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COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

Second Session

SUMMARY RECORD OF THE FORTIETH MEETING

Held at Lake Success, New York
on Wednesday, 19 May 1948, at 2.30 p.m.

Chairman: Mrs. Franklin D. ROOSEVELT United States of America

Vice-Chairman
and Rapporteur: Mr. AZKOUL Lebanon

Members:

Mr. E. S. R. HAYWARD	Australia
Mr. H. SANTA CRUZ	Chile
Mr. T. Y. WU	China
Mr. Rene CASSIN	France
Mr. A. P. PAVLOV	Union of Soviet Socialist Republics
Mr. E. WILSON	United Kingdom

Consultants from Non-governmental Organizations:

Miss Toni SENDER	American Federation of Labor
Mr. Frederick NOLDE	World Federation of United Nations Associations
Mr. Van ISTENDAEL	International Federation of Christian Trade Unions

Secretariat:

Dr. J. P. HUMPHREY
Mr. E. LAWSON

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DRAFT INTERNATIONAL DECLARATION ON HUMAN RIGHTS (Continuation of discussion)

Article 16

The CHAIRMAN read the article and recalled that comments on it had been submitted by the Netherlands, Mexico and Brazil (document E/CN.4/85, pp. 31 and 32). The United States of America, preferring an explicit statement of the principle of freedom of religion, had presented an amendment (document E/CN.4/AC.1/20, page 7), but was prepared to support the Geneva text.

Mr. CASSIN (France) pointed out that the text proposed by the French Government (document E/CN.4/82/Add.8) retained the Geneva draft for the first paragraph, with the following purely drafting amendment in the second paragraph: "Every person has the right, either alone or in association, to manifest his beliefs, subject to respect for public order, by teaching and practising them, and by worship and observance."

At the request of Mr. SANTA CRUZ (Chile), the CHAIRMAN read out the relevant text adopted for the draft Covenant. The Chairman added that the United States of America had proposed the following drafting amendment in accordance with the principle of the Geneva text: "Everyone is entitled to freedom of religion, conscience, and belief, including the right, either alone, or in community with other persons of like mind, to hold and manifest any religious or other belief, to change belief, and to practice any form of religious worship and observance." (document E/CN.4/AC.1/20, page 7).

Mr. WILSON (United Kingdom) supported that text.

In reply to a question by Mr. PAVLOV (Union of Soviet Socialist Republics), the CHAIRMAN explained that the Geneva text pertained to freedom "of conscience and belief" only, while the United States proposal would specifically add to it freedom of religion.

/Mr. CASSIN

Mr. CASSIN (France) remarked that in French freedom of religion was already implied in the concept of "freedom of conscience and belief" of which the former, although important, was only a part. However, he would not object to the addition of the word "religion".

On the other hand, the expression "Everyone is entitled to...", had no force when translated literally into French: ("Toute personne peut se prevaloir du droit a ..."). It would be better to come straight to the point by saying: "Everyone has the right to..."

The CHAIRMAN thought that the English version might state: "Everyone has the right of freedom...", which could then be rendered into French as follows: "Toute personne a la liberte de conscience, de religion, de pensee, ...etc."

Mr. AZKOWL (Lebanon) thought that it would be well to add to the second paragraph another sentence on the right to convert other persons to one's own belief.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that a formal declaration was not enough, and requested that the article should be drafted in more forceful terms, guaranteeing the freedom of conscience in the following manner:

"Every person shall have the right to freedom of thought and to freedom to practice religious observances in accordance with the laws of the country and the dictates of public morality".

In order to avoid further discussion, Mr. WU (China) proposed that the Committee should revert to the Geneva draft of article 16.

The CHAIRMAN said that the United States of America was prepared to withdraw its amendment in favour of the Geneva draft, but pointed out that there was still the USSR amendment to be considered.

/Mr. CASSIN

Mr. CASSIN (France) also supported the Geneva text, subject to the following drafting amendment to the last sentence: "de manifester ses croyances par leur enseignement et leur pratique, et par le culte et l'accomplissement des rites". The English version would read: "to manifest his belief in teaching, practice, worship, and observance."

The CHAIRMAN put the following USSR amendment to the vote:

"Every person shall have the right to freedom of thought and freedom to practice religious observances in accordance with the laws of the country and the dictates of public morality".

The USSR amendment was rejected by 4 votes to 1 with 2 abstentions.

