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REPORT OF SIXTH MEETING OF COMMITTEE I/1/A

(Drafting Subcommittee)

10:40 a.m., May 22, 1945, Room 311
Veterans War Memorial Building

CONTINUATION OF DISCUSSION OF CHAPTER II: PRINCIPLES

Reconsideration of Paragraph 2, Chapter II

The Chairman explained that before taking up the sequence of the paragraphs of Chapter II (Principles), it was necessary to go back to Paragraph 2 and consider an amended text supplied by the Delegate of Belgium, and also an alternative text furnished by the Delegate of the United Kingdom.

M. Rolin (Belgium) reaffirmed his objection to the clause whereby members of the Organization undertook to fulfill the obligations assumed by them ... -- which, incidentally, had been taken over into the text suggested by the United Kingdom Delegation. He regarded it as a crass example of tautology. He ^{was quite ready to adopt} ~~suggested~~ an alternative wording for the Belgian draft text which reflected more exactly the intention of the United Kingdom Delegation text. It had been suggested that the paragraph was intended to mean that ~~only~~ if all members fulfill their obligations, all members would receive the corresponding

benefits. That was a new conception, different from the interpretation given to the Dumbarton Oaks text by the delegates of the Soviet Union and China at the previous meeting. He was prepared to accept either interpretation, but he still boggled at the idea of ^{an} undertaking to fulfill obligations that had been assumed.

Mr. Gore-Booth (United Kingdom), speaking on behalf of the United Kingdom delegate, Mr. Mabane, then gave a reasoned explanation of the new text which the United Kingdom Delegation had submitted. He agreed that it contained an additional idea which was not in the original text as expounded by the Delegate of China. He wished to say a word with regard to M. Rolin's difficulty. The argument was -- and he had had the opportunity since the previous meeting of consulting the experts on this subject in his delegation -- that during the inter-war period, states had come to place more emphasis on their rights than on their duties, and the practice had developed of subscribing blithely to certain obligations and then jettisoning them in a moment of crisis: this applied to the enemy states as well as those who were members of the United Nations. It was desirable, therefore, to lay substantial emphasis on an undertaking by states to fulfill their obligations. There was also something in the contention of the Delegate of the Soviet Union that people

were, generally speaking, familiar with the Dumbarton Oaks text, and if it were modified now in the way suggested by M. Rolin, some diligent scholar in the future would certainly be found to affirm that the change had been made from sinister motives. He ventured to suggest, therefore, that this was a case where considerations of logic might yield to the teachings of experience. A suggestion was made by the Rapporteur that the text might be improved by use of the words "each and all" in place of "all of them." Mr. Gore-Booth on this point felt he was not competent to express an opinion and must defer to the jurists of the Committee. The Chairman observed that the reference to the Organization in the text made any such nice distinction superfluous. On the question of M. Rolin's proposed text, he felt it was undesirable to spoil the unity of style of the whole chapter with each paragraph beginning "all members of the Organization shall" M. Guerin de Beaumont said that he agreed with the Chairman on this point of presentation and harmony; he was speaking, however, only as a lawyer, not as a jurist. He appreciated the point made by M. Rolin that the Dumbarton Oaks text involved a certain amount of repetition, but he was satisfied that it was adequate to convey the intentions of its authors and he thought it might stand, perhaps with a small drafting change of "in order to" being replaced by "in their desire to."

Following this exchange of views, M. Rolin withdrew his alternative text.

Mr. J. V. Wilson (New Zealand) suggested that M. Rolin's point could be met by a very small change in the wording, namely: "shall fulfill" in place of "undertake to fulfill" and that the words "and thus to ensure" be replaced by "in order to". M. Rolin agreed that this was a distinct improvement. Mr. Gore-Booth (United Kingdom) saw no objection to this change. He felt that the Committee might well accept it, but he would just make the reservation that he ought to consult his delegation about it.

The Chairman then put to the vote the Dumbarton Oaks text of Paragraph 2, as amended by the modification proposed by the New Zealand delegate, and it was approved unanimously. (It was understood, however, that the order of the sentences should be transposed in accordance with the draft text submitted by the Delegate of the United Kingdom.)

Paragraph 5

A discussion took place on the amendment presented by the Bolivian Delegation which involved once more the question of guaranteeing the territorial integrity and political independence of the states. There was general approval of the Chairman's view that this matter had already been exhaustively discussed, and the amendment was rejected unanimously.

Sr. Gonzalez-Videla (Chile) withdrew the amendment

standing in the name of the Chilean Delegation on this paragraph.

M. Rolin observed that the amendment in the name of France with regard to the incompatibility of neutrality with the new Organization could appropriately be discussed in connection with Paragraph 5. M. Guérin de Beaumont said he was quite agreeable to a discussion of this matter at this stage, but he would point out that the French Delegation was engaged in an examination of the matter, with special reference to the incompatibility of certain existing treaties with the new Charter and he would be glad if the matter could be deferred. He agreed with a suggestion from M. Rolin that it should be taken up with the Drafting Committee at its meeting the following day.

The Chairman thanked M. Rolin for not insisting on discussion of the matter there and then and put to the vote the Dumbarton Oaks text of Paragraph 5. It was approved unanimously.

Paragraph 6

After some discussion of the amendment to Paragraph 6, standing in the name of the Bolivian Delegation, the meeting came to the conclusion that the idea it contained had already been covered and it was rejected *nam. con.*

There was an amendment in the name of Brazil,

proposing the suppression of Paragraph 6. The Chairman pointed out that all the past experience showed the necessity for the obligation contained in Paragraph 6 and cited the case of Abyssinia when certain states were reluctant to carry out their obligations. There was unanimous approval that the paragraph should be retained.

Final Paragraph of Chapter II

Sr. Alfaro (Panama) raised the previous question that, as presented in the Dumbarton Oaks text, this paragraph was a separate paragraph by itself, and he wondered whether it should not be a numbered paragraph like the others. His observation gave rise to considering^{able} discussion at a later stage, but first of all, M. Rolin addressed himself to the Belgian Amendment on this final paragraph. He felt that, while there would be no disagreement with the purport of the paragraph, the language in which it was couched was perhaps unnecessarily summary and harsh. After all, the Organization was making a novel and bold ^{claim} ~~move~~ to intervene in the affairs of states not belonging to the Organization, i.e., in what the lawyers called "res inter alios acta," (which a wag among his colleagues had now reworded "res inter alios Yalta"). The question was by what right the Organization could proceed in this way. States might well invoke against

the United Nations, certain Hague Conventions or permanent neutrality instruments. He was ready to admit that the United Nations, consisting of between 40 and 50 states, representing 80 or 90 percent of the civilized world, should be regarded as having the status of a legal community, and it was worthwhile pointing out that in any case, states outside the Organization derived certain advantages as well as suffering impositions from the Organization -- for example: the provision for recovery of damages in Section B of Chapter VIII. While the Committee might certainly agree on the soundness of the idea expressed in this final paragraph, they ought, perhaps, to consider the way in which it was expressed. Professor Krylov (U.S.S.R.) said he recognized in M. Rolin, the first of a long line of commentators on the text of the new Organization. But, inasmuch as the first half dozen lines of the Belgian Amendment were nothing more than an explanation of the precept laid down in the Dumbarton Oaks text, he felt that it would be more suitable to have such an explanation included in the record which would be produced by the Rapporteur. The remaining four lines were not dissimilar from the Dumbarton Oaks text. Mr. Zeineddine (Rapporteur) agreed that this would be suitable treatment as an explanation and justification of the bare stipulation in the text, but he thought the

wording might usefully be toned down a little. Sr. Alfaro (Panama) agreed with the criticism of the existing text made by M. Rolin. On the other hand, he was not in favor of including anything in the way of a commentary among a series of principles or mandatory obligations. In fact, he did not feel that this paragraph had its place properly in Chapter II at all. It contained a mandate to the Organization and not to the individual member states and, therefore, belonged rather to the chapter on purposes. The Delegate of China intervened to point out that the introductory sentence of Chapter II made specific reference to the Organization and its members. He, therefore, joined issue with Sr. Alfaro's contention. M. Rolin said that on consideration, his criticism of the blunt language of the text applied more particularly to the French text and the wording of his amendment was deliberately designed to go as near as possible to the original English text. He would, however, be perfectly satisfied if the explanation given in the Belgian Amendment were placed on record in the report of proceedings.

Mr. Notter (United States) said that he must reluctantly express his disagreement with the point of view presented by the Delegate of Belgium and also that of the Delegate of Panama -- although he was acting without any specific instructions from his government. He, frankly, thought it

was not desirable to go in for any explanations. The language of this final paragraph was perhaps blunt, but they were dealing with onerous obligations which were being undertaken by the states' members and he did not see why there should be any soft ^{pedalling} ~~pedalling~~ with regard to states outside the Organization. He appreciated the difficulty as to whether or not the United Nations constituted a legal community; he would say, personally, that they were on the way to being such a community. The object of the paragraph was to indicate that states outside the Organization were no less bound than the members to settle their disputes without recourse to force. If this was to be regarded as a revolutionary step, in regard to international law, he felt that the language should be appropriately blunt. It had been suggested that the idea contained in this paragraph would be more suitably expressed among the purposes, i.e., the roads leading in a certain direction. But he regarded the principles of Chapter II in the light of rules of the road, and it was for that reason that he would prefer to include the stipulation of this paragraph among the principles. M. Rolin agreed that it was more accurate to say that the United Nations represented the great bulk of the legal community of states. He would only ask it to be placed

on record that the motion he had supported had the approval of several delegations as giving substantive explanation and justification of Paragraph 5 in the text.

