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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-FIFTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 3 May 1951, at 3 p.m.

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Present:

Chairman: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. SANTA CRUZ
China	Mr. YU
Denmark	Mr. SÖRENSEN
Egypt	AZMI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMIN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. RÖSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MOROSOV
United Kingdom of Great Britain and Northern Ireland	Miss BOWIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CIASULLO
Yugoslavia	Mr. JEVREMOVIĆ

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educational, Scientific and Cultural Organization	Mr. ELVIN Mr. BAMMATE

Representatives of non-governmental organizations:

Category A

World Federation of Trade Unions	Mr. FISCHER
International Confederation of Free Trade Unions	Miss SENDER Mr. PATTEET
International Federation of Christian Trade Unions	Mr. EGGERMANN

Category B and Register

Agudas Israel World Organization	Chief Rabbi SHAFRAN
Caritas Internationalis	Mr. PETERKIN
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Miss de ROMER Mrs. SCHRADER
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOMLINSON
International Federation of University Women	Mrs. ROBB Miss DUBOIS
International League for the Rights of Man	Mr. BALDWIN
International Union of Catholic Women's Leagues	Miss de ROMER Miss ARCHINARD
Liaison Committee of Women's International Organizations	Mrs. ROBB
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD

Secretariat

Mr. Humphrey	Representing the Secretary-General
Mr. Das	Secretary to the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION (item 3 of the agenda):

(b) Inclusion in the Covenant of provisions concerning economic, social and cultural rights:

Special provisions on the right of association and the right to strike (E/CN.4/591, E/CN.4/594, E/CN.4/595, E/CN.4/596, E/CN.4/AC.14/2/Add.4, E/CN.4/NGO/28) (continued)

The CHAIRMAN asked the Commission to continue the discussion on the proposals concerning the right of association and the right to strike contained in the synoptic table (E/CN.4/AC.14/2/Add.4, Section X), and in document E/CN.4/591, which contained the revised United States proposal.

Mr. FISCHER (World Federation of Trade Unions), speaking at the invitation of the CHAIRMAN, submitted that the free exercise of trade union rights was an essential condition for the implementation of economic and social rights, which the working class had succeeded in winning only through trade union action.

Any attempt to reduce trade union rights to the status of a mere aspect of freedom of association would run completely counter to the whole trend of historical development over the past 150 years. Trade union rights were essential to the existence of the proletariat, which could not defend its rights except by collective action. In most countries, in fact, trade union rights had been consecrated in texts other than the general provisions governing freedom of association.

The United Nations had already taken its stand in that connexion, the General Assembly having declared in resolution 128 (II) that "the inalienable right of trade union freedom of association is, as well as other social safeguards, essential to the improvement of the standard of living of workers and to their economic well-being". Furthermore, the Economic and Social Council, dealing at its eighth session with complaints lodged by the World Federation of Trade Unions of infringements of trade union rights in various States, had adopted resolution 194 (VIII) which drew the attention of all Member States "to the importance of ensuring within their respective territories the full exercise of trade union rights....."

It was therefore essential that the Commission adopt a clearly-worded text laying down the right to form trade union organizations, the right of wage-earners to join those unions, and the right of trade union organizations to function freely in accordance with their statutes.

He was amazed to find that the United States proposal (E/CN.4/591) sought, not to guarantee trade union rights, but to limit their scope to certain forms of action directed mainly towards collaboration between workers and employers. That approach seemed to ignore the fact that trade unions were militant bodies struggling for the rights of labour, and was reminiscent of the corporative idea on which trade unionism had been based in Fascist Italy and Nazi Germany. In its careful omission to lay down the right to strike, the proposal appeared to reflect the considerations which had influenced the United States Government in connexion with the formulation of the Taft-Hartley Act, that powerful obstacle to strike action which the two big representative trade union organizations in the United States of America had stigmatized as an intolerable limitation of trade union rights and a step in the direction of fascism.

Miss BOWIE (United Kingdom) associated herself with the approach adopted by the Indian representative in asking whether the right to form and join trade unions was a fundamental human right. She was unable to accept the Chilean representative's view that the inclusion of a statement in the Universal Declaration of Human Rights was decisive, on the philosophical or juridical plane, as to whether it enunciated a fundamental human right, and therefore postulated its inclusion in the Covenant. The Universal Declaration had prescribed a common standard of achievement, and as such had great value, but in drafting the Covenant it was essential to know precisely what was meant by fundamental rights. The right of association, which was referred to in article 16 of the draft Covenant, was a fundamental right within which the trade union aspect of association was included. She must recall that that was also the view of the International Labour Organisation. When the first 18 articles of the draft Covenant came to be revised, her delegation intended to submit

an amendment to article 16 relating to trade unions, in order to make it clear that article 16 was all-embracing on that right.