The CHAIRMAN then put the Geneva text to the vote together with the following amendment, proposed by the French representative:

"to manifest his belief in teaching, practice, worship and observance."

The amended text was adopted by 6 votes to none with 1 abstention.

Articles 5, 6 and 7

Mr. SANTA CRUZ (Chile) proposed a new arrangement of the articles. The first article would begin with the two first paragraphs of the drafting sub-committee's report, followed by an amendment proposed by Chile: "No person shall be imprisoned merely on the grounds of inability to meet a contractual obligation." That text could also be replaced by article 10 of the draft Covenant.

The second amendment would serve to settle problems of arrest and detention. It read as follows: "Everyone has the right to compensation in respect of any unlawful arrest or deprivation of liberty."

A second article would follow dealing with the legal procedure and the rights of the individual in case of accusation. The article would begin as follows: "The rights and obligations of every person confronted with a criminal accusation must be determined or judged by independent and impartial tribunals."

At that point, the following USSR amendment might be

/included:

included: "...tribunals which are governed by democratic principles."

The text would then continue: "...impartial and independent tribunals, before which all persons are equal".

The next paragraph would define the judgement: "Everyone accused of an offense must be judged within a reasonable time by courts established beforehand and in accordance with pre-existing laws in a public trial."

Certain concepts, taken from the last part of the sub-committee's report, would follow. The text might state: "In the judgments and decisions, everyone has the right to: " - followed by paragraphs (a), (b) and (c) of the sub-committee's report. A paragraph (d) would deal with the right of defense including the question of interpreters, as provided in the USSR proposal.

Finally, the Committee might express its views with regard to the USSR proposal to take up again article 7, paragraph 2, dealing with war-crimeinals.

The CHAIRMAN opened discussion on the Chilean proposals.

Mr. WILSON (United Kingdom) thought that most of the United Kingdom amendments were met either by the sub-committee's proposals or by the Chilean amendments.

Mr. CASSIN (France) thought that the Chilean suggestions were interesting. It would be necessary, however, to weigh the provisions carefully, in order to achieve the necessary conciseness and precision in drafting.

Mr. PAVLOV (Union of Soviet Socialist Republics) would have liked to see some parts of his previously proposed amendments inserted in the sub-committee draft. He would agree to basing the discussion on the composite draft presented by Chile which he supported in principle, subject to a few amendments. He recalled that his proposal stated: "All persons are equal before the tribunals" and not: "before the law".

/The CHAIRMAN

The CHAIRMAN put to the vote first the United Kingdom amendment to replace the first two paragraphs of the sub-committee draft by the following sentence: "No one may be subjected to arbitrary arrest or detention.

The United Kingdom amendment was not adopted. Three votes were cast in favour of the amendment, and 3 against, with 1 abstention.

The CHAIRMAN read the first paragraph of the sub-committee draft.

Mr. HEYWARD (Australia) and Mr. SANTA CRUZ (Chile) felt that the words "arrest" and "detention" should be retained. While arrests were made by legal authorities, detentions could be caused by anyone.

Mr. CASSIN (France) considered the expression "can be authorized" to be inexact since arrest or detention could, in fact, occur without authorization. It would be simpler and better to use at that point the text of the draft declaration, article 5. The text would then read: -

"No one may be arbitrarily deprived of his liberty. Arrest or detention may be allowed only according to pre-existing law and in accordance with due process."

On the suggestion of Mr. PAVLOV (Union of Soviet Socialist Republics), the CHAIRMAN put the first sentence to the vote first: -

"No one may be arbitrarily deprived of his liberty."

The text was adopted by 6 votes to none.

The CHAIRMAN pointed out that the English text should begin with the words "No one" instead of the words "No person"; she then opened the discussion of Mr. Cassin's proposed text for the second sentence.

Mr. PAVLOV (Union of Soviet Socialist Republics) requested that the word "imprisonment" should be added to the words: "arrest" and "detention". In Russian, at any rate, the three words had different connotations.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) supported that suggestion. Arrest and detention were measures taken by authorities or tribunals during the period of inquiry, or during the trial, while imprisonment constituted a punishment. Moreover, the discussion had shown that it would be better not to enter into legalistic terminology. The representative of Chile consequently proposed a more general formula: "No one may be arbitrarily deprived of his liberty, except in accordance with pre-existing law and in accordance with due process."

Mr. CASSIN (France) might accept the additional word: "imprisonment". If, however, as the representative of Chile had proposed, a more general formula was to be accepted, it would be best to revert to the first sentence of article 5 of the Geneva text, which read:

"No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process."

