

CHAIRMAN JESSUP: Thank you, Dr. Shotwell.

The session is now open for questions and discussions. I take it that these have a dual purpose: first, to enable you to clarify your minds in regard to any angle of the existing organization and the Charter in the light of the statements which have been made; second, for the propounding of any ideas concerning the implementation or amendment of the Charter to make it more adequate, and a discussion of the feasibility or utility of any suggestion along that line.

MR. EICHELBERGER: I want to ask Dr. Eagleton if he did not miss a point in not saying more about Article 14, which I think does provide for peaceful change and which gives strength to the Assembly. I believe it is the so-called Vandenberg Amendment. That is generally overlooked. I would like to read it. "Subject to the provisions of Article 12," (that is the article they will now deal with on national disputes before the Security Council) "the General Assembly may recommend measures for the peaceful adjustment of any situation," (not the settlement) "regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations," which means that the Purposes and Principles in the preamble are binding legal obligations. Those include the obligations for human rights. It seems to me that leaves the door open for almost everything.

PROFESSOR EAGLETON: I did say that the Assembly would be the most important organ and could do the most in this field. The point which I was making, which is emphasized by the word "recommendation" here, is that the Assembly cannot itself do it without the consent of the sovereign states. It can recommend, and if it can get the consent of the states, then we can go ahead. That of course is just part of the fundamental principle of this whole Charter. The assumption is that all the way through you must get the consent

of the member states, and the point which I was making is that the organization as such, or any organ of it, cannot change a situation by itself.

With regard to the word "situation", if you look at Chapter VI, which I was quoting, it says the "adjustment of any dispute or situation." It does attempt to cover the field of peaceful change, but only by recommendation. That was all the point which I meant to make.

MR. EICHELBERGER: But there is a provision here that the General Assembly may recommend action to the Security Council on any matter under Article 14 if it is a threat to the peace of the world, and the Security Council, according to the Charter, can confer with member states.

PROFESSOR KIRK: I agree with you, Mr. Eichelberger. It seems to me that there is ample provision for the organization to work in this field. There is not any serious impediment in the Charter to the taking of measures of a pretty substantial character making a specific change.

MR. EICHELBERGER: How about it, Dr. Jessup? You worked on that article in San Francisco.

CHAIRMAN JESSUP: I don't think there is any great difference of opinion. I take it Professor Eagleton's point is that basic to the operation of the whole business is the concurrence of the decision of states; that you have not got a separate entity which can act of itself except as the states move it -- that is, the Security Council can do things, but the states have to move the Security Council by the votes of the representatives in it.

PROFESSOR EAGLETON: I see no difference of opinion here, I agree with what they say, but my point is simply that the organ itself does not have the power to act, to do things itself. If I were to ask that it should have that power, I would be asking for a fundamental change in the principle of the Charter, which some people are asking for. I merely pointed that out.

DR. IRVING KAPLAN: With regard to the problem of atomic energy and also other weapons, it seems to me that what is required is an international

agreement on the control and inspection of atomic energy; that beyond that there would be required a new definition which would define aggression as a violation of such agreements, whether it was an overt act of war. Then in addition to that there would have to be some method of enforcement.

The question is: What could be done under the Charter as it stands, or how would the Charter have to be implemented to obtain those ends?

PROFESSOR KIRK: On the first point, you will notice that there is not anywhere in the Charter a definition of aggression. The matter was discussed at Dumbarton Oaks and discussed again at San Francisco, and the weight of opinion was that in the light of the experience of the last twenty years, with attempts to define aggression, it is much better to leave the matter to the Security Council so that it will be unhindered by the requirements of a predefined aggression when it should be faced with any situation or threat to peace. So there is nothing now in the Charter which would prevent the Security Council from meeting your point.

CHAIRMAN JESSUP: In other words, if there were an agreement in regard to atomic bombs or atomic energy and that agreement were violated, under the Charter today the Council could immediately take action against the state which broke the agreement.

PROFESSOR KIRK: I agree.

DR. KAPLAN: What kind of action could it take?

PROFESSOR KIRK: I think under those circumstances the Council would be free to choose its own type of action to meet the situation, subject to the decision in the Security Council where the veto applies. I don't think it would be restricted to economic or diplomatic action.

DR. RIDENOUR: I would like to ask what is meant by creating agreement about the control of atomic bombs. Isn't this what this implies, what turning this question over to the jurisdiction of the United Nations implies, that the organization must somehow be able to create international law, which

I gather from Mr. Eagleton is not possible under its present terms? The creation of binding agreements amounts, it seems to me as a layman, to the creation of international law.

PROFESSOR EAGLETON: That is what I mean. The organization itself has no legislative body which can make a law binding upon the states, but it can draft a treaty, a new code of international law, and submit it to states, and if they agree upon it and accept it then it becomes law.