Confused discussion took place then on two questions at the same time -- the question of whether this paragraph should be numbered, making Paragraph 7, and the question of whether the phrasing "should ensure" or "shall ensure" was appropriate. Mr. Gore-Booth (United Kingdom) thought these questions were drafting matters to be settled later. M. Rolin, however, declared that on the contrary, the question of whether or not it should be a numbered paragraph was a substantive question of some importance. If the paragraph were to be regarded merely as a subsection of Paragraph 6, it contained merely a passive obligation on neutrals. His view was that the paragraph was intended to be a separate section of the chapter indicating obligations on neutrals such as were set forth in all the paragraphs of the chapter. He was convinced that the authors of the Dumbarton Oaks text did not intend that it should be taken as part of Paragraph 6. He was in favor of "shall" rather than "should" in order to match with the other paragraphs of this chapter. Mr. Wilson (New Zealand) rose to express his

agreement with the point of view of the United States delegate and to state that he had racked his brains but could find no improvement on the original text. He was sure, however, that it should be a separate paragraph. Mr. Andrews (South Africa) spoke in the same sense.

The Chairman then called for a decision on a number of points which had emerged from the discussion. In the first place, there was agreement that it was unnecessary to vote on the Belgian amendment, since M. Rolin was satisfied that a mention should be made of it in the report by the Rapporteur.

On the question of numbering the final paragraph of the Dumbarton Oaks text and making it a separate paragraph (7), there was unanimous agreement.

On the question of language, it seemed that the meeting favored a change of "should" to "shall." The main fact that has emerged, however, was that the French translation of the English text was unsatisfactory and it was necessary that the French text should be brought into line with the authentic English text. The Delegate of France observed that this criticism applied equally well to other paragraphs. Mr. Gore-Booth (United Kingdom) disagreed with the suggestion that "shall" should replace "should"; he felt that the use of the word "shall" should

be restricted to what was in the capacity of members of the Organization. But he felt that it was a matter of drafting which could be settled later.

The Chairman then took a vote on the English text of the paragraph which was unanimously approved subject to a definitive wording. In accordance with the statement by the Delegate of France, he said he would ask the Secretary to see that all paragraphs of the French text were brought into line with the English.

The meeting adjourned at 12:35 p.m. It was announced that the next meeting of the Drafting Subcommittee would take place at 3 p.m. Wednesday, May 23.

W. H. C

REPORT OF FIFTH MEETING OF COMMITTEE I/1/A

(Drafting Subcommittee)

3:40 p.m. May 18, 1945, Room 311
Veterans War Memorial Building

CONTINUATION OF DISCUSSION OF CHAPTER II: PRINCIPLES

Comments Regarding Chapter II, Paragraph 2

Mr. Wilson (New Zealand) stated that the amendment to Chap. I.3 of the four sponsoring governments which had already been adopted by the Subcommittee, covered the question of fundamental rights and the four freedoms, and for this reason the New Zealand Delegation would not push its amendment on the same subject.

Mr. Mabane (United Kingdom) stated that another draft of paragraph 2 had been prepared by his delegation and would be circulated for discussion.

Discussion of Paragraph 3

The Secretary read the text of this paragraph from the Dumbarton Oaks Proposals, together with the amendment proposed by the four sponsoring governments. The Subcommittee then proceeded to a consideration of amendments proposed by the governments of Bolivia, Egypt, Ethiopia, Mexico.

The Bolivian Amendment. The essential point in this amendment was the addition of the word "justice". The Rapporteur, M. Zeineddine, (Syria) approved of the acceptance of this amendment since it would supplement the same idea

included in the Chapter on Purposes. He felt this to be important, since one of the "germs of war" is an effort to do an injustice. This view was supported by M. Rolin (Belgium), although he took exception to the phrase "in such a manner" and felt that in any case some redrafting of the article would be necessary. In his opinion, justice was an end in itself, not merely a means to an end. He pointed out that there are recent cases where justice has been sacrificed for the maintenance of peace (i.e., Munich). He recalled that the United States Delegation had said that Chapter II should contain only essential principles, and he felt that not only were peace and security "essential", but also justice. He said that a number of the smaller countries at this Conference have considerable misgiving because they can not get acceptance by the Conference of ideas which they consider fundamental.

M. Alfaro (Panama) stated that he was satisfied that this article imposed upon members two obligations, (1) to settle their disputes "by peaceful means" and (2) to see that the means they adopted should not endanger the future peace. He thought the article would be more clear if the words "in such a manner" were eliminated. Speaking in opposition to the acceptance of the Bolivian Amendment, Mr. Andrews (South Africa) said the text of the Dumbarton Oaks Proposals was satisfactory to him, since the chief object of the Organization is to maintain peace and security.

Mr. Manuilsky (U.S.S.R.), Chairman, discussed the point raised by the Rapporteur. He agreed it was true that

"peaceful settlement" may sometimes carry the germ of future conflicts, but that the concept of justice is difficult to understand and its interpretation would give rise to controversy. On the other hand, peace and security are terms which everyone can understand. Furthermore, he felt that justice was not an aim in itself, but the means to achieve the aims stated in Chapter I.

Mr. Notter (U.S.A.) also opposed acceptance of the Bolivian proposal. He felt that the principle of justice had been sufficiently covered in the Charter by inclusion of the phrase "in accordance with the principles of justice and international law" in Chapter I. Inclusion of the word "justice" in paragraph 3 under discussion would set up an absolute standard which the Organization could not possibly achieve. In a later comment he reviewed some of the reasoning which had gone into the drafting of the original Dumbarton Oaks Proposals. In the original text the word "justice" had been left out of both Chapters I and II. This was because the primary object of these Proposals was to set up an organization which would assure the keeping of the peace; or to assure the restoration of peace, once it had been broken. He used the simile of a policeman interfering in a fight between two individuals, in which the policeman does not attempt to judge the merits of the fight, but simply to stop the contestants. The object now is to set up an organization which will see that one party does not impose its solution

on the other party by fighting to the bitter end. He felt that the provision in the article that members shall not "endanger the peace" was an adequate protection against a "Munich peace". Furthermore, it is important to watch the step-by-step relationship between nations which may create the conditions leading to hostilities. In summary, he stated that the Dumbarton Oaks Proposals provided in three ways for maintenance of the peace, without unduly threatening justice,--(1) one nation will not be permitted to fight another nation in order to impose its own solution to a controversy, (2) parties to a dispute will be encouraged to settle disputes by themselves if possible, (3) in the settlement of their disputes, members will not be permitted to create conditions which would endanger the peace for others.

The Chairman called for a vote on the Bolivian Amendment; it was rejected by a vote of 7 to 4.

Egyptian Amendment. There was a general feeling that this amendment was not of concern to this Subcommittee.

Ethiopian Amendment. Mr. Zeineddine moved that this amendment be accepted. By suggesting the full observance of "justice, treaties, and international law", the Ethiopian Delegation was reflecting its own bitter experience. There was some general discussion of this point but it was felt that the ideas were being included in other articles.

The Amendment was rejected by a vote of 6 to 5.

Mexican Amendment. Mr. Zeineddine felt that this

amendment came within the scope of Article 7 (?) and not Article 3.

The amendment was rejected by tacit consent.

Article 3, as Amended by the Four Sponsoring Governments

The article was accepted by a vote of 10 in favor, and 0 against.

Mr. Alfaro (Panama) stated for the record that he had voted in favor of this article on the following understanding,-- that the article imposes on individual members an obligation not only to submit disputes to peaceful settlement, but also to see that the settlement does not endanger future peace; that the intention of the article is to avoid the repetition of an unjust peace.

Discussion of Paragraph 4

The Secretary read the Dumbarton Oaks draft of paragraph 4 and noted that the sponsoring governments had presented no amendments to this Article. The Subcommittee then proceeded to a discussion of amendments submitted by the Governments of Australia, Bolivia, Brazil, Costa Rica, Iran, Norway; and a proposed Article 4a submitted by New Zealand.

Australian Amendment:

The Delegate from France pointed out a defect in the wording of the French text, and it also was agreed that the English wording lacked a verb "from acting" in the last phrase. It was agreed that this amendment had already been accepted in substance. Mr. Wilson (New Zealand) re-

peated that his delegation felt it was a poor substitute for the original New Zealand amendment and he reserved the right to raise the issue presented by the New Zealand amendment in a subsequent meeting of the Committee. Subject to this reservation by the New Zealand Delegate, and the provision that some redraft might be necessary,

The Australian amendment was accepted by a vote of 10 in favor and 0 against.

Bolivian Amendment:

Mr. Zeineddine (Syria) suggested that this amendment be considered together with the New Zealand amendment numbered 4a; but Mr. Wilson took exception to this and felt that the New Zealand amendment 4a should be considered separately. Mr. Notter (U.S.A.) considered that with the adoption of the Australian amendment, which binds members to refrain from the use of force which would threaten the independence and integrity of other States, the principle of collectivity had been maintained. He did not favor the acceptance of this amendment. Mr. _____ (China) said that Chapter I refers to a "threat to the peace", but not to acts of aggression. He said that one of the Security Committees is considering a definition of "aggression". He did not feel that the Bolivian amendment provided an adequate definition of aggression.

