvé", since the former was not a word that could appear in a convention.

Mr. BORISOV (Union of Soviet Socialist Republics) felt that at the present stage it was impossible to tell whether the Draft Declaration would take the form of a Convention or a Declaration. It was also impossible to know whether the Convention would cover all or only some aspects of discrimination, and in the latter case which aspects it would cover. He thought therefore that Miss Monroe's proposal mentioning certain forms of discrimination was premature.

Mr. McNAMARA (Australia) drew attention to the fact that the Drafting Committee had proposed two documents: (1) a Draft International Declaration on Human Rights (Annex F, Document E/CN.4/21); (2) Draft Articles on Human Rights for Inclusion in a

Convention (Annex G of Document E/CN.4/21). These two drafts differed both in form and in substance. The Draft Convention enumerated certain acts recognised as illegal. It was most certainly the Sub-Commission's business therefore to submit recommendations on this subject. In support of his opinion he also cited the General Comment on the Draft Articles for Inclusion in a Convention, occurring at the bottom of page 86 of Document E/CN.4/21, which read: "These suggestions will be completed by provisions prohibiting distinctions based on race, sex, language and religion". It was clearly therefore a matter within the Sub-Commission's Terms of Reference.

Dr. WU (China) supported the insertion of the word "proposed" suggested by Mr. Nisot. He remarked that Miss Monroe's proposal, taken up by Mr. McNamara and himself, was conceived in the same spirit as the Soviet proposal and sought the same ends by different means.

Mr. DANIELS (United States of America) strongly approved of the general spirit of this proposal. In order to keep within the Terms of Reference however he suggested paragraph 2 be altered to "Incitement to violence against any race or minority".

Mr. McNAMARA (Australia) was ready to accept the addition of the word "minority" but not the deletion of "nation".

Mr. BORISOV (Union of Soviet Socialist Republics) proposed that the Human Rights Commission be left free to insert this text either in the Declaration or in the Convention.

Miss MONROE (United Kingdom) supported this.

The CHAIRMAN read out the final text of Mr. McNamara and Dr. Wu's proposal: "The Sub-Commission recommends to the Human Rights Commission the inclusion in the proposed Convention or in the Declaration of Rights, at appropriate places, of clauses condemning incitement to violence against any religious group, race, nation or minority".

This proposal was put to the vote.

DECISION: The proposal was adopted by 10 votes for
with 1 abstention.

II. Examination of Article 13 (Document E/CN.4/21)

Miss MONROE (United Kingdom) proposed that, for the sake of clarity, they should begin by discussing the first part of the Article concerning liberty of movement within the borders of each State and go on afterwards to the second part concerning freedom to emigrate.

Mr. BORISOV (Union of Soviet Socialist Republics) did not think that Miss Monroe's proposal could be applied to the French text. The latter seemed to him to form a single whole in which the second part was subordinated to the first.

Mr. SPANIEN (France) considered that it was possible to divide up the French text provided the division was made after the words "interieur de l'Etat". In that case it would perhaps be necessary to reintroduce the reservation before the second sentence.

Miss MONROE (United Kingdom) asked the SECRETARIAT if it would be possible to have a new French translation made of this Article, as in the English text the reservation applied to the first sentence only, whereas in the French text, it appeared to apply to the second sentence as well.

Professor HUMPHREY pointed out that, at the Drafting Committee's meeting on this Article, at which he was present, so far as he remembered and subject to correction by the record contained in the minutes of that meeting, it had not been the intention of the Drafting Committee, he thought, to make the reservations expressed in the second sentence applicable to the third sentence.

However he could not state definitely that such was the precise intention of the Drafting Committee and in his view both interpretations were possible.

Miss MONROE (United Kingdom) proposed that, in order to save time, the Rapporteur, Mr. SPANLEN and the SECRETARIAT should be asked to clear up the point by referring to the minutes of the Drafting Committee's meeting. Meanwhile they should pass on to the examination of the following Article.

Professor HUMPHREY was of the opinion that the Drafting Committee had referred Article 13 to the Sub-Commission for further consideration on account of some uncertainty in regard to the drafting of that Article. In any such further consideration it was not necessary to take account of the Drafting Committee's intentions, which were moreover somewhat vague.