She was unable to vote for any of the proposals at present before the Commission, because they were all restrictive, since they described the methods by which trade unions normally functioned, and such a description could not be exhaustive. The Egyptian proposal, for example, was limited to legislative measures, and made no reference to collective bargaining or voluntary arrangements. The International Labour Organisation had spent two years on negotiating a convention relating to the functioning of trade unions, and had found it by no means easy to secure the agreement of the interested parties.

Mr. JEVREMOVIĆ (Yugoslavia) considered that economic and social rights could not be made effective unless the freedom of trade unions was affirmed. Governments were only too prone to forget the interests of the workers. The affirmation of that freedom would constitute, not a new development, but merely the recognition of a historical fact. Many countries had legislation designed to ensure the rights of trade unions, which were the organs which enabled the workers to defend their legitimate right to a livelihood. Surely the Commission could not attempt to evade so fundamental a point.

He had been surprised, in view of the decision on forced labour taken at the Commission's sixth session, to note the reservations expressed in connexion with the right to strike. In the light of that decision, the Commission could not justify the exclusion from the Covenant of the right to strike.

There was a fundamental difference between association in trade unions and any other form of association; it could not therefore be claimed that article 16 of the Covenant covered the right to strike, a right which had long been regarded as inviolable in a great many countries.

The Yugoslav proposal set out the most important elements of the problem and expressly laid down the right of anyone to join trade union organizations at

local, national and international level. It went on to mention the right to strike and the essential principle that no one should be penalized either for belonging to a trade union or for striking. It was surely impossible to expound more briefly and exhaustively the experience gained in the course of history, and the practices in which that experience was crystallized.

He was prepared to amend the opening phrase of his proposal to bring it into line with the other articles.

Mr. CIASULLO (Uruguay) said that in the opinion of his delegation the Egyptian and United States proposals were too succinct, whereas the Soviet Union proposal was too detailed. The best definition of trade union rights seemed to be that provided in the Yugoslav proposal, which his delegation would be prepared to support, with certain reservations.

First, it would be necessary to restrict the right to join international trade union organizations, inasmuch as it should not be made possible for them to influence the internal politics of a country from without. The experience of Latin-American States was that Fascist, Nazi or Falangist organizations which attempted to unite the workers and then to incite them to sedition must be outlawed.

Secondly, two reservations seemed to be called for in connexion with the right to strike, which was recognized in the Constitution of Uruguay. Since, in certain cases, a strike might entail dangerous disturbance of the economy of a country, the right to strike should be invoked by the working class only as a last resort after every possibility of conciliation had been exhausted. It also seemed necessary to restrict the right to strike in the case of workers in public services, in order to prevent any concerted interruption of work, for instance, in public transport or the distribution of food supplies, from seriously jeopardizing national interests. An official in a public service who signed a contract with the State should be prepared to accept some limitation of his rights.

Those reservations were essential in view of the international engagements already assumed by Uruguay, particularly at the meeting of the Foreign Ministers of the American States, held recently in Washington. They could be met by making the following amendments (E/CN.4/594) to the Yugoslav draft text:

The words: "for all purposes not at variance with law or democratic public policy" to be added to the first article, following the words: "and international trade union organizations"; and the words:

> "It shall be understood that the right to strike is restricted to circumstances where attempts at conciliation have been exhausted. In the same way, the right to strike may be restricted by legislative measures in the case of public officials." to be added.

Mr. DUPONT-WILLEMIN (Guatemala), unlike the United Kingdom representative, felt that the provisions of article 16 of the Covenant would disappoint the expectations of the workers of the world. Although he did not agree with all the views expressed by the representative of the World Federation of Trade Unions, the latter had certainly explained most ably the historical reasons justifying the inclusion in the Covenant of a text relating specifically to trade union rights.

The Guatemalan Constitution of 11 March, 1945, clearly brought out the distinction involved by including the right of association among the guarantees afforded to individuals, and trade union rights among the guarantees of a social nature. The latter implied obligations to be assumed by the employer, and a separate clause was therefore called for.

He reserved his position on the various texts before the Commission, and agreed with the Uruguayan representative that the right to strike should be embodied in the Covenant, subject to certain limitations. He wondered, however, whether it would be fair to withhold it from all public servants. A tendency to nationalize various sectors of the economy was becoming increasingly apparent

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in a number of countries. Hence, if the right to strike were denied to all those employed in the public service, its exercise might be seriously restricted.

On the other hand, he could agree that it should not be considered lawful to call a strike until all the means of conciliation provided for in collective contracts or agreements had been exhausted.

Mr. CASSIN (France) considered that, even if amended to apply more specifically to trade union rights, article 16 of the Covenant would still be inadequate, and that the section of the Covenant referring to economic, social and cultural rights should therefore also embody a provision sanctioning the free exercise of trade union rights.

He did not think, however, that too detailed a text should be used. In drafting an international covenant, a common denominator between the specialized agencies and the various contracting States must be sought. But it then became difficult to make reservations in the case of civil servants, as the problem was treated differently in different States. Regulations governing the freedom to form and to join trade unions should be laid down in technical conventions.