The Bolivian amendment was unanimously rejected.

Brazilian Amendment:

The Secretary read two drafts of the Brazilian amendments, one of May 2 and one of May 6. There was a brief

discussion of both of them. Mr. Alfaro (Panama), stated that he was not opposed to the principle of non-intervention, but he did not think it belonged in this paragraph. He also thought the amendment was too sweeping and comprised too much.

This amendment was unanimously rejected.

Costa Rican Amendment:

There was a brief discussion of this amendment.

It was rejected unanimously.

Iran Amendment:

It was agreed that the idea of non-intervention should not be mentioned here.

The amendment was rejected unanimously.

Norwegian Amendment:

It was pointed out that the idea contained in this amendment was included in several others; but Mr. Rolin stated that he was in favor of including the significant words from the amendment "not approved by the Security Council..." in place of the last words of the Australian amendment, Article 4. Mr. _____ (China) pointed out that the amendment would exclude the right of self-defense, and several other members agreed with him on this point. Mr. Mabane (U.K.) said that the same question was under discussion in one of the Security Committees and he felt that it would be very dangerous to include the idea here. The Chairman called for a vote as to whether consideration of this amendment should be referred to Commission III and the vote was 4 in favor and 5 against. The Subcommittee then continued discussion of the amendment.

Mr. Notter (U.S.A.) did not feel the amendment impaired the right of self-defense, since it implied that the Security Council would approve action after it had taken place. There

was considerable discussion of the interpretation of the word "approved" in the amendment, some members feeling that the Security Council would be called on in advance to authorize and approve action required by a country for self-defense. Mr. Notter asked for time to study this amendment; the Delegate from France felt that the wording was not clear, and might preclude the right of self-defense; on the other hand, the Dumbarton Oaks text was clear and adequate. Mr. Krylov (U.S.S.R.) expressed himself in favor of the Dumbarton Oaks text because of its general character. Mr. Alfaro felt that the amendment would impose upon the Security Council an obligation to approve of action which had already taken place and this burden should not be placed on the Council by the Charter.

The amendment was rejected, with one vote in favor.

New Zealand amendment - 4a

Mr. Wilson (New Zealand) discussed the reasons for his government's proposal. He said that the amendment did not imply a definition of aggression, it avoided a commitment with regard to "independence and territorial integrity", and it did not repeat the statements made in Chapter I. He appreciated the arguments of the United States delegate at an earlier meeting with regard to the "rekindling of old fires"; but he did not feel that this could apply to aggression. He said the whole purpose of the Organization was to prevent aggression and it would be desirable to say so.

Mr. Krylov (U.S.S.R.) read the text of Chapter VIII B. 7

and felt that this covered the action requested by New Zealand. Mr. Notter explained why he would have to vote against this amendment. In his opinion, acceptance of the Australian amendment committed the members of the Organization to refrain from the use of force in any way inconsistent with the purpose of the Organization, and this would achieve the objective the New Zealand delegation desired. Furthermore, paragraph 5 obligates members to assist each other to carry out their obligations and Article 6 obligates them not to assist a State against which action has been recommended by the Organization. On the contrary, the New Zealand amendment, provided only for a rather obvious breach of "territorial integrity", namely the crossing of frontiers; but in this modern world there are many other ways to violate a nation's integrity and independence. There are new techniques for attacking a state, and the New Zealand amendment seemed dangerous because it limited the concept of aggression. In support of the amendment, Mr. Rolin stated that he felt Mr. Notter had returned to a discussion of an earlier amendment on territorial integrity, whereas the New Zealand amendment was concerned only with aggression. Moreover, he did not feel it was redundant to include this phrase, since aggression had not been included in earlier articles. He felt the Australian and the New Zealand amendments were not the same, for the Australian is negative and the New Zealand is positive. Mr. Mabane (U.K.) spoke briefly in opposition feeling it would damage the provisions of Chapter VIII. He said that the provisions by which the Organization would prevent aggression and acts of war should be left to the Security

Council.

The amendment was rejected by a vote of 4 in favor
and 7 against.

The meeting adjourned at 6:15 p.m.

REPORT OF FOURTH MEETING OF COMMITTEE I/1/A

(Drafting Subcommittee)

At 10:30 a.m., May 21, 1945, Room 311

Veterans War Memorial Building

Meeting with Subcommittee of III/2:

The Secretary reported that Committee III/2 had informed him of a motion adopted in Committee III/2 to appoint a subcommittee to meet with a subcommittee of Committee I/1 in order to prepare a joint report on a proposal of the Sponsoring Governments to reconcile a statement of purposes between the two Committees. The Chairman ruled that when discussion of Chapter II was completed, Committee I/1/A would invite the subcommittee from III/2 to a conference. The Delegate of Belgium (Mr. Rolin) observed that it might be useful to meet with the group from III/2 tomorrow since such discussion might aid the Committee in its drafting of Chapter II.

Article 1-A, (Ch. II), New Zealand:

The Chairman said he would call for no vote on Article 1-A unless the Committee members desired it. Mr. Rolin stated that he would not insist upon a vote if the Delegation of New Zealand did not, but that he most emphatically considered the Atlantic Charter more important than any of the other declarations emanating from World War II, and he reserved

the right to suggest insertion of certain ideas in the Charter into the Dumbarton Oaks Proposals at a later period in Committee discussion. The Rapporteur, Mr. Zeineldin, made a point of order to the effect that an Egyptian amendment, with the same purport as that of Article 1-A, had already been rejected, and therefore the vote on Article 1-A was not warranted. The Chairman concurred.

Paragraph 2, Chapter II:

The Chairman asked for discussion on Paragraph 2. First reference was to the Brazilian amendment of May 3. Mr. Rolin observed that the idea of the amendment--respect of treaties--would appear in the preamble, and he suggested that the Brazilian amendment be not accepted.

The Delegate of Chile, Mr. González, intervened to say that the principle of respect of treaties in his opinion merited immediate discussion. The Delegate of the United Kingdom, Mr. Mabane, suggested that since there was general agreement that there should be reference to the notion somewhere in the Charter, it would be a time-saver to agree at once on some such reference. He asked whether the French Delegation could be helpful by supplying a draft of the matter which might go into the Preamble.

The Delegate of France (Mr. de Beaumont) said he had no draft prepared, that he had asked only for a vote of principle,

and he agreed with the Delegate of the United Kingdom that the idea could be placed in the Preamble. The Delegate of Chile said he would be satisfied if a vote of principle were taken. Mr. Mabane seconded the proposal.

The Delegate of the United States called the meeting's attention to the desirability of giving more analytical consideration to the principle of respect of treaties. The intent behind the amendments relative to this principle was respect for treaty obligations. The Delegates of Chile, Belgium and France readily concurred in the importance of this distinction pointed out by the U.S. Mr. Rolin asserted that the principle should appear in the Chapter on Principles rather than in the Preamble, where it would have less force. The Delegate of Chile quickly agreed to this. The Chairman reminded the meeting of the agreement reached in the last session of the Committee to discuss the principle during the drafting of the Preamble, and said he was reserving his own point of view in the matter for that time. The Delegate of Panama opposed vigorously placing this principle in the Preamble. He reiterated that it should appear either in the Chapter on Purposes or the Chapter on Principles as a principle by itself. Mr. Rolin seconded this idea. The Chairman recalled to the meeting that this suggestion had been rejected in the previous meeting but offered to put it to the vote again.

The Delegate of the United Kingdom observed that the

meeting was not faced with a matter of moment, but merely with a matter of order and neatness; he considered the questions should be left open and pointed out that if the vote were taken in this moment he would be forced to vote for placing the principle in the Preamble. The Delegate of France agreed with this viewpoint.

The Delegate of South Africa called attention to his Delegation's amendment incorporating the idea of the principle in the Preamble. This was an obvious indication of what his Delegation's vote would be in the matter at this moment.

The Chairman summed up the discussion by stating that 1) there had been a vote in principle concerning inclusion of the idea of respect for treaties in the Charter; and 2) that where the idea was to be placed would be discussed with the Preamble.

The Delegate of the United Kingdom asked that the French Delegation prepare a text for the enunciation of this principle which should include the suggestions contained in any other amendments. The Chairman closed the discussion on the matter and asked for a vote on Paragraph 2 as it stood in the original text.

The Delegate of Belgium began discussion by pointing out what he considered a superfluity; the pledge to respect one's own undertakings, which to him was the sense of Paragraph 2. Subsequent paragraphs, he explained, made clear that the Charter members were undertaking specific obligations. Paragraph 2 had no place in the Chapter, he felt. The Delegate of the United

Kingdom replied that Chapter III covered the acceptance of obligations insofar as new members would be concerned, but not with respect to original members of the Charter, and in his judgment of a "simple man", and not as a jurist, there was a definite force to Paragraph 2. The Delegate of China (Dr. Wang Chung Hui) asked the meeting to bear in mind that membership involved rights, benefits, and obligations inseparably; that therefore there was no need to place emphasis upon obligations in contradistinction to rights.