The CHAIRMAN remarked that the first sentence of the sub-committee text had already been adopted. For the second sentence, Mr. Cassin's proposed formulation might be accepted: "Arrest or detention may be allowed only according to pre-existing law and in accordance with due process."

Mr. SANTA CRUZ (Chile) thought that imprisonment should be mentioned together with arrest and detention, as suggested by the USSR representative. But it would be simpler to adopt a formula avoiding legal definitions, and to state, for instance, after the principle was laid down:

"Deprivation of liberty is only allowed according to pre-existing laws and in accordance with due process."

Mr. WU (China) wondered if the discussion served any useful purpose. He proposed simply accepting the Geneva text and going on to the following articles.

/Mr. WILSON

Mr. WILSON (United Kingdom) agreed.

Mr. PAVLOV (Union of Soviet Socialist Republics) would regret the adoption of such a solution, after a three day discussion during which improvements had been made. He proposed the insertion of the words: "arrest, detention, and imprisonment".

Mr. CASSIN (France) did not think the problem was very complicated. It could be solved by incorporating the word "imprisonment" in the sub-committee text. With regard to the remainder of the text, a more satisfactory French draft would be possible, but the present drafting was acceptable.

Mr. AZKOUL (Lebanon) also proposed to use the three words "arrest, detention, and imprisonment". Their meaning was undoubtedly very similar, but each however had an exact and different meaning. "Arrest", for instance, was used more in an administrative sense; "detention" had, in some way, a political character (reference was often made to political detention); "imprisonment" was punishment for a crime or an infringement of the law. As the three words did not have exactly the same meaning, there was no disadvantage, and probably some advantage, in using all three.

The CHAIRMAN said that the United States delegation did not object to the inclusion of the word "imprisonment" and would like to see the sentence adopted with the addition of that word.

Mr. WU (China) would generally favour the sub-committee text, which contained the essential ideas expressed in articles 5, 6 and 7 of the Geneva text in abridged form. If the USSR representative insisted that the text should be replaced by his own draft, however, the Chinese delegation would agree.

The CHAIRMAN pointed out that the various suggestions submitted had resulted in the following text:

/"Arrest,

"Arrest, detention or imprisonment may be allowed only according to pre-existing law and in accordance with due process."

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that he could not find what had been proposed by the sub-committee in that text.

Mr. CASSIN (France) affirmed that all the essential ideas of the sub-committee had been faithfully interpreted.

The CHAIRMAN stated that in order to reach an agreement on the different points of view expressed, it would be necessary to put both texts to the vote.

The text supported by Mr. Cassin was adopted by 3 votes to 2, with 2 abstentions.

The Committee passed to the examination of the second paragraph.

Mr. CASSIN (France) asked that the difference between the two very distinct ideas evoked by the text should be clearly established.

There was first of all the question of the legality of arrest. But an arrest might be legal at the moment when it was made and become an abuse owing to prolongation of the detention. It was then that the necessity for trial within a reasonable time arose. To avoid any misunderstanding on that point, Mr. Cassin proposed the following text:

"...to immediate judicial determination the legality of any detention to which he may be subject and to trial within a reasonable time or to release."

In other words, a distinction should be made between the necessity for controlling the legality of the measures for arrest, and the necessity for trial and verdict, within a reasonable period of time.

The CHAIRMAN said that her delegation would favour the drafting sub-committee text, which was more in accordance with the national legislator of the United States.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) supported Mr. Cassin's views.

The CHAIRMAN thought that the text should first of all specify the principal fact, which was that any individual who was arrested should be promptly tried or freed; that should be followed by the idea of verifying the legality of the arrest.

Mr. CASSIN (France) thought it was preferable to deal with the facts in their chronological order, as was done in the Geneva text.

The CHAIRMAN remarked that that order was respected in the sub-committee text.

Mr. WILSON (United Kingdom) stated that certain ambiguities would have been avoided by adopting the text he had proposed. He would take it up again in the plenary session of the Commission. He considered, however, the Geneva text would be preferable to that of the sub-committee for the reasons expressed by the representatives of France and Chile.

The CHAIRMAN asked Mr. Cassin if he would be willing to accept the Geneva text in place of the one proposed by the sub-committee.

