

The representatives of the United Kingdom (A/C.6/138), the Netherlands (A/C.6/140), Canada (A/C.6/142) and Egypt (A/C.6/144) submitted amendments to the United States draft resolution.

The representative of the U.S.S.R. submitted a proposal (A/C.6/141) to the effect that the General Assembly should postpone the establishment of an International Law Commission. The Committee on the Progressive Development of International Law and its Codification should continue its preliminary work and report to the third session of the General Assembly.

According to a French draft proposal (A/C.6/139), the General Assembly should establish an International Law Commission, consisting of experts nominated by the Members of the United Nations and elected by the General Assembly. The Commission was to meet in sessions. The right of initiating studies to be undertaken by the Commission was to be reserved to the General Assembly. The French draft resolution provided further that the Commission should submit to the third regular session of the General Assembly a draft multilateral convention on the principles recognized by the Charter of the Nürnberg Tribunal and a draft declaration on the Rights and Duties of States. The Commission should also submit a list of other questions which it considered desirable to study. The General Assembly should recommend to the Commission "not to dissociate the progressive development of international law and its codification", and to associate in its work, by means of consultations, national or international bodies well-known for their special competence (such as the Institut de Droit International and the International Law Association).

On the proposal of the Australian representative the Sixth Committee at its 38th meeting on September 26, 1947, decided by a large majority to establish a sub-committee to co-ordinate all the various proposals, resolutions and amendments. The Chairman named the following to be members of the sub-committee: Australia, Brazil, China, Colombia, Dominican Republic, France, Greece, Netherlands, Poland, Sweden, U.S.S.R., United Kingdom, United States and Yugoslavia.

The sub-committee first of all examined the question as to whether the General Assembly should proceed, during its present session, to elect an International Law Commission, as advocated by the Committee on the Progressive Development of International Law and its Codification. Some members of the sub-committee were of the opinion that the statute of the new Commission should be drawn

up without delay and the members elected during the current session of the Assembly. Others, while anxious that the statute of the International Law Commission should be drawn up during the present session of the Assembly, preferred that election of the members of the Commission should be postponed until the next session. A third group of members expressed the opinion that the adoption of the Commission's statute should also be postponed until the next session of the Assembly. After long discussion, the sub-committee decided, by vote of 8 to 7, in favor of election of the members of the International Law Commission during the current session of the General Assembly.

In view of the narrow majority by which this decision was made, the sub-committee instructed its Rapporteur to present an interim report to the Sixth Committee.

The Sixth Committee considered this interim report (A/C.6/150) at its 40th meeting on October 2, 1947. It was decided without a vote that the International Law Commission should be established at the second session of the General Assembly. The Committee then decided by a vote of 33 to 14 that the election of the members of the Commission should be postponed until the third regular session of the General Assembly.

In view of the Sixth Committee's decision, the sub-committee proceeded to prepare a draft resolution and a draft statute for the International Law Commission on the basis of the recommendations contained in the report of the Committee on the Progressive Development of International Law and its Codification. In fifteen meetings the sub-committee undertook a paragraph-by-paragraph examination of the report.

In the main the sub-committee adopted the recommendations of the Committee on the Progressive Development of International Law and its Codification (A/331) but introduced some important changes. The major changes are noted below.

The sub-committee decided that the members of the International Law Commission should not render full-time service, but should meet in sessions. Instead of being elected by the General Assembly and the Security Council by a comparable procedure to that laid down in the Statute of the International Court of Justice for the election of the judges, it was decided that the members of the Commission should be elected by the General Assembly only. The sub-committee also decided that only nationals of States Members of the United Nations should be eligible for election, a limitation not recommended by the Committee on the