DR. RIDENOUR: Do you consider this particular circumstance is such that it would be better to do what you just said, or to empower the Assembly perhaps to become a legislative body in behalf of the sovereign nations of the world with respect to this limited area?

PROFESSOR EAGLETON: I am perfectly sure, in the first place, that you could not get, and I doubt very much, in the second place, whether I myself would want, a legislative body able to bind sovereign states in any field; but it might be that you would want to create a body with power to legislate in certain very limited fields for the purpose, say, of being able to control the atomic bomb. On that question, I would want to know what the proposal was, what power would be given.

DR. MAY: I would think by and large you would be apt to get further by having your controls drafted for agreement by the constituent nations than by trying to put through a generalized story which you could not well define as to area in which you were going to allow the centralized body to make legislation.

PROFESSOR KIRK: I would agree with that fully because it seems to me that this is peculiarly a thing which has aroused considerable apprehension. The attempt to create a control agency without clearly defining the scope of its powers would not be a practical step. The only practical step is to follow the regular procedure of using this United Nations Organization as an agency for the preparation of a scheme which will then be approved by the

member states in separate conventions.

DR. RIDENOUR: We already have an example in this country. All the War Department could think of is the possession of such terrific powers that it could do anything. Because the situation is likely to change so seriously through discoveries, etc., nothing else would guarantee control.

PROFESSOR HOGNESS: It seems to me that the atomic bomb placed the emphasis on the veto power of the Security Council. I wonder what the obstacles are in the path of having that veto power removed?

PROFESSOR KIRK: There would be every obstacle in the path of it. It was made perfectly clear at Dumbarton Oaks as well as at San Francisco that it would not be possible to have an international organization in which the Soviet Union would be represented which did not possess a charter providing for the veto power. Also, I think we would have had a great deal more controversy in the Senate had it not been for the veto. I am quite certain we would not have had the membership of the Soviet Union in the organization.

PROFESSOR HOGNESS: Is it possible to remove the veto power merely for questions of the atomic bomb?

PROFESSOR KIRK: No, I should not think so. It seems to me that this is a matter which would be regarded as being extremely fundamental in all categories of substantive decisions of the Council.

PROFESSOR EAGELTON: I think the veto ought to be removed, but I don't think there is any chance of getting it removed until the American people persuade their Government, which wants the veto just as much as Russia does, that the veto should be removed. You have to go back and tell the people that.

DR. RABINOWITCH: From the point of view of the atomic bomb, there is a distinction between the two problems -- the problem of the mechanism to establish the compliance of the different states with the international agreement, and the question of sanctions. The first reaction which arose, which

was mentioned by Dr. Hogness, is that the power of sanction should be stopped, that the veto should be removed.

However, I think the two questions should be held separate. We mentioned yesterday that the inspection has value even if it would not imply any automatic sanctions, but it would provide the safety and security of knowing where the bombs are made, if there were any evasions anywhere.

From this point of view I would like to ask the question: How much additional power, additional elaboration of the Charter, would be necessary to take care just of this one first step -- the step giving the UNO the technical possibility of inspecting and making sure?

PROFESSOR EAGLETON: It would require an amendment of the Charter, that is to say, it would require the agreement of most of the states.

PROFESSOR KIRK: An amendment is not required. It would require the conclusion of separate international conventions of the members.

DR. SHOTWELL: I don't think it even requires that. I think under Article 22, which provides that the General Assembly may establish such subsidiary organs as it deems necessary for the purposes of performing its functions, that can be done. I don't see why under that Article it cannot establish an inspection organization which then can do the policing afterwards -- why it is not possible later merely as a matter of procedure and by resolution of the Assembly to do that.

MR. EICHELBERGER: And the veto does not count in the Assembly.

CHAIRMAN JESSUP: That organ created by the Assembly would then have the power to inspect?

DR. SHOTWELL: That would be according to the rules set forth in the Assembly. The Assembly has a right to establish its procedure without any veto from the Council, and Article 29 allows the Council to do the same thing, to establish an ad hoc agency. That is what Dr. May was referring to, these organizations which could be set up.

The point which Dr. Rabinowitch has made seems to me a very fundamental one. The terms of reference should be clearly defined so it does not seem to be getting into the field of the Council for its action on security measures necessary at a critical time. You want to have the possibility of finding out the facts, and I don't see why that cannot happen under the existing Charter. Maybe I am wrong and perhaps my colleagues don't agree.

PROFESSOR EAGLETON: I understood that question to mean that the organization should have the power to go within the states and make inspections.

MR. EICHELBERGER: If you mean power to go within the states and make inspection, I don't believe that can be done either without amendment or outside agreement -- at any rate without agreement of the sovereign states.

I think Dr. Shotwell is quite correct, that you can set up the organization, and working from the outside, you can get a lot of information; but I don't believe it could be given the power to go inside of a sovereign state and inspect the factories and mines, etc., without agreement among the states.

