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COMMISSION ON HUMAN RIGHTS

Twenty-second Session

SUMMARY RECORD OF THE EIGHT HUNDRED AND EIGHTY-NINTH MEETING

Held at Headquarters, New York,
on Saturday, 2 April 1966, at 3.30 p.m.

CONTENTS

Organization of work

Periodic reports on human rights (E/CN.4/892 and Add.1-15, 893, 903, paras. 73-102, 907, 908, 912, 914, 915) (continued)

Reports of the seventeenth and eighteenth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/882, 903; E/CN.4/L.822 and Add.1-3)

Further promotion and encouragement of respect for human rights and fundamental freedoms (E/CN.4/L.856)

Review of the human rights programme; control and limitation of documentation (E/CN.4/L.853 and Corr.1)

Deferment of agenda items to the next session

Point of order raised by the representative of the United States of America

PRESENT:

Chairman:

Mr. PANT

India

Rapporteur:

Mr. QUENTIN-BAXTER

New Zealand

Members:

Mr. HENNIG

Austria

Miss WIEGOLD

Chile

Mr. REDONDO

Costa Rica

Mr. ZOLLNER

Dahomey

Mr. BOULLET

France

Mr. ALISA

Iraq

Mr. BARROMI

Israel

Mr. SPERDUTI

Italy

Mr. RICHARDSON

Jamaica

Mr. BODDENS-HOSANG

Netherlands

Mr. LOPEZ

Philippines

Mr. DABROWA

Poland

Mr. KELLBERG

Sweden

Mr. NEDEBALLO

Ukrainian Soviet Socialist
Republic

Mr. NASINOVSKY

Union of Soviet Socialist
Republics

Sir Samuel HOARE

United Kingdom of Great Britain
and Northern Ireland

Mr. ABRAM

United States of America

Secretariat:

Mr. HUMPHREY

Director, Division of Human
Rights

Mr. TARDU

Secretary of the Commission

ORGANIZATION OF WORK

Mr. TARDU (Secretary of the Commission) announced that those parts of the Commission's draft report which related to questions that the Commission had finished discussing had now been issued in the various languages (E/CN.4/L.845 and Add.1-4).

The CHAIRMAN suggested that the Commission should take up the last items on its agenda at the present meeting and then go on to examine the draft report on 4 April. It would probably be necessary to hold two meetings, one in the afternoon and one in the evening, on that day, and perhaps even a short meeting in the morning of 5 April.

It was so decided.

PERIODIC REPORTS ON HUMAN RIGHTS (E/CN.4/892 and Add.1-15, 893, 903, paras. 73-102, 907, 908, 912, 914, 915) (continued)

The CHAIRMAN pointed out that the terms of office of two members of the Commission on Human Rights would expire in the near future; he suggested that the Commission should authorize him to decide on the membership of the Ad Hoc Committee on Periodic Reports after the Economic and Social Council had elected the new members of the Commission.

REPORTS OF THE SEVENTEENTH AND EIGHTEENTH SESSIONS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (E/CN.4/882, 903; E/CN.4/L.822 and Add.1-3)

The CHAIRMAN reminded the Commission that at its twenty-first session it had decided to postpone discussion of the recommendations made in the report of the Sub-Commission. He drew the attention of the members of the Commission to Sub-Commission resolutions 5.B (XVII) and 8 (XVII) (E/CN.4/882, p. 103 and p. 113).

The Commission also had before it a draft resolution submitted by Austria and subsequently co-sponsored by Jamaica, Sweden and Costa Rica (E/CN.4/L.822 and Add.2 and 3) and a statement by the Secretary-General of the financial implications of that draft resolution (E/CN.4/L.822/Add.1).

Mr. ABRAM (United States of America) expressed regret that the Commission had not had time to consider the reports of the Sub-Commission on its seventeenth and eighteenth sessions in detail. He submitted orally a draft resolution

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(Mr. Abram, United States)

in which the Commission would request the Sub-Commission to submit to the Commission at its twenty-third session draft resolutions on those matters in the above-mentioned reports on which it desired that the Commission should take action.