The Delegate of Panama (Mr. Alfaro) criticized Chapter II as a whole, finding from a technical standpoint, its confusion of concepts (i.e. principles and/or obligations) and its redundancy deplorable. He suggested that the Chapter be rewritten to contain two sections, one on principles, the other on obligations. This correction he considered essential for the Document to command the respect of the layman.

The Delegate of the United States (Mr. Notter) analyzed the dilemma which would arise if the Committee attempted specificity rather than generality in shaping the fundamental concepts of the Chapter. As it stood the Chapter set forth the principles fundamental to the maintenance of peace, and the principle of rights and benefits of nations was based upon the fundamental principle of the sovereign equality of states. All principles of international behavior could not possibly be included in the Chapter, he pointed out, and the scope of the Document was to define conditions under which

States would not fight. In his attitude, he further explained, there was nothing that precluded finding a better way of expressing the content of the Chapter, which Mr. Alfaro so earnestly desired.

The Delegate of USSR (Mr. Krylov) seconded the sense of Mr. Notter's remarks and stressed the fact that the Dumbarton Oaks Proposals had been published some time ago and that the public was now familiar with the Document. By virtue of this familiarity, Mr. Krylov considered it would be impossible for the Committee to recommend deletion of Paragraph 2 from the Chapter. The Delegate of France also approved the general form of Chapter II, pointing out that everything in the Charter has the force of law, even the Preamble, and that the term "Principle" was broader in connotation than "Obligation" and thus served the intent of the Chapter better.

Mr. Rolin agreed to accept Paragraph 2 in principle, but not in form. He disliked the implication: "I undertake to fulfill my obligations because I have my rights"--the implication he found in the text of Paragraph 2. Mr. Rolin offered the following amendment: "No Member would be entitled to the rights and benefits resulting from membership in the Organization which does not fulfill the obligations assumed by it in accordance with the Charter." At Mr. Krylov's suggestion Mr. Rolin had withdrawn additional phrase: "The Charter is indivisible", and the Delegate of New Zealand (Mr. Wilson) seconded Mr. Rolin's amendment.

The Rapporteur, Mr. Zeineldin, suggested that the words: "and duties" would make the Paragraph more explicit.

Mr. Rolin suggested that it would be better to postpone the vote on Paragraph 2 until a new draft had been prepared. In his opinion as legal expert the text was unsatisfactory.

Mr. Mabane exclaimed that such a suggestion was a serious matter. He defined the scope of the work of the Committee: that of amendment of the Charter, not rewriting of the Charter. Mr. Rolin's negative amendment, he said, was tantamount to a redraft, and opened the door to withdrawal to any prospective member of the Organization. He urged that the Rapporteur be charged with reporting Mr. Rolin's draft to the Committee and that a vote on Paragraph 2 be taken at once. Mr. Krylov suggested that the Committee of five Jurists could consider Mr. Rolin's amendment. (Mr. Rolin interrupted to state he had revised his amendment from a negative form to a positive form.)

The Rapporteur clarified his position by saying that his first preference had been the deletion of Paragraph 2; but that he now preferred the original text to the amendment offered by Mr. Rolin. The Delegate of South Africa (Mr. Andrews) objected to any negative text and approved the original text of the Paragraph.

The Delegate of Chile (Mr. Gonzalez) asked for the floor. The Chairman offered him a minute for discussion. The Delegate of Chile indignantly objected to the time limitation, accused the Chairman of partiality in recognizing speakers, and stated he would protest to his Foreign Minister. Several Delegates

urged the Chairman to give the Delegate of Chile ample time for discussion. The Chairman invited Mr. Gonzalez to take the floor. Mr. Gonzalez expressed profound surprise at the conception that the subcommittee was a committee "to amend" and not a committee "to draft" as apparently interpreted by the Delegates of China, USSR, U.S., and U.K. He did not believe that was the intention of the invitation to the Conference.

Mr. Mabane protested that he had been misunderstood; reviewed the long and thorough preparation of the present Document; the problem of ratification of the final text by the Parliaments of the signatory Governments.

The Delegate of Belgium, (Mr. Rolin), asserted that the discussion was now reduced to the question as to why the delegates were here at all. Personally, he considered his association with the Committee useless. He argued that his suggestion for amending the Paragraph was not a matter of substance.

Mr. Mabane said that he asked for time only to consider properly this amendment or any amendment.

The Chairman ruled that Mr. Rolin's amendment should be printed in the minutes of the meeting and that a vote on Paragraph 2 would be taken subsequent to the Committee's receiving a copy of Mr. Rolin's amendment.

The Delegate of the United States gave a conciliating and sympathetic interpretation of the misunderstandings which had occurred during the meeting, and pointed out that every member of the Committee was working with competence and conscience and that it was these qualities, possessed in intense degree by everyone present, which gave rise to an eagerness to speak and the desire to perform well the task of outlining a peace for the world. He was sure that the Chairman had never intended any partiality in the matter of recognition of speakers and that neither Mr. Rolin nor Mr. Gonzalez would want a record of reproach to the Chairman in the minutes.

The Delegate of Chile averred there was nothing personal in his accusation of partiality, but he was convinced that the Delegates of the Sponsoring Governments were not prepared to allow full scope of discussion to the representatives of the smaller powers, and he would be hypocritical if he did not state this.

The meeting adjourned at 1:20 p.m. (The delegates hastened to seek each other out to make personal explanations of the events of the meeting.)

At 10:30 a.m., May 21, 1945, Room 311
Veterans War Memorial Building

The Secretary reported that Committee III/2¹ informed him of a motion adopted in Committee III/2 to appoint a subcommittee to meet with a subcommittee of Committee I/1 in order to prepare a joint report on a proposal of the Sponsoring Governments to reconcile a statement of purposes between the two Committees. The Chairman ruled that when discussion of Chapter II was completed, Committee I/1/A would invite the subcommittee from III/2 to a conference. The Delegate of Belgium (Mr. Rolin) observed that it might be useful to meet with the group from III/2 tomorrow since such discussion might aid the Committee in its drafting of Chapter II.

The Chairman said he would call for no vote on Article 1-A unless the Committee members desired it. Mr. Rolin stated that he would not insist upon a vote if the Delegation of New Zealand did not, but that he most emphatically considered the Atlantic Charter more important than any of the ~~previous~~ other declarations emanating from World War II, and he reserved the right to suggest insertion of certain ideas in the Charter into the Dumbarton Oaks Proposals at a later period in Committee discussion. The Rapporteur, Mr. Zeineddin, made a point of order to the effect that an Egyptian amendment, with the same purport as that of Article 1-A, had already been rejected, and therefore the vote on Article 1-A was not warranted. The Chairman concurred.

The Chairman asked for discussion on Paragraph 2. First reference was to the Brazilian amendment of May 3. Mr. Rolin observed that the idea of the amendment - respect of treaties - would appear in the preamble, and he suggested that the Brazilian amendment not be accepted.

The Delegate of Chile, Mr. Gonzalez, intervened to say that the principle of respect of treaties in his opinion merited immediate discussion. The Delegate of the United Kingdom, Mr. Mabane, suggested that since there was general agreement that there should be reference to the notion somewhere in the Charter, it would be a time-saver to agree at once on some such reference. He asked whether the French Delegation could be helpful by supplying a draft of the matter which might go into the Preamble.

The Delegate of France (Mr. de Beaumont) said he had no draft prepared, that he had asked only for a vote of principle, and he agreed with the Delegate of the United Kingdom that ~~this~~ ^{idea} ~~the~~ ^{principle} could be placed in the Preamble. The Delegate of Chile said he would be satisfied if a vote of principle were taken. Mr. Mabane seconded the ~~idea~~ ^{proposal}.

The Delegate of the United States called the meeting's attention to the desirability of giving more analytical consideration to the principle of respect of treaties. The intent behind the amendments relative to this principle was respect for treaty obligations. The Delegates of Chile, Belgium and France readily concurred in the importance of this distinction pointed out by the U.S. Mr. Rolin asserted that the principle should appear in the Chapter on Principles rather than in the Preamble, where it would have less force. The Delegate of Chile quickly agreed to this. The Chairman reminded the meeting of the agreement reached in the last session of the Committee to discuss the principle during the drafting of the Preamble, and said he was reserving his own point of view in the matter for that time. The Delegate of Panama opposed vigorously placing this principle in the Preamble. He reiterated that it should appear either in the Chapter on Purposes or the Chapter on Principles as a principle by itself. Mr. Rolin seconded this idea. The Chairman recalled to the meeting that this suggestion had been rejected in the previous meeting but offered to put it to the vote again.

The Delegate of the United Kingdom observed that the meeting was not faced with a matter of moment, but merely with a matter of order and neatness; he considered the question should be left open and pointed out that if the vote were taken in this moment he would be forced to vote for placing the principle in the Preamble. The Delegate of France agreed with this viewpoint.

This was an The Delegate of South Africa called attention to his Delegation's amendment incorporating the idea of the principle in the Preamble, ~~and the~~ obvious indication of what his Delegation's vote would be in the matter at this moment.

The Chairman summed up the discussion by stating that 1) there had been a vote in principle concerning inclusion of the idea of respect for treaties in the Charter; and 2) that where the idea was to be placed would be discussed with the Preamble.