Mr. CASSIN (France) replied in the affirmative with the reservation that one correct idea should be taken from the sub-committee text, that was, the obligation to notify the accused of the charges made against him. That idea had been omitted from the Geneva text, and it was necessary to correct that omission. Mr. Cassin added that he would be more willing to accept the proposed substitution if, in the English text, the words "a reasonable time" were replaced by "the shortest delay".

As a result of the various suggestions made, the Committee had before it the following text:

"Everyone who has been deprived of his liberty has the right to be promptly informed of the reasons for his detention

/and to

and to immediate judicial determination of the legality of any measures to which he may be subject and to trial within a reasonable time or to release."

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed that the part of the text on which there appeared to be general agreement should be put to the vote as had been done previously.

The CHAIRMAN put the following sentence to the vote:

"Everyone who has been deprived of his liberty has the right to be promptly informed of the reasons for his detention."

The sentence was approved by 5 votes to none, with 2 abstentions.

With regard to the last part of the paragraph, the CHAIRMAN thought it might be preferable to return to the Geneva text.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that whatever text was adopted should contain sufficient guarantees with regard to the notification to the accused of the charges made against him, and the time within which he would be tried. Mr. Pavlov added that that period of time should not only be as short as possible, but he asked for measures which would make it possible to fix a date for the trial from the moment of the accused's detention.

According to the CHAIRMAN, the Geneva text covered that requirement perfectly.

Mr. SANTA CRUZ (Chile) wished to define the scope of the present discussion. What was in question was not, in his opinion, the time which the tribunal would require to judge a case, at the appropriate moment with complete independence, and within a period of time which, it was simply stated should be reasonable. What was in question was the duty of the authority, arresting an individual, to place him, without delay, at the disposal of the courts.

Mr. HEYWARD (Australia) supported the Geneva text.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that he would also return to the Geneva text, but that he wished to make it more specific. He expressed his thought by taking as an example a person suspected of stealing. Once that person was arrested, it would be necessary, first of all, to give a competent opinion on the legality of the arrest. But that was not sufficient; it would also be necessary for the arrested person to know the period of time within which he would be tried, as his detention could not be prolonged indefinitely merely on suspicion. That suspicion must be either specified or abandoned within a reasonable time.

Mr. CASSIN (France) agreed that the idea expressed by the USSR representative was very interesting but he thought that the Committee should remain within certain limits. The best measures established by the Geneva text and by the sub-committee had been retained, but the boat must not be overloaded, as that would bring the risk of even those governments who had the greatest respect for individual liberty, rejecting the text finally drawn up.

The USSR representative's suggestion was rejected by 2 votes to 1, with 4 abstentions.

The next text put to the vote was taken from the Geneva draft, with the addition of the word "imprisonment", and the measures previously adopted with regard to the notification of the charges. The text read as follows:

"Everyone who has been deprived of his liberty has the right to be promptly informed of the charges made against him.

/"Everyone

"Everyone placed under arrest, detention or imprisonment shall have the right to immediate judicial determination of the measures taken against him and to trial within a reasonable time or to release."

Those paragraphs were adopted by 5 votes to none, with 2 abstentions.

/The PRESIDENT

The CHAIRMAN requested the Committee to decide on various amendments, the first of which followed the old Geneva draft of the international covenant.

"No one shall be imprisoned or held in servitude merely on the grounds of inability to meet a contractual obligation."

The amendment was adopted by 3 votes to 1, with 3 abstentions.

A second amendment, based on paragraph (d) of the last sub-paragraph of the Drafting Committee's proposals, was as follows:

"Everyone has a right to compensation in respect of any unlawful arrest or illegal deprivation of liberty."

The amendment was adopted by 4 votes to 2, with 1 abstention.

The next item under consideration was an amendment submitted by the Chilean delegation, which did not appear in either the Sub-Committee or the Geneva text.

"The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals, before which tribunals all persons are equal."

The USSR delegation submitted the following amendment to that text:

"The judicial procedure of each state must be established on democratic principles."

Mr. PAVLOV (Union of Soviet Socialist Republics) asked that a vote should first be taken on his amendment, with which everyone should be in agreement.

Mr. WILSON (United Kingdom) stated that he would vote against the amendment because he feared that the expression "democratic principles" did not mean the same thing to him and to his USSR colleague.

The USSR amendment was rejected by 3 votes to 1, with 3 abstentions.

/The CHAIRMAN

The CHAIRMAN put to the vote the first part of the Chilean amendment which read:

"The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals..."

The text was adopted by 3 votes to none, with 4 abstentions.