He thought that it would be sufficient to draft an article recognizing the right of all workers freely to exercise their trade union rights.

Mr. WHITLAM (Australia) supported the view that the Commission should not go beyond article 16 of the Covenant. The difficulties attending the inclusion of references to trade unions were the usual ones of restrictive enumeration and excessive detail. The Australian Government believed that trade unions would be the stronger if they were merely recognized as associations, and not granted special treatment. Nor did he consider that the omission of a reference to trade unions would suggest that the workers' interests had been ignored. In his own country the right of trade unions to strike rested upon the common law, subject to the provisions of legislation forbidding subversive activities.

If, however, the Commission wished the subject to be treated in detail, surely that task would more suitably be carried out by the International Labour Organisation, which was closely aware of the interests of workers, employers and governments alike.

Miss SENDER (International Confederation of Free Trade Unions), speaking at the invitation of the CHAIRMAN, said that only the clear affirmation of trade union rights could give life to the economic and social rights to be included in the Covenant. Contemporary history showed that once trade unions came under the control of one party, it was not long before a totalitarian régime took charge.

The function of the free trade unions was to defend the interest of wage earners vis-à-vis management and the public authorities, and in labour courts where such existed. Their function was to negotiate, by collective bargaining, with employers on wages and hours of work, and to protect their members against exploitation in the shape of unfavourable working conditions, unsafe plant and the non-observance of labour legislation. The trade unions must have the right to work, in accordance with the free will of their members, for the improvement of working and living conditions. They must equally have the right to call meetings, conferences and conventions on the local, regional, national and international planes, without having to seek permission either from the civil authorities or from a political party.

Neither the government, nor a government-controlled party, nor any other political party could be allowed to interfere in the legitimate activities of trade unions. The right to collective bargaining must be guaranteed, in order that the demands of workers and employees might be settled peacefully. It was the duty of employers, both in private enterprise and in publicly-owned or controlled factories and offices, to co-operate in such peaceful settlement of

disputes. They should enjoy no right to organize or subsidize company-run unions, or to interfere with trade union activities. Above all, the trades unions must have the right to call a strike when peaceful negotiation had failed and the management's unwillingness to agree to a settlement had been demonstrated. A worker participating in a strike called by his union must not be punished for doing so.

On the other hand, trade unions must not be used as a cover for activities alien to the purposes of trade unionism, and designed to interfere with the normal functioning of government in the interests of a foreign power.

Whatever the economic and social system of a given country, the principles of the Covenant and the rights of trade unions must be respected in it. Workers must be protected, even where the means of production were owned by the State. Management in a planned economy was still management by human beings, who were apt to err in their relations with workers and trade unions.

It had been argued that the right to strike was superfluous in a planned economy, but that argument was invalid, since management must exist in any form of society and could not be regarded as infallible. Conflicts must inevitably arise; when they did, they should be solved by trade union methods.

The International Labour Organisation had already negotiated two conventions, one dealing with the freedom of association and protection of the right to organize, the other with the right to organize and collective bargaining. Moreover, machinery, in the shape of a fact-finding and conciliation committee, had been set up jointly by the United Nations and the International Labour Organisation for dealing with complaints and petitions. A number of complaints had already been referred to that body, some of them, which had been originated by communist-controlled trade-unions, directed against western

countries. It seemed that certain organizations and countries were by no means averse to interference in the domestic affairs of other countries so long as the latter were situated within a different sphere of influence.

Membership of the International Labour Organisation implied the acceptance of certain definite obligations; failure by a country to join that specialized agency suggested that it wished to evade those obligations.

The International Confederation would be inclined to support the United States proposal (E/CN.4/591) if it were amended by the inclusion of the two following provisions: first, the complete freedom of trade unions from control either by governments or by employers; secondly, the right to strike when the normal procedure of collective bargaining had failed. That right was fundamental to the trade unions, and could not be left out of the Covenant even if its inclusion necessitated the introduction of special legislation in certain countries.

Mrs. ROOSEVELT (United States of America) said that the formula "through such means as" was used in her proposal not because it was restrictive, but because it was illustrative. In her delegation's view the right to strike was covered by the proposal as it was one method of collective bargaining, to which reference was purposely made in sub-paragraph (a). Consequently, the most important part of her proposal was the introductory sentence, and she would therefore ask that it be voted on first.

If the Commission wished explicitly to include the right to strike, her delegation would probably not vote against that proposal, but would be obliged to stipulate that that right be made subject to certain limitations. In the United States of America the right to strike was admitted only as a last resort after the usual conciliation procedures had broken down.

The CHAIRMAN drew the United States representative's attention to the amendment to her proposal submitted by the Danish representative at the preceding meeting, which sought to substitute the words "everyone, by forming and joining trade unions" for the words "everyone to form and join trade unions."