The Delegate of the United Kingdom asked that the French Delegation prepare a text for the enunciation of this principle which should include the suggestions contained in any other amendments ~~on this idea~~. The Chairman closed the discussion on the matter and asked for a vote on Paragraph 2 as it stood in the original text.

The Delegate of Belgium began discussion by pointing out what he considered a superfluity: the pledge to respect one's own undertakings, which to him was the sense of Paragraph 2. Subsequent paragraphs, he explained, made clear that the Charter members were undertaking specific obligations. Paragraph 2 had no place in the Chapter, he felt. The Delegate of the United Kingdom replied that Chapter III covered the acceptance of obligations insofar as new members would be concerned, but not with respect to original members of the Charter, and in his judgment of a "simple man", and not as a jurist, there was a definite force to Paragraph 2. The Delegate of China (Dr. Wang Chung Hui) asked the meeting to bear in mind that membership involved rights, benefits, and obligations inseparably; that therefore there was no need to place emphasis upon obligations in contradistinction to rights.

The Delegate of Panama (Mr. Alfaro) criticized Chapter II as a whole, finding from a technical standpoint, its confusion of concepts (i.e. principles and/or obligations) and its redundancy deplorable. He suggested that the Chapter be rewritten to contain two sections, one on principles, the other on obligations. This correction he considered essential for the Document to command the respect of the layman.

The Delegate of the United States (Mr. Notter) analyzed the dilemma which would arise if the Committee attempted specificity rather than generality in shaping the fundamental concepts of the Chapter. As it stood the Chapter ~~sets~~ set forth the principles fundamental to the maintenance of peace, and the principle of rights and benefits of nations was based upon the fundamental principle of the sovereign equality of states. All principles of international behavior could not possibly be included in the Chapter, he pointed out, and the scope of the Document was to ~~define~~ ^{define} conditions ~~under~~ ^{under} which States ~~would~~ ^{would} not fight. In his attitude, he further explained, there was nothing that precluded finding a better way of expressing the content of the Chapter, which Mr. Alfaro so earnestly desired.

The Delegate of USSR (Mr. Krylov) seconded the sense of Mr. Notter's remarks and stressed the fact that the Dumbarton Oaks Proposals had been published some time ago and that the public was now familiar with the Document. By virtue of this familiarity, Mr. Krylov considered it would be impossible for the Committee to recommend deletion of Paragraph 2 from the Chapter. The Delegate of France also approved the general form of Chapter II, pointing out that everything in the Charter has the force of law, even the Preamble, and that the term "Principle" was broader in connotation than "Obligation" and thus served the intent of the Chapter better.

Mr. Rolin agreed to accept Paragraph 2 in principle, but not in form. He disliked the implication: "I undertake to fulfill my obligations because I have my rights" - the implication he

-4- (Paragraph 2 - Consideration of original text)

found in the text of Paragraph 2. Mr. Rolin offered the following amendment: "No Member would be entitled to the rights and benefits resulting from membership in the Organization which does not fulfill the obligations assumed by it in accordance with the Charter." At Mr. Krylov's suggestion Mr. Rolin ~~withdrew his~~ ^{had} withdrawn an additional phrase: "The Charter is indivisible", and the Delegate of New Zealand (Mr. Wilson) seconded Mr. Rolin's amendment.

The Rapporteur, Mr. Zeineldin, suggested that the words: "and duties" would make the Paragraph more explicit.

Mr. Rolin suggested that it would be better to postpone the vote on Paragraph 2 until a new draft had been prepared. In his opinion ~~as a~~ legal expert the text was unsatisfactory.

Mr. Mabane exclaimed that such a suggestion was a serious matter. He defined the scope of the work of the Committee: that of amendment of the Charter, not rewriting of the Charter. Mr. Rolin's negative amendment, he said, was tantamount to a redraft, and opened the door to withdrawal to any prospective member of the Organization. He urged that the Rapporteur be charged with reporting Mr. Rolin's draft to the Committee and that a vote on Paragraph 2 be taken at once. Mr. Krylov suggested that the Committee of five Jurists could consider Mr. Rolin's amendment. (Mr. Rolin interrupted to state he had revised his amendment from a negative form to a positive form.)

The Rapporteur clarified his position by saying that his ^{first} preference had been the deletion of Paragraph 2; but that he now preferred the original text to the amendment offered by Mr. Rolin. The Delegate of South Africa (Mr. Andrews) objected to any negative text and approved the original text of the Paragraph.

(Mr. Gonzalez)

The Delegate of Chile asked for the floor. The Chairman offered him a minute for discussion. The Delegate of Chile indignantly objected to the time limitation, accused the Chairman of partiality in recognizing speakers, and stated he would protest to his Foreign Minister. Several Delegates urged the Chairman to give the Delegate of Chile ample time for discussion. The Chairman invited Mr. Gonzalez to take the floor. Mr. Gonzalez expressed profound surprise at the conception that the subcommittee was a committee "to amend" and not a committee "to draft" as apparently interpreted by the Delegates of China, USSR, US and U.K. He did not believe that was the intention of the invitation to the Conference.

Mr. Mabane protested that he had been misunderstood; reviewed the long and thorough preparation of the present Document; the problem of ratification of the final text by the Parliaments of the signatory Governments.

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The Chairman ruled that Mr. Rolin's amendment should be printed in the minutes of the meeting and that a vote on Paragraph 2 would be taken subsequent to the Committee's receiving a copy of Mr. Rolin's amendment.

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The Delegate of Chile averred there was nothing personal in his accusation of partiality, but he was convinced that the Delegates of the Sponsoring Governments were not prepared to allow full scope of discussion to the representatives of the smaller powers, and he would be hypocritical if he did not state this.

The meeting adjourned at 1:20 p.m. (The delegates hastened to seek each other out to make personal explanations of the events of the meeting.)

REPORT OF THIRD MEETING OF COMMITTEE I/1/A
(DRAFTING SUBCOMMITTEE)

At 3:05 p.m., May 18, 1945, room 213
Veterans War Memorial Building

CONSIDERATION OF OUTSTANDING POINTS
FOR CHAPTER I: PURPOSES

The position as stated by the Chairman was that a text for Chapter I of the Charter had now been formally adopted by the Drafting Committee, subject to consideration of amendments of the meaning of the word "adjustment" in paragraph 1 and subject to a decision as to what position the New Zealand amendment, already accepted in substance, should occupy. It was explained that certain additional articles proposed by the Delegations of Cuba, Egypt and Uruguay would also be considered as amendments to the Chapter.

Adjustment

An exchange of views took place with regard to the meaning to be attached to the word "adjustment" in the English text of paragraph 1: "adjustment or settlement of international disputes". The delegate of the United Kingdom (Mr. Mabane) explained that the word had been included in order to provide for conciliatory processes by the side of formal and/or juridical treatment of disputes. It was suggested that a suitable French equivalent would be "amenagement." The Delegate of Belgium (M. Rolin) said that in that case the phrase should be amended to "adjustment of situations and settlement of disputes." The Chairman called for a vote and a decision was taken by 8 votes to 3 in favor of retention of the word "adjustment." The Delegate of Belgium called attention to the fact that no mention of the word had been made in Chapter VIII, which deals specifically with the peaceful settlement of disputes, and he felt that from a technical standpoint the inclusion of the word in Chapter I therefore was inadmissible. The Delegate of Panama voiced the same complaint on technical grounds, though he had no objection to the use of the word "adjustment." The Delegate of Belgium announced that he would bring the matter up again before the full Committee and, if necessary, the Commission. The Delegate of the United Kingdom exploded at this point, saying that if after a motion had been decisively rejected by the Drafting Committee, the Committee were to be threatened every time with a revival of the whole discussion, they would not be able to make much progress. The Chairman took note of the Belgium Delegate's declaration.

New Zealand Amendment

The Chairman ruled that the next business must be, as indicated in the agenda, a discussion of the amendment of the Delegation of New Zealand with regard to the territorial integrity and political independence of states members. The United States Delegate (Mr. Notter) explained his Delegation's point of view. They were dealing, he said, with two of the highest attributes of the sovereign state and there was always a danger that if certain attributes were enumerated it would be felt that others were being excluded. The

assumption was, he said, that all were included in the phrase "sovereign equality" in paragraph 1 of Chapter II. In this connection he pointed out that, if special mention were to be made of territorial integrity and political independence, it could appropriately be included either in Chapter I, Purposes, or Chapter II, Principles. Those who were framing the Charter must be clear in their minds as to whether they had in mind an absolute guarantee of territorial integrity and political independence of states by the Organization or that each state member was to be understood as making a self-denying ordinance. He felt that the Committee must be alive to the danger of revising lines of thought which unfortunately had done great injury to the previous attempt to set up a collective security organization. And for that reason he thought the Committee would do well to pass over the New Zealand amendment on this point in favor of an Australian amendment on similar lines, which it was desired to include in paragraph 4 of Chapter II, Principles. His formal motion, therefore, was that they should defer the New Zealand amendment with a view to its reconsideration in the light of subsequent discussion on Chapter II, Principles.

The Delegate of New Zealand (Mr. Wilson) gave reasons for thinking that inclusion of the phrase in Chapter I would give it a much greater positive value, but he would, regretfully, acquiesce in the suggestion of transferring it to Chapter II, Principles.

