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Summary record of the 43rd meeting

Topic:
Question of international criminal jurisdiction

Extract from the Yearbook of the International Law Commission:-
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that the word should be understood to signify the "ideal".

49. Mr. HUDSON inclined to the sense of "need", since he could not say that such a desire existed generally in the world. There was no point in considering the desire to establish something if the need for it was not felt. He suggested that a single question be put to the vote: was the establishment of an international court desirable and possible?

50. Mr. YEPES was in favour of the establishment of the court, and agreed with Mr. Hudson. If the advocates of the view that it was desirable to establish an international criminal court could prove that its establishment was impossible or dangerous, they would drop their argument. The two questions should be examined together, though they might be voted on separately.

51. The CHAIRMAN thought that the General Assembly resolution made it quite clear that there were two separate questions involved. The first—to which he would answer yes—was whether world public opinion desired the establishment of an international judicial organ.

52. Mr. HSU supported this view, and thought it was desirable to establish such an organ even if all States might not have the same opinion. The international community had reached a point where the creation of an international criminal court was a necessary development. It was a moral issue. But as manifold difficulties would arise when an international court was established, those difficultues must be pointed out to the General Assembly and practical suggestions made for overcoming them.

53. As Mr. SANDSTRÖM and Mr. BRIERLY were afraid they would be unable to answer with a plain "yes" or "no" to the question, the CHAIRMAN pointed out that any explanation of the voting would be included in the summary record.

54. Mr. BRIERLY felt that the two questions were so closely bound up that it was extremely difficult to separate them.

55. Mr. HUDSON was rather concerned about the possibility of voting on the two points separately. It would create a bad impression throughout the world if a majority of the Commission admitted that it was desirable to establish an international Court, and then went on to declare that it was impossible to do so.

56. Mr. ALFARO maintained that the two problems could be discussed separately, as they had been in his report; and then put to the vote together.

57. The CHAIRMAN said he would ask the Commission to decide the point at the next meeting.

The meeting rose at 1 p.m.

43rd MEETING

Friday, 9 June 1950, at 10 a.m.

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Chairman: Mr. Georges SCELLE.

Rapporteur: Mr. Ricardo J. ALFARO.

Present:

Members: Mr. Gilberto AMADO, Mr. James L. BRIERLY, Mr. Roberto CÓRDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Mr. Faris el-KHOURY, Mr. A. E. F. SANDSTRÖM, Mr. Jesús María YEPES.

Secretariat: Mr. Ivan KERNO (Assistant Secretary-General in charge of the Legal Department); Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

Desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction will be conferred upon that organ by international conventions: working papers by Messrs. Alfaro and Sandström (General Assembly resolution 260 B (III) of 9 December 1948) (item 4 of the agenda) (A/CN.4/15) *(continued)*

1. The CHAIRMAN asked the Commission whether it felt that the problem had been sufficiently discussed at the previous meeting for a vote to be taken.

2. Mr. SANDSTRÖM considered that to vote merely yes or no would be of little value. He suggested that a member of each of the two groups which had emerged be asked to give a reasoned opinion, which the Commission would then discuss. Those members of the Commission who found themselves unable to agree with either would then have an opportunity to explain why.

3. The CHAIRMAN pointed out that in that case there would be a majority report and a minority report. At the previous meeting the suggestion had been rather to ask the Commission whether it wished to vote separately on the two questions at issue or to vote on one question combining the two points; he felt that it was on this that the Commission should decide first. There was no point in stating in advance that there would be two opinions. Although there was no precedent for presenting a majority and a minority report, obviously it was possible to do so.

4. Mr. YEPES remarked that the two reports already prepared answered Mr. Sandström's requirements.

5. The CHAIRMAN thought that the best method would be to consult the Commission as to how it wished to vote.

6. Mr. FRANÇOIS asked that the vote be postponed until the Commission had listened to a reading of the part of Mr. Alfaro's report dealing with the possibility of establishing an international judicial organ.

7. Mr. el-KHOURY said that if the Commission thought the establishment of a court was not desirable, there was no point in considering the possibility of setting up such a court.

The Commission decided to hear the rest of Mr. Alfaro's report.

8. Mr. ALFARO asked whether he should assume that the discussion on the first question was now closed. If so, he would read the part of his report dealing with the " possibility " (A/CN.4/15, Part IV).