Mrs. ROOSEVELT (United States of America) preferred her own wording on the grounds that it was more positive.

Mr. SANTA CRUZ (Chile) pointed out that under the terms of reference given to the Commission by the General Assembly, the Universal Declaration was to be taken as a basis for drafting the International Covenant. A clear-cut distinction was made in that Declaration between the right of association (Article 20(1)) and the right to form and to join trade unions (Article 23(4)). He also pointed out that the Convention on Freedom of Association negotiated in 1948 differed from the other conventions prepared by the International Labour Organisation in that it had been drafted at the express recommendation of the General Assembly of the United Nations; in that the Economic and Social Council and the General Assembly had laid down beforehand the principles on which it was to be based; in that the General Assembly itself had approved the Convention drawn up by the International Labour Organisation; and in that all Member States had undertaken to respect the principles of that Convention.

The problem with which the Commission was now faced was a particularly delicate one, partly because the concept of the right to form and join trade unions and of the right to strike differed substantially according to the general economic organization of each country, but partly because, both at national and at international level, certain trade union organizations had ceased to devote themselves exclusively to the defence of the economic and social interests of the workers, and had begun to engage in national and international political activities. For that very reason certain delegations were anxious that reservations or restrictions should be embodied in the text under discussion.

After reviewing the various drafts before the Commission, he remarked that the apparent purpose of the Soviet Union proposal was to give trade union rights precedence over all the other rights, and that it contained certain extreme

provisions which might affect the interests of the community under a democratic régime. The Soviet Union draft suffered from the same defect as the proposal put forward by the World Federation of Trade Unions, namely, it sought to give the trade union organizations a rôle which went beyond economic and social functions, by granting them the right to participate in the public and private bodies that determined the social policy of their countries. Such a provision would be at variance with the political structure of the majority of States Members of the United Nations, which did not recognize the right of any but political organs to frame national policy.

On the other hand, he considered that the Egyptian and United States texts were too restrictive.

The reservations expressed by the representative of Uruguay with regard to the activity of international trade union organizations and to the right to strike were highly pertinent. While it was necessary to be on one's guard against possible political action by trade union organizations at international level, the problem also arose at national level. It would therefore be necessary to insert a specific clause to the effect that trade union activity should be confined to the defence of the economic and social interests of the workers.

He was entirely in agreement with the view expressed by the representative of France, namely, that it was necessary to avoid introducing into the article under discussion any reservations that might complicate the text unduly. It seemed to him preferable to defer until the end of the discussion on economic, social and cultural rights the question of inserting a general clause similar to that contained in Article 29(2) of the Universal Declaration, specifying that the rights of the individual were subordinate to the law of the land and to the need for respecting public order and the general welfare in a civilized society.

Mr. MOROSOV (Union of Soviet Socialist Republics) disagreed with the view that article 16 of the Covenant was broad enough to take in the problem of trade unions, the significance of whose role had been amply demonstrated in the course of the discussion, and supported the view that the implementation of economic and social rights was linked with trade union rights. The contrary argument was inconsistent, and directed against the vital interests of workers

whose well-being it was the task of the trade unions to ensure. That was the main idea expressed in paragraph 1) of the Soviet Union proposal (E/CN.4/AC.14/2/Add.4). The Chilean representative appeared to have misunderstood its purpose, since he had suggested that trade unions would thereby be given so preponderant a role as to cause their rights to outweigh others. In the Chilean representative's view, the Soviet Union proposal went beyond the framework of the Covenant. He (Mr. Morosov) would submit that, starting from the general premiss, the proposal simply enumerated the ways in which trade unions should defend the interests of workers.

It was the more necessary to spell out trade union practice in detail, since violations of trade union rights were frequent occurrences. The advocates of article 16 were attempting in effect to side-track consideration of the issue. The United Kingdom representative had described all the proposals as being restrictive, but had not made a constructive suggestion herself because she did not want to see an article dealing with trade union rights included in the Covenant. He would adduce certain facts which clearly showed that States Members of the United Nations and the Commission must take a firm stand. For instance, in the United Kingdom legislation had been adopted on 25 July 1950 on strikes, lock-outs and absenteeism. The law prohibited lock-outs and strikes, except in cases where the dispute had not been referred to the Minister of Labour, or where the Minister, after receiving notice of the dispute, had failed to refer it for decision within three weeks from the date of receiving notice. All settlements resulting from agreement or a tribunal award were binding. The Daily Express had reported in March, 1951, that the director of a factory at Willesden, near London, had dismissed 700 workers who had asked for higher wages. In so doing, he had stated that he had the support of other firms. Clearly the employers were united against the workers. Another factory had in the same month dismissed 800 workers. In October 1950 ten employees at a London gasworks had been sentenced to one month's imprisonment for taking part in a strike. On appeal against sentence, the latter had been reduced to a fine of £50. In delivering judgment, the Chairman of the London Sessions had said that the appeal had been allowed because the workers might not have been aware that they were committing a criminal offence by joining in a strike. The essence of existing legislation in the United Kingdom was that strikes were forbidden, and strikers considered as criminals.