DR. RABINOWITCH: It has nothing to do with the veto power. You would have to have the agreement of any small nation for this question.

DR. SHOTWELL: That is so.

CHAIRMAN JESSUP: The veto power is not involved.

DR. SHOTWELL: May I just add this, that the word "recommendation" is a much bigger word in international operations than it seems to be. If you have practically unanimous recommendation from the great assembly of nations it has terrific power.

CHAIRMAN JESSUP: It might be noted that the Trusteeship Council has the power to send inspectors into dependent areas for the purposes of the Trusteeship Council, which is an indication that states have yielded the rights in those particular areas for a particular purpose; but I think perhaps the views which have already been expressed have covered your point that it would

be possible in the opinion of some, at least, for the General Assembly resolution to establish an organ with powers of inspection, with Mr. Eagleton's reservation that in order to get into a particular state you would have to have concurrence of the particular state in that particular exercise of power. There may be some difference of opinion on this panel on that point, but I take it all are agreed with your point of view that the veto question is not involved. It is merely a question of the general consent to the operation of the inspection system.

DR. SHOTWELL: May I add just one word to that? One way that you can help inspection in the field of atomic energy is to get behind the inspection in these trusteeship matters, in parallel things. I think the scientists have concentrated their attention too exclusively on their own aims and have not seen how they can get a precedent established parallel with their needs, and that one of the main things to work for at the present time is to get the United States of America to live up to its obligation in the matter of trusteeship.

MR. JEROME L. ROSENBERG: A suggestion was made yesterday by Dr. Hogness, I believe, that another measure apart from the application of force and apart from inspection, might be the restriction for a period of some years of the actual operations in power production for atomic power. What would be necessary in the nature of international agreements or amendment to the Charter to make the sovereign states agree to cutting down the production?

PROFESSOR KIRK: I should think again that would require special agreement, but not an amendment of the Charter.

PROFESSOR EAGLETON: It could be either way, but it could be done outside the Charter.

CHAIRMAN JESSUP: It could be done outside the Charter. You would not have to amend the Charter.

PROFESSOR EAGLETON: By the way, if the process of amendment would be used, the veto would come in.

CHAIRMAN JESSUP: The veto would come in, but if done by a separate agreement the veto would not come in.

MR. ROSENBERG: It could not be done without the one or the other?

PROFESSOR KIRK: I don't think it would be.

MR. LYLE W. BREWER: Going just a little bit farther on this subject of the action against the sovereign states, would it be possible within the framework of the United Nations Organization to set up a staff which could take action against individuals within sovereign states, provided there were certain rules and regulations set up by them? To what extent would the Charter have to be changed before that sort of thing could be done?

PROFESSOR EAGLETON: You would have to change not only the Charter, but the fundamental principles of international law as now conceived.

CHAIRMAN JESSUP: Would it be both the Charter and the international law?

PROFESSOR EAGLETON: If you put it in the Charter that becomes international law for the signatories.

CHAIRMAN JESSUP: You would need the amending of the Charter to bring about the change in the international law?

PROFESSOR EAGLETON: It could be done on the outside again by making a lot of agreements on the outside.

PROFESSOR KIRK: It could not be done under the present Charter.

PROFESSOR EAGLETON: No.

MR. BREWER: Was there not some such arrangement made under the former set-up? Was not the opium control on some such basis as that?

CHAIRMAN JESSUP: The opium control operated on individuals but only through national states. The enforcement machinery was the machinery of national states acting on the individual. The international group did not act

directly on the individual. I think we would all agree with Professor Eagleton that the present system is based entirely upon the idea of the international law operating only on the state -- that it requires very fundamental changes in the thinking about the international legal process to have it applied to the individual. A good deal of discussion is taking place on that, particularly I think in connection with the Commission on Human Rights, where presumably you could not have a working system unless you do bring it down to the individual.

MR. DAVIS: In achieving agreement about atomic bomb control, or atomic energy inspection, I think the Americans would have to consider one difficulty about which Clyde Eagleton did not say anything. That is the difficulty created by the clause excluding matters essentially within the domestic jurisdiction by the state. I don't believe that those difficulties cannot be overcome. The reason that I say they would have to be considered, particularly by the Americans (having sat through the Commission debates on the subject, and I know Clyde Eagleton would agree with me, having been attached to the United States Delegation), is that that clause is there because the United States insisted, against considerable opposition by other delegates but with the tacit support of the great powers. That is in effect an American clause in the Charter, and we are the major obstacle to getting rid of the difficulties at that point.

Since the inspection of this type would involve entering so far in the private operations within countries, we have to expect a considerable opposition to be overcome at that point.

PROFESSOR EAGLETON: Yes. You might notice that for a while it was argued that it was constitutionally impossible to do such a thing because it belonged to the member states of the United States. In the federal system I think we have got beyond that constitutionally, but we still have the feeling that inspection, manufacture, etc., are domestic questions, and if we maintain

the same position we did at San Francisco, we would exclude any right of any inspection control over raw materials or anything.