9. The CHAIRMAN felt that the first question had been sufficiently thoroughly discussed, but as the debate on the second question would have repercussions on the first, he thought Mr. Alfaro might be asked to go on with the reading of his report.

10. Mr. BRIERLY thought it was difficult to separate the two questions.

11. Mr. ALFARO said that in accordance with the civil code of countries which had adopted the Napoleonic Code, the terms employed in laws should be given their manifest sense unless it was indicated *expressis verbis* that the legislator was using them in a technical sense. He had used the words " desirable " and " possible " in their ordinary sense, the sense given in dictionaries such as Webster and Littré.

12. He read out the first two sentences in paragraph 128 of part IV of his report (page 42). He was well aware that the 1937 Convention for the creation of an international court had not been ratified, but the fact that thirteen States had signed it did show that they considered the creation of an international judicial organ possible. That could not be ignored.

13. Reading the next two sentences, he said that he was aware of the criticisms made against the Nürnberg Charter and Tribunal; but he had wished to show that an international tribunal could function and fulfil its mission. The Nürnberg Tribunal had fulfilled an ardent desire on the part of humanity for justice.

14. After reading the statement that an international court was indispensable, he remarked that this had been recognized in 1948 after long discussion, when the General Assembly had adopted the text of the Convention on Genocide. He concluded that it was possible to set up a tribunal if States so decided in a convention. The establishment of a new chamber of the International Court of Justice had been the subject of a number of drafts (see A/CN.4/15, para. 132).

15. He did not think a negative reply could be given to the question in hand on the grounds that there were or could be factors against it—e.g., the possibility of refusal by a State to bring its nationals before the jurisdiction of the Court in the event of aggression in which the aggressor was victorious. As a body of jurists, the Commission must deal only with the legal aspects of the question in hand. Its reply must be based on the hypothesis of the establishment of a new international order under the supremacy of law. It was for the General Assembly and Members or non-members of the United Nations to decide when and how they would create an international criminal jurisdiction. The Commission had only to answer the question: Is it possible to establish such a jurisdiction ?

16. He saw no legal reason which would justify a negative reply. On the contrary, criminology and international law provided the countries of the world with a solid basis for the establishment of an international system for the repression of crimes against the peace and security of the world and against humanity. He urged the Commission to answer yes to the question whether it was possible to establish an international criminal jurisdiction.

17. Mr. AMADO said that Mr. Alfaro's main argument to prove that it was possible to create the jurisdiction was the historical precedent of the establishment and functioning of the Nürnberg and Tokio Tribunals. He was not convinced by that argument. The Nürnberg and Tokyo Tribunals were not technically similar to the international court which the Commission was discussing. Those tribunals represented examples of national jurisdiction, the only form of criminal justice which had ever been effectively applied, and the essential characteristic of which was the power of compulsion exercised over criminals by the State. The Allied States possessed this power in virtue of *debellatio,* of their complete victory over Germany and Japan. He was not going to discuss the justice of the Nürnberg and Tokyo judgments, but rather the possibility of regarding them as precedents. The administration of international justice could not be entrusted to the caprice of Mars.

18. International law was unfortunately not sufficiently mature to enable an international criminal court to be established, since it was not in a position to endow it with the power of compulsion. For the moment he did not see how he could support Mr. Alfaro's arguments, which were not based on the facts.

19. Mr. FRANÇOIS wondered whether, in its discussion of the possibility of creating an international judicial organ, the Commission was not tending to lose sight of the fact that such a possibility depended to a considerable degree on the task to be conferred on the organ. It was not necessary in the first instance to entrust the whole body of international criminal jurisdiction to it. They could proceed gradually.

20. It was impossible to confer on it right away the responsibility for judging crimes against the peace, since such crimes at once implied the necessity for a definition of aggression. They were crimes in which governments had taken part as governments. No victorious State would be prepared to agree to allow an international tribunal to decide whether it had been an aggressor. Mr. Alfaro had said that it was not merely a question of wars of aggression, but of all wars. He had maintained that article 11 of the League of Nations Covenant already outlawed all war. But only aggressive wars had been outlawed, and the report gave a wrong interpretation of article 11 (A/CN.4/15, para. 67). At the present stage of international law, it was impossible

to submit to an international organ the question whether a war was actually a war of aggression. War crimes were different: they were crimes committed by subordinate agents, often without the knowledge or against the wishes of governments. If it were proved that its military authorities had committed acts contrary to the law of nations, even a victorious State could agree that they should be punished by an international tribunal. Objections had been raised to the Nürnberg Tribunal; Mr. Hudson had stated that in military circles there was some apprehension lest in future the defeated side would always be brought before the tribunals of the victors. He (Mr. François) was aware that military authorities felt some concern about the findings of the Nürnberg trial, but it was precisely for that reason that an international tribunal had its advantages. They were afraid they might be brought to trial by the victorious side, but an impartial international jurisdiction would be less objectionable. The same argument applied as regards crimes against humanity and the crimes mentioned on page 35 of Mr. Alfaro's report, under (a), although in the latter case the problem was not so vital.