Miss MONROE (United Kingdom) withdrew her suggestion and proposed that they should begin examination of the first two sentences of Article 13: "There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by any general law adopted in the interest of national welfare and security."

Mr. BORISOV (Union of Soviet Socialist Republics) stated that the foregoing discussion had convinced him that the French version differed from the English.

For his part he was unable to accept the SECRETARIAT's observation and would like to know the Drafting Committee's intentions. If there had been differences of opinion on this Article, they should have been mentioned in the present text of Article 13, but this was not the case.

Mr. McNAMARA (Australia) thought there was nothing to prevent the Sub-Commission from examining the text of the first two sentences without, for the time being, considering the question whether the reservation contained in the second sentence applied to the third sentence.

Mr. NISOT (Belgium) considered that the perfection of the text proposed was not important since all the proposed amendments were admissible.

Professor HUMPHREY read the minutes of the Drafting Committee's meeting (E/CN.4/AC.1/SR.18, page 5).

From these minutes it was impossible to draw any conclusion regarding the precise intentions of the Drafting Committee.

Dr. WU (China) thought that complete freedom to emigrate or renounce one's nationality was impossible. Liberty of movement within the borders of countries and in the matter of emigration should both be subject to the same reservations.

Miss MONROE (United Kingdom), following the statement by Dr. WU, proposed the insertion of the words "Subject to the same reservations" before the third sentence of the English text. The latter would then concord with the French text.

Mr. NISOT (Belgium) proposed the following text: "Subject to any law enacted in the general interest and with a view to security, individuals may freely: circulate and choose their own residence within the State; emigrate and renounce their nationality."

Miss MONROE (United Kingdom) thought that the term "general interest" would be more suitably translated in English by the words "general welfare of the people".

Mr. DANIELS (United States of America) said that in his view the discussion was getting away from the questions of primary concern to the Sub-Commission.

Miss MONROE (United Kingdom) stated that, on the contrary, it was essential for this reservation to be drafted in such a way that Governments would not be able to make use of it to justify certain forms of persecution, conducted in the name of the general welfare of the people, as had been done by the Nazis.

Mr. BORISOV (Union of Soviet Socialist Republics) pointed out that he could not see that this text had any bearing on the Sub-Commission's task.

Mr. SPANIEN (France) supported Miss MONROE's contention. In his view any restriction of the freedom to emigrate might be a flagrant form of persecution.

All reservations made under the head of national sovereignty should be subject to a general principle to the effect that they could not be applied in a spirit contrary to that of the Charter.

The principle of liberty of movement could only be promulgated by an international declaration. Care should therefore be taken not to provide a loophole for States to evade this rule, on the pretext of ill-defined general or mutual interest.

Under the Statute defining the position of refugees, the right of emigrants to leave a country where they were not treated in conformity with the principles of the Charter had been reserved.

He considered therefore that the Charter ought to be mentioned specifically in the text.

Mr. NISOT (Belgium) thought that the point Mr. SPANIEN was anxious about was covered by Article 5.

Mr. McNAMARA (Australia) proposed that the text of the reservation should be changed to the following: "Subject to any law adopted in good faith in the spirit of Article 6....."

In his view this addition was not essential, in view of the stipulations of Article 6. His aim in making this proposal was to take account of the objectives of the Sub-Commission.

Mr. SHAFaq (Iran) thought that the essential idea underlying the first two sentences was contained in the phrase: "There shall be liberty of movement and free choice of residence within the borders of each State," while the reference to State intervention

was only a secondary idea, which should be expressed in the form of an exception in the following manner: "unless in the judgment of the State concerned such freedom constitutes a danger to security and the national interest. "

Miss MONROE (United Kingdom) stated that she was fully in agreement with Mr. SPANIEN and preferred the original English text which did not apply the reservation to the third sentence.

The CHAIRMAN stated that there were two proposals before the Sub-Commission, the proposal of Mr. NISOT and that of Mr. SHAFaq. At the request of Mr. MASANI and Mr. BORISOV, it was agreed that the proposals concerning Articles 13 and 15 should be transmitted in writing to the Secretariat the next morning, and those concerning other Articles on Monday morning.

The meeting **rose** at 6 p.m.