DR. SHILS: If the inspection agreement or convention provides for no sanctions other than publicity for evasion or abrogation of the inspection agreement, would it be desirable and practical to keep the Atomic Energy Commission in the hands of the Security Council?

PROFESSOR KIRK: At the moment, the proposed resolution of the Moscow communique puts it directly under the responsibility of the Security Council.

DR. SHILS: You think it ought to be there, or do you think there is a chance to get out from the control of the Security Council to evade the veto power?

PROFESSOR KIRK: In view of the military importance of this I don't think there is any chance of taking it out of the hands of the Security Council.

DR. SHILS: If it did not involve the use of military sanctions, if the agreement of inspection did not involve the invocation of sanctions?

PROFESSOR KIRK: I still don't think it would have any chance, but that is a purely personal opinion.

DR. MAY: I agree.

PROFESSOR EAGLETON: I agree too, but I think the Assembly is going to do a lot of talking on it.

CHAIRMAN JESSUP: I don't wholly agree, but it may take a little time to shift it over.

DR. SHILS: You think it is desirable that it be kept out of the hands of the Council?

DR. JESSUP: Yes, I do personally.

PROFESSOR EAGLETON: I do too.

DR. WILLIAMS: I just wanted to carry the discussion of inspection a little further. It was suggested yesterday, and we all agreed, that inspection

probably is not a 100 percent safeguard against illicit diversion of material from plants. It was suggested that possibly having an international operation of all plants and all mines would be a more secure way of running the business than the other. Would this be possible with this UNO framework? I assume that it would have to be done by individual treaties again.

Is it possible to internationalize a whole field such as atomic energy? In other words, could you internationalize all the mines, all the power plants, all the research laboratories, etc.?

DR. MAY: I don't see anything in the Charter as it stands now that contemplates an activity of that kind on an international basis. If you don't internationalize your military forces themselves I would think that it would be stretching it a bit. There is nothing in the Charter set-up to say that you had authority to internationalize your productive resources, so I don't think that is in the contemplation of the present Charter.

PROFESSOR KIRK: But it could be done, could it not, by a special agreement which would not require amendment of the Charter?

DR. MAY: Obviously.

PROFESSOR KIRK: That is the point which is being made. Any of these things can be done by special and separate international agreement, and the powers can be conferred upon a commission created under the authority of the Charter without amending the Charter specifically.

DR. MAY: Absolutely; you could set it up if it were decided that it was a thing which the nations would mutually agree to do.

PROFESSOR EAGLETON: That implies also the power to forbid manufacture within a state, which is a big problem.

DR. DONALD A. MacRAE: I wonder if we could have an expression of opinion by the experts or the scientists as to which would be preferable, to amend the constitution, or separate agreements, considering all the political aspects involved -- on all of these general problems involving inspection

and atomic energy?

PROFESSOR KIRK: I am in favor of the special agreement procedure because it is apt to be easier to change than the amending procedure for the UNO.

DR. MAY: I think I would agree with Professor Kirk that the only practical way is by agreements on definite points. The Assembly would, if it were given the authority to set up its own definition, do so in more general terms and get into so many fights you could not possibly put it through. I don't think you could get accurate enough definition.

PROFESSOR EAGLETON: I don't know. I think it would depend upon the circumstances. If it were a case in which there would not be a veto exercised, you could get agreement by a smaller number of states, that is, two-thirds majority would carry the amendment, whereas the agreement on the outside would not bind the states which do not sign. On the other hand, there may be a withdrawal if the amendment were passed. It would depend upon the circumstances of the case.

DR. SHOTWELL: I would like to ask whether the Federation has been giving serious thought to the problem of setting up an international corporation? Has that ever come up in a discussion of your plan?

DR. KAPLAN: Not formally. It has been proposed but there never was a definite proposal.

DR. JOHN A. SIMPSON: I would say discussions have gone along among various individuals as far as considering the production of fissionable material for distribution to various countries for research and power plants.

DR. SHOTWELL: Don't you think that is a good thing for us to investigate?

DR. WILLIAMS: I personally feel that that is probably one of the more promising solutions. It really makes the inspection system automatic in the sense that if any of the operating plants are operated by this international

authority, they would be operated by an international personnel which probably would have to be circulated around. If that sort of a thing is possible and if we could convince the peoples or governments of the countries that it is possible, that would afford or complement a very good inspection system to look for secret mines. This would only cover known plants which were admittedly operating under such regulations.

CHAIRMAN JESSUP: It is true, isn't it, Dr. May, that in the earlier stage there have been discussions of the feasibility of international corporations for the development of raw materials in the mandated areas, or what we now call trustee areas?