The text submitted by the United States delegation was in his view manifestly inadequate; it could be compared in that respect with Article 23(4) of the Universal Declaration of Human Rights, which stated: "Everyone has the right to form and to join trade unions for the protection of his interests." The Soviet Union attitude with regard to the shortcomings of that statement was already widely known, and, far from representing an improvement, the text now submitted by the United States delegation was, by comparison, a step backwards. It was pointless to search for any concrete guarantee of trade union rights in it, and its terms were thoroughly appropriate to the reactionary conditions prevailing in the United States of America. In that connexion, he had no need to stress the reactionary nature of the Taft-Hartley Act which struck at the very roots of the conceptions of collective bargaining and the right to strike. In the report by Rowland Watts, National Secretary of the Workers' Defence League, to the Committee on Slavery of the Economic and Social Council, it has been stated that the description of the Taft-Hartley Act as a slave-labour law was not unfounded. He could enlarge, indefinitely, on the many ways in which the right of association and the right to strike were being assailed in the United States of America, but would content himself with saying that the text submitted by the United States delegation did no more than set the seal of legality on an unjust situation.

If the position in the metropolitan territories of the United States of America and the Commonwealth of Nations was bad from the point of view of organized labour, it was far worse in colonial and dependent territories, where the most elementary trade union rights were at best in a rudimentary state, and more commonly entirely non-existent. As was known, East Africa had recently been the scene of vicious attacks on the workers, and a number of natives had been killed and injured in Nigeria. In fact, wherever the American way of life was gaining acceptance, a rising tide of oppression and assaults on the status of the workers was to be observed.

Finally, in reply to a previous statement that the text submitted by the Soviet Union did not explicitly recognize the right of everyone to join a trade union, he would refer directly to paragraph 1) thereof, which stated clearly

that all "hired workers" - that was, those who stood in greatest need of trade unions - had the right to form such bodies.

Mr. PICKFORD (International Labour Organisation), speaking at the invitation of the CHAIRMAN, remarked that the general attitude of his Organisation to the economic and social clauses of the Covenant was already well known to the Commission; its opinion on the specific aspects under discussion, which was consistent with its general view, was that the matters being dealt with under the heading of the right of association and the right to strike should form the subject of a general clause, leaving the detailed working out to the International Labour Organisation. The United States delegation had made a substantial contribution in that direction by indicating that its proposal should be dealt with in two parts, since the second part was unacceptable to his Organisation, as it appeared to be of a restrictive nature, although that was certainly not the intention of the United States delegation. The first part of the proposal corresponded generally with the views which the Chairman of the delegation of the Governing Body of the International Labour Office had submitted to the Commission at an earlier meeting. The essential element was the right to form and to join trade unions.

Although it might not prove practicable to leave the matter to be covered by article 16 of the draft Covenant, as had been suggested at one point, it was none the less vital to bear the whole of article 16 in mind when the form of the proposed article was being decided. Paragraphs 2 and 3 of article 16 were also of importance for the article, which he hoped would be adopted in a simple form.

. . . .

Mr. WAHEED (Pakistan) said that the Pakistani Government recognized the right to free association, including the formation of trade unions, but he wished particularly to stress the phrase in paragraph 2 of article 16 of the draft Covenant which imposed reservations on the right of association in circumstances in which national security was threatened. That was a provision fully in accordance with the fundamentals of Pakistani law, and his delegation would support its inclusion in the final text.

Mr. EGGERMANN (International Federation of Christian Trade Unions), speaking at the invitation of the CHAIRMAN, said he shared the views of the representative of the International Confederation of Free Trade Unions.

His Federation would be willing to support the Yugoslav proposal, provided certain additions were made to it. In the first place it should be laid down that everyone had the right to join local, national or international organizations of his own choice.

Secondly, in order to make it quite clear that trade unions were not to concern themselves with purely political matters, it might be said that the right of association was granted to everyone "in order to protect his economic and social interests".

Lastly, as the Uruguayan representative had proposed, it should be made clear that the right to strike could only be exercised in cases in which all possible conciliation procedures had been exhausted.

A text including those additions would no doubt meet with the approval of a large majority of the Commission.

Miss BOWIE (United Kingdom) said that since the Soviet Union representative had referred to certain laws in force in the United Kingdom, it would be appropriate for her to state the real facts in connexion with them. It was true that there was a law in force in the United Kingdom which made workers in gas, water or electricity undertakings liable to prosecution for breach of contract. The reason for that would be clear to all representatives who were members of countries where the trade union movement was highly developed. Workers in industries such as those she had mentioned could not be permitted to have an unlimited right to strike because their responsibility to the community as a whole was so great.