The Delegate of Belgium (M. Rolin) discussed the difference between the purport of the amendment as now put forward by the Delegations of New Zealand and Australia and the idea set forth in Article 10 of the League of Nations Covenant. He thought that this should be made clear in the report of the Committee's discussions to dispel all misunderstanding. He quite appreciated the danger, from the point of view of United States opinion, of bringing up again the words which were identical with Article 10 of the League Covenant, but thought that if they were to be dropped it was essential to include some phrase indicating that the essential rights of the state were to be protected by the Organization. There had been another Australian amendment which proposed to include in paragraph 2 the words "and promote justice and the rule of law in international affairs" and he was convinced that the inclusion of this motion of justice at the head of Chapter I, Purposes, was imperative. He returned to the suggestion that the word "justice" should be added to the first line of paragraph 1. Other Delegates spoke in general terms in support of the motion by the United States Delegate: the Delegate of China, the Delegate of Panama, the Delegate of the USSR and the Delegate of South Africa, and the Rapporteur. The Chairman then called for a vote and all Delegates were agreed on acceptance of the United States Delegate's motion to defer consideration until the discussion on Chapter II, Principles.

Other Amendments

A vote was then taken on the Cuban amendment to Chapter I, Purposes, which was rejected, nem cono. An exchange of views then took place on the two amendments introduced by Egypt, (1) with regard to inclusion of a mention of the principles embodied in the Atlantic Charter, and (2) mention of defining and codifying and deferring the rules of international law and international morality.

On the question of the Atlantic Charter the Delegate of the United Kingdom was emphatic that this document had no force in law either in England or in the United States--it had never been before Parliament or Congress; and it would lead to confusion and possible conflict if mention of such a document were made in the Charter. The Rapporteur observed that the Egyptian amendment proposed mention of the principles of the Atlantic Charter, not the Atlantic Charter itself.

On the second element of the Egyptian amendment he pointed out that it belonged more properly to Committee IV/2.

The Chairman then took a vote on the motion by the Delegate of the USSR, seconded by the Delegate of the United Kingdom, for rejection of the Egyptian amendment. The vote was 7 to 3: one or two delegates intimated that their vote applied only to the first point.

Discussion then took place on the proposal standing in the name of the Uruguayan Government to include in paragraph 4 a reference to "respect for the essential human liberties and rights... these to be defined in a special Charter" which would be submitted to consideration of the Assembly, with notice in advance by a special commission.

The Delegate of the United States (Mr. Notter) took this opportunity to furnish a commentary on the phrase in the sponsoring powers' amendment in paragraph 2 on equal rights and the self-determination of peoples.

The Delegate of Panama (Mr. Alfaro) recalled that a number of delegations had put forward suggestions on similar lines to that of Uruguay and it was desirable that the Committee should go on record as endorsing the idea of appointment of a commission to work out the appropriate charter of human rights.

M. Rolin suggested that the Rapporteur might include in his report a phrase such as "It is presumed that the Assembly will regard it as one of its chief duties to initiate the drafting of such a declaration."

Dean Gildersleeve (United States) pointed out that in the course of the deliberations of Committee II/3 it had been decided that the Economic and Social Council would set up a commission on human rights.

The Chairman then took a vote on rejection of the Uruguayan amendment, and the vote was 10 to 1.

Discussion on Chapter II

It was decided that the proper way of proceeding was to discuss Chapter II paragraph by paragraph. Mr. Alfaro (Panama), however, raised the previous question whether the intention was to draft a chapter of principles or of obligations. As the text stood at present, there was only one real principle, i.e., in paragraph 1.

Professor Krylov (USSR) could not see any difference between principles and obligations and suggested that the text submitted by the Panamanian Delegation was the best proof of this. M. Rolin (Belgium) expressed his agreement. He thought it was very important, however, that the text of the Charter should indicate duties based on principles already existing rather than set forth principles, as if they represented new and concrete engagements.

An exchange of views took place in the introductory paragraph of Chapter II, Principles, of the original Dumbarton Oaks Proposals which had been omitted from the joint amendment of the sponsoring powers. Mr. Alfaro (Panama) gave his reasons for thinking that this was an important part of the text. The Chairman called for a vote, and the meeting was unanimous in desiring that it should be maintained.

On Article 1, Chapter II there was the new text by the sponsoring governments and there were amendments in the name of Bolivia, Egypt, Haiti, Peru, Philippines, Turkey, Uruguay and Venezuela. The Chairman took the view that these amendments could all be set aside as the points they made were already embodied in the text of the joint amendment by the sponsoring powers. This was the view of the Delegate of China. Other Delegates, however, took the view that the present text mentioning the sovereign equality of member states, was unsatisfactory.

Mr. Mabane (United Kingdom) took the opportunity to explain the origin of this phrase in paragraph 1 of Chapter II. It was first used by the authors of the Moscow declaration on general security, and since then had become enshrined in the hearts and minds of those four states present at Moscow who had contributed most to the victory in the European war. The United States Delegate supported this view.

M. Rolin said he appreciated the generous sentiments of the Anglo-Saxon countries and the desire to avoid any suggestion of great powers lording it over the small states, but there was the fact that under the Charter the states were by no means equal in their functions or powers. The small states were prepared to accept the consequences of the inequality, de facto, of members, but in that case the phrase "sovereign equality" was altogether misleading. It should be made clear that juridical equality was what was intended.

The Delegate of France (M. Guerin de Beaumont) said there was some advantage in keeping the first paragraph as brief and portentous as possible and for that reason he preferred to retain this text rather than accept the motions included, for instance, in the Peruvian amendment.

The Delegate of South Africa explained also the historical purport of the phrase "sovereign equality." It was understood in the British Commonwealth as in definite contrast with the German *Herrenvolk*.

Dean Gildersleeve (United States) declared that the phrase "juridical equality" on the other hand, would mean nothing at all to the people of the United States.

The Chairman called for a vote rejecting specifically the Peruvian amendment, and 7 Delegates voted in favor.

Mr. Alfaro (Panama) wished it to be mentioned in the record that this vote on the Peruvian amendment was irregular. It had been taken on the assumption that the four ideas of the Peruvian amendment were contained elsewhere in the text. But this was not true. The Committee had not yet considered the notion of sanctity of treaties which was to be included in the preamble, nor had they given full consideration to the idea of the territorial integrity and political independence of member states.

Mr. Mabane agreed that in principle Mr. Alfaro was quite right. It should be stated in the record that the amendments had been rejected on the understanding that the ideas they contained already existed in other parts of the Charter. If, when they had the whole text in front of them, it was found that the ideas were not covered, Mr. Alfaro would be justified in making a stand and he (Mr. Mabane) would support it.

Sr. Gonzales-Videla (Chile) spoke on the question of respect of treaties ("Faithful observance of treaties" in the Peruvian amendment). He recalled that the Chairman had given a definite undertaking that this would be considered under Chapter II, whereas now it was proposed to disregard it on the grounds that it would come up for consideration when the Committee discussed the draft preamble.

The Chairman appeared to have forgotten all about this commitment and insisted on disregarding the Chilean contention and on going ahead with the vote on the joint amendment to the four sponsoring powers. The text of paragraph 1 of Chapter II as thus amended was passed by a vote of 9 to 2, and the meeting closed at 6 p.m.

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REPORT OF THIRD MEETING OF COMMITTEE I/1/A
(DRAFTING SUBCOMMITTEE)

At 3:05 p.m., May 18, 1945, room 213
Veterans War Memorial Building

CONSIDERATION OF OUTSTANDING POINTS
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The position as stated by the Chairman was that a text for Chapter I of the Charter had now been formally adopted by the Drafting Committee, subject to consideration of amendments of the meaning of the word "adjustment" in paragraph 1 and subject to a decision as to what position the New-Zealand amendment, already accepted in substance, should occupy. It was explained that certain additional articles proposed by the Delegations of Cuba, Egypt and Uruguay would also be considered as amendments to the Chapter.

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Australian amendment which proposed to include in paragraph 2 the words "and promote justice and the rule of law in international affairs" and he was convinced that the inclusion of this notion of justice at the head of Chapter I, Purposes, was imperative. He returned to the suggestion that the word "justice" should be added to the first line of paragraph 1. Other delegates spoke in general terms in support of the motion by the United States delegate: the delegate of China, the delegate of Panama, the delegate of the USSR and the delegate of South Africa, and the Rapporteur. The Chairman then called for a vote, and all delegates were agreed on acceptance of the United States delegate's motion to defer consideration until the discussion on Chapter II, Principles.

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sponsoring powers amendment in paragraph 2 on equal rights and the self-determination of peoples.

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M. Rolin suggested that the Rapporteur might include in his report a phrase such as "It is presumed that the Assembly will regard it as one of its chief duties to initiate the drafting of such a declaration."

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Dean Gildersleeve (United States) pointed out that in the course of the deliberations of Committee II/3 it had been decided that the Economic and Social Council would set up a Commission on human rights. The Chairman then took a vote on rejection of the Uruguayan amendment, and the vote was 10 to 1.

Discussion on Chapter II

It was decided that the proper way of proceeding was to discuss Chapter 2 paragraph by paragraph. Mr. Alfaro (Panama), however, raised the previous question whether the intention was to draft a chapter of principles or of obligations. As the text stood at present, there was only one real principle, i.e., in paragraph 1.

