

**ECONOMIC  
AND  
SOCIAL COUNCIL****CONSEIL  
ECONOMIQUE  
ET SOCIAL**E/CN.4/Sub.1/13  
19 May 1947

ORIGINAL: ENGLISH

**COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON FREEDOM OF INFORMATION  
AND OF THE PRESS****REPORT OF COMMITTEE ON SUBSTITUTES FOR ABSENT MEMBERS  
TO SUB-COMMISSION ON FREEDOM OF INFORMATION**

At the session of the Sub-Commission on Freedom of Information and of the Press on the morning of 19 May, the question arose as to the privileges and rights to be accorded to representatives appointed or to be appointed by the Governments of France, Panama and the United Kingdom in place, respectively, of M. André Géraud, Mr. José Fabrega and Mr. R.J. Cruikshank, all three of whom were unable to be present. The question was referred by the Sub-Commission to a committee consisting of Mr. Chafee, Mr. Christensen and Mr. Lomakin. The committee met during the noon recess. Mr. Chafee was selected as Rapporteur.

The question as to the rights and privileges of substitutes for the three absent members involves a conflict between two basic resolutions of the Economic and Social Council.

On the one hand, after the Commission on Human Rights had recommended that the Sub-Commission on Freedom of Information and of the Press "be composed of twelve persons selected by the Council in consultation with the Secretary-General and subject to the consent of Governments of which the persons are nationals", the Council resolved on 28 March 1947, "that, subject to the consent of their Governments, the Sub-Commission on Freedom of Information and of the Press be composed of the following persons:....." among whom were named Mr. Cruikshank, Mr. Fabrega and M. Géraud.

On the other hand, the Council on the same day adopted the following

resolution concerning alternates:

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"When a member of a Commission set up by the Council by Resolutions of 21 June 1946, and 1, 2 and 3 October 1946 is unavoidably prevented from attending a session of the Commission, an alternate shall be designated by the Government of the member in consultation with the Secretary-General to serve in the place of the member for that session, and that an alternate so designated shall have the same status as a member of the Commission, including the right to vote."

The problem is, therefore, whether the resolution concerning alternates applies to the present Sub-Commission. The resolution refers only to "a member of a Commission" without mentioning Sub-Commission. It is also material that the initial members of each of the Commissions of the Economic and Social Council are representatives of their respective Governments, whereas the members of the present Sub-Commission were chosen directly by the Council as individuals.

A further point material to the question is whether the Council resolution about alternates is, in effect, part of the Rules of Procedure of the Commission. Under rule 59 of the Rules of Procedure of the Commission on Human Rights, the Sub Commission on Freedom of Information and of the Press shall apply the Rules of Procedure of the Commission until it adopts its own Rules of Procedure. This Sub-Commission during the morning session adopted the Rules of Procedure of the Commission on Human Rights as its own Rules of Procedure. Rules for appointment of alternates are not included specifically in these Rules of Procedure. As the decision of a superior body, the Council resolution concerning alternates would be binding on this Sub-Commission, regardless of the terms of the Rules of Procedure, if this resolution were clearly intended to apply to this Sub-Commission. That, however, is the very point which is uncertain.

Furthermore, this resolution of the Council was adopted to meet emergency cases. The question is whether this Sub-Commission is faced with such an emergency.

/After

After considering these basic documents, the committee decided that it was not clear that the resolution concerning alternates is legally binding upon this Sub-Commission, and that it would be better to let the problem before us be considered as legally open and try to conclude what would be the wise policy under the circumstances.

A majority consisting of Mr. Chafee and Mr. Lomakin recommend that the representatives from France, Panama and the United Kingdom should not have voting powers and should be admitted to full privileges of discussion. Mr. Christensen recommends that the representatives of these three Governments should also have the right to vote subject to consultation with the Secretary-General as provided by the Council resolution concerning alternates.

Respectfully submitted,

Z. Chafee

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