The representative of the Soviet Union had also referred to other laws prohibiting strikes. Again, it was a fact that there was a provision in the existing law which made a strike illegal unless the dispute had been referred to the Ministry of Labour, where there was a special department responsible for conciliation and arbitration. The fact was, nevertheless, that strikes did take place in the United Kingdom, as was well known to everybody, which indicated that a right to strike in fact existed. She added that the same law provided that where there was collective joint machinery suitable for settling the dispute, that machinery must first be used. The terms settled by such collective machinery, or by arbitration, were equally binding on employers and on workers.

Turning to the Soviet Union delegation's earlier proposals (E/CN.4/527, Section A), she observed that they contained a statement that any form of propaganda on behalf of Fascist or Nazi views, or of racial and national exclusiveness, hatred and contempt, must be prohibited by law. Yet, in the amended proposals submitted by the Soviet Union delegation, given in the synoptic table before the meeting, it was specifically stated that the right of association should be ensured to all persons without distinction, inter alia of political or philosophical opinion. In the light of that change, had the Soviet Union delegation gone back on its earlier views concerning Fascists and Nazis?

Mrs. RÖSSEL (Sweden) said that in Sweden the same full rights to form trade unions were accorded to civil servants as to other employees. With regard

to the right to strike, that was restricted in the case of civil servants along the lines indicated in article 16 of the draft Covenant.

Her delegation felt that to introduce a highly detailed provision might lead to considerable confusion in respect of both the rights and the restrictions connected with trade union activities. On the other hand, if the final draft was too greatly simplified, certain delegations might not feel completely satisfied. However, she would propose that a vote be taken to decide whether article 16 was acceptable as it stood. Should it then appear that the general view was that some more specific mention should be made of trade union rights, her delegation would be prepared to vote on the other proposals, and would support the United States revised proposal as amended by the Danish representative.

Mr. SANTA CRUZ (Chile) pointed out that the suggestion of the Swedish representative did not accord with the Commission's procedural practice. The normal course would be for the Commission to vote on all the proposals before it. If none of them was adopted the only text dealing with trade union rights would be article 16 of the draft Covenant.

The CHAIRMAN, while agreeing with the representative of Chile as to the general rule, pointed out that a number of precedents existed in the case of the Commission on Human Rights in which the contrary procedure had been followed. In view of that, and in view of the fact that the rules of procedure did not completely cover that particular subject, he was prepared to take a preliminary vote on article 16 as suggested by the Swedish representative.

Mr. MOROSOV (Union of Soviet Socialist Republics) declared that, on the basis of rule 77 of the rules of procedure of the Economic and Social Council, such a procedure would none the less be out of order.

The CHAIRMAN repeated that, for the reasons he had just given, he would proceed as he had indicated if the representative of Sweden so desired.

Mrs. RÖSSEL (Sweden) said that she would not press her proposal, which she had only suggested as a possible means of simplifying the Commission's work.

Mr. PATTEET (International Confederation of Free Trade Unions), speaking at the invitation of the CHAIRMAN, said that the testimony of history made the statement of certain representatives that a general declaration of the right of association was sufficient to ensure freedom of trade union activity highly problematical; in fact, in the absence of special, precisely-defined provisions trade unions usually found themselves in a position where they enjoyed scant liberty.

Secondly, it had been suggested that an increase in the activity of the trade unions might result in their wielding too much influence in the economic and social fields. The obvious reply to that was that since the working class was a vital part of a country's economy, it was only right and natural that it should have a share in influencing and moulding social and economic policy.

It had also been suggested that the formation of international trade unions tended to lead to dangerous political interference by trade union circles. But if it were once admitted that international bodies for the regulation of other matters were an indispensable part of civilized society, that concession would have to be extended to trade union affairs also.

Lastly, on the subject of the Taft-Hartley Act, to which several references had been made, he stressed that the International Confederation of Free Trade Unions had consistently expressed its opposition in no uncertain manner to that particular piece of legislation, and to all others like it.

AZMI Bey (Egypt) said that in his revised proposal (E/CN.4/595) he had tried to reconcile the different views put forward during the discussion.

Taking as its basis the essence of the Yugoslav proposal, the new Egyptian text also took into account the views of the Uruguayan representative on strikes. A strike was not a right as such, but a way of exercising a right.

Hence the Egyptian proposal referred to "recourse ... to strikes", and specified that such recourse should be had only when attempts at conciliation had been exhausted, and provided that the security of the State and the vital interests of the nation were not thereby affected.

To be on the safe side, he would also submit certain amendments to the United States proposal (E/CN.4/591).

First, he suggested that the words "le droit de" be deleted from the French text of sub-paragraph (a) to bring it into line with the English text, which spoke only of "collective bargaining".

Secondly, he suggested that a new sub-paragraph be added, worded as follows: " (d) Strikes, provided they do not affect the security of the State and the vital interests of the nation".