DR. MAY: That has been considered. Your problem is worth exploring. Personally I think it has to be very carefully defined for this reason: It is practicable to set up international control over any power enterprises which it is proposed to set up. The international body would have to decide how much was needed and which ones should be set up, and, pretty importantly, where. If you allow nations to develop power uses, whether or not they are economical but on a fairly important scale, your enforcement inspection problem will not only be made extremely difficult but you build up another competitive level. If one nation sets up 80 such piles, then another nation wants to set up 80 such piles in its own jurisdiction too, because if your control mechanisms break down you don't want to be behind the others in the time it will take to build them.

I believe that this is such a potentially important point that if you start developing power many nations will develop it quite uneconomically even though it is not performing any economic function. International control seems to have great possibilities but that control should include the decision as to how many power enterprises should be set up and where.

DR. HUGH C. WOLFE: We have not come quite to grips with some of the things I had hoped to learn about here today with regard to the international

control of atomic energy and where it fits in the picture.

You have been talking about the Atomic Energy Commission, and whether it should be under the Security Council or under the General Assembly; but we have not decided what the Commission was to be or what it was to do, and that certainly conditions the answer to the question of where it should be located.

The Commission proposed at present is a commission to try to work out procedures and plans for what to do rather than to be a commission to control atomic energy. It seems to me that the question of that commission reporting to the Security Council may be somewhat different from the question of what final controls there should be, and where they should be controlled and regulated.

I listened to a very interesting talk by Mr. Finletter one day in which he discussed the implications with reference to world government in the idea of the control of atomic energy, and in which he pointed out that all three of the essential phases of government would have to be involved somewhere -- the phase of setting up of regulations for what can and what cannot be done in the field of atomic energy, which is essentially a legislative action of a government; setting up of inspection and police procedures, which are essentially the executive function of the government, and setting up of mechanisms for deciding when there had been violations and what kind of violations there were and what penalties ought to be imposed, which is essentially a judicial function.

I am not proposing that the United Nations Organization should all at once become a world government for the purpose of the control of atomic energy, but I would like to get some analysis of what would be the various mechanisms which would be involved in the setting up of these various phases. Presumably the legislative one, which I have talked about, could be simply the setting up of an international agreement to be signed by the various

agreeing powers. The inspection, the executive function, should presumably be assigned to some organ of the United Nations set-up. The judicial function should probably go to the International Court of Justice; but it would seem as though the agreement to use that International Court would have to be a part of the original agreement setting up the whole scheme of control of atomic energy. I would like to have comments from the political people on that.

PROFESSOR EAGLETON: Simply, each case that you suggested would imply the agreement of sovereign states within or without the Charter. It would be possible to set up international police without setting up the Charter, but any of these things which you suggested would require the agreement of the members.

DR. WOLFE: Where does it fit into the structure of things? That is the trouble about agreements on the outside. The agreement on the outside of the Charter and the outside agreement could not authorize the organization itself to do something very well.

CHAIRMAN JESSUP: Could it not? The General Assembly may propose any convention to the member states. On your legislative end I take it this is true: the General Assembly could propose a convention which could lay out the legislative plan, so to speak. That legislative plan would include a provision for its execution by some agency which would be specified in the convention, and it could also provide for submission to the Court of any questions arising under it. You would not need to go beyond that on the execution of the Court's decision because it is already in the Charter that the Security Council may take steps if a state does not carry out its action under a decision of the Court.

In answer to your specific question as to how it fits in, your burden first lies on the General Assembly to legislate in the sense of proposing a convention, which would then have to be approved by the member states. Once

that was approved, the executive and judicial consequences contemplated in the convention would be operative. There would be no difficulty within the framework of the Organization of designating the executive organ.

PROFESSOR EAGLETON: That implies, as Dr. May said a moment ago, that the Organization must accept it, and there is the possibility of a veto there.

CHAIRMAN JESSUP: If it is proposed by the General Assembly, it is proposed by the Organization. If that convention proposed by the General Assembly is accepted by the states it becomes operative. It is done by the Organization though a proposal of the General Assembly.

DR. WOLFE: How does this relate to the setting up of a commission such as now proposed, which would report directly to the Security Council? As I understand the proposal, if the action that it is proposed to take is a setting up of an agreement under the aegis of the General Assembly, where does this commission reporting to the Security Council fit into the picture?

PROFESSOR KIRK: It becomes an agency set up by resolution of the Assembly, and then, although it is officially designated as a control commission, it is an agency whose primary function is going to be that of investigation and making proposals, etc. Actually, the proposed resolution contained in the Moscow communiqué does not confer real control of atomic power upon it at all.

DR. WOLFE: Though it functions under the Security Council as proposed in Moscow, its reports would eventually be made both to the Security Council and to the General Assembly -- a report recommending action in the way of setting up a mechanism. Is that right?

PROFESSOR KIRK: I don't think it is clear whether the report is to be made to the Assembly by way of the Security Council or whether it is to be made directly to the Council or the Assembly.