Mr. HENNIG (Austria) introducing his delegation's draft resolution (E/CN.4/L.822), said that it was based directly on Sub-Commission resolutions 7 (XVII) and 6 (XVIII). The Austrian delegation had always been opposed to any unnecessary expenditure, but it considered that the sum of \$2,700 quoted by the Secretary-General for the cost of the proposed publication was extremely modest, quite apart from the fact that the sales would certainly cover most of that cost.

Mr. SPERDUTI (Italy) noted that the two documents proposed for publication were practically out of stock, he wondered whether the appropriate department of the Secretariat could not be invited to have them reproduced.

After a brief exchange of views on the United States draft resolution, in which Mr. RICHARDSON (Jamaica), the CHAIRMAN and Sir Samuel HOARE (United Kingdom) took part, the CHAIRMAN invited the Commission to vote on the two draft resolutions before it.

The United States draft resolution was adopted by 18 votes to none, with 1 abstention.

The four-Power draft resolution (E/CN.4/L.822 and Add.2 and 3) was adopted by 8 votes to 2, with 7 abstentions.

Mr. ABRAM (United States of America) reserved his delegation's position regarding any increase in the United Nations budget.

FURTHER PROMOTION AND ENCOURAGEMENT OF RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (E/CN.4/L.856)

The CHAIRMAN pointed out that the Commission had before it a draft resolution submitted by the Ukrainian SSR (E/CN.4/L.856).

Mr. ABRAM (United States of America) asked for a separate vote on the words "as a matter of priority" in the operative part of the draft resolution.

Mr. NEDBALLO (Ukrainian Soviet Socialist Republic) said that, since the item was of extreme importance, it should be given high priority. Since the Commission had given priority to other items which had also been considered important, he would maintain his draft resolution as it stood.

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The CHAIRMAN put the Ukrainian draft resolution (E/CN.4/L.856) to the vote.

The words "as a matter of priority" were rejected by 6 votes to 3, with 10 abstentions.

The draft resolution as a whole (E/CN.4/L.856), as amended, was adopted by 19 votes to none.

REVIEW OF THE HUMAN RIGHTS PROGRAMME; CONTROL AND LIMITATION OF DOCUMENTATION
(E/CN.4/L.853 and Corr.1)

The CHAIRMAN pointed out that the Committee had before it a draft resolution (E/CN.4/L.853) which had originally been submitted under agenda item 9 but whose sponsors considered it to fall more appropriately under agenda item 19 (E/CN.4/L.853/Corr.1).

Mr. LOPEZ (Philippines) said that his delegation was a sponsor of draft resolution E/CN.4/L.853. The Commission had encountered the same problem for several years past, and was obliged at each session to postpone consideration of a number of the items on its agenda. It was therefore a matter of urgency for the Economic and Social Council to find a way of enabling the Commission to consider all the matters on its agenda.

Mr. BODDENS-HOSANG (Netherlands) said that he approved the spirit of the draft resolution but wondered whether the problem was well stated. Instead of asking for its sessions to be lengthened, the Commission should endeavour to make better use of its allotted time. In his opinion, if the Commission made it a rule to begin its meetings on time, to abide more faithfully by its rules of procedure and not to exceed the number of meetings assigned to each agenda item, it would save valuable time.

Sir Samuel HOARE (United Kingdom) endorsed the Netherlands representative's remarks. The General Assembly itself had overburdened the Commission by requesting it to prepare, at one and the same time, two draft declarations and two draft conventions on very important subjects, which had taken up a great deal of time. However, he did not think the Commission had worked as efficiently as it should. It had not managed to complete its consideration of the draft convention on the elimination of all forms of religious intolerance. It should therefore revise its methods of work and submit to stricter discipline. Nevertheless, it was the Commission on Human Rights itself which should consider what might be done to that

(Sir. Samuel Hoare, United Kingdom)

end. His delegation took the view that the question deserved thorough study; hence it could not support the draft resolution, and suggested that the sponsors should withdraw it.