Professor Krylov (USSR) could not see any difference between principles and obligations and suggested that the text submitted by the Panamanian Delegation was the best proof of this. M. Rolin (Belgium) expressed his agreement. He thought it was very important, however, that the text of the Charter should indicate duties based on principles already existing, rather than set forth principles, as if they represented new and concrete engagements.

An exchange of views took place in the introductory paragraph of Chapter II, Principles, of the original Dumbarton Oaks Proposals which had been omitted from the joint amendment of the sponsoring powers. Mr. Alfaro (Panama) gave his reasons for thinking that this was an important part of the text. The Chairman called for a vote, and the meeting was unanimous in desiring that it should be maintained.

On Article 1, Chapter II there was the new text by the sponsoring governments, and there were amendments in the name of Bolivia, Egypt, Haiti, Peru, Philippines, Turkey, Uruguay

and Venezuela. The Chairman took the view that these amendments could all be set aside as the points they made were already embodied in the text of the joint amendment by the sponsoring powers. This was the view of the delegate of China. Other delegates, however, took the view that the present text mentioning the sovereign equality of member states, was unsatisfactory.

Mr. Mabane (United Kingdom) took the opportunity to explain the origin of this phrase in paragraph 1 of Chapter II. It was first used by the authors of the Moscow declaration on general security, and since then has become enshrined in the hearts and minds of those four states present at Moscow who have contributed most to the victory in the European war. The United States delegate supported this view.

M. Rolin said he appreciated the generous sentiments of the Anglo-Saxon countries and the desire to avoid any suggestion of great powers lording it over the small states, but there was the fact that under the Charter the states were by no means equal in their functions or powers. The small states were prepared to accept the consequences of the inequality, de facto, of members, but in that case the phrase "sovereign equality" was altogether misleading. It should be made clear that juridical equality was what was intended.

The delegate of France (M. Guérin de Beaumont) said there was some advantage in keeping the first paragraph as brief and portentous as possible and for that reason he preferred to retain this text rather than accept the motions included, for instance, in the Peruvian amendment.

The delegate of South Africa explained also the historical purport of the phrase "sovereign equality". It was understood in the British Commonwealth as in definite contrast with the German *Herrenvolk*.

Dean Gildersleeve (United States) declared that the phrase "juridical equality", on the other hand, would mean nothing at all to the people of the United States.

The Chairman called for a vote rejecting specifically the Peruvian amendment, and 7 delegates voted in favor.

Mr. Alfaro (Panama) wished to be mentioned in the record that this vote on the Peruvian amendment was irregular. It had been taken on the assumption that the four ideas of the Peruvian amendment were contained elsewhere in the text. But this was not true. The Committee had not yet considered the notion of sanctity of treaties which was to be included in the preamble,

nor had they given full consideration to the idea of the territorial integrity and political independence of member states.

Mr. Mabane agreed that in principle Mr. Alfaro was quite right. It should be stated in the record that the amendments had been rejected on the understanding that the ideas they contained already existed in other parts of the Charter. If, when they had the whole text in front of them, it was found that the ideas were not covered, Mr. Alfaro would be justified in making a stand and he (Mr. Mabane) would support it.

Sr. Gonzalez-Videla (Chile) spoke on the question of respect of treaties (faithful observance of treaties in the Peruvian amendment). He recalled that the Chairman had given a definite undertaking that this would be considered under Chapter II, whereas now it was proposed to disregard it on the grounds that it would come up for consideration when the Committee discussed the draft preamble. The Chairman appeared to have forgotten all about this commitment and insisted on disregarding the Chilean contention ~~to~~ going ahead with the vote on the joint amendment to the four sponsoring powers. The text as thus amended was passed by a vote of 9 to 3, and the meeting closed at 6 p.m.

London

W. H. C.

of para 1. of Lt. II,

REPORT OF SECOND MEETING OF THE DRAFTING COMMITTEE, COMMITTEE I/1/4

Veterans Building, Room 311, 9:30 a.m., May 16, 1945

Discussion on Paragraph 2, Chapter I

The Secretary read Paragraph 2, Chapter I of the Dumbarton Oaks Proposals as amended by the 4 sponsoring powers. The Delegate of Panama (Mr. Alfaro) immediately referred to the numerous amendments presented on the preservation of territorial integrity and the political independence of members of the Organization. The Delegate of the United Kingdom (Mr. Mabane) interrupted to make a point of order, explaining that that matter had been voted upon in a previous meeting. The Secretary read from the minutes of the last meeting the vote of 7 to 3 in favor of the New Zealand amendment and reported that the decision had been to leave for later decision the placement of the amendment as accepted.

The Delegate of New Zealand (Mr. Wilson) wished to make it clear that his Delegation understood that the amendment belonged in Chapter I, but that it was only a matter of deciding where in Chapter I.

The Delegate of the United Kingdom suggested that the meeting follow the same effective procedure for discussion as it had at the last session and moved that Paragraph 2 be adopted as amended by the 4 sponsoring powers and that they discuss all other amendments relative to Paragraph 2 at the same time. The Delegate of Panama had a proposal to submit: the inclusion of a declaration of the rights of states, containing five clauses on specific rights and one on the scope of international law. The Delegate of Belgium (Mr. Rolin) was of the opinion that it was not feasible to engage the Committee in the drafting of such a declaration, but that, when constituted, the Organization could and would deal with the formulation of the declaration. Meanwhile he felt it would be appropriate to make an allusion to the "defense of international order" in Paragraph 3 and offered for consideration by the Committee his draft for Chapter I, which inverted Paragraphs 2 and 3. The Delegate of the USSR (Mr. Krylov) objected to this procedure, contending that Mr. Rolin was introducing new ideas and new amendments after the deadline for receiving amendments. The Delegate of the United Kingdom concurred, pointing out that if the Committee were to rewrite the Charter, there would not be the slightest chance of getting it accepted by the Commission or the Plenary Session, let alone ratified by the Governments. Taking the proposed amendments to Paragraph 2 (those of Bolivia, Brazil, India, Philippine Commonwealth, Uruguay) one by one he showed that the points these amendments raised had either been covered by the amendment of the sponsoring powers or were irrelevant to the intent of the Chapter.

The Delegate of Belgium asserted that he understood the Committee had the power to consider ideas and texts; that his recommendations represented a synthesis of ideas submitted; and that in the light of the fact that his Delegation considered the D.O. Proposals Draft detestable, these ideas merited consideration. The Chairman interjected that for a gentleman of such long experience of international conferences his language was very strong indeed. He felt that Senator Rolin had really not intended to use the word "detestable" in expressing his thought as to the Dumbarton Oaks text. For example, the principle of self-determination

as applied to the relations between states was dangerous and unacceptable to the Belgian Delegation. The Delegate of the USSR explained to Mr. Rolin and the meeting the broad intent of Chapter I as it stood and declared that the idea of "international order" was a new idea and new to the text.

The Delegate of Chile (*Mr. Gonzalez*) decried the failure of the D. O. text to defend the interest of the smaller powers and declared that all the Latin American nations meant to insist upon the inclusion of the principle of respect for treaties in Chapter I. The Chilean Delegation had a specific amendment and wished to reopen discussion of Paragraph 1 in this respect. So far the amendment had not been considered.

The Chairman suggested to Mr. Rolin that his principle of "international order" might very well be placed in the Preamble of the Charter. But because Mr. Rolin found the present phrasing concerning "self-determination of peoples" unacceptable, he moved the amendment: "strengthening of international order by the self-determination of people." The Chairman pointed out that there was no question merely of "international order", but that the essential idea and phrase was that of "equal rights". Mr. Rolin agreed, but declared that the text did not say that.

The Delegate of Panama agreed with the Delegate of the USSR that amendments and ideas reaching the Committee subsequent to the deadline established by the Commission should be rejected, but he stressed that the Drafting Committee was here to perfect an imperfect document and he considered Mr. Rolin's ideas within the purview of amendments.

The Chairman announced that Mr. Rolin recognized the fact that his ^{suggested} text (Document 337, Annex 3) went beyond the form of an amendment and consequently Mr. Rolin made the following proposition: that Paragraph 2 include the phrase: "to strengthen international order on the basis of respect of essential rights and the equality of states and of the right of self-determination of people." The Delegate of USSR said that this amendment would have to be printed and the delegations allowed 24 hours to consider it. He made this suggestion in the form of a formal motion.

After further discussion it was decided to vote upon Paragraph 2 as amended by the four sponsoring powers. This version of Paragraph 2 was endorsed by a vote of 7 to 3.

The Delegate of the United States (Mr. Hotter) suggested that the Committee still did not understand what it had voted for; whether it had voted for equal rights as "internal" rights or as rights "between states." He recommended therefore that at the next meeting the delegates clarify the intent of the phrase.

The Secretary brought to the Committee's attention that the Delegate of New Zealand (Mr. Wilson) wished to know where the New Zealand amendment was to be placed: whether after the word "secure" in Paragraph 1, or as a new paragraph between the present Paragraphs 1 and 2.

The Delegate of Chile again asked where the question of respect of treaties was to be handled. The Rapporteur (Mr. Zeineldin), concerning the numerous amendments regarding the rights and duties of nations, asked where they should be considered - in the assembly, or dropped altogether?