The CHAIRMAN put the last part of the Chilean amendment to the vote. It read:

"...before which tribunals all persons are equal."

The Chairman pointed out that the text fulfilled the aim of the USSR representative who favoured the following text: "All men are equal before the law."

The end of the Chilean amendment was adopted by 3 votes to 1, with 3 abstentions.

The CHAIRMAN called for discussion of the following Chilean proposal:

"Any person accused of an offence shall be tried within a reasonable time, in accordance with the law in force and in a public trial."

Mr. CASSIN (France) thought that the text should be limited to the passage providing for public trial, and that the reference to "reasonable time" might be omitted in the interest of brevity. It was already mentioned.

Mr. SANTA CRUZ (Chile) replied that the provision previously adopted specified that any individual placed under arrest must be brought to trial within a reasonable time, while the text under discussion involved the statement that the trial of any accused person, whether under arrest or not, must take place within a reasonable time.

/The CHAIRMAN

The CHAIRMAN put the following amendment to the vote:

"Any person accused of an offence must be judged within a reasonable time by courts established beforehand and in accordance with the law in force at the time the offence was committed and in a public trial."

The amendment was adopted by 2 votes to 1, with 4 abstentions.

Mr. CASSIN (France) said that he had not realized that the text contained the words "in accordance with the law in force at the time the offence was committed". That clause honoured the principle of non-retroactivity of laws and, under those conditions, the representative of France agreed to have his vote added to those in favour of the text just approved.

The CHAIRMAN then called for discussion of the next amendment, worded as follows:

"In judgments and rulings, everyone shall have the right:"

That text would be followed by the principles indicated in subparagraphs a), b), c) etc. of the Sub-Committee's text.

Mr. SANTA CRUZ (Chile) explained that some of the principles involved, for example the prohibition of torture and cruel or degrading treatment, applied not only to persons in custody but also to persons sentenced.

The CHAIRMAN was of the opinion that, since the rest of the text related to trial procedure, the provision dealing with torture, mutilation, and cruel or degrading treatment should form a separate article. Moreover, that arrangement would give the text greater force.

/Mr. CASSIN

Mr. CASSIN (France) also believed that the provision should be placed at the end. The text under discussion involved trial procedure. Logically, the Committee should now consider the USSR amendment relating to war criminals which France supported. Actually that provision constituted an exception to the principle set forth in the paragraph which had just been adopted.

Next, the Committee should take up the problem of presumed innocence and only after that the question of torture and mutilation.

Mr. SANTA CRUZ (Chile) had no objection to the proposal that the paragraph on torture, mutilation etc. should be placed in a separate article. He also agreed that the Soviet amendment should be voted upon immediately.

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that his amendment was not a new text since it merely repeated paragraph 2 of Article 7 of the Geneva draft.

The CHAIRMAN read the text of the USSR amendment, which was:

"Nothing in this Article shall prejudice the fair trial of any person for the commission of any act which, at the time it was committed was criminal according to the general principles of law recognized by civilized nations."

Mr. CASSIN (France) agreed in principle with the text but would prefer that it be clarified as follows: "This provision shall not prejudice.." Actually the provision of the text immediately preceding was involved.

The CHAIRMAN recalled that the United States did not favour provisions of that kind. If, however, the Committee decided otherwise, the text might read:

/"These shall not

"These shall not prejudice the trial and punishment of any person for the commission of any act..."

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that the word "these" lacked precision. He would prefer keeping the original text: "Nothing in this Article shall prejudice...". He would however accept: "The preceding provisions shall not prejudice..."

Mr. CASSIN (France) accepted that wording.

The CHAIRMAN put the following amendment to the vote:

"The preceding provisions shall not prejudice the trial and punishment of any person for the commission of any act, which at the time it was committed, was criminal according to the general principles of law recognized by civilized nations."

The amendment was adopted by 4 votes to 1, with 2 abstentions.

The CHAIRMAN read the following amendment:

"During the trial everyone is entitled, in all criminal cases, to a fair hearing and to be presumed innocent until proved guilty."

The USSR had proposed an amendment as follows:

"...is entitled to have full knowledge of all documents before the court and shall have the right to address the court in his native language."

The representative of China had introduced an amendment guaranteeing defence but had withdrawn it.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that it was not necessary to go into the details of defence since the forms might vary according to national legislation. What was necessary was to assure the guarantee of defence. Accordingly the USSR representative proposed the following:

/"Every accused

"Every accused person is entitled to the right of defence. In case a person who does not know the language used by the court is prosecuted, the accused shall be entitled, through an interpreter, to be fully informed of the material in the case and to address the court in his own language."