Mr. SANTA CRUZ (Chile) said that in criticizing the proposals of the Soviet Union and the World Federation of Trade Unions in the light of the political activity of trade unions, it had not been his intention to deny the right of trade unions to take part in the discussion of economic and social measures in their own particular countries. His remarks had been aimed chiefly at the wording of the Soviet Union and World Federation texts, the purpose of which appeared to be to enable trade unions to exercise that function in political bodies. In most of the States Members of the United Nations, economic and social policy was laid down by organs of the executive and legislative authorities.

He was entirely in favour of the right of trade unions to band together on the international plane. What he had wished to draw attention to was the tendency of trade unions to take part in politics, both in their own countries and internationally, a tendency which had led many delegations to make reservations.

To round off his earlier remarks, he would formally sponsor the two suggestions made by the representative of the International Federation of Christian Trade Unions, and submit them as an amendment (E/CN.4/596) to the Yugoslav proposal, which would also apply, mutatis mutandis, to the other proposals

before the Commission.

Such a provision would, he thought, render unnecessary the Uruguayan amendment, by which membership of international trade union organizations would be allowed only on condition that the activities of such organizations were not at variance with law or democratic public policy.

Mrs. ROOSEVELT (United States of America) was prepared to accept the suggestions made by the representative of the International Labour Organisation; that would entail deleting the three sub-paragraphs from the end of her delegation's proposal (E/CN.4/591), which would then end at the phrase "protection of his interests".

With regard to the Taft-Hartley Act, she had herself been opposed to certain of its provisions. But she did not agree with the Soviet Union representative that the law prohibited the right to strike. When the United States President officially declared a state of emergency in the country, he had also the right to declare a "cooling-off" period of eighty days before the right to strike on an important industrial dispute could be invoked. To her knowledge that right had been exercised only once, in connexion with the coal strike called by John L. Lewis.

Mr. CASSIN (France) took the Chair.

Mr. YU (China), while observing that his delegation was in favour of a succinct and general statement of principle, none the less regretted that the United States representative had seen fit to withdraw the illustrations included in sub-paragraphs (a), (b) and (c) of her delegation's proposal.

The right to strike was something that should be recognized in civilised society; but at the same time it must be considered against the background of the just claims of others, the satisfaction of which was likewise a duty of civilised society.

Mr. MOROSOV (Union of Soviet Socialist Republics), replying to the question put to him by the United Kingdom representative, said that close

examination would show that references to propaganda on bahalf of Fascist or Nazi views, or of racial and national exclusiveness, hatred and contempt, would be more appropriately dealt with in connexion with article 15 of the draft Covenant. In dealing with the more limited topic of trade union activities he felt there was no need to mention either Fascism or Nazism, since those ideologies were so utterly alien to the nature of working people and to the fundamental conceptions of labour and labour associations that they could never take root there.

Referring to the remark just made by the United States representative, he must assert once again that the Taft-Hartley Act was utterly opposed to the exercise of trade union rights. The shortened proposal just agreed to by the United States representative would in no way limit the application of that Law, the consequences of which were only too well-known. An example of what might be expected to happen was provided by the introduction in France, in February 1950, of a labour law which, like the Taft-Hartley Act, was aimed at the rights of the workers. Article 56 of the French Law in effect deprived trade unions of the right to strike at times when they would, in their own interests, probably consider it most opportune to do so.

Mr. MALIK (Lebanon) resumed the Chair.

Mrs. MEHTA (India) said that, after listening to the discussion, she had come to the conclusion that the fundamental requirement was a simple and direct statement of the right of association. That right was, in her view, covered by article 16; but if the general feeling was that specific mention should be made of trade union rights, she would have no objection to the relevant passage being lifted from the Universal Declaration and embodied in the Covenant.

The Indian delegation's disinclination to see the right to strike mentioned specifically did not of course mean that India was opposed to it. Indeed, that right was specifically provided for by the legislation now in force in India; but it was restricted to trade union workers. It thus applied only to certain categories of people, and therefore had not the status of a universal human right.

For that reason she herself would prefer not to go into further details on the right of association or the right to stike in the article at present under consideration.

The right to strike was not granted to all workers. As had been pointed out by the United Kingdom representative, workers in essential services had no right to strike. That was a wise arrangement, as without it exercise of the right to strike could disrupt the life of the community. Thus, that right was very much restricted, and hence could not be included among the fundamental rights, the test of which was that they must be universal.

Mr. JEVREMOVIĆ (Yugoslavia) wondered whether it was necessary to go further than a simple and direct statement of trade union rights. He found it strange that it should have been the representatives of those very countries, particularly Australia and Sweden, which had specific legislation relating to the right of association who desired to make a detailed reference to the subject in the Covenant.