21. Thus up to a point he agreed with Mr. Alfaro as to the possibility of establishing an international jurisdiction, but he could not share his opinion that the possibility was proved by experience. It could not be argued that the possibility was proved simply because an organ had been planned by an international convention. If no State was prepared to ratify that convention, it could not be said that the convention was proof of the possibililty of creating the organ which the convention had contemplated.

22. Nor could he agree with Mr. Alfaro on the subject of the Nürnberg trial. Here he shared the opinion of Mr. Brierly. The Nürnberg Tribunal was not an instance of an international criminal jurisdiction. It might be called a national jurisdiction exercised jointly by the belligerent powers, no doubt with greater safeguards than hitherto; but it still meant no more than the application of the right of any State to judge enemy soldiers who have committed crimes during the war. The international criminal jurisdiction on the other hand would be an organ of international society as a whole.

23. Mr. YEPES thought that the problem which the General Assembly had put to the Commission was one of the most important with which the Commission would have to deal. It was a noble idea which the timidity of men would try to prevent being realized. The Commission should act boldly.

24. There were two aspects of the question: was it desirable, and was it possible to establish an international criminal jurisdiction? The interpretation given by Mr. François to article 11 of the Covenant of the League of Nations seemed to him rather narrow. The Covenant could be interpreted as proscribing all war. But of course, when a State took up arms against an aggressor, it was merely exercising the right of legitimate self-defence authorized by natural law, the League of Nations Covenant, and the United Nations Charter.

25. It had been said that it would be unwise to create illusions by giving the impression that the proposed court would remove any danger of war. That was a dangerous sophism. No one suggested that the creation of an international criminal jurisdiction would have the effect of abolishing war. National tribunals had, after all, not succeeded in abolishing all crime. Such a jurisdiction would, however, be another stone in the edifice which the Charter was endeavouring to build. It would be a warning to war-mongers that they would have to answer for their crimes. If the creation of this court succeeded in lessening the possibility of war and staving it off, the effort would not have been wasted. If this idea were added to other ideas such as the compulsory peaceful settlement of disputes, etc., the initiative might bring the world forward along the road to peace. It was not for a Commission of jurists to discourage such efforts. The court would be a juridical means by which wars would be less likely to break out.

26. States might be recommended to try the experiment on a small scale, and to bring before the court individuals guilty of crimes against peace in cases where, for political reasons, they preferred not to try them in their own courts. If the court were created, it would no doubt have little to do during the early years of its existence, but it would help to prevent certain crimes. If an ideal criminal court could not be established, at least the way should be prepared for it. It had been stated that the creation of such a court was neither desirable nor possible, because no State would ever be willing to bring its criminals before it. Yet by setting up a permanent tribunal, all the anti-juridical factors in the Nürnberg Tribunal would be removed.

27. The same arguments had been brought forward in the past against arbitration. They were now no longer heard, and there was no State at present so cynical as to refuse to accept arbitration. The same would be found of the court. It was argued that the project was not sufficiently realistic, that it was a plan put forward by idealists; but since when was it wrong to be an idealist? Realistic policies were responsible for a great many evils. It had been said that on realistic grounds the Nazis must be appeased every time. Nowadays people were again beginning to talk of appeasement. It was to be feared that behind such talk was a new threat to peace. This spurious realism must be distrusted. The Commission's task was to show that the creation of an international criminal court was a means of reaffirming that international security that the Charter recognized as one of the essential goals of organized society.

28. Mr. el-KHOURY recalled that the preamble of General Assembly resolution 260 (III) B stated that there would be an increasing need for an international judicial organ for the trial of certain crimes under international law. The proof of the existence of that need was given in the Secretariat's *Historical Survey* [1] and in Mr. Alfaro's report. A way must be found to satisfy that need. The General Assembly had asked the

[1] *Historical survey of the question of international criminal jurisdiction.* United Nations publication, Sales No.: 1949.V.8.