Mr. RICHARDSON (Jamaica) reminded the Commission that at the end of the last session his delegation had proposed that the Economic and Social Council should be requested to authorize the Commission to hold a second annual session; for lack of time, that proposal had not been examined. It was regrettable that the consideration of what was, after all, an urgent problem should be thus postponed from year to year.

The Commission already had far more to do than it could arrange. The problem should therefore be put to the Economic and Social Council. If the Assembly periodically referred new questions to the Commission, that simply determined the scope of the function the Commission had to discharge.

The Netherlands representative was right to point out that the Commission was not making the most effective use of its time. He urged the Commission to consider the question immediately, whether in terms of a longer annual session or of two sessions a year.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) pointed out that the suggestion made in the draft resolution had financial implications on which it would be desirable for the Secretariat to provide some information. At all events, the Commission could save some time by reviewing its agenda, which included items whose importance was not immediately apparent. He was thinking in particular of the question of an international code of police ethics, which could with advantage be replaced by other, more topical and more urgent matters. However, the Commission could not revise its work programme at the present stage; it should decide to postpone the study of that question so that it could take a considered decision on the subject later on.

Mr. ZOLLNER (Dahomey) agreed with the delegations of the Netherlands, the United Kingdom and the Soviet Union, in particular, that ways of improving the organization of work and of saving time had not been fully explored. However, that consideration should not prevent the Commission from adopting the draft resolution now before it on the subject.

(Mr. Zollner, Dahomey)

Since the Commission was unable to discharge its obligations and was falling ever further behind in its study of the questions referred to it, his delegation would favour a more drastic solution, namely the holding of two sessions a year. That would not, however, prevent his delegation from voting in favour of draft resolution E/CN.4/L.853 which, although inadequate in the longer term, at least represented a practical step forward for the time being.

Sir Samuel HOARE (United Kingdom) considered that further consideration of the question should be postponed until the next session, when it could be given the attention it deserved.

Being unable to make a thorough study of the draft resolution, his delegation could not support it, but would not vote against it. To repeat: it was for the Commission itself to decide whether, in order to get through its work, it would do better to extend its annual session or to hold two sessions a year. Specific proposals from the Commission were the only basis on which the Economic and Social Council could settle the matter.

Mr. HUMPHREY (Secretariat) said that he was not in a position to inform the Commission there and then regarding the financial implications of a possible extension of its session; they would depend, inter alia, on the length of such extension and the place - Geneva or New York - where the meetings were to be held.

Mr. QUENTIN-BAXTER (New Zealand) agreed with previous speakers that the Commission would do well to revise its methods of work and to prune its agenda of the less important questions; nevertheless, he felt that draft resolution E/CN.4/L.853 made a positive contribution to the study of the question. It had been drafted in such a way as to enable delegations holding different views on the subject to give it their support at the present session.

His delegation, for its part, would not favour holding two sessions a year. There was a danger that such a solution might rob the Commission of its standing as a functional commission of the Council. However, it seemed appropriate for the Commission to draw the Council's attention to the question, while itself endeavouring to improve its methods of work.

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Mr. LOPEZ (Philippines) pointed out that at the next session the Commission's membership would be increased by 30 per cent. That in itself would add to the volume of work, since there would probably be more statements made. In his view the Commission should raise the question at the present session, so that those members which were on the Economic and Social Council could discuss it there in full knowledge of the facts.

Mr. BARROMI (Israel) asked for separate votes on the last preambular paragraph and operative paragraph 2.

Mr. RICHARDSON (Jamaica) suggested that, in order to take into account the views of those delegations which wished the Commission to improve its methods of work, a new paragraph reading as follows should be inserted in the draft resolution:

"Decides to establish a committee of three members, to be named by the first Vice-Chairman, to consider in consultation with the Secretary-General what improvements might be effected in the Commission's working methods and procedure and to make recommendations for consideration at the Commission's twenty-third session."

Mr. ZOLLNER (Dahomey) said that he would be willing to accept the Jamaican representative's proposal as a separate resolution, but not as a part of draft resolution E/CN.4/L.853. The proposed paragraph, which envisaged the establishment of a committee, would restrict the scope of the provision drawing the Council's attention to the problem.