The idea had already been accepted when the covenant was discussed.

Mr. CASSIN (France) observed that the statement "Pendant le jugement" might appear to limit the guarantees to the final procedure. It would be better for the French text to read: "Pendant toute la procédure".

Mr. WILSON (United Kingdom) accepted the USSR proposal in principle but thought it unnecessary to go into all the details. It would in any case be paradoxical for the declaration to be more detailed than the covenant. If the declaration must deal with the same ideas, it should at least repeat the terms of the covenant itself.

Mr. WU (China) supported Mr. Wilson's statement. The Geneva articles expressed the same principle and did it better than the proposed text. A declaration was not intended for the intellectual or the jurist but rather for the man in the street. The Chinese delegation would therefore vote against the amended article.

Mr. WILSON (United Kingdom) stated that he would also vote against the amended article for the same reasons.

Mr. HEYWARD (Australia) also felt that it would be better to retain the Geneva text.

The CHAIRMAN was of the opinion that it would really be a pity merely to return to the original text after so long a debate.

/Mr. CASSIN

Mr. CASSIN (France) shared the misgivings expressed by his colleagues from China and the United Kingdom. The Committee, however, had accomplished useful work and should not lose hope. The representative of France proposed retention of the first texts adopted by the Committee up to its consideration of questions of criminal procedure. From that point on, the Committee could retain the wording of Article 7 of the Geneva draft and improve it by making it shorter.

The CHAIRMAN felt that it was better not to reconsider texts which had already been voted upon. She proposed that the discussion, which in any case was nearing its end, should be closed and that both the Geneva text and the text drawn up by the Drafting Committee should be sent to the full Commission.

Mr. PAVLOV (Union of Soviet Socialist Republics) supported the Chairman's proposal. He urged the Committee not to lose courage and to continue the discussion.

Mr. SANTA CRUZ (Chile) considered the text of the Sub-Committee as well as the Geneva text acceptable provided that the version which was adopted included the statement that an accused person was entitled to be heard in his native language and the presumption that an accused person was innocent until proved guilty.

The CHAIRMAN thought that the two texts could be sent to the Commission together and proposed a vote on the following paragraph:

"Any person being tried is entitled to a fair hearing. In criminal cases, the person being tried must be presumed innocent until proved guilty.

"When a person who does not know the national law is prosecuted, he shall be entitled, through an interpreter, to be fully informed of the material of the case and to address the court in his own language."

/It was decided

It was decided to vote first on the last sentence.

The sentence was adopted by 3 votes to 1, with 3 abstentions.

The entire paragraph was adopted by 3 votes to none, with 4 abstentions.

Before the entire text was voted upon, Mr. CASSIN (France) asked if the Geneva text and the text drawn up by the Drafting Committee should be submitted to the Commission. Technically he had the impression that the Commission had not distorted the text entrusted to it. From the standpoint of clarity, there was still a great deal to be achieved. He hoped that the Commission would aid in the task.

Mr. WILSON (United Kingdom) did not oppose either of the two texts and also recommended the submission of both. He, however, felt that the Drafting Committee must by a vote express its opinion on the text drawn up at the course of its discussion.

The entire text was rejected by 3 votes to 2 with 2 abstentions.

By 4 votes to 1 with 2 abstentions, the Committee decided to transmit the Geneva text to the full Commission both the Geneva text and the text which had been rejected.

By 6 votes to none, with 1 abstention, it was also decided to submit the following text to the Commission:

"No one shall be subjected to torture, mutilation or to cruel or inhuman treatment or indignity."

Paragraphs 17 and 18

The CHAIRMAN recalled that the Commission had decided not to draft a definitive text of the two articles until it was informed of the opinion of the Conference on Freedom of Information. That Conference had recommended that the two articles should be combined in a single article for which it had drafted a text. Since, however, it would be difficult for the Committee

/to reach any

to reach any decision without a rather long discussion, the Chairman suggested that the question should be referred to the Commission which could reach a decision on the basis of the suggestions presented by the Conference on Freedom of Information or otherwise.

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that he would not oppose that procedure provided the Commission was at the same time notified of the proposals on the same subject drawn up by his delegation.

The Committee voted unanimously to transmit all texts in connection with Articles 17 and 18 to the full Commission.

The meeting rose at 5.40 p.m.