Commission to give its opinion as to whether it was desirable and possible to create such a jurisdiction. The reports that had been submitted enabled the Commission to study the question with full documentation at its disposal. An international tribunal of the type envisaged would be valuable. Hence it could be argued that it was desirable. As to whether it was possible, that was another question.

29. There were always obstacles to the execution of any plan. If the obstacles were superhuman, it would be impossible to overcome them. But such was not the case here. It had been objected that the project might be vetoed if the Charter or the Statute of the International Court of Justice had to be amended. But was it certain that the veto would be used against the project? It was assumed to be probable. Should the study of the question therefore be abandoned? If the project did come up against the veto, those who opposed it must face their responsibility in the eyes of public opinion. Why should a commission of jurists take the responsibility of stating that the creation of the court was impossible because it might be vetoed? Second objection: If the international criminal court were set up by an international convention, would the various States accede to it? The fact that the Commission was not in a position to predict the future must not make it hesitate. Third objection: Supposing the tribunal were established, and asked for certain individuals to be summoned before it, would States hand them over? It was possible that they might. If States signed the convention, it must be assumed that they would fulfil their undertakings. Experience might prove that this assumption was not borne out by the facts; but that was no reason for holding back.

30. With regard to the Nürnberg and Tokyo Tribunals, he entirely agreed with Mr. Amado. The judgments of those jurisdictions, particularly those of the Nürnberg Tribunal, had not been endorsed by world opinion. They had made a very bad impression in the Middle East. The way in which the Nürnberg trial had been conducted was not a good precedent. The tribunal had consisted of judges from countries which were enemies of the countries to which the accused belonged. The first essential in a judge was that he be impartial. The composition of the Nürnberg Tribunal was irregular; and it had passed judgment in virtue of a law which was not in force when the acts with which the accused persons were charged were committed. That was contrary to the principle of law. Undoubtedly aggressive war had always been regarded as a crime, but no penalty had ever been prescribed for it.

31. If the Commission was to recommend the establishment of a court, it must endeavour to prevent these mistakes from being repeated. The General Assembly was not asking the Commission to give an opinion on how the tribunal should be constituted; it merely asked whether it was desirable and possible to constitute it. The Commission could, of course, qualify its opinion; it could state that, even though it considered the establishment of a tribunal desirable and possible, there were obstacles in the way of its establishment, and the utmost precautions should be taken to remove them. The creation of such an organ would not prevent all war, since there were always aggressors in the world, and so long as that was so, they would have to be repelled. Nor should it be argued that it was no longer necessary to discuss the laws of war, since war was proscribed. After all, wars did happen, and Chapter 7 of the Charter assumed their existence.

32. The International Court of Justice had not prevented the last war, since the moment the sovereignty and honour of States was at stake, such a court was powerless. Yet it had made it possible to settle minor issues. The projected international criminal court might perhaps not prevent a future war; but it might lessen the risk of conflict. Its existence might have some effect on possible aggressors, since the court would be in a position to define aggression and give its ruling as to responsibility—and that had never been possible in a war hitherto. Even if the court's judgments were given *in contumaciam* and remained for practical purposes inoperative, public opinion would know where the responsibility lay in any conflict which might arise, and the court's decisions would thus have a not inconsiderable moral effect. The decisions taken by the court could be accepted by all, just as all the decisions taken by a conclave were recognized by all Catholics. All these reasons were proof that the creation of an international judicial organ was useful. Of course there was no precedent for an international judgment in the past being crowned with success, but success was only achieved by perseverance, as in the case of the spider which, by trying and trying again to climb up the sheer face of a wall, set an example to a king of England.

33. It would be better to set up a court which could denounce criminals in the eyes of public opinion, than to allow them to escape from their responsibilities before history. That was why an international judicial organ was necessary.

34. Mr. SANDSTRÖM explained that he had raised the question of the veto not as an obstacle to the establishment of the proposed court, but to bring out every aspect of the problem. If the United Nations was anxious to promote justice by making it compulsory for an accused person to appear before an international tribunal, the existing statutes would have to be modified, and that implied certain conditions which he had felt it necessary to state. On the other hand, if it were decided to give the international court the restricted jurisdiction proposed by Mr. François, it was legitimate to ask what would be the impression on public opinion, when it saw its hopes disappointed.