CHAIRMAN JESSUP: Regardless of the form in which it is proposed,

don't you think it is likely that the General Assembly in adopting that resolution will put in something to make sure it gets the report either directly or otherwise? In other words, it will surely come to the General Assembly. I cannot imagine the General Assembly passing up some provision on that.

PROFESSOR KIRK: I would think so.

PROFESSOR KERR: I am very much interested in this proposal for a corporation or a commission or cartel -- I don't care what you call it -- but something which will control the purchase and sale and distribution of raw material.

If something of that sort can be worked out within the framework of UNO, either by amendment, or by agreement, it will tremendously simplify the problem of inspection. I don't believe we have to look any further than some of our present day commodity corporations to see how that might apply. The incentive element is very important in the handling of raw material. If it is to a man's advantage to sell to a certain organization, that is a tremendously important factor in connection with any inspection program.

I can see in the problem we have before us that that would take care of and simplify a great deal of the inspection. It does not completely solve the problem of the desire on the part of the nations to evade, and I think we need something in the framework to reach that part of the problem. I would very much like to hear discussion from the panel concerning this general problem of the control of raw materials -- the machinery which can be set up for that and perhaps the simplest way of doing it.

DR. MAY: There is a great deal to be followed up there, Dr. Kerr, and I think there are analogies for it. It is not as simple as it sounds. Professor Jessup just suggested quite correctly that you have an analogy in that sense in your Bank or in your Fund. It was decided for certain kinds of international credit to be extended that there ought to be an international agency to make the decision, to look at the uses to which the funds are going

to be put, to make a judgment as to whether they were generally productive enterprises which could be expected to generate repayments, etc., and so you have set up an international organization there that has a definite governing board set up from various nations into which they contribute funds and they say, "You parcel them out." They have done that even more impressively in the Monetary Fund where again you have your pooling of the funds put up on a pro rata basis by the several nations. You have a governing body, and its choice is provided for, and there is specific machinery for it. You have then all the nations agreeing, by much the process which would be comparable here, that they will so control their internal affairs -- to take a specific example, that they will not change the valuation of their currency more than 10 percent without submitting the question to the Monetary Fund and getting ratification for it.

CHAIRMAN JESSUP: You have definite sections on the withholding of credits if they don't comply.

DR. MAY: It is not only worth exploring, but there are some analogies here which are not too farfetched.

PROFESSOR KERR: I am very glad to hear that. That is worthy of further exploration. It will take more time than we have here.

CHAIRMAN JESSUP: I was just going to say it is a subject on which Dr. Shotwell might want to set up a special committee, to examine what has been done along that line and what can be done on that problem.

DR. SHOTWELL: That is the reason I hit right on the point when Dr. Williams raised it.

MR. GEORGE A. FINCH: I think the discussion has shown that this problem of the control of atomic energy, the encouragement of its use for legitimate purposes and the appropriation for legitimate purposes, is as wide as the whole problem of government itself, and the discussion of one point does not exclude the discussion of another point. They can all be discussed

parallel at round tables and all put together at the end.

I would like to limit what I am going to say to a very small fraction of the question under discussion. When you come to the enforcement of inspection, I take it that the United Nations through its proper channels can reach an agreement, or the nations outside of the United Nations can reach an agreement duly accepted by the United Nations as being in consonance with the principles of the Charter, setting up the necessary system of inspection, whatever that may be.

No agreement of that kind, however, will be self-executory. We come down then to the question of the enforcement of these provisions agreed upon for the inspection, to see that the substantive agreements are carried out and not violated.

I think at this stage of our international development we have to follow the same procedure and adopt the same methods which we now follow with reference to other matters, namely, that this international agreement, whatever it is, will have to be implemented by national legislation in each country just as we have national legislation implementing our narcotic act. We have a law which supplements the International Narcotics Convention, making it a crime to violate that convention, prescribing penalties, and it is enforced by special narcotic squads over here who are very efficient people.

We have had the same, in a way, with the question of disarmament when we agreed to disarm. We carried out disarmament when sanctioned by our own national action. We sank a large number of our battleships and tried to live up to this agreement.

We have to assume that the nations will enter into this international agreement regarding atomic energy in good faith, and that they will pass implementing legislation making it a crime and prescribe penalties for the violation of these inspection systems. That is the way in which we have to do those things at the present stage of our international development, when we

cannot envisage a system of international courts and international sheriffs to go into each country and carry out these enforcement penalties. We have to assume that there will be good faith in carrying out the agreement, not only good faith in this country but in all the other countries. In that way we solve the very serious problem which Mr. Malcolm Davis raised, about the United Nations Charter not interfering with our domestic affairs. Certainly the passing of legislation implementing that makes it a domestic affair to enforce the international agreement.