Mr. REDONDO (Costa Rica) said that he shared the Dahomean representative's reservations concerning the Jamaican delegation's suggestion. He recognized the merit of the Jamaican proposal, and regretted that the Commission had no time to try and fit it into the original draft resolution.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that he too was unable to approve the insertion in the original draft resolution of the text suggested by the Jamaican representative. If it were presented as a separate draft resolution he still would not approve it, inter alia, because the committee envisaged by Jamaica, having only three members, would not be representative of

(Mr. Nasinovsky, USSR)

the many points of view expressed in the Commission; furthermore its establishment would have considerable financial implications.

He asked for a separate vote on each preambular paragraph and each operative paragraph of draft resolution E/CN.4/L.853.

Sir Samuel HOARE (United Kingdom) said that he would have been able to accept the Jamaican representative's suggestion if it had provided for the committee to have more than three members.

Mr. RICHARDSON (Jamaica) withdrew his amendment.

The CHAIRMAN put draft resolution E/CN.4/L.853 to the vote.

The first preambular paragraph was adopted by 17 votes to none, with 2 abstentions.

The second preambular paragraph was adopted by 17 votes to none, with 2 abstentions.

The third preambular paragraph was adopted by 17 votes to 2.

The fourth preambular paragraph was adopted by 9 votes to none, with 10 abstentions.

Operative paragraph 1 was adopted by 14 votes to none, with 5 abstentions.

Operative paragraph 2 was adopted by 9 votes to none, with 10 abstentions.

The draft resolution (E/CN.4/L.853) as a whole was adopted by 12 votes to none, with 7 abstentions.

DEFERMENT OF AGENDA ITEMS TO THE NEXT SESSION

Mr. QUENTIN-BAXTER (New Zealand), Rapporteur, said that it was the usual practice for the Commission, when it was unable to complete its agenda, to take a procedural decision to defer some items to the next session.

On the Chairman's proposal, the Commission decided to defer to its next session all agenda items which it had been unable to consider and those the consideration of which it had been unable to complete.

POINT OF ORDER RAISED BY THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA

Mr. ABRAM (United States of America) drew the Commission's attention to the fact that in operative paragraph 2 of its resolution 3 (XXII) on the question

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(Mr. Abram, United States)

of punishment of war criminals (E/CN.4/L.845/Add.3, para. 57), it had made a mistake and had inadvertently invited all Governments to inform the Secretary-General of the measures they had adopted in pursuance of paragraph 1, whereas the practice of the United Nations was to address such invitations only to the Governments of States Members of the United Nations or of the specialized agencies. He suggested that that omission should be rectified and that in operative paragraph 2 the expression "of States Members of the United Nations or of the specialized agencies" should be inserted after the word "Governments".

Mr. DABROWA (Poland) pointed out that the debate on the question of "the punishment of war criminals and of persons who have committed crimes against humanity" had been closed and that resolution 3 (XXII) had been adopted. He would like to know under which rule of the rules of procedure the United States representative was submitting his request.

Mr. ABRAM (United States of America) said that there was nothing in the rules of procedure to prevent the Commission from considering the proposal which he had just made.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that the United States representative's motion amounted to raising a new question bearing on the substance of a resolution which had already been adopted. If the United States proposal was accepted, he in turn would propose amendments to each paragraph of that resolution.

Furthermore, he pointed out that under its rules of procedure the Commission could not reconsider its decisions once it had concluded the examination of the items on its agenda.

Mr. REDONDO (Costa Rica) said that in the circumstances the Commission might make use of the legal procedure of interpreting and defining the precise scope of a decision which it had already taken, without reopening the debate.

Mr. RICHARDSON (Jamaica) asked the representative of the Secretary-General if, in pursuance of operative paragraph 1 of the resolution in question, the Secretary-General would transmit the text of that resolution to all States or only to States Members of the United Nations or members of the specialized agencies.