35. He could not support the view that the safeguarding of peace depended on the establishment of an international criminal tribunal, which he felt was merely an auxiliary organ. The main responsibility for the maintenance of peace lay with the Security Council and the General Assembly. If those bodies succeeded in their task, the international court was unnecessary. If they failed, the court could not hope to do better. In the face of all the difficulties involved in the establishment

of an international criminal organ, it was better not to consider it at present.

36. Answering Mr. Alfaro, he thought it might not be impossible one day to contemplate the creation of such an organ, whenever it became possible to confer on it wide powers of jurisdiction and the support of the necessary conventions.

37. Mr. HUDSON said he need not speak again, as during the previous meeting Mr. Brierly had made the points he himself had intended to make.

38. Mr. KERNO (Assistant Secretary-General) recalled that in point 10 of his Peace Programme, the Secretary-General advocated the " active and systematic use of all the powers of the Charter and all the machinery of the United Nations to speed up the development of international law towards an eventual enforceable world law for a universal world society ".[1] The Commission was part of that machinery. Under its Statute its task was the progressive development of international law, and the General Assembly had put to it several extremely important questions. It must promote the development of international law. Progressive development undoubtedly meant going forward, in accordance with the growing needs of organized international society.

39. The CHAIRMAN declared the general discussion closed and put to the vote the question whether the Commission should vote separately on the two points, " desirability " and " possibility ", of setting up an international criminal jurisdiction, or whether it would vote on them jointly.

By 6 votes to 4, with 1 abstention, it was decided to vote separately on the two issues.

40. Before putting the first question to the vote, the CHAIRMAN said he would like to give his own views as a member of the Commission. He felt it was desirable to set up an international criminal court, not only because public opinion was anxious for it, but because public opinion was right to be anxious for it. The court in question would be extremely useful. It seemed to be generally recognized that public opinion desired such an organ, and as Mr. el-Khoury had pointed out, the General Assembly itself appeared to desire it. If that were not the case, the General Assembly would not have asked for the opinion of the Commission on the way in which such a court could be set up.

41. Consequently, if it should decide that the creation of an international judicial organ was not desirable, the Commission would be running counter to the General Assembly's wish. Moreover, if such an organ were not set up, what would be the point of defining the Nürnberg principles or establishing an international penal code, when there would be no organ to apply them ? He feared that if the Commission refused to create an international court, the future would witness other trials like that of Nürnberg, at which the victors would judge the vanquished. If, as a preliminary step, an international organ were created, there would be some chance of a real court of international justice being established which would be competent to judge all war criminals, to whichever side they belonged. The Commission was faced with a heavy responsibility. Often enough, governments would benefit by the existence of an international court which would enable them to have cases, difficult and even dangerous for themselves, settled by a non-national organ. He mentioned as instances where the existence of an international jurisdiction would have been useful the assassination of the King of Yugoslavia in France, and the attempt on the life of a diplomat in Switzerland. Moreover, the crime of genocide could not be judged by a national tribunal.

42. Replying to Mr. HUDSON—who could not understand why, if the General Assembly desired the establishment of an international court, it had asked the opinion of the Commission—the CHAIRMAN reminded him that the Commission was composed of jurists, and it was the opinion of those jurists which the Assembly had wished to ascertain. A Commission whose task was to promote the development of international law must not put obstacles in its way. The Commission would have no cause to congratulate itself if it hampered progress by yielding to objections whenever there was a question of taking a step forward.

43. Mr. ALFARO, also replying to Mr. Hudson's objection, tried to show that the two texts indicated the General Assembly's desire to see an international judicial organ established. The Assembly had asked the opinion of the Commission on the legal aspect of the problem only. Referring to Assembly resolution 260 (III) B and to article VI of the Convention on Genocide, he pointed out that the Assembly had only achieved its results after long discussion, in the course of which many objections had been raised. Yet 59 nations had approved the texts—which proved the Assembly's desire to see an international criminal court established. A negative vote on the part of the Commission would therefore amount to a refusal to comply with the manifest wish of the General Assembly of the United Nations.

44. Mr. HUDSON wondered whether the expression " those Contracting Parties which shall have accepted its jurisdiction " in article VI of the Convention on the Prevention and Punishment of the Crime of Genocide,[2] implied the idea of persons or of States.