He was prepared to accept the Chilean amendment to the Yugoslav proposal, even though he did not consider it strictly necessary. Regarding the amendment submitted by the Uruguayan representative, he fully appreciated the latter's fear of the possible abuse of trade union rights at international level; the present situation of Yugoslavia was indeed a trenchant illustration of the dangers which could thus arise. He thought, however, that the Yugoslav text made it sufficiently clear that international trade union activities should not be allowed to transcend their proper limits.

Mr. FISCHER (World Federation of Trade Unions) said that he wished first of all to state, in reply to a comment by the Chilean representative, that his Federation had proposed that trade unions should take part, not in the legislative and executive organs of States, but in the bodies responsible for the framing of social legislation and in those responsible for its implementation.

In reply to the French representative, he would say that the mere fact that relevant conventions of the International Labour Organisation existed could not

justify the exclusion of detailed provisions from the Covenant. The United Nations had acknowledged its interest in the right of association, and was in a position to go further in that direction than the International Labour Organisation could. He would venture to point out that the French Government had not even ratified the Convention to which the French representative had referred.

With regard to the right to strike, it must not be forgotten that that was a fundamental right of the workers in their struggle against the employers, who often enjoyed the support of the State machine.

The Egyptian amendment (E/CN.4/595), which made the right to strike conditional on its not affecting the "security of the State and the vital interests of the nation", would leave the door open to all kinds of abuse, since the State alone could be the judge of its own security.

With reference to the criticisms made concerning the free exercise by international trade union organizations of their functions, he would point out that there had been similar opposition to the setting up of trade union groups and federations within States as long ago as the nineteenth century. Only by unremitting struggle had the workers won the right to organize federations and confederations. A provision ensuring the free exercise by the international trade union organizations of their activities was the more necessary in that the World Federation of Trade Unions had recently been the victim of an arbitrary measure adopted by the French Government.

The Chilean amendment, which recognized the right to form trade unions for the protection of the economic and social interests of the workers, would be extremely dangerous, since it could be used by governments who made a practice of violating trade union rights as a pretext for adopting measures against truly representative trade union organizations. Such a provision would be even less liberal than that contained in Article 10 of the 1948 Convention concerning Freedom of Association and Protection of the Right to Organise, of the International Labour Organisation, which had been inserted despite the opposition of the workers' group, and which merely defined trade union organization as any organization of workers for defending the interests of workers.

Mr. SÖRENSEN (Denmark) feared that his remarks at the previous meeting in connexion with his amendment to the United States proposal might not have been fully understood. He had said that article 16 of the draft Covenant governed the right of association in general. It might be maintained in certain quarters that trade union rights could not be reduced to the mere right of association, but nevertheless all would agree that the formation of trade unions was certainly one practical application of the right to associate.

He said "one application" advisedly, because there were fields of economic and social activity where associations other than trade unions existed and were just as important in their own field as were the latter in theirs. Mankind did not consist exclusively of organized labour, and for many sections of the world community the right of association as expressed in the establishment of co-operative societies was of vital importance. In that shape, the right of association often yielded more valuable results than it did in the form of trade unions.

Therefore, the part of the Covenant relating to economic and social rights must not be so worded as to mean that trade union rights would enjoy precedence over others; the purpose of his earlier amendment to the United States text had been precisely to avoid that danger. But, as the outcome of the subsequent further amendment of the United States proposal, that amendment was no longer pertinent. He would therefore suggest another variant, which also applied to the Yugoslav and latest Egyptian proposals, namely, the addition of the words "in conformity with article 16" after the words "recognize the right of everyone" in the United States and Egyptian proposals, and after the words "whose income is derived from work" in the Yugoslav proposal.

He supported the other amendments submitted, and especially the revised Egyptian proposal.

Mr. CASSIN (France) accepted the amended United States text as a working basis. He also accepted the Chilean amendment relating to the protection of economic and social interests.

He did not feel that it was essential to mention the right to strike, since the Covenant should be applicable to all countries, and there were some in which no strikes occurred.

Should the majority of the Commission so wish, however, the article might recognize the right to strike with the reservation that all available conciliation procedures should first have been exhausted, to prevent social conflict becoming a normal occurrence.

Lastly, in reply to a remark made by the representative of the World Federation of Trade Unions, he recalled that he had been one of the most stubborn defenders of the 1948 Convention of the International Labour Organisation. The only reason why the French Government had not so far ratified the Convention was that it had not yet had time to do so. It was to be hoped that the decisions to be taken by the Commission on trade union rights would help the representatives of all Member States to secure more speedy ratification of that Convention by their Governments.

AZMI Bey (Egypt) accepted the Chilean amendment.

Mr. MOROSOV (Union of Soviet Socialist Republics), supported by Mr. SANTA CRUZ (Chile), proposed that the discussion on the right of association and the right to strike be completed at the following meeting, since not all the amendments proposed had been circulated in the necessary working languages, so that a vote could not be taken immediately.

It was so agreed.

The meeting rose at 6.45 p.m.