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Mr. HUMPHREY (Secretariat) replied that the Secretary-General would not have to take any decision as a result of that paragraph, since it simply invited States to take any measures necessary, without giving the Secretary-General any instructions in the matter.

Mr. SPERDUTI (Italy) said that under the circumstances the Commission should apply rule 52 of the rules of procedure. As the United States representative's proposal was now before it, it should decide in accordance with that rule whether or not it was competent to take a decision on that proposal.

He himself would prefer the solution proposed by the Costa Rican representative; there again, however, the Commission would have to decide by a vote that the passage in question should be interpreted as indicated by the United States representative.

Mr. ABRAM (United States of America) said he hoped that there was no confusion or misunderstanding about his proposal, which related solely to operative paragraph 2. If the Soviet delegation believed that it had inadvertently voted in favour of some paragraphs, naturally it too could request the reopening of the debate. The United States delegation would not have ventured to request the reconsideration of the question if it had not been for the oversight on its part, as indeed on the part of other members of the Commission. He agreed with the arguments put forward by the Italian representative on the question of procedure and thought that the simplest thing would be to put the matter to the vote. As his delegation saw it, the text to be transmitted to the higher organs must be free from ambiguity and be drafted so as to be easily understood.

Mr. NEDEBAILO (Ukrainian Soviet Socialist Republic) said he did not think that there had been an oversight on the part of the United States delegation.

In any case, there could be no doubt that the United Nations was perfectly competent to address all States. The Charter laid down no restrictions in that respect, and he challenged anyone to cite a document which prohibited the United Nations from addressing States other than its Member States. Moreover, human rights, according to the Charter itself (Article 1 (3) and Article 13 (2)), meant human rights and fundamental freedoms for all. All men were equal before the law and before the United Nations. Accordingly, in the case of a question concerning human rights and fundamental freedoms, the United Nations was fully entitled to address all States.

(Mr. Nedbailo, Ukrainian SSR)

In addition to being devoid of all legal foundation, the United States delegation's proposal was also without any formal basis. Under the procedure laid down by the rules of procedure with regard to matters in dispute, the question should be referred to the higher organs and make its way up successively through the various levels. His delegation had been fully aware of what it was voting for. If the United States delegation wanted to reconsider its vote, it could not do so in the Commission, but should address itself to the General Assembly through the Economic and Social Council.

Mr. NASTINOVSKY (Union of Soviet Socialist Republics) repeated his belief that a question of substance and not of drafting was involved. Operative paragraphs 1 and 2 of the resolution in question were based on the need to ensure the universal application of its provisions. In operative paragraph 1, a request was addressed to all States, and it must not be forgotten that all the elements of that resolution were interconnected. The Soviet delegation, which would have preferred the Polish draft resolution to be adopted, had in no wise voted inadvertently but had, on the contrary, made great concessions. It had voted for the resolution at issue solely because, as drafted, it had been universal in scope. If the resolution had been worded differently, the vote of the Soviet delegation might perhaps have been different.

In an attempt which was without precedent in the United Nations, the United States delegation was trying to deprive the resolution of its effectiveness and to undo the tremendous work which had been accomplished. If it felt that it had made a mistake, the rules of procedure gave it the right to take the matter up in the Economic and Social Council, for whom the resolution was intended. No one was trying to deprive the United States delegation of that right, but in so far as reversing what had already been done was concerned, no such decision had ever been taken, and to accept the proposal of the United States would be to establish a most regrettable precedent. Indeed, the whole of the resolution would have to be revised because if one of its essential provisions was tampered with, the position of many delegations would be changed and the entire debate would have to be reopened.

Mr. DABROWA (Poland) said that he had no hesitation in regarding the United States proposal, not as an addition or correction, but as a substantive amendment, to which rule 51 of the rules of procedure should be applied. If the Commission wished to resume consideration of that agenda item, it could only do so at its next meeting. If, moreover, one member of the Commission was authorized to submit an amendment, other delegations must also be allowed to do so. In that case, the Polish delegation would propose that the word "affirm" in the final preambular paragraph of the resolution should be replaced by the word "reaffirm".