After considerable discussion, in which several delegates vehemently agreed with the Delegate of Chile as to the supreme importance of incorporating the principle of respect of treaties into the Charter, the Chairman ruled that this principle was a "Principle" and not a "Purpose" and would be discussed with Chapter IX.

Discussion on Paragraph 3, Chapter I:

The Secretary read Paragraph 3 as amended by the four sponsoring powers and the list of countries which had submitted amendments to the Paragraph.

The Delegate of Panama called attention to the defective use of adjectives in the Paragraph and proposed the following arrangement: "...international problems of economic, social, cultural or humanitarian character...". The Delegate of Belgium supported the Australian Delegation's desire to eliminate the term "international" before "problems", since problems became international only when a nation appealed to another nation or nations concerning any issue. The Delegate of the United Kingdom supported the amendment of the Delegate of Panama and Mr. Rolin, Delegate of Belgium, conceded the point.

The Rapporteur suggested, that in accordance with the wishes of the Australian Delegation, the phrase: "to promote human welfare" be added to the Paragraph. Mr. Rolin supported this suggestion. The Delegate of the United States said that such a standard of conduct could be fulfilled only by the States, that such a purpose was beyond the scope of the Organization. The Chairman supported this attitude. After considering the merits of using the term "assure" instead of "promote", of incorporating certain sections from the Atlantic Charter, and the amendment of the Dominican Republic, the Paragraph was read as amended by the Delegate of Panama and endorsed by the Committee by a unanimous vote.

Discussion of Paragraph 4, Chapter I:

The Secretary read the list of countries which had submitted amendments to the Paragraph. The Delegate of Belgium was of the opinion that the Paragraph did not comprise a "Purpose" and had no place in the Chapter. The Committee endorsed retention of the Paragraph in the text by a vote of 9 to 1.

*1. Draft
3. Amendments
Double spaced - finished*

REPORT OF FIRST MEETING OF DRAFTING COMMITTEE, COMMITTEE I/1 /A
At 9:30 a.m., May 14, 1945, in Room 316,
Veterans War Memorial Building

Method of Work

in favour

The meeting began with an exchange of views about the procedure to be followed. M. Siegfried (France) felt that the Drafting Committee had not yet received adequate guidance from the Committee, and that further discussion on the amendments presented would be desirable, after which a single person, the Rapporteur, might be asked to draw up the appropriate text. Mr. Mabane (United Kingdom), on the other hand, spoke emphatically of the procedure indicated in the Agenda, i.e., discussion of Chapter I (Purposes) paragraph by paragraph and sentence by sentence. Mr. Alfaro (Panama) expressed agreement with the view of the United Kingdom Delegate and added that he could perhaps give some assistance by reading out a consolidated statement of the various amendments which he had prepared, thus providing a useful synthesis. The Rapporteur felt that it would be difficult to fix on a ~~definitive~~ *definitive* text of Chapter I without taking account of the Preamble and Chapter II, but at any rate the Drafting Committee might reach conclusions on the actual ideas to be expressed, leaving it to the Rapporteur to clothe them in appropriate language. At the instance of the Chairman, a vote was taken on the proposal ~~that~~ the United Kingdom Delegate and seven members (out of eleven) voted in favor of this procedure. *to 8*

Discussion on Chapter I, Paragraph 1

The first specific amendment was a suggestion by M. Rolin (Belgium) that the introductory phrase (line 2 of Dumbarton Oaks text) must be changed to "the purposes of the organization are". The Delegate of Panama then enumerated the several amendments which agreed in requiring an addition to the first sentence of Chapter I, Paragraph 1 of some such wording as "in conformity with the fundamental principles of international law and justice". The United Kingdom Delegate pointed out that this notion had been incorporated in the Joint Amendment of the four sponsoring powers, but the question was still open as to where it should be placed; he himself was in favor of the inclusion of this notion in a later sentence of the paragraph. The Delegate of China concurred in this view, observing that it would thus be made relevant to a concrete field of application. He called attention, also, to another amendment to the

opening sentence, namely, the suggestion from the Delegation of Brazil to preface the paragraph with the sentence "to proscribe war as an instrument of national policy". M. Rolin (Belgium) suggested that this notion should find its place rather in Chapter II (Principles). He then took up the main point as to the appropriate place for some reference to the principles of justice and international law. Taking the example of Austria in 1938, he observed that in that particular case, peace was undoubtedly maintained--by the states doing nothing--but the settlement was not in conformity with international peace and security. On that showing, the phrase was essentially an addition, whereas if it were included in a later sentence of the paragraph, as certain delegations proposed, it would have more of a platonic character. Because of this difference of viewpoint, he attached considerable importance to the amendment presented by the Delegation of New Zealand. The Committee must consider whether they would accept that amendment and still, at the same time, invoke international law and justice or at any rate qualify in some way the first sentence of Paragraph 1. The Delegate of New Zealand (Mr. J. V. Wilson) suggested that a decision be first taken on the substance of the New Zealand amendment and then subsequently the Committee could decide where it should most appropriately be inserted. ~~On a~~ ^{relating to} motion by the United Kingdom Delegate that the words ~~of the~~ ^{relating to} ~~New Zealand amendment~~ be included at a later stage and not in the first sentence, the voting was six to five, the Rapporteur giving the casting vote. The Delegate of Belgium announced that he would bring this matter up again (i.e., he favored insertion of the New Zealand amendment in the first sentence of Paragraph 1) at the Committee and/or Commission stage and fight to the bitter end on it. He was supported by M. Siegfried, the Delegate of France. Mr. Alfaro (Panama) held that inclusion of the New Zealand amendment would destroy the unity of the Article as at present drafted and suggested that it should form a separate paragraph; he felt that the same applied to the amendment prescribing respect of treaties and of the pledged word. It was clear that several other delegations were most anxious that the notion embodied in the New Zealand amendment should be included in the final text, perhaps as a new Paragraph 2. The Delegate of New Zealand said he could not agree with the view stated by Mr. Alfaro, since it would be to equate the purpose of preserving against external aggression territorial integrity and political independence of states with the vague generalities of other paragraphs; he felt that inclusion of these words in the first sentence was the proper course, as in that way alone the first phrase would acquire a concrete meaning. At that point the Chairman called for a vote on the substance of the New Zealand amendment, leaving the place of its insertion for subsequent consideration, and the voting was seven to three in favor.

Some discussion then took place with regard to the second sentence of Paragraph 1, lines 3 to 6. Mr. Alfaro (Panama) desired suppression of the words "the prevention and removal of threats to the peace and". Mr. Rolin (Belgium) suggested deletion of the last limb of the phrase--"or other breaches of the peace". A vote was taken on Mr. Rolin's proposal for deletion of these words, but his was the only vote recorded in favor. Mr. Alfaro (Panama) explained that in his opinion ~~the~~ concept of a threat to the peace raised many difficult considerations, and he understood that the machinery of the organization should operate only in the event of an actual disturbance of the peace. The Delegate of China, on the other hand, thought that there were two distinct stages--the threat to the peace and an actual breach of the peace which should be carefully distinguished. He was supported by the United States Delegate (Mr. Savage). The Chairman then took a vote on the motion of Mr. Alfaro to suppress the words referring to threats to the peace; only one vote was recorded in favor of the motion.

The United Kingdom Delegate then rose to state that in view of the preference voiced by a number of delegates, his Delegation was willing to accept the text "in accordance with the principles of justice and international law" in place of the present wording "with due regard to..." of the Joint Amendment by the sponsoring powers. Mr. Rolin took note that this was, in fact, the general sense of the Committee and he was grateful to the United Kingdom Delegate for his concession.

Mr. Rolin then took up the question of the third sentence of Paragraph 1 and suggested two changes: (1) that the word "adjustment" in the English text should be eliminated or if maintained the phrase should read "the settlement of international disputes and the adjustment of international situations that may endanger the welfare of the peoples"; and (2) suppression of the words at the end "which may lead to a breach of the peace". The Chairman intervened to suggest that if M. Rolin's formula demanded a detailed explanation, it was evidently lacking in clarity. Mr. Mahane also thought that any reference to the welfare of peoples would be to introduce an obscurity. The United States Delegate said, on the other hand, that he agreed with M. Rolin as to the importance of this notion but felt that it was covered by the phrase in Paragraph 3 of the Joint Amendment of the sponsoring powers. As to the suggestion of M. Rolin for elimination of the phrase "which may lead to a breach of the peace", there was a lively exchange of views and the Rapporteur, in particular, wanted the present wording

to be suppressed in favor of a reference to "disputes which any of the contending parties may bring to the notice of the Organization". The Chairman then called for a vote on the proposal by the Rapporteur; only two votes were recorded in favor.

The Chairman then summed up the conclusions of the discussion. He felt that the Drafting Committee could now record its agreement on a text for the whole of Paragraph 1, subject only to a reservation (from M. Rolin) that the "adjustment" in the English text was out of place and on the understanding that the New Zealand amendment would have to be included somewhere in Chapter I (Purposes). The United Kingdom Delegate urged that the text of Paragraph 1 of Chapter I, as it emerged from their discussions, should be distributed to delegates before the next meeting. / word

The meeting adjourned at 12:30 p.m.