PROFESSOR EAGLETON: Mr. Finch has raised an important point. Maybe we cannot go any further than that today. I am quite sure that it would contribute a great deal. I doubt if it will satisfy a lot of people. It will not satisfy me in the case of a strong aggressor -- a state that made up its mind to aggression -- if all the inspection that was possible was the inspection which that state itself provided. It could conceal the fact that it was preparing for aggression in the use of the bomb; but it may be that we can go no further, and if we do go that far we will have gone quite a way.

MR. FINCH: May I say just one word on that? I don't believe it is going to be humanly possible to erect any system of inspection or prohibition which is going to be perfect. We have to have something in the back of our minds, some ultimate penalty for the nation that transgresses the law which is laid down in this respect. That brings you to the question of aggression and of the punishment of an aggressor. You come back to your veto power, and these other things.

If you have a system of inspection agreed upon internationally, if you have it implemented by national legislation so as to make it effective by international boundaries, you are still confronted with the fact that if some nation should want to commit an aggression, then you are beyond the question of controlling atomic energy. You are then in the general field of punishing an aggressor. How are you going to punish the aggressor? The only way we have

done it within nations is to pass laws. We will have to have some other international law -- that the penalty for aggression is so-and-so, and we are going to have an instrumentality to enforce it.

MR. ARMITAGE: The McMahon Bill provides for ownership by a national commission of the mines, materials, atomic energy, etc. In view of the fact that the bill provides that it will be subject to whatever international agreement the country makes, just what would be required -- what would have to be done -- to transfer ownership to an international commission? I am thinking principally of patents -- whether under the UNO Charter as at present written you would be able to force compliance with the commission through a control of patent rights or by other means? I am assuming our government would be willing to turn its property rights to ownership over to an international commission. I am assuming also that Britain, Canada and other countries would agree. Would they?

PROFESSOR EAGLETON: Are you assuming internationalization? I don't see much prospect of internationalization on that basis; but if it should be undertaken, I should think the McMahon Bill would be a step on the way which would enable us or help us to do it, if we wanted it done.

DR. MAY: I should think that there would have to be a lot of agreements as to what should be developed or not developed, and restrictive laws within the country against unauthorized developments and things of that sort, rather than attempting to turn over everything that might fit into this category to an international corporation.

From what little I understand about mines, you are either talking about going mines or potential mines, and pretty nearly all the earth's crust is probably a potential mine of one kind or another insofar as you have granite.

MR. ARMITAGE: That is true; but I was interested in whether you might possibly use the patent rights which would be transferred as a way of enforcement. Just what is the international law with regard to patent rights?

DR. MAY: You have nations which subscribe to them and nations which don't immediately. I think that that is a fairly weak reed. That is throwing you right back on your own national enforcement.

I don't quite agree with Mr. Finch here. When it is a question of controlling individual action, you work through the government in which that individual lives. But I take it that what is required here is not only the ultimate punishment which you are thinking of if one nation becomes an aggressor, but this is so important that nations are demanding of each other that they give an earnest of the fact that they are acting in good faith and therefore they are demanding that they make available inspection rights to other nations through an organization as an earnest of the fact that they are not, as states, violating.

CHAIRMAN JESSUP: Isn't it true, Dr. May, that through the operation of the cartel system you have been able to get through private industry control something of the kind of control of patent rights, the observance of restrictions on manufacture, etc., to which the question I think is addressed, and that it is perfectly conceivable that that same efficiency which was obtained through cartel arrangements might be obtained through intergovernmental arrangements?

DR. MAY: I would say it was never very efficient. The history of cartels, as I remember it, is that a number of them have lasted very effectively on their particular agreements, good or bad, over a number of years and a number of them have folded up, and that it has never been a very strong reed to lean on.

DR. FRANCIS T. MILES: I would like to ask a question about individual responsibility in case of the diversion of small amounts of important material, which would be the work of a few individuals. It has been stated that this would be a matter for the government, and that there is no international arrangement covering it at present. I wonder whether the Nuremberg trials are

working toward anything that could give responsibility to the individual beyond his government, to an international board?

PROFESSOR EAGLETON: If they succeed, I suppose it would set a precedent. There are some other precedents. A pirate is an enemy of all people. That has been a precedent. It has been very rare where it can be argued that the international law reaches down to the individual. If the trials succeed in establishing those rules, you would simply have one other precedent added in that respect.

DR. MUDD: The topic on the program here is "Proposals for implementation or amendment of the Charter to make it a more adequate instrument for international control." I did not want to bring up the question of amendments until this question of implementation had been thoroughly discussed.

The thought seems to run all through the discussion for two days here that the difficulty inherent in setting up any practical system which will work is that we are depending upon the good will and cooperation of sovereign states, and as far as I understand the whole history of international relations, it is that sovereign states will cooperate just so long as the vital interests of any individual state or a dominant group in that state are not jeopardized. When such vital interests are thought to be jeopardized, the gentlemen's agreement becomes a gentlemen's disagreement.