Mr. ABRAM (United States of America) said that if the Polish delegation could show an inadvertent error by the Commission, he was ready to consider the amendment submitted by the Polish representative, and he hoped that the Polish representative was prepared to do the same for the United States amendment.

Mr. DABROWA (Poland) said, in clarification of his delegation's position, that he would ask for a revision of the whole resolution and submit an amendment only if the Commission adopted the United States proposal. The Commission had not yet decided, however, to adopt the United States proposal.

Mr. BODDENS-HOSANG (Netherlands) pointed out that operative paragraph 2 of the resolution gave indirect instructions to the Secretary-General. The only way of assisting the Secretary-General was to give him directives, in accordance with the practice of the United Nations.

Mr. BARROMI (Israel) said that under the rules of procedure there was nothing to prevent a proposal from being put to the vote. However, in view of the special circumstances in which the United States proposal had been made, and also of the fact that the Commission was about to finish its work, a resumption of the discussion did not seem very desirable. He therefore moved the closure of the debate under rule 48 of the rules of procedure.

Mr. DABROWA (Poland) said that he could not see how a debate which had not been reopened could be closed. If the Commission was to vote on any amendment, it must first decide to reopen the debate, which had been concluded several days earlier.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) moved the adjournment of the debate; he noted that, in accordance with rule 50 of the rules of procedure, his motion took priority over that of Israel.

The CHAIRMAN put the motion to adjourn the debate to the vote.

The motion was rejected by 8 votes to 3, with 5 abstentions.

Mr. NEDBALLO (Ukrainian Soviet Socialist Republic) said that it might be useful to have the opinion of the Legal Counsel; to that end, and to enable members of the Commission to hold consultations, he moved the suspension of the meeting under rule 50 of the rules of procedure.

The CHAIRMAN put the motion to suspend the meeting to the vote.

The motion was rejected by 9 votes to 6, with 2 abstentions.

Mr. NASINOVSKY (Union of Soviet Socialist Republics), rising to a point of order, said that if the United States delegation wished to propose an amendment and if the Commission decided to discuss it, the proposal must be submitted in writing in accordance with rule 51 of the rules of procedure. The matter was so serious that he would have to ask for instructions from his Government.

The CHAIRMAN put the Israel delegation's motion for closure of the debate to the vote.

The motion for closure of the debate was adopted by 9 votes to 3, with 4 abstentions.

The CHAIRMAN summed up by saying that the Commission had before it a proposal by the United States delegation to re-examine operative paragraph 2 of the Commission's resolution 3 (XXII). That was a resolution which had previously been adopted, at the end of a long debate, and the rules of procedure made no provision for cases of that kind. Furthermore, when a question of competence was raised, the Commission must take a decision before considering the proposal itself. As the Polish and Soviet delegations had invoked rule 51 of the rules of procedure, he asked whether they insisted on its application or were prepared to waive its application in order to facilitate the Commission's work.

Mr. ABRAM (United States of America) pointed out that since the debate had been closed, all that was needed was to vote on his proposal that the Commission should re-examine operative paragraph 2 of its resolution 3 (XXII).

At the request of the Polish representative, a roll-call vote was taken on the United States proposal.

India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Israel, Italy, Netherlands, New Zealand, Philippines, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Austria, Chile, Costa Rica, France.

Against: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: India, Iraq, Jamaica, Dahomey.

The United States proposal was adopted by 12 votes to 3, with 4 abstentions.

Mr. ABRAM (United States of America) formally proposed that, in operative paragraph 2 of the Commission's resolution 3 (XXII), the words "of States Members of the United Nations or of the specialized agencies" should be inserted after the words "Invites all Governments".

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said he must insist that the amendment should be submitted in writing and be circulated to the members of the Commission.

Mr. DAPROWA (Poland), in reply to a question put by the CHAIRMAN, said that his delegation also insisted on the application of rule 51 of the rules of procedure.

The CHAIRMAN said that in those circumstances the United States amendment would be considered at the afternoon meeting on Monday, 4 April.

The meeting rose at 5.55 p.m.