45. Mr. ALFARO referred him to pages 41 - 43 of the *Historical survey of the question of international criminal jurisdiction*.[3] The sentence to which Mr. Hudson objected had been drafted by a sub-Committee which included representatives of Belgium and the United States. The original text spoke of a competent tribunal which did not yet exist; that was why it had been found necessary to re-draft it.

46. The CHAIRMAN saw no necessity to try to interpret a text which was clear in its intention and which,

[1] A/1304. *Memorandum of points for consideration in the development of a twenty-year programme for achieving peace through the United Nations.*

[2] United Nations publication, Sales No.: 1949.I.10.

[3] United Nations publication, Sales No.: 1949.V.8.

in the mind of those who voted for it, reflected the desire to create an international court.

47. Replying to a further query from Mr. HUDSON as to how it could be deduced from article VI that the General Assembly was in favour of an international tribunal, the CHAIRMAN took note of his objection before putting to the vote the question whether it was desirable to establish an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction would be conferred upon that organ by international conventions.

By 8 votes to 1, with 2 abstentions, the Commission decided that it was desirable to establish an international judicial organ.

48. Mr. SANDSTRÖM said he had abstained from voting because a mere Yes or No would not have given a true picture of his views, which he proposed to submit later in writing.

49. Mr. BRIERLY said he had voted against the motion on the grounds that the projected court would exist only on paper, and so prove ineffectual.

50. Mr. HUDSON said he had abstained because the question of desirability and possibility were one and the same thing.

51. Mr. el-KHOURY said that, in voting for the motion, he had had in mind the weaker nations and those national minorities which at times were persecuted by stronger majorities. The existence of an international judicial organ would reassure the weak, and give them some recourse if they were unable to obtain satisfaction in any other way.

52. The CHAIRMAN next put the question of the " possibility " of establishing an international judicial organ. The General Assembly had not asked the Commission to decide on the competence of such a court, but merely to give an answer to a very general question.

53. Mr. HUDSON took the idea of " possibility " as meaning: Did an international judicial organ if established offer the possibility of being in a position to fulfil a need—i.e., of being able to function effectively ?

By 7 votes to 3, with 1 abstention, the Commission decided that the establishment of an international judicial organ was possible.

54. Mr. AMADO, after referring to the attitude of the Brazilian representative at the third session of the General Assembly, when the establishment of an international criminal court was being discussed,[4] said he had voted against, on the grounds that there was as yet no international police force to enforce the judgments of such a court. The veto was not, as some people held, the cause of disagreement between parties, but rather the symptom of that disagreement, and without agreement among the great powers there would be no international police.

55. Mr. FRANÇOIS said he had voted in favour on the understanding that the decision of the Commission in no way prejudged the scope of the jurisdiction which the court would have.

56. Mr. SANDSTRÖM, in voting against the motion, had taken the word " possibility " in the sense given to it by Mr. Hudson, and would submit the explanation of his vote in writing later.

57. Mr. HSU said he had voted in favour in the hope that the General Assembly would make a sincere effort to surmount the present difficulties.

58. The CHAIRMAN said that the Rapporteur would submit a draft report to the Commission in the usual way on the two questions on which a vote had been taken at the present meeting. He next recalled that the General Assembly had further asked the Commission whether it was possible to set up a Criminal Chamber of the International Court of Justice.

59. Mr. el-KHOURY was in favour of such a chamber, as likely to increase the prestige of the International Court.

60. Mr. HUDSON, as one who for thirty years had exerted every effort on behalf of the Court at The Hague—one of the essential organs of international life—feared it might mean the utter destruction of the Court's prestige if an international criminal jurisdiction were added to it. The International Court should remain an instrument solely for the settlement of disputes between States, and for giving advisory opinions. They must avoid any step which might make that great institution a centre of grave controversy.

61. The CHAIRMAN entirely agreed with Mr. Hudson.

The meeting rose at 2.55 p.m.

[4] See *Historical survey of the question of international criminal jurisdiction*, p. 37. United Nations publication, Sales No.: 1949.V.8.

44th MEETING

Monday, 12 June 1950, at 3 p.m.

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Chairman: Mr. Georges SCELLE.

Rapporteur: Mr. Ricardo J. ALFARO.

Present:

Members: Mr. Gilberto AMADO, Mr. James L. BRIERLY, Mr. Roberto CÓRDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Mr. Faris el-KHOURY, Mr. A. E. F. SANDSTRÖM, Mr. Jean SPIROPOULOS, Mr. Jesús María YEPES.