I am wondering if it isn't really very much in order to think a little bit more clearly and explicitly in terms not of the moment but of five years from now, or ten years from now, of calling a constitutional convention of the United Nations to draw up amendments or a new constitution which will not be between sovereign states that have to agree individually in every instance to cooperate, but in which there will be a majority which will force cooperation in the sense of the Constitution of the United States?

I wondered in connection with what Dr. Shotwell said if it would not be a useful line of investigation perhaps to follow a little more closely, and

possibly at short intervals, the change of public opinion on which all these matters appear to rest. Would we not be in a better position to discuss the drift of opinion if some means were discovered or utilized for appraising what people are thinking about a project like international federation, not merely international confederation but international federation, like the United States of America or the Union of Soviet Republics?

Everybody last night talked about scientists as international minded and as living in one world. As a matter of course some do, but also they assumed that other groups do not. I am not sure that that is true. About fifteen state legislatures passed the Humber resolution calling for federation of the world. In other words, there may be more rapid and drastic change in public opinion than is apparent, and I am simply raising the question if it is not worth while to assess that rather accurately and rather frequently in order to see where we are and possibly see how rapid progress we can make.

CHAIRMAN JESSUP: Dr. Mudd has raised the question fundamental to the discussion of all international organizations. It is the topic of the meeting this afternoon also, but it is certainly germane to everything we have been discussing.

DR. SHOTWELL: I would like to make just a passing comment. I have a personal reluctance to accept as scientific any of the public opinion polls. I don't think we know from polls about the way public opinion goes, nor do I think they are a safe guide even if we knew, because the problems on which the questions are asked keep changing.

I had a public opinion poll made in Canada some years ago on relations with the United States. It was done very carefully in the different provinces, and at that time it was quite antagonistic to the United States. Then President Roosevelt went to Canada and it was all changed.

I am just expressing my own skepticism so far as the science of measurement of that is concerned. I do think the way to get it is to have a

specific proposal and to know what that proposal is. Present it and carry it through, and I have enough confidence in the public of the United States to believe that if the proposal is sound it will have public support. But the idea of whether the United States will stand for world government or not, for instance, raises a question which is not defined. No one knows exactly what is meant by it. Moreover the vote which one gets is deceptive.

There is a way of getting progress in public opinion by specific questions on specific things. I don't mean to say that public opinion polls are bad. I merely mean that they don't convince me.

DR. J. BARKLEY ROSSER: I want to enter an extremely vigorous protest against one presupposition which seems to be underlying everything we say, both what was said yesterday and today, and that is that there is something fixed and permanent about the atomic energy processes.

There was a lot of discussion whether we should allow a country to build one big pile or ten small piles, and things like that; and specific suggestions were made that we might perhaps limit everybody to small power piles for say ten years or twenty-five years, or so.

I think that if someone should get up and say the most likely thing which would happen in ten years is that some totally different way of preparing extremely dangerous materials would appear, he might not be wrong. Ten years ago Albert Einstein stated flatly that there was no way to get atomic power, and nobody contradicted him. Four years later fission was discovered. The same Albert Einstein went to President Roosevelt and started the bomb.

It is certainly true that the present technique requires that something be done. At the same time while doing something about it we have to allow for the fact that new techniques may come in. If we do something only for now we will have to go all over this thing again ten years from now.

DR. SIMPSON: In regard to Dr. Rosser's remark, I was wondering what the group thinks about the possibility of an international laboratory in which

all missions working on military weapons and new ways of producing fissionable material would make periodic reports to all the nations, irrespective of whether they worked in the laboratory or not. There would be a rotating personnel where the men would work for one or three years. This arrangement would be set up to give the Security Council an idea of what was coming up or what to look for in the future.

This proposal has been made several times. It is something which might be considered.

DR. RIDENOUR: I have heard of this proposal. It is an extremely harmful idea. It is harmful because in the old days all laboratories were in point of fact international laboratories. The proposal as set up for an "international laboratory" which works on weapons and informs the Security Council, etc., is in fact a proposal to set up a laboratory which is not in the truest sense scientific because secrecy requirements would almost certainly govern and veil its activities and results. That is an extremely harmful suggestion because it takes your eye off the ball.

DR. RABI: If one is to have some controlling authority that authority has to have information of its own to anticipate the kind of things which it has to inspect. It would have to be in possession of the most advanced knowledge and be a laboratory not so much for making weapons of war but to keep on studying the fundamentals and all the possibilities, and to be sufficiently extensive to be ahead of everybody else in knowledge. There would be no reason whatever for secrecy in such an organization if it were a going concern. If it were not a going concern, there would be strong reasons against spreading dangerous thoughts.

DR. RIDENOUR: My objection to it hinges entirely on whether the authority were in the exclusive possession of information or whether it simply supplemented a properly free international science.

DR. RABI: It